



Cambridge City Council Housing Scrutiny Committee

Date: Tuesday, 12 March 2024

Time: 5.30 pm

Venue: Council Chamber, The Guildhall, Market Square, Cambridge, CB2 3QJ [access the building via Peashill entrance]

Contact: democratic.services@cambridge.gov.uk, tel:01223 457000

Second Circulation Agenda

- 10 Rent Regulation Error Refund / Remediation Policy (Pages 5 - 14)

This is a key decision. The following report relates to a key decision that has not been included on the Forward Plan for the whole 28-day requirement before the meeting because an urgent decision that now necessitates this report was not made until 26 February 2024 and legal advice was also awaited. With the permission of the Chair of Housing Scrutiny Committee the urgency procedure has been invoked to suspend the 28 day requirement so that the item can be considered at Committee so it is open to scrutiny and debate rather than a decision being made through the out of cycle process.

Housing Scrutiny Committee Members: Pounds (Chair), Robertson (Vice-Chair), Griffin, Holloway, Lee, Martinelli, Swift, Thittala Varkey and Tong

Alternates: Baigent, Bennett, Levien, Nestor and Porrer

Tenants and Leaseholders: Christabella Amiteye (Tenant Representative), Diane Best (Leaseholder Representative), Mandy Powell-Hardy (Tenant Representative) and Diana Minns (Tenant Representative)

Executive Councillors: Bird (Executive Councillor for Housing and Homelessness)

Information for the public

The public may record (e.g. film, audio, tweet, blog) meetings which are open to the public.

For full information about committee meetings, committee reports, councillors and the democratic process:

- Website: <http://democracy.cambridge.gov.uk>
- Email: democratic.services@cambridge.gov.uk
- Phone: 01223 457000

This Meeting will be live streamed to the Council's YouTube page. You can watch proceedings on the livestream or attend the meeting in person.

Those wishing to address the meeting will be able to do so virtually via Microsoft Teams, or by attending to speak in person. You must contact Democratic Services democratic.services@cambridge.gov.uk by 12 noon two working days before the meeting.

The full text of any public question must be submitted in writing by noon two working days before the date of the meeting or it will not be accepted. All questions submitted by the deadline will be published on the meeting webpage before the meeting is held.

Further information on public speaking will be supplied once registration and the written question / statement has been received.

Housing Scrutiny Committee

Terms of Reference

A. Overview and scrutiny of the strategic and other housing functions for which the Executive Councillor for Housing is responsible, including responsibility for the development of housing strategies and policies, tackling homelessness, the Council's housing responsibilities with regard to the private rented sector, bringing vacant homes back into use, the development of new homes and partnership working with other housing providers.

B. Overview and scrutiny of functions relating to the management of the Council's housing stock.

C. To be the main discussion forum between the Council, its tenants and its leaseholders for all matters relating to the landlord function of Cambridge City Council.

Membership

City Councillors (Such number as shall be decided by the Council from time to time)

Six elected tenants and leaseholders of Cambridge City Council of whom at least five shall be tenants of Cambridge City Council.

Appointment of tenant and leaseholder members

Tenant and leaseholder members shall be co-opted by the Scrutiny Committee following the procedure for election set out in the Overview and Scrutiny Procedure Rules in Part 4E.

Voting

Tenant and leaseholder members are voting members in respect of matters concerning the management of the Council's housing stock (Part 1 of the agenda.) Tenant and leaseholder members may contribute to discussion of other matters (Part 2 of the agenda) but shall not have a vote.

Appointment of Chair

The Chair of the Scrutiny Committee shall be appointed by the Council and be a councillor and shall chair Part 2. The Vice-chair shall be nominated by the elected tenants and leaseholders and shall chair Part 1 if present. If the Chair or Vice-chair is not present, a councillor shall be appointed as the Vice-chair for that meeting.

Other matters relating to elected tenants and leaseholders

These are set out in the Overview and Scrutiny Procedure Rules in Part

4E. They include information about the roles, responsibilities and training of tenant and leaseholder representatives, expenses and allowances, and the circumstances in which they may cease to be members of the Committee.



