

Tendring
District Council



Housing Rent Setting and Collection Policy September 2024

A.5 APPENDIX C



HOUSING RENT SETTING AND COLLECTION POLICY

Introduction

This policy sets out Tendring District Council's approach to rent setting and rent collection. The policy recognises that it is in the interests of both the Council and its tenants to ensure that rent is paid promptly but that when debts occur, the Council will consider individual needs and offer appropriate support. The Council is committed to promoting sustainable tenancies by working with partners to provide a co-ordinated approach aimed at minimising rent arrears through an effective service that ensures difficulties are resolved, wherever possible, without Court proceedings. The rent collected enables the Council to maintain and improve its homes and provide effective landlord services.

Purpose of this Policy:

- To set out the Council's approach to rent and service charge reviews for current tenants.
- To set out the Council's approach to rent and service charge setting for new tenants.
- To set out the Council's approach to rent and service charge recovery for residential properties.
- To set out the Council's approach to annual rent reviews for non-residential assets (garages).
- To set out the Council's approach to rent recovery from former tenants.
- To ensure tenants are given assistance and support to sustain their tenancies.
- To increase access to financial advice and debt support.
- To help tenants maximise their income and access all available benefit entitlement (where appropriate).

Policy aims:

- To outline the method of calculating fair and affordable rents to maximise income and provide an efficient and effective housing service.
- To ensure tenants prioritise their rent payments.
- To work in partnership to support and signpost tenants to maximise their income, manage debts, sustain tenancies and prevent rent arrears.
- To keep rent arrears to a minimum by early intervention thereby minimising the risk of homelessness.
- To operate a firm but fair approach to provide tenants in arrears with support and advice and offering practical, affordable repayment plans.
- To take action appropriate to the level of rent arrears.

- To record the Council's justification in accordance with the Public Sector Equality Duty (s.149 of the Equality Act 2010).

Scope of Policy

This policy applies to the Council's tenants, former tenants, prospective tenants, leaseholders and garage users.

Annual rent setting for current tenants:

- The Council are required to comply with the Regulator of Social Housing's Rent Standard. It sets the required outcomes for how the Council set and increase rents for its housing stock as outlined in the Governments Policy Statement on Rents for Social Housing.
- Annual rent increases for current tenants will be applied in line with the Regulator of Social Housing's guidance which currently (September 2024) allows Local Authority landlords to increase rents on an annual basis using Septembers Consumer Price Index (CPI) figure plus 1%, and is dependent on the decision made by full Council when setting the yearly Budget.
- Rent caps are applied to the adjusted rents to ensure that they remain affordable.
- The Council will ensure that tenants are given at least four weeks' notice in writing of any change in their rent, commencing on the first Monday of April each year.

Rent setting for new tenants:

- When a property becomes empty it will be re-let in accordance with the Governments Policy Statement on Rents for Social Housing at formula rent which derives individual property rents taking into account property values (based on 1999 valuation), local earnings and number of bedrooms.
- The Council does have some discretion over the rent set for individual properties, to take account of local factors and concerns. When applying this flexibility, the Council will ensure that there is a clear reason for doing so which takes into account local circumstances and affordability.
- Where a property or scheme has received major works, the Council will set rents in line with the rent setting formula.

Tenant responsibilities:

The Council's Tenancy Agreement outlines the following:

4.2 Paying your rent and other charges

- a) *You must pay the rent and all other charges for the property in full and on time. The total amount you have to pay will be made up of the net rent and any service charges, Careline monitoring charge, supporting people charge or other charge that applies to the property. The amount that you have to pay will normally be increased in April each year and we will give you at least 4 weeks notice of this.*
- b) *Your rent is due each Monday for the week ahead but you can pay this fortnightly, monthly or by a different frequency provided you get our agreement first.*
- c) *Provided your rent account is not in arrears, you will be entitled to two rent-free fortnights in each financial year (that is, a total of four weeks between April and March each year). These normally fall over the Christmas period and at the start of April each year. But if you are in arrears with your rent, you should continue to make payments to reduce the arrears during these rent-free periods. You will also only be entitled to these rent-free periods if you are still our tenant at the end of each of these fortnights.*
- d) *If your tenancy is in more than one name, you are both or all responsible for paying the rent and any other charges that are due.*
- e) *You are responsible for completing and returning a Housing Benefit application if you think that you may be eligible to receive this. If you receive Housing Benefit you are responsible for telling the Council's Benefits and Revenues Service about any change in your circumstances that may affect your entitlement to benefit. **
- f) *If you live in sheltered or other housing that has any support attached to it, you must require and receive this support. Examples of these support services include the Scheme Manager and the Careline alarm service.*
- g) *You are responsible for paying all other charges for the property that do not form part of the rent. These include but are not limited to water charges, fuel charges and Council Tax.*

*Universal Credit was not rolled out until after the Tenancy Agreement was last revised, however the Council expect those tenants that are eligible for Universal Credit to ensure that their applications are completed from the date that tenancies commence.

