

**INCOME RECOVERY POLICY AND PROCEDURES**

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# Rent arrears policy & Income recovery procedures

## 1.0 Introduction

- 1.1 This document sets out the Council's Rent Arrears Policy and Procedure. The document is used by members of housing staff, and is available to Councillors and other Agencies, such as Citizens Advice Bureau and Social Services. It is intended to act as an easily accessible guide to the Council's Policies and Procedures.
- 1.2 The aim of the Council's Rent Arrears Policy is to ensure that treatment of all the Council's tenants should be:
- accountable;
  - fair;
  - efficient;
  - effective; and
  - uniform throughout the processes.
- 1.3 The purpose of the recovery procedure is to outline the steps to be taken in dealing with the prevention and recovery of rent arrears and other housing related charges payable to the Council (ie Temporary accommodation charges, former accounts, Rent In Advance accounts, garage arrears, heating charges etc).

## 2.0 Responsibility

- 2.1 The overall responsibility for the management, control and recovery of rent arrears rests with the Head of Housing Operational Services. However, the day-to-day control of rent arrears, interviewing and corresponding with tenants, maintaining and initiating certain types of action under the Early Recovery Action procedures is delegated to the Income Recovery team.
- 2.2 The monitoring of area performance is controlled by the Principal Income Recovery Officer, collation of statistical information, and Court action procedures are carried out by the Income Recovery Officers with evictions carried out by

either the Principal or Senior Officer of the Income team

- 2.3 Principal Income Recovery Officer should carry out regular reviews to monitor the rent arrears performance; to ensure that appropriate action is being taken by the Officer responsible for monitoring the rent arrears. If non performance is an issue, a referral should be made to the Head of Operational Services after an appropriate review by the Principal Income Recovery Officer.

## 3.0 Tenancies

- 3.1 New Tenancies
- When a new tenancy is let, either Secure or Introductory, the Council will provide the following advice to a new tenant at the point of signing for tenancy:
- (a) Which weeks in the financial year rent shall be payable, and which weeks are designated 'rent free'.
- (b) Where, and the means by which, the rent can be paid, i.e. at the Town Hall cash counter or through the 'High Street security letterbox', by Bank/Building Society Direct Debit, by telephone using credit/debit cards, online using the internet payment system, or Allpay swipe card.
- (c) The importance of prompt payments and the Council's rent policy generally.
- (d) Joint and several liability for payment (in the case of joint tenancies).
- (e) Guidance on making a Housing Benefit claim, together with a leaflet detailing documents that will be required to enable housing benefit assessment, with emphasis on the urgency to return documents by 1st Monday of tenancy to prevent loss of entitlement.

(f) Tenants are to be requested to sign a Data Protection Document to enable legal liaison between Housing Benefit, Council Tax and Housing, Social Services and Job Centre Plus/Income Support.

- 3.2 Current Tenants (Secure & Introductory) Arrears action shall be based on the procedures set out in this document. The Unit shall endeavour to secure repayment of debts, either in full or by means of repayment instalments.

#### **4.0 Communication/access to information**

4.1 Consideration must be given throughout the rent arrears process to a tenant's disability, ethnic origin, diversity, religion and family situation, to ensure that they fully understand that rent is due, how it is to be paid and the implications of non-payment.

4.2 For further details on 'Children and Protected Parties; and changes in Mental Incapacity Act 2005, see 'Guidance for Housing Officers Pre- Court Action Protocol on page 18.

4.3 The following forms of communication shall be used, as appropriate:

(a) Telephone contact  
Landline text or mobile - both methods are an important means of personal communication, and should be used throughout the rent arrears process.

(b) Arrears letters  
Computer generated which are linked to the relevant arrears stages, and ad-hoc letters relevant to a specific situation.

(c) Office interviews  
Providing the opportunity to give the tenant comprehensive advice and guidance on all aspects of rent payment and benefit applications.

(d) Home visits

An alternative and/or in addition to (a) and (b) above to tenants, especially to those who do not respond to correspondence. Visits are available to those who either do not have the ability to attend a Town Hall office interview through illness or disability.

(e) Email Copy of email enquiry/repayment offer kept on arrears file.

#### **5.0 Tenants with Mental Health Difficulties**

The Council has a Joint Working Arrangement with Hampshire Social Services and the Adult Mental Health Service, whereby an 'early warning' system has been established to alert the three agencies to the possibility that a tenant with mental health issues may be experiencing some difficulty, and to advise the appropriate key person before the situation reaches crisis point. Indicators to be considered and procedures laid down in respect of whether a tenant already has a key worker, are set out in the Gosport Interagency Agreement, copies of which are held by Housing Management and Allocations and Advice, sections of Housing. Tenants may already have a support worker, from external support agencies and should be contacted to prevent the possibility of a homeless situation. If the tenant requires support, Gosport Borough Council should make a referral to the appropriate agency as early in the arrears process as possible.

#### **6.0 Arrears Procedures**

Whilst the procedure outlined in this document follows a logical progression from the date of arrears through to eviction, THE COUNCIL'S PRIMARY CONCERN IS TO RECOVER THE DEBT RATHER THAN TO REGAIN POSSESSION. Eviction shall be considered as a last resort if all other action has failed. In stating this, however, necessary effective action must be taken as early as possible, to ensure that controls are exercised at all times.

6.1 In taking Rent Arrears Recovery Action, the circumstances of each particular case must be taken into account, i.e. personal/ financial/ family situation/disability. The Housing Department must be seen to be both firm and reasonable. Agencies such as Social Services, Benefits Agency, Housing Benefit and Citizens Advice Bureau and Support Agencies are to be involved as appropriate. Where an agreement to pay is broken, action shall be taken as soon as possible. Following an eviction, action should continue to recover the former tenant debt, under the Former Tenancy Arrears section of this document.

6.2 Failure to take prompt action contributes to the increase of a person debt. Officers should ensure that liaison is maintained with the Housing Benefit Section to assist with giving appropriate advice and guidance to tenants to ensure they provide all the appropriate documentation and information to enable a prompt assessment of housing benefit.

6.3 Publicity of payment during the rent free weeks should be used to advertise the opportunity to reduce the rent arrears. Home visits to tenants should be a priority. Recovery Officers should advise tenants to make payments during rent free weeks to offset their rent arrears and/or to make written agreements to repay the arrears on a regular basis. Specific levels of arrears can be focused upon i.e. Notice Seeking Possession, and/or Possession cases.

6.4 The full range of recovery methods must be used prior to Possession Proceedings being taken as instructed by the County Court Protocol (for full details see pages 18-21).

### 6.5 Dwelling Arrears Reporting

The following Arrears Reports (received via IT and can be printed at any time), and are updated on a weekly basis.

(a) List of tenants with arrears at all arrears

stages, Notice i.e. Seeking Possession (NSP) stage, Possession Order, Warrant in force etc.

(b) Week by week arrears statistics on both patch and totals.

(c) Garage tenants in arrears and applicable recovery stages.

(d) Former tenant advances/arrears and applicable recovery stages. (Council & Temporary Accommodation accounts)

(e) Further reports can be customised on request from the Housing I.T. administrator.

Arrears monitoring is undertaken via a computer based system - IBS (Information Business Systems).

## 7.0 Arrears Prevention Best Practice

### Prevention

- When offering accommodation, the Council will clearly advise the applicant of the level of rent payable for the property.
- During tenancy sign-up provide the new tenant with Housing Benefit contact details or Change of Address Form (for mutual exchanges/transfers between council and local partner housing association tenants only).
- Housing Officer should provide advice to tenant in the completion of Housing Benefit application on sign up, so that the tenant can make contact with the Housing Benefit office to maximize the take up of Housing Benefit and to help prevent unnecessary delays in assessments, especially where a lack of financial information prevents assessment. The Housing Benefit Officer will also assist in the completion of a claim.
- The Housing Benefit team will provide

written and verbal guidance on what documents tenants should provide for a Housing Benefit assessment.

- Provide accessible information to tenants, particularly those with specific needs such as lack of numeracy and literacy, advice on access to Citizens Advice Bureau and Housing Advice Centres and Welfare Benefits.
- Provide advice on Gosport's range of methods of payment for rent and arrears (emphasis on Direct Debit process for ease of payment).
- During sign-up procedure the Income Recovery Team will make personal contact with the tenant whilst setting up the new tenancy, and take the opportunity to introduce the team and discuss the rent account and payment options.
- Housing officers should make themselves known to the tenants/residents so that clients will approach their Housing Officer/Income Recovery team to discuss tenancy issues and/or rent arrears.

## 8.0 Early Recovery Action

(for flow chart see p28 for Secure Tenancies or p30 for Introductory Tenancies)

8.1 Rent accounts should be monitored by the designated Housing Officer (Income Recovery) on a weekly/fortnightly basis, and appropriate action taken. In the event that early arrears are identified and assistance is required, every effort should be made to liaise with other agencies, CAB, DWP and Housing Benefit support agency. All details of actions, agreements and interviews to be recorded on the Tenants Diary facility on computer system. Arrangements made during personal interviews should be in writing and signed by the tenant.

8.2 Tenants whose rent account has arrears

exceeding two weeks arrears should be sent a letter. If this fails to result in the account being cleared and the arrears increase to between three and four weeks rent, the Housing Officer will contact the tenant, by a visit to their home and in addition, send a printed Rent Statement to establish the reason for the rent arrears. At such a visit, the Housing Officer can endeavour to make a repayment agreement with the tenant (signed by tenant and Housing Officer), to enable the Rent Account to be cleared by regular instalments, give general benefits advice and establish if possible, reasons for non payment, and to establish residents of the property and their financial circumstances.

