Tendring
District Council

# DEPOSIT GUARANTEE POLICY

January 2024

**TENANCY DEPOSIT GUARANTEE POLICY**

**Introduction**

Tendring District Council's Tenancy Deposit Guarantee Policy aims to help those who are homeless or threatened with homelessness to move into privately rented accommodation. It does this via a written agreement – a Deposit Guarantee - rather than the cash deposit usually required to secure the tenancy of a property.

We hope this initiative will encourage local landlords to take part and so make more private rented accommodation available to meet housing needs.

Where the context so admits the expression "Landlord" also includes the Landlord's duly authorised letting agent

**What is a Tenancy Deposit Guarantee ?**

A Tenancy Deposit Guarantee is not a transfer of cash. It is a written and legally binding agreement between the Council, the tenant and a landlord. It replaces the upfront cash deposit that is normally required by landlords to cover the cost of any damage to their property or any rent owed when a tenant moves out.

The agreement will protect participating landlords against damage and can represent up to the equivalent of one and a half months' rent against any rent arrears or damage that may be used to the property by the tenant. Acts of theft, administration fees or outstanding bills are not covered, nor is fair wear and tear.

The Tenancy Deposit Guarantee agreement replaces the need for landlords to use a Tenancy Deposit Scheme to protect and ensure any deposits paid can be refunded.

The Council's Tenancy Deposit Guarantee Policy also includes, for eligible applicants the Council providing finance to cover one month's rent's in advance where this is required.

**Who is eligible for a Tenancy Deposit Guarantee?**

To be eligible for the Tenancy Deposit Guarantee, applicants must:

- be homeless or threatened with homelessness; and

- be working with the Council's Housing Solutions team to resolve their homelessness; and

- not have access to sufficient funds to pay for a deposit or bond on a property

An applicant will not be considered for the scheme if:

- they owe a substantial amount of rent arrears to a landlord in connection with a tenancy during the last three years and / or we have been made aware of anti social behaviour issues in relation to a previous tenancy; or

- they are failing to maintain the condition of any temporary accommodation provided; or

- the Council has concerns about an individual's ability to maintain a tenancy independently; or

- they have previously used a Tenancy Deposit Guarantee within the last 12 months; or

- they owe the Council money from a claim against a previous Tenancy Deposit Guarantee

**What properties are covered by the Tenancy Deposit Guarantee ?**

Any property is accepted onto the scheme provided that:

- the rent demanded is reasonable;

- the property meets all necessary safety standards and is in a decent condition. It should be free from Category 1 or significant Category 2 hazards under the Housing Health and Safety Rating System (HHSRS)

- if the property is mortgaged, the mortgagee has granted permission to let the property;

- if the property is leasehold, the freeholder has granted permission to sublet the property

**How does a tenant find a suitable property?**

It is an applicant's responsibility to find a suitable property to rent and a landlord willing to accept a Tenancy Deposit Guarantee from the Council. Information on available properties can be obtained from local estate agents or letting agents, social media, friends and family. The property can come from any source as long as it meets the requirements set out in this policy.

The Council will also provide eligible potential tenants with the contact details of any landlords that it considers may be of assistance.

Once an applicant has found a potential landlord and has reached an agreement in principle regarding the tenancy, they will need to inform their Housing Solutions Officer. They will then

be asked to provide details about the property, its condition, type, size, location and general amenities. They will also be asked questions relating to its suitability and affordability for them.

**What standards apply?**

Before completing the Tenancy Deposit Guarantee agreement and prior to the tenant moving in, the Council must be provided with:

- valid gas and electrical safety certificates
- current Energy Performance Certificate
- inventory and / or photographs showing the condition of the property ➢ copy of the buildings insurance policy relating to the property

The Council will also carry out a number of checks to make sure that the property is affordable, safe and meets our minimum property condition requirements. This may involve an inspection by a Council officer.

If the property is a House in Multiple Occupancy (HMO), the Council will check with its Private Sector Housing team to ensure the correct licence is in place, if required.

A Tenancy Deposit Guarantee will be invalid if:

- the tenant (or any of them) has moved into the property before the agreement has been issued and signed and/or

- the Council has not received a copy of the Tenancy Agreement and the Tenancy Deposit Guarantee agreement, signed by both the landlord and tenant

If a landlord has found someone willing to rent their property and who already has a homeless application, it is important that the landlord contacts the Council before letting them move in.

