

Rent Arrears & Debt Recovery Policy

August 2024

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1. Version control

Date	Details	Updated by
November 2022	V1	Anita Merritt
August 2024	V2	Kelly Kinnair

2. Policy Statement

Torbay Council's objective is to prevent rent arrears and maximise our income collection, whilst enabling residents to sustain their tenancies and remain in their homes. We also aim to recover former resident debt when possible.

This policy covers the ways in which we aim to prevent rent arrears and our approach to arrears recovery for current residents, including legal action. It also details our approach to recovery of former resident debts. The policy is supported by detailed procedures in the appendices.

3. Scope

The collection of rent and service charges is a key priority for Torbay Council and this Policy seeks to:

- Promote a positive payment culture of tenants paying their rent in advance to prevent households from falling into arrears.
- Ensure early intervention and make contact when the initial arrears occur.
- Building a culture of residents contacting us if they have concerns about maintaining their rent payments.
- Recover rent arrears as efficiently as possible whilst maintaining the aim of eviction being an action of last resort.
- Sustain tenancies in as many cases as possible and referring tenants for budgeting and debt advice.
- Ensure that Torbay Council is compliant with the pre-action protocol for rent arrears possession claims.

4. Policy Aims

We understand that in the current economic climate the challenges for some of our residents around finances can be challenging and stressful.

The aim is the prevention of debts owed to Torbay Council by balancing the support offered to residents by protecting the income into the business. This is achieved by having keys elements:

- Early intervention
- Working with residents by informing and engaging with them as well as offering support and encouraging two-way communication.
- To regularly monitor all debts owed to the business.
- Provide a signposting service to the relevant agency or partner depending on individual issues.
- To create a payment and support plan for each individual resident who experiences difficulty in meeting their rent payment obligations.

5. Positive Payment Culture

Torbay Council promotes a positive rent payment culture to support the minimisation of arrears. Payment is expected in full by the date it is due, or in advance, and always in line with the tenancy agreement. Any payments beyond this date will place the account into arrears.

The rent payment requirements are made clear throughout the letting process and a payment in advance is required prior to letting. Non-payment of the rent in advance may result in the refusal or withdrawal of an offer.

Rent activity is discussed at the New Resident Visit within the first six weeks of the commencement of their tenancy. Any issues can be identified and resolved as quickly as possible, underlining the payment culture that rent is a priority.

By using Starter Tenancies, we can explain to a new resident that rent arrears are a ground for extending the Starter Tenancy or ending it.

To support the requirement of regular and timely payments by Direct Debit is the preferred payment option. For those residents who find Direct Debit a difficult option, efficient and simple payment options are available ensuring that all residents have an opportunity to manage their rent account effectively.

A payment and support plan will be provided to any customer who falls into difficulty in paying their rent. This plan will provide the customer with information on when and how payments should be paid as well as any support Torbay Council or other departments, as well as what external agencies may be able to offer.

6. Prevention and Early Intervention

Prevention is the key factor in minimising the accrual of arrears.

Whilst it is acknowledged that ultimately payment is the responsibility of the resident, Torbay Council seeks to support prevention of arrears for residents in the following ways:

1. Prior to letting a financial assessment is carried out
2. At the point of the financial assessment any opportunity to maximise the resident's income through welfare benefits or other means will be identified to the resident.
3. If a refusal of housing or withdrawal of offer is to be made a resident may be signposted to other agencies for support to improve their financial situation.
4. Arrears are identified at the earliest opportunity and communicated to the resident so that together we can manage the issue as soon as possible.
5. If a resident is receiving or applying for Universal Credit and they meet the DWP tier 1 or tier 2 factors, an Alternative Payment Arrangement (APA) and/or direct deductions may be applied for.
6. Torbay Councils housing team will work with our residents who are transitioning onto Universal Credit to support them during and immediately after the application process. However, those residents who fall under the Next Steps Allocation Programme (NSAP) will receive support from their assigned Meaningful Occupational Co-ordinators.