8.3 When discussing rent arrears, Officers should encourage tenants to claim Welfare Benefits they may be entitled to, particularly Housing Benefit. Where a tenant is experiencing financial difficulties, a Housing Officer may be able to give limited money advice, or in more extensive cases of debt, refer the tenant to the local Citizens Advice Bureau (Fast Track Service) for more detailed counselling. Leaflets setting out the services offered by the Citizens Advice Bureau can accompany rent arrears correspondence at any stage. Other options for a Housing Officer to consider, may include payments by direct debit, by Allpay swipe card, online, via the telephone or direct payments from the Benefits Agency where appropriate, i.e. in cases where the tenant is in receipt of Income Support/Job Seekers Allowance.

## Legal Action

### 9.0 Notice Seeking Possession/Notice of Proceedings for Possession

9.1 Where no repayment agreement is made, or an agreement is broken and the arrears exceed four weeks rent, the Council can commence legal action through the service of a Notice of Seeking Possession (NSP) for

a secure tenant or a Notice of Proceedings for Possession for Introductory tenants.

- 9.2 The NSP/NPP gives the tenant Notice that, if the rent account is not cleared within four weeks (twenty- eight days), or a repayment programme agreed and maintained, the Council can commence steps to recover possession of their home. The NSP/NPP must be accompanied by a standard letter, together with a statement of the rent account. If an arrangement is made and maintained it will avoid the need to take further legal action. If, at any stage, the tenant discharges his/her arrears, the Notice shall become null and void. All arrangements to pay or Housing Officer action must be recorded on the computer diary facility.
- 9.3 Notices of Seeking Possession are served in respect of secure tenancy agreements under the Housing Act 1985, Section 83. (A Notice to Quit is served where an appropriate level of arrears has accrued either under Licence to occupy accommodation at the Barclay House Homeless Hostel/ contractual & homeless accommodation or in any non-secure properties let by the Council). This procedure document does not cover NTQ's which can be issued for reasons other than arrears. For serving a Notice of Proceedings for Possession on an Introductory Tenant - see flowchart "Introductory Tenancies". **(NSP/NPP must be hand delivered to the tenants dwelling or handed to tenant in person).**

## 10.0 Court Action

- 10.1 Following the service of a NSP/NPP, further attempts must be made to contact the tenant and agree a repayment proposal; a home visit should be made backed up by a letter if there is no response. If a decision is taken to commence Court action, a standard letter (court warning) will be sent to the tenant, advising them of the Council's intentions. This will be accompanied by a statement of the rent account. However, if the above

fails to result in payment, the Council will commence Court action. (Whilst the Council would not wish to take possession proceedings against its tenants, the final action can result in their eviction, and the Council will do so if all other attempts to recover arrears are unsuccessful).

- 10.2 The case will be reviewed by the Income Recovery Team. Court documentation will be completed either online via a direct link with the Court Service or via the completion of the appropriate Court forms, with all information produced in line with Court protocol, (see page 18-22) and delivered to the County Court for the issue of the Summons and listing for hearing.
- 10.3 The County Court Judge retains discretion on all decisions made in relation to Secure tenancies. Introductory Tenancies must be taken to court with the knowledge that the grounds sort are mandatory and an order for possession will be granted, as the Judge does not have the same discretion as that for a secure tenancy.
- 10.4 Upon the hearing date having been set, the Income Recovery Officer will attempt to contact and interview the tenant to ensure they fully appreciate the seriousness of the situation, and provide advice about the implication of the Court hearing.
- 10.5 14 days prior to the hearing date, the Income Recovery Officer will review the case and decide what Judgement will be requested from the Court. A rent statement is sent to the tenant 10 - 14 days prior to the hearing and the witness statements for the court hearing must be updated and served on the court and tenant 14 days before the hearing.

### The court options are:

- (a) **Postponed** (secure tenancies)  
A possession order is granted, however the court 'postpone' giving the date for possession, on the condition the defendant (tenant) makes repayments as instructed by

the court. If payments are not maintained an application is made to the court for the possession date to be fixed. During the postponed period the tenant does not lose security of tenure.

(b) **Suspended Possession Order** (secure tenancy)

Possession of the property will be suspended on future payments of current rent, plus a regular agreed sum off the arrears, and any costs awarded. In most cases where the tenant is unable to clear the debt in full, but indicates a willingness to make regular payments, this type of Order will be appropriate. (Generally suspended for 28 days). If payments are not made a warrant for possession can be applied for 28 days after the court hearing.

(c) **Outright Possession Order** (secure and Introductory tenancies)

The Court may award possession of the property to the Council within an agreed period, normally 14 - 28 days. Such Orders are appropriate in the minority of cases where a tenant is in a financial position to clear the debt, but has declined to co-operate with the Council to resolve the situation, i.e. persistently in arrears or liable to multiple Court orders for arrears, or believed to have vacated the premises. For Introductory Tenancies an order giving possession in 28 days will be awarded.

(d) **Adjournment on terms** (secure tenancies)

The Court may adjourn possession proceedings on terms, e.g. where the arrears should be reduced by regular payments to a level considered acceptable by the Income Recovery Officer/Court and tenant. The Council will have liberty to apply to the Court for the case to be restored and re-listed for further hearing in the event of the tenant failing to reduce the arrears on Terms laid down by the District Judge, when (a) or (b) can be granted by the Court. If a hearing is adjourned, the tenant does not lose security of tenure, and generally does not incur court costs, (the granting of Court costs

are at the discretion of the Court).

(e) **Possession in 7/14 days**

This Order will only be granted if the claimant (Gosport Borough Council) can prove that the property has been abandoned and that adequate effort has been made to trace the defendant and/or the dwelling has been left empty of all furniture and belongings. This Order will only be granted in exceptional circumstances.

## 11.0 Post Court Procedure

11.1 Immediately after the Court hearing, the tenant will be sent a letter explaining the terms of possession order and a rent account statement. Their account will be closely monitored and, if the terms of the Court Order are breached, the Tenant will be advised by sending a further letter (eviction warning). In the case of a Postponed Order the tenant must be notified of the Council's intention to apply to the Court to request the possession date to be fixed. A letter must be sent giving the tenant 14 days notice of the Council's intention to apply to the court for the possession date to be fixed, requesting personal contact within 7 days, details of the rent account and the defendant's right to apply to the court for the order to be set aside.

11.2 In the event of payments being missed, either consecutively or cumulatively, the Principal Income Recovery Officer shall consider eviction proceedings, and a further home visit/contact should be made to ensure that the tenant is aware of the possibility of pending eviction.

11.3 When the tenant has discharged his/her arrears and satisfied the Court Judgement, including Court costs, the Order becomes null and void, and no further possession action can be taken on the court summons (secure only).



## EVICCTIONS

12.0 The eviction procedure is undertaken with reluctance and as a last resort, when all other avenues of rent arrears control have been made. An eviction can only take place when the County Court has issued a repossession Warrant.

12.1 The Warrant will only be issued when:

(a) a Possession Order has been granted by the Court; and

(b) the Order has been breached, and when the appropriate time span has elapsed.

12.2 Prior to authorising an eviction, the Principal Income Recovery Officer or the Senior Rent Recovery Officer will attempt to interview the tenant to ensure that the eviction cannot be reasonably avoided, and that the tenant understands the implications of this action.

12.3 To apply for repossession Warrants, Gosport Borough Council is required to complete the appropriate Court forms, accompanied by a full rent statement of payments due and made, plus the Court fee. The Court will grant permission for the Warrant to be issued and the Court Bailiff will set a date and time for the eviction to take place. The notification of eviction is delivered to the tenant by the Court Bailiff and Gosport Borough Council is notified by the Court in writing. Gosport Borough Council must confirm the eviction process to the tenant in writing and keep the tenant informed throughout. The defendant/tenant has a legal right to appeal to the Court against the eviction-taking place. The tenant can make an "application to suspend" to the County Court at any time prior to the eviction taking place. A fee is payable by the tenant if they are working, no fee is charged if the tenant is in receipt of jobseekers allowance or income support.

12.4 The District Judge will decide whether the Warrant is suspended on conditions of repayment, or application to be dismissed

and Warrant enforced.

12.5 When a date for the proposed eviction is received from the Court, the Income Recovery Team will advise the appropriate Housing Officer and book a Locksmith. The Council's Housing Advice Service (Homelessness section) should be notified and any appropriate agencies when issues arise involving children at risk. The Bailiff generally gives approximately twenty-one days notice of repossession.

## 13.0 Suspension of Warrant

13.1 The Principal Income Recovery Officer will prepare a review of the case, attend the Warrant appeal hearing and advise the District Judge of the Council's position, i.e.:

(a) GBC opposes the application; or

(b) GBC does not oppose warrant being suspended if the tenant pays either a substantial amount off the outstanding debt, or undertakes to make future payments of the current rent, plus a regular agreed sum off the arrears.

## 14.0 Attendance at Eviction

14.1 In the event of an eviction taking place, a Housing representative must be in attendance. The Court Bailiff is legally required to "make entry and return the empty repossessed dwelling back to Gosport Borough Council". The Court Bailiff will give permission to the attending locksmith/carpenter to gain entry to the dwelling. The Bailiff will enter the dwelling first, followed by the Housing Officer/Senior Housing Officer. Only when the Bailiff is satisfied that no person is in the dwelling will he require the Officer to sign the Warrant, thereby accepting the repossessed property.

14.2 The locksmith/carpenter should change the front and rear door locks and secure the property. Returning the new keys to the

Housing representative.

14.3 The Housing Officer should remain at the property to take photographs of any possessions left by the tenant, and complete a detailed inventory of all items. It is important that the Housing Officer checks that the windows are secured and that the dwelling is left in a safe condition. Pro-forma document for inventory must be used for future reference.

14.4 A 'file note' of actions, photos and details of possessions must be kept in the tenants case file. Take meter readings.

