



OFFALY COUNTY COUNCIL

RENT ARREARS POLICY

2015

**OFFALY COUNTY COUNCIL RENT ARREARS POLICY
SOCIAL / LEASED HOUSING**

BACKGROUND

In December 2014, Offaly County Council had 2,070 rental tenancy agreements, including social leasing and RAS properties, within the county. Rental income for 2014 was €4.8m. Maximising this income is extremely important as it is the principal source of funding for the management and maintenance of the Council's housing stock. As a result, the effectiveness of rent collection and arrears recovery directly affects the quality of the housing service that is provided to the Council's tenants.

The right of local authorities to set and collect rents on their dwellings is laid down in Part III of the 1966 Housing Act. The 1992 Housing (Miscellaneous Provisions) Act also requires local authorities to develop a statement of policy on housing management and the Department of the Environment & Local Government's *Memorandum on the Preparation of a Statement of Policy on Housing Management*, specifies that the management of the rents service should be a central part of these statements. The Memorandum also points out that '*The guiding principle of arrears control is that of taking early action so as to protect the income of the authority and to prevent the accumulation of debts by individual tenants.*

The Housing (Miscellaneous Provisions) Act 2014 amends and extends the Housing Acts 1966 to 2009. Part 2 of the Act provides for a revised procedure for repossessing local authority dwellings and strengthens the power of housing authorities to secure court orders. Section 8 of the Act refers to Tenancy Warnings relating to rent arrears.

Rents charged by the Council are based on a Differential Rent Scheme which was adopted by the elected members. Because the proposed National Differential Rent Review did not proceed in 2015, the Council carried out its own Rent Review in the summer of 2015. New rents were applied from the 8th August, 2015. Rent charged to each tenant is calculated based on the total net household income, less certain deductions. A minimum rent applies and this may change from year to year.

RIGHT OF APPEAL

It is a condition of each Tenancy Agreement that the tenant notifies the Council of any change of the income/household circumstances of himself/herself or of any member of his/her family living with him/her as soon as the change occurs. The tenant must furnish to the Council all proofs which may be required in relation to same.

If the tenant fails to notify the Council of any change in his/her income/household circumstances or income of any member of the family residing with him/her, the rent will be re-calculated based on the revised income details/household circumstances and will be backdated to the time the change of income/household circumstances occurred.

The tenant has the right to query how the rent is re-calculated and appeal the decision to backdate the rent.

AIM

This Policy has been agreed by the Council in order to assist tenants with rent arrears. The early prevention of rent arrears is the most effective way to protect the Council's income and prevent tenants accruing debts which can become impossible to pay in the short or medium term.

The Council will seek to encourage tenants in arrears to come forward and deal with their arrears rather than wait for the consequences of non payment. It is recognised that some tenants who deal with statutory agencies have a reluctance to make contact with those agencies when difficulties arise. It is the policy of the Council to identify, as quickly as possible, accounts which are falling into arrears through a policy of early intervention and to put in place effective measures to deal with such arrears before they accumulate to significant levels. The Council will be particularly sensitive in dealing with customers with mental health issues.

This Policy has been agreed on the understanding that the tenant is ultimately responsible for payment of the rent on a weekly basis. Failure to pay the rent due is considered to be a serious breach of the Tenancy Agreement and any such non-payment will result in action being taken by the Council as a matter of policy. In relation to rent payments Clause 1 of the Council's Tenancy Agreement states:

The weekly rent hereinafter shall be paid to the Collector or other person authorised by the Council promptly and regularly every week, the first payment to be made on the _____ day of _____. The rent of the premises shall be such sum as the Council may from time to time determine and shall be € _____ per week until the Council shall otherwise determine.

It is recognised that the Council, while mindful of the difficulties encountered by tenants due to indebtedness, must ensure that all appropriate measures are undertaken to maximise its rent collection process.

EXISTING PRACTICES

The Council provides tenants with a number of options to pay their rent:

- Weekly collection of rent by designated Revenue Collectors;
- At Cash Offices in the Municipal District Offices of Tullamore, Birr and Edenderry, and at Aras an Chontae, Tullamore;
- By Bank Standing Order;
- An Post: **(a)** Household Budget Scheme **(b)** Swipe Card;
- By payment through the post by Cheque, Bank Draft, Postal Order, Laser Card and Credit Card.

