

Manchester City Council

Domestic Private Rented Property Policy on Rent Repayment Orders (RRO)

Introduction

Manchester is committed to tackling rogue landlords and driving up standards in the private rented sector.

This policy has been developed in accordance with the Councils' Corporate Enforcement Policy and Government guidance "Rent repayment orders under the Housing and Planning Act 2016 guidance for Local Housing Authorities", issued by the Department for Communities and Local Government. Related policies include the Council's Civil Penalties Policy and Private Rented Sector Licensing Policy.

Purpose and Objective

Manchester City Council (the 'Council') has prepared and published this policy which it will have regard to when exercising its powers under Part Two, Chapter Four of the Housing and Planning Act 2016.

Chapter Four of the Act sets out the requirements for Rent Repayment Orders (RRO) and confers a power on the First Tier Tribunal to make a rent repayment order where a landlord has committed one of a number of offences.

RRO can be granted:

- to the tenant if they paid the rent themselves or;
- to the local housing authority if rent was paid through Housing Benefit or through the housing element of Universal Credit.

RRO are capped at a maximum of 12 months' rent that has been paid.

The purpose and objective of the policy is to explain the Council's decision making process behind applying for a RRO, and in what circumstances it will assist a tenant in making an application.

Enforcement

A RRO can be applied for where the following offences have been committed:

Table 1 Specified Offences for the purpose of Rent Repayment Orders

Description	Legislation	Section
Unlawful eviction and harassment of occupier	Protection from Eviction Act 1977	Section 1(2), (3) and (3A)
Violence for securing entry	Criminal Law Act 1977	Section 6(1)
Failing to comply with an Improvement Notice *	Housing Act 2004	Section 30(1)

Description	Legislation	Section
Failing to comply with a prohibition order	Housing Act 2004	Section 32(1)
Offences in relation to licensing of Houses in Multiple Occupation *	Housing Act 2004	Section 72(1), (2) and (3)
Offences in relation to licensing of houses under Part 3 of the Act *	Housing Act 2004	Section 95(1) and (2)
Breach of a Banning Order	Housing and Planning Act 2016	Section 21

(*Offences where a civil penalty can be pursued as an alternative to prosecution)

The Council can seek a RRO if rent was paid through Housing Benefit or through the housing element of Universal Credit.

Where the Council has prosecuted, or issued a Civil Penalty against a landlord for any of the above offences it must consider pursuing a RRO.

Where the Council becomes aware that a person has committed one or more of the relevant offences but has not prosecuted or issued a Civil Penalty against the landlord it *may* consider pursuing a RRO. This could include, for example, where the person has admitted the offence and accepted a caution or a conviction has not yet been secured.

The Council will consider each case individually and take into account the resources available to it at the time the decision is made and whether it is cost effective to pursue a RRO.

How much to apply for

The Council will give due consideration to the factors outlined in Appendix One set out in the statutory guidance when considering how much rent it should seek to recover, however, where the landlord has been convicted of the offence to which the RRO applies, the First-tier tribunal must order that the maximum amount of rent (up to 12 months) is repaid.

Having concluded that an application for a RRO is appropriate, and subject to any mitigating or aggravating factors, the Council is most likely to conclude that it should apply to recover the maximum possible amount.

Although the Council will consider how much to recover it is the responsibility of the Tribunal to make the award.

Process

Prior to applying for a RRO the Council will serve a “Notice of Intended Proceedings” on the landlord within 12 months of the date on which the landlord committed the offence.

The Council will consider any representations made within the notice period that are not withdrawn prior to making an application to the First-tier Tribunal. Representations will be considered by a more senior officer than that making the original decision. A written response to representations will then be provided confirming whether the Council intends to proceed with the RRO.

A landlord may appeal against a decision of the First-tier Tribunal to the Upper Tribunal provided that permission to appeal has been given by the First-tier Tribunal or the Upper Tribunal.

Income from Rent Repayment Orders

Sums received from a RRO can be retained by the Council provided that it is used to further its statutory functions in relation to their enforcement functions covering the Private Rented Sector.

Debt Recovery

If the financial penalty imposed is not paid within the appropriate time period, either 28 days from the date of the Final Notice or within such time as determined by the First Tier Tribunal the Council will commence proceedings to recover the debt owed. This will include the recovery of any additional costs to the Council from having to undertake such action. This process will be the Council's existing recovery policy and procedures for the collection of such debt including pursuance of the debt via the county courts if appropriate.

Assistance to tenants wishing to make a RRO

Tenants must apply directly to the First-Tier Tribunal for an RRO and can do so regardless of any Council action or whether the landlord has been convicted of a relevant offence.

The landlord must have committed one of the specified offences within 12 months prior to the date of application.

The offence has to relate to housing that, at the time of the offence, was let to the tenant. No notice of intended proceedings are required to be served on the landlord.

The Council will respond to requests for information from tenants to support their RRO application in a timely and appropriate manner. It may consider helping a tenant apply for a RRO when requested, but will only do so if it is satisfied there is likely to be sufficient evidence to prove, beyond reasonable doubt, that an offence has been committed, and if it has the resource to do so.

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Appendix 1

The Council will have consideration to the following factors when deciding on the amount of RRO to pursue:

- **Punishment of the offender.** Rent repayment orders should have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. Factors that a local housing authority may wish to consider include the conduct of the landlord and tenant, the financial circumstances of the landlord and whether the landlord has previously been convicted of similar offences;
- **Deter the offender from repeating the offence.** The level of the penalty should be set at a high enough level such that it is likely to deter the offender from repeating the offence;
- **Dissuade others from committing similar offences.** Rent repayment orders are imposed by the First-tier Tribunal and so the fact someone has received a rent repayment order will be in the public domain. Robust and proportionate use of rent repayment orders is likely to help ensure others comply with their responsibilities.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence.** This is an important element of rent repayment orders: the landlord is forced to repay rent, and thereby loses much, if not all, of the benefit that accrued to them by not complying with their responsibilities.