



Bankruptcy, DRO and IVA Policy

1.0 Purpose and scope

Notting Hill Genesis (NHG) maintains an efficient approach when dealing with bankruptcy, DRO and IVA. We recognise that engaging with residents and encouraging transparency in relation to Bankruptcy, DRO and IVA has a positive effect on our residents and on our income collection process. We recognise the social and economic impact of Bankruptcy and we will support our residents when dealing with bankruptcy, DRO and IVA.

This policy applies to General Needs, Leasehold, Temporary Housing, Market Rent, Key Workers and Student Lets.

2.0 Definitions

Bankruptcy - a legal process involving a person or a business that is unable to repay outstanding debts. To be declared bankrupt a person must seek a bankruptcy order from the courts. The order relates to all outstanding debt related to the person at the time of bankruptcy. This includes rent and service charge arrears.

Debt Relief Order (DRO) - is a faster alternative to bankruptcy. It provides someone with 12 months of 'relief' from paying back their debts. It is for those who:

- Have less than £2,000 in assets
- Are not homeowners
- Owe less than £30,000
- Have less than £75 disposable income per month
- And have a vehicle that is worth less than £2,000.

Applicants must apply for a DRO via an approved intermediary such as the Citizens Advice Bureau. The order relates to the debt outstanding at the time of the DRO. This includes rent and service charge arrears.

Individual Voluntary Agreement (IVA) - a formal and legally binding agreement between an individual and their creditors to pay back their debts over a set period of time. An IVA must be set up by an insolvency practitioner. This can include rent and service charge.

Insolvency - is a financial state of a resident (or company) who is not able to pay the money that they owe.

Creditor - a person or a company to whom money is owed, in this case the creditor is NHG as the Landlord, as residents owe rent to NHG.

3.0 Policy Principles

When we become aware that a resident is in financial difficulties, or considering applying for bankruptcy, a DRO or IVA we will:

- Refer residents to specialist independent debt advice, such as Citizen Advice Bureau
- We will attempt to use our Tenancy Support Network to signpost residents to agencies that can provide specific support, in relation to their circumstances, e.g. emotional support, as bankruptcy can be difficult for the overall well-being of residents
- Actively communicate with the resident dealing with Bankruptcy, DRO or and IVA
- Endeavour to act consistently and in accordance with legislation and good practice when a resident is declared bankrupt or has successfully applied for a DRO or an IVA
- Ensure that our actions are in line with our income and collection policies and procedures.

It is the responsibility of the resident to provide NHG with the evidence of their Bankruptcy, DRO or IVA order, before consideration will be made to not pursue for any rent and service charge payable to NHG.

4.0 Bankruptcy and DRO

4.1 Arrears accrued prior to bankruptcy or DRO

Rent and service charge arrears accrued by a resident prior to the date of bankruptcy are not recoverable by NHG. They can be included, where necessary, in any future possession proceedings we start against the resident. In these cases we cannot obtain a money judgment for the arrears accrued prior to the bankruptcy date.

If we have already obtained a suspended possession order prior to bankruptcy, we are allowed to continue pursuing payments for the arrears. In certain circumstances we will continue with the possession proceedings; in line with the income collection policy.

4.2 Arrears accrued after bankruptcy or DRO date

Rents and service charge accrued by a resident after the date of bankruptcy are recoverable by us. We will pursue the arrears in line with our income and collection policies, which may include possession proceedings if applicable.

4.3 Bankruptcy and DRO- Joint tenancy-holders and leaseholders

Joint tenancy-holders and leaseholders are individually liable to pay the rent and service charges on their account. This means that either party is required to pay the full amount of debt owed to us irrespective of a bankruptcy, DRO or IVA.

Where only one of the joint tenancy-holders or leaseholders has been declared bankrupt or has a DRO or IVA approved, we still pursue the other party for the arrears in accordance with income collection policies, specific to tenure. This can include possession proceedings if necessary.

Costs in relation to all court proceedings are fully recoverable by us.

5.0 Individual Voluntary Agreement (IVA)

Current and former residents may wish to include NHG in their list of creditors when applying for an IVA. We will negotiate mutually acceptable repayment agreements with residents applying for an IVA in line with our income collection policies and procedures. We recommend that residents seek independent legal advice.

Rent and service charge arrears accrued by a resident applying for an IVA are fully recoverable by us. We will pursue the arrears in accordance with our income and collection policies which can include possession proceedings where necessary.

6.0 Our approach

In writing this policy we have carried out assessments to ensure that we are considering:

- Equality, Diversity & Inclusion
- Privacy & Data Protection

We also carry out consultation with our staff. If you'd like more information about this work, please get in touch as policy@nhh.org.uk

7.0 Reference

List key legislation, regulation or external links

- [Insolvency Act 2000](#) for details on Bankruptcy and IVA
- [Tribunals, Courts and Enforcement Act 2007](#) for details on DRO
- You can find more information at <https://www.citizensadvice.org.uk/debt-and-money/debt-solutions/debt-relief-orders/debt-relief-orders-explained/how-income-debts-and-belongings-are-assessed-for-a-debt-relief-order/>

Document control

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