The selection of tenants remains the landlords responsibility. However, the Council is keen to ensure that there are sufficient properties available to let in the private rented sector and is able to offer advice or assistance to the landlord throughout the term of the tenancy.

**What costs are covered under the Tenancy Deposit Guarantee Policy?**

A landlord may claim for the following costs after the tenancy has ended:

- Rent arrears during the tenancy, up to the maximum amount shown on the Tenancy Deposit Guarantee Agreement or

- Repair or clearance costs caused by the tenant's neglect, up to the maximum amount shown on the Tenancy Deposit Guarantee Agreement

**How does a landlord make a claim?**

The tenant will be expected to conduct their tenancy in a responsible manner and not breach the terms of their tenancy agreement.

If the tenancy has not been conducted satisfactorily, a landlord can make a claim against the deposit guarantee scheme at the end of the tenancy.

If the landlord wishes to make a claim, they must notify the Council within three working days of them first becoming aware that the tenant has vacated the property. This should be done by emailing landlordservices@tendringdc.gov.uk

Any claim made after this timescale is unlikely to be accepted by the Council, unless there are exceptional circumstances.

A claim should be supported by a copy of the Tenancy Deposit Guarantee Agreement and the landlord's written statement detailing what the claim is for and the amounts involved.

Where the claim is for non-payment of rent, a full statement of the rent account must be provided to the Council, together with copies of all supporting correspondence to show exactly how the claim is arrived at.

Where the claim is for damage to the property, photographs and full written particulars must be provided which clearly show the condition of the property on vacation by the tenant. The landlord must send the Council full details of any necessary repairs or clearance costs and must give a reasonable opportunity for the Council to inspect the premises, if necessary.

All claims for damages must be supported by copies of the invoices provided by the person undertaking the work. Reimbursement for labour costs will only be made if a qualified and registered tradesman has undertaken the work and has provided a business invoice. If the landlord/landlady has undertaken the work themselves, where they are competent and legally able to do so, only costs for materials will be reimbursed.

The landlord may be asked to provide additional evidence and, in these circumstances, this should be provided within five working days of the request being received.

**What happens when a claim is made?**

Where the tenant's current address is known, the Council will inform them that a claim has been received and they will be given a reasonable opportunity to comment.

In the event of any dispute concerning the settlement of any claim received, the Council will act as a fair and impartial arbitrator and will make the final decision.

If the Council has to settle the claim in accordance with the Tenancy Deposit Guarantee Agreement, the cost will be held as a debt in the tenant's name. The tenant will be sent an invoice to repay the amount claimed by the landlord, which may include other reasonable expenses incurred by the Council.

If the tenant fails to pay the amount owed, further action will be taken in accordance with the Council's Recharge Policy.

Any debt that remains unpaid may adversely affect any future application for housing that the tenant may make.

**Equalities statement**

The Council recognises that it delivers homelessness services to communities within which there is a wide social diversity, and is committed to providing equal opportunities and valuing diversity.

Through the delivery of the homelessness service, the Council will treat all customers fairly, and with respect and professionalism regardless of their gender, race, age, disability, religion, sexual orientation and marital status.

Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable. The Council will work to tackle inequality, treat people with dignity and respect and continue to work to improve services for all service users

The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminates discrimination, harassment, victimization 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 our repairs and maintenance service information will be made available in a range of appropriate languages and formats, when requested.

**Measuring Quality and Performance**

The Council is committed to ensuring that its homelessness prevention activities are delivered to a high standard, providing high levels of customer satisfaction and value for money. To make sure that we do this, we monitor the following each year:

- Number and total cost of Deposit Guarantee Agreements entered in to
- Number and total cost of Rent in Advance payments made
- Number and total cost of claims made against Deposit Guarantees
- Number and total cost of claims that are accepted by the Council
- Number of former tenants recharged by the Council in connection with claims accepted
- Total amount of money recovered from former tenants and as a percentage of that recharged.

## Complaints Procedure

The Council's Housing Complaints Policy is also available to any resident who is dissatisfied with any decision made in accordance with this policy.

Further information can be obtained from the Council's Housing Complaints Policy.

**Review of Policy**

The Policy will be monitored and reviewed on an annual basis or more frequently as changes in legislation or regulation dictate.

Changes will be made to the document under the authority delegated to the Corporate Director (Operations and Delivery) in consultation with the Portfolio Holder responsible for Housing.

