

Housing, Homeless and Fair Work Committee

10.00am, Thursday, 2 September 2021

Rent Collection and Assistance for Council Tenants

Executive/Routine Wards Council Commitments	Routine All
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1. Recommendations

- 1.1 Housing, Homelessness and Fair Work Committee is asked to:
 - 1.1.1 Note the information provided on the Council's rent collection service and the legal protections and processes for formal action to recover arrears where this is required;
 - 1.1.2 Note the approach taken to provide advice and support to help tenants remain in their homes;
 - 1.1.3 Note that formal debt recovery action recommenced with the Scottish Government moving Edinburgh into level 0 Covid-19 lockdown restrictions;
 - 1.1.4 Note the information on the steps being taken by the Council to support tenants in the Private Rented Sector to prevent homelessness; and
 - 1.1.5 Agree to discharge the amended motion on the suspension of eviction action against tenants for rent arrears as approved at the City of Edinburgh Council on [24 June 2021](#).

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Rent Collection and Assistance for Council Tenants

2. Executive Summary

- 2.1 This report responds to and seeks to discharge the amended motion on eviction action against tenants for rent arrears as approved at the City of Edinburgh Council on [24 June 2021](#). It provides information on operational practice in the management of Council tenant rent arrears, tenant representative views and the legal protections and processes by which formal action to recover arrears is taken where this is required.
- 2.2 Any tenant who has concerns about being able to pay their rent or who gets into arrears is offered every advice and support to help them remain in their home wherever possible. The overall approach supports the Rapid Rehousing Transition Plan (RRTP) objective and activities around the prevention of homelessness, is in line with best practice and focuses on early intervention. All attempts to prevent legal action are taken through proactive and ongoing engagement with tenants and/or any support or advice agencies who may be assisting them. Formal action up to and including eviction action is only used as a last resort measure.
- 2.3 A multi-disciplinary response team for Council tenants who are at high risk of court/eviction action, has been formed as part of the RRTP. The team brings together officers from across the Council to provide joined up advice and support services, with the aim of keeping tenants in their home and preventing homelessness as a result of tenancies being abandoned or eviction action.
- 2.4 As a response to the growing number of homeless presentations from the private rented sector (PRS), a PRS team has also been developed as part of the RRTP. The aim of this team is to reduce the number of people becoming homeless from the private rented sector and to work with private landlords and lettings agents to support households to access mid-market rent (MMR) and private rented housing. The report also provides information on the legal processes for any eviction action that apply to tenants renting from private landlords/letting agents.

3. Background

- 3.1 The Council's approach to the collection of rent for Council homes is based around best practice and aims to prevent tenants getting into debt they cannot afford.

Tenants are encouraged to engage as early as possible with the housing service and a wide range of support and advice services are available to help tenants to meet their rent payment responsibilities.

- 3.2 The focus since the start of the Covid-19 pandemic has been to maintain essential income collection to the Housing Revenue Account (HRA) balanced with the need to support tenants who were struggling to pay rent due to changes in their circumstances. The Rent Service for tenants has continued to be provided with some changes implemented to limit face to face contact to ensure safety of the tenants, the public and staff.
- 3.3 There are legal protections in place that set out pre-action requirements that must be met before social landlords can take any formal action to recover rent due. These requirements ensure that the Council as a landlord has done everything possible to engage with tenants in arrears, including assistance being provided on Housing Benefit (HB)/Universal Credit (UC), tenants being aware of independent advice available to them and reasonable repayment arrangements being offered.
- 3.4 The Council benchmarks on an ongoing basis with other social landlords on rent collection/arrears management, Welfare Reform including UC and the approach during the Covid-19 pandemic through the Scottish Housing Network and Scottish Rent Forum. These benchmarking forums include Council landlords across Scotland, and they support the sharing of information, operational practices and the development of best practice in rent collection services. Officers also work closely with the Council's Advice Shop, Department of Work and Pensions (DWP) and independent Advice Agencies in Edinburgh who help tenants with debt and other wider support needs.
- 3.5 Through the Coronavirus (Scotland) Act (2020) the Scottish Government put in place additional protections for tenants in the social and private rented sectors facing difficulties in meeting their rent payment responsibilities during the Covid-19 pandemic. These measures currently remain in place up to 31 March 2022. The Scottish Government has however made it clear that the changes brought in through the emergency legislation do not affect tenants' obligations under their tenancy agreements and joint statements were issued from Scottish Government and key stakeholders covering the [social](#) and [private](#) rented sector regarding the use of eviction action.
- 3.6 As agreed by Full Council no new notices of proceedings for court action due to rent arrears, requests for decrees in court or enforcement of decrees were actioned between the Council decision on 24 June 2021 and Scottish Government moving Edinburgh to level 0 lockdown restrictions on 19 July 2021. Eviction action remains a last resort, but court action remains an essential measure that often triggers engagement with the tenant to help them resolve their arrears.

