

# Maidstone Borough Council

## Temporary accommodation rent arrears procedure

### 1. Policy Statement

- 1.1 Maidstone Borough Council (MBC) adopted a Debt Recovery Policy that should be read in conjunction with this document. This policy and procedure explains MBC's approach to ensuring that applicants have the best opportunity to conduct their stay in temporary accommodation in a satisfactory manner, in order to prevent them becoming indebted and to enable a sustainable resolution of their long-term housing.
- 1.2 MBC provides a range of accommodation in order to meet its statutory duties under Part 7 Housing Act 1996 (as amended). Accommodation might be provided whilst enquiries are conducted into the applicant's circumstances or once a duty has been determined.
- 1.3 This policy is intended to guide Council Officers employed in the Housing Service when managing applicants placed into Council owned accommodation and accommodation owned by third parties, purchased on a nightly basis by MBC and the occupation agreement is between the applicant and MBC.
- 1.4 It is MBC's policy that all applicants provided with accommodation are liable to pay a fee for their stay in temporary accommodation. The applicant might receive assistance with this by claiming for one of the state benefits and the Housing Service will provide support to the applicant where necessary to complete this task.
- 1.5 MBC's approach to applicants who fall behind with the cost of their accommodation is to intervene at the earliest opportunity to prevent further indebtedness and to assist the applicant in regularising their financial position. Applicants who are unwilling to take reasonable steps to pay their accommodation costs will ultimately face losing the accommodation provided by MBC.

### 2. MBC Approach

- 2.1 All officers must ensure that they have liaised internally to be confident that the action taken is the correct one for the type of occupation and duty owed to the occupant under the homelessness legislation. Clarification about the type of occupation can be obtained from the Senior Accommodation Officer or Senior Housing Advice Officer in the case.
- 2.2 Whilst the terms occupation charge; rent due; and arrears, together with emergency accommodation and temporary accommodation have specific meanings in relation the duty owed to the applicant under the homelessness legislation, for the purposes of this procedure the terms 'rent', applicant, and temporary accommodation (TA) will be used generically (unless specified).

- 2.3 MBC's officers will work with applicants to endeavour to prevent arrears from accruing from the outset of the tenancy. Financial expertise and housing support is available to all our residents to reduce the impact rent arrears has on both the Council and applicant. However, the Council will act firmly with applicants who are unwilling to pay their rent or engage to help reduce arrears.
- 2.4 MBC's officers will approach tackling rent arrears in a fair but firm manner, being supportive to the applicant and empathetic with their circumstances. Whilst the procedure sets out the steps that officers are expected to follow, each case will be judged on its merits and the action will be reasonable and proportionate to the situation, whilst balancing this against fulfilling the Council's wider housing duties.
- 2.5 Officers will have an awareness of any special need or characteristic that the applicant has that may affect their ability to understand their responsibilities. Assistance to applicants will be tailored to meet the specific needs of the applicant. Liaison with the applicant's Housing Advice Officer is essential to ensure that the Accommodation Team is aware of the applicant's circumstances.
- 2.6 Rent arrears recovery will follow a staged escalation process, up to and including repossession for non-payment of rent.

### **3. MBC responsibility**

- 3.1 The sign-up stage is a critical opportunity to help the applicant understand their responsibilities and what assistance is available to them during their tenancy. MBC will provide clear information to applicants at the point of sign-up about the accommodation and all of the charges that are lawfully due whilst occupying the accommodation.
- 3.2 The officer will highlight the various means for making payments and the process for doing so. MBC officers will also assist the applicant to complete their claim for relevant state benefits at point of sign-up.
- 3.3 The officer will seek to ensure that all applicants placed in temporary accommodation receive relevant information about entitlement to state benefits/income in order to ensure they claim for all available assistance they are entitled to and to maximise their income.
- 3.4 Where rent arrears for former tenancy arrears (FTA) are present, the officer will agree an affordable repayment plan to reduce the arrears through realistic instalments that are sustainable over a specific period. Any repayment agreement is based upon a detailed assessment of the applicant's finances and ability to pay.
- 3.5 Once arrears accrue, prompt action will be taken to ensure that the arrears do not become unmanageable for the applicant. The Council will endeavour to make sure that current rent is paid, and then ensure that the arrears are recovered in full. The process will be based on a preventative approach that seeks to maximise applicants' entitlement to benefits and secure regular payments.