Rent collection methods.

- The Council offers a variety of ways for tenants to pay their rent and other charges:
- Online using the Tendring District Council website.
- Calling the 24-hour automated telephone line.
- Bank Transfer/Standing Order.
- Direct Debit.
- Rent Payment Card at any post office or shop displaying the Pay Point sign using cash or debit card.
- Housing Benefit.
- Alternative Payment Arrangement (APA) - if the tenant is in receipt of Universal Credit, the Council can request for the rent to be paid direct to the Council.

Tenants will be requested to set up a Direct Debit (DD) at tenancy sign up as this is the most efficient payment method. Payments made by DD help tenants manage their finances better and ensures that priority debts, such as rent, are paid on a regular basis. Where a tenant breaks the terms of a DD on three occasions, the Council will not accept any further request to pay by this method for the next twelve months. If the tenant then pays rent at the agreed amount for the twelve-month period, the Council will reconsider a further request for payment by DD.

Universal Credit and Housing Benefit

- Universal Credit (UC) is paid monthly in arrears directly into the tenants' bank account with the housing element of UC only coming direct to Tendring District Council in some cases. If the tenant is paying the Council directly, they must either ensure that they set aside sufficient monies to cover rent until the alternative payment arrangement commences or set up a direct debit.
- The Council recognise that tenants may go into arrears during the period that they are waiting for the benefit to be paid – during this period no enforcement actions will be taken, as long as the tenant pays the Council the rent in full once UC is paid and the arrears were solely attributable to UC. Any rent remaining after the UC payment has been received is deemed as overdue and in arrears.
- If a tenant has accrued arrears before they applied for UC, an arrangement for the repayment of these arrears is required in addition to the rent due.
- If a tenant gets Housing Benefit (HB) or UC and it does not cover all of the rent then they will be expected to pay the shortfall themselves. If the tenant is not paying enough to cover this shortfall, any credit they have will reduce or arrears will accrue. Even when the tenant receives HB or UC they need to make sure their account is always in credit because rent is due in advance, so may need to make extra payments.

- The Department of Work and Pensions can pay the rent directly to the Council if it prevents the tenant getting into financial difficulties. Where a tenant is in rent arrears, consideration will be given by the Council to apply for direct payment (Alternative Payment Arrangement) and if agreed the housing costs will be paid directly to the Council.

Rent collection aims:

- To ensure tenants prioritise their rent payments.
- To monitor arrears and have early intervention mechanisms in place to prevent arrears escalating thereby reducing the risk of homelessness.
- To offer advice, support and signposting to prevent arrears increasing and to maximise income.
- Sustain tenancies with support and intervention from The Rents Team, Tenancy Engagement Officers, Housing Solutions Team and other agencies.
- Operate a firm but fair approach to provide tenants in arrears with advice and offering practical and affordable repayment plans.
- Actively pursue tenants for rent arrears and take action appropriate to the level of debt.

The Council will aim to achieve our rent collection aims by:

- Offering tenants a choice of ways to pay their rent.
- Writing to tenants and leaseholders every February/March with information of what the rent and service charges will be for the coming year.
- Deal with enquiries in a sensitive and confidential manner.
- Considering affordability when allocating tenancies to minimise the risk of debt.
- Providing advice and assistance in completing housing benefit and universal credit applications.
- Liaising closely with the Housing Benefit Team to ensure that applications are processed as smoothly as possible.
- Liaising closely with the Department of Work and Pensions (DWP) to ensure that universal credit applications are proceeded with effectively including applications for housing costs, alternative payment arrangements (APA's) and third-party deductions.
- Working in partnership to support and signpost tenants to maximise their income, prevent rent arrears and sustain tenancies.
- Endeavouring to work with Support Workers, Social Workers or someone legally appointed if the tenant is vulnerable or unable to deal with their own financial affairs.
- Contacting tenants who fall into arrears with advice and information in person, over the telephone, in their own home or in the Council's offices.

