

Subject:	Managing the impact of Housing Benefit changes arising from welfare reforms		
Date of meeting:	30 April 2014		
Report of:	Executive Director – Environment, Development & Housing		
Contact officer:	Name:	Ododo Dafé	Tel: 293201
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

In May 2013 Housing Committee agreed a time limited and carefully worded 'no eviction' policy for qualifying council tenants adversely affected by welfare reform housing benefit changes related to under occupation. Based on an assessment of the policy to date, this report makes recommendations on extending the policy for a further time limited period.

2. RECOMMENDATIONS:

That Housing Committee:

- 2.1 Agrees to extend the 'no eviction' policy for a further 12 months until the end of May 2015
- 2.2 Re-affirms that officers deal fairly and firmly with tenants who seek to avoid paying their rent and accrue debt on the basis of 'won't pay' rather than 'can't pay'
- 2.3 Re-affirms that officers continue to manage council lettings so as to provide under-occupying tenants struggling to meet their financial commitments with more affordable accommodation choices
- 2.4 Agrees that officers continue to provide all council tenants with clear advice and assistance that supports them in meeting their rent payment and service charge obligations
- 2.5 Request that officers continue to monitor the impact of the policy and provide a report back to Housing Committee in Autumn 2014
- 2.6 Agree that consent be sought from the Government to continue to use HRA funding to support additional Discretionary Housing Payments (DHP) for council tenants, supplementing the council's overall DHP fund.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The changes to welfare benefits introduced by the Welfare Reform Act 2012 have had a significant impact on residents and on the council's income stream.

3.2 The measure that has had a significant impact on council tenants is the social rented size criteria, which has seen the reduction in Housing Benefit (HB) for 'under occupying households' deemed to have a spare bedroom or bedrooms. The following groups are excluded from this measure:

- Pensioners are not affected by the provisions so will continue to receive full housing benefit if they have spare rooms
- Foster children; one extra bedroom will be allowed for families who foster children. Families who foster more than one child and have more than one room for that purpose will still need to be supported by local discretionary funds.
- Military families; families who have children away on active military service will not be penalised if their bedroom is left vacant during their period of service
- Disabled children; families with disabled children who cannot share rooms due to those disabilities will not be affected.

3.3 As at the end of March 2013, based on the 949 known under occupiers at the time, their projected shortfall in HB meant that Housing needed to collect an additional £696,000 a year from tenants. A year on, as at the end of 2013/14, the number of under occupiers has reduced to 695. The table below shows that the projected loss of HB to the Housing Revenue Account (HRA) has likewise reduced to £454,000.

Table 1: Housing Benefit shortfall for under occupiers

	1 bed (14%)	2+ bed (25%)	All
Number of households	605	90	695
Average shortfall per household	£11	£21	£12
Total weekly HB shortfall	£6,600	£1,900	£8,500
Total annual HB shortfall	£352k	£102k	454k

3.4 Table 2, below, highlights that the number of under occupiers has decreased since the end of March 2013, but their rent arrears have increased by 9% over the same period. However, up to February 2014, under occupation arrears had increased by 51%. The recent reduction in overall arrears might be accounted for, in part, by the credit of around £45,000 in HB payments to rent accounts as a result of the government oversight referred to in paragraph 3.9 below, as well as an increase in DHP payments in March 2014.

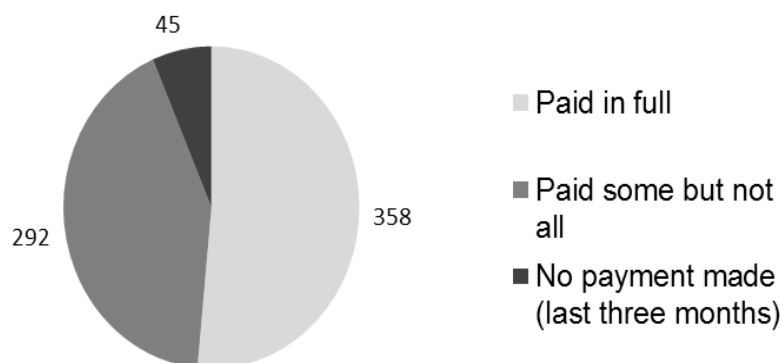
Table 2: Outline of under occupation arrears and related information