14.5 If Resident/Tenant remain in the premises until the actual eviction, the Officer must ensure that the tenant is advised to contact the Housing Advice section. The Bailiff will advise tenants to leave the dwelling to enable vacant possession. There may be a range of reasons why a tenant refuses to leave the dwelling and each case must be assessed on its merits, past history and the action that has been taken by Gosport Borough Council. The Bailiff will decide if eviction is enforced where a tenant remains in the dwelling at time of eviction.

14.6 All actions and decisions must be deemed 'reasonable'. If the Housing Officer is in any doubt, further advice should be sought from Principal Income Recovery Officer or Housing Manager immediately.

14.7 Wherever possible the Principal Income Recovery Officer will attend the eviction.

14.8 Written details of times, dates and any conversations with the tenant should be kept on the rent arrears case file, as the details may be required should a tenant contest the eviction/Court process.

14.9 If personal possessions are left in the dwelling, Gosport Borough Council may be responsible for the safe storage of the items. If the tenant's whereabouts are unknown an assessment has to be made as to the tenant's possible future requirements of the

possessions. If the items are broken, badly damaged or just bags of rubbish etc and they are of no financial value, they should be disposed of as part of the void process.

14.10 Should the furniture, equipment and or clothing be sound and useable it must be stored for a minimum period of twenty-eight days. Gosport Borough Council will currently use a garage for this purpose.

14.11 If no forwarding address is available disposal can be made of the stored items if:

(a) the Housing Officer has no knowledge of the former tenants whereabouts; and

(b) the minimum 6 months has passed.

(c) all efforts have been made to trace the evicted tenant to discuss collection of the possessions.

**Caution should be taken at all times before disposing of a person's belongings. A written/IT record must be kept detailing which garage the items are stored in and when and if they were disposed of.**

14.12 **Full recording, both written and IT, of all events involved in an eviction will ensure that Gosport Borough Council is not held liable for lost/damaged possessions or for carrying out an illegal eviction.**

14.13 **Eviction - Storage of Possessions:**

When an eviction has taken place, the Housing Administration Officer must complete the eviction spreadsheet, which is located under P Drive/Housing/Anna Brooks/eviction spreadsheet. Housing Officers should update the spreadsheet. All Housing Officers will be able to access the details of possessions stored as a result of an eviction. This ensures accurate details of storage, dates and dwelling, when repossessed.

**14.14 28 Days Notice:**

If a forwarding address has been obtained the Housing Officer should ensure that contact is made with the former tenant with instructions for the removal of the possessions from the garage storage. If the tenant refused to liaise with the housing department they must be sent a letter giving them reasonable notice for the removal of the items - following 28 days after the eviction, notice letter and no tenant contact, the possessions can be removed/ disposed of. All items that have been removed must be listed, a full list of all items stored and disposed of should be filed in an envelope, with copies of photographs eviction list etc. The details must be kept on the arrears file for future reference.

**All eviction paperwork should be kept in the arrears case file.**

**14.15 6 Months Notice:**

If no forwarding address has been obtained or traced (consult Council Tax Office) - all possessions should be stored in a garage as above and kept for 6 months after which period the possession of the items becomes that of the Council - if the former tenant does not make a claim within that period the possessions can be disposed of. Checks must be regularly made via Council Tax/Experian to trace a forwarding address.

**15.0 ALTERNATIVE ACTIONS**

15.1 Where a tenant has failed to comply with the terms and conditions of a Money Judgement granted by the County Court, the Principal Income Housing Officer/Income Recovery Officer is authorised to refer cases to Legal Services to issue proceedings in respect of:

(a) Attachment of Earnings Orders (whereby an employer is ordered by the County Court to make wage deductions from a defendant's earnings);

(b) Garnishee Orders (served on anyone who owes the defendant money); or

(c) Distraint (where the County Court Bailiff can levy against goods belonging to the defendant/Debtor).

**16.0 GARAGE ARREARS**

(see flow chart - page 29)

16.1 As the rent accounts of tenants who occupy both a Council dwelling and garage are kept separate, any action in respect of arrears must be taken separately.

16.2 The aim of the Council's Rent Arrears Policy is the same for both dwellings and garages, to ensure that all tenants are treated fairly and the account is monitored in an effective and efficient manner throughout.

16.3 The procedure outlines the actions to be taken in a prompt manner to ensure that the garage rent arrears are kept to a minimum.

16.4 If, subsequent to the termination of a garage tenancy the former tenant requests restoration of the tenancy, this is only to be considered with the prior approval of the Principal/Senior Income Recovery Officer and subject to any outstanding arrears being cleared and cost of lock change being paid by the tenant (once only).

**16.5 Guidance for monitoring of Garage Rent Arrears**

(a) During the first stage of garage arrears recovery, a letter will be sent when the arrears reach two/three weeks.

(b) The accounts should be monitored and further action taken by the Support Officer, (letters and phone calls), and if arrears further increase, a Notice to Quit should be issued.

(c) If arrears persistently increase and Notice to Quit has been served with correct date noted, the Support Officer should further

write to the tenant warning of pending lock change and repossession of the garage. Support Officer to arrange for a lock change to be carried out by contractor. The tenant should then be further advised to remove any items left in the garage. Should the tenant not clear all items from the garage within seven days, a further letter should be sent informing the tenant that the items are to be disposed of and that the tenant may be recharged accordingly.

(d) Should a former tenant debt be outstanding; the former tenant will be contacted by post to recover the debt through the Council's Former Tenant Recovery Procedure.

## 17.0 FORMER TENANT ARREARS POLICY

17.1 Former tenant arrears should not be viewed as uncollectable rent debts, as often with quick intervention following the termination of a tenancy, revenue can be collected.

There are four main reasons for former tenant rent arrears:

### (a) **Death of tenant**

Arrears can be recovered from the Estate.

### (b) **Termination of tenancy**

Tenants moving to other Council properties should not be allowed to move until all rent arrears are cleared in full. However, tenants can legally give notice and move to private accommodation. Arrears to be cleared by arrangement or former tenant process.

### (c) **Abandoned properties**

(Difficult to collect, as forwarding address is generally not known).

### (d) **Eviction**

(Forwarding address often not available). (Experian database to be used to try and trace forwarding address).

### (e) **Cancellation of Housing Benefit prior to void**

In cases where the forwarding address is unknown, information may be gained from other Agencies, Council Tax/Housing Benefit records/Experian etc. However, data protection laws prevent many contact points from providing information.

## 17.0 Death of Tenant

17.2 The Housing Committee (3 June 1998: Minute 19 refers) adopted a policy where up to four 'rent free' weeks are available following the date of the death of a sole tenant, where there is no successor. Under the policy laid down by the Housing Committee, time is given for the personal representative to resolve any outstanding issues, knowing that the pressure to return keys to avoid rent liability was removed. Housing benefit is not paid after date of death.

17.3 Outstanding arrears can, however, be recovered from the Estate (where possible) following the death of a tenant and within the aforementioned 'rent free' period, the Rent Officer shall endeavour to liaise with relatives/legal representatives of the deceased to enquire if an estate is available to cover any outstanding balance. If the next of kin responds by letter stating there are no funds in the Estate, the debt should be considered for write off.

## 17.4 Termination of Tenancy

(a) When notice of "termination of tenancy" is received from the tenant, they should be advised by the Housing Department of the balance up to the date of termination.

(b) The Conditions of Tenancy state that 28 days notice of termination must be given by tenant. The decision on the void date will be made by the Housing department and on the date of key return to the Town Hall. A notice to terminate must start on the

first Monday on or after receipt of notice. Tenancy will end 28 days thereafter. For tenants moving from GBC dwelling into sheltered accommodation/care, a reduced notice period can be arranged.

(c) If an outstanding arrears balance has not been cleared, the Housing Department shall, if possible, obtain details of any forwarding address of the former tenant. (This should be obtained prior to, or at least on date of return of keys). Rent arrears should be cleared by last date of tenancy.

#### 17.4 Payment Arrangements

When the whereabouts of the former tenant are known (and recorded on the computer diary), the Housing Department should send a payment card and advise the former tenant of the level of arrears and (enclose Statement of Account) the means by which payments can be made, i.e.:

(a) at the Town Hall cashier desk (by cheque, cash, debit/credit card) or, after office hours, through the security letter box (situated at the High Street entrance to the building);

(b) by post; or

(c) by bank/building society direct debit/standing order

(d) telephone and internet payments.

(e) Allpay Swipe Card

#### 17.5 Former Tenant Recovery Procedures (Dwellings, garages, temporary accommodation)

(for flow chart see page 31)

(a) If the account is not cleared or an arrangement made to pay by instalments, the Housing Department shall send letter FT1 (within 2 weeks) after a period of 28 days send FT2. In the event of letter FT2 having no effect, the Housing Department shall send letter FT3 advising that the matter

will be referred to a debt collection agency, prior to Legal Services for recovery purposes, which will involve recovery through the County Court. All payment arrangements must be confirmed and recorded on the tenants diary. (I.T.system).

(b) Referral to Legal Services

When 'former tenancy' letters FT1, FT2, and FT3 have been sent and the former tenant either fails to respond to requests for payment, or defaults on a repayment agreement; the case should be reviewed. Consideration must be given to the level of debt and length of time debt has been outstanding before deciding to either i) write the debt off, or ii) refer the case to debt collection agency or Legal Services for recovery through the County Court or iii) refer to debt collection agency. Every endeavour must be made to pursue the debt prior to referral to the Legal Services Department. Referral to the Legal Services Department can only be made if a former tenant's forwarding address is available. Referrals must be made by completing the appropriate "Referral to Legal Services" form accompanied by copies of documents/letters as sent to the former tenant. Consideration must also be made as to the financial cost of Court Action on recovery of former tenant debts. Final decision rests with the Principal Income Recovery Officer/Senior Recovery Officer before a referral to Legal Services is made.

(c) Entries on the tenant diary will enable Allocations & Advice Section to immediately identify those former tenants who owe rent arrears, should client re-apply for Council housing accommodation in the future. Rent arrears should be cleared before further secure accommodation can be signed for.

