



Chelmsford City Council Cabinet

9th July 2024

Rent Setting Policy and Fair Charging Policy

Report by: Cabinet Member for a Fairer Chelmsford

Officer Contact: Paul Gayler, Strategic Housing Services Manager,
paul.gayler@chelmsford.gov.uk Tel: 01245 606375

Purpose

To present the Rent Setting and Fair Charging Policies for approval, which set out the principles Chelmsford City Council will apply in calculating its rents and service charges for housing that it uses as temporary accommodation.

Options

1. Approve the Rent Setting and Fair Charging Policies as presented.
2. Approve the Rent Setting and Fair Charging Policies as presented with amendments.
3. Decline to approve the Rent Setting Policy and/or the Fair Charging Policy

Recommendations

1. The Rent Setting and Fair Charging Policies be approved as presented.
-

1. Background

- 1.1 Chelmsford City Council's owns 59 properties and 18 modular units which have been purchased to enable the Council to provide cost effective, quality temporary accommodation to fulfil its statutory homelessness duties.

- 1.2 As a Local Housing Authority the Council is a Registered Provider of Social Housing and must comply with the requirements and standards set by the Regulator of Social Housing. This means that all properties owned by the Council must have rents that comply with the Regulator's Policy Statement on Rents for Social Housing including those that are used for temporary housing.
- 1.3 Properties that are leased by the Council for use as temporary accommodation are exempt from this regulation but in order to comply with our statutory responsibilities to those who need this accommodation the homes must be suitable and this includes ensuring that the rent charged is affordable. In both cases there may also be a charge for services in addition to the rent and this should also be affordable.
- 1.4 The principle of affordability also applies to any other temporary accommodation used by the Council which may be owned and managed by other organisations including private landlords and letting agencies. In these cases the Council often pays the cost directly to the landlord and seeks to recover payment from the homeless households. In such cases it is necessary to set and ensure that this charge, as is the case with the service charge is fair and reasonable bearing in mind many will be homeless because they are on a low income and unable to afford anything other than social housing.
- 1.5 The Rent Setting and the Fair Charging Policies establish the procedural framework for rent setting in homes owned by the Council which will be regulated social rents, rents in leased properties which must be affordable and therefore set at Local Housing Allowance rates, and the charge for homes provided by others which will also be set at Local Housing Allowance rates. The rates for service charges should also be based on a fair and transparent basis but should not exceed general recognised levels of what is reasonable for households on low incomes.
- 1.6 Being able to demonstrate that both rents and charges are legally fair and reasonable also strengthens the Council's ability to take enforcement action when necessary in cases where payment is refused or withheld.

2. Context

- 2.1 The development and growth of a residential property portfolio by the Council has been undertaken to support the growing need for access to social and affordable homes to enable the Council to meet its statutory homelessness duties through the provision of temporary accommodation and to control the cost of temporary accommodation.
- 2.2 The Council is a Registered Provider and is therefore subject to regulation by the Regulator of Social Housing (RSH). Therefore, the Council must demonstrate how it meets the RSH Standards including the Rent Standard which sets the regulatory framework for the calculation to set the rent and the

extent to which it can be increased each year. By following this guidance, the Council is compliant with both its duties as a Registered Provider of social housing and also its duties under the homelessness legislation regarding the suitability of temporary accommodation.