4. Main report

- 4.1 The Council has a duty to collect the rental income and to ensure equal access and a consistency of service to tenants. Payment of rent is every tenants' responsibility, and this is reinforced from the start and throughout their tenancy with the Council. The Council Rent Service is focused on early intervention and provides every advice and support to help tenants stabilise the underlying cause of arrears and to offer affordable repayment arrangements based on the individual household circumstances. Support is also available through the Income Maximisation Service, the Council's Advice Shop and on how to apply for appropriate financial assistance for any households that are struggling to pay, such as Discretionary Housing Payments and Scottish Welfare Fund Crisis Grants. Information and advice on employability services can also be provided where appropriate.
- 4.2 Formal debt recovery processes are only considered as a last resort but are an essential measure in maintaining a payment culture that helps mitigate the financial risks to income that pay for the service and helps fund investment in existing and new homes. The use of formal debt recovery action including the serving of new notices of proceedings during the current Covid-19 pandemic is aligned with the practice adopted by most social landlords to manage the risks to income collection and of tenants getting into high levels of debt.
- 4.3 Edinburgh Tenants Federation (ETF) have consistently reinforced that tenants should meet their rent payment responsibilities but emphasise the importance of tenants coming forward to get advice and assistance if they are having difficulties to avoid them getting into debt. An assessment of the effectiveness of the rent communications used by the Council was the last Tenant Led Inspection carried out on the Housing Service. This covered general communications to tenants on their rent payment responsibilities and communications to tenants in arrears on ways to access support and advice.
- 4.4 Regular dialogue is maintained with ETF and other agencies providing advice and/or support to tenants to look at ways to get tenants to engage as early as possible with the range of advice and assistance available. They are also kept up to date and input where relevant into improvements being made to Rent Services and as part of the Housing Service Improvement Plan.
- 4.5 As requested in point 6 of the motion engagement was undertaken with ETF representatives on any additional measures that could be put in place to help avoid court proceedings being necessary. The following were identified as potentially beneficial in encouraging more tenants to come forward to get the advice and assistance available at an early stage and work is being taken forward jointly with ETF to implement the suggested actions.
- 4.5.1 Joint development of a communications plan to encourage tenants to come forward for advice and assistance not just on rent payments but wider household costs such as energy; and

- 4.5.2 Importance of face to face contact with officers was noted and it was agreed to look at how we can safely return to providing opportunities for tenants to get advice through initiatives such as drop in events within the Localities.
- 4.6 The Council will continue to make sure that tenants benefit from any current and future financial assistance which may be made available by the Scottish Government to help anyone who may be struggling financially as a result of the Covid-19 pandemic. A list of services and information on a range of potential assistance available to help alleviate financial hardship is provided in Appendix 2.
- 4.7 Where it has not been possible to sustain the tenancy, information is provided and followed up with households to ensure they know how to access assistance from homeless services if this was required. No evictions from Council tenancies have been carried out since the initial Covid-19 lockdown in March 2020. During 2019/20 there were 25 evictions for rent arrears.
- 4.8 During 2020/21 tenant rent arrears increased due to a significant number of tenants facing changes in their household financial circumstances and the suspension of formal debt recovery measures to ensure tenants were not at increased risk of losing their home during the Covid-19 pandemic. Rent collected as a percentage of total rent due was 96.8% compared to 99.6% for 2019/20.
- 4.9 The average level of debt for tenants in arrears at the end of March 2021 was £1,184. The level of individual debt however varies significantly with over 500 tenants with a history of non-payment and debt levels of over £4,000 and 20 of these having debt of over £10,000. Formal debt recovery processes, that can often trigger engagement, remain an important measure in getting tenants to engage. Every effort is then made to stabilise the arrears and to seek reasonable repayments to pay back the outstanding rent due. For some households the repayment periods will be lengthy due to the balances outstanding and the level of repayments that are reasonable given the households financial circumstances.

