

Report

10

Report to:	Housing and Technical Resources Committee
Date of Meeting:	5 May 2010
Report by:	Executive Director (Housing and Technical Resources)

Subject:	Council House Rent Arrears Policy
----------	--

1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ provide an update on the outcome of the review of the Council House Rent Arrears Policy
- ◆ request approval for the new Rent Arrears Policy

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the process and actions taken to review the Rent Arrears Policy be noted.
- (2) that the new Council House Rent Arrears Policy be endorsed and implemented with effect from 1 October 2010.
- (3) that the Council House Rent Arrears Policy be referred to the Executive Committee for formal approval.

3. Background

- 3.1. The Council has operated the current Rent Arrears Policy and procedures for the recovery of current and former tenant arrears, with great success, for more than 10 years.
- 3.2. To ensure operational and financial effectiveness continues, a review of the Rent Arrears Policy and procedures has been undertaken. This review also provided an opportunity to include greater tenant involvement in the development of the new Policy.
- 3.3. A working group of 5 tenant representatives was identified by the Central Liaison Group (CLG) to work with the Council in developing the new policy and procedures over the period of the review. This group kept the wider tenant representatives informed through regular updates to the CLG.
- 3.4. The current Rent Arrears Policy and procedures has seen the Council achieve consistently high performance levels, with rent arrears being well below the national average for the past seven years. This performance has also been achieved whilst the Council maintained an eviction level below the national average.

4. Key aims and objectives of the new policy

- 4.1. The key objective of both the current and new policy is to 'maximise rental income to the Council by minimising the level of arrears and number of tenants in arrears, whilst being sympathetic to the individual circumstances of tenants'.
- 4.2. The Council will continue to take a preventative approach that seeks to maximise tenants' entitlement to benefits and secure regular payments. Emphasis is placed on effective management including personal contact whilst arrears are at a relatively low level.
- 4.3. The specific aims of the rent arrears policy are:-
 - To have early intervention mechanisms in place which prevent rent arrears from initially occurring and tackle rent arrears promptly to prevent debt escalation.
 - That the Council's approach to rent arrears is 'firm but fair'.
 - To take appropriate and proportionate action to recover rent arrears.
 - To offer early support and guidance to tenants to reduce rent arrears.
 - To maximise tenant's income by providing an effective service to persons in receipt of or having a possible entitlement to Housing Benefit and other welfare benefits.
 - To work effectively with other Council departments and external agencies to support those in arrears and at risk of homelessness.
 - To promote the availability of independent advice.
 - To ensure consistency is applied across the service.
 - To ensure employees are adequately trained to enable them to carry out their roles effectively.

5. Changes from the existing to the new policy

- 5.1. The format of the current policy is the incorporation of a policy statement within detailed rent arrears procedures. This new policy consolidates many of the key aspects of our current approach to managing rent arrears in a comprehensive policy document and will be underpinned by a detailed set of procedures which are also currently under review.
- 5.2. The new policy also formalises the service standards that we will be monitored on and to which we are currently operating.
- 5.3. The main changes incorporated into this new policy are:-
 - Stronger action on tenants who have recently been through the court process and have again fallen into arrears in an attempt to break the continuous cycle of arrears.
 - Stronger links to other Council policies and strategies including helping to promote tenancy, sustainability and preventing homelessness.
 - Inclusion of former tenant rent arrears within the overall rent arrears recovery policy.
 - Involving stakeholders, including service users, in the ongoing development of policy and procedures through consultation.
- 5.4. During the course of this review two Council current working practices were highlighted as being areas for improvement. These are:
 - i) Requirements to pay rent in advance and
 - ii) procedures used to recover housing benefit overpayments

5.5. Rent in Advance

The current lease terms and conditions require new tenants to pay the first rental payment in advance. This clause in the lease has never been enforced and it has never been custom or practice to collect rent in advance from new tenants.

It is recommended that, with effect from 1 October 2010, this requirement is adhered to and that all new tenants are required to pay rent in advance prior to moving in to a new tenancy. Clearly, individual circumstances will be considered on a case by case basis to avoid any hardship.