- 2.3 In addition to this, the policy establishes the framework for operations which meets the statutory and regulatory obligations, provides a rental income to effectively manage and maintain the homes and ensure financial viability for future investment needs.
- 2.4 Properties that are leased specifically for use as temporary accommodation are exempt from these regulations so there is more flexibility in determining the level of rent to be charged. However the Homelessness (Suitability of Accommodation) Order 1996 creates a duty to ensure that homes are affordable. The Code of Guidance states that Local Housing Authorities should be guided by Universal Credit (and Local Housing Allowance) rates, it is therefore recommended that this is used as the basis for setting the rent in properties that are leased, as opposed to those owned by the Council, as this will be affordable but in most cases at a slightly higher rate than regulated social rents.
- 2.5 It is possible to set regulated rents at a higher rate in the case of households with incomes above £60,000 a year, for the purposes of setting rents for temporary accommodation we would in these cases expect an applicant to be able to relieve their homelessness through other options and not be in need of temporary accommodation. All homelessness households are only placed into temporary accommodation with the approval of a senior officer who is satisfied not only that there is a prima facie duty to accommodate but also that this is the only option to avoid a vulnerable household from being roofless.
- 2.6 In the case of properties that are used as temporary accommodation and neither owned or leased by the Council (or another Registered Provider who would also be operating with the same standards) the Housing Service pays the provider directly as this ensures access to temporary accommodation by reducing the risk and concern of landlords that they will not be paid. To protect the Council's financial interests a charge is then made to the household and conventionally this has been paid from their entitlement to Housing Benefit. The policy will formalise this. In cases where people may be in work or not entitled to the full level of Housing Benefit it will be a requirement that they make up the difference from their own means.
- 2.7 In most cases temporary accommodation will be self-contained and the cost for utilities such as lighting and heating will be charged in the same way as it would be if the household were living in settled housing. In some cases there may also be a service charge, most often for the maintenance of communal areas and as with the cost of utilities we would expect this to be set at a reasonable rate by the landlord and therefore be something that can and should be paid directly by the occupant.

- 2.8 There are a small number of cases however where some of these services will be included within the rent and will not be eligible for Housing Benefit. Where this occurs, in the absence of information that itemises these additional costs, a standard deduction will be made from their entitlement to the benefit payment for their accommodation. To ensure fairness and consistency with other households in temporary accommodation and to reduce the financial cost to the Council it is proposed in the Fair Charging Policy that a contribution is made by the household.
- 2.9 A copy of both policies are attached as Appendices to this report. Subject to approval the regulated rents that will apply to Council owned properties will be adjusted each year in accordance with the guidance set by the Regulator of Social Housing. Rents and charges that are set in line with Local Housing Allowance will remain linked to these rates.

3. Financial implications

- 3.1 The new rent setting policy will change the rents charged on Council owned/retained properties compared to existing levels. The changes will affect properties differently according to bedroom numbers.
- 3.1.1 Impact on Council; The overall impact is of this an overall net loss of some £10k per annum of rent income. However, stronger compliance with Housing regulation will make enforcement and tenancy management more legally robust. There should improvement in rent collection and lower non-payment losses, however, these benefits are impossible to quantify before implementation.
- 3.1.2 Impact on Tenant; changes in rent will in most cases be neutralised by equal changes in housing benefit paid to tenant.
- 3.2 The charging policy will increase the charge to some tenants and lower for other, however:
- 3.2.1 Impact on Council; any increases in rent collectable will be offset by less Government funding (subsidy loss).
- 3.2.2 Impact on Tenant; as charges (rents) will not exceed local housing allowances changes will be neutralised by Housing Benefits. Generally, tenants will not suffer any additional financial burden. Where rent has been reduced for tenants, the contribution if any that they personally make in most cases will not change.

4. Conclusion

- 4.1 The adoption of these policies will enable the Council to deliver a transparent and consistent approach to rent and services charges, whether applied to homes owned or leased by the Council or provided by another landlord. This will also create a sound basis for informing and planning income management and investment decisions and improve the ability of the Housing Service to manage individual rent accounts.

List of appendices:

Appendix 1 Rent Setting Policy

Appendix 2 Fair Charging Policy

Background papers:

None

Corporate Implications

Legal/Constitutional:

This section includes the relevant legislation and guidance considered in developing the policies:

- Welfare Reform and Work Act 2016 (including amendments)
- Housing Act 1985 Section 24: the Council can make such reasonable charges as it determines for the tenancy or occupation of its houses.
- The Council is obliged, from time to time, to review rents charged and make such changes, as circumstances may require.
- The Council may increase the rent for its tenants by giving no less than four weeks' notice, pursuant to section 103(4) of the Housing Act 1985.
- Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 Housing and Planning Act 2016 3.7 Housing and Regeneration Act 2008 section 197:
- The Direction on the Rent Standard 2019 3.8 Ministry of Housing, Communities and Local Government: Policy statement on rents for social housing, February 2019 3.9 Regulator of Social Housing: Rent Standard, April 2020.