Formal Debt Recovery Processes for Council Tenants

- 4.10 Before the Council can progress to serve a Notice of Proceedings to start the formal stage of debt recovery through the Sheriff Court it must demonstrate that it has complied with statutory pre-action requirements introduced under the Housing (Scotland) Act 2001 as amended in 2010 Act. The approach has always been for court action to be utilised as a last resort and the Council had been operating with similar pro-active measures to help avoid the need for eviction action prior to these becoming mandatory. The requirements for social landlords are to:
- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations;
 - Make reasonable efforts to give help and advice on eligibility for HB/UC housing costs and other types of financial assistance;
 - Give information about sources of help and advice with the management of debt;
 - Make efforts to agree with the tenant a reasonable plan for future payments;

- Consider the likely result of any application for HB or housing costs that has not yet been decided;
- Consider other steps the tenant is taking which are likely to result in payment within a reasonable time; and
- Consider whether the tenant is complying with the terms of an agreed plan for future payments.

- 4.11 During the Covid-19 pandemic the Scottish Government introduced emergency legislation to provide additional protection from eviction for tenants in the social and private rented sectors. For Council tenants the Coronavirus (Scotland) Act 2020 extended the period for Notices of Proceedings (legal notice to inform tenants that their landlord intends to take their case to court) to become valid from 28 days to six months. There was also a ban on evictions being enforced when Local Authority areas were in tier three or four Covid-19 lockdown levels.
- 4.12 Work to engage and support tenants continues during the period until the notice becomes valid to seek to prevent further action being necessary. Where decree for eviction is awarded by the Sheriff Court, the Council does not automatically enforce the legal authority to repossess a tenants' home but these being granted can often trigger a response where all other contacts attempts or attempts to work with the tenant have been unsuccessful. Decrees are valid for a period of six months, and the Council will continue to work with the tenant to try to keep them in their home.
- 4.13 Court action and potential eviction has always been a last resort measure but as part of ongoing improvements to the Rent Service an additional checkpoint has been introduced to the process before arrears cases would be considered for court. This makes sure any formal action is only considered if there is long standing history of failure to pay rent, extending before the Covid-19 pandemic and/or there is evidence the household could pay but is choosing not to. Additional checks are then carried out to confirm all the pre-action requirements have been met after which cases will be referred on to a new multi-disciplinary team as a final offer of support and assistance.

Multi-disciplinary Team

- 4.14 As reported to the Housing, Homelessness and Fair Work Committee on [3 June 2021](#) a multi-disciplinary team including was established as part of the RRTP to develop a joined up response for Council tenants who are at serious risk of court/eviction action and are not engaging with their housing officer. The overall purpose of the team that includes representation from Housing, Homelessness, Advice Services, Family and Household Support, Adult Protection, and Children and Families Social Work Services is to actively reach out to offer a range of support to tenants, with the aim of keeping the them in their home, thus preventing homelessness.
- 4.15 Initial outcomes for this targeted approach are positive with the majority of tenants who have engaged with the team currently engaging with support and assistance to sustain their tenancy, the authority to progress with eviction action is on hold and potential homelessness is being prevented. Of the initial 19 Council tenants with

long term/and or significant arrears referred through the multi-disciplinary team 84% (16 tenants) have positively engaged with the support. During the first quarter of 2020/21 there have been 32 referrals and the team are now working with a further 24 households with attempts being made to establish contact, offer support and to develop trusting relationships.

