THE DISTRICT COUNCIL OF TANDRIDGE

HOUSING COMMITTEE

Minutes and Report to Council of the meeting of the Committee held in the Council Chamber, Council Offices, Station Road East, Oxted on the 12th October 2006.

PRESENT: Councillor Weightman (Chairman), Beaton, Bisset, Bradbury, Mrs. Brown, Dalrymple, David, Harling, Orrick, Mrs. Parker, Perkins, Turner and Mrs. Whittle.

160. MINUTES

The Minutes of the meeting held on the 6th July 2006 were confirmed and signed by the Chairman.

COMMITTEE DECISIONS
(Under powers delegated to the Committee)

161. RENT ARREARS POLICY REVIEW

The Council’s Rent Arrears Policy had last been reviewed in 2002. In light of current best practice, the Committee considered revisions to the Policy.

*** RESOLVED – that the Rent Arrears Policy as shown at Appendix ‘A’ be agreed.

162. MONITORING OF PERFORMANCE INDICATORS

The Committee considered the monitoring of performance against previously agreed targets.

*** RESOLVED – that the performance information and Officer comment, as now amended, and attached at Appendix ‘B’ be noted.

Rising: 7.45p.m.
HOUSING SERVICES

RENT ARREARS POLICY

Tandridge District Council

August 2006
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Annexes:

A. Legislative Background
B. Action Plan

This Policy has been revised in consultation with the Tandridge Residents’ Forum, comprising Tandridge Council tenants and leaseholders.
SECTION I

ARREARS MANAGEMENT IN CONTEXT

1.1 This policy applies to:

- Secure tenants of the Council
- Introductory tenants of the Council
- Licensees of Council-owned mobile homes or caravan sites;
- Licensees in the Council’s hostel; and
- Households living in Council accommodation on a temporary basis.

1.2 Rent arrears are an emotive issue. Tenants in arrears are often stereotyped as feckless people who refuse to pay their rent - particularly by other tenants who pay regularly! However, the reality is that many tenants in this situation are young householders with children, who fall into arrears because of their inadequate or irregular income.

1.3 Housing costs are usually the biggest item of expenditure in the weekly budget of tenants. Many are trapped on welfare benefits because they have no possibility of obtaining employment that would pay enough to cover the rent and make up for those benefits, such as free prescriptions, which may be lost when coming off income support. For tenants in low-paid work and not claiming full housing benefit, rent and service charge levels have a crucial impact on their disposable income. These tenants are especially vulnerable to increases in rents and service charges, because they bear the proportion of rent not covered by housing benefit.

1.4 For the tenant in arrears, coping with debt can be a stressful and anxious experience. Arrears are often a symptom of deeper money problems and attempts to clear the debt may mean financial hardship and, if unsuccessful, the threat of eviction and homelessness.

1.5 Equally, keeping rent arrears to a minimum is in the interests of both landlord and tenant. Dealing with arrears takes up resources that the Council could better spend on other housing management tasks, and so affects the level of service provided to tenants. Servicing the debt also has a financial cost for the Authority, which it ultimately passes on to tenants in the form of higher rents or reduced services. Effective rent recovery contributes to the business planning process by maximising income to the Housing Rent Account (HRA) from rent and benefits.

1.6 The possible actions for recovery and the range of sanctions are still very limited, although the detail of the work involved has over the years substantially altered, mainly because of legislation, so that dealing with rent arrears is now much more complex than ever before.

1.7 Rent arrears presents a complex picture, with a high proportion of tenants nationally in arrears and landlords, despite considerable efforts, experiencing severe problems in recovering rent arrears from tenants who have fallen behind with their rent. Households with dependant children are over-represented among those in arrears, whilst pensioner households are grossly under-represented.

1.8 Most tenants have low incomes and the majority are in receipt of at least one social security benefit. Rent arrears may be just one of many debts that a tenant has. Research shows that reduced income as a result of employment-related reasons, such as unemployment, redundancy, reduced pay or retirement, is given as the main reason for rent debts by 20% of tenants in rent arrears. Some 33% of tenants mention reduced income because of
changes in personal or domestic circumstances, such as relationship breakdown, illness and the birth of a baby.

1.9 The relatively sensitive and careful approach to debt recovery typical of housing organisations is often in marked contrast to the sometimes heavy-handed approach taken by other creditors. They have recourse to direct sanctions of cutting off supply in the case of fuel and water companies, none of which involves going through the process of law. As a result, there is a tendency for tenants with multiple debts to prioritise such debts over rent payment.

1.10 Despite these difficulties Local Authorities tend to be successful in contacting most tenants in arrears, in reaching agreements to repay the debts and in keeping the overwhelming majority of tenants with problems in their homes. Only a small minority who will not pay anything are evicted because, as in Tandridge, eviction is seen as a failure and is used only as a last resort.
SECTION II

THE CORPORATE APPROACH

The Council takes a holistic approach to debt, which takes into account all debts and factors that affect payment. A co-ordinated approach to multiple debtors has been adopted and there is a “debt hierarchy” which prioritises housing rent recovery above council tax, housing benefit overpayments and other sundry debts. The aim is to increase tenants’ ability to pay and manage debt through improved procedures and by providing debt counselling services through the local Citizens’ Advice Bureaux.

The Council’s Anti-Poverty Strategy and the strategic aims set out in the Housing Strategy Statement recognise the importance of housing in maintaining sustainable communities and in avoiding social exclusion. The Anti-Poverty Mission Statement aims to:

“maximise the opportunities available to Tandridge people currently living in, or vulnerable to, poverty to participate fully in society”

whilst its themes concentrate on:

• sensitive approaches to debt recovery and counselling;
• increasing access to services;
• the availability of concessions; and
• publicity, clarity of forms/advice, and maximising take-up of benefits.