In July 2014, new Social Welfare regulations were introduced which provided that where a person agrees to participate in a Household Budget Scheme arrangement, that person cannot withdraw from such an agreement without the written consent of the housing authority.

The Council's Tenancy Agreement has been amended to include the above arrangement. All new tenants who are in receipt of, or become entitled to, a benefit from which deductions can be made under the Household Budget Scheme (pursuant to Section 290A of the Social Welfare Consolidation Act 2005 or such amending legislation), must agree to have their rent deducted from their social welfare payment and paid over to the Council. The tenant will not be able to cease payment of the rent via the Household Budget Scheme without prior consent of the Council. The Council's Tenancy Agreement has been amended to include the above condition.

Prospective tenants are required to undergo compulsory pre-tenancy training courses as part of the Council's overall Estate Management and Allocations procedures. The importance of maintaining a clear rent account and the consequences of developing rent arrears is highlighted to all tenants attending these courses and advice is given on what to do in the event of the tenant getting into financial difficulty. Money Advice and Budgeting Service leaflets are also issued to all tenants as part of the pre tenancy course.

ADDITIONAL PROCEDURES

Existing tenants whose rent account is in excess of four weeks in arrears and who has not entered into a rescheduling arrangement or who has broken a rescheduling arrangement will not be considered for inclusion in any planned maintenance programme. Requests from tenants for routine non-essential maintenance works will not be carried out by the Council while rent arrears are outstanding and a rescheduling arrangement has not been entered into. Details of tenants in arrears will be provided to the Clerk of Works upon request.

If a tenant fails to enter into rescheduling arrangements with regards to rent arrears, legislation provides that the tenant may be disqualified from certain housing supports including:

1. Social housing support as provided for by Section 20(5) of the Housing (Miscellaneous) Provisions Act 2009] as inserted by Section 49(f) of the Housing (Miscellaneous Provisions) Act 2014; and
2. Eligibility for social housing supports as part of a social housing assessment pursuant to Section 20(5) of the Housing (Miscellaneous) Provisions Act 2009 as amended by Section 34(d) of the Housing (Miscellaneous Provisions) Act 2014; and
3. Disqualification from the incremental purchase of a local authority dwelling as provided for by Sections 34(h), 34(j) & 34(k) of the Housing (Miscellaneous) Provisions Act 2014.

The Revenue Collector and Housing staff will make every possible attempt to contact the tenant personally, by telephone or by letter to attempt to make the tenant aware of the seriousness of the arrears issue and the importance of taking action to resolve the matter. Personal contact with the tenant is considered the best means to resolve the issue.

The Revenue Collector and Housing staff will provide contact details of the local Money Advice and Budgeting Service for debt counselling.

WHO TO CONTACT

Tenants who are experiencing difficulty in meeting their rent payments or have a query on their account should contact their local Revenue Collector (contact numbers given below) or the Housing Section, Aras an Chontae at 05793 57409.

Revenue Collector	Area	Phone
Oliver Nolan	Edenderry Area Edenderry, Walsh Island, Daingean, Clonbullogue, Rhode, Bracknagh	087 414 5024
Marguerite Madden	Tullamore Rural Clara, Rahan, Mucklagh, Killeigh, Geashill, Ballinagar, Clonygowan, Portarlington	086 770 5812
Olive Farrelly	Ferbane Area Ferbane, Belmont, Cloghan, Shannonbridge, Banagher, Ballycumber, Lemonaghan, Kilcormac, Kinnitty	086 770 5810
Tom Lynch	Tullamore Town Chancery, Connolly Park, Thornsberry, Clontarf Rd., Chapel Court, Ballin Rí, Marian Place, O'Molloy St., Pearse Park, Cloncollig, Church View, , Kilbride St., Carraig Cluain, Meadow Close, Kearney Park, Kilbrook	086 8212678
Dermot Egan	Tullamore Town Puttaghaun, Eiscir, Parnell St., Norbury, Callery St., Davitt St., St Columbas, Arden View	087 9763557
Ina Mallin/ Laura Coffey	Birr Area/Town Fivealley, Crinkle, Dunkerrin, Shinrone, Moneygall, Birr Town	057 9346800/ 087 7872164

PROCEDURE FOR DEALING WITH RENT ARREARS – SOCIAL HOUSING TENANTS

Arrears reports will be reviewed weekly by the Revenue Collectors and all arrears with a value of three week's rent and/or over €100 (dependant on the weekly rent charged) will be subject to debt recovery action under the policy.