- 4.16 In response to point 6 of the motion to look at ways to encourage tenants to engage early and constructively with the council when arrears problems first emerge and the RRTP objective to prevent homelessness work is being taken forward to:
- 4.16.1 Consider how the multi-disciplinary approach can be extended to identify households who may be at a higher risk of homelessness and where a focused response across services may be beneficial at an earlier stage;
 - 4.16.2 Improve pre-tenancy advice and information including information on rent payment responsibilities, planning for household costs and getting support early for any pre-existing debt;
 - 4.16.3 Look at alternative methods of communication with tenants on rents such as automated text messaging and more use of email that is increasingly being used by tenants as their preferred communication method; and
 - 4.16.4 Continue to implement more convenient ways for tenants to pay including the use of a mobile app and text payments.

Private Rented Sector

- 4.17 Similar to the social letting sector there are some legal protections in place for the PRS and landlords/letting agents have to follow specific legal procedures if they want to evict tenants and tenants do not need to leave their tenancy until an eviction order is granted by the First-tier Tribunal for Scotland. Under the additional Covid-19 pandemic protections landlords need to give tenants six months' notice unless they are ending the tenancy for certain specified reasons such as criminal behaviour by the tenant. There are also pre-action requirements similar to those in the social rented sector that must be met before landlords can seek to end a tenancy on the grounds of rent arrears. All grounds for eviction in the private rented sector are currently discretionary rather than mandatory, ensuring that a Tribunal will be able to consider the impact Covid-19 has had on both the landlord and tenant being taken into account before deciding whether it is reasonable to issue an eviction order or not.
- 4.18 Between 1 April 2020 and 30 June 2021 there were 2,550 homeless presentations, with 286 (11%) households presenting to the Council after losing their tenancy in the PRS.
- 4.19 A PRS team was established in November 2019 in response to a growing number of homeless presentations from the PRS. The aim of this team is to reduce the number of people becoming homeless from private rented accommodation and to work with private landlords and lettings agents to establish the PRS as a housing option for homeless households.

- 4.20 The PRS service has been maintained during Covid-19 pandemic and the team have been working with tenants and landlords to ensure that households' rights are protected. When required staff have mediated between tenants and landlords to achieve good outcomes for households, including the removal of threat of eviction, resolution of outstanding issues including repairs and negotiating more affordable payment plans for repayment of arrears.
- 4.21 The PRS team have assisted 367 households, with homelessness prevented for 66% of households (244 cases) with a move to a new PRS or MMR tenancy or the household being supported to remain in their current PRS tenancy. 123 households who had been assessed as homeless prior to the PRS team having contact were also moved on to new PRS or MMR tenancies
- 4.22 A financial inclusion officer is now in place to work with households to look at affordability (ensuring best options are provided), repayment plans and applications for financial assistance to help reduce rent arrears. They have secured over £100,000 in financial assistance for households including Discretionary Housing Payments, Scottish Welfare Fund and wider welfare benefit entitlements depending on the household circumstances.
- 4.23 The Council also commissions Crisis to deliver Edinburgh Help to Rent. This is a scheme to help homeless households' access and keep a private rented tenancy in Edinburgh. The scheme provides a rent deposit guarantee bond and offers rent in advance, furniture and access to support if needed. Since its inception 97 bonds have been issued.

5. Next Steps

- 5.1 Officers will continue to engage with other agencies and key stakeholders to share information and develop good practice to support Council and PRS tenants and seek to prevent them losing their homes.
- 5.2 The actions set out in section 4.5 and 4.16 will be further developed and implemented.

6. Financial impact

- 6.1 The Housing Service is funded from tenants' rents, fees and service charges for services provided and assets held on the HRA account. Improvements to tenants' homes and the Council house building programme is funded primarily from rental income. There are potential risks to income collection if formal debt recovery processes were not to be not utilised as one of the essential measures used to help tenants meet their rent payment responsibilities.
- 6.2 More information on the HRA Business Plan and the contingency funds to mitigate risks to income collection are detailed in a separate report to this Committee on the HRA Budget Strategy 2022/23.

- 6.3 The RRTP incorporates a plan increasing investment in early intervention and prevention, such as the PRS team, to reduce the demand for temporary accommodation.

7. Stakeholder/Community Impact

- 7.1 Each year the views of tenants are sought on the HRA budget strategy, investment plan, services and associated rent levels. There is a regular programme of tenant engagement and customer insight. This includes regular satisfaction surveys, focus groups, tenant panels, tenant led service inspections and scrutiny, resident and community meetings and annual budget consultation.
- 7.2 The Rent Service provided to tenants including payment options, welfare reform and service improvements are discussed at regular meetings with ETF.