- Providing advice and signposting to help tenants prioritise their debts.
- Contact tenants at every stage of the rent arrears procedure advising them of the amount of rent outstanding and of any pending action.
- Offering practical, affordable repayment plans for rent arrears based on household income.
- Aiming to resolve rent arrears using the lowest level of enforcement, exploring all available remedies and using eviction as a last resort.

Rent arrears prevention:

At the start of any tenancy the Council will inform tenants of the weekly rent and service charge costs associated with their home, ensuring they are aware of the potential consequences of non-payment. Where tenants have difficulty with the completion of a housing benefit form or universal credit application, housing staff will provide assistance or refer the tenant to the support provided by Citizens Advice, Department of Work and Pensions or Floating Support. All new tenants will receive a new tenancy home visit from a Housing Officer normally no later than four weeks after their tenancy has commenced. This visit will confirm that rent is being paid and (if required) help will be offered to resolve any issues, in relation to housing benefit or universal credit (housing element) payments.

Rent arrears early intervention:

Early intervention contact will be activated as soon as an account falls into arrears to avoid the debt becoming unmanageable. When a tenant falls into arrears, the Council will contact the tenant, as soon as reasonably possible, to discuss the cause of the arrears, the tenant's financial circumstances, the tenant's entitlement to benefits (if applicable) and repayment of the arrears. Where contact is by letter, the Council will write separately to each named tenant, on the tenancy agreement. The Council will attempt to agree affordable sums for the tenant to pay towards the arrears, based upon the tenant's income and expenditure (where such information has been supplied in response to our enquiries). The Council will clearly set out, in any pre-action correspondence, any time limits with which the tenant should comply and if tenants breach their arrangements or fail to make contact, the Council will take further recovery action. This could result in:

- Third Party deductions being taken directly from benefits to reduce rent arrears.
- A County Court Judgement - that could affect credit ratings.
- Attachment of Earnings - deductions from wages/salary.
- Eviction - repossession of the home.

Serious and persistent rent arrears:

In instances where the payment of rent is not made on a regular basis, or the agreed arrangement is broken, a Notice Seeking Possession, Notice to Quit or Notice to Commence Possession Proceedings (depending on type of tenancy held) will be served. After service of a statutory notice, but before the issue of proceedings, the Council will make reasonable attempts to contact the tenant to discuss, the amount of the arrears, the cause of the arrears, repayment of the arrears, and the housing benefit or universal credit (housing element) position (if applicable). If the tenant complies with an agreement to pay the current rent and a reasonable amount towards arrears, the Council may agree to postpone issuing Court proceedings for so long as the tenant keeps to such agreement. If the tenant ceases to comply with such an agreement, the tenant will be warned of the intention to bring proceedings and give the tenant clear time limits within which to comply again and avoid proceedings. If this fails to find a suitable resolution, the Council will comply with the pre-action protocol for possession claims by social landlords and a referral to the County Court will be made by way of possession proceedings seeking a judgement for the outstanding rent. The Court can make the following decisions:

- A money judgement for the amount owed.
- An order of Suspended Possession giving the tenant a set time to pay the rent arrears after which, if not paid, possession will be granted.
- An order of outright possession to the Council.

The Council will provide support and signposting to prevent someone losing their home including efforts to establish effective ongoing liaison between the tenant, the Housing Benefit Department and Department of Work and Pensions to resolve any housing benefit or universal credit (housing element) problems. Where all other alternatives for recovering amounts owed have failed, eviction will be considered as a last resort. When eviction is likely, the Council's Housing Solutions Team will offer advice on the implications of becoming homeless. When an eviction occurs, the tenant remains responsible for the full amount of rent arrears and all court costs outstanding.

Court Costs:

Where the Council incurs costs due to taking legal action to recover rent arrears, and where this is provided for within the Court Order, the full costs of such actions will be recharged to the tenant and added to the rent account. Legal costs for action in the County Court can add significantly to the debt that tenants may have, and Court Orders are not discharged until Court costs are paid in full. Even if a tenant is only a small amount behind on their Court Order

obligations, contact will be made, and the tenant advised what they need to pay to bring their obligations in line.

Vulnerable Tenants

The Council will take a sensitive approach towards rent arrears recovery in respect of tenants who are deemed to be vulnerable, including those who are disabled as defined by the Equality Act 2010, or who do not have English as a first language and may require additional support to understand what is required to maintain rent payments. If the Housing Service identify vulnerabilities and needs, including safeguarding issues, the tenant may be referred as necessary to appropriate agencies. The Council may still pursue rent arrears enforcement in cases where support needs have been identified but the tenant is not engaging in the support plan.