Financial: There is a small cost to the Council compared to current charging mechanism of approximately £10,000 per annum, although this should be offset by lower rent arrears

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: Setting rents within a compliant framework reduce the risk of challenge both from the Regulator and enforcement for arrears.

Equality and Diversity: None

Health and Safety: None

Digital: The Housing Service systems will be updated to ensure rent accounts and service charges can be managed in accordance with the policies.

Other: None

Consultees:

Counsel

Accountancy Services Manager

Relevant Policies and Strategies:

Housing Strategy 2022- 2027

Homelessness & Rough Sleepers Strategy 2020-2024

Rent Setting Policy June 2024

1.Scope & Purpose

The Policy seeks to set out the principles Chelmsford City Council applies in calculating its rents and service charges for its housing stock that it owns and has responsibility to manage and maintain.

The Council transferred its housing stock in 2002 but retained a small number of properties for use as temporary accommodation to meet its duties to homeless households. These small number of homes has increased since that time through a combination of homes that have been purchased, leased and there are currently 18 modular homes all used as temporary accommodation.

The Council is a Registered Provider of social housing and must therefore comply with the requirements of the Regulator of Social Housing as well as legal requirements which stipulate the type of tenancies that can be granted and how rents should be set.

The Policy creates the procedural framework for rent setting; service charges; and income collection for council housing. The policy is intended to promote transparent, equitable and sustainable rent and service charge setting and collection.

The policy sets out:

- How the Council will set rents for its housing stock.
- How the Council will work to meet best practice on rents and service charges.
- How the Council will ensure decisions and actions are compatible with corporate debt policy by ensuring a policy on income collection is in place.

The purpose of this policy is to:

- Ensure that rents and service charges will be set in accordance with relevant statutory, regulatory, audit and contractual obligations.
- Ensure rents and service charges are set at a level which ensures that the Council meets its obligations to tenants, maintains stock at a high standard of repair, plans for future investment and continues to function as a financially viable organisation.

- Protect tenants from excessive increases in charges.
- Help ensure homes are suitable having regard to the need for affordability;
- Provide a clear framework for the setting and review of rent levels for each property.
- Ensure that all tenants are made aware of the weekly rent payment due to the Council in respect of their property, both at the beginning of their tenancy and when it changes in April every year, linked to the RSH Rent Standard, currently set at CPI & 1%
- Ensure that our customers are advised of the availability of benefits to help with housing costs and are given support to claim benefit where applicable.

2.Rent Setting

The policy relates to the setting, charging and collection of income related to Council Owned & Retained, including modular residential accommodation.

The policy also relates to rents charged for properties which the Council leases for use as temporary accommodation.

The Council's Housing Service will monitor all individual rent accounts and provide to other Services within the Council information on the collection of income and expenditure for temporary accommodation to inform future planning and allocation of the Council's finances.

2.1 Council owned properties

Rents will be set annually, in accordance with the relevant regulatory standards. The Council must set these rents at social rent levels which should be calculated using a formula that is based on the size of the home and the cost of build or acquisition.

Homes which were retained at the time of stock transfer will therefore have rents that are slightly lower than more recent properties that have been built or acquired for use as temporary accommodation.

The table below shows the indicative weekly rent to be charged for those homes that were retained at the time of stock transfer and those that have been subsequently acquired from that date.

	Retained stock	New stock
1 Bed	£ 131.74	£ 162.06
2 Bed	£ 134.21	£ 198.19
3 Bed	£ 148.31	£ 215.43
4 Bed	£ 199.27	£ 323.16

Rents as set for April 2024

Rents will be set each financial year and will be adjusted in accordance with the Social Housing Regulators Rent Standard.

All tenants are given at least 28 days' notice of increases (or decreases) in their own rent through the annual rent notification letter.

2.2 Properties leased by the Council

In addition to homes owned by the Council there are also properties which are leased from private owners that are used as temporary accommodation. These properties are outside of the Rent Standard giving the Council more flexibility over the rent that is charged.