A six-step procedure will be implemented as follows:

STEP 1 – PAYMENT OF ARREARS

The Council will seek to act as quickly as possible to assist tenants whose rent is falling into arrears. A letter will be sent to all tenants where three consecutive weeks' arrears have accumulated.

The first letter will inform the tenant of the arrears of rent outstanding and remind them of the terms of their Tenancy Agreement in relation to the payment of their rent on time each week. A Statement of Account showing the amount of arrears outstanding, the weekly rent due and the payments made will also be issued to the tenant. They will be asked to contact the Revenue Collector or the Housing Finance staff member dealing with the account in order to enter into a Rescheduling Arrangement. This Arrangement will allow the tenant to pay an additional amount with the weekly rent in order to clear the arrears.

STEP 2 – RESCHEDULING ARRANGEMENT

A Rescheduling Arrangement should provide for the payment of the current rent plus an agreed amount weekly to reduce the arrears until they are cleared in full. Once the arrears are cleared, the tenant should resume paying the normal weekly rent due. Arrangements made with the tenant should be reasonable and reflect the tenant's disposable income and their ability to pay.

Written Rescheduling Arrangements must be signed by the tenant and the Revenue Collector/Housing staff and the tenant should be made aware of the consequences of not maintaining the repayment arrangement. A copy of the Rescheduling Arrangement will be given to the tenant and the second copy retained on file.

Compliance with a Rescheduling Arrangement will be monitored closely by both the Housing Finance Team and the Revenue Collector and if broken, the arrears procedure will proceed to the next stage.

STEP 3 – FAILURE TO KEEP A RESCHEDULING ARRANGEMENT

In the event that a tenant who has entered into a Rescheduling Arrangement with the Council fails to make a repayment or pay rent on a due date, the Council will serve a Statutory Tenancy Warning on the tenant, either at the dwelling or otherwise, or, in his/her absence from the dwelling, on such other person at the dwelling as may be prescribed for the purpose. The Statutory Warning will detail the rent related obligation that has been infringed, the rent arrears outstanding, the period of non-payment of the rent and the requirement that the tenant pay the rent arrears immediately. It also informs the tenant of the consequences of failing to pay the arrears or of not entering into revised rescheduling arrangements with the Council.

In cases where the tenant enters into a rescheduling arrangement as a result of the issuing of the Statutory Tenancy Warning and fails to make a repayment or pay rent on a due date, the Council may initiate proceedings to recover possession of the dwelling under Section 12 of the Housing (Miscellaneous Provisions) Act 2014 without issuing a further Tenancy Warning.

STEP 4 – FAILURE TO MAKE CONTACT

Tenants who fail to clear their arrears or tenants who do not contact the Council within 7 days from the date the first letter is issued, will subsequently receive a Reminder Letter. This letter will again

advise the tenant of the arrears outstanding. It will also inform them that failure to commence repaying the arrears may result in a Statutory Tenancy Warning being served on them without further notice.

If no contact from the tenant is received within 7 days following the issue of the Reminder Letter and the arrears remain outstanding, then a Final Reminder Letter will issue. The Final Reminder will inform the tenant of the arrears outstanding and request the tenant to attend a meeting to discuss the arrears situation. The tenant will also be advised that failure to attend the meeting will result in a Statutory Tenancy Warning being served on him/her without further notice.

STEP 5 – STATUTORY TENANCY WARNING

Where previous action by Council staff has failed to resolve the matter, Section 8.1 of the Housing (Miscellaneous Provisions) Act 2014 provides for the housing authority to issue a Tenancy Warning to a tenant in breach of “rent related obligations” (rental terms of the Tenancy Agreement).