Bankruptcy and Debt Relief Orders

Bearing in mind that rent arrears may be part of a general debt problem, the Council will advise the tenant to seek assistance from Citizens Advice, Debt Advice, or other appropriate agencies as soon as possible. Some tenants get into significant debt and following specialist debt advice, they may be subject to a Bankruptcy Order or a Debt Relief Order. Proceedings cannot be used to recover rent arrears which are subject to Bankruptcy or Debt Relief Order rules, so such debts are effectively lost to Tendring District Council. However, action for eviction can still be sought against an insolvent tenant, but any rent arrears listed within a Bankruptcy Order or Debt Relief Order cannot be part of the possession order. The Council will not enforce an eviction where a Bankruptcy Order or Debt Relief Order is in place so long as any rent arrears not covered by a Bankruptcy Order or Debt Relief Order are being paid within an agreed arrangement. Where arrangements are not being kept to or where the level of rent arrears debt contained within a Bankruptcy Order or Debt Relief Order is over £500, the Council may consider eviction action.

Rent Statements

Tenants will be supplied with rent account statements at quarterly intervals, to comply with the requirements of the pre-action protocol for rent arrears possession claims. If a tenant requests that statements are sent out more frequently, then this will be accommodated wherever possible.

Financial Inclusion Advice

The Council recognises that changes to welfare benefits including the spare room subsidy, the benefit cap and universal credit may impact on tenants. To assist the Council will:

- Engage with prospective tenants at the pre-tenancy stage, offering advice and assistance to ensure that they are financially capable to cover the costs of their rent and other household expenses.
- Help tenants to maximise their income by assessing all available benefit entitlement where appropriate.
- Consider transferring tenants to smaller accommodation if this is achievable and requested by the tenant.
- Assist tenants in obtaining money management advice.
- Coordinate money advice to address debts and prevent homelessness.
- Tackle inequalities and poverty through better access to mainstream banking and support services.
- Signpost tenants to gain assistance with grant applications.
- Support tenants to avoid fuel poverty and access appropriate advice on energy efficiency.
- Update social media platforms, website and send regular newsletters with timely information regarding future changes i.e. migration of tenants to universal credit.
- Contact tenants directly to inform them of how they may be affected by benefit changes, expected timeline and information of what they need to do.
- Assist tenants to resolve complex benefit issues and to dispute incorrect decisions.
- Support tenants by providing budgeting advice to those that need assistance.
- To actively promote homeless prevention and access Homeless Prevention Grant where appropriate.
- Hold regular drop-in advice surgeries in Council offices to respond to enquiries.

Partners we will engage with, or signpost tenants include, but is not limited to:

- Appointees/Power of Attorney,
- Social Services,
- Citizens Advice,
- Mental Health Hub,
- Floating Support,
- Fuel poverty advice,
- Tenancy Engagement Officer,
- Department of Work and Pensions Debt Management Team
- Debt advice agencies,

- National Debt line,
- Step Change Debt Charity
- Money Advice <https://www.moneyadviceservice.org.uk/>

Rent free weeks.

The Council offer four rent free weeks every year and these usually occur in the first two weeks of April, the last week of December and the first week of January. Some payment methods require the tenant to pay throughout the rent-free weeks as they have already been accounted for in their payment plan.

Rent in advance.

The Councils Tenancy Agreement states that rent should be paid in advance (unless agreed otherwise), so the account should be in enough credit each time a payment is made to cover any charges until the next payment. If for example the rent is £400.00 per month, each time the monthly payment is made the account should go into credit for that amount. As rent is calculated over the course of a whole year, the tenant may find that in a 'four-week' month the credit is exceeded but in a 'five-week' month it is not enough. Tenants need to make sure that payments keep their account in credit all through the year.

Rent refunds.

Rent should be paid in advance by whichever payment method is chosen. If an account goes into debt at any time between payments this is not fully in advance and so a refund will not be able to be provided. The Council will only consider a refund if the credit was higher than the advance payment.

Former Tenant Arrears

When a tenancy is ended any rent outstanding will transfer to former tenant arrears. The Council will then contact the ex-tenant/s and if payment is not received, the debt will be referred to a Debt Collection Agent to recover. If the case is returned by the Debt Collection Agent without full payment, we may refer the matter to the Councils Services Team for Court action.

If a tenant moves with rent arrears from one Tendring District Council property to another the debt will transfer to the new tenancy.