#### 17.6 Uncollectable Former Tenant Arrears

In cases where dwellings are repossessed by the County Court Bailiff (for non-compliance with Orders for Possession) or when properties are abandoned where a forwarding address is not available. Such

cases can be identified for write-off after six calendar months. (Gosport Borough Council Policy).

### 17.7 Former Temporary Accommodation and Former Licence Arrears (Homeless Hostel, Barclay and Burney)

For recovery procedures for temporary accommodation - Rent In Advance cases, RAPS, Damage Deposits, and all former debts, the same procedure as HRA dwellings is used, for full details see pages 14 to 17.

### 17.8 Referral to Debt Collection Agency

Selected former tenancy debts can be referred to the Debt Collection Agency; only where an address is available and the GBC rent arrears process has been completed and the former tenant is still not paying. Consideration to FC collections must be given prior to referral to legal services or when debt is too small to be referred for legal action due to the level of court costs which will increase the overall debt. Only debts over £50 can be referred to the collection agency.

## 18.0 WRITE-OFF PROCEDURES

(a) In cases where payments are not forthcoming and the Housing Department is unable to trace the whereabouts of a former tenant, consideration shall be given to write off, in accordance with financial regulations 6.1.2.

(b) District Audit and Internal Audit require full details of cases for 'write off' to be kept by the Housing Department. Listings will utilise both computerised and manual formats of all cases authorised for write off and actually written off.

(c) The Director of Finance has delegated authority to write off former tenant arrears below £10,000 per case. Write-offs valued at less than £250 per case can be approved by the Housing Services Manager.

(d) Debts under £250 to be listed with relevant facts and copy to Director of Finance for information. A second list should be provided detailing debts over £250 for Director of Finance's authorisation for write-off, in addition to the signature from the Housing Services Manager.

(e) When authorisation is given by the Director of Finance, the Income Recovery Officer will then debit/credit the former tenant accounts accordingly, by an IT Journal entry direct to the former tenant accounts, thereby writing off the outstanding debts/credits.

(f) The Income Recovery Team are empowered to 'write back' any former tenancy debts where details of the former tenants' whereabouts, employment details, etc, become known.

## 19.0 PROCEDURES FOR CHASING TEMPORARY ACCOMMODATION FORMER TENANT ARREARS

The former tenant debt recovery process starts when a client's period of occupation has ended and they have moved to alternative accommodation.

The stages below provide an outline of the recovery process with further detail as shown in the flow chart. Details as shown in the brackets relate to the recorded arrears stages only.

From termination of tenancy/period of occupation:

- 2/3 weeks ensure all housing benefit has been paid, and forwarding address is available - send first arrears letter to client (FT1).
- 5/6 weeks - if no response or repayment agreement made after 1st letter - send second arrears letter and invite client to visit the Town Hall to discuss outstanding debt (FT2).
- 7/8 weeks - if no response to previous letters the following should be carried out:

- Check forwarding address with Council Tax and/or Experian - If client has moved source new address and send out third letter (FT3)
- If no response from FT3, and Tenant still resides at forwarding address, forward debt to Debt Collection Agency (FC Collections) for recovery. (FTD)
- If no address traced, add to write off list (FT4) and only written off under GBC corporate write off procedure.
- If response received from client, a repayment agreement should be made.
- Set up the agreement with client, (signed document if agreement made at Town Hall) enter details on diary facility on IBS
- Monitor on a monthly basis to ensure payments are being made.
- If the client responds either by attending an interview or by telephone the following procedure is carried out:
- Ascertain the client's current financial situation.
- For guidance - £3.40 per week minimum (to be reviewed annually in line with DWP) payment if debtor is on Income support/ Job seekers Allowance, welfare benefits; £5.00 minimum per week for higher welfare benefits (DLA); £5.00 minimum each week for clients in employment and on very low wages i.e. part-time (more to be paid depending on the level of income and financial situation) Higher repayments must be made when a person/s are in receipt of full time earning/working and child tax credits, joint income families/couples depending on
- level of wages and other priority debts. Only in very exceptional circumstances will less than £3.40 be acceptable. Repayment levels increase annually in line with the DWP - proposed £3.50 from April 2012-2013.
- Complete and ask client/s to sign the repayment agreement. A copy to be given to the customer. If the arrangement is made during a telephone conversation, request the client to send forward a letter confirming the repayment agreement.
- If client is unable to afford to repay the debt at the time of the interview, but in the very near future the client's financial situation is due to change the recovery process can be placed on hold. Update IT/IBS account and provide reason for placing on hold for a limited period and send a letter to client which confirms that the repayment towards the debt must be resumed from a given date (maximum period for repayments to be put on hold - 4/6 weeks).
- 9/10 weeks after end of occupation - If no response from client to above recovery action or no forwarding address, the following procedure should be followed:
  - Debt under £50.00 - Consider debt to be written off as uneconomical to pursue (FT4)
  - Debt over £50.00 - if forwarding address is correct, source all paperwork and refer to Debt Collection Agency (FTD). If Debt Collection Agency are unable to recover and the debt is returned to GBC, consider referral to Legal Services (FT5)
  - If all paperwork complete (i.e., Tenancy/ occupation agreement etc) a court judgement can be obtained. If no Tenancy agreement available, a letter only is sent by Legal Services.
  - Initial chase letter sent from Legal Services. If no response after a month a court judgment may applied for, or if legal letter only and no response then file is closed by Legal Services.
  - If the client agrees to pay as a result of receiving a warning letter from Legal, the repayment agreement is then made with Legal Services. The Income Recovery Officer will monitor payments. If the tenant fails to maintain the repayment agreement, Legal Services may then apply for a warrant to be issued on the debt. If the warrant fails this could be for two reasons; 1) Client has moved and we no longer have a current address or 2) GBC is aware of where the Tenant resides and County Court have been unable to execute the warrant (lack of appropriate possessions to sell). The following procedure is then carried out:
    - If no current address, account to be considered for write-off under Corporate write off procedure - stage (FT4) and update IT/IBS system
    - If current address available, account can be placed on FT6 stage (stage which we know where the client resides, but have been

unsuccessful in obtaining monies and to review alternative methods of repayment). This stage is monitored on a monthly basis to see if client has moved. If the client has moved and GBC obtain an up to date address, a letter is sent by Income Recovery Officer who should resume chasing the debt. If no forwarding address is available during the recovery process consider for write off and place on write-off stage (FT4).



## 20.0 PROCEDURES FOR CHASING RIA/DAMAGE ARREARS

The recovery procedure only takes place after the Temporary Accommodation team have accepted the client's housing need, have a signed contract between GBC and Client and have set up the client's account.

The stages below provide an outline of the recovery process with further details as shown in the flow chart. Details as shown in the brackets relate to the recorded arrears stage only.

- Payment demand to be sent to client.
  - 2/3 weeks after Payment demand - first arrears letter sent (RIA1 - DG1)
  - 5/6 weeks after letter - second arrears letter sent (RIA2 - DG2). This letter invites client to attend an interview at the Town Hall to discuss the outstanding debt.
  - 7/8 weeks after 2nd letter - if no response to previous letters the following to be carried out:
    - Check forwarding address with Council Tax and/or Experian - If Debtor has moved, source new address and send out reminder to advise that unless payments are received, debt will be sent to Debt Collection Agency FC Collections (FTD).
    - If no address is traced, add to write off list (FT4) only written off under GBC corporate write off procedure.
    - If response received from client, a repayment agreement should be made with client and set up as follows:
      - Set up the agreement with client (client to sign) and record on IT/IBS diary facility.
      - Monitor on a monthly basis to make sure payments are being received.
      - If the client responds either by attending an interview or by telephone the following procedure is carried out:
        - Ascertain the clients current financial situation
        - For guidance - £3.40 per week minimum (to be reviewed annually in line with DWP) payment if client is on Income support/ Job seekers Allowance welfare benefits; £5.00 minimum per week for higher welfare benefits (DLA); £5.00 minimum
- each week for client in employment and on very low wages i.e. part-time (more to be paid depending on the level of income and financial situation) Higher repayments must be made when a person/s are in receipt of full time earning/working and child tax credits, joint income families/couples depending on level of wages and other priority debts. Only in very exceptional circumstances will less than £3.40 be acceptable. Repayment levels increase annually in line with the DWP - proposed £3.50 from April 2012-2013.
- Complete and request client/s to sign the repayment agreement. A copy to be given to the customer. If the arrangement is made during a telephone conversation, request the client to send a letter confirming their offer of repayment.
  - If client is unable to afford to repay the debt at the time of the interview, but in the very near future the client's financial situation is due to change/improve, the recovery process can be placed on hold. Update IT/IBS account and provide reason for recovery action being placed on hold for a limited period and send a letter to tenant to confirm that the debt must be repaid from a given date. The debt recovery process must only be put on hold for a short and limited period of 4/6/8 weeks depending on client's financial position and in agreement with line manager.
  - 9/10 weeks after payment demand - If no response from client, the following procedure to be followed:
    - Debt under £50.00 - Consider debt to be written off as uneconomical to pursue(FT4)
    - Debt over £50.00 - if forwarding address is correct, source all paperwork and refer to Debt Collection Agency (FTD). If Debt Collection Agency are unable to recover and the debt is returned, consider referral to Legal Services(FT5)
    - When Money Judgement applied for (i.e., all appropriate documentation and Tenancy/licence agreement etc must be available) a court judgement can be obtained. If no Tenancy agreement available, legal letter only is sent to client by Legal Services.
    - Initial chase letter sent from Legal Services. If no response after a month a court

judgment is applied for, or if legal letter only then file is closed by Legal Services.

