

FALKIRK COUNCIL

Subject: RENT ARREARS DUE TO SIZE CRITERIA BENEFIT DEDUCTIONS
Meeting: EXECUTIVE
Date: 18 June 2013
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1. INTRODUCTION

- 1.1 As Members will be aware, on 1 April 2013 the Government introduced size criteria for working age Housing Benefit claimants living in the social rented sector. Size criteria already apply to Housing Benefit claimants in the private rented sector, whose claims are assessed using the Local Housing Allowance rules. The maximum eligible rent (on which the Housing Benefit is assessed) is reduced by a nationally set percentage rate depending on the number of spare bedrooms in the household. The reduction rates are:
- where under occupying by one bedroom – 14% and
 - where under occupying by two or more bedrooms – 25%.
- 1.2 Legislation to allow this is contained in the Welfare Reform Act 2012 and the UK Government's stated policy objective is to:
- contain growing Housing Benefit expenditure;
 - encourage greater mobility within the social rented sector;
 - make better use of available social housing stock; and
 - improve work-incentives for working age claimants.
- 1.3 The Government anticipate that affected claimants will have choices to mitigate the impacts of size criteria by either:
- continuing to live in accommodation which is assessed as larger than their household needs, and make up any shortfall from their other income, from savings, from moving into work, increasing working hours, or from letting out a spare room to a lodger, a boarder, or a family member; or
 - moving to accommodation which better reflects the size and composition of their household.
- 1.4 A comprehensive report was presented to Council on 6 March 2013 in relation to the wider implications of Welfare Reform. All of this information is also available on Falkirk Council's website at www.falkirk.gov.uk
- 1.5 This report provides Members with information in relation to the impact on the Housing Revenue Account since the introduction of the size criteria (otherwise known as the "Bedroom Tax") on mainstream properties and the Council's approach to managing rent arrears.

2. CURRENT POSITION

Size Criteria

- 2.1 As at the end of April there were 2,973 households in Council and RSL tenancies affected by the size criteria. The size of house required by size of household is as follows:
- 1 bedroom – 2,285 (1,902 are currently in a 2 bedroom, 360 in a 3 bedroom and 23 currently in a 4 bedroom property)
 - 2 bedrooms – 622 (591 are currently in a 3 bedroom, 30 in a 4 bedroom and 1 currently in a 5 bedroom property)
 - 3 bedrooms – 64 (63 currently in a 4 bedroom and 1 in a 5 bedroom property)
 - 4 bedrooms – 2 (both currently in a 5 bedroom property)
- 2.2 In relation to the current council housing stock, there are only 2,642 properties with 1 bedroom of which only 282 were available for let during 2012. Almost half of those properties were adapted for disabled or housing with care and not available for a mainstream let. There are almost 6,000 households on the council housing waiting list eligible for 1 bedroom properties.
- 2.3 Conversely, through Right to Buy, a greater proportion of large family homes were sold than any other house type and as a result reducing the availability of such properties for social housing tenants. This, together with the issue of older couples or single people staying in larger properties, has had a significant effect on the availability of such properties in the social rented sector. There are less than 500 council properties with 4 bedrooms and above, of which only 30 were available for let during 2012.
- 2.4 In order to ensure we make best use of our stock, those tenants requiring 2 bedrooms less than they currently occupy are awarded the highest priority (Band 1) within our allocations policy and there are currently 520 applicants in this category. In addition, we have introduced a cash incentive scheme for those under occupying which assists with the costs of removal, etc.

Housing Benefit reduction & Discretionary Housing Payments (DHP)

- 2.5 The total reduction in Housing Benefit across the social rented sector in the Falkirk Council area is £1.4m (£1.2m for council tenants and £0.2m for tenants of Registered Social Landlords)
- 2.6 Over 80% of those affected in the Council area are in receipt of passported benefit and consequently receive a maximum award of Housing Benefit. As such they are on the lowest incomes and in most cases did not have to pay any rent prior to the size criteria being introduced on 1st April.
- 2.7 The DHP Policy for 2013/14 was agreed by Council in March and funding is allocated to agreed priority areas.