The Housing Committee’s policy on rent control is to:

“Ensure that the system of rent control maximises cash collection, reduces current and former tenants’ arrears to as low a level as possible, yet offers a sensitive approach to individual circumstances, provides advice and counselling and endeavours to increase benefit take-up amongst those tenants experiencing financial difficulties.”

In effect, this statement encapsulates the Council’s “firm but fair” approach to arrears. Legal proceedings are used routinely for those falling into arrears, but considerable attention is also given to the circumstances of the individual, and there is a willingness to give tenants the opportunity to enter into a re-payment agreement before proceeding with the various stages of legal action. The following objectives set out the Council’s service expectations:

• to help the tenant regain control of his/her finances leading to the gradual reduction of arrears;
• to ensure that benefit advice is always available to those who need it;
• to secure repayment wherever possible without obtaining possession of the property;
• to take appropriate legal steps when the tenant fails to make contact or adhere to the terms of an agreement;
• to use eviction only as a last resort.

However, the Council will ensure that:

• there is a positive “payment culture” - tenants will be made fully aware of the landlord’s policies on rent collection and consistent and unambiguous advice about their responsibilities and the consequences of non-payment, with eviction being the ultimate sanction; and
• wilful non-payment is not tolerated;
Staff Training

The Council recognises that the key to rent arrears recovery is the recruitment and retention of well motivated and trained staff who feel supported by clear policies and procedures. The Council undertakes to:

- provide a comprehensive training programme and to support staff development through the annual appraisal process;

- involve staff in developing the tools and processes with which they can provide effective yet sensitive debt recovery;

- ensure staff receive training in debt counselling and benefits advice;

- provide staff with knowledge and understanding of debt recovery and its impact on both the tenants and service delivery;

- ensure staff deal with debt recovery holistically in line with the Council’s Anti-poverty Strategy;

- ensure staff are aware of and practice service delivery in accordance with the Council’s Equality & Diversity Scheme; and

- encourage staff to engage in partnership working with both external organisations and other internal departments, in particular Housing Benefits.
SECTION III
ARREARS PREVENTION

One of the most successful methods of controlling rent arrears does not involve legal action. This is the personal, day-to-day involvement with tenants by Management Officers, who attempt to sort out problems and give financial advice and general assistance to tenants with regard to welfare benefits and other entitlements.

This is in recognition of the fact that many tenants are in arrears not because of wilful non-payment of rent, but because of genuine financial difficulties associated with unemployment, non take-up of benefits and even financial mismanagement.

This situation also extends to those working but in receipt of very low incomes and not entitled to extra benefits. General assistance given by Management Officers, combined with pressure on tenants to pay rent, can have a marked effect on the level of rent arrears, particularly if the approach is consistent and sustained.

Early and continuing contact with the tenant, combined with good written and oral communication, pre-tenancy assistance and advice, rent collection options, advice on income maximisation/entitlement to benefit, good publicity and debt counselling are all positive ways of improving the payment culture. The Council’s policies and practices in respect of these matters are set out in the following sections.

1. Arrears Prevention

The Council will:

- Inform tenants as soon as possible of any arrears;
- Be proactive in identifying barriers to rent payment;
- Deal with tenants wherever possible on a face-to-face basis;
- Carry out Customer Safety Checks in cases of vulnerability;
- Provide clear advice about its arrears policy through leaflets, adapted where necessary to cater for tenants for whom English is not their first language or who need Braille versions etc.
- Discuss payment options and provide a range of accessible payment methods:
- Discuss maximisation of income and refer tenants to the CAB for debt counselling services where necessary;
- Encourage the take-up of housing/welfare benefits through regular publicity campaigns;
- Develop IT systems to enable a rapid response to emerging problems of arrears;
- Provide tenants in arrears with a quarterly rent statement;
- Provide a rent statement at any time on request.

2. Pre-tenancy Assistance

The Council will:

- Ensure that new tenants understand they are responsible for paying rent and other charges;
- Explain how the rent charge is made up, e.g. service charges, heating charges etc.;
- Be clear about which elements of the service charge are covered by housing benefit;
Advise on the likely running costs of running and establishing a home e.g. furniture, council tax, fuel bills, insurance, moving costs;
Advise on how much rent to pay, how, where and when;
Advise on who to contact if they have difficulty in paying, including the Management Officer, the CAB and the National Debt Agency;
Carry out an income check and advise on benefits. If unlikely to receive benefit, the tenant will be asked for at least one week’s rent in advance;
Help the tenant complete a housing benefit form and explain the verification framework and how it works;
Stress the importance of keeping the housing benefit section and the Management Officer informed of any changes in circumstances and responding to reviews;
Explain how housing benefit overpayments are recovered;
Check for former tenants arrears with the Council and agree a repayment plan;
Obtain the tenant’s National Insurance number as a means of chasing former tenants’ arrears and obtaining an Attachment of Earnings Order;
Agree to carry out a home visit within six weeks of the commencement of the tenancy to check on any difficulties.

3. Rent Collection Options
The Council will:

Offer tenants a range of convenient and flexible rent payment methods that maximise the opportunity for tenants to pay their rent in a way which suits their individual needs. Methods currently available are:

- Post Office Giro via swipe cards
- Standing Order
- Direct Debit
- Via the Council’s website with a credit or debit card (available 24 hours a day)
- By credit or debit card over the telephone during office hours
- By post - by cheque or postal order to the Council Offices
- In person by cash, cheque, credit or debit card at the Council Offices

The Council will not undertake door-to-door rent collection because the amounts involved present an unacceptable level of risk
SECTION IV
RENTS AND OTHER CHARGES

The Council’s discretion in setting rents by using a points-based system ceased in 2003 following the Government’s introduction of “rent restructuring”. The aim of this was to deliver equality between the rents charged by Councils and Housing Associations.