	Measure	End March 2013	End March 2014
1.1	No. affected households	949	695
1.2	% affected households – of all tenants	8%	6%
1.3	... of which, with an occupant reaching Pension Credit age before April 2015 (and will therefore no longer be impacted)	-	37
1.4	... of which, with a disabled or vulnerable occupant	-	439
1.5	... of which, with an occupant under 16	-	123
2.1	No. affected households in arrears	277	337
2.2	% affected households in arrears – of affected tenants only	29%	48%
2.3	No. households in arrears who were not in arrears on 1 April 2013	-	177
2.4	% affected households in arrears who were not in arrears on 1 April 2013	-	25%
3.1	Total arrears of affected under occupiers	£84,000	£91,000
3.2	Under occupier arrears as percentage of all current tenant arrears	13%	11%
3.3	Average arrears of affected under occupiers in arrears	£303	£271

	Measure	End March 2013	End March 2014
3.4	% increase in under occupier arrears since 1 April	- £84,000	9% £91,000
3.5	% increase in non under occupier arrears since 1 April	- £555,000	39% £770,000
3.6	Percentage increase in all current tenant arrears since 1 April	- £639,000	35% £861,000
4.1	Provisional rent collection rate	98.66%	98.30%

- 3.5 The pie chart below shows that the majority of under occupying households have made some attempt to make rental payments, and only a small number (45) have paid nothing at all.

Payments made by affected under occupiers



- 3.6 The table below shows that 337 of the 695 under occupiers are in arrears. A minority (63) have arrears over £500.

Table 3: Arrears levels of under occupying households

	Measure	End March 2013	End March 2014
1	No. under occupier arrears at £0.01 to £49.99	88	91
2	No. under occupier arrears at £50 to £99.99	42	48
3	No. under occupier arrears at £100 to £499.99	106	135
4	No. under occupier arrears at £500+	41	63
5	Total in arrears	277	337

- 3.7 The table below breaks down under occupier arrears by amount, and whether they existed prior to the welfare reform changes. It demonstrates that under occupiers with high levels of debt were already in arrears at the end of March 2013, and are likely to be those against whom escalated arrears recovery action will be in process. For example 46 of the 63 households that owe £500 or more had pre-existing arrears, as did all of those who owe £1,000 or more.

Table 4: Breakdown of arrears by amount and existence prior to 1 April

Arrears band in £	Households without pre existing arrears	Households with pre existing arrears	All under occupier households in arrears
£0 to £99.99	87	52	139
£100 to £199.99	37	15	52
£200 to £299.99	10	21	31
£300 to £399.99	12	15	27
£400 to £499.99	14	11	25
£500 to £599.99	11	15	26
£600 to £699.99	2	11	13
£700 to £799.99	2	5	7
£800 to £899.99	0	2	2
£900 to £999.99	2	2	4
£1,000 or more	0	11	11
Total in arrears	177	160	337

- 3.8 The table below profiles under occupying households who had no arrears at the end of March 2013, and who might therefore come under the auspices of the 'no eviction' policy. Of the 17 households with higher rent arrears, only 4 are households without an occupant who is disabled and/or under the age of 16 – demonstrating a small amount of people against which eviction action would be taken as anything but a very last resort.

Table 5: Households in arrears that were not in arrears at end March 2013

	All with no previous arrears	...of which £0.01 to £499.99 arrears	...of which £500 or more arrears
Total households	177	160	17
...of which with under 16 occupant	33	27	6
...of which with disabled occupant	124	116	8
...of which without under 16 or disabled occupant	32	28	4

- 3.9 Due to a government oversight in the Housing Benefit social rented size criteria rules, a number of tenants who should not have been affected by the changes (because they have continuously been in receipt of Housing Benefit at the same address since 1996) will have the housing benefit reduction refunded and paid into their rent accounts.

