



## MORAY COUNCIL

### TEMPORARY ACCOMMODATION CHARGING POLICY

<b>Author</b>	Housing and Property Services
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## **1. Scope of the policy**

- 1.1 This policy details the framework used by the Council in the charging of rent and service charges to homeless households for the provision of temporary accommodation.

## **2. Strategic context**

- 2.1 The Temporary Accommodation Charging Policy will assist the Council to tackle homelessness, which meets the aims of Moray 2027, the Local Housing Strategy and the Rapid Rehousing Transition Plan.

## **3. Objectives and principles of the policy**

- 3.1 The overall aim of the policy is to ensure that rent and service charges for temporary accommodation are set at an affordable level, provide financial sustainability and meet the cost of delivering temporary accommodation provision.
- 3.2 The specific objectives are:
- to use a cost effective and fair rent and service charge setting process;
  - to ensure temporary accommodation is an affordable option to all and does not act as a disincentive to work;
  - to ensure that sufficient income is generated to cover the cost of operating and managing temporary accommodation;
  - to ensure that rent and service charges are recovered to their maximum potential; and
  - to use recovery practices which take into account a household's income, whilst ensuring that those with the means to pay do pay.
- 3.3 The principles of the policy are to:
- comply with legislation and guidance and promote best practice;
  - ensure consistency in the provision of services and agreed practices uniformly across the service;
  - deliver good quality services which are efficient and effective; and
  - provide services that adhere to the principles of equal opportunities.

#### **4. Legislative and regulatory framework and guidance**

- 4.1 The Council will ensure that the Policy complies with current legislation and guidance and promotes good practice.
- 4.2 Councils have a statutory obligation to offer temporary accommodation when they assess a person or household as unintentionally homeless. The Housing (Scotland) Act 1987 Section 35(2) states that where this obligation exists, the applicant should pay a reasonable charge, as determined by the local authority in respect of the accommodation provided by the local authority, or that provided by another landlord but which is paid for by the local authority.
- 4.3 When carrying out functions under the Housing (Scotland) Act 1987 with respect to a homeless person and / or persons threatened with homelessness, local authorities are required to have regard to the Code of Guidance on Homelessness. Paragraph 8.84 of the Code states:  
“In deciding what is reasonable, the local authority should take account of what the applicant can pay in the longer term. If an applicant is being asked to pay for accommodation provided by or paid for by the local authority then the applicant should be informed in advance of the cost of the accommodation. They should also be assisted when applying for benefit to cover the cost of such accommodation. The local authority should take account of, and advise of, the likely level of benefit when considering charges”.
- 4.4 The Temporary Accommodation Standards Framework April 2023 sets out advisory standards in relation to temporary accommodation and it recommends that the following actions are undertaken:
- A household assessment to consider whether temporary accommodation offered is affordable by the household.
  - Providing households with a rent statement of charges, including any additional costs that are associated with temporary accommodation and how they are paid.

4.5 The Scottish Social Housing Charter sets out standards including those which tenants and homeless people can expect from social landlords. Outcome 14 states:

”Social landlords set rents and service charges in consultation with their tenants and other customers so that:

- a balance is struck between the level of services provided, the cost of the services and how far current and prospective tenants and service users can afford them.
- tenants get clear information on how rents and other money is spent, including details of individual items of expenditure above thresholds agreed between landlords and tenants.”

4.6 These outcomes reflect a landlord’s legal duty to consult tenants about rent setting, the importance of landlords taking account of what their current and prospective tenants and other customers are likely to be able to afford, and the importance that many tenants place on being able to find out how their money is spent. What is crucial is that discussions take place and the decisions made reflect the views of tenants and other customers.

4.7 The Council will seek to ensure that it complies with its duties under the Equalities Act 2010. Full consideration will be given to the Council’s Public Sector Equality Duty (PSED). This requires public authorities to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not.

## **5. Affordability**

5.1 The Council recognises that the cost of temporary accommodation is higher than for council housing. This can result in temporary accommodation being unaffordable for some households, for example those who are in employment or are not entitled to Housing Benefit.

5.2 In accordance with the Code of Guidance on Homelessness, the Council will:

- carry out a household assessment to consider whether accommodation is affordable for a household;
- consider the ability of any individual to pay charges in the longer term;
- give advance notice to an individual of any charges;
- assist an individual to apply for benefits to pay any charges; and
- take account of the likely level of benefit when considering charges.

