

Rent and Arrears Policy

November 2020

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1 Introduction

- 1.1 This policy becomes effective from 12 November 2020 replacing all previous rent and arrears policy statements and links to the Local Housing Strategy and Local Development Plan – Outcome 4 ‘East Dunbartonshire is a safe place to live, work and visit’.
- 1.2 The Council's revised Rent and Arrears Policy is based on a sympathetic but practical approach that focusses on preventative methods, using eviction as a last resort. The policy outlines how the Council will manage both current and former tenant rent arrears and the action the Council will take when arrears occur.
- 1.3 Detailed procedures will guide officers through the key processes involved.

2 Policy Aims and Objectives

- 2.1 The overall aim of the policy is to maximise income to the Housing Revenue Account and minimise the level of rent arrears in a manner that is sensitive but effective.
- 2.2 The policy also aims to reduce gross rent arrears as a percentage of net annual debt in line with the Scottish Social Housing Charter.
- 2.3 The policy will implement the following objectives emphasising early and continuing contact with tenants in arrears:
 - to assist in the prevention of homelessness by early intervention when rent arrears initially occur;
 - to offer appropriate guidance and support to tenants and promote independently available advice;
 - to maximise tenant's income by giving relevant information about entitlement to housing benefit and/or universal credit;
 - to work in partnership with Council services and external agencies where appropriate to support those in arrears and/or at risk of homelessness;
 - to ensure management of arrears and former tenant arrears is fair and proportionate;
 - to ensure officers are adequately trained to carry out their roles effectively;
 - involve stakeholders, including customers, in the ongoing development of policy and procedures through consultation; and

- report on rent arrears performance to the housing management team and annually as required in the Annual Return on the Charter (ARC).

3 The Rental Charge

- 3.1 At the start of the tenancy, the Council will inform the tenant of the rental charge in writing. Rent is charged on a weekly basis, with the debit being raised on a Monday of each week.
- 3.2 Housing officers will engage with all new tenants in the first six weeks of their tenancy to be pro-active about payment of rent as early as possible.
- 3.3 If two or more people have signed the tenancy agreement, they are jointly and severally liable for the payment of rent. This means that each person is fully responsible for the payment of rent, any arrears and any other financial obligation of the tenancy.
- 3.4 The Council will consult tenants regarding any change to rent payable and will give tenants 28 days' notice of any increase in rent.
- 3.5 All tenants with a Scottish secure tenancy in East Dunbartonshire will pay an annual rent that is charged over 48 weeks. No charge is raised for two weeks at Christmas and New Year and the last two weeks of the financial year (March). However, the Council expects tenants in arrears that have entered into a payment arrangement to continue paying rent during these weeks.
- 3.6 Tenants in temporary furnished and unfurnished accommodation, including those leased from private sector landlords, are charged rent each week of the financial year.
- 3.7 Rent for garage lock-ups (with garage) is charged over 48 weeks and has VAT added for owner-occupiers only. Council tenants are not required to pay VAT for garage lock-ups (with garage).
- 3.8 Rent for garage ground sites (ground only) is charged annually and payment is due 28 days after the Council issues the annual bill. VAT is chargeable for all owner-occupiers and private rented sector tenants but is not applicable to Council tenants. Council tenants, owner-occupiers or private rented tenants can put their own garage on such sites.
- 3.9 In addition to the rental charge, some tenants take advantage of the My Home Contents Insurance Scheme (a scheme specially designed for tenants and residents living in social and affordable housing) and pay a weekly premium along with their rent. Tenants must maintain up to date payment of rent to qualify for the scheme.

4 Payment Options

- 4.1 Rent is charged on a Monday of each week and is due by close of business that week. Tenants wishing to pay fortnightly, 4-weekly or monthly should make payments in advance.
- 4.2 Tenants in receipt of or making an application for housing benefit or the housing element of universal credit are responsible for providing all relevant information to allow the claim to be assessed.
- 4.3 All Council tenants can pay rent in the following ways:
- By direct debit on the 1st or 15th of every month
 - Via direct banking by providing the Council's bank details
 - By touchtone on 0300 123 4524 (24hrs a day)
 - Telephone on 0300 123 4510 (9am to 5pm Monday to Friday)
 - Online at www.eastdunbarton.gov.uk/payments
 - At any post office or local Paypoint
 - By post
- 4.4 Tenants will adopt different payment profiles according to the method of payment selected. For the purpose of arrears control procedures, the definition of 'rent arrears' will depend on the payment profile of each tenant or joint tenant.

5 Prevention of Rent Arrears

- 5.1 Officers will continually monitor rent accounts, maintain comprehensive records of all contact with tenants and all action taken. The Council utilises the Mobysoft RentSense System to prioritise cases by patch areas for housing officers.
- 5.2 Officers will make referrals to housing support providers and/or Citizen's Advice Bureaux as appropriate to support tenants at risk of homelessness, to reiterate the importance of maintaining regular rental payments and to minimise the risk of eviction.
- 5.3 Tenants who withhold rent to compel the Council to carry out a repair or provide a service are still at risk of eviction. The Council must have written notification of reasons for withholding rent. The tenant must tell the Council:
- that they intend to withhold rent;
 - what the problem is;
 - what they want the Council to do and provide a reasonable time frame for doing this; and
 - when they will start withholding rent and how long for.