- 2.8 The DHP funding has been significantly increased from £39,087 to £136,698 and has been supplemented by the Council with an additional £35,000 from the Fairer Scotland Fund. However, early indications are that this will be insufficient to meet the increase in demand the Council is facing. During 2012/13 the Council received 143 claims for DHP and in the month of April alone, 302 claims were received, the majority of those from claimants affected by size criteria. Given this pressure, it is proposed that the DHP budget is increased to £205,047 which is the maximum allowed. The underspend on the bed and breakfast budget provision (see “Financial Position 2012/13” report later in agenda) will facilitate this.
- 2.9 Given that the average weekly shortfall for those under occupying by 1 bedroom is £8.94 and £17.05 if under occupying by 2 or more bedrooms, if we were to pay DHP to cover the costs for a year, less than 300 claims could be paid out of the existing budget.
- 2.10 DHP payments were only ever intended as a temporary stop gap measure in dealing with the housing problems arising out of the benefit changes and will never address the fact that there is a limited number of 1 or 2 bedroom properties available.

Rent Arrears arising from Size Criteria

- 2.11 There are 3 key figures that need to be considered when measuring the impact of size criteria on tenants and the Housing Rent Account. These are the direct loss of Housing Benefit (as outlined in section 2.5), the net increase in arrears attributable to the impact of size criteria and the gross increase in arrears attributable to the impact of size criteria.
- 2.12 All the figures outlined in this report were extracted at the end of the 8th week of the rent year (26th May 2013) and when extrapolating figures to provide annual estimates these figures have been multiplied by 6 (to equate to the 48 chargeable weeks in the financial year).
- 2.13 Within mainstream tenancies (excluding Homeless accommodation) the increase in net arrears, within the affected group, over the 8 weeks was £79,461.64 (or 40% of the additional charge) which would equate to £477,000 for the year.
- 2.14 The impact on gross arrears (i.e. where payments were made by tenants with existing arrears and would, were it not for size criteria, have reduced these arrears) was £110,199.64 for the same period (or almost 56% of the additional charge) which would equate to £661,000 for the year.
- 2.15 These figures do not include any payment of DHP but if we allowed for DHP payments of c. £3,000 per week (£144,000 pa), being allocated exclusively to Falkirk Council tenants, the increase in net arrears would potentially be reduced to 27.6% and gross arrears to 43.1%. The annual impact would then be £333,000 and £517,000 respectively.
- 2.16 From initial figures provided by other local authorities our collection rate appears relatively positive but it should be highlighted that some authorities made their announcements on policy regarding eviction in advance of the charge being applied and that is likely to have had an impact on the level of collection.

- 2.17 However, it reasonable to believe that the level of engagement and the subsequent support that we have provided to our tenants has been relatively successful and we will continue to work with individual tenants to support them through this change.

3. RECOVERY ACTION FOR RENT ARREARS

- 3.1 It is essential that Councils ensure that rental income is maximised in order to continue to provide high quality services to current and future tenants and provide the opportunity to continue to rent properties at affordable rent levels. At the same time, there are increasing demands on the HRA such as ensuring the council housing stock meets the Scottish Housing Quality Standard (SHQS) by April 2015 and the requirement to make council housing more energy efficient to help eradicate fuel poverty (by 2016) and reduce carbon emissions from council housing in the period to 2020 and beyond. Any reduction in income to the HRA could have a significant impact on these priorities.
- 3.2 As such, the Council already has processes in place to prevent any rent arrears accruing through early engagement with all tenants who fall behind with their rent. We offer advice and assistance and also refer to specialist support and advice agencies. All of our processes are in line with the guidance in relation to pre-action requirements contained within the Housing (Scotland) Act 2001 and 2010.
- 3.3 Where tenants engage with the Council, it is generally possible to agree a reasonable and sustainable repayment plan, based on individual circumstances to avoid further debt and remove the risk of eviction for rent arrears.
- 3.4 Unfortunately, there are occasions when tenants do not engage or repeatedly fail to maintain repayment arrangements and the Council is sometimes left with little choice but to evict. However, these cases are in the minority and eviction is always a last resort option and is only utilised where the Council is satisfied that there is no legitimate underlying reason for non-payment.