5.3 The Council will seek to ensure that all tenants placed in temporary accommodation are given relevant information about entitlement to welfare benefits/income maximisation services in order to encourage optimum take up from tenants. It will encourage all those tenants who may be eligible for assistance to apply for appropriate benefits, for example Housing Benefit. This will assist to offset the effects of low income on the tenant's ability to pay. Where requested, the Council will provide assistance with the completion of application forms and progress claims.

## **6. Charging for temporary accommodation**

6.1 The income generated from the charging regime for temporary accommodation will be equivalent to full cost of operating the service. It must be sufficient to cover the costs of the provision of temporary accommodation in relation to management, service delivery, maintenance and repairs and void periods of the accommodation.

6.2 The charging regime for temporary accommodation is the baseline rent and a homeless service charge:

### **Rent setting mechanism**

6.3 Rent charges will be set in accordance with average council house rents, based on the size of property.  
The average council house rental figures will be reviewed and updated annually.

### **Homeless service charge**

6.4 The homeless service charge is reflective of the cost of providing temporary accommodation to homeless households.

- Housing management costs associated with the provision of temporary accommodation;
- Maintenance costs, including the provision of furnishings, equipment and utilities;
- Void rent loss;
- Staff costs; and
- Repair and renewal costs.

The homelessness service charge will be reviewed annually in conjunction with the annual budget setting process and will endeavour to ensure that the income generated meets the full cost of service provision. Tenants will be provided with a breakdown of the service charges.

6.5 When setting the charge for temporary accommodation, the Council will charge every household the same level, regardless of income. However, in order to ensure that temporary accommodation is an affordable option to all, the Council will only seek to recover those costs that it can reasonably be expected to collect.

6.6 Tenants have an obligation under the terms and conditions of their occupancy agreement to pay the temporary accommodation charge timeously. In addition, it is a tenant's responsibility to notify the Council of any change in their circumstances that may affect their ability to pay their temporary accommodation charge. Tenants will be reminded of their responsibilities when they sign their occupancy agreement and during their tenancy.

6.7 Tenants will be provided with information about the temporary accommodation charge at the start of their stay in temporary homeless accommodation including:

- the amount they must pay (rent and the homeless service charge);

- the importance of making regular payments and / or claiming Housing Benefit if appropriate;
- the methods they can use to pay their temporary accommodation charge; and
- advice on what they should do if they fall into arrears.

6.8 The service will endeavour to ensure that:

- homeless households remain aware of their responsibility to pay the temporary accommodation charge on time and the potential consequences of non-payment;
- it actively promotes the maximisation of tenants' income through benefits take up and money / debt advice; and
- homeless households receive information, advice and support on maximising their income by claiming appropriate benefits, improving personal budgeting skills and dealing with debt.

6.9 The Housing Needs Manager will be responsible for ensuring that charges for temporary accommodation continue to reflect good practice and fairness for all.

6.10 As part of the review process for the temporary accommodation charge, tenants will be consulted on any proposed temporary accommodation charge increase.

6.11 Tenants will be provided with at least 28 days' written notice in the event of any increase in the temporary accommodation charge.

## **7. Recovery of the temporary accommodation charge**

7.1 The Council recognises that some people may be unable to pay the amount of the temporary accommodation charge due for a variety of reasons. This may include poverty, or other reasons for financial exclusion, which the Council will endeavour to balance against its duty to recover the amount due.

- 7.2 It is a tenant's responsibility to pay, in full, the amount of the temporary accommodation charge that the Council seeks to recover.
- 7.3 Some tenants may be eligible to get assistance to pay the temporary accommodation charge through Housing Benefit. Tenants are responsible for applying for assistance and for pursuing any claims for assistance. The Council will provide advice and support to tenants upon request.
- 7.4 In situations, where a tenant may be eligible for assistance but chooses not to apply for assistance, or to pursue their claim, they will be expected to pay the full amount of the temporary accommodation charge that the Council seeks to recover.