The Statutory Tenancy Warning should include the following:

- (a) Details of the rent related obligation that has been breached, the amount of rent arrears outstanding and the period of non-payment of rent.
- (b) Details of any instances in the five years preceding the Statutory Tenancy Warning where the tenant or a household member was in breach of a rent-related obligation and the position as regards the payment of any arrears involved.
- (c) It must require the tenant to pay the rent arrears immediately or in the case of hardship, to contact the housing authority immediately with a view to entering into rescheduling arrangements in respect of the rent arrears involved.
- (d) It must indicate that, if the rent arrears have not been paid nor rescheduling arrangements entered into with the housing authority within 2 months of the Tenancy Warning coming into effect, the housing authority may initiate proceedings to recover possession of the dwelling under Section 12 of the Act without issuing a further Tenancy Warning.
- (e) It must inform the tenant that, if the tenant pays the rent arrears in the subject Tenancy Warning Notice within 2 months of the Tenancy Warning coming into effect but he/she fails to pay rent owed on the due date in the twelve month period after the warning comes into effect, the housing authority may, except where the tenant and/or household members enter into rescheduling arrangements for the payment of the rent arrears, initiate proceedings to recover possession of the dwelling under Section 12 without issuing a further Tenancy Warning.
- (f) It must inform the tenant that, where rescheduling arrangements are entered into but the tenant fails to make a repayment or pay rent on the due date, the housing authority may, except where the authority is satisfied that the failure to make a payment or pay rent on a due date was due to circumstances outside the household’s control and the authority and the tenant or the household enter into a revised rescheduling arrangements for the payment of rent arrears, initiate proceedings to recover possession of the dwelling under Section 12, without issuing a further Tenancy Warning.
- (g) It must inform the tenant if the housing legislation provisions relating to disqualifications from certain social housing supports stemming from rent arrears that are not the subject of rescheduling arrangements.
- (h) It must advise the tenant of his or her right to request a review of the warning under Section 10 of the Act.
- (i) It must inform a tenant, known by the housing authority to have debts in addition to rent arrears, of where information on debt advice and assistance may be obtained.

A Statutory Tenancy Warning should be served on the tenant, either at the dwelling or otherwise, or, in his or her absence from the dwelling, on such other person at the dwelling who may be prescribed for the purpose. If the Council’s attempts at serving a Statutory Tenancy Warning in a particular manner fail, the authority may attempt to serve notice in such manner again or may serve notice in another manner that may be prescribed.

A tenant who does not accept that a breach of the Tenancy Agreement has occurred in the terms set out in the Statutory Tenancy Warning may formally request a review of the Tenancy Warning.

The request for a review must be in writing and must normally be made within 10 working days of the issue of the Tenancy Warning and should outline the grounds for the request and indicate whether the tenant or a household member wishes to make oral representations. In certain extenuating circumstances the 10 days can be extended at the discretion of the CEO but the extended period cannot exceed 20 working days from the date of issue of the warning. On receipt of a valid review request the CEO must appoint a local authority official to carry out the review. This official must not have been involved in the issue of the warning and must be senior to the official who decided to issue the warning.

Section 11 provides that where there is no review request, a Tenancy Warning comes into effect on the second working day after the expiration of the period within which a review request could be received.

A Tenancy Warning that is reviewed comes into effect on the second working day after the reviewer's decision is sent to the tenant, except where the Tenancy Warning is annulled.

STEP 6 – SECTION 12 – PROCEEDINGS FOR POSSESSION OF A LOCAL AUTHORITY DWELLING

Prior to any possession application being made, a tenant should be given a Statutory Tenancy Warning, informed of the right to seek a review of that Tenancy Warning, and be given notice of proceedings setting out the reasons why a possession order is being sought.

The Council can apply to the District Court for an order for possession of the dwelling, stating the grounds on which the application is being made.

The tenant must be given at least 10 clear working days' notice of the Court hearing date (some exceptions are set out in the Act). A possession order must state the commencement date for the period during which the Council may recover possession. The period for recovery of the dwelling must be no shorter than 2 months and no longer than 9 months. Recovery of possession of the dwelling under the possession order will have the effect of terminating the tenancy on the recovery date.

Where a dwelling is vacated by a tenant leaving rent arrears and/or possible damage/clean up costs, these costs may be pursued as a debt through the courts if necessary, or offset against the tenancy deposit received at commencement of tenancy (Deposit Scheme introduced in 2012). A written report will be requested from the Clerk of Works outlining the nature of the damage caused by the tenant to the property and an estimate of the cost of repairs. Furthermore, Offaly County Council will not consider the tenant for re-housing for a two year period following vacation and until all monies due have been paid to the satisfaction of the Council.