1. Rent Setting

In setting its rents and service charges, the Council is required to use the Government’s rent formula to achieve a target rent by 2012. This formula is based on:

- the average weekly full time manual earnings in Surrey
- the amount each property is worth
- the number of bedrooms in the property
- the national average council rent

*From April 2006 the rent charge is calculated and is payable over 48 weeks, with pre-paid or “rent free” weeks as follows:*

- one at the end of August (before the Bank Holiday);
- two weeks, over Christmas and the New Year; and
- the last week of the financial year.

2. Tenants’ Responsibilities

Rent is due on the Monday of each week (excluding pre-paid weeks) and must be paid in advance. To comply with the Conditions of Tenancy, tenants must:

- Pay the rent as determined by the Council, together with any other charges due, when due;
- If paying fortnightly or monthly by any method, pay in advance.
  (The only exception to these arrangements are for those tenants who, prior to March 1997, were allowed to pay their rent four-weekly in arrears and who, since that date, have maintained a clear rent account at the four-weekly balancing point).
- Keep the Housing Benefit section and the Management Officer informed of any changes in circumstances and respond to reviews.

3. Other Charges

As for rents, the range of other charges that may be levied are due on the Monday of each week and are payable in advance. Failure to comply with this requirement results in a breach of the Conditions of Tenancy and therefore enables the Council to take appropriate recovery action. The various charges are set out below.

3.1 Garages

3.1.1 Unless within the curtilage of a dwelling, garages are usually let under a separate licence. As a result, such garage users are not afforded the protection that tenants have under the Housing Acts.

3.1.2 Garage rent arrears are not tolerated. In certain circumstances, however, officers may exercise discretion and allow the garage tenant to reduce arrears gradually. An example may be where a tenant’s employment depends on the availability of a garage.
3.1.3 Any garage tenants who accrue arrears will be written to informing them of the amount and requesting immediate payment. Should there be no response, or an unsatisfactory response, a letter will be sent giving them seven days to comply if they wish to avoid the garage being repossessed.

3.2 Water/Sewerage Rates

3.2.1 The Council collects water and sewerage rates on behalf of the local water companies. These are collected as a separately identified charge within the tenant’s overall rent account. Failure to pay these charges when due is a breach of tenancy conditions and is accordingly a ground for seeking possession.

3.3 Service Charges (e.g. for Heating and Hot Water, Grounds Maintenance, Estate Cleaning, TV Aerials, Tenancy Support etc.)

3.3.1 As with water/sewerage rates, these charges form part of the ‘gross charge’ for a dwelling, which apply to general purpose flats and the Council’s sheltered accommodation. Failure to pay these charges when due is a breach of tenancy conditions and is accordingly a ground for seeking possession.

3.4 Housing Benefit Overpayments

3.4.1 Housing benefit overpayment occurs when any amount of housing benefit has been paid for which there is no entitlement. This can occur for a variety of reasons, the main ones being:

- claimant error, where the claimant fails to notify of a change of circumstances;
- fraud;
- an error on the part of a third party such as an employer providing inaccurate information;
- an error by the Benefits Section or Department of Social Security;

3.4.2 Official error by the Benefits Section or the DSS is comparatively rare and will only be recovered where the claimant could reasonably be expected to know that an overpayment was being made. Error or fraud on the part of the claimant, and error by a third party which results in overpayment, will be recovered.

3.4.3 Overpayments of housing benefits, however they occur, do not constitute rent arrears and will not be recovered by way of possession proceedings. The debt may be added to the rent account, but not if this would leave the account more than £100 in debt. Such debts will be distinguished from any rent arrears.

Where the overpayment is not debited to the rent account the two main methods of recovery are:

(a) Deductions from future housing benefit entitlement.

This means that the amount of benefit credited to the tenant’s rent account is reduced by a certain amount each week, and this amount is then used to repay the overpayment held on a separate sundry debtor account. The Council recognises that this partial withdrawal of housing benefit may be the cause of some tenants falling into, or further into, rent arrears. In this circumstance, any rent arrears that occur may be pursued by way of possession proceedings.

(b) Billing the tenant for the overpayment via a sundry debtor’s account.

In this approach, recovery is sought through agreement in the first instance, or by way of a money judgement in the courts if there is a failure to respond.
SECTION V

ARREARS MANAGEMENT

Failure to pay rent costs the Council money and ultimately leads to higher rents for those tenants who comply with their conditions of tenancy. Whilst the Council is prepared to treat sympathetically those tenants who have genuine difficulty in meeting their rent payments, it will equally follow through all available sanctions, including re-possession of the home of any tenant or licensee who is capable of paying rent regularly but fails to do so.

The main principles of the Council’s arrears recovery process are therefore to:

- Minimise loss of income by taking prompt and appropriate action to recover both current and former service tenants’ arrears and other debts;
- Ensure early intervention/contact with tenants to prevent debts spiralling out of control and beyond any realistic prospect of payment;
- Help the tenant regain control of his/her finances leading to the gradual reduction of arrears through debt counselling and through arrangements to pay off arrears by instalments that are realistic and affordable, monitored closely and followed up immediately if they are broken;
- Ensure that benefit advice and debt counselling is readily available to those who need it - by telephone, in person or electronically;
- Secure repayment wherever possible without obtaining possession of the property by using a flexible approach to arrears management, based upon an analysis of reasons for non-payment;
- Where appropriate, consider alternative recovery methods such as rent direct from DSS or attachment of earnings orders;
- Ensure that credible action is taken, so that if letters, visits and advice about benefits do not produce payments, then legal action is started;
- Provide quarterly rent statements to tenants in arrears once they have been advised that they are in arrears;
- Use eviction only as a last resort.

In formulating and undertaking its recovery processes and procedures, the Council will have regard to the best practice guidelines published by the Rent Income Excellence Network (RIEN) to which Tandridge subscribes. RIEN provides advice and training as well as promoting and updating good practice in rent arrears recovery.

