
Report To:	Environment & Regeneration Committee	Date:	14 March 2024
Report By:	Director Environment & Regeneration	Report No:	ENV027/24/SJ/MM
Contact Officer:	Martin McNab	Contact No:	01475 714246
Subject:	Rent Policy for Temporary Accommodation		

1.0 PURPOSE AND SUMMARY

1.1 For Decision For Information/Noting

1.2 To agree a Rent Policy for Temporary Accommodation.

1.3 The Council is required to update and publish a rent policy. The proposed Rent Policy for Temporary Accommodation is attached at Appendix 1. Current rates remain at the 2023-24 level however this may be subject to change following a review of the homelessness service later in 2025. Any changes to the rates must take into account the pressures on the service and the need for transparency and fairness and will be brought to the Policy & Resources Committee in due course.

1.4 Unlike authorities with their own housing stock Inverclyde cannot recover support or management costs for temporary accommodation leased from RSLs. Moray Council for example charges those eligible for housing benefit twice the normal rent. For affordability reasons those required to contribute are charged 1.25 times the normal rent. By this means they cover a large part of the costs of the homelessness service. This option is not open to stock transfer authorities which can only recover 90% of the Local Housing Allowance (LHA) from housing benefit claims.

1.5 Glasgow and Dumfries and Galloway add a management fee to the costs of renting temporary accommodation from RSLs. These costs are not recoverable from housing benefit however. There may be advantages to this in recovering costs from those not eligible for Housing Benefit however discussion with homelessness suggests that the numbers who would not receive housing benefit are historically so low that this would have very little impact on service income. The rents charged by RSLs to the Council now almost all exceed the level recoverable from Housing Benefit.

2.0 RECOMMENDATIONS

2.1 That Committee approves the Rent Policy attached at Appendix 1.

3.0 BACKGROUND AND CONTEXT

- 3.1 As a housing stock transfer authority Inverclyde Council's Homelessness Service is reliant on a combination of the Inverclyde Centre and Temporary Furnished flats provided by local RSLs to house homeless people. In the case of the former, as a property owned by the Council, rents can be charged which reflect the costs of providing support to the homeless which are eligible for enhanced housing benefit. This can go some way towards supporting the homeless service albeit an unintended consequence of this is to make the long-term aim of withdrawal from the Inverclyde Centre as set out in the Rapid Rehousing Transition Plan (RRTP) more challenging financially.
- 3.2 For temporary furnished accommodation additional support costs can be charged against housing benefit where the property is owned by the local authority and the support is not "floating". Unfortunately, from the perspective of a stock transfer authority Temporary Furnished Accommodation is sourced from local RSLs with the Council as the tenant. This means that there is no ability to claim any costs against Housing Benefit with the rent covered by Housing Benefit being limited to 90% of the Local Housing Allowance (LHA).
- 3.3 In preparing the attached Rent Policy consultations have been carried out with other stock transfer authorities including Glasgow, which has well over 1300 temporary furnished flats in use by homelessness. The primary aim of this was to see if there were any means of maximising housing benefit in temporary furnished accommodation. Unfortunately, there seems to be no way round the housing benefit limit which puts stock transfer authorities at a disadvantage in terms of recovering support costs.
- 3.4 Prior to April 2017 Councils were able to recover management costs for temporary accommodation through Housing Benefit but in April 2017 these costs were funded via a devolved grant from the Scottish Government. Glasgow City Council sets its charges for Temporary Furnished Accommodation at a level to account for these costs via the charge. Where people are eligible for housing benefit, which will be the case in the vast majority of cases, the charges over and above 90% of the LHA are met by the Council from the devolved grant. It is likely that, even if the proportions of homeless people liable to pay are similar to Inverclyde, the absolute number is not insignificant over 1300 properties, therefore this gives Glasgow a means of recovering some costs. It is debatable whether this would be of any advantage in Inverclyde.
- 3.5 In the case of other stock transfer authorities, Dumfries and Galloway Council takes a similar approach to Glasgow in charging the RSL rent plus a service charge. Argyll & Bute charges over 90% of LHA and Scottish Borders increases charges in line with local RSL rates. For each the difference will need to be made up by the Council where homeless applicants are eligible for housing benefit. There may be benefits to this approach from a transparency perspective however, as the overwhelming majority of homeless applicants in Inverclyde are eligible for housing benefit, there is likely to be little financial advantage.
- 3.6 The above having been said, at current rent levels of 90% of LHA the homelessness Service faces a projected shortfall against rents charged by local RSLs, assuming an average increase of just over 6% which is in line with current rent consultations from the RSLs. Pressures on the service mean that the number of temporary furnished flats may rise over the course of the year increasing the shortfall.
- 3.7 A report for the Legal Services Agency "Charges for Temporary Homeless Accommodation in Scotland: Law and Reality" in 2021 highlighted that very few authorities had Temporary Accommodation Rent Policies. The report also highlighted the legal requirements for authorities to consider the ability of applicants to pay and to support them in the process of applying for housing benefit where appropriate.