7. This is to ensure that the resident is fully advised of their responsibilities during the transition and that their account can be monitored effectively and only appropriate action taken. It also allows for the opportunity to further signpost residents if needed for additional support.
8. Supporting residents to be digitally included so that they can access benefits and job searches online.
9. Helping residents with their benefit claims including Housing Benefit and Universal Credit to ensure they get payments for housing costs, where applicable.
10. Notifying residents promptly where Housing Benefit is paid direct to us and there has been an over-payment.
11. Promoting good financial health through articles in the Resident Newsletter, on the website and in social media.

If arrears do arise, we will engage with the resident to identify and tackle the causes. We are aware that one missed payment, no matter how small, could place low-income residents in a financial position that it is difficult to recover from.

7. Recovery

Once an account falls into arrears Torbay Council follows its arrears collection procedure. This ensures consistency across all accounts. Whilst legal action and eviction action are the last resort, they are necessary tools to ensure that arrears are recovered where appropriate. Legal action will only be taken where numerous and timely attempts to come to an agreement have not been successful.

We will follow the Ministry of Justice Pre-Action Protocol for Possession claims by Social Landlords. The Protocol aims to encourage more contact between us and our residents, to avoid legal action if possible and make more effective use of Court time.

Our process is: -

1. Preventative work at pre-tenancy sign up. E.g., Verification around their income, their support/dependency needs, their family and friend support network, and the key procedures which they need to be aware of.
2. If an account goes into arrears, the resident is made aware of this in the first instance. We are transparent with residents about their accounts, our expectations and their options.
3. Depending on the reason for arrears and or support needs, a more robust stance may be taken. Accounts will be checked weekly.
4. Early action in each case is the key to ensure the resident does not fall further into arrears.
5. Providing residents with support by signposting them for money advice and providing information.
6. Requesting residents to make reasonable and affordable re-payment arrangements.
7. Making personal contact, including the use of texts and telephone calls, post, email, home visits, and office interviews.
8. Acting regularly through phone calls, texts, emails and standard letters

9. Taking legal action where appropriate; the aim being to recover the arrears, not to evict the resident, which is always a last resort. However, we may need to seek outright possession in certain circumstances.
10. Keeping accurate records of communication with residents and other parties, actions taken, and documents associated with the case within the case management system.

Torbay Council considers joint residents to be jointly and severally liable for any rent arrears accrued, and will pursue both joint residents for all rent arrears accruing under the tenancy.

Torbay Council is also mindful that residents experiencing domestic abuse are more likely to have arrears and may be subject to economic abuse. All decisions made on future enforcement action will consider reports received of domestic abuse and where economic abuse is identified, we will work with the residents affected to find a positive way forward.

Attempts will be made to identify any resident vulnerabilities at the pre tenancy stage or at any contact stage, to ensure that communication is appropriate and relevant referrals for support can be made at the earliest possible stage.

Torbay Council will utilise the most appropriate grounds for possession when applying for a case to go to court. This includes Grounds 8, 10, 11 and 12. All requests for court action, and particularly in the case of outright possession, will require the approval of the Senior Management Team.

During a starter tenancy Torbay Council will consider if an extension to the starter tenancy period is appropriate for arrears, or if a Section 21 may be served. Please refer to the Starter Tenancy Policy for full details.

If all attempts to recover the arrears are unsuccessful and legal action (e.g. a court hearing is necessary) the Torbay Council Housing Options department will be notified that there is a possibility of a person becoming homeless. We will tell the resident that they may be considered to be intentionally homeless by Housing Options, and they may not be entitled to help with future housing assistance.

We will continue to try and contact tenants up to the Court hearing date to reach a re-payment agreement with them. If an agreement is reached at this stage a Suspended Possession Order or Adjournment will be sought on the terms of the agreement.

Repayment terms will be agreed based on a reasonable repayment timetable, usually no more than two years, but never more than six years, and considering affordability and sustainability for the tenant.