- If the client agrees to pay, the agreement is made with Legal Services. The Income Recovery Officer will monitor repayments. If the client fails to keep up with the repayment arrangement, Legal Services will apply for a warrant to be issued by the Court (recovery of possessions to value of debt - restraint). If the warrant fails this could be for two reasons; 1) Tenant has moved and we no longer have a current address or 2) We know where the Tenant lives and the Court have been unable to execute the warrant. The following procedure is then carried out:
  - If no current address, account to be considered for write off and placed on write-off stage (FT4) update the IT/IBS diary facility.
  - If current address is available, account can be placed on FT6 stage (stage for which we know where the Client resides, and GBC have been unsuccessful in obtaining monies and review alternative recovery methods). This stage is monitored on a monthly basis to see if Client has moved. If Client has moved and an up to date address becomes available, a letter is sent by Income Recover Officer who will resume chasing the debt. If no forwarding address during arrears recovery process consider for write off under the Corporate write off procedure and place on write-off stage (FT4)

## 21.0 Guidance for Housing Officers and persons involved in rent arrears procedures.

### 21.1 Pre-court action protocol

- Information for Housing Officers, Enforcement Officer, Income Recovery Officer and all staff involved in the monitoring of rent arrears/tenancy issues.
- The pre-action protocol is part of the Civil Procedure Rules (Court Process) and must be taken into account when monitoring the rent arrears/neighbour nuisance of tenants to ensure that all appropriate contact, visits and

action has been taken prior to consideration to take repossession proceedings and through out the Court process.

- Consideration must be given throughout the arrears/court process to a tenant's disability, ethnic origin, diversity, religion, family situation, to ensure that they understand the process and that rent has to be paid and how. Issues that may involve children must be considered and the appropriate agencies informed.

### 21.2 Changes to Civil Procedure Rules Regarding Litigation Friends and Capacity Issues:

Part 21 of the Civil Procedure Rules has been changed from October 2007 following the changes introduced to the law by the Mental Incapacity Act 2005. Part 21 also deals with 'Children and Protected Parties (children and patients). It is crucial for all those involved in litigation to be aware of the rules whenever dealing with children or someone who lacks capacity to conduct legal proceedings on their own behalf as it means that a special procedure must be followed to appoint a 'litigation friend' to act on their behalf.

The rules specify:

- how a person may become a litigation friend and the court's power to accept or change the litigation friend.
- how to decide if a person needs a litigation friend to be appointed or not.
- legal steps taken before the appointment of a litigation friend may have no effect. Therefore steps have to be taken prior to proceeding with court action.

21.3 To ensure appropriate action is carried out:

- Ensure contact at start of arrears/nuisance.
- Obtain signed Data Protection form completed to enable contact to be made with Housing Benefit and other Agencies,

- family members to assist and/or Litigation friend when applicable.
- Use telephone numbers as a means of contact if home visits have proved unsuccessful.
- Letters for rent arrears to be sent out from earliest point of arrears action (all letters set up via IBS IT arrears processing).
- Home visit/Invite tenant/s to town hall for interview.
- During interviews ensure that details of household, names and ages, details of all income and outgoings, and outstanding debts are documented - documents provided in each interview room and should be used at each home visit. Document to be filed in rent arrears file for tenant.
- All arrears stages must be completed in appropriate manner as a minimum of contact, taking into account any family/financial issues that may occur or cause the rent arrears.
- Tenants to be advised to undertake assistance/advice from Citizens Advice Bureau, Housing Advice Centre etc. Leaflets with contact phone numbers are available at Town Hall reception and Housing Department.
- If level of Housing Benefit is an issue, the tenant should be guided in what information is required by the Housing Benefit office to enable the claim to be processed. The tenant should attend the housing benefit office in person to ensure that they receive the correct benefit advice. However in certain circumstances the tenant will need assistance and as long as the tenant has completed the Data Protection form authorising Housing to make benefit enquiries on their behalf; the housing staff member should ensure that they make contact with the benefit assessors on the tenants behalf to ascertain what financial information is required to enable the housing benefit claim to be assessed. Early contact with a tenant when the benefit has been stopped will ensure that the arrears do not increase unnecessarily.
- NTQ/NSP/NPP to be sent to each tenant in the case of a joint tenancy (copy to guarantor if applicable).
- All Tenants irrespective of credit/arrears receive a minimum of 2 rent statements each year (week 26 and 52) as a minimum, which covers the full 52 weeks of the financial year. Additional rent statements must be sent out with NSP/NTQ/NPP, all court warning letters and court applications. A statement from start of arrears to date of application must be sent with the Court Summons. Each general statement details a minimum of 13 weeks arrears, more extensive information is available on request.
- The Council must consider whether it is possible to resolve the rent arrears issues by discussion and negotiation without the need for litigation. Further contact must be made with the tenant after the first court warning letter and prior to court application being made, with Diary entry being made of successful/unsuccessful interview/attempted visit. Claims for possession will not be issued prematurely when a settlement may be reached.
- Rent statements can and should be sent out at other stages through out the rent arrears process, written text can be made i.e. information/requesting urgent contact and can be left at a property when making/attempting to make a home visit.
- Diary entries must be made of all dates of contact and result of the interviews and any repayment agreement made. For all tenancy issues and not just for rents. Rent arrears letters completed through the rent arrears processing are automatically recorded on the diary as being processed. If a visit is made and the officer does not receive a reply, it should be recorded on the IT diary facility, as this would be used as evidence for court proceedings if initiated.
- When a diary entry is made to record contact with a tenant, a record of who made the enquiry i.e. Mr or Mrs or partner is required. As part of the Protocol it is now required that all parties of the tenancy must receive a copy of the NSP/NTQ/NPP addressed on the envelope to each party (Certificate of Service is required for each NTQ/NSP/NPP delivered). By recording who the contact has been made with,

will often provide evidence that both parties are aware of the arrears. If a party to the tenancy attends court and states they were not aware of the rent arrears, a Possession Order will not be awarded and the case may have to be withdrawn, with large costs for court fees and officer time.

- (The above details are for guidance and must be used throughout the Court process - for any enquiries consult Senior Housing Officer - Rents, Rent Recovery Officer or Legal Services).

## 22.0 Pre action protocol for possession claims based on rent arrears

### In force:

from 2nd October 2006

### Applies to:

residential claims by social landlords which are based solely on claims for rent arrears.

Does not apply to claims for possession where there is no security of tenure.

### Aim:

encourage more pre-action contact between landlords and tenants and enable court time to be used more effectively.

Courts are likely to take into account whether the protocol has been followed when considering whether to grant an order.

If the landlord unreasonably fails to comply with the protocol, the court may impose one or more of the following sanctions:

- An order for costs
- In cases other than those brought solely on mandatory grounds, adjourn, strike out or dismiss claims

If the tenant unreasonably fails to comply with the terms of the protocol, the court may take such failure into account when considering whether it is reasonable to make possession orders.

## 23.0 THE PROTOCOL

### 1. Initial contact from the Landlord who should:

- **contact the tenant** as soon as reasonably possible if the tenant falls into arrears to discuss cause of the arrears, tenant's financial circumstances, tenant's entitlement to benefits and repayment of the arrears. If contact made by letter, landlord should write separately to each named tenant.
- try and **agree with the tenant** affordable sums to pay towards arrears, based upon tenant's income and expenditure (where this information has been supplied by tenant in response to landlord's queries).
- clearly set out in pre-action correspondence any time limits with which the tenant should comply
- provide **rent statements** on a quarterly basis. Statements should be in comprehensible format and show rent due and sums received for the past 13 weeks
- provide the tenant on request with **rent statements** from the date when arrears first arose showing all amounts of rent due, the dates and amounts of all payments made, whether through housing benefit or by the tenant, and a running total of the arrears
- if he is aware that the tenant has difficulty reading or understanding information, take reasonable steps to ensure that the **tenant understands** any information given, Landlord will need to be able to demonstrate the steps taken to ensure that the information has been appropriately communicated in a way the tenant can understand.
- if tenant under **18 or particularly vulnerable**, consider at an early stage:
- whether the tenant has the **mental capacity** to defend possession proceedings and, if not, apply for a litigation friend in

accordance with

CPR 21; and

- whether or not there any issues under the

#### **Disability Discrimination Act 1995;** and

- whether or not there is a need for a **community care assessment** in accordance with National Health Service and Community Care Act 1990
- if tenant meets criteria, arrange for **arrears to be paid by DWP** from the tenant's benefit

#### **Housing benefit**

The landlord must assist the tenant in any claim the tenant has for housing benefit.

The landlord and tenant must work together to resolve any housing benefit problems.

Possession proceedings for rent arrears should not be started against a tenant who can demonstrate that he has:

- provided the local authority with all the evidence required to process a housing benefit claim;
- a reasonable expectation of eligibility for housing benefit; and
- paid other sums due which are not covered by housing benefit

The landlord should make every effort to establish effective ongoing liaison with housing benefit departments and, with the tenant's consent, make direct contact with the relevant housing benefit department before taking enforcement action.

The landlord should advice tenant to seek assistance from CAB, debt advice agencies or other appropriate agencies as soon as possible.

## **2. After service of statutory notices**

After service of a statutory notice but before issue of proceedings, the landlord should make reasonable attempts to contact the tenant to discuss:

- the amount of the arrears;
- the causes behind the arrears;
- repayment of the arrears; and
- the housing benefit situation. If the tenant complies with an agreement to pay the current rent and a reasonable amount towards arrears, landlord should agree to postponed possession proceedings so long as tenant keeps to agreement.

If the tenant stops complying with the agreement, the landlord should warn the tenant of the intention to bring proceedings and give tenant clear time limits with which to comply.

## **3. Alternative dispute resolution**

The parties should consider whether it is possible to resolve the issues between them by discussion and negotiation without the need for litigation.

The parties may be required by the court to show evidence that alternative means of resolving the dispute were considered. Courts take the view that litigation is the last resort.

Claims should not be issued prematurely when a settlement is still being actively explored.