5.6. Housing Benefit overpayments

At present the Council takes a maximum of £5.00 per week direct deduction from ongoing benefit receipts. The DWP permits deductions of £9.90 and £13.20 for routine and fraudulent overpayments respectively. Formal consultation with other councils established that, out of eighteen responses, fifteen of the Councils applied the maximum allowance. To bring South Lanarkshire Council into line with the majority of councils it is proposed that the policy be revised to allow the council to apply the maximum allowable deduction as recommended by the DWP. All cases will be dealt with on a case by case basis to ensure no undue hardship to any individual.

6. **Consultation on the New Rent Arrears Policy**

- 6.1. A comprehensive consultation exercise has been undertaken as part of this policy review.
- 6.2. As highlighted in 3.3, a working group of five tenant representatives identified by the Central Liaison Group (CLG) have been involved in developing the new rent arrears policy from the start of the review process. This group has kept the wider tenant representatives informed by providing regular updates to the CLG.
- 6.3. In developing a draft policy for wider consultation, extensive work was undertaken reviewing the rent arrears policies of other Scottish Local Authorities.
- 6.4. Extensive consultation on the draft policy took place over a three month period commencing 21 September 2009.
- 6.5. The consultative draft policy was distributed to interested parties both within and outwith the Council including Social Work, Homelessness, tenant representatives, tenants', residents' and disability groups, elected members, other Scottish Local Authorities and partner agencies such as Shelter, Legal Services Agency, Money Advice Scotland and the Citizen's Advice Bureau.

7. **New Rent Arrears Procedures**

- 7.1. As highlighted in 5.1, a detailed set of procedures will underpin this policy. Extensive employee consultation has already been undertaken including focus group sessions to identify gaps in the current procedures. The comprehensive audit of rent arrears that has been carried out over the past twelve months has also informed this review.

8. **Employee Implications**

- 8.1. Prior to implementation of the new policy all employees concerned will be given training on all aspects of the policy and associated procedures.

9. Financial Implications

9.1. None.

10. Other Implications

10.1. None.

11. Equalities Impact Assessment and Consultation Arrangements

11.1. An impact assessment in terms of the proposals within this report has been carried out to ensure that the policy is inclusive and does not unfairly disadvantage any groups within the community.

11.2. Extensive consultation on the consultative draft policy was undertaken over a three month period with a wide range of interested parties. Comments and suggestions from consultees have been incorporated into the proposed policy.

Lindsay Freeland

Executive Director (Housing and Technical Resources)

24 March 2010

Link(s) to Council Objectives and Values

- Accountable, effective and efficient

Previous References

None

List of Background Papers

- Rent Arrears Policy document
- List of Consultees
- Consultation Feedback

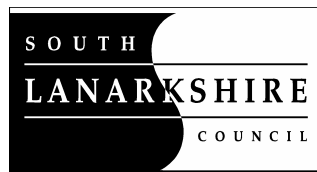
Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Patrick Murphy, Head of Support Services

Ext: 4065 (Tel: 01698 454065)

E-mail: patrick.j.murphy@southlanarkshire.gov.uk



South Lanarkshire Council

Rent Arrears Policy

**Updated Draft
March 2010**

Contents	page
1. Introduction	2
2. Aims and Objectives	2-3
3. Service Standards	3
4. Prevention of Rent Arrears	3-4
5. Recovery of Current Rent Arrears	4-5
6. Recovery of Former Tenant Arrears	5
7. Performance Monitoring	6
8. Legal Framework	6
9. Equal Opportunities	7
10. Complaints	7

1. Introduction

- 1.1 This policy becomes effective from 1 October 2010 replacing all previous rent arrears policy statements and links to other council policies and strategies with particular focus in helping promote tenancy sustainability and preventing homelessness.
- 1.2 South Lanarkshire Council's rent arrears policy is based on an approach that focuses on preventative methods of control, using eviction as a last resort.
- 1.3 This policy outlines how the Council will manage both current and former tenant rent arrears and the actions it will take.
- 1.4 The key components of this policy are:
 - aims and objectives
 - service standards
 - prevention of arrears
 - recovery of arrears both current and former
 - performance monitoring and reporting
- 1.5 Detailed procedures have been developed to guide staff through the key processes involved.

