

WELWYN HATFIELD BOROUGH COUNCIL
CABINET HOUSING PANEL – 10 DECEMBER 2018
REPORT OF THE CORPORATE DIRECTOR (HOUSING AND COMMUNITIES)

RENT ARREARS POLICY – COUNCIL TENANTS

1 Executive Summary

- 1.1 This report recommends the approval and adoption of a new Rent Arrears Policy set out in Appendix A
- 1.2 The aim of the policy is to set out the council's approach to recovering rent arrears in order to be as effective as we can be in minimising tenant debt and maximising rental income from council tenancies.
- 1.3 This policy will be applied in a firm, but fair way, underpinned with early contact and support through the whole recovery process in order to prevent arrears from accruing and to ensure that a tenant can receive the right advice at the earliest opportunity and offered at every opportunity.
- 1.4 The Tenants Panel have already been consulted and provided comments which have been incorporated into the draft policy.

2 Recommendation(s)

- 2.1 Members recommend to Cabinet the adoption of the Rent Arrears Policy (as set out at Appendix A).

3 Explanation

- 3.1 This Rent Arrears Policy applies to all tenants who have a Secure Tenancy, Flexible Tenancy or Non Secure Tenancy with Welwyn Hatfield Borough Council.
- 3.2 This policy does not apply to leaseholders (including equity share properties).
- 3.3 The policy sets out the council's approach to recovering rent arrears, taking into account best practice and legislative guidance but adopting a firm but fair approach to maximising council housing rental income.
- 3.4 The total annual rent debit for council tenancies is approximately £49 million.
- 3.5 The specific objectives of the Rent Arrears Policy are to:
 - Effectively collect rent due minimising debt for tenants and to maximise income.
 - Offer comprehensive support to tenants to sustain their tenancies at all stages of the recovery process.
 - When appropriate, take legal action swiftly to minimise arrears increasing, ensuring action is proportionate and adheres to all legislative requirements, i.e. Pre-Action Protocol.

- 3.6 The Pre-Action Protocol for Possession based on rent arrears applies to residential possession claims by social landlords (such as local authorities)
- 3.7 The Protocol sets out a code of good practice for social landlords and private registered providers in the collection of rent arrears. The Protocol encourages more contact between landlords and tenants.
- 3.8 The aims of the Protocol are:
 - (a) To encourage more pre-action contact and exchange of information between landlords and tenants;
 - (b) To enable the parties to avoid litigation by settling the matter if possible; and
 - (c) To enable court time to be used more effectively if proceedings are necessary.
- 3.9 Rent payments are due in advance in accordance with council tenancy agreement.
- 3.10 Maximising our income enables the council to meet its financial obligations and continue to invest in improving services to tenants.
- 3.11 We will contact tenants as soon as their rent account falls into arrears to ensure we can identify support at an early stage to ensure we can offer the most appropriate support.
- 3.12 Eviction will only be considered as a last resort and only after approval from two tiers of manager.
- 3.13 Rent money owed to us by people who are no longer our tenants are to be dealt with in line with the Former Tenants Arrears Policy.

Implications

4 Legal Implication(s)

- 4.1 Pre-Action Protocol (part of the Civil Procedure Rules) applies to residential possession claims by social landlords (such as local authorities, Registered Social Landlords and Housing Action Trusts) and private registered providers of social housing. Part 2 relates to claims which are based solely on claims for rent arrears. The protocol does not apply to claims in respect of long leases or to claims for possession where there is no security of tenure.
- 4.2 Possession will be sought under Ground(s) 1 of Schedule 2 to the Housing Act 1985 - 'Any rent lawfully due from the tenant has not been paid or the obligation of the tenancy has been broken or not performed'.
- 4.3 Possession on Ground 1 for secure tenancies is at the discretion of the courts.
- 4.4 For non-secure tenancies, the council is not required to prove any statutory ground to gain possession, but we must serve a valid Notice to Quit where a licensee has up to 28 days or more in arrears and has not responded to our efforts to make contact, or has broken their agreement to repay arrears. We will ensure its use is proportionate.

5 Financial Implication(s)

- 5.1 The current annual rent debit for council tenancies is approximately £49 million.
- 5.2 Current arrears outstanding are £1,370,000 as at the end of September 2018.
- 5.3 Arrears for Universal Credit cases totals £309,000.
- 5.4 Failure to collect rent and manage arrears effectively will require an increase in bad debt provision in the Housing Revenue Account.

6 Risk Management Implications

- 6.1 The Rent Arrears Policy provides clarity on how the council manages rent arrears and support residents in sustaining their tenancies. It ensures a clear and consistent approach and sets out our legal obligations.
- 6.2 The policy ensures that the council is not incurring either a reputational or legal risk from not having a clear, up to date policy.

7 Security and Terrorism Implication(s)

- 7.1 There are no implications arising from this policy.

8 Procurement Implication(s)

- 8.1 There are no implications arising from this policy.

9 Climate Change Implication(s)

- 9.1 There are no implications arising from this policy.

10 Human Resources Implication(s)

- 10.1 There are no implications arising from this policy.

11 Health and Wellbeing Implication(s)

- 11.1 There are no implications arising from this policy.

12 Communication and Engagement Implication(s)

- 12.1 This policy has been reviewed by Tenants Panel and any comments have been taken into account.

13 Link to Corporate Priorities

- 13.1 The subject of this report is linked to two of the five Council Corporate Priorities:
 - 1) Our Housing
 - 2) Our Council

14 Equality and Diversity

- 14.1 An EqIA was completed on 12th October and no negative impact was identified on any of the protected groups under Equalities legislation.

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Appendices:

Appendix A – Rent Arrears Policy