Around 78 tenants were impacted by this, and we estimate that around £45,000 has been credited to their rent accounts. Any tenants who received DHP in the intervening time will not be asked to pay that back, so a proportion of tenants have either had their arrears reduced by the payment or now have a credit balance on their rent account.

The government has now amended the rules, meaning that the spare bedroom reduction has been reapplied to all those tenants from 3 March 2014 if they were still under occupying. This credit will be held and used against future periods when the spare room reduction is reapplied.

4. Actions taken to support residents facing financial difficulty

- 4.1 Housing has taken a range of measures to support residents impacted by the reforms, with some being specifically related to under occupation:-
1. Letters and three rounds of home visits for personal face-to-face contact by specially trained staff
 2. 2013/14 HRA budget set aside £150K for a range of measures to support financial inclusion. This includes funding for the MACS money advice contract which will continue to be funded in 2014/15.
 3. Advice about mutual exchanges, lodgers, Discretionary Housing Payments (DHP), and assisting with applications for DHP

4. Mutual exchange event to promote mutual exchanges as a solution to the under occupation reduction in Housing Benefit
 5. Promoting Transfer Incentive Scheme (TIS) to achieve Band A priority for a transfer
 6. Referrals to MACS independent money advice (please see section 4.4 below)
 7. Those who were ineligible for DHP are being contacted again to see if their circumstances have changed and to ensure that all their income and expenditure details were correct (reportedly, some tenants had not included all expenditure items).
 8. Our Inclusion Team has helped people to manage their budgets; get online; overcome any barriers they may face to learning, up-skilling and seeking work; find work; and access learning, skills and training.
- 4.2 The table below indicates that a total of 93 previously under occupying tenants have moved to social rented accommodation that better suits their household size since April 2013. This measure would have invariably resulted in households on the council's housing waiting list needing larger accommodation being able to secure it. It has also meant that any increase in tenant debt due to the under occupation reduction in HB has been stemmed for those who moved to smaller homes.
- 4.3 The table also denotes that while 10% of under occupiers have a Band A priority for a transfer, only around a third have placed a bid in the last month. This gives some indication of the reluctance of some under occupiers to move to smaller and potentially more affordable accommodation. It is worth noting however, that a number of households who have informed us that they do not wish to move are keeping their commitment to pay the shortfall of their HB.

Table 6: Support for, and movement of under occupiers

	Measure	End March 2014
1	No. of DHP awards due to under occupancy charge since April 2013 (NB: some households paid multiple awards)	406 (£164k paid)
2	All tenants - mutual exchange moves since April 2013	221
3	... of which, impacted under occupiers	36 (16%)
4	All tenants - transfer moves since April 2013	223
5	... of which, impacted under occupiers	57 (26%)
6	No. under occupying households in Band A awaiting a transfer	68 (10%)
7	... of which have placed a bid within the last month	21 (31%)

4.4 **Discretionary Housing Payments (DHP)** - As a general rule, DHP is not designed to give long-term support to under occupying tenants. However, DHP might be paid to council tenants in the following circumstances:

1. Assisting families with children of school age to retain the home until the end of the school term or until after significant exams
2. Where a social sector tenant is affected by the size criteria but will shortly reach pensionable age
3. Imminent birthday of a family member/birth will increase room requirement.

Tenants can make their own application, but in many cases specially trained Visiting Officers or Housing Income staff have supported tenants to apply.

From April 2013 to March 2014, a total of £164,000 has been paid across 406 awards to under occupying tenants. One household may have received two or three awards, eg for periods of a few months each, or initially for a period and then for support with moving costs. Although the HRA had set aside a contribution to the DHP pot for 2013/14 of £70,000, towards payments for council tenants who are under occupying, the overall level of DHP payments from the council's DHP fund did not require to HRA to provide this subsidy in 2013/14.

The Government gave consent for one year, from 1 April 2013, for the use of HRA money for payment to the council's own tenants under the DHP scheme. The direction from the government was that the effectiveness of the scheme is to be reviewed at the end of the year and extended should the council wish to do so. This report recommends that the council seeks to extend the use of the HRA contribution to the DHP pot a further year whilst the impacts of welfare reform continued to be monitored.