In these circumstances, the rent owed must be kept in a separate bank account and evidence of the funds provided to the Council regularly. The Council must be given reasonable time to resolve the matter and will require payment in full settlement once the issue had been resolved.

- 5.4 Housing officers will assist tenants affected by the under-occupancy charge to minimise the impact of this, by encouraging tenants to apply for Discretionary Housing Payment (DHP), promoting transfer or mutual exchange to access alternative housing and will refer tenants to Citizen's Advice Bureau for specialist money advice.

6 Recovery of Rent Arrears

- 6.1 The Council will follow a detailed process when a tenant falls into rent arrears. A housing officer will discuss individual cases with the housing operations adviser who will decide what further action to take. Appropriate support will be offered.
- 6.2 If a Notice of Proceedings for Recovery of Possession (NOP) under Part 1 of schedule 2 to the Housing (Scotland) Act 2001 ("the 2001 Act") is required, the Council must serve the tenant with a NOP at least 28 days before court proceedings can be raised.
- 6.3 The Council must follow Pre-Action Requirements as set out in sections 14 and 14A of the 2001 Act. In accordance with these a housing officer will carry out the following:
- provide the tenant with clear information about the terms of their tenancy agreement, the amount of rent outstanding and any other financial obligation of the tenancy, including a description of any charges likely to be incurred if the money due is not paid;
 - make reasonable efforts to provide tenants with advice and assistance on eligibility to receive housing benefit, universal credit and other types of financial assistance (such as benefits or grants);
 - provide the tenant with tenant information on where to go for debt advice and assistance;
 - make reasonable efforts to agree with the tenant a reasonable plan for paying the money due and paying the rent in the future;
 - ask the tenant if they have made an application for housing benefit or Universal Credit and, if they have done, consider the likely effect of that application on the money due;
 - consider whether the tenant is taking any other steps to pay the money due;
 - consider whether the tenant is keeping to an agreed plan for paying the money due and continuing to pay the rent; and
 - notify the homelessness and prevention team of any NOP issued, as is required under section 11 of the Homelessness etc. (Scotland) Act 2003 ("the 2003 Act").

- 6.4 The Council will not serve the tenant a NOP where the tenant has:
- Made an application for housing benefit or universal credit that has not yet been determined and is likely to result in benefit being paid at a level allowing the tenant to pay, or reduce by an amount acceptable to the Council, the outstanding rent or any other financial obligation of the tenancy; or
 - taken steps that are likely to result in settlement within a reasonable time of the outstanding rent or any other financial obligation of the tenancy.
- 6.5 The housing officer will make reasonable efforts to visit tenants who are in arrears before passing for legal action. When contact is made with the tenant, the housing officer will make reasonable efforts to set up a formal agreement to pay rent and arrears. When an arrangement has been broken, the housing officer will inform the tenant that court action will follow unless a lump sum payment is made to cover the missing payments.
- 6.6 Any served NOP becomes effective 28 days after it is served on the tenant by sheriff officers. It is essential that the tenant knows legal action has started and will continue to court if any payment arrangement is not kept. The housing operations adviser will issue a 'NOP "live" along with a 7 Days' letter, and thereafter court action may be taken. If no response is received from the tenant within 7 days and payments are not being made to fully cover rent and arrears, then the housing operations adviser will issue a "New Court Action" letter.

7 Court Action

- 7.1 The team leader – housing operations will ensure that the administration of any court action is undertaken timeously and that all court action is appropriate and just.
- 7.2 The court will advise of a court calling date. Court callings relating to Kirkintilloch, Bishopbriggs, Lennoxton, Milton of Campsie, Torrance and Twechar cases will call in Glasgow Sheriff Court. Cases in Bearsden and Milngavie will call in Dumbarton Sheriff Court.
- 7.3 When the case calls in court, the Council may decide to:
- sist (or put the case to sleep) where the tenant has firmly established a pattern of regular payments since legal action was instructed. The housing operations adviser will monitor these cases. If the arrangement is broken the Council can recall the sist (no further NOP is required);
 - continue the case where the tenant has engaged with the Council but has not paid or reduced arrears by an amount acceptable to the Council; or

- seek decree for recovery of possession, payment and expenses where the tenant has not engaged with the Council in any constructive way, or not at all.
- 7.4 All cases where decree is awarded will be referred to social work and the homelessness and prevention team. At this stage the team leader – housing operations will consider not enforcing the decree where a reasonable payment plan is entered into (dependent on circumstances). This may include a lump sum payment.
- 7.5 The Council will seek court expenses when asking the court to grant decree, including for cases where recommendations will be to ask for a case to be dismissed. However, in exceptional circumstances the Team Leader, Housing Operations may use discretion to waive the expenses.
- 7.6 When the extract decree is received, the team leader – housing operations will arrange for a sheriff officer to serve a “charge for removing” on the tenant(s). This is mandatory before an eviction can be carried out. Once served, the eviction can be carried out in 14 days’ time.
- 7.7 The team leader – housing operations will liaise with sheriff officers to agree a date for eviction. On the day of the eviction, the team leader – housing operations must attend, meeting a joiner and sheriff officer at the property.
- 7.8 If the tenant is not present, the sheriff officer will take an inventory of the belongings and the property will be secured. If the tenant contacts to request access, a 2-hour slot will be given to clear the house. The housing officer will be in attendance when the tenant is given access. If the tenant does not make arrangements within 7 days of the eviction, the housing officer will arrange with property maintenance services to empty the house.
- 7.9 If a minute for recall is received on the day of the eviction, in writing from a solicitor or Citizen’s Advice Bureau, the eviction will be stopped to allow for legal process.