Booklet 'Alternatives to Court' published by Legal Services Commission: [www.clsdirect.org.uk/legalhelp/leaflet23.jsp](http://www.clsdirect.org.uk/legalhelp/leaflet23.jsp) This lists number of organisations that provide alternative dispute resolution services.

#### 4. Court proceedings

At least 10 days before the date of the court hearing, the landlord should:

- provide the tenant with up-to-date rent statements; and
- give the tenant any information he has on the tenant's housing benefit position.

The landlord should inform the tenant of the date and time of any court hearing and the order applied for. The landlord should advise the tenant to attend as the tenant's home is at risk. Records of such advice should be kept.

If the tenant complies with an order made after the issue of proceedings to pay the current rent and a reasonable amount towards the arrears, the landlord should agree to postpone court proceedings so long as the tenant keeps to the agreement.

If the tenant stops complying with the agreement, the landlord should warn the tenant of the intention to restore the proceedings and give tenant clear time limits with which to comply.

Protocol can be found at:

[http://www.civiljusticecouncil.gov.uk/files/rent\\_arrears.pdf](http://www.civiljusticecouncil.gov.uk/files/rent_arrears.pdf)

## SUGGESTED CHECKLIST - COMPLIANCE WITH PRE-ACTION PROTOCOL

Provide Evidence

<b>INITIAL CONTACT</b>	
Tenant contacted as soon as fell into arrears	
Payment agreement attempted	
Rent statements sent to tenant on a quarterly basis	
If tenant meets criteria, arrange DWP pay arrears direct from benefit	
Reasonable steps taken to ensure tenant understands all information	
<b>IF TENANT UNDER 18 OR PARTICULARLY VULNERABLE</b>	
Does tenant have mental capacity to defend possession proceedings	
If not apply for appointment of litigation friend	
Are there any issues under Disability Discrimination Act 1995?	
Is there a need for a community care assessment?	
<b>HOUSING BENEFIT</b>	
Offered to help tenant with Housing Benefit Claim.	
Has tenant provided all evidence required to process housing benefit claim?	
Has tenant a reasonable expectation of eligibility for housing benefit?	
Has tenant paid other sums due which are not covered by housing benefit?	
	If yes to all do not start proceedings.
Worked with housing benefit department/made direct contact if tenant consented	
Advised tenant to seek assistance from CAB or similar:	
<b>AFTER SERVICE OF STATUTORY NOTICE</b>	
Before issue of proceedings made reasonable attempts to contact tenant to discuss arrears:	
Postponed proceedings if payment agreement made:	
If tenant has broken agreement, warned of intention to bring proceedings	
Can matter be resolved by discussion and negotiation	
Alternative means of resolving dispute considered?	
<b>AT LEAST 10 DAYS BEFORE THE HEARING</b>	
Provide tenant with up-to-date rent statement	
Provide tenant information known on Housing Benefit position	
Notify tenant of date and time of court hearing and order applied for	
Advised tenant to attend as home is at risk	
If keeping to payment agreement made after issue of proceedings, consider postponing proceedings	
If tenant has broken agreement warned of intention to restore proceedings	

## Guidance Notes

### RENT ARREARS PROCESSING FOR SHELTERED SCHEMES AND IN RESPECT OF THE ELDERLY

When processing the rent accounts for tenants who are resident in Sheltered Accommodation or tenants in general stock and are known to be elderly, more consideration needs to be given when processing the rent arrears and sending out warning letters.

### Cancellation of Housing Benefit

If a tenant was previously receiving Housing Benefit the Officer should first make contact with the Benefit Office in order to ascertain the reason for the cancellation. If financial information has not been provided, personal contact should be made with the tenant either by telephone or home visit. Documentary evidence can be obtained by the Officer and taken to the Benefit Office to hasten the claim.

If Housing Benefit is cancelled due to non-completion of the Housing Benefit review form, the Housing Officer should visit the tenant with a new benefit form and can assist with the completion. For frail, disabled or very elderly a housing benefit visiting officer can be requested.

If the tenant has financial funds which prevents them from qualifying for Housing Benefit, advice should be given on alternative methods of repayment.

**Personal Contact** If the tenant is believed to be too frail/elderly to deal with their own rent situation or Housing Benefit claims, contact should be made with a relative where telephone numbers have been provided or manager of a sheltered scheme. If the tenant is not in sheltered accommodation the Officer should check with the tenant and obtain permission to contact a third party whenever possible.

The Senior Older Persons Services Co-ordinator can provide a full list of client contact details for all schemes. Each Manager of a Scheme also maintains a list of contact/next of kin telephone numbers for the residents of their own scheme. A tenant's next of kin should be contacted in order to assist the tenant with the completion of any documents or assistance with setting up direct debits etc.

Prior to a home visit contact should be made with Scheme Manager who can also attend the visit to assist client. Notice Seeking Possession/Legal Action This should only be considered when all other avenues of assistance have been provided and when the tenant is aware of the arrears and either will not pay or pays very erratically, thereby causing increased rent arrears.

### Methods of repayment

Advice should be given on the methods of paying rent to ensure that the tenant is aware of the full range available.

### STATEMENT OF BEST PRACTICE FOR PREVENTION AND RECOVERY OF RENT ARREARS

- Act promptly in contacting tenants where rent arrears accrue, and keep records of all steps taken, a copy of all written letters to be kept on file in case of legal action and proof of contact, plus IT entries of all contact/discussions.
- Make personal contact wherever possible, with home visits as a priority, especially in the early stages of arrears to prevent the debt spiralling out of control. COURT ACTION SHOULD BE A LAST RESORT not as a matter of course for lack of contact.
- Promote access to independent advice where tenants have multiple debts, i.e. CAB Fast Track Service, Housing Advice Centre.
- Arrange affordable repayment agreements



which can be varied due to change of circumstances.

From April 2011 - £3.40 per week minimum arrears payment if tenant is on Income Support/Job Seekers Allowance; £5 minimum per week for higher welfare benefits; £5 upwards for tenants in employment (low wages) increasing to higher levels depending on income. For joint income families/couples depending on level of wages and other priority debts rent arrears payment should be higher but affordable. Only in very exceptional circumstances will less than £3.40 per week be acceptable, (discuss with the Principal Income Recovery Officer prior to accepting less than minimal payment).

- Recovery Officers have discretion on accepting repayment agreements (not on Court Order repayments which are set or varied via the Court), although the repayment must be affordable to the tenant, the tenant needs to be made aware that the length of the repayment period needs to be acceptable to Gosport Borough Council and the debt should be repaid in the shortest affordable period. Other priority debts should be taken into account when making an arrangement, and into consideration only non-priority debts. Priority debts must be considered and paid first. Rent and rent arrears are classed as priority debts.
- Apply for arrears deductions direct from Income Support if tenant is on FULL housing benefit when debt is at least equal to six weeks full rent. All Housing Officers have access to the letter of request which is sent to the DWP Third Party Section. Payments £3.40 (April 2011 – set at national income support levels and increased annually).
- Establish regular contact with the Housing Benefit Section to ascertain housing benefit entitlement and resolve problems which delay payment. Officers should contact the tenants to obtain the documents required by Housing Benefit Section, which will assist all parties..