### **Housing Benefit**

- 7.5 Where a tenant in temporary accommodation is eligible for the full award of Housing Benefit, the Council will seek to recover 100% of the temporary accommodation charge.
- 7.6 Where a tenant is only eligible for partial payment of Housing Benefit, the Council will seek to recover a reasonable amount (i.e. the average Council house rent plus 25% towards the homeless service charge).
- If the amount of Housing Benefit the tenant receives is more than the reasonable amount, the Council will recover all of the Housing Benefit awarded.
  - If the amount of Housing Benefit the tenant receives is less than the reasonable amount, the tenant will have to pay the difference.
- 7.7 Where a tenant in temporary accommodation is working and/or is not eligible for Housing Benefit, the Council will only seek to recover a reasonable amount (i.e. the average Council house rent plus 25% towards the homeless service charge).
- 7.8 Discretionary Housing Payments (DHP) are payments that the Council can make to people who require further financial assistance to meet their housing



costs. The Housing Service will provide tenants with information and advice about DHP, including the application process.

### **Overpayment of benefits**

- 7.9 Any overpayment of benefits to the tenant such as Housing Benefit will be recovered.

## **8. Recovery of arrears**

- 8.1 The Council will aim to minimise the level of arrears in a sensitive but effective manner, to enable an affordable solution to be agreed as quickly as possible, ensuring that there is early intervention in all cases before a debt becomes unmanageable.
- 8.2 The Council will use all appropriate methods of communication open to it when contacting homeless households in arrears. Face to face visits will be the preferred default communication method, however letters, phone calls, virtual appointments (such as Near Me), e-mail and text messages may be used if appropriate.
- 8.3 Arrears recovery will be based on a staged escalation process, up to and including repossession for non-payment of the temporary accommodation charge.
- 8.4 The process will be based on a preventative approach that seeks to maximise tenants' entitlement to benefits and secure regular payments.
- 8.5 Once arrears have arisen, prompt action will be taken to ensure that the arrears do not increase. The Council will endeavour to make sure that current temporary accommodation charge is paid, and then ensure that the arrears are recovered.
- 8.6 In cases where the tenant cannot clear the arrears in a single payment, the Council will agree an affordable payment to reduce the arrears in realistic and sustained instalments over a specific period of time. Any repayment

agreement will be based upon a detailed assessment of the tenant's finances and ability to pay.

- 8.7 The Council will maintain a comprehensive record of all action taken and all contact with tenants in arrears.
- 8.8 Legal action is the last stage in the arrears process. The Council will use all legal options open to us in the recovery of arrears where the homeless household is wilfully and knowingly refusing to pay their temporary accommodation charge, up to and including eviction or the ending of accommodation.
- 8.9 Tenants will be kept informed of, and fully involved in, the legal process at all stages of legal action. Legal action may include issuing a Notice to Quit, giving the tenant 40 days' notice to leave the property, and thereafter seeking recovery of possession and seeking a payment decree. In all cases, the Council will seek recovery of expenses. Expenses may be awarded where the arrears have been repaid. The Council will refer the tenant to suitable agencies who provide advice or assist in representation at court hearings.
- 8.10 The decision to request legal action to recover possession of the property and payment of arrears will only be taken when all other means of arrears recovery have been exhausted.

## **9. Review of decisions and complaints**

- 9.1 A review process exists for tenants who dispute the amount of temporary accommodation charge to be recovered, the level of arrears or any repayment plan. In the first instance, tenants can ask for an explanation from the Supported Accommodation Officer. If the tenant is not satisfied with the explanation provided, they can ask for an appointment with the Supported Accommodation Manager. The Supported Accommodation Manager will review the case and in the event of any dispute, will refer the case to the Housing Needs Manager.

9.2 The Council operates a Complaints Procedure that is available to any tenant who is not satisfied with the way in which their case has been dealt with. Details of the Complaints Procedure can be obtained on the Council's website and from the reception and information hubs.

## **10. Performance monitoring**

10.1 The Council will monitor performance relating to the temporary accommodation charge as follows:

- the total amount of temporary accommodation income due;
- the total amount of the temporary accommodation charge collected;
- the amount of arrears, by band showing number of accounts and total arrears due for each band; and
- the number of tenants evicted as a result of arrears.

10.2 The information detailed above will be reported annually to the Housing and Community Safety Committee. The reports will be public documents but the confidentiality of individual customers' circumstances will be maintained.

10.3 Other statistics will be collected from time to time for management and planning purposes.

## **11. Policy review**

11.1 The Council will review the Temporary Accommodation Charging Policy in 2027 or earlier if required by legislative changes.