In using these homes as temporary accommodation the Council must however ensure that it complies with The Homelessness (Suitability of Accommodation) (England) Order 2012. This means, amongst other requirements, that they must be affordable to those who will be on low incomes or reliant on benefits.

To meet this requirement the Council will therefore set rents that are within the Local Housing Allowance levels. Any variation including increase to rents will therefore follow any change to the Local Housing Allowance levels.

3. Tenancies and Rent Collection

The Council will only provide non-secure tenancies to households in temporary accommodation.

Households who are owed a duty for settled accommodation under Housing Act 1996 s.193 will have protection from eviction so tenancies can only be ended by an end to the Council's duty to provide temporary accommodation or in cases where enforcement is needed because of a breach of the tenancy agreement.

All tenants will be provided with a copy of their tenancy agreement which will explain the weekly rent, any additional service charges and the weekly payment required from them.

In cases where there is a breach of the tenancy agreement the Council will act in accordance with its policies and procedures for recovery of payment and where necessary the ending of the tenancy agreement and eviction.

It is recognised that in some cases those who have become homeless and are reliant on benefits may find that there is still a shortfall in meeting the weekly cost of accommodation. In these cases it will be required that the tenant cooperates with the Council in maximising their entitlement to benefits and takes all reasonable steps to reduce and repay any shortfall.

4.0 Service Charges

Service charges for communal and additional services at a property are additional to the rent. These will be itemised separately from each rent account.

The policy for the setting and charging of these charges is in the Council's Fair Charging Policy.

5.0 Supported Housing.

The Rent Standard allows landlords to apply a different approach to "specialised supported housing" which is accommodation that is specifically intended for, and offers a high level of support for, residents who would otherwise not be able to live independently. If the Council develops or procures supported housing a specific approach will be taken to address the needs of the residents.

6. Compliance and Performance

This policy will be approved by the Council's Cabinet and an annual budget report is made available to show performance and compliance. This will include information about any variation to the level of rent charged and the Service's performance on income collection as reflected in its Key Performance Indicators.

The service will also seek to make use of benchmarking data and external challenge to assess performance.

The service is subject to internal audit from time to time which identified areas of risk and makes recommendations for change.

7. Review

This policy will be regularly monitored and formally reviewed every three years or where there are changes to relevant legislation or guidance.

8. Legislation and Guidance

The relevant legislation and guidance considered in developing the policy:

- Welfare Reform and Work Act 2016 (including amendments)
- Housing Act 1985 Section 24: the Council can make such reasonable charges as it determines for the tenancy or occupation of its houses.

- The Council may increase the rent for its tenants by giving no less than four weeks' notice, pursuant to section 103(4) of the Housing Act 1985.
- Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 Housing and Planning Act 2016 3.7 Housing and Regeneration Act 2008 section 197:
- The Direction on the Rent Standard 2019 3.8 Ministry of Housing, Communities and Local Government: Policy statement on rents for social housing, February 2019 3.9 Regulator of Social Housing: Rent Standard, April 2020

Fair Charging Policy – Temporary Accommodation

1. Introduction and Purpose

1.1 Charges for Accommodation

The Council has a duty to provide temporary accommodation to households who have become homeless, either pending an investigation into the Council's substantive duties to them, or whilst waiting in cases where there is a continuing duty to secure settled accommodation, e.g. through the Housing Register.

Temporary Accommodation takes the form of two types of accommodation:

- i) Shorter-term accommodation for use during the relief stage of homelessness and whilst a household's homelessness application is being assessed. This could be self-contained or shared accommodation, either through a private proprietor arrangement or through a Registered Provider. (Section 188)
- ii) Longer-term accommodation for households where the Council has accepted an ongoing accommodation duty. This accommodation is provided until a suitable offer to discharge that duty can be made. (Section 193)

In cases where the Council pays landlords directly for temporary accommodation it will make a charge to the lead tenant to recover some or all of this cost. This is a charge and not a rent as the Council is not the landlord.

The Council's Rent Setting Policy details how rents are set for temporary accommodation which is owned or leased by the Council.

1.2 Service Charges

This policy also applies to the setting of service charges which may be required for some occupants of temporary accommodation. This may be for the maintenance of properties including communal areas or the use of utilities where they are included within the cost of the accommodation.