Service Charges

A service charge reflects the cost of additional services provided in connection with tenancy and leasehold agreements and is in addition to the rent charged. The charge covers services provided in communal areas that a tenant or leaseholder has use of and the range of services provided depends upon the nature of each particular property. Tenants and leaseholders cannot opt out of any service provision or charge, but they will only be charged for the services they receive. Any offers of accommodation will clearly identify charges attached to the property and the amounts involved.

The Council set service charges based on estimated costs for the year, or actual costs where known and these will be added to the tenants 'basic' rent or charged to the leaseholder accordingly. The basic rent and service charges combined are known as the gross rent charge. For existing tenants, all rent and service charge changes take place on the first Monday of April each year. Where new or extended services are to be introduced or where it is proposed to significantly alter an existing level of service the Council will consult with those affected using established consultation methods.

Service charges are defined by Section 18 of the Landlord & Tenant Act 1985 as *"an amount payable by a tenant of a dwelling as part of or in addition to the rent:*

- *which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and*
- *the whole or part of which varies, or may vary, according to the relevant costs.*

The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable. For this purpose:

- *'Costs' includes overheads; and*
- *Costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period".*

Garages

- Annual garage rents are currently increased at Septembers Consumer Price Index (CPI) +1% in line with the Council's domestic dwellings.
- Rent charges for garage use to homeowners and private tenants are currently set at the same level as tenants but may be subject to Value Added Tax (VAT).

Safeguarding

Concerns for children, young people and vulnerable adults will be handled in line with Tendring District Council's Safeguarding Policy which sets out how officers should respond to a report of abuse or neglect to a child, young person, or adult with unmet care and support needs. It is not uncommon for safeguarding concerns to arise during interaction with residents. The requirements of the Council's Safeguarding Policy take primacy over this policy.

Complaints Procedure

The Council's Housing Complaints Policy is available to any resident who is dissatisfied with the handling of their issue.

Data Protection and Confidentiality

All information held by the Housing Service that includes identifiable personal information will be processed in accordance with the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulations. The Council will only disclose or share personal information where required to do so by law or where a lawful exemption applies; for example, for the purposes of a prosecution, a safeguarding concern, where it is in the public interest or with the person's consent. Personal information is processed by Tendring District Council for a number of purposes. These can be found in the Privacy Notices which are available on the Council's website at www.tendringdc.gov.uk/privacy or on request at our public reception areas.

Equalities Statement

The Council is committed to treating all customers fairly and with respect and professionalism. To this end the Council will ensure that no individual is discriminated against on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief (including political opinions), sex or sexual orientation and that, in the application of this Housing Rent Setting and Collection Policy, the Council will comply with their duties under the Equality Act 2010 and specifically our Public Sector Equality Duty (Section 149) under which a public authority must work consciously to eliminate discrimination, harassment, victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics. To enable customers to have clear information and equal access to Council services information will be made available in a range of appropriate languages and formats, when requested.

Legal and regulatory context

This Policy fulfils the requirements of the Regulator of Social Housing's Rent Standard and the Governments Policy Statement on Rents for social housing. The policy ensures that the Rent Setting and Collection Policy meets with legislative and good practice requirements to maximise income and minimise rent arrears. This includes the following:

- Policy Statement on Rents for Social Housing (February 2019)
- Social Housing Rents (Exceptions & Miscellaneous Provisions) Regulations 2016
- Governments Direction on the Rent Standard
- Governments limit on rent increases 2024-25
- Landlord & Tenant Act 1985
- The Housing Act 1985 (as amended)
- Housing Act 1996 (as amended)
- General Data Protection Regulation 2018
- Housing and Regeneration Act 2008
- Equalities Act/Public Sector Equality Duty 2010
- The Regulatory Framework for Social Housing in England (March 2015)
- Welfare Reform and Work Act 2016
- Housing and Planning Act 2016
- Tendring District Council Introductory, Secure and Non-Secure Tenancy Agreements
- County Court Pre Action Protocol
- Landlord & Tenant Act 1985
- The Regulatory Framework for Social Housing in England (March 2015)

Related Documents

Tendring Council Introductory and Secure and Non-Secure Tenancy Agreement

Tendring Council Housing Complaints Procedure (2024)

Review of policy

The policy will be reviewed every two years in consultation with tenant representatives, staff, Portfolio Holder responsible for Housing and other stakeholders unless there are any reasons, such as legislative or regulatory changes, requiring that it be reviewed earlier.