Staff will also ensure that the Lord Chancellor’s Pre-action Rent Arrears Protocol is followed, which encourages more pre-action contact between landlords and tenants in order to ensure court time is used more effectively - a series of 15 steps will be followed prior to a tenant being taken to court.

1. Arrears Interviews and visits

In undertaking their duties in respect of arrears recovery, Management Officers will:

- Inform the tenant as soon as arrears arise, by letter, telephone or a home visit;
- If a tenant is vulnerable carry out a customer safety check and arrange for their advocate to be present if possible;
  (N.B. Tenants may be regarded as vulnerable if, for example, they have a mental disorder or learning disability that makes them incapable of managing and administering their own affairs. The Council also recognises that vulnerability may not always be obvious or disclosed, and may result from other factors such as illness, harassment or relationship breakdown).
- If a tenant does not have English as a first language, arrange for an interpreter;
• Conduct the interview in private, either at home or in the office;
• Establish the reasons for non-payment and discuss realistic approaches for resolving this - if the tenant has other debts with the Council, the approaches will be agreed in a joint interview with staff from the appropriate section;
• If the tenant is genuinely unable to repay the debt in full, make an arrangement for repayment by manageable instalments;
• If appropriate, encourage payments by Direct Debit or bank standing order;
• Where possible, take payments over the telephone by credit or debit card
• If appropriate, seek agreement for direct payments to be applied for from the Department of Social Security;
• Ensure that the tenant is aware of the importance of continued contact with the Management Officer if the agreement is likely to be broken, so that, if appropriate, a further agreement can be negotiated to avoid legal action;
• Confirm the agreement or any action to be taken in writing.

2. Arrears letters
The Council will ensure that arrears letters:
• Are clear, concise and jargon free;
• Contain information directing tenants to other sources of advice and assistance;
• Set out the next stage of the process so tenants are clear about further action.

3. Timetable
Current tenancy arrears will normally be dealt with in accordance with the following timetable:

<table>
<thead>
<tr>
<th>Arrears Period</th>
<th>Action Description</th>
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<tbody>
<tr>
<td>2 - 4 weeks' arrears</td>
<td>Letter/telephone call/visit by Management Officer</td>
</tr>
<tr>
<td>4 - 8 weeks' arrears</td>
<td>Further letter/telephone call/visit followed by Notice of Seeking Possession/Notice of Proceedings for Possession/Notice to Quit (depending on type of tenancy)</td>
</tr>
<tr>
<td>8 - 12 weeks' arrears</td>
<td>Application for court summons (referral to Chairman/Vice Chairman of Housing for introductory tenancies prior to application)</td>
</tr>
<tr>
<td>16 - 20 weeks' arrears</td>
<td>Court hearing – adjourned on terms, postponed or outright possession order sought</td>
</tr>
<tr>
<td>Approx. 26 weeks’ arrears</td>
<td>Non-compliance with terms of order. Authority of Chairman/Vice Chairman of Housing sought to evict.</td>
</tr>
<tr>
<td>Approx. 32 weeks’ arrears</td>
<td>Decision to repossess implemented.</td>
</tr>
</tbody>
</table>

However, this timetable is only a guideline, as flexibility of approach is essential, with all action being tailored to suit the individual case. For example, a difficult case may be reported to the Chairman and Vice Chairman of Housing at an earlier stage. Alternatively, action may be deferred while investigations into welfare benefits are being considered or to allow time for a family crisis to be overcome.
Apart from the letters mentioned in the timetable, letters may be sent to tenants at other stages of the recovery procedure, explaining the extent and seriousness of the situation. Arrears letters will encourage tenants to contact the Management Officer to discuss the matter, so that help and advice can be given and the matter treated sympathetically. Extensive use will also be made of contacting tenants by telephone as this often proves more effective than requesting contact via a letter. In addition, payments can be taken over the telephone which may preclude the need for further action.

Every effort will be made to visit the tenant before the Notice is served. If it is apparent that the tenant is avoiding the Management Officer or he/she simply cannot be contacted, a letter will be sent to advise that a Notice will be served and service will follow immediately. If payment is still not forthcoming, possession proceedings are taken in the County Court.

3. **Possession Proceedings**

3.1 The first stage in formal legal proceedings is the service of a Notice. The Notice informs the tenant that he/she has broken one or more of the conditions of the tenancy agreement - in this case the obligation to pay rent and other charges due (e.g. water rates or heating charges).

3.2 This Notice will be served where the Management Officer feels, usually after discussing the problem with the tenant, that:

- there is no good reason for the non-payment of rent; or
- a suitable agreement to repay the debt by instalments has not been made or has been made and broken; or
- the arrears are at such a level that, even if an agreement to repay has been made, the Council’s interest needs to be safeguarded; or
- the tenant is failing to cooperate with Housing Benefits in the processing of his/her claim

3.3 A Notice will not normally be served if:

- the tenant is adhering to an existing agreement (unless the debt is significant);
- the debt is due to a delay in housing benefit administration not caused by the tenant; or
- the tenant is genuinely unable to pay and debt counselling or writing off the debt is considered more appropriate.

3.4 The tenant will be warned in writing that, unless the arrears are cleared or reduced at an agreed rate, a formal notice of the Council’s intention to seek possession will be served. If the tenant does not respond, the aforementioned 28-day Notice will be served.

3.5 Once served on the tenant, legal proceedings for possession cannot commence until the 28 days period has elapsed. The Management Officer will, however, contact the tenant during this period to give advice and to counsel him/her to pay. An introductory tenant has the right to appeal in writing or orally against the service of the Notice within 14 days of service.

3.6 If the tenant comes to an agreement following the service of the Notice, then further action regarding possession proceedings may be withheld, depending on factors such as the level of the debt and the tenant’s past history of rent payment. As the Notice is valid for one year then, should the agreement be broken during that period, the legal proceedings for possession will commence for forthwith. With an introductory tenant, any arrangement must be approved by the Management Officer’s line manager.