3.6 Officers will maintain an accurate record of steps taken, which will be kept up to date on the designated software.

#### **4 Applicant's responsibility**

4.1 It is the applicant's responsibility to pay, in full, the amount of rent and service charges that are lawfully due and set out in the agreement provided to the applicant. Applicants will provide relevant documentation to maximise income at the earliest point.

4.2 Applicants have an obligation under the terms and conditions of their agreement to pay rent and service charges in good time. It is a applicant's responsibility to notify the Accommodation Team of any change in their circumstances that may affect their ability to pay their rent or affect their housing benefit claim.

4.3 Applicants will be reminded of their responsibilities when they sign their tenancy agreement and during their occupation.

#### **5 Rent Recovery Process:**

5.1 The rental charge is made on a weekly unless expressly stated in the tenancy agreement. Where applicant's income is received on a monthly basis, the option to pay monthly can be agreed but the rent becomes payable in advance.

5.2 The Rent & Financial Inclusion Officer will carry out a review of all rent accounts using the designated software on a regular basis and not less than fortnightly. A record of actions will be recorded on the designated software.

5.3 If an applicant goes in excess of two weeks arrears, the Rent and Financial Inclusion Officer will contact the applicant and send a letter to the applicant requesting the arrears be cleared in full or for the applicant to make contact with the Council's Rent and Financial Inclusion Officer to make a suitable repayment plan.

5.4 If the arrears continue to accrue after the first letter, a warning letter will be sent to the applicant advising that the Council will commence steps to end the tenancy. At this point, the Rent and Financial Inclusion Officer should liaise with the relevant Housing Advice Officer to coordinate their action.

5.5 If the arrears remain unreduced to a satisfactory level to the equivalent of four weekly payments and no payment plan is agreed, the Rent and Financial Inclusion Officer will provide a written justification to the Accommodation Manager and Housing & Inclusion Manager requesting that they authorise a Notice to Quit. The report will include the implications for the applicant's homelessness status referring to the duty owed at the relevant time.

5.6 Once the approval is received, the Rent & Financial Inclusion Officer will arrange for the Notice to Quit to be served and the service recorded by way of a witness statement.

- 5.7 The Rent and Financial Inclusion Officer will continue to work with the applicant during the period of the Notice to Quit in order to find a satisfactory resolution to the arrears. This might take the form of a repayment plan and if the applicant is keeping to the repayment plan no action will be taken at the stage that the Notice to Quit expires.
- 5.8 If the arrears are increasing at the point at which the Notice to Quit expires, the Accommodation Manager will seek approval from either the Head of Housing & Community Services or Housing & Inclusion Manager to commence legal proceedings to recover possession of the accommodation or to end the occupation (**NB this will depend on the form of occupation and the homelessness duty owed**).
- 5.9 The Accommodation Manager will prepare the necessary paperwork to commence legal proceedings. During this period the Rent and Financial Inclusion Officer will continue to work with the applicant and the relevant Housing Advice Officer in order to clear the arrears and to prevent homelessness reoccurring.
- 5.10 The Accommodation Manager will arrange for a suitable representative of the Council to attend the hearing at the County Court in order to obtain the necessary possession order. The outcome of the proceedings will be conveyed to the applicant and the Housing Advice Manager (in relation to the homelessness situation), and recorded both on the designated software and possession proceedings database.
- 5.11 The authorisation to request a Warrant of Execution to carry out the eviction will be authorised by the Head of Housing & Community Services. When the warrant for Eviction is granted, the Accommodation Manager will carry out a risk assessment with the bailiffs in order to achieve the eviction and will make all necessary and proportionate arrangements to ensure the eviction takes place without a breach of the peace.

## **6 Review of decisions and complaints**

- 6.1 The Accommodation Manager will review this procedure annually to ensure that it reflects the ethos of the Council and remains relevant to the operational duties of the Accommodation Team.
- 6.2 Tenants will be advised of the Council's Complaints Procedure that is available to any applicant who is not satisfied with the way in which their case has been dealt with. Details of the Complaints Procedure is available from the Maidstone Borough Council website.