Where charges are ineligible for Housing Benefit a reduction will be made to the applicant's benefit payments to reflect this, either on the basis of information provided by the landlord on the cost of accommodation and the cost of other

services, or if this is not explained a deduction will be made based on a nationally applied assumption.

In cases where the Council pays the provider directly, it will be necessary to make an additional charge, one for the accommodation ('rent') and another for the services that are ineligible and cannot be recovered through Housing Benefit.

1.3 Other Charges

There are other services which the Council may provide as part of its statutory duties to homeless households. These will not relate to the cost of accommodation but may involve ancillary services such as the removal or storage of personal belongings or transport to or from temporary accommodation. In these cases if the Council is required to make payments on behalf of a household reasonable steps will be taken for reimbursement taking into account the circumstances of each case.

As these costs are fixed by the provider and will often be incidental to the Council's main duties this policy does not seek to prescribe in any further detail how applicants will be charged for these services as it is dependent on the circumstances of each case.

1.4 Purpose of the Policy

This policy creates the procedural framework for setting charges for rent and services. The policy is intended to promote transparent, equitable and sustainable rent, service charge and utilities setting and collection.

The purpose of this policy is to:

- Ensure that the cost of temporary accommodation and service charges will be set in accordance with relevant statutory and contractual obligations.
- Help ensure charges applied are affordable (within Local Housing Allowance) for those in housing need.
- Provide a clear framework for the setting and review of charges.
- Ensure that all licensees and tenants are made aware of the weekly charges & payment due to the Council in respect of their property, both at the beginning of their tenancy and when it changes.
- Ensure that our customers are advised of the availability of benefits to help with housing costs and are given support to claim benefit where applicable.

2.0 Context

In the provision of temporary accommodation Chelmsford City Council will have regard to the Homelessness (Suitability of Accommodation) (England) Order 2003 which came into force on the 1st of April 2004.

Suitability includes the cost of accommodation provided to households; as many will be on low incomes any costs above the level of Local Housing Allowance would therefore be unreasonable. Households who have incomes in excess of this will generally be expected to be able to prevent or relieve their homelessness with help from the Council in the open housing market. An objective financial assessment will be undertaken for all applicants to determine if temporary accommodation is needed and if so, what contribution should be made towards the costs based on the household's income and expenditure.

The order outlaws the use of B&B accommodation for households with dependent children or an expectant mother unless:

- there is no other accommodation other than B&B available for occupation by an applicant with family commitments; and
- the applicant occupies B&B accommodation for a period, or a total of periods which does not exceed 6 weeks.

The Homelessness Service will seek to avoid the use of B&B in all cases and especially for those with children, care-leavers and others included under the Homelessness Code Guidance as being unsuited to this type of temporary accommodation, unless the alternative is street homelessness for applicants that it has a duty towards.

In most cases the Council's preferred intention will be to use temporary accommodation it either owns or leases, or properties owned and managed by other Registered Providers as this will be the most suitable in both cost and location.

There is a considerable gap between the supply of affordable and temporary accommodation that is available from the Council and other Registered Providers necessitating other types of temporary accommodation. The most common alternative option is privately owned property that is provided on a nightly let basis.

The proposal seeks to recover an affordable amount for the applicant, not the necessarily the whole cost of the placement.

3.0 Charging Policy

3.1 For accommodation (occupation charge) secured and paid for by the Council

The Council will make a charge up to the level of Local Housing Allowance for the size of the property. The table below shows the current rates.

Property size	Monthly payment / occupational charge
Shared Room	£425.14
1-bedroom	£792.83
2-bedroom	£947.40
3-bedroom	£1196.69
4-bedroom	£1446.06

Rates from April 2024.

The occupation charge will be amended as and when the Local Housing Allowance rate is altered subject to the policy and process for notification of changes. This may be paid by the Council receiving payments of Housing Benefit awarded to the household but it will be their responsibility to arrange this. If the applicant is ineligible for Housing Benefit or only entitled to a partial award they will be charged the outstanding balance.

Households in temporary accommodation will be responsible for the cost of utilities and pay these directly to the provider of the temporary accommodation or utilities company depending on the arrangements for the agreement to occupy the property.