PROCEDURE FOR DEALING WITH RENT ARREARS – SOCIAL LEASING TENANTS

A Reminder, a Warning Letter and a Final Warning Letter will issue to Social Leasing Tenants who are in arrears. The tenant will be encouraged to enter into a Rescheduling Arrangement for the payment of the current rent plus an agreed amount weekly to reduce the arrears until they are cleared in full. Where previous action by Council staff has failed to resolve the matter of rent arrears, the Council will make direct contact with the landlord of the property, to advise of the arrears position and to request the landlord to serve a Notice of Termination of Tenancy on the tenant. The Council will advise the tenant of the instruction given to the landlord and that they are to expect a Notice. The landlord must provide the Council with a copy of the served notice.

The Notice of Termination follows a standard format stipulated in the 2004 Residential Tenancies Act. It must be served in one of the following ways – on the person or on the property. If served on the property, it may be hand delivered or sent by either standard or registered post. The periods of notice will differ on each Notice depending on the length of the Residential Tenancy Agreement in place at that time. The notice periods per the 2004 Residential Tenancies Act are as follows:

Less than 6 months	28 days
6 or more months but less than one year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 3 years	56 days
3 years or more but less than 4 years	84 days
4 or more years	112 days

The tenant has the option during the notice period to discharge the arrears in full or to enter into a scheduled payment arrangement that is satisfactory to the Council. If either happens, the Council will instruct the landlord to withdraw the Notice and the tenant will be advised accordingly.

If however a tenant is evicted from either a Social Leasing or Rental Accommodation Scheme property as a result of rent arrears, Offaly County Council will not consider the tenant for any further housing supports including the Housing Assistance Payment for a two year period following eviction and until all monies due have been paid to the satisfaction of the Council.

RIGHT OF APPEAL

Under the 2004 Residential Tenancies Act, a tenant has a right to refer their termination of tenancy to the Private Residential Tenancies Board for possible resolution. This includes a termination based on a claim by a landlord for arrears of rent. A dispute regarding rent may not be referred to the Board for resolution at any time after the period of 28 days from the termination of the tenancy.

FORMER TENANT ARREARS

Under Offaly County Council's Scheme of Letting Priorities (October 2011) former tenants must clear all rent arrears outstanding (Subject to S.20 (5) (a) (b) Housing (Miscellaneous Provisions) Act 2009¹) as inserted by Section 49(f) of the Housing Miscellaneous Provisions Act, 2014; prior to being considered for inclusion on the Council's housing list.

All tenants attending a Pre-Tenancy Course will be informed that every effort will be made by the Council including court proceedings to recover any unpaid debts due by former tenants.

When tenants give notice to the Council that they intend to leave, housing staff will ensure that a Surrender of Tenancy form is completed. Staff will also inform the tenant of any outstanding arrears, and a written agreement will be signed stating how the arrears will be paid off. Housing staff will complete the agreement form with the outgoing tenant and request him/her to sign it. A forwarding address and telephone number will be sought from the outgoing tenant and a copy of the agreement will be sent to the tenant with a covering letter. The former tenant should be advised to make payments in person at the Cash Office, by post, by Standing Order or Household Budget.

In the majority of cases households owing rent leave without giving notice. In these cases the Housing Finance team/Revenue Collector should commence recovery procedures immediately. Arrears should be recorded on the tenancy file and efforts should be made to trace where the tenant has moved to. If the former tenant is traced, a letter seeking written agreement to repay the arrears will be issued. The agreement should be kept on the tenancy file and a copy sent to the former tenant.

¹ S 20.5 A household shall not be eligible for social housing support where—

(a) at any time during the 3 years immediately before the carrying out of the social housing assessment, the household or a member of the household was in arrears of rent for an accumulated period of 12 weeks or more in respect of any dwelling let to them by any housing authority under the *Housing Acts 1966 to 2009* or provided under Part V of the Planning and Development Act 2000, and

(b) the housing authority has not entered into a rescheduling arrangement with the household or household member for the payment of the moneys due and owing to the housing authority in respect of those arrears.

Offaly County Council may decide in exceptional cases to write off rent debt. A recommendation to write off debt is made by the Revenue Collector/Staff Officer, Housing Finance team and submitted to the Senior Executive Officer, Housing, who will make the decision. This may be where the arrears are relatively small (for example, under €500); where they are over a certain age (for example, 12 months); where the tenant cannot be traced or is unlikely to have the resources to clear the debt; or where it is uneconomic to pursue the debt. Only debts of former tenants can be written off. No arrears of current tenants will be written off.