

Document Title	Debt, Services Charge and other Arrears Recovery Policy
Version	Final 1.2
Release Date	February 2019
Review Date	February 2022
Extension Reason(s)	N/A
Extension date approved	N/A
Approver details	CSSMT
Document Type	Policy
Sponsor	Louise Palese
Author	Katherine Buxton



## ORBIT

### DEBT, SERVICE CHARGE & OTHER ARREARS RECOVERY POLICY

<b>Executive Summary</b>	This document outlines Orbit's approach to arrears recovery. It provides the principles we will apply in securing our income and outlines the actions we will take to prevent and enforce arrears for our rented and homeowner stock. Private Rented Stock and commercial stock are out of scope. It links to the Debt, Service Charge and Support Charge arrears recovery procedure.
<b>Approved by</b>	Orbit Customer Services SMT – December 2018
<b>EA completed</b>	EA finalised September 2018 A full Equality Analysis was conducted due to the high risk. The actions required have been completed
<b>Explain how customers have been involved.</b>	Customers have been involved by engagement and feedback through the Service Improvement Group by influencing policies and services as per the HCA standards.
<b>Consultation</b>	Customers, Customer Services Directorate Departments, Finance & Performance and Policy.
<b>Applies to</b>	Orbit Income, Tenancy Sustainment, Lettings, Tenancy Services, Leasehold & Orbit Independent Living

**SCOPE:** This Policy outlines the key principles in managing arears and should be followed in conjunction with the relevant procedures, and linked policies. These include our Debt, Service Charge and Support Charge arrears recovery procedure, our Allocations and Lettings policy and our Former Tenancy Arrears and Credits policy.

## 1. INTRODUCTION

- 1.1 Orbit relies on its income to achieve its ambition of building thriving communities. The primary source of income comes from our customers in terms of rent, service charges and other charges for services. This policy sets out the main principles to maximise income by being proactive in arrears

prevention and recovery.

- 1.2 We will focus on arrears prevention and promote a payment culture. We will ensure both new and existing customers understand the connection between making payments and Orbit's ability to provide high quality services.
- 1.3 We understand that some of our customers may be some of the most vulnerable members of society and we will strike a balance between effective recovery of our charges and supporting our customers to enable them to meet their payment obligations.
- 1.4 In addition to our preventative approach to arrears, we will also establish early contact with customers to resolve outstanding debts before they escalate which would increase the customer's vulnerability to repossession action or other enforcement proceedings. We will ensure that our bad debt levels are minimised through early and proactive contact and enforcement. This will be achieved with technology such as automated escalation procedures, which may include the use of intelligent telephony systems.
- 1.5 We will be mindful of a customer's ability to meet their financial obligations with us before entering into any occupancy agreement, and this will be reflected in our lettings and allocation activity. We understand that a failed tenancy due to debt may make it difficult for customers to secure accommodation in the future. We will not enter into agreements, which are unaffordable and as such make a customer's long-term circumstances worse.
- 1.6 We will work within the requirements of the pre-court action protocols and the current housing and other legislation relating to tenancy and debt management.

## **2. DEFINITION**

- 2.1 This policy applies to all debt collected from current tenants and homeowners. It includes service charge and support charges (for example for a scheme manager in a sheltered scheme) and other debts such as care and wellbeing charges and activity charges connected to an occupancy agreement. Debts relating to former customers are dealt with in accordance with **our Former Tenancy Arrears and credits policy**. It does not apply to our commercial properties, private rented sector stock or other non-standard agreements, which will be covered by the terms of the agreement/lease.

## **3.0 POLICY STATEMENT**

- 3.1 We will tailor our approach to the type of agreement we have with our customers, understanding that the circumstances of customers in our general needs accommodation may vary from those in supported housing, sheltered housing and leaseholders (and similar homeowner agreements).
- 3.2 **Making our requirements clear.** Our agreements will make our payment requirements clear. We will seek payment in advance at all times and ensure that we explain clearly our payment options. We will promote a payment culture, making it clear that payment in arrears is not acceptable and ensure

that we explain clearly what action we intend to take if payments are not made on time.

- 3.3 We will work in partnership with our Local Authority and Department for Work and Pensions colleagues. However, we will make it clear to customers that we will not assume responsibility for their personal claim for any benefits and payment of rent and other charges on time remains their responsibility at all times.
- 3.4 **We will provide information.** We will ensure that customers can access their accounts online to monitor their account with us. Upon request, we will provide a paper copy of a statement although we may make a charge for this if there is no specific vulnerability or special need, which prevents the customer accessing information online, or if the requests are excessive in number. Where a customer is in arrears, we will comply with the specific requirements of the pre-court action protocol in terms of proactively issuing statements.
- 3.5 We will promote and signpost to our own and/or external advice services relating to debt management benefit entitlement, employment support and other tenancy support where available. Advice will be freely available on our website and be promoted by staff to ensure that services can be accessed before a customer gets into financial difficulty.
- 3.6 We recognise that the transition from Housing Benefit to Universal Credit through the life of this policy is a significant change for many of our customers. We will offer information and support to customers who may be affected as the Department for Work and Pensions release rollout schedules, or where we become aware that a customer has applied for Universal Credit. Universal Credit Customers will be expected to maintain their rent accounts in advance at all times.
- 3.7 **We will be supportive.** Where a customer falls into arrears, we will offer suitable repayment options. These will be mutually beneficial striking a balance between affordability, enabling customers to better their circumstances and ensuring that debts are repaid in a reasonable period. We will not enter into agreements where it would take a long time to clear the debt or where a customer has a history of failing to maintain previous repayment agreements. The criteria will vary between differing tenancy/agreement types and consider the vulnerability of the customer.
- 3.8 **Managing non-payment.** Where a customer falls into arrears, we will establish contact and ask them to put the matter right. We will always start from the position of requesting payment in full and remind the customer of their obligations under the agreement they hold with us.
- 3.9 We will consider the customer's history in terms of payment, and where considered a high-risk customer, perhaps through repetitive arrears episodes we may escalate our recovery procedures and direct support services accordingly.
- 3.10 Where we believe there is a reasonable prospect of recovery with a Money Judgement Order not attached to possession proceedings, we will use this