3.7 If the tenant does not repay the debt or enter into a suitable agreement to repay following service of a Notice, then legal proceedings to obtain a Possession Order and Money Judgment will be instigated.
The most recent guidelines for District Judges advise that possession cases should be adjourned on terms if it is reasonable to do so, rather than granting a possession order. This allows the tenant a final opportunity to comply with a repayment agreement. If he/she fails, the Council will request a second hearing in order to obtain an order. No costs or money judgments are awarded where the case is adjourned.

If the District Judge considers the case is proved and it is reasonable to make an order for possession, he/she may grant:

- an outright order, which means that the Council is allowed to take possession at any time after 28 days have elapsed from the date of the court hearing; or
- an order postponed on conditions, usually agreed to where a tenant makes an offer to clear the outstanding debt by instalments which are regarded as being affordable. If this agreement to pay rent plus a certain amount off the arrears is broken the postponement is removed and the possession order immediately becomes an outright one.

If the Council is awarded a possession order, it will also ask the court for legal costs, which will then be debited to tenant’s rent account. The Court will determine the precise level of the Court costs to be granted. A Money Judgment will also be awarded for the arrears and costs.

Court costs will be pursued in all cases. Where a tenant clears the rent arrears after the summons has been issued but before the actual hearing, he/she will be liable for the cost of the summons and this will be debited to the rent account. In undefended cases, Housing Management Officers will present cases at court without legal assistance. This reduces the costs charged to the tenant by approximately £100 at the time of writing.

4. Post Possession Proceedings

No variations to the terms of the postponed order will be accepted without first being ratified by the court. Exceptionally, leeway may be given to tenants where there is a genuine problem that can be overcome, provided that generally they have made a sustained effort to adhere to the terms of the order. If this has not been the case or where arrangements have broken down irretrievably, the approval of the Chairman and Vice Chairman of Housing will be sought to use the final sanction of eviction.

Where Chairman’s approval is given to evict, an application will be made to the court for a warrant of possession to be executed. This offers the tenant a further opportunity to appeal to the court, which can and frequently does lead to a stay of execution on terms determined by the judge.

5. Evictions

The approval of the Chairman and Vice Chairman of Housing must be obtained in order to implement a Possession Order. Ward Members will be advised of the request for approval at the same time. Prior to seeking approval, staff will negotiate with and counsel the tenant where payments become irregular.

Eviction will only used as a last resort when all efforts to persuade/assist the tenant to pay regularly and reduce arrears have failed.

Under the Homeless Persons Regulations the Council has a statutory duty to house the following if they become homeless through no fault of their own:

- people with dependent children
- pregnant women
5.4 However, if it is necessary to evict a household falling into one of the above categories, the Council will treat their consequent homelessness as intentional, because they have failed to heed warnings that non-payment of rent would lead to them losing their home. They will not be accepted onto the Housing Register for at least twelve months, unless:

- in the opinion of the Housing Needs Officer, they could not reasonably have been expected to meet all the rent from their income; or
- they have come to an agreement which, in the opinion of the Housing Needs Officer, is a reasonable one, to re-pay their landlord the debt on a regular basis, and they have maintained that agreement for a period of 3 - 6 months. (Applicants will be asked to produce proof that the agreement to reduce the arrears has been maintained); or
- they have since cleared the debt in full.

In cases of exceptional hardship, the Director of Community Services may grant exemption from this rule.

6. Appeals against Repossession

6.1 There have been occasions when tenants have made last-minute appeals to Members of the Council for the decision to evict to be reversed. This naturally places Members in what is a difficult and emotive situation.

6.2 Before the eviction date is reached, the tenant will have had ample time to come to a satisfactory arrangement with the Director of Community Services and have been advised of his/her rights regarding an appeal to the court for a stay of execution. Moreover, the courts regard any last-minute requests by the Council for cancellations/suspensions in a poor light. In view of these facts, the Council will not cancel eviction proceedings unless:

(a) the tenant pays off all the arrears and the Council's expenses in full before the date of repossession; or
(b) the tenant is in receipt of income support and the arrears and rent payment have been stabilised by Housing Benefit and direct payment of arrears; or
(c) the tenant pays off a substantial part of the arrears - generally sufficient to put their rent account back in line with the terms of the original possession order, had it been adhered to - and undertakes to clear the remaining debt in accordance with the terms of the order; or
(d) if facts which would preclude eviction come to light (i.e. information previously not known at the time approval for eviction was granted) which, if known, would have influenced the decision. The Ward Member may provide such information to the officers, who have delegated authority to suspend eviction in such cases. However, if the facts are disputed, the matter will be referred back to the Chairman and Vice Chairman of Housing for a decision to be made.

7. Other Means of Recovering Arrears

7.1 Payment of Arrears and/or Amenity Charge Direct by the Department of Work & Pensions (DWP)

7.1.1 Housing Benefit is payable in respect of rent and Council Tax but does not cover residual fixed charges payable as part of the tenancy agreement, such as heating, hot water, non-dependants’ deductions, water rates and garage charges.
7.1.2 Where a tenant on Income Support (IS) or Job Seekers Allowance (JSA) has accrued arrears equivalent to 4 weeks x gross rent then, provided the tenant agrees, the Council will apply to DWP for a fixed amount to be deducted from the tenant’s IS/JSA and paid monthly in arrears to the Council. DWP will usually agree to such an arrangement where there is sufficient IS/JSA available, and will also pay heating/hot water charges and water rates directly to the Council in these circumstances. It is not possible to claim direct payment in respect of non-dependent deductions, Housing Benefit overpayments or garage charges.

7.1.3 Once agreed, direct payment of arrears/amenity charges will remain in force whilst the tenant continues to receive sufficient IS/JSA and for as long as his/her responsibility for an amenity charge continues. Direct payments cannot be made where the tenant is in receipt of state pension (i.e. no IS) or Disability Allowance.