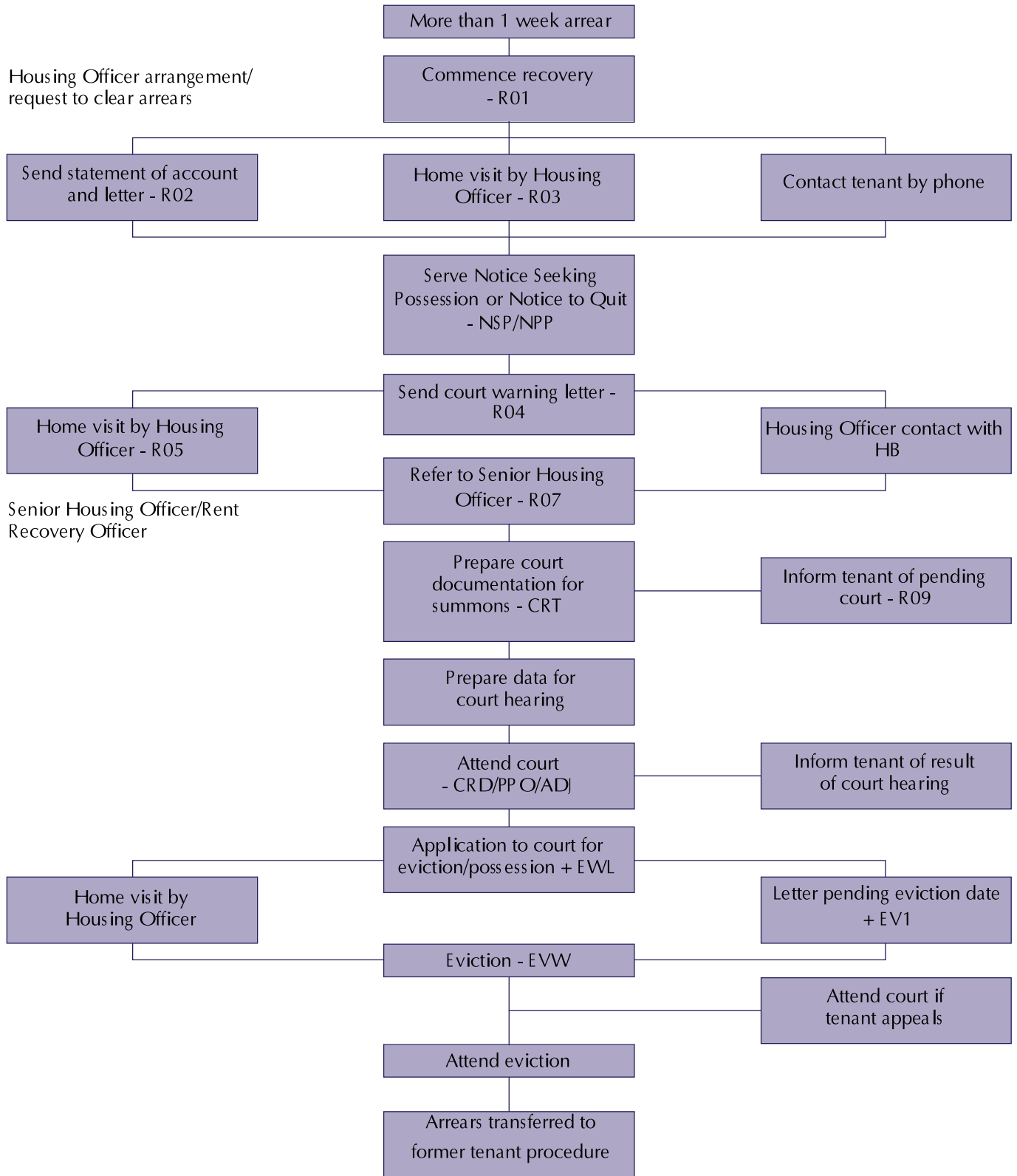
## Court Action

- Possession Action should not be taken where tenants have made and maintained repayment arrangements, including direct deductions from benefit.
- Delay Court action where Housing Benefit issues are outstanding, in line with Court Protocol.
- Only take Court action when all other action has failed to result in reduction of arrears.
- Encourage tenants to seek advice prior to attending Court (make appointments for tenants to attend CAB Fast Track Money Advice Service); and to actually attend the Court hearing in person in order to discuss their financial situation with the Court Advice Service.
- Contact should always be maintained through the legal process in order to ensure that advice and support is available to enable tenants to remain in their homes.
- Provide tenants with information on how to apply to the Court to vary an order or suspend a repossession warrant.
- In Eviction cases, inform the Allocation and Advice Section of Housing, and Social services Department where eviction is inevitable and where children or vulnerable people are involved.

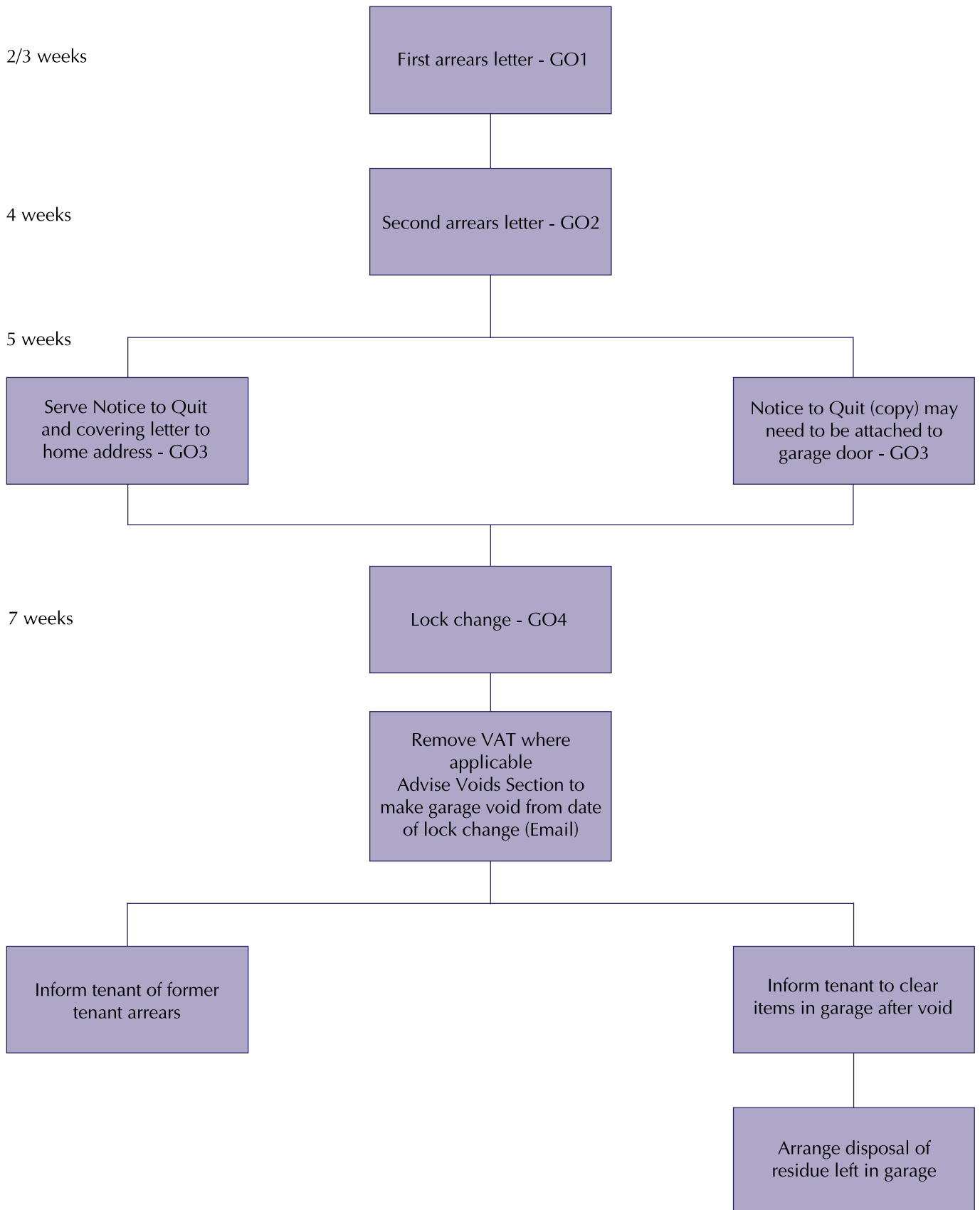
SECURE TENANCIES RENT ARREARS PROCEDURE			
ARREARS ACTION (stages)	BY WHOM	APPROX NUMBER OF WEEKS ARREARS	NOTES
***			No present arrears action
R01	Income Recovery Officer/HO	1 week +	Letter and statement
R02	Income Recovery Officer/HO	1 – 3 weeks	Letter and statement
R03	Income Recovery Officer/HO	3 – 4 weeks	Vist/contact
NSP	Income Recovery Officer/HO	4 weeks	
R04	Income Recovery Officer/HO	6 weeks	Court warning letter 1
R05	Income Recovery Officer/HO	8 weeks	Visit/Contact
R06	Income Recovery Officer/HO		Static arrear/ DSS direct to be considered
R07	Income Recovery Officer/HO	8 weeks	Court warning letter 2
Referral to Court Officer		Minimum if 28 days after NSP	Court application to be considered if protocol adhered to
CRT	Income Recovery Officer	8 weeks +	Court application submitted
ADJ(RL10)	Income Recovery Officer		Court hearing adjourned
PPO (RL11)	Income Recovery Officer		Court awarded Postponed Possession Order
CRD (RL12)	Income Recovery Officer		Court awarded outright possession (or SPO)
EWL (RL13)	Principal/Income Recovery Officer		Eviction Warning Letter
EVI (RL14)	Principal/Income Recovery Officer		Eviction Listed
EVW	Principal/Income Recovery Officer		Evicted – now former tenant

INTRODUCTORY TENANCIES RENT ARREARS PROCEDURE			
ARREARS ACTION (stages)	BY WHOM	APPROX NUMBER OF WEEKS ARREARS	NOTES
Int01	Recovery Officer	1	Telephone/Letter
Int02	Recovery Officer	2	Letter
Int03	Recovery Officer	3	Visit/contact (letter if unsuccessful)
Int04	Recovery Officer	5	Letter (warning of NOPP)
Int05/NOPP	Recovery Officer	7	NOPP and home visit
Int06	Recovery Officer	Minimum of 28 days after NOPP	Referral to court officer
Court hearing	HO to attend if ASB included in court proceedings		
Possession date		Minimum 7 days after hearing	Visit carried out to see if tenant vacated, if so force entry.
Application for warrant	Recovery Officer		If tenant remains in property
Eviction	Two officers to be present		Inventory completed