2. Aims and Objectives

- 2.1 The principal objective of the rent arrears policy is to 'maximise rental income to the Council by minimising the level of arrears and number of tenants in arrears, whilst being sympathetic to the individual circumstances of tenants'.
- 2.2 To achieve this objective the Council takes a preventative approach that seeks to maximise tenant's entitlement to benefits and secure regular payments. Emphasis is placed on effective management and personal contact whilst arrears are at a relatively low level, in order to prevent the escalation of arrears.
- 2.3 The specific aims of the Rent Arrears Policy are:
 - to have early intervention mechanisms in place which prevent rent arrears initially occurring and tackle rent arrears promptly to prevent debt escalation
 - that the Council's approach to rent arrears is 'Firm but Fair'
 - to take appropriate and proportionate action to recover rent arrears
 - to offer early support and guidance to tenants to reduce rent arrears
 - to maximise tenant's income by providing an effective service to persons in receipt of or having a possible entitlement to Housing Benefit and other welfare benefits
 - to work effectively with other Council Departments and external agencies, to support those in arrears and at risk of homelessness
 - to promote the availability of independent advice
 - to ensure consistency is applied across the service
 - to ensure staff are adequately trained to enable them to carry out their roles effectively

3. Service standards

- 3.1 A summary of South Lanarkshire Council service standards are set out below. We will;
- ensure a wide range of payment methods for rent are available
 - provide rent arrears statements to current tenants in arrears at the end of each month
 - ensure information about rent, including the requirements to make regular payments is provided at each tenancy sign up interview in accordance with Estate Management 'Tenancy Sign Up' procedures
 - ensure Housing/Council Tax Benefit entitlement is considered, and where appropriate a Housing/Council Tax Benefit claim form completed, at each tenancy sign up interview
 - ensure that all repayment arrangements are realistic and affordable
 - refer all cases to Social Work for them to offer support and advice where court action for current rent arrears is raised
 - involve stakeholders, including service users, in the ongoing development of policy and procedures through consultation

4. Prevention of Rent Arrears

- 4.1 At the start of a tenancy, the council will make every effort to ensure that the tenant is informed of all the potential costs associated with their tenancy.
- 4.2 This will be achieved by providing detailed information on the tenant's obligations and duties at the tenancy sign up interview. This will clearly set out:
- their rent charge;
 - rent cycles; and
 - payment methods
- 4.3 Where appropriate, tenants will be encouraged to complete a Housing Benefit application form and will be provided with a benefit assessment. This will apply at any stage in the tenancy where there is a potential benefit entitlement identified.
- 4.4 Assistance will be provided where tenants experience difficulty with the completion of a Housing/Council Tax Benefit application form.
- 4.5 Help and advice on debt, money management and welfare benefits will be made available to tenants where required.
- 4.6 When the tenant(s) notifies the council that they are terminating their tenancy they will be advised of the amount of any outstanding rent and other council debts up to their date of termination in accordance with the Estate Management 'Tenancy Termination' procedures.

5. Recovery of Current Rent Arrears

- 5.1 Rent arrears recovery will be based on a staged escalation process, up to and including repossession for non-payment of rent.
- 5.2 Every effort will be made to establish early contact with tenants, through home visits including settling in visits, office interviews and telephone calls to identify the cause(s) of

arrears and discuss potential solutions. Early morning and evening phone calls or visits will be made where necessary.

5.3 The stages involved in this process are:

- issuing reminder(s);
- serving a Notice of Proceedings;
- raise court action;
- seek decree; and
- eviction

5.4 At each stage in the process the council will provide tenants in arrears with clearly written arrears letters with details of:

- their outstanding arrears balance
- the action they need to take and consequences of non-payment
- internal and external money advice agencies

5.5 In cases where the tenant cannot clear the arrears in a single payment, the Council will agree a reasonable and affordable repayment arrangement to reduce the arrears. Repayment agreements will be based upon a detailed assessment of the tenant's ability to pay, to ensure consistency in application, unless the tenant wishes to pay more. Appropriate action will be taken where arrangements are broken.

5.6 At any stage where tenant(s) are identified as vulnerable and the tenant gives consent, assistance will be given to access in-house and external support agencies i.e. MMAS, Social Work and Citizens Advice Bureau etc.

5.7 The Council will consider all forms of legal action available through the court process to recover rent arrears where previous actions prove ineffective.