4.5 **MACS contract**

The MACS money advice contract has brought considerable financial benefits for tenants.

For the period October 2012 to December 2013, MACS dealt with 680 referrals. Only a proportion of these are under occupiers, but records were not kept of their number until October 2013.

- Primary reasons for referral:
 - benefit breakdown/loss of benefit – ie Employment Support Allowance, Personal Independence Payments, Disability Living Allowance, Housing Benefit (in highest order)
 - unmanageable debt
 - rent arrears

Outcomes from MACS contract

- 203 cases closed
- £97,000 tenant debt write-off *
- £747,000 increased tenant income *
- £844,000 total financial benefit to tenants, from a contract cost of £80k per year

*Only includes information for closed cases – as outcomes still pending on open cases.

4.6 Other ways in which tenants have been impacted by the welfare reforms

4.6.1 The attention paid to tenants who are under occupying their home has been significant particularly because of the numbers of people involved.

4.6.2 However tenants have also been impacted by the following areas that may have affected their household income:-

- Council tax changes – approximately 5,000 tenants required to pay between £1.20 and £2.25 per week.
- Benefit cap - around 20 tenants impacted to amounts ranging from £5.44 to £102.99 per week - however this situation is in constant fluctuation.
- Changes to benefits to people with disabilities - potentially reduce disabled tenants' household incomes from between £4 to an estimated £28pw.
- Overall benefit uprating capped below the rate of inflation.

4.6.3 The above information gives an indication of how tenants who are not under occupying their council tenancies might also be impacted by other welfare benefit changes.

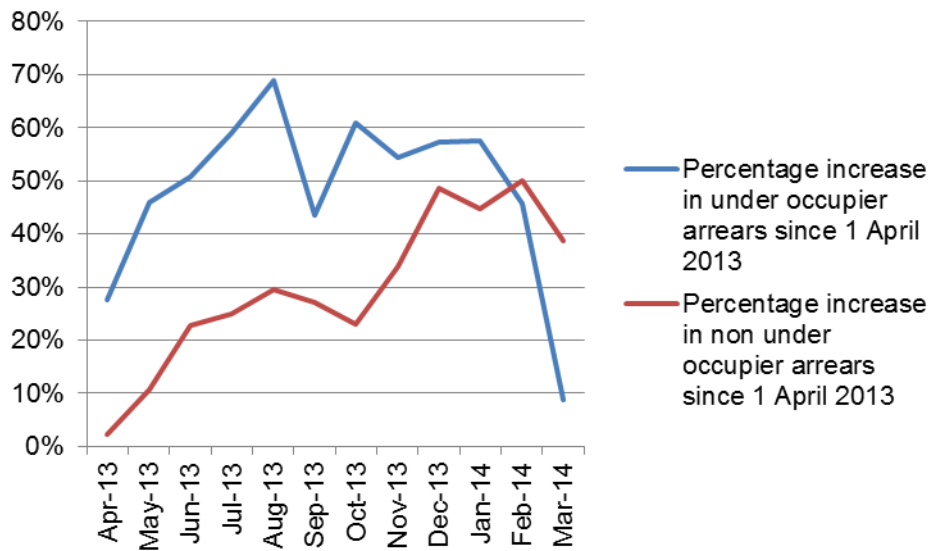
4.6.4 The table below additionally demonstrates how households not impacted by under occupation are experiencing difficulties in paying their rent and are building up rent arrears

Table 7: Quarterly arrears figures comparing under occupying households with remaining council households

	End Q4 2012/13	End Q1 2013/14	End Q2 2013/14	End Q3 2013/14	End Q4 2013/14
Under occupier arrears	£84,000	£126,000	£120,000	£132,000	£91,000
% increase since 1 April	n/a	51%	44%	57%	9%
Non under occupier arrears	£555,000	£682,000	£706,000	£824,000	£770,000
% increase since 1 April	n/a	23%	27%	49%	39%

4.6.5 The graph below shows that, although arrears had grown rapidly for under occupiers, they have also grown at an increasing rate for other tenants. The narrowing of the rate of percentage increase between the two groups demonstrates the difficulties all tenants are facing.