Appendix 1

*Example of a Deposit Guarantee Agreement*

THIS AGREEMENT WILL BE INVALID IF A SIGNED COPY IS NOT RETURNED TO THE COUNCIL BEFORE THE TENANT MOVES IN

Date of Tenancy Agreement:

Period of Tenancy:

A DEPOSIT GUARANTEE AGREEMENT ("this Agreement") between :

(1) ( tenant )

(2) TENDRING DISTRICT COUNCIL of Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE ("Council")

(3) (' Landlord")

1. In this Agreement

The "Letting Agent" acting on behalf of the Landlord for the purposes of this Agreement

"Property" means…

Where the context so admits the expression "Landlord" also includes the Landlord's duly authorised letting agent

If the Tenant is more than one person, the Tenant's obligations and legal liability to the Council under this Agreement are both joint and several

2. The Landlord has agreed to grant an assured shorthold tenancy of the Property to the Tenant under a written tenancy agreement between (1) the tenant and (3) the landlord

3. The Council has agreed to provide a deposit guarantee to the Landlord on the terms set out below to enable the Tenancy to be granted because the Tenant has insufficient funds to pay the initial deposit under the Tenancy

4. The deposit guarantee by the Council under this Agreement will be invalid if (a) the Tenant (or any of them) has moved into the Property before the agreement has been issued and signed and/or (b) the Council has not received a copy of the Tenancy Agreement and the Deposit Agreement, signed by the Landlord and the Tenant

5. Without detracting from paragraph 4 above, this Agreement will continue to have effect in where further tenancies of the Property are granted to the Tenant even where an assured shorthold tenancy becomes a periodic tenancy and continues on a month by month basis

6. Subject to the Landlord's obligations to the Council set out in paragraph 9 below, the Council will pay the Landlord a total sum up to but not exceeding £ in aggregate

for financial loss caused to the Landlord by the Tenant's non-payment or rent or damage to the Property (fair wear and tear excepted) in breach of the tenancy

7. The Tenant agrees with the Council that the Tenant will forthwith repay to the Council on demand any monies paid by the Council under this Agreement (whether to the Landlord and/or the Landlord's Letting Agent) together with any reasonable expenses and the costs of any legal proceedings incurred by the Council in or towards such recovery

8. The Tenant further agrees with the Council that Clause 7 shall continue to apply and the Tenant shall remain liable there under if the Tenant or any of them accepts an offer of rehousing by the Council without first ensuring that all those involved on behalf of the Council in making the said offer of re-housing are advised that the Council has provided a rent deposit under this Agreement

9. The Landlord agrees with the Council that:

9.1 the Landlord will as soon as reasonably practicable after first becoming aware that the Tenant has vacated the Property notify the Council of any claim under this Agreement together with sufficient supporting documentation and other evidence as the Landlord may reasonably require to prove in court its claim against the Tenant for reimbursement

9.2 where the claim is for non-payment of rent, a full statement of the rent account and of all arrears and non-payments must be provided to the Landlord together with copies of all supporting correspondence to show exactly how the claim is arrived at

9.3 where the claim is for damage to the Property, photographs and full written particulars must be provided which clearly prove the state and condition of the Property on vacation by the Tenant and the state and condition immediately prior to the Tenancy or during the Tenancy before the damage occurred

9.4 claims must be notified to the relevant responsible officer of the Council by telephone in the first instance within 2 working days of the Landlord first becoming aware

9.5 all other supporting evidence must be submitted to the Council within 5 working days of the Landlord first becoming aware

9.6 all written evidence and photographs submitted to the Council must be verified and supported by the certificate and written statement of the Landlord duly signed by an authorised person who states their full names, address occupation and qualifications.

9.7 the Landlord must provide any reasonable additional evidence which the Council requests immediately on request

9.8 Where practicable and if their current address is then know to the Council the Tenant will be notified of the information provided to the Council under this paragraph and be given a reasonable opportunity to comment

10. The Landlord agrees with the Council to be bound by whatever decision the Council then makes regarding the Landlord's claim except only in the case of manifest unreasonableness

Signed by the Tenant……..Date……

Signed on behalf of Tendring District Council…… Date……

Signed by or on behalf of the Landlord…….. Date……..

By (full names)…….

Company or organisation (if signed by Letting Agent)……..

Address……