
**WRITE OFF OF FORMER TENANT ARREARS AND
HOUSING BENEFIT OVERPAYMENTS**

**Responsible Cabinet Member – Councillor Bill Dixon
Community and Public Protection Portfolio**

Responsible Director – Cliff Brown, Director of Community Services

SUMMARY REPORT

Purpose of the Report

1. This report gives an update on the current position on former tenant arrears and Housing Benefit overpayments and seeks approval to write off debts of £44,611 and £51,425 respectively.

Summary

2. Approval is being sought to write off £44,611 of rent arrears from the housing debit including 42 cases of former tenant arrears where arrears exceed £500. As at 18 January 2009, a total of £73,255 has been received in income from former tenants towards arrears.
3. Approval is also being sought to write off £51,425 of Housing and Council Tax Benefits overpayments in respect of individual cases exceeding £500 for the financial year 2007/08, where it has become apparent that no further steps can be taken to recover the sums due.

Recommendation

4. It is recommended that a total amount of £44,611 for former tenant arrears and £51,425 for Housing Benefit overpayments be written off subject to steps for recovery being taken, wherever possible, if and when contact is made.

Reasons

5. The recommendation is supported as regular arrangements for writing off debts are in accordance with Audit Commission best practice for good financial management.

**Cliff Brown
Director of Community Services**

Background Papers

No background papers were used in the preparation of this report.

Janette McMain/Val Raper - Extension 2547/2621

S17 Crime and Disorder	The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.
Health and Well Being	There are no issues relating to health and well-being which this report needs to address
Sustainability	There are no sustainability issues
Diversity	There are no diversity issues
Wards Affected	Not applicable
Groups Affected	Not applicable
Budget and Policy Framework	The issues contained within this report do not represent change to Council policy or the Council's policy framework.
Key Decision	This is not a key decision
Urgent Decision	For the purpose of the 'Call-in' procedure this does not represent an urgent decision.
One Darlington: Perfectly Placed	The report has no particular implications for the Sustainable Community Strategy.

MAIN REPORT

Information and Analysis

Proposed Write-Offs

6. A summary of former tenant arrears recommended for write off is given in Table 1:-

Table 1: Proposed Arrears to be Written Off

Category	No	Value £
Death	2	1,598
No forwarding Address	20	22,440
Statute Barred ⁽¹⁾	-	-
Miscellaneous	-	-
Cases referred for Debt Recovery action and/or legal action but not financially viable to proceed	20	20,573
Total	42	44,611

7. It is Council policy not to re-house any applicant until former tenant arrears or other outstanding debts such as rechargeable repairs have been cleared, unless there are exceptional circumstances. This also applies to Housing Benefit overpayments, unless deductions made from the claimant's future award of housing benefit is successful.
8. Housing Services have an established procedure for rent arrears recovery which has recently been reviewed. The review recognised a need for better advice for council tenants and we have employed a Welfare Rights Officer who provides an essential advisory role to our current tenants, ensuring they are claiming all the income they are entitled to. In the last year more than 100 people have been helped to claim over £180k. A specialised Debt Recovery Team has been set up to deal with former tenants, and this team sits alongside the Estate Management Team who deals with current tenants. This enables information to flow between teams, improving communication and shared best practices. Officers investigate each case on an individual basis and only once all options are exhausted would a decision be made to write off a debt.
9. Existing practices have been evaluated and as a result we are providing customers with advice and incentives to manage and succeed in their tenancies. For example:
- (a) Clear Rent Account Draws
 - (b) Golden Goodbye (cash payments for terminating tenancies with clear rent accounts)
 - (c) Darlington Dividend (loyalty shopping cards)
 - (d) Traffic Light Campaign (Letters have been sent to every current tenant highlighting the position of their accounts ie High Arrears – Red Letter, In Arrears but have an arrangement of Payment – Amber Letter, Clear Rent Account and Good Payer – Green Letter)

⁽¹⁾ Statute barred – Debts outstanding over six years, where it is had not been possible to obtain an acknowledgement to the debt, are statute barred from recovery by sections 5 or 24(1) Limitation Act 1980.

10. Table 2 below is a schedule of Housing and Council Tax Benefit recommended for write-off:

Table 2 – Proposed Housing Benefit Overpayments to be written off (individual cases exceeding £500).

2007/08		
Category	No	Value £
Hardship	1	1,862
Official Error	13	14,918
Death	1	6,661
No Forwarding Address	20	17,847
Cases referred for debt recovery action and/or legal action but not financially viable to proceed	8	10,137
Total	43	51,425

11. Housing and Council Tax benefit is paid to many thousands of claimants and landlords each year through the Housing and Council Tax Benefit Schemes. Where every effort is made to minimise overpayments, due to the very nature of the scheme it is accepted that overpayments will occur.
12. Overpayments can be caused by a failure of the claimant or landlord to report a change of circumstance which may affect the level of entitlement to benefit, incorrect information being supplied, errors being made by the local authority or errors made by the Department for Works and Pensions (DWP) and the Inland Revenue. Depending upon how the overpayment occurs will determine whether or not it can be recovered or must be written off as irrecoverable. In respect of recoverable overpayments, these may be recovered by raising an invoice, deduction from ongoing benefit entitlement, recovery from the landlord's scheduled payment or by deduction from certain social security benefits payable to the claimant in certain circumstances. In respect of invoiced debts, during the course of recovery procedures, it may be found that an individual cannot be located, has been made bankrupt, or an appeal has been successful. Where appropriate, the Benefits Section will make every attempt to trace individuals by enquires through other departments of the Council, and if necessary via tracing agencies and the Council's bailiffs. Only when all avenues of recovery have been exhausted, will the overpayment be considered for write off.
13. Table 3 provides details of the total amounts of housing benefit written off over £500 when compared to the total of housing benefit paid and overpayments generated, and table 4 shows details of Council Tax benefit written off over £500 when compared to the total of council tax benefit paid and overpayments generated.

Table 3: Housing Benefits Paid Compared to Overpayments

Total Housing Benefit Paid	Total Overpayments created	Total overpayments written off	Write offs as a % of total benefits paid	Write offs as a % of overpayments created
26,059,460	565,402	47,028	0.18%	8.3%

Table 4: Council Tax Benefits Paid compared to Council Tax Benefit Overpaid

Total Council Tax Benefit Paid	Total Overpayments created	Total overpayments written off	Write offs as a % of total benefits paid	Write offs as a % of overpayments created
6,842,753	211,456	4,397	0.06%	2.1%

Financial Implications

14. Financial regulations require authorities to make an annual assessment of the extent to which any money owed to the Council is likely to prove irrecoverable and to make adequate provision in their accounts. The financial implications of writing off the proposed former tenants arrears debt of £44,611 has therefore, already been taken into account in the Housing Revenue Account.
15. In respect of Housing Benefit overpayments, the DWP have recognised that in a system as complex as the Housing Benefits/Council Tax Benefit schemes, errors will occur. From 2004/05, the DWP introduced incentives for local authorities to minimise the number of these errors. As a result, local authorities receive subsidy depending on the type of overpayment. Local authority error overpayments are funded at 100% subsidy providing we remain below the error threshold of 0.48% of total expenditure. For 2007/08 Darlington Borough Council had an error level of 0.21%. All other eligible overpayments due to tenant or landlord error are funded at 40% subsidy most of which are successfully recovered. For 2007/08, 92% of overpayments were classed as claimant or landlord error, with only 8% being local authority error. There will be no financial impact on the Council's current revenue budget as provisions have been made in the previous year.

Outcome of Consultation

16. No consultation has taken place.