- 3.8 The level of subsidy for temporary accommodation is recognised as an issue for homelessness services across Scotland. CoSLA is currently seeking agreement with the Scottish Government to make joint representations to DWP to improve the level of subsidy.
- 3.9 Rent charged for the Inverclyde Centre can go some way to covering the costs of the Homeless Service. An unintended consequence of this however is that it potentially ties the service model to the Inverclyde Centre which is not in line with the long-term aspiration for the Homelessness Service.

4.0 PROPOSALS

- 4.1 That Committee approves the attached Rent Policy for Temporary Accommodation.
- 4.2 That a report is brought to a future Committee setting rents for both Temporary Furnished Accommodation and the Inverclyde Centre taking into account the pressures on the Homelessness Service, the future model for homelessness Accommodation and the recoverability of rents.

5.0 IMPLICATIONS

- 5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO
Financial		X
Legal/Risk		X
Human Resources		X
Strategic (Partnership Plan/Council Plan)		X
Equalities, Fairer Scotland Duty & Children/Young People's Rights & Wellbeing		X
Environmental & Sustainability		X
Data Protection		X

5.2 Finance

There are no implications to this report however clearly the shortfall in income attainable from Housing Benefit against the rents charged by RSLs indicates a need to consider the funding of homelessness in the medium to long term.

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

5.3 Legal/Risk

The attached policy should meet the requirements of the legislation and Scottish Government guidance.

5.4 Human Resources

N/A

5.5 Strategic

N/A

5.6 Equalities, Fairer Scotland Duty & Children/Young People

N/A

(a) Equalities

This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

X	YES – Assessed as relevant and an EqIA is required.
	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required. Provide any other relevant reasons why an EqIA is not necessary/screening statement.

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

X	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
	NO – Assessed as not relevant under the Fairer Scotland Duty for the following reasons: Provide reasons why the report has been assessed as not relevant.

(c) Children and Young People

Has a Children's Rights and Wellbeing Impact Assessment been carried out?

X	YES – Assessed as relevant and a CRWIA is required.
	NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children’s rights.

5.7 Environmental/Sustainability

Summarise any environmental / climate change impacts which relate to this report.

None

Has a Strategic Environmental Assessment been carried out?

	YES – assessed as relevant and a Strategic Environmental Assessment is required.
X	NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

5.8 Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

6.0 CONSULTATION

6.1 The Corporate Management Team has been consulted on this report and policy.

7.0 BACKGROUND PAPERS

7.1 None.

Inverclyde Council Temporary Accommodation Rent Policy

Contents

1. Scope of the policy
2. Strategic context
3. Objective and principles of the policy
4. Legislative and regulatory framework and guidance
5. Affordability
6. Charging for temporary accommodation
7. Recovery of the temporary accommodation charge
8. Recovery of arrears
9. Review of decisions and complaints

1. Scope of this 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 outline the rent which will be set for temporary accommodation and will contribute in tackling homelessness in Inverclyde, aligning with Inverclyde Council's Local Housing Strategy (2023-2028) and Inverclyde Health and Social Care Partnership Rapid Rehousing Transition Plan 2020.