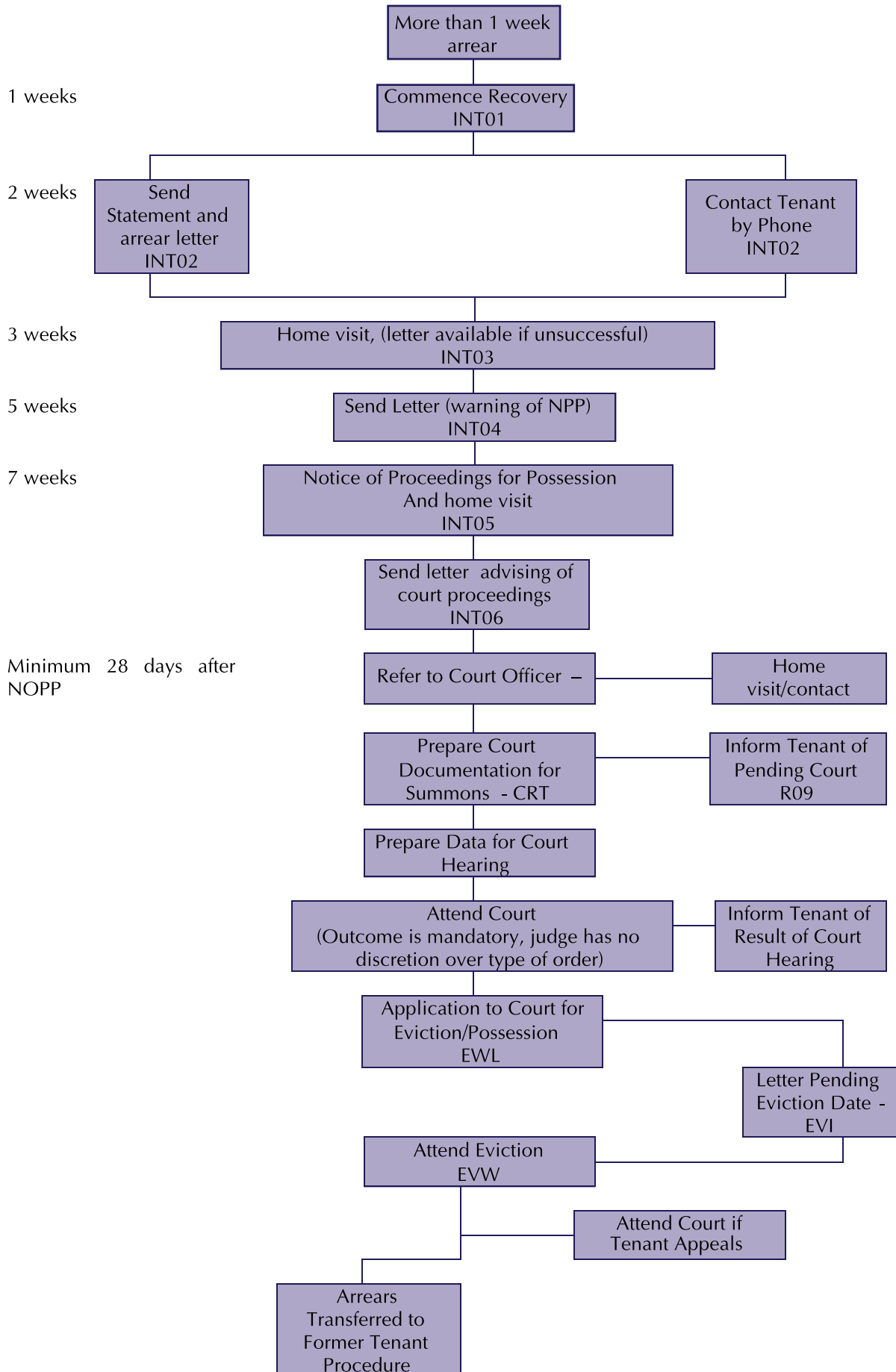
RENT ARREARS RECOVERY ACTION SECURE - DWELLING ARREARS STAGES



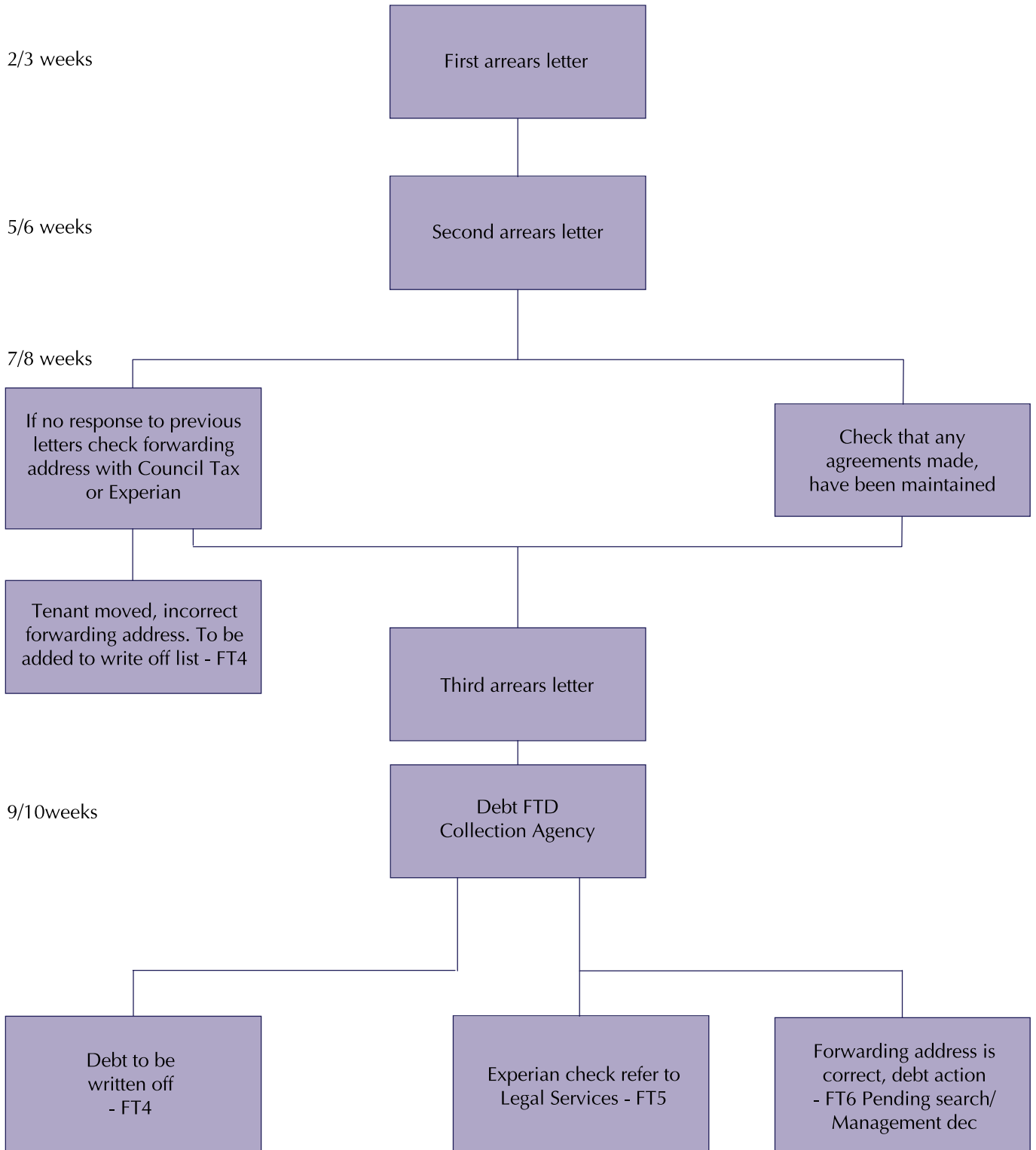
GARAGE ARREARS



RENT ARREARS RECOVERY ACTION (INTRODUCTORY) - ARREARS STAGES



FORMER TENANT ARREARS RECOVERY ACTION  
(HRA dwellings, Garages, Temporary Accommodation)



## PROCEDURE FOR THE ADMINISTRATION OF HOUSING REVENUE ACCOUNT REPAIR RECHARGES:

Repairs to Council HRA properties can result in recharges being made to either current or former tenants. The financial recharge can result from repairs required when a tenant leaves a property (void process), or when a current tenant is responsible for a repair and is personally unable to action the works. The tenant may request the Council to undertake the repair, with an agreement that the tenant accepts that they will be recharged.

### Re-charges to former tenants for voids work

This is guidance and as such is not intended to replace the existing procedure on dealing with Tenants Own Fittings (see Tenancy agreement and Repair responsibility in Tenants Handbook).

### Purpose of recharge on void works

The purpose is to re-coup the cost (or proportion of costs) of repairing a void property that can reasonably be attributable to the tenants neglect and negligence and failure to act in a tenant like manner while they were in possession of the property.

### Repair Recharges Arrears Processing

Recharges for general repairs and Void Recharges (**tenant responsibility items only**)

**M10** = Payment demand is issued and sent by Rent Officer (on receipt of document from Tech. Support Officer) payment demand will include 10% administration charge and 15% vat.

Account is set up as sub account and linked to tenant's rent account.

Recharge account number will be the same as the rent account number plus **RT01** or **RV01** to enable payments to go to correct account number for the repair and not the rent account (RT=

recharge to current tenant, RV = recharge for former tenant void works) i.e. 921100601/RT01. The 01 at the end of the number denotes the number of recharges.

Should tenant have more than one recharge the end number will change i.e. RT02; RT03 etc.

### Arrears letters for each invoice

Tenant diary will show **M11; M12; M13** – 3 letter stages prior to consideration for Court for Tenant led recharges:

Voids - diary will show – **V11; V12; V13** as above for recharges for void repairs.

(If sub account shows **RC01** or **VC01** - the **C** means court costs only outstanding on money judgements and the primary recharge has been repaid).

Arrears processing needs to be completed on rent groups:

**G (Council properties – 48 wk), B (contractual/sublets – 52 wk) & H (Temp. accom /Barclay – 52 wk)**. All cases can be viewed together via Responsive Arrears process, enter either RV01/RT01, ensure 'Rent Group' box is clear and include 'All statuses' before running the process to list all cases.

When a case has been referred to Legal Services for money judgement and the Court has awarded an order, the arrears stage is changed to **MCJ** and monitored by Hsg. If payments are not made a further warning letter - **MC2** is sent by Income Recovery Support Officer. On further non payment, the case should be discussed with the Principal Income Recovery Officer and may be referred back to Legal Services for warrant for possession of items to be issued – should court costs be awarded they are added to client's account as a sub account (i.e. VC01).

Diary entries must be maintained and started with text **RECHARGE** – to differentiate between an entry for a recharge and other tenancy diary entries.



Repayment arrangements should be made at every opportunity with details entered on diary facility. Written repayment agreements must be scanned to tenant's account to maintain evidence should non payment be an issue. Offers for repayment arrangements on cases that are managed by Legal Services who may be waiting for judgement decisions, should be referred to Legal to discuss direct with client. When a Judgement has been made the Income Recovery Team will monitor clearance of account.

Before a case is referred to Legal Services a decision must be made as to the viability and costs of legal action, and the probability of repayment against a higher debt. Decision is made by Principal/Senior Income Recovery Officer.

Persistent arrears cases are to be regularly viewed for viability and costs of recovery and should the case be uneconomical to pursue, the arrears should be considered for write off under the Corporate Write Off procedure.

