



**PEAKS & PLAINS**  
Housing Trust

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# The Trust

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Former Tenant  
Arrears and Credits  
Policy

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2023

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## 1. INTRODUCTION

- 1.1. This policy will ensure that Peaks and Plains Housing Trust (the Trust) effectively manage the collection of former tenant arrears (FTA). The Trust aims to maximise income through the recovery of FTA by taking a clear, consistent and cost-effective approach to Income Collection.
- 1.2. The Trust will maximise its income through its rent collection and arrears recovery process. All tenants are expected to pay in accordance with their Tenancy Agreements. The Trust aims to ensure that tenant accounts are clear of arrears or credit balances when a tenancy terminates by following the end of tenancy procedures in place.
- 1.3. This policy ensures that an individual's personal circumstances are taken into consideration when taking action to recover outstanding debts. We understand that debts may have arisen for several reasons. Action to recover outstanding debt will be taken in a firm but fair way and will comply with the Equality Act and the safeguarding policy.

## 2. SCOPE

- 2.1. This policy relates to any debt that is owed to the Trust by a former tenant. The types of debt covered by this policy typically includes rent, service charges, court costs and rechargeable repairs including voids.
- 2.2. Former tenant arrears represent a considerable proportion of debt owed to Peaks and Plains Housing Trust (the Trust). This policy provides colleagues with a summary of tools and approaches available to recover outstanding debt and maximise collection of former tenancy debt.
- 2.3. The policy provides guidance and a summary of tools and approaches for colleagues to support them in tracing and recovering outstanding debt and ensuring that Peaks and Plains maximises the collection of former tenant debt.
- 2.4. The policy supports our approach of recognising the importance of rent and tenancy related debt and the consequences of non-payment, acting as a deterrent for future tenancies and increasing the likelihood of sustainable tenancies.
- 2.5. The policy provides guidance on former tenancy credits and how to trace customers to return funds, and the course of action we will take when this is not possible.

## 3. LEGAL & REGULATORY REQUIREMENTS

- 3.1. The Tenancy Agreement is a legal document outlining the terms and conditions of the tenancy.

- 3.1.1. The following legislation has been considered when drafting this policy:
- Data Protection Act 2018
  - Equality Act 2010
  - Pre action Court Protocol
  - Housing Acts 1985 and 1996
  - Human Rights Act 1998
  - Welfare Reform Act 2012
  - Localism Act 2011

#### 4. DEFINITIONS

- 4.1. Former tenant arrears are defined for the purpose of this policy as a debt of unpaid rent or charges, remaining on a rent account, including but not limited to, garage accounts, court costs and/or sub account(s), when a tenancy has been terminated.
- 4.1.1. A former tenant credit is defined as an amount of surplus remaining on a rent account, or any sub account(s), when a tenancy has terminated.

#### 5. OUR POLICY

- 5.1. It is the tenant's responsibility to ensure that any outstanding debt is cleared in full before the tenancy end date. The Trust will attempt to contact the outgoing tenant to discuss the debt and obtain full payment. The Trust will also write to the outgoing tenant to set out in full the amount of debt owed at that point.
- 5.1.1. If a former tenancy debt is not cleared before the end of the tenancy the Trust will take prompt action to recover the debt and will use a range of contact methods to contact tenants in arrears. The Trust will attempt to contact former tenants within 10 working days of the tenancy end.
- 5.2. Where an outgoing tenant incurs recharges following the end of their tenancy due to property condition we will write to evidence and recover these costs within 20 days of the tenancy ending at their forward or last known address.
- 5.2.1. The Trust may agree to set up a repayment plan for the recovery of the debt that repays the debt in a reasonable amount of time. If a repayment agreement is not adhered to the Trust reserves the right to refuse any further repayment agreements and demand payment in full.
- 5.3. Where former tenants are having trouble paying their debt the Trust will signpost to external advice agencies. We will work with third parties who assist former tenants with their affairs, including local authorities, debt management companies etc or any other appropriately appointed third party.

- 5.3.1. Where a former customer terminates with debt:
- without providing a forwarding address;
  - where there has been no response from the customer when the Trust has tried to contact;
  - where the customer has refused to pay the debt or adhere to repayment terms;

The Trust will recover the debt by using other arrears recovery methods which may include the use of a debt collection agency, court enforcement and legal action.