Monthly percentage increase in arrears for under occupiers and non under occupiers



4.6.6 The March 2014 arrears figures are considerably atypical to the preceding months, as can be seen from the graph below. The likely explanation for this has been stated in paragraph 3.4 above.

4.6.7 The increase in non-under occupier arrears are likely to have been impacted by a combination of the following factors:-

- Households experiencing the effects of other welfare changes
- Working households experiencing the effects of rising living costs and potentially reduced incomes
- Potential perception among all tenants that they are protected by the 'no eviction' policy, and are therefore not engaging
- The focus and attention that staff and policies have given to under occupiers because of the significant impacts on them, but possibly at the expense of the majority of tenants.

4.7 Matters for overall consideration

4.7.1 The 'no eviction' policy has provided some under occupying tenants with a year to become familiar with their new payment responsibilities, and given

them time to, for example, take in a lodger, achieve a transfer or mutual exchange, or secure employment.

4.7.2 To date, the policy has not prevented the eviction of any council tenants because those against whom action might have started had pre-existing arrears and are therefore not covered by the policy. Those tenants whose arrears have accrued since April 2013 will be protected from eviction if the policy is extended for a future period. This will give them additional time to secure a move, or to adopt budgeting measures to maximise their incomes and become more accustomed to their increased rent liability.

4.7.3 An extension of the policy could, however, be deemed to be unfair because of the lack of parity with:-

- other under occupiers who are prioritising paying their rent
- tenants impacted by other welfare reforms who are struggling financially but prioritising rent payments
- with people in other housing sectors who are more severely impacted by the reforms but have no similar safeguard against losing their tenancy

It could be argued that tenants on low incomes who are meeting their rent obligations are effectively subsidising those tenants who are not paying. This situation could be said to be slightly mitigated by the support the council offers all tenants who are struggling financially. Examples of this support include the Council Tax Reduction Scheme, the MACS money advice contract, Discretionary Housing Payments and assistance with financial, social, digital and economic inclusion.

4.7.4 The possibility that misinterpretation of the 'no eviction' policy has in part contributed to the £222k (35%) increase in all current tenants' arrears since April 2013 will need to be carefully monitored and managed. Financial hardship generally, and the protracted and considerate actions taken by Housing in managing arrears, will also be contributory factors. However, in order for the Council to not be seen as encouraging the build up of personal debt through the extension of the policy, Housing will need to re-double its efforts to remind tenants of the benefits of early engagement to come to suitable arrangements to manage their debt. This will also help to reduce the mental health impacts that unmanageable levels of debt can cause.

4.7.5 The council will continue its work to keep evictions to an absolute minimum, doing everything possible to support tenants to stem any increase in their debt levels. By doing so, if we assume that they are able to afford the maximum welfare benefit deduction (£3.70 a week from April 2014), someone with the average arrears of £271 will clear their debt in almost 18 months. It will take just over 5 years for someone owing £1,000 to repay their debt at the rate of £3.70 a week.

4.7.6 The council will need to be mindful of its fiduciary duties to council taxpayers. The collection of income, whether for rents, council tax or other charges is essential to maintaining the council's financial resilience and its ability to meet its agreed priorities and obligations. The reduction in Housing Benefit that almost 700 tenants are currently facing due to under occupation means that

we have a duty to collect the remaining rent from those tenants in the same way as we do for all other tenants who do not receive 100% of their rent in Housing Benefit. A clear and consistent message about the importance of paying rent, council tax and other charges will support debt minimalisation in the longer term.

- 4.7.7 The council could be deemed to be fettering its financial responsibilities if adopting the 'no eviction' policy for a further period. To guard against this, it may be prudent to reconsider the wording of the policy. The current policy commitment states:-

“That for a transitional period until 1st April 2014, where

- (i) all other avenues have been explored; and
- (ii) transfer is the only option but there are no suitable properties to transfer to; and
- (iii) where it is possible to clearly identify that arrears are solely due to the under-occupancy penalty

officers will use all means other than evictions and bailiffs to recover rent due.”

