

FREEDOM OF INFORMATION ACT 2000

Your request for information has now been considered and the Council's response to your questions is shown below.

You asked:

In each of the last two years:

1) How many times were the next of kin (or the estate) of deceased council tenants advised they would have to pay rent to cover a notice period to end the tenancy upon death?

Leicester City Council does not hold this information. Therefore this part of the letter acts as a refusal notice under section 17.1 of the Freedom of Information Act 2000 because, in accordance with section 1.1 of the Act, the information is not available.

As a matter of law, a tenancy vests, on the death of the tenant, in the Personal Representatives (PR's) of the deceased's estate.

If the tenant left a will, then the PR's will be the executor(s) appointed by the will. The Next of Kin are, of course, not necessarily Personal Representatives.

The majority of tenants die intestate.

Leicester City Council does allow for a Next of Kin to terminate a tenancy in most circumstances. (Not where there is an argument over succession or a joint Right to buy where one of the parties to the purchase was the deceased).

A reasonable period is negotiated with the Next of Kin to clear the home. It should be explained that rent will be charged for this period.

If a will is found and therefore an executor and the estate has some value, the executor is expected to clear the debts of the deceased including rent.

If there is no executor then the debt must be carried by the Housing Revenue Account. (Other rent payers)

Many Next of Kin do want to ensure their relatives estate is tidied up despite there being no compulsion in law for them to do so. They may choose to clear the rent. There should be no formal demand.

When the keys are finally handed in the tenancy is ceased. Any outstanding debts are calculated and an invoice sent out to The Executors of the estate of the deceased. This is sent to any given address or the Next of Kin for forwarding to the executor should one have emerged.

Executors to the estate should be advised of their responsibility to clear the debts of the deceased if the estate has the capacity to do this.

Non Executor Next of Kin should be advised that rent will run on until the tenancy is terminated but that they do not have a liability to clear the debt.

It is not possible to know how many people may have been poorly advised. Staff in income collection do find that the letters sent to the Executors of the estate of the deceased, do get opened by the Next of Kin and they agree to write off the debt once it is clear there was no will discovered.

2) Subsequently how many times were such payments made to the council and how much were the payments in each specific case and in total?

As it is not possible to clearly define that the next of kin (or the estate) of deceased council tenants have been advised they would have to pay rent to cover a notice period to end the tenancy upon death it is not possible to give a figure for this question.

It can however, be confirmed that for the period commencing 2/6/09 to present, there have been 271 Cases where payments have been made following a death and these totalled £35,206.74.

The £35,000 stated relates to tenancy accounts where a payment has been made post termination. What it does not identify clearly is if the payment relates to a sole payment of a rent charge made after the submission of a termination by the next of kin (i.e. to pay a notice period). Therefore this amount could also relate to payments made by the next of kin to an outstanding debt that stood on the account prior to submission of termination.

3) What amounts of rent arrears have been left by deceased tenants?

For the period commencing 2/6/09 to present:

Total rent debt of deceased tenants is £122,607.87
There have been 641 Cases. Breakdown as follows

	No	Amount (£)
<u>Written Off</u>	<u>295</u>	<u>66,800.29</u>
<u>Paid</u>	<u>271</u>	<u>35,206.74</u>
<u>Still Outstanding</u>	<u>75</u>	<u>20,600.84</u>
<u>Part Paid</u>	<u>4</u>	<u>1,068.50</u>
	<u>641</u>	<u>122,607.87</u>

4) How many times have debt recovery companies been used to recover such arrears and what amounts were recovered?

Debt recovery companies have never been used to collect arrears on estates of the deceased.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

**Information Governance Manager
Information and Support
Leicester City Council
FREEPOST (LE985/33)
New Walk Centre
LEICESTER LE1 6ZG
e-mail: foia@leicester.gov.uk**

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow SK9 5AF
Telephone: 01625 545 700
www.informationcommissioner.gov.uk**

Please be aware that the Information Commissioner does not normally consider appeals or complaints until the internal appeals and complaints processes of the public authority which is answering the request have been exhausted. You are therefore advised to complain or appeal to the Information Governance Manager before contacting the Commissioner.