

## **DRAFT RENT ARREARS POLICY**

### 1. Summary

- 1.1 Rental income from Dartford Borough Council tenants pays for the services provided by the Council's Housing Services team including tenancy management and repairs to homes. It is therefore vital for rent collection to be maximised through the effective prevention and management of rent arrears.
- 1.2 This report presents a revised draft Rent Arrears Policy to replace the previous version. The draft Policy takes account of various updates because of the introduction of Universal Credit; the provisions in the Pre-Action Protocol for Possession Claims by Social Landlords; and most recently, the changes to the possession proceedings' process during the coronavirus pandemic.

### 2. RECOMMENDATIONS

- 2.1 That the draft Rent Arrears Policy, attached at Appendix A to this report, be approved.
- 2.2 That the Strategic Director (External Services) be granted delegated authority to make in-year amendments to the approved Rent Arrears Policy, as necessitated by changes in legislation or Government guidance.

### 3. Background and Discussion

- 3.1. The Rent Arrears Policy outlines Dartford Borough Council's approach to preventing and managing rent arrears in Council managed tenancies.
- 3.2. The Rent Arrears Policy was last updated and approved by Cabinet on the 25 April 2013 (Min No. 183 refers). Since then, a number of changes have come into effect requiring the Council to adapt its approach to managing rent arrears, in particular, focusing more intensively on prevention work with the aim to avoid possession proceedings. The Policy has therefore been reviewed to take account of these changes, which are outlined in this report.
- 3.3. **Introduction of Universal Credit**
  - 3.3.1. Universal Credit has been introduced to replace a range of benefits, including Housing Benefit. The full service was rolled out in Dartford for all new claims in 2018. It is paid to tenants as a single monthly household payment made directly to the tenant five weeks in arrears. The tenant then has a responsibility to pass the housing cost element of Universal Credit that pays the rent onto the Council.
  - 3.3.2. Universal Credit is a significant change to the way Housing Benefit is paid as it places the responsibility for the payment of rent onto the tenant. Unlike Housing Benefit that is payable from the Monday following the receipt of the claim, it is paid monthly in arrears as the housing element of a claimant's Universal Credit payment. It also has to be claimed online.

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Whilst the Government introduced some support for councils to assist with costs associated with the transition to Universal Credit, for example the Citizens Advice Bureau currently provides a Help to Claim Scheme for new claimants, there has been an increase in rent arrears following its introduction.

3.3.3. The draft Rent Arrears Policy at Appendix A to the report, updates the early intervention work that the Council's Housing team carries out with tenants to assist in providing advice on claiming benefits and resolving any benefit problems. Applications for Alternative Payment Arrangements, such as direct payments to the Council, are made where it is clear a tenant is unable to manage their monthly Universal Credit payment.

**3.4. Pre-Action Protocol for Possession Claims by Social Landlords**

3.4.1. The latest version of the Ministry of Justice Pre-Action Protocol for Possession Claims by Social Landlords came into force on the 13 January 2020. This Protocol prescribes the specific procedures that social landlords should follow before issuing claims for possession. The Protocol aims to encourage more pre-action contact and exchange of information between landlords and tenants; to enable landlords and tenants if possible to avoid litigation and settle disputes out of court; and to enable an effective use of court's time and resources if court proceedings are necessary.

3.4.2. The draft Rent Arrears Policy includes the specific procedures covered under the Protocol, which must be demonstrated to have been followed if possession proceedings are taken. This includes ensuring, for example:

- that reasonable steps are undertaken to ensure tenants understand any information provided regarding their rent account and arrears
- consideration has been made regarding particularly vulnerable tenants around mental capacity, equality issues, and the need for community care assessments
- early contact to resolve issues with paying the rent and arrears; agreeing affordable repayment plans; signposting to independent advice and support agencies; and postponing court proceedings for as long as the tenant is complying with such an agreement or if the tenant has provided all the information to support a benefit claim and there is a reasonable expectation of entitlement.

**3.5. Coronavirus Act 2020 and possession proceedings**

3.5.1. The coronavirus pandemic has had a significant impact on people's lives and the economy, including affecting many tenants ability to pay their rent if they have suffered bereavement, are sick or caring for others, have incurred a loss of income or employment.