Rent Regulation Error Refund / Remediation Policy

To:

Councillor Gerri Bird, Executive Councillor for Housing and Homelessness

Report by:

Julia Hovells, Head of Finance and Business Manager

Tel: 01223 - 457248

Email: julia.hovells@cambridge.gov.uk

Wards affected:

Abbey, Arbury, Castle, Cherry Hinton, Coleridge, East Chesterton, King's Hedges, Market, Newnham, Petersfield, Queen Edith's, Romsey, Trumpington, West Chesterton

Key Decision

This is a key decision. The following report relates to a key decision that has not been included on the Forward Plan for the whole 28-day requirement before the meeting because an urgent decision that now necessitates this report was not made until 26 February 2024 and legal advice was also awaited. With the permission of the Chair of Housing Scrutiny Committee the urgency procedure has been invoked to suspend the 28 day requirement so that the item can be considered at Committee so it is open to scrutiny and debate rather than a decision being made through the out of cycle process.

1. Executive Summary

- 1.1 In late 2023, the Council identified two potential breaches of the rent regulations, which following legal advice were both confirmed as such.
- 1.2 The breaches in regulations have resulted in some tenants being historically over-charged, with the need to refund any overpayment.

- 1.3 This report seeks approval for a refund policy specific to this issue, to sit alongside any other refund policy, to ensure that there is clarity and consistency in respect of considering and making these refunds.

2. Recommendations

The Executive Councillor, is recommended, following scrutiny and debate at Housing Scrutiny Committee, to:

- a) Approve the Rent Regulation Error Refund / Remediation Policy as detailed in Appendix A.

3. Background

- 3.1 In the latter part of 2023, officers identified, and had confirmed two historic breaches of rent regulations.
- 3.2 One was in respect of not correctly applying annual increases and four years of 1% rent cuts in affordable rented homes and the second in respect of incorrectly identifying gas and electrical and mechanical maintenance service charges separately from rent in socially rented homes from April 2004.
- 3.3 Officers have worked to ensure that all rents are corrected from April 2024 onwards, meaning that the period of over-charge could span from April 2004 to March 2024. There are a significant number of both current and former tenants impacted by these historic errors, with the need to calculate over-charges and any resulting over-payment during the relevant period of occupation on a case-by-case basis.
- 3.4 Before any refund is made, consideration will need to be given to whether any of the rent or service charge has been met by the DWP in the form of Housing Benefit or Universal Credit and whether the tenant has any outstanding housing related debt.
- 3.5 Appendix A sets out the proposed Rent Regulation Error Refund / Remediation Policy for consideration, to ensure that there is clarity and consistency for officers and tenants when considering and making multiple refunds over the coming months.

4. Implications

(a) Financial Implications

The financial implications arising from the need to make refunds in respect of the affordable rent regulation error were incorporated into the HRA Business Plan and budget in January 2024. The financial implications arising from the need to make refunds in respect of the service charge rent regulation error will be quantified over the coming months and will be incorporated into the next iteration of the HRA Business Plan and budget later in 2024.

(b) Staffing Implications

The approval of this refund policy does not have any direct staffing implications, but the staffing implications arising from the project to administer the refunds will be addressed by providing additional resource as identified in the urgent decision made on 26 February 2024.

(c) Equality and Poverty Implications

This report considers the need to refund tenants for sums historically over-charged, so no tenant will be asked to pay anything more as part of this policy, and many will receive money back. All affected tenants have been directed to our financial inclusion service if they are concerned about the impact of the error for their specific financial circumstances, and our partner organisations who can also provide financial support and advice will be kept informed.

(d) Net Zero Carbon, Climate Change and Environmental Implications

There are no direct net zero carbon, climate change or environmental implications associated with this report.

(e) Procurement Implications

The approval of this refund policy does not have any direct procurement implications, but any procurement implications arising from the project to administer the refunds will be addressed as they arise. Legal advice has been procured via a framework to date and staffing resource through the Council's temporary agency contract. There will need to be consideration given to the

procurement of any other external support required as the project proceeds, and officers will engage with the Procurement Team.

(f) Community Safety

There are no direct community safety implications associated with this report.

5. Consultation and communication considerations

Consultation with tenant and leaseholder representatives is an integral part of the Housing Scrutiny Committee process.

6. Background papers

Background papers used in the preparation of this report:

There were no specific background papers used in the preparation of this report.