4. PROPOSAL FOR RECOVERY ACTION FOR RENT ARREARS SOLELY ATTRIBUTABLE TO SIZE CRITERIA

Additional Prevention Measures

- 4.1 Additional measures have already been put in place to mitigate the impact of the size criteria and all those affected by this reduction in housing benefit have received a visit in order to ensure that they are fully aware of the impact on their household and to provide support, advice and assistance to prevent them falling into arrears.
- 4.2 However, late changes to the size criteria regulations which prescribe circumstances in which additional bedrooms can be awarded were made after most Council's had engaged with those affected and had calculated and notified tenants of their 2013/14 benefit award and this resulted in a need to re-engage with those affected to review their circumstances.
- 4.3 In relation to the reclassification of bedrooms, this is being looked at on a case by case basis, using the current guidance and any case law.

- 4.4 As far as possible, the Council is also ensuring that we have maximised any exemptions or protection under the Housing Benefit legislation and have awarded DHP for those in exceptional need in line with council policy.

Arrears arising from the impact of under occupation

- 4.5 In line with our current rent collection procedure, we will continue to work with tenants to ensure that they pay their rent on a regular basis and through early intervention, work with them to prevent debt arising. In addition, where rent arrears do occur we will continue to work within our current rent arrears procedure as outlined in Section 3 above with a view to recovering any monies owed.
- 4.6 The current procedure can continue irrespective of any additional debt which is attributable to the impact of the size criteria restriction, however, we would record this separately to monitor the position.
- 4.7 It should be noted that there is currently no legal framework to allow this debt to be dealt with differently from any other non payment of rent and therefore the current legislation in relation to recovery of rent arrears applies.
- 4.8 However, some Council's have indicated that where tenants accrue rent arrears which are solely attributable to size criteria and the Council is satisfied that the tenant is doing all that can be reasonably expected to in order to avoid falling into arrears, they will use all legitimate means to collect rent due, except eviction. Most authorities who have made this commitment have done so for an initial period of one year (2013/14) with a commitment to review the position thereafter.
- 4.9 If Members were minded to replicate this within Falkirk Council the potential impact, as a direct result, could be a loss of income to the HRA of around £0.5m for 2013/14. There is also the potential indirect/unintended loss of income where tenants not afforded the protection attempt to justify their non payment on the back of this approach.
- 4.10 Furthermore, if this were to be introduced, only those households with a clear rent account at 1st April 2013 should be considered under a "no eviction" procedure. For those tenants where recovery of possession action has commenced or where the arrears are not due to size criteria, the current rent recovery procedure would still apply.
- 4.11 For those with arrears at 1st April 2013, who are making a reasonable and sustainable repayment plan, but have been impacted by the size criteria and therefore cannot afford to pay the extra charge in addition to the existing arrangement, the original repayment plan could remain in place for 2013/14 i.e. there would be no increase in their repayment amount.

5. RECOMMENDATIONS

Members are invited to:

- 5.1 Note the contents of this report and the impacts of size criteria**
- 5.2 Consider the options available in relation to dealing with arrears arising from size criteria as outlined in paragraphs 4.5 – 4.11 and determine if changes to the current rent arrears collection procedures should be introduced for 2013/14, with a review in 12 months**
- 5.3 Agree an increase in the DHP budget to the ceiling of £205,047.**

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Background Papers

Welfare Reform Report to Council 6 March 2013