5.8 Advice and assistance to the tenant will be provided by the Court Team throughout the court process with referrals to Social Work and Homelessness Teams to help prevent eviction. Tenants will also be given advice and details of independent agencies that can assist and provide legal advice i.e. Citizens Advice Bureau, Legal Services Agency, Shelter etc.

5.9 If decree is not sought at the first court calling and the arrears continue to rise with the tenant failing to take agreed action, the case will be reviewed by a Senior Manager within two months to determine the next appropriate course of action.

5.10 The Council may fast track cases into the court process where court action has previously been taken and arrears have again occurred. This action would be taken in an attempt to break the cycle of arrears and prevent debt escalation and potential homelessness.

5.11 Where 'decree has been granted and enforced and the debt is then cleared, the tenant may be given an opportunity to stay in the property with a new tenancy agreement. This is termed a technical re-let.

6. Recovery of Former Tenant Arrears

6.1 Former tenant arrears recovery will be based on a staged escalation process, up to and including forms of ²diligence which can include arrestment of earnings, goods or bank account for non payment of the debt owed

6.2 The stages involved in the process are:

- tracing former tenants;
- issuing reminder(s);

- referral to debt collection agency;
- raise court action
- perform diligence

6.3 At each stage in the process the council will provide former tenants in arrears with clearly written arrears letters with details of:

- their outstanding arrears balance
- the action they need to take
- internal and external money advice agencies

6.4 Former tenants in arrears will be encouraged to agree a repayment plan that is affordable and sustainable.

6.5 Legal action to recover the arrears will be taken in cases where an assessment of the former tenant's financial circumstances indicates such action would be appropriate.

6.6 Where the decision is made by the senior officer that an arrear is uneconomic to pursue or where there is no prospect of recovery, the debt will be written off.

6.7 In cases where a write off has occurred, the information will remain on the rent system and could be reinstated for recovery should the former tenant be located or re-apply for housing at a later date.

¹ decree – an order of the court granting the remedy sought

² diligence – the collective term for the procedures used to enforce a decree of a court, these include arrestment of wages, goods or a bank account

7. Performance Monitoring/Reports

7.1 The Council will monitor performance on rent arrears using both statutory and local performance indicators.

Statutory Performance Indicators

- Current tenant arrears as a percentage of the net rent due in the financial year
- The percentage of current tenants owing more than 13 weeks rent excluding those owing less than £250
- Average number of weeks rent owed by tenants leaving in arrears
- The amount and percentage of former tenant arrears written off or collected during the financial year

Local Indicators

- The total amount of current tenant arrears
- Current tenant arrears by band (i.e. arrears under £100, £100 to £200, £200 to £300 etc) showing number of accounts and total arrears due for each band
- Number of Notice of Proceedings issued
- Number of court actions taken
- Number of tenants evicted due to rent arrears
- Number of technical evictions
- The total amount of former tenant arrears
- Former tenant arrears in-year collection
- Total rent arrears written off

- 7.2 Information on the Council's rent arrears court activity including evictions is reported to the Resource Management Team (RMT) on a quarterly basis.
- 7.3 Reports on the progress of rent arrears performance will regularly be presented to the Central Liaison Group, Central Liaison Sub Group, Local Housing Forums and tenants groups.

8. Legal Framework

- 8.1 The Council will ensure that the Rent Arrears Policy meets with legislative and good practice requirements in minimising rent arrears. This will include complying with the following:
- Data Protection Act 1998 and Freedom of Information Act (Scotland) 2002
 - Debt Arrangement and Attachment (Scotland) Act 2002
 - Housing (Scotland) Act 2001
 - Homelessness etc (Scotland) Act 2003

9. Equal Opportunities

- 9.1 In relation to rent arrears, this policy is consistent with our Equal Opportunities Policy and aims to ensure that we act fairly and lawfully on all occasions. We will not discriminate against anyone on the grounds of race, colour, ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief.
- 9.2 An Equality and Diversity Impact Assessment has been carried out to ensure that the policy is inclusive and does not unfairly disadvantage any groups within the community.
- 9.3 We will continue to monitor the policy to ensure that it achieves all equalities objectives set.

10. Complaints

- 10.1 The Council operates a Complaints Procedure that is available to anyone who is not satisfied with the way in which their case has been dealt with. Details of the Complaints Procedure will be made available and accessible through our local offices, Customer Service Centre and Council website.