3.5.2. On the 27 March 2020, the Government introduced a 90-day stay on possession proceedings and evictions, which was extended to the 20 September 2020. This was seen as a necessary step to protect those who have been adversely affected by the coronavirus pandemic and have struggled to keep up to date with their rent payments.

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- 3.5.3. When the country went into national lockdown again on the 5 November 2020, the Government further announced that bailiffs will not enforce evictions in England until 11 January 2021 at the earliest, except in the most serious circumstances. The most serious circumstances include extreme rent arrears equivalent to 9 months' rent with any arrears accrued since 23 March discounted, illegal occupation, false statement, anti-social behaviour, perpetrators of domestic abuse, and where a property is unoccupied following the death of a tenant in relation to assured and shorthold tenancies.
- 3.5.4. The Government has also put in place measures to delay the possession process through the Coronavirus Act 2020, by introducing temporary extensions to notices of intention to seek possession (from 29 August to 31 March 2021). This includes the requirement for landlords to give 6 months' notice to take possession proceedings (unless the tenant is a secure or flexible tenant and has accrued rent arrears to the value of over 6 months' rent then a 4 week notice period will be required).
- 3.5.5. While the delay to the notice periods may in some cases have an impact on the level of rent arrears increasing, it also provides the opportunity and time to carry out additional work with tenants to try to resolve problems in paying rent and arrears – the ultimate aim being to avoid the need to carry on with possession proceedings. The draft Rent Arrears Policy builds in additional pre-action contact for this purpose.
- 3.5.6. If issuing claims for possession, the draft Rent Arrears Policy also outlines that the Council must inform the court of how the tenant and any dependants have been affected by the coronavirus pandemic.
- 3.6. **Advice and support**
- 3.6.1 It is clear that many tenants are facing challenging and difficult circumstances during these uncertain times. The draft Rent Arrears Policy explains the advice and support available to tenants struggling to pay their rent. This includes making referrals into the Housing Inclusion Service so that the Council can work holistically with tenants to resolve problems and prevent homelessness. Tenants are also signposted to seek assistance from other organisations, such as Citizens Advice and debt advice agencies.
- 3.6.2 The draft Rent Arrears Policy also outlines how vulnerable tenants will be supported at the earliest stage, which may include carrying out additional visits and referring to appropriate advice and support services.
- 3.7. **Consultation on the draft Rent Arrears Policy**
- 3.7.1. The Dartford Tenants' and Leaseholders Forum have been consulted on the draft Rent Arrears Policy. There were no representations submitted.
- 3.8. **Review**
- 3.8.1. As the draft Rent Arrears Policy includes temporary measures introduced by the Government and the Coronavirus Act 2020, the aim is to keep the Policy under continuous review and update it if there are further changes to legislation and guidance. The Policy will then be reviewed every three years.

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4. Relationship to the Corporate Plan

4.1. This report relates to the Housing and Stronger Communities Corporate Plan strategic aims of:

- Facilitating quality, choice and diversity in the housing market, creating strong and self-reliant communities and delivering high quality services to service users
- Creating strong and self-reliant communities.

5. Financial, legal, staffing and other implications and risk assessments\*

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| Financial Implications      | The Rent Arrears Policy provides a framework for good rent collection and management of arrears.   |
| Legal Implications          | None specifically  |
| Public Sector Equality Duty | A Customer Access Review has been carried out on the draft Rent Arrears Policy – attached at Appendix B. Members are reminded to have due regard to the Public Sector Equality Duty and the attached Customer Access Review in reaching its decisions on the recommendations in this report. |
| Staffing Implications       | None   |
| Administrative Implications | None   |
| Risk Assessment             | No uncertainties and/or constraints  |
| Crime and Disorder duty     | None   |

6. Details of Exempt Information Category

Not applicable

7. Appendices

Appendix A – Draft Rent Arrears Policy  
Appendix B – Customer Access Review

BACKGROUND PAPERS

| <u>Documents consulted</u> | <u>Date / File Ref</u> | <u>Report Author</u>               | <u>Section and Directorate</u>   | <u>Exempt Information Category</u> |
|----------------------------|------------------------|------------------------------------|----------------------------------|------------------------------------|
|                            |                        | Sarah Williamson<br>(01322) 343470 | Housing/<br>External<br>Services | N/A                                |