- 5.4. Where the arrears are in respect of a deceased tenant, the action will be limited to contacting the next of kin or executor to claim against the estate.

- 5.5. When a tenant has moved into nursing care, we will consider whether the former tenant debt is reasonable and proportionate to pursue based on the presenting circumstances.

- 5.6. When a tenant is imprisoned, we will consider whether the former tenant debt is reasonable and proportionate to pursue based on the length of sentence and the likelihood of recovery.

5.7. **Credit account and refunds**

- 5.7.1. The Trust will strive to make a prompt refund to a former tenant where a credit is on the account when a tenancy ends unless:
- There is a likelihood of a benefit reclaim
  - There is little chance of establishing the whereabouts of the former tenant and it is not cost effective to repay the credit
  - The tenant is deceased with no next of kin

- 5.7.2. No refund of a credit account will be issued to a resident where there are other debts owing to the Trust regardless of the age of those debts.

- 5.7.3. We will not incur expenditure to proactively pursue customers to remind them that their account is in credit where there is a small credit on their account. Where we do pursue customers to advise them of a credit, contacts will be limited and not repetitive, considering the cost to the organisation. We will not incur tracing costs to refund a customer.

- 5.7.4. In cases where the former tenant moves to another property within the Trust (internal transfer) we will:
- Transfer any credit accrued on the former account to the new tenancy account
  - Use any overpayments of rent on the new home to pay off any arrears on any former accounts including rent account, court cost and rechargeable repair accounts regardless of the age of the debt.

- 5.7.5. In cases where the former tenant is deceased Peaks and Plains will only consider a refund once a tenancy has ended, a death certificate has been provided and evidence to support the applicant's identity has been provided and taking into consideration the following:  
In cases where the credit is greater than £1,000, we will:
- Refund the credit to the executor of the will or solicitor dealing with the estate only once probate or letters of administration is granted and evidence is supplied to support this.
- In cases where the credit is less than £1,000, we will:
- Refund the named executor of the will without the need to probate or letters of administration.
  - Where there is no will, or in cases where there is no next of kin - the applicant, must complete a signed form of indemnity.
  - In cases where there is more than 1 remaining relative or next of kin, all parties must sign to say they agree to refund the money to a named individual.
- 5.7.6. Where the former resident, the estate or next of kin of a deceased resident cannot be located Peaks and Plains will write off the credit amount with the authorisation of the relevant Trust representative detailed in section 5.11 of this policy
- 5.8. **Write Offs**
- 5.8.1. Debts which are considered to be uncollectable or where all avenues of recovery have been exhausted will be recommended for write off.
- 5.8.2. Recommendations for write off of both debts and credits will require authorisation by a relevant Head of Service, Director or Executive. The monetary values and levels of authorisation are outlined within the current Financial Standing Orders and Scheme of Delegation Policy.
- 5.8.3. Write offs will be recommended when:
- There is no forwarding address and we have been unable to trace the former tenant to a new address
  - The debt is less than £25.00 and is uneconomical to pursue
  - The debt is statute barred or of such an age that action for recovery would be considered uneconomical
  - The debt is included in a bankruptcy order, debt relief order or IVA
  - The resident has taken up an incentive offered by the Trust.
- 5.9. Further considerations need to be made in cases where the former resident has passed away;
- There is reason to believe or evidence that there are no funds in the estate of the deceased tenant
  - There is no response from the executor/next of kin.

- 5.10. If a former customer debt has been written off as uncollectable, and the customer concerned subsequently re-applies for housing and declares a previous tenancy, the debt will remain due if it is considered that there is a reasonable expectation of recovery. Similarly, if any other circumstances change which would make a previously written off debt recoverable, the debt will be re-instated and pursued, except where collection is already being pursued by an agent working on our behalf.
- 5.11. Credit balances will be considered for write off under the following circumstances:  
Deceased tenants:
- The account of the deceased has been frozen and is unable to accept the funds due to be returned
  - Where no next of kin/Solicitor/Executor of the estate is known
- The Trust may also consider for write off where there is no response to letters to the next of kin/Estate Executor
- No forwarding address:
- Where a tenancy has ended and no forwarding address or contact details have been provided.
- Uneconomical:
- Where the value of the credit equates to less than £25.00
- Exhausted:
- Where all procedures have been exhausted
  - The credit is over 7 years old
- 5.12. The credits written off will be transferred to the Hardship Fund. The use of the funds will be used for a hardship fund for other tenants.
- 5.13. Once the write-off has been approved, the transaction will be input on the Trust's housing management system and recorded as a write-off adjustment.