7.2 Voluntary Deduction from Salary/Wages

7.2.1 In appropriate cases, and provided both parties consent, the Council will try to make arrangements for the employer to deduct the rent of an employee/tenant in arrears, together with an amount off the arrears, at source from wages/salary and pay this directly to the Council.

7.2.2 This course of action is dependent upon employers being prepared to take on the additional administration/responsibilities involved.

7.3 Attachment of Earnings

7.3.1 Where a money judgement for a specified amount of arrears has been obtained as part of the Possession Order and the tenant fails to adhere to its terms, an application may be made to the County Court for an order to be made instructing the tenant’s employer to deduct a certain amount of the tenant’s earnings each week and to pay this directly to the court.

7.3.2 The limitation of this procedure is that there is a certain level of protected income, depending on the tenant’s circumstances, and frequently the court only allows a very small amount each week towards the paying of the debt. The payment of ongoing rent due is not in any way safeguarded and, whilst an attachment of earnings order is in effect, the Council cannot enforce the judgement in any other way without the leave of the court.

7.3.3 The Council does not therefore accept attachment of earnings orders as being an effective method of recovery against current tenants and, as a result, it will seldom be used. (It will, however, be utilised to secure repayment from former Council tenants who leave owing money to the Council).

7.4 Distraint

7.4.1 Distraint is a common law remedy which allows a landlord to engage a professional enforcement agent/bailiff to recover debts by entering and taking personal goods/property found on the premises.

7.4.2 The Council does not support the use of distraint as a means of recovering rent arrears.
SECTION VI

FORMER TENANTS’ ARREARS

Former tenants’ arrears occur when tenants leave property owing money. This may be brought about by the eviction of that tenant, by tenants leaving without notice or by them transferring to another landlord or to a dwelling within the same stock.

1. Tenants transferring to other Council-owned property

1.1 Applications for transfer are not usually considered unless the rent account is clear. However, tenants with rent arrears will be considered if there is a pressing reason for them to move and:

- in the opinion of the Housing Needs Officer and the Management Officer, they could not reasonably have been expected to meet all the rent from their income; or
- they have come to an agreement which, in the opinion of the Housing Needs Officer and the Management Officer, is a reasonable one, to re-pay their landlord the debt on a regular basis, and they have maintained that agreement for a period of 3 - 6 months; or
- they have since cleared the debt in full.

1.2 Where a tenant in arrears is transferred to another Council property then the debt outstanding at the date of the move will be transferred to the new rent account and be regarded as ‘current’ rent arrears. The offer of a transfer will usually be conditional upon the tenant agreeing to repay the debt by instalments.

1.3 If the tenant does not keep the agreement, or builds up further arrears on the new account, then appropriate action will be initiated in accordance with the policy set out in Section V above.

2. Tenants who have left Council-owned accommodation

2.1 Tenants who have absconded or moved on to other, non-Council accommodation will be advised of the level of the debt and, wherever possible, staff will discuss the arrears and endeavour to reach a repayment agreement. Failure to respond or adhere to the agreement will lead to legal proceedings, where a money judgement and, if appropriate, an attachment of earnings order, will be sought.

2.2 All debts outstanding at the cessation of the tenancy will be pursued unless:

- the debt has been pursued but the tenant cannot be traced;
- the tenant has died leaving no estate or has left the country;
- the tenant is bankrupt and there is no prospect of any dividend;
- the tenant has gone into residential or nursing care and has insufficient means to repay the debt;
- the debt is uneconomical to pursue;
- the tenant is unlikely to ever have funds to clear the debt.

2.3 Tracing agents may be used if the whereabouts of the tenant cannot be ascertained through other channels.

2.4 Where former tenants’ arrears are deemed irrecoverable, the sum outstanding will be written off as a bad debt in accordance with the scheme of delegation set out in Standing Orders and the Procedural Handbook. Should a former tenant subsequently be traced and have the means to pay, the debt will be reinstated.
SECTION VII

WRITING OFF CURRENT ARREARS

Tandridge Council recognises that, in certain circumstances writing off arrears of current tenants may be appropriate in order to alleviate financial hardship and/or deal with irrecoverable debts. Debts may be written off in accordance with the following criteria:

- Where long-term DSS direct payment is in force, covering any amenity charges and an amount off the arrears, the residual arrears can be written off, leaving a balance of, for example, £100 to be repaid via DSS.

- Where a tenant is on full benefit but DSS direct payments are not available, or is in receipt of a small pension / maintenance allowance then, if the rent has been paid regularly over the last 12 months, all but, say, £100 of debt may be written off to avoid undue hardship;

- Where a tenant’s circumstances make recovery action inappropriate, e.g., as a result of learning difficulties, senile dementia, or psychological problems, the Council will accept that collection will not be achieved and write off the debt;

- Where the arrears accrued in a crisis which has since been overcome (e.g. following a relationship breakdown where regular rent payment has resumed for at least 6 months) the outstanding arrears may be written off if their continued repayment would cause financial hardship;

- Where tenants who pay their rent regularly have previously accrued small arrears which are not cost effective to pursue and/or it would cause upset if they were pursued e.g., misunderstandings over benefit adjustments or rent increases, the outstanding arrears may be written off

The sum outstanding will be written off as a bad debt in accordance with the scheme of delegation set out in Standing Orders and the Procedural Handbook. Should the tenant’s circumstances subsequently change such that he/she has the means to pay, the debt will be reinstated.
Annex A

Legislative Background

Housing Act 1985

Part II Allows for the provision of housing accommodation and for the local authority to make reasonable charges for the occupation of that accommodation.

Part III Deals with housing the homeless and defines homelessness and intentionality.

Part IV Allows the local authority to recover possession of the dwelling if rent lawfully due from the tenant is not paid or an obligation of the tenancy is broken or not performed.