3.2 Service charges

3.2.1 Communal Facilities

Where there is an additional charge to the cost of accommodation set by the provider of the accommodation the Council will expect a contribution from the household provided it is a reasonable charge as this would be similar were they to be in settled accommodation in a like-for-like property.

3.2.2 Utilities

The Supreme Court in *Samuels v Birmingham City Council* [2019] UKSC 28 stated local authorities must have an objective source to refer to when setting reasonable charges or deductions for households on low income. The Council will therefore make an objective assessment as to the charge it will make in cases where the cost of utilities is included within the rent and would be ineligible for Housing Benefit.

For energy costs that need to be recovered through this policy the charge will be based on 80% of what Ofgem provides as the average usage for a household of the same size.

For water and sewage this will be based on the average annual charge, adjusted by 50% reduction for smaller or 50% increase for larger families.

This methodology is based on the guidance provided by the Association of Housing Advice Services (AHAS) and is consistent with the Homelessness Code of Guidance.

4.0 Payment and Action for Non-payment of Charges

Homeless applicants will be expected to pay their charges one week in arrears. If the client does not stay for the full 7 days any charges paid in advance will be refunded to the client less any other amount owed to the Council's Housing Service.

Applicants are also required to notify the Council when their occupation of temporary accommodation ends, this includes cases where the Council has successfully

nominated them for a tenancy with another landlord. Applicants will remain liable for the cost of rent and other charges up to the date when the keys of the property are returned to the landlord and personal belongings have been removed.

In cases of abandonment the Council will charge rent, charges and other costs up to the date when it became aware that the property had been left.

Where applicants fail to maintain their charges payments in advance the following considerations will be made:

- Clients who are in financial difficulty and who are unable to pay in advance, alternative arrangements will be made to accommodate their payments, for example, agreeing that the payment will be made on the day they receive their next benefit payment.
- Applicants who fail to maintain regular and full payment of rent or occupation charge may be served notice or otherwise have their agreement for occupying temporary accommodation terminated and this may affect the duty the Council has to provide any subsequent accommodation in accordance with its duties under Homelessness legislation.
- Officers will advise applicants when they sign the Terms and Conditions of Occupation (sometimes referred to as the Licence, or Tenancy Agreement) the consequences of failing to ensure that their rent is paid and provide help and advice to help meet the cost and other responsibilities associated with the agreement.
- Applicants who fall into arrears will be given an opportunity to pay their rent or charges and explain why they have failed to do so. The applicant must be advised of the level of the arrears and the consequences of failing to ensure payment. If the applicant does not pay or provide a reasonable explanation for the arrears, then the accommodation should be withdrawn. Written notification of the reasons for the eviction and which duty (s 188 or s 193) has been ended, will be provided.

Applicants will be advised, as part of their offer letter, that they will be invoiced for the costs of their accommodation, in line with the above proposed policy from the date of the commencement of the tenancy or licence.

On the basis that they have been informed about the charges prior to accepting the offer of accommodation, and to maximise the Council's recovery of income in relation to temporary accommodation, it is recommended that these charges are collected retrospectively.

5.0 Compliance and Performance

An annual budget report is made to Cabinet on request. This will set out the projected recovery of payments for the Strategic Housing Service and will demonstrate that the proposed charging levels comply with this policy.

The service's performance on recovery of rent and charges is reflected in KPIs reported each month.

The service will set internal performance indicators and targets that reflect the aims of this policy and will show how well it is performing against those expectations. The service will also seek to make use of comparable benchmarking data and good practice to assess performance.

The Service is subject to internal audit which will identify areas of risk and makes recommendations for change.

The Service will ensure that this policy is compliant with the Council's legal duties and responsibilities to those who are homeless and the regulation of its duties as a Registered Provider of social housing.

6.0 Complaints

Complaints about properties or the management of accounts should be made in the first instance to the relevant officer involved with the placement or management of accounts.

Complaints about the behaviour or actions of Council staff should be made through the Council's corporate complaints policy.

7.0 Review

This policy will be reviewed every two years or sooner where there are changes to relevant legislation.

June 2024