8. Background reading/external references

- 8.1 Rapid Rehousing Transition Plan – Annual Update on Progress, Housing, Homelessness and Fair Work Committee, [3 June 2021](#)

9. Appendices

- 9.1 Appendix 1- Motion on Suspension of Eviction Action Against Council Tenants for Rent Arrears agreed by Full Council on 24 February 2021.
- 9.2 Appendix 2 - Advice Services/Financial Assistance.

Appendix 1

Motion on Suspension of Eviction Action Against Council Tenants for Rent Arrears agreed by Full Council on 24 February 2021.

- 1) Notes that since February/March 2021, the Council has served around 20 notices of proceeding for court action on tenants for rent arrears and that since the Sheriff Court re-opened in October 2020, decree has been granted to the council in eight cases. The decrees are valid for a period of up to six months.
- 2) Further notes that none of these have been progressed to eviction.
- 3) Acknowledges that substantial advice and assistance is offered to tenants before an eviction notice is pursued, and that court action remains a last resort for tenants who do not engage or make reasonable payments;
- 4) Nonetheless notes that the Covid pandemic has not yet ended, that Edinburgh remains under Covid restrictions, that many businesses are currently unable to operate and therefore many citizens currently have severely restricted income;
- 5) Therefore agrees that until such time as the Scottish Government moves Edinburgh into level 0 lockdown restrictions; or until September 2021 at which point a detailed report will be brought to the HHFW committee for a decision:
 - a. the council will suspend evictions of any tenant in relation to rent arrears;
 - b. the council will not use decrees granted by the Sheriff court to evict tenants for rent arrears;
 - c. all current decrees granted to the council by the Sheriff Court for non-payment of rent shall be suspended; and
 - d. new notice of proceedings to initiate court action due to rent arrears will be suspended
- 6) Further agrees that a report will be provided to the Housing, Homelessness and Fair Work Committee within one cycle and that this report should:
 - a. set out options for a review of pre-court engagement with tenants with a view to adopting best practice in encouraging tenants to engage early and constructively with the council when arrears problems first emerge;
 - b. recognising that the council is the custodian of the HRA for tenants, the report should reflect the views of tenants and tenants' representative organisations and therefore asks officers to consult with tenants' representatives about any additional measures that could be put in place to avoid court proceedings; and
 - c. recognising further that the biggest risk of homelessness is to tenants in the private rented sector, as the pre-legal requirements in place for social landlords requiring every action be taken to assist with rent arrears are not in place in the private rented sector. Therefore, requests the report includes the most up to date data on evictions across all tenures, and steps the council is taking to support tenants in the PRS to prevent homelessness.

Appendix 2

Advice Services/Financial Assistance

There is a range of support, advice and financial assistance that may be available to assist households. Eligibility will be dependent on individual household circumstances but includes:

- Advice and assistance from the Housing Income Maximisation Service for benefit issues and complex claims/circumstances;
- Free welfare benefits and debt advice services from Council Advice Shop and other local advice agencies across Edinburgh;
- Universal Credit help to claim service through Citizens Advice Service;
- Discretionary Housing Payments;
- Housing Benefit;
- Universal Credit for working age households - includes £20 uplift up to September 2021 due to the Covid-19 pandemic;
- Council Tax Reduction Scheme - includes an additional £130 Covid-19 support for households eligible for this scheme;
- Free school meals and clothing grants - includes substitute payments for free school meals during school closures during Covid-19 pandemic;
- The Scottish Child Payment Scheme;
- Scottish Welfare Fund Crisis Grants;
- Scottish Welfare Fund – Covid-19 Self Isolation Support Grants;
- Scottish Government Best Start Grants for households with children including;
 - Scottish Government Pregnancy and Baby Payment
 - Scottish Government Early learning payment
 - Scottish Government School Age Payment
 - Child Winter Heating Assistance
 - Job Start Payments
 - Educational Maintenance Allowance for those aged 16-18 staying on after 4th year.