Local Government & Housing Act 1989

Places a duty on local authorities to keep a Housing Revenue Account in respect of dwellings provided under Part II of the Housing Act 1985

Housing Act 1996

Provides for local authorities to elect to operate an introductory tenancy system for all new tenants.

Human Rights Act 1998

Provides that any interference with the human rights of an individual must be reasonable and proportionate; also that the actions of a local authority must be within the “margin of appreciation” of the range of reasonable responses.
## Action Plan

<table>
<thead>
<tr>
<th>Objective</th>
<th>Task</th>
<th>Officer Responsible</th>
<th>Target date</th>
</tr>
</thead>
</table>
| **Improve communications & advice** | • Introduce automatic arrears letters  
• Update internet and leaflets as necessary  
• Introduce quarterly rent statements for tenants over £100 in arrears | M Farnell  
M Francis | • March 2007  
• Ongoing  
• October 2006 |
| **Extend range of payment methods** | • Introduce Internet credit card payments  
• Investigate feasibility of second Direct Debit date | M Farnell  
M Francis  
R Forsdick | • October 2006 |
| **Improve performance** | • Seek to achieve top quartile targets  
• Ensure arrears recovery staff receive individual annual performance targets and measure performance  
• Formally review rent arrears strategy every three years | M Farnell  
R Forsdick | • Ongoing  
• Ongoing  
• August 2009 |
| **Staff training** | • Annual housing law update  
• Welfare benefits training  
• RIEN workshops & briefings  
• Pre-action Rent Arrears Protocol | M Farnell  
R Forsdick | • November 2006 & ongoing  
• Autumn 2006  
• Ongoing  
• October 2006 |
<table>
<thead>
<tr>
<th>Key</th>
<th>Code</th>
<th>Indicator</th>
<th>Comment</th>
<th>Current Performance</th>
<th>Gov’t aspirations where known</th>
<th>Past Performance</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2006/07 to date</td>
<td>Targets 2006/07</td>
<td>TDC Estimated 2005/06</td>
</tr>
<tr>
<td>BV63</td>
<td>Energy Efficiency - the average SAP rating of local Council owned dwellings.</td>
<td>On target</td>
<td>67</td>
<td>67</td>
<td>-</td>
<td>67</td>
</tr>
<tr>
<td>BV64</td>
<td>The number of private sector vacant dwellings that are returned into occupation or demolished during the financial year as a direct result of action by the Council.</td>
<td>On target - work to 2 properties is nearing completion and occupation is scheduled for later this year.</td>
<td>0</td>
<td>1</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>BV66a</td>
<td>Local Council rent collection and arrears: proportion of rent collected.</td>
<td>On target. This figure increases throughout the year as the effect of arrears carried forward from previous years diminishes within the calculation.</td>
<td>95.23%</td>
<td>98.7%</td>
<td>-</td>
<td>99.1%</td>
</tr>
<tr>
<td>BV66b</td>
<td>The number of tenants with more than 7 weeks of (gross) rent arrears as a % of all council tenants.</td>
<td>On target</td>
<td>4.50%</td>
<td>4.7%</td>
<td>-</td>
<td>4.5%</td>
</tr>
<tr>
<td>BV66c</td>
<td>% of tenants in arrears who have had Notices Seeking Possession served.</td>
<td>On target</td>
<td>6%</td>
<td>15.0%</td>
<td>-</td>
<td>20.1%</td>
</tr>
<tr>
<td>BV66d</td>
<td>% tenants evicted as a result of rent arrears.</td>
<td>On target</td>
<td>0.1%</td>
<td>0.2%</td>
<td>-</td>
<td>0.2%</td>
</tr>
<tr>
<td>BV74a</td>
<td>Overall satisfaction of tenants of council housing with the overall service provided by their landlord: with results further broken down by (b) and (c).</td>
<td>Target not achieved - Preliminary results of 2006 survey indicate that satisfaction remains at the same level as 2003.</td>
<td>84%</td>
<td>86.0%</td>
<td>-</td>
<td>84.0%</td>
</tr>
<tr>
<td>BV74b</td>
<td>Satisfaction of ethnic minority tenants.</td>
<td>Target not achieved - Preliminary results of 2006 survey indicate that satisfaction is greater than 2003, but not at the target.</td>
<td>83%</td>
<td>86.0%</td>
<td>-</td>
<td>80.0%</td>
</tr>
<tr>
<td>BV74c</td>
<td>Satisfaction of non-ethnic minority tenants.</td>
<td>Target not achieved - Preliminary results of 2006 survey indicate that satisfaction remains at the same level as 2003.</td>
<td>84%</td>
<td>86.0%</td>
<td>-</td>
<td>84.0%</td>
</tr>
<tr>
<td>Key Code</td>
<td>Indicator</td>
<td>Comment</td>
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<td>Gov't aspirations where known</td>
<td>Past Performance</td>
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<tr>
<td>BV75a</td>
<td>Overall satisfaction of tenants of council housing with opportunities for participation in management and decision making in relation to housing services provided by their landlord: with results further broken down by (b) and (c).</td>
<td>Target achieved - Preliminary results of 2006 survey indicate an improvement on 2003 result</td>
<td>68% 65.0% -</td>
<td>62.0% N/A -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV75b</td>
<td>Satisfaction of ethnic minority tenants.</td>
<td>Target achieved</td>
<td>80% 65.0% -</td>
<td>75.0% N/A -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV75c</td>
<td>Satisfaction of non-ethnic minority tenants.</td>
<td>Target achieved</td>
<td>68% 66.0% -</td>
<td>62.0% N/A -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV164</td>
<td>Does the Council follow the Commission for Racial Equality's code of practice in rented housing and follow the Good Practice Standards for social landlords on tackling harassment included in Tackling Racial Harassment: Code of Practice for Social Landlords?</td>
<td>Scheduled for review with the Residents’ Forum this year</td>
<td>No 100.0% -</td>
<td>0.0% 100.0% 48.0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV183a</td>
<td>The average length of stay in bed and breakfast accommodation of households which include dependent children or a pregnant woman and which are unintentionally homeless and in priority need (weeks).</td>
<td>On target</td>
<td>1.6 4.0 6.0 0.0 10.0 1.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV183b</td>
<td>The average length of stay in hostel accommodation of households which include dependent children or a pregnant woman and which are unintentionally homeless and in priority need (weeks).</td>
<td>As there have been no residents move out of the hostel thus far this year, no figure is available.</td>
<td>N/A 45.0 -</td>
<td>41.2 48.0 0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV184a</td>
<td>The proportion of LA homes which were non-decent at the start of the financial year.</td>
<td>Target achieved</td>
<td>4.7% 4.8% -</td>
<td>6% 6% 21%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BV184b</td>
<td>The percentage change in proportion of non-decent LA homes between the start and end of the financial year.</td>
<td>On target</td>
<td>11% 20.0% -</td>
<td>20.8% 20.0% -</td>
<td></td>
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<tr>
<td>BV202</td>
<td></td>
<td>The number of people sleeping rough on a single night in the District.</td>
<td>On target</td>
<td>0</td>
<td>0.0</td>
<td>-</td>
</tr>
<tr>
<td>BV203</td>
<td></td>
<td>The % change in the average number of families placed in temporary accommodation.</td>
<td>On target</td>
<td>11.8%</td>
<td>11.5%</td>
<td>-</td>
</tr>
<tr>
<td>BV211a</td>
<td></td>
<td>The proportion of planned repairs and maintenance expenditure on HRA dwellings compared to responsive maintenance.</td>
<td>On target</td>
<td>70%</td>
<td>70.0%</td>
<td>-</td>
</tr>
<tr>
<td>BV211b</td>
<td></td>
<td>The proportion of expenditure on emergency and urgent repairs to HRA dwellings compared to non-urgent repairs.</td>
<td>On target</td>
<td>27%</td>
<td>29.0%</td>
<td>-</td>
</tr>
<tr>
<td>Key</td>
<td>BV212</td>
<td>Average time taken to re-let local authority housing (days).</td>
<td>Target not being achieved. This is due to the success this year in letting 8 long-term vacant dwellings within sheltered schemes, as a result of the recent policy decision to re-designate these units for use by younger households. The fact that all of these properties have been empty for at least six months has had an adverse impact on the average relet period.</td>
<td>31.0</td>
<td>28.0</td>
<td>-</td>
</tr>
<tr>
<td>BV213</td>
<td></td>
<td>Number of households per 1,000 households who considered themselves as homeless, who approached Council, and for whom housing advice casework intervention resolved their situation.</td>
<td>On target</td>
<td>0.42</td>
<td>1.0</td>
<td>-</td>
</tr>
<tr>
<td>BV214</td>
<td></td>
<td>Proportion of households accepted as statutorily homeless who were accepted as statutorily homeless by the Council within the last two years.</td>
<td>On target</td>
<td>0%</td>
<td>5.0%</td>
<td>-</td>
</tr>
</tbody>
</table>
### Housing Local Indicators 2006/07