2.2 In 2007 Inverclyde Council entered into a stock transfer agreement where Inverclyde Council would cease to own or operate council housing stock and the stock would be transferred to local registered social landlords (RSLs) with the creation of a new RSL, River Clyde Homes. This means that whilst Inverclyde Council and the Inverclyde Health and Social Care Partnership retain responsibility for addressing homelessness, temporary furnished accommodation must be sourced from local RSLs.

2.2 It should be noted that the relationships between the Council and the service user differs as a result of the stock transfer as the Council is not the owner of the temporary furnished accommodation. As a result of this support and management charges cannot be recovered through the housing benefit system, as would be the case if the Council owned stock. For temporary furnished accommodation leased from RSLs 90% of the Local Housing Allowance can be recovered. As this level was set in 2011 and RSL rents have increased substantially this is, in the vast majority of cases, below the rent charged to the Council.

2.3 The exception to 2.2 above is the Inverclyde Centre which is owned and operated by the Council, providing self-contained accommodation. Support costs can be recovered through enhanced housing benefit in the Inverclyde centre and rents are set accordingly.

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.

3.2 The specific objectives are:

- to set out a transparent and fair rent setting policy.
- to ensure temporary accommodation is an affordable option to all and does not act as a disincentive to work; 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.

3.4 The execution of this policy involves the Council and HSCP being responsible for dealing with homelessness. However, since Inverclyde Council is a post-stock transfer authority, RSLs are the providers of temporary accommodation. This means that:

- The relationship between the Council and HSCP with the homeless person is between Service Provider and Service User, where the Service Provider is the Council and HSCP, and Service User is the homeless person.

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. It prioritises:

- 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 providing temporary accommodation is higher than the costs of providing mainstream social housing. If the costs were to be passed on this could 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, where necessary:

- 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 Service Users placed in temporary accommodation are given relevant information about entitlement to welfare benefits/income maximisation services in order to encourage optimum take up from Service Users. It will encourage all those Service Users 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 Service Users 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 Rents for both the Inverclyde Centre and for temporary furnished flats need to take into account:

- the costs to the Homelessness Service of providing both the accommodation and any surrounding support;
- the ability to recover costs both from housing benefit and those required to pay; and
- The need for fairness and transparency in charges.

Rents will be set on an annual basis and approved by the Policy & Resources Committee.

6.2 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.

6.3 Service Users have an obligation under the terms and conditions of their occupancy agreement to pay the temporary accommodation charge timeously. In addition, it is a Service

Users responsibility to notify the Council of any change in their circumstances that may affect their ability to pay their temporary accommodation charge. Service Users will be reminded of their responsibilities when they sign their occupancy agreement and during their tenancy.

6.4 Service Users 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;
- 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.

6.5 The Homelessness 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 Service Users' 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.

6.6 The Housing Options and Homeless Service will be responsible for ensuring that charges for temporary accommodation continue to reflect good practice and fairness for all.

6.7 Service Users 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 Service Users responsibility to pay, in full, the amount of the temporary accommodation charge that the Council seeks to recover.

7.3 Some Service Users may be eligible to get assistance to pay the temporary accommodation charge through Housing Benefit. Service Users are responsible for applying for assistance and for pursuing any claims for assistance. The Council will provide advice and support to Service Users upon request.

7.4 In situations, where a Service User may be eligible for assistance but chooses not to apply for assistance, or to pursue a Housing Benefit claim, they will be expected to pay the full amount of the temporary accommodation charge that the Council seeks to recover.

7.5 Where a Service User 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 Service User is only eligible for partial payment of Housing Benefit, the Council will seek to recover a reasonable amount.

7.7 Where a Service User in temporary accommodation is working and/or is not eligible for Housing Benefit, the Council will only seek to recover a reasonable amount.

7.8 Overpayment of Housing Benefit will be recovered in accordance with The Housing Benefit Regulations 2006

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.

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 Service Users 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 Service User 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 Service Users finances and ability to pay.

8.7 The Council will maintain a comprehensive record of all action taken and all contact with Service Users 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 Service Users 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 Service User 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 Service User 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 Service Users who dispute the amount of temporary accommodation charge to be recovered, the level of arrears or any repayment plan. In the first instance, Service Users can ask for an explanation from the Service.

9.2 The Council operates a Complaints Procedure that is available to any Service User 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. .