If the tenant fails to comply with the terms of the Court Order, a Warrant for Possession can be sought, and the tenant evicted. This action will only be taken as a last resort, where other attempts to recover the arrears have been unsuccessful. A review of the individual circumstances of the case will be completed and Senior Management approval will be required.

If an eviction is the next step, an officer will prepare an eviction request report detailing the current position of the account, what action has been taken to recover the arrears and why eviction is the only appropriate option left. This report needs to be approved by Senior Management, before any application for eviction is made. All evictions are reported to the board annually.

Torbay Council believes that repossession of a property should only be carried out as a last resort but will not hesitate to take this action in appropriate cases.

Costs incurred in taking possession action will be added to the outstanding debt and the tenant will be required to repay these once the arrears have been repaid.

Court hearings will not be cancelled unless the tenant has paid all the arrears and the court issue fee. However, where arrears have been significantly reduced an adjournment with costs may be requested by the tenant and considered. Money judgements will be sought that can be enforced by an attachment of earnings order.

See Appendix 1 for the full rent arrears recovery procedure.

8. Former Resident Debt

Former resident debt includes rent arrears, service charges, court costs and other sundry debts such as rechargeable repairs.

We will pursue all former tenant debts when doing so represents value for money. The cost of pursuing the debt should not outweigh the debt itself.

We will write-off debts where the tenant has died, and the executor or family representatives can evidence that there is no money in the estate to settle the debt.

The Housing Manager may agree not to pursue a debt where there is genuine financial hardship or where there are other exceptional circumstances.

Torbay Council seeks to minimise the loss of income from residents who move on. This is done through the implementation of the Former Resident Arrears Recovery Process.

Where a debt is identified a resident will be notified as soon as possible and the implications of leaving with a debt will be made clear, including the potential impact on being re-housed in social housing.

Third parties may be used to trace former tenants to pursue the debt and legal action may be taken via the Small Claims Court to recover monies owed.

Please see detailed procedure at Appendix 3.

9. Write Offs

Former resident arrears or sundry debts will only be written off if:

1. They are considered uneconomical to pursue
2. The debtor cannot be traced
3. Recovery procedures have been exhausted

Should circumstances change and the debt becomes possible to recover in future, further recovery action will be taken.

10. Small Claims Court

Debtors who fail to make re-payment arrangements can be referred to the small claims court should it be considered appropriate.

11. Debt Relief Orders and Individual Voluntary Arrangements

If at any stage a customer should seek to enter a debt relief arrangement or insolvency such as a Debt Relief Order (DRO) or Individual Voluntary Arrangement, (IVA), Torbay Council will follow the legal required steps related to the debt.

For a DRO Torbay Council will freeze the debt until it can be written off, (usually after 12 months). However, if there is a Suspended Possession Order in place before the DRO is complete then Torbay Council will consider if eviction action may be required. Any eviction action will require approval from Senior Management through an eviction request report.

In the case of an IVA, Torbay Council will consider all applications to include the rent, but these are likely to be refused as it would put the tenancy at risk.

12. Compliance & Confidentiality

Torbay Council treats all information taken during the management of arrears cases as confidential. The information is handled under the Data Protection Act 1998 and the General Data Protection Regulation 2018

13. Equality & Diversity

Torbay Council is committed to promoting equality and inclusion and to ensuring that our communities thrive. We complete equality impact assessments (EIAs) to help us understand the possible impacts that our decision may have on different groups. This toolkit guides you through

the different stages of the equality impact assessment process to help ensure that your EIA is meaningful and robust.

The Equality Act 2010 provides legal protection from discrimination across nine 'protected characteristics' which are: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity and marriage and civil partnerships.

Under the Act, the Council is subject to the Public Sector Equality Duty (PSED) which means that we must take steps to actively promote equality. The PSED requires public authorities to have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

Advance equality of opportunity between people who share a protected characteristic and those who do not, and

Foster good relations between people who share a protected characteristic and those who do not.

The PSED requires us to give 'due regard' to equality when making decisions and delivering services. This is to ensure our actions actively promote equality and do not directly or indirectly adversely affect people with protected characteristics.