<table>
<thead>
<tr>
<th>Key</th>
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<tbody>
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<td></td>
<td></td>
<td></td>
<td>2006/07 to date</td>
<td>Targets 2006/07</td>
</tr>
<tr>
<td>Key</td>
<td>Local authority rent collection and arrears: rent arrears of current tenants as a proportion of the authority's rent roll.</td>
<td>On target</td>
<td>2.2%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Key</td>
<td>Proportion of homelessness applications on which the authority makes a decision and issues written notification to the applicant within 33 working days.</td>
<td>On target,</td>
<td>95%</td>
<td>93.0%</td>
</tr>
<tr>
<td></td>
<td>(a) The percentage of Right To Buy claims admitted or declined within the statutory 4 week period from the original application</td>
<td>Under target - This relates to one property where delays occurred as a result of staff shortages.</td>
<td>91%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(b) The percentage of Section 125 Offer Notices served on Right To Buy applicants within the statutory periods of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- 8 Weeks after admittance for a house;</td>
<td>On target</td>
<td>100%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>- 12 weeks after admittance for a flat</td>
<td>On target</td>
<td>100%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>The percentage of Disabled Facilities Grants determined within the statutory period of 6 months from receipt of the initial application</td>
<td>On target</td>
<td>100% in 6 months</td>
<td>90% in 3 months</td>
</tr>
<tr>
<td></td>
<td>The percentage of all current tenants owing over 13 weeks' rent at 31 March 2003, excluding those owing less than £250</td>
<td>On target</td>
<td>3.0%</td>
<td>3.0%</td>
</tr>
<tr>
<td></td>
<td>Former tenants' arrears as a percentage of the Rent Roll</td>
<td>On target</td>
<td>0.3%</td>
<td>0.7%</td>
</tr>
<tr>
<td></td>
<td>Rent written off as not collectable as a proportion of the Rent Roll</td>
<td>On target</td>
<td>0.2%</td>
<td>0.5%</td>
</tr>
<tr>
<td></td>
<td>The percentage of urgent repairs completed within Government time limits</td>
<td>On target</td>
<td>97%</td>
<td>95.0%</td>
</tr>
<tr>
<td></td>
<td>The level of satisfaction with the repairs service from survey forms</td>
<td>On target</td>
<td>98%</td>
<td>90.0%</td>
</tr>
<tr>
<td></td>
<td>The average time taken to complete non-urgent responsive repairs (Days)</td>
<td>On target</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>The percentage of repairs requested by tenants completed within local target times</td>
<td>On target</td>
<td>95%</td>
<td>90.0%</td>
</tr>
</tbody>
</table>