8 Recovery of Former Tenant Arrears

- 8.1 When a tenancy is terminated and there is an outstanding balance, the Council will attempt to agree a repayment plan with the tenant that is affordable and sustainable.
- 8.2 Should no forwarding address be known and where all attempts to trace the person have been exhausted, the team leader – housing operations will pass cases to a debt recovery agency to trace and collect.
- 8.3 Where a tenant has died, and there is a surviving joint tenant, the joint tenant is liable for ALL of the outstanding arrears, and will be

pursued as normal. If the tenant was a sole tenant and has died any outstanding amount will not be transferred to anyone succeeding the tenancy.

- 8.4 The person who notifies the Housing Service of the deceased tenant's tenancy will be advised of the arrear and asked for details of the former tenant's next-of-kin or executor. The person will also be advised that any benefit or grant will cease on the death of the claimant, and a delay in returning keys to the property will result in full rent being charged until keys are received, unless there is a lawful successor to the tenancy, who will be then be responsible for rent payments from this date. Where it is established that there are no assets to clear the arrears, the case should be referred to the housing operations adviser to be written off.
- 8.5 Where there is no prospect of recovery of arrears, the debt will be written off. In cases where a write off has occurred, the former tenancy account will show a nil balance alongside a write-off transaction. In respect of former tenants who have terminated or abandoned a tenancy and moved on elsewhere, then if the tenant is subsequently located, the write off transaction can be reversed and the debt reinstated (if less than 5 years from the tenancy end).
- 8.6 In accordance with Council standing orders, arrears over £2,000 cannot be written off without approval of the Policy & Resources Committee.
- 8.7 If a tenant without any legal right to do so occupies a tenancy, for example, when a person remains in the property past the Notice to Quit date, they are not liable to pay rent, as there is no tenancy. However, such a person would be liable to pay "violent profits" and should be advised in writing of this. This is the legal term used for the profit made by a person wrongfully occupying property and the Council is entitled to payment as a result of the financial loss it suffers due to being unable to let the property to someone else or receive rental payments for it.
- 8.8 Any demand made by the Council in respect of a tenant's occupation, or acceptance of payment for a tenant's occupation after a Notice to Quit takes effect, is in respect of the tenant's liability for violent profits. It is not an acceptance of ongoing rent, and it is not a waiver of the Council's right to recover possession.
- 8.9 If a former tenant's rent account is in credit, checks will be made to establish that the balance is genuine. If the tenant or former tenant has Council Tax arrears, the finance service will write to them advising that the rent refund will be credited to the Council Tax arrears, unless the tenant contacts finance to decline this arrangement. Where the tenant has moved to a new tenancy, the team leader - housing operations can authorise a credit balance transfer to the new rent account.

9 Lock-Up Arrears

- 9.1 When a lock-up account is four weeks in arrears, the housing officer will follow the procedure to issue a reminder and a final reminder letter, advising the tenant to make contact to clear the account. If no contact is made by the tenant, the housing officer will take steps to end the tenancy.
- 9.2 The housing officer will issue a Notice to Quit and once expired a copy of the inventory will be issued to the tenant advising them that the lock-up has been repossessed.

10 Legal Framework

- 10.1 The Council's approach to rent and arrears management is determined by best practice and the following statutory and contractual obligations:
- The General Data Protection Regulation
 - Data Protection Act 2018
 - Freedom of Information Act (Scotland) 2002
 - Debt Arrangement and Attachment (Scotland) Act 2002
 - Housing (Scotland) Act 2001
 - Housing (Scotland) Act 2010
 - Housing (Scotland) Act 2014
 - Bankruptcy and Diligence etc. (Scotland) Act 2007
 - Homelessness etc. (Scotland) Act 2003
 - Equality Act 2010

11 Policy Monitoring and Review

- 11.1 The Scottish Housing Regulator monitors the quality and value of the Council's housing services. The Council uses the Scottish Social Housing Charter Indicators to measure performance and makes this information available to its customers annually. The indicators relevant to rent and arrears are:
- Indicator 26 – Rent collected as a % of total rent due in the reporting year
 - Indicator 27 – Gross Rent Arrears (all tenants) as at March 31 each year as a % of rent due for the reporting year
 - Indicator C7 – Amount and % of Former Tenant Arrears written off at year end.
- 11.2 The Council will review the rent and arrears policy every three years. The date of the next review is November 2023.

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本文件可按要求翻譯成中文，如有此需要，請電 0300 123 4510 。

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