7. Appendices

- Appendix A – Rent Regulation Error Refund / Remediation Policy

8. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

Julia Hovells, Head of Finance and Business Manager

Telephone: 01223 – 457248 or email: julia.hovells@cambridge.gov.uk.

RENT REGULATION ERROR REFUND / REMEDIATION POLICY

2024 – 2027

1 - Introduction

This policy is concerned with the approach the Council will take to refunding any overpayment of rent and / or service charges arising from a rent regulation / rent calculation error made by the Council.

This policy sits alongside the Housing Related Debts Refund Policy and applies only in this specific circumstance. In all other instances where a refund is due, the Housing Related Debts Refund Policy will apply.

2 - Overview and General Principles

- a) The Council will prioritise calculating and making refunds to current tenants, before calculating and making refunds to former tenants.
- b) The Council will ensure that any overcharges in rent or service charges paid by the DWP in the form of Housing Benefit will be refunded to the DWP and not the tenant / former tenant.
- c) The Council will ensure that any overcharges in rent or service charges paid by the DWP in the form of Universal Credit will be refunded in line with instruction received from the DWP.
- d) Due to the complexity of calculating tenant's refunds where any of the rent and service charges have been met by Housing Benefit these refunds may take longer to process.
- e) Where a tenant may have held multiple tenancies with the Council, these will be treated separately for the purposes of calculating and communicating any overpayment, but any debts which remain outstanding from a tenant in respect of former tenancies may be taken into consideration prior to making payment of any refund due.
- f) Joint to sole tenancies, sole to joint tenancies and mutual exchanges will be treated as separate tenancies for the purpose of calculating overcharges and

making payment of any refund, in line with the way that tenancies are displayed in the rent accounting system

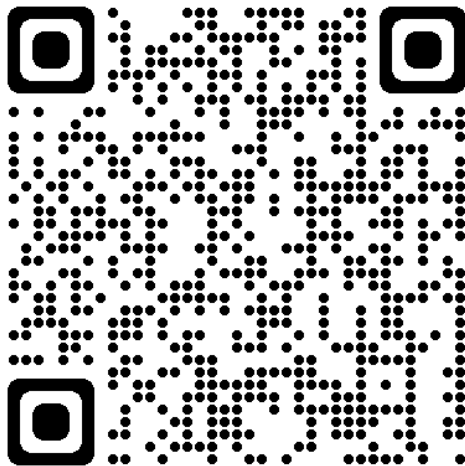
- g) Refunds will be calculated back to the date from which the error occurred, or the date from which the Council holds data in its rent accounting system if this is later.
- h) The gross value of any overcharge will be applied to the rent account, with deductions made to this for any sums due back to the DWP in respect of Housing Benefit or Universal Credit (as instructed by the DWP).
- i) Interest will not be paid on refunds as the Council does not charge interest on housing related debt including rent arrears, rechargeable repairs and Housing Benefit overpayments. This is consistent with any other overpayments made across the Council.
- j) In the event of a joint current tenancy, communication will be made with the tenants at the property address, but instruction in connection with any refund due will be taken from any of the named current tenants.
- k) In the event of a joint former tenancy, the Council will attempt to contact all tenants. During the tenancy, the tenants will have been jointly and severally liable for any rent and service charges. Therefore, any refund will be treated in the same way. If one of the joint tenants makes contact with the Council and can provide the required information to enable verification of the tenancy to take place, written authority from the other joint tenant(s) will be required to enable any refund to be paid. If former joint tenants have separated, any refund due will be split equally between the parties.
- l) In the event of a former tenant having passed away, any refund due will be made to the executors of the estate if they can provide the required information (detailed in Section 4) to enable validation to take place.
- m) All bank account details supplied will be verified prior to the Council making any refunds. Bank accounts will need to be in the name of the tenant / former tenant. In the event of a joint tenancy, the bank account will need to be in the name of one of the tenants or be a joint bank account in both of their names. The Council will use bank account verification software to perform checks to protect tenants / former tenants from errors or fraud. Where we are unable to use bank account verification software we will require a bank statement confirming the supplied bank details. If a tenant or former tenant provide evidence that they do not hold a bank account in their name, then the Council

may accept a signed letter of authority to pay to a bank account in a different name at its discretion.