5.14. **Debt Collection Agency**

- 5.14.1. We may use the services of external suppliers to maximise engagement and payment of former tenant arrears including:  
Trace and location services  
Debt collection services  
Litigation services (Money Claims)
- 5.14.2. Cases that are passed to external suppliers will be recommended for this action in the same way as a write off and the housing management system will be updated to reflect this.

## 6. **EQUALITY, DIVERSITY & INCLUSION**

- 6.1. We will deal sensitively with former tenants who have arrears due to matters related to their support needs, such as ill health, learning difficulties, mental and physical disabilities, and victims of domestic abuse.

- 6.2. Our approach to arrears management will tackle inequality by:
- Taking account of the individual circumstances of the tenant and their household
  - Identifying and supporting tenants who may be vulnerable
  - Showing fairness and respect in all our dealings with tenants
  - Making language and communication assistance available to customers who need this. This may include customers with sight, hearing, cognitive or learning difficulties, or those who find it difficult to speak or understand English.
- 6.2.1. We will treat all joint customers as jointly and severally liable for former tenant arrears.
- 6.3. Former customers will still have access to their rent statement online through My Account. We will provide electronic or paper copies of rent statements where requested.
- 6.4. The Trust will strive to ensure that we signpost to advice and support agencies.
- 6.4.1. An Equality Impact Assessment (EIA) has been carried out in relation to this policy to assess the positive and negative Equality Impacts of this Policy.

## 7. RESPONSIBILITIES

- 7.1. The Executive Team is responsible for review of policy and monitoring of performance.
- 7.2. The Executive Director of Resources has overall responsibility for the effective implementation of this policy, ensuring that all staff involved in the operation of this policy and its related procedures are trained and resourced to undertake their roles.
- 7.3. The Head of Neighbourhoods and the Neighbourhood Manager will be responsible for the operational aspects of this policy, ensuring managers who have roles to implement this policy are made aware of their responsibilities (Income, Contact Centre, and Voids/Repairs).
- 7.3.1. The Head of Neighbourhoods and the Neighbourhood Manager will be responsible for the operational aspects of this policy including write off of debts and credits as detailed in the schedule of delegated authority.
- 7.4. Income Team are responsible for recovering former tenant arrears.
- 7.4.1. The Neighbourhood Team are responsible for delivering the pre-tenancy checks to set customers up for successful tenancies including checking for former tenancy debt with the Trust.



**8. MONITORING AND REPORTING**

- 8.1. The Executive team receives regular updates on performance and information relating to former tenant debt collection is included in reports to Board and Committee’s as part of regular performance reviews.
- 8.1.1. The Performance Management Group receives regular updates on performance relating to former tenant debt collection.
- 8.2. Performance is benchmarked against that of other housing providers, and staff take part in rent forums and share good practice and ways of working.
- 8.3. Write off performance is reported to the Board at the relevant Board meeting.

**9. CONSULTATION**

- 9.1. This policy will be reviewed every three years. The Trust will consult with tenants in the development of this policy.

**10. REVIEW**

- 10.1. This policy will be reviewed every three years or sooner if required by statutory, regulatory, or best practice requirements or the need to update following reviews of other Trust wide policies

**ASSOCIATED DOCUMENTS**

- Tenancy Agreement
- Rent Collection and Arrears Management Policy
- Corporate Debt Policy
- Standing Orders and Financial Regulations

**POLICY INFORMATION**

Policy Name:	Former Tenant Arrears and Credits Policy <i>(Replaced Former Tenancy Debt Policy)</i>
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Approved by:	Executive Management Team
Drafted By:	Steff Goalen, Housing Manager
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