route. This is likely to be the preferred option for homeowners and leaseholders, where a mortgage provider may pay off the arrears if a money judgement is obtained. If we wish to apply for an attachment of earnings order by applying for a warrant of control to recover the debt, this will be considered. Furthermore, where we have been unsuccessful at recovering leasehold debts we will seek forfeiture of lease.

Orbit will consider the use of distraint on goods will be taken on a case-by-case basis. All requests to use distraint will be the exception and will be first escalated for approval to the Head of Service and then the Director of Customer service.

- 3.11 In respect to service charge arrears and ground rent we may apply for a charging order, which effectively gives you a charge over a person's property. The order itself does not force payment but can sit on the property until it is sold and the debt will be recovered from the equity in the property. However where the debt has increased to such a level that we believe it is reasonable to pursue an order for sale. We will force the person to sell the property to recover the debt.
- 3.12 We will consider the costs of the action when determining which recovery route to take to ensure it is cost effective. Where a debt is low and recovery attempts are exhausted we may decide to withhold enforcement action or write off a debt. This will be at the discretion of Orbit and the debt may be reinstated if the customer subsequently seeks additional services from us, such as a move to an alternative property or a non landlord-obligation service.
- 3.13 Attempts to negotiate arrears payment agreements will continue, where possible, alongside any legal action. When all other reasonable options have been exhausted, possession proceedings will be instigated as a last resort.
- 3.14 We will use mandatory and discretionary grounds for possession where available, including accelerated possession proceedings where the nature of the agreement allows this. Where a customer is considered vulnerable, mandatory and accelerated proceedings will only be used with a head of service approval, having undertaken a case conference and considered all other options available. Decision-making will be fully documented in all such cases.
- 3.15 Where a customer causes us significant housing management costs through erratic and inconsistent payments, or persistently and wilfully withholds payment until court proceedings are instigated, we may seek possession through the courts even if they subsequently clear their arrears. A Head of Service will approve such actions to ensure that appropriate safeguards are in place.
- 3.16 Where a customer is included in a planned works programme for improvements to the property. Discretion will be used as to whether these improvements will be made if there is a debt owing and will exclude any works that would compromise health and safety
- 3.17 We will support and work with Local Authorities to assist them in fulfilling their duty to prevent homelessness. We will also work with social services

departments and managing agents to ensure that vulnerable customers are supported and any potential safeguarding requirements are highlighted and addressed in line with our commitment to refer.

- 3.18 **Managing credits.** We expect our customers to manage their rent account. We encourage our customers to keep their account in advance and recognise that some customers like the security of ensuring that there is a small buffer in the event of any issue or benefit payment problem. We will not generally incur costs to prompt customers to seek a refund, although we will remind them of the credit on the termination of their agreement with us. Where we determine that a credit is excessive, we believe that a credit could be being maintained in order to obtain benefits (by concealing savings from the benefit authority) or for money laundering purposes, we will contact the customer to carry out investigations and insist that the credit is removed when necessary.

#### **4. EQUALITY AND DIVERSITY**

- 4.1 Orbit policies are developed in line with our **Equality, Diversity and Inclusion policy** approach. An Equality Analysis has been conducted and the details can be accessed via myPolicy. If you do not have access to myPolicy please contact the Policy and Standards team who will be able to provide you with a copy.

#### **5. COMPLAINTS**

- 5.1 Anyone is able to make a complaint about the service they have received and this is managed under our **Complaints Policy**.

#### **6. PRIVACY STATEMENT**

- 6.1 Orbit are collecting information ('personal data') so that we can manage and support our relationship with our customers, comply with legal obligations, improve our services and achieve our legitimate business aims. We are committed to complying with data protection legislation when handling customers' data. Customers have rights around their data, including the right to access their data, and to object to the way it is processed. For more information on how and why we process customers' data, and how customers can exercise their rights, please see our full Privacy Policy on our website at [www.orbit.org.uk/privacy-policy/](http://www.orbit.org.uk/privacy-policy/).

#### **6. MONITORING AND ACCOUNTABILITY**

- 6.1 Compliance with this procedure will be monitored by the Head of Collection and Recovery and Director of Customer Services.
- 6.2 Arrears performance will be reported to and scrutinised by the Executive team and Orbit Customer and Communities Board.

#### **7. REVIEW**

- 7.1 We will carry out a fundamental review of this Policy every three years or sooner subject to legal, regulatory changes or if internal changes require