3 - Current Tenants

Once an overcharge has been calculated, and any sums owing have been repaid to the DWP, before making any payment of a refund to the tenant the following will apply:

- a) The overpayment will first be offset to clear any housing related debt with the Council (as landlord) to include rent arrears, court costs, rechargeable repairs and Housing Benefit overpayments, relating to both current tenancies and any former tenancies held.
- b) The refund will then be applied to the current rent account, with the tenant having the option to choose whether they would like the sum refunded to their bank account or left on their rent account to reduce future rental payments.
- c) If the Council does not receive a request for a refund to be made direct to a bank account, the credit will be left on the rent account.
- d) Once any credit balance is exhausted, the tenants will have responsibility to ensure that they begin to make rent payments again. The Council suggests that current tenants sign up to the Cambridge City Council Self-service Housing Portal (if not done so already) where the current rent balance can be checked. This can be done by going to the Cambridge City Council website, selecting 'Housing', and following the instructions to register and create an account. Or scan the QR code below:



- e) Where a credit balance is left on the rent account and the tenant pays by Direct Debit, payments will be reduced by splitting the credit equally across the remaining number of Direct Debit payments in the financial year, unless otherwise instructed. Where a credit balance still remains at the end of a financial year, payments will be reduced by splitting the remaining credit equally across the new financial year.
- f) Where the current tenancy is in joint names, the Council will take instruction from the first tenant to make contact in response to a communication by the Council, paying any refund due and requested to the bank account (or accounts if the payment is to be split) supplied by this tenant.

4 - Former Tenants

This section of the policy sets out the Councils approach to refunding any sums that may be due to former tenants, where the Council will hold variable levels of data depending upon the timeframe and circumstances of the former tenancy.

- a) Where the Council holds details of a former tenant's rent account in the rent accounting system, and a forwarding address is present, the Council will attempt to verify the forwarding address through the Council Tax system. Once verified, the Council will write once to the former tenant at this address. If no response is received to this letter within 6 years, the credit on the rent account will be removed and no refund will be made after this date.
- b) Where the Council holds details of a former tenant's rent account in the rent accounting system, but no forwarding address is present, the Council will attempt to identify the forwarding address through the Council Tax system. If a forwarding address is identified, the Council will write once to the former tenant at this address. If no response is received within 6 years, the credit on the rent account will be removed and no refund will be made after this date.
- c) The Council anonymises personal data in compliance with UK GDPR where a former tenant rent account is over 6 years old and has a zero-balance outstanding. In such instances, there is no rent account to apply any overcharge to and no means by which the Council can identify the former tenant to contact them. The Council will provide details of the rent regulation / rent calculation error on its website and supply a web form that any former tenant who thinks they may be eligible for a refund can complete and submit. In this instance, the former tenant will be asked to provide:
 - Name
 - Address of tenancy

- Period of tenancy
- Tenancy agreement (if still held)
- Utility bill (if still held)
- Evidence of payment of rent (rent card / bank statement extract)
- Bank account details for any refund due to the tenant
- Any other evidence to support the existence of their tenancy.

Based on the information provided the Council will then make reasonable attempts to validate the claim by checking the Council Tax system and liaising with the Housing Benefit Team.

There is no guarantee that a refund will be paid in these circumstances and the Council will retain full discretion when considering such claims. If the Council is unable to satisfactorily validate the claim once these checks have been completed, no refund will be paid. If a former tenant is dissatisfied with the outcome arrived at by the Council through this refund policy, they will be advised to make a complaint through the Council's formal complaints process.

Where a former tenant account has been verified,

- d) The overpayment will first be offset against any housing related debt with the Council (as landlord) held in the rent accounting system, to include rent arrears, court costs, rechargeable repairs and Housing Benefit overpayments, relating to any former tenancy between the former tenant and the Council.
- e) In the event of 4 a) or 4 b) the credit will be applied to the rent account, with any sum due to the tenant refunded directly into the nominated bank account.
- f) If the event of 4 c) any refund due to the tenant will be made directly into the nominated bank account, as there is no rent account to reflect the transactions within.
- g) Where the former tenancy was in joint names, the Council will take instruction from the first tenant to make contact, paying any refund due to the bank account (or accounts if the payment is to be split) supplied by this tenant.

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