An amended commitment could be:-

“That for a period up to the end of May 2014, where

- (i) it is possible to clearly identify that arrears are solely due to the under-occupancy penalty; and
- (ii) tenants are willing to move but have not been successful in their bidding or mutual exchange attempts; and
- (iii) all other avenues have been explored;

officers will use all means other than evictions and bailiffs to recover rent due.”

- 4.7.8 Funding of £50k for 2014/15 has been set aside to offer practical support for under occupying tenants to carry out mutual exchanges. The fund will be used for items such as removal costs, appliance disconnection and reconnection, lock changes and packing up services.
- 4.7.9 In seeking longer term solutions, the council is also working with partners to ensure tenants have access to advice and support for returning to work and for budgeting.

5. COMMUNITY ENGAGEMENT AND CONSULTATION:

- 5.1 Tenants and tenants' groups have been widely informed about the welfare reform changes and involved in mitigating actions.

6. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 In compliance with the current accounting code of practice, the HRA has an accounting provision for doubtful (potentially uncollectable) debt on its balance sheet, of £1.005 million as at the 1st April 2014. This is based on an annual assessment of current and historic arrears.

The 2013/14 HRA revenue budget included £0.218m set aside as the annual contribution to the debt provision. The 2014/15 budget proposals include a similar budget of £0.221m for contribution to the debt provision and £0.070m for the continuation of the HRA contribution to the DHP scheme.

The main body of this report has shown that the current tenants' arrears have increased significantly since April 2013 and currently stand at approximately £0.861m representing approximately 1.7% of the annual rent budget of £49.2m. The 2013/14 annual contribution to the debt provision requirement was £0.221m, which although was an increase of £0.147m compared to the previous financial years' contribution to the debt provision, was only just above the budget set aside for 2013/14.

However, If the current arrears continue to increase the HRA may need to increase the amount of debt provision required and this will impact on the availability of future resources to invest in the council housing stock and in new build.

In addition to the current support to residents identified in this report, the 2014/15 HRA budget setting proposals include £0.258 million investment in staffing as part of actions to mitigate against potential negative impacts of welfare reform and reduce financial and social inequality. This includes funding of £0.050m for a mutual exchange scheme supporting those under-occupying to move to more suitable and financially sustainable accommodation.

Finance Officer Consulted: Susie Allen Date: 14 April 2014

Legal Implications:

- 6.2 In making a decision on whether to extend the limited "no eviction" policy, Members should only take into account relevant considerations, and exclude irrelevant ones. Section 4.7 of the report details the matters Members should consider.
- 6.3 The council's standard secure tenancy agreement imposes an obligation on tenants to pay their rent. It provides, "You must pay your rent and other charges on or before the date they are due. The rent and other charges are due on Monday every week." Where rent is not paid, the council can seek a possession order from the county court. A possession order is enforced by a warrant for possession. The council's standard method of pursuing rent arrears is by seeking a possession order, together with a money judgement for

the arrears. For those tenants covered by the current "no eviction" policy, warrants for possession and warrants of execution are not available as means of enforcement. Other means of pursuing the arrears need to be identified, such as attachment of earnings orders. These are not necessarily as effective as the usual possession order/warrant for possession route.

Lawyer Consulted: Liz Woodley Date: 15 April 2014

Equalities Implications:

- 6.4 There is a range of equalities implication in the ways that welfare reforms have impacted on certain groups. Some further implications are highlighted in the body of the report.

Sustainability Implications:

- 6.5 There are no significant sustainability implications, particularly as all steps are taken to sustain tenancies.

Crime & Disorder Implications:

- 6.6 There are no direct crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 6.7 There are no direct risk and opportunity implications arising from this report.

Public Health Implications:

- 6.8 There are no direct public health implications arising from this report.

Corporate / Citywide Implications:

- 6.9 There are no direct corporate or citywide implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents in Members' Rooms:

1. None

Background Documents:

1. None