
Report to: Clackmannanshire Council

Date of Meeting: 30th November 2023

Subject: Housing Services Eviction Data and Approach

Report by: Strategic Director (Place)

1.0 Purpose

- 1.1. This report is in response to a motion agreed at Council on 5th October 2023. The motion stated, “that Officers will present a report to the next meeting of the Council outlining the Housing Service approach to evictions following confirmation of a 350% increase in Council Evictions between the period 2021/22 and 2022/23.”

2.0 Recommendations

- 2.1 It is recommended that Council:
- 2.2 Note the data in relation to evictions.
- 2.3 Note the legislative background and approach taken by the Housing Service in regards to evictions action.

3.0 Considerations

This table below details evictions from 2016/17 to 2022/23. It demonstrates how various pieces of legislation introduced by the Scottish Government limited the use of evictions from 2020/21.

Clackmannanshire Council Evictions 2016/17 to 2022/23

Year	No. of NTR's served	Evictions complete	% court actions initiated which resulted in eviction	Average arrears of those evicted	Highest arrears amount of those evicted
2016/17	159	10	13.51%	£3,292	£4,350
2017/18	404	19	14.39%	£3,262	£5,040
2018/19	363	36	33.96%	£2,648	£5,342
2019/20	310	19	20.43%	£3,105	£6,555
2020/21	No evictions				
2021/22	141	7	26.92%	£4,116	£5,136
2022/23	259	27	45.76%	£4,224	£8,101

- 3.1. This table shows the number of evictions complete by type per year from 2016/17 to 2022/23:

Year	Rent Evictions	Anti-social Behaviour (ASB) Evictions	Other Evictions *
2016/17	10	0	0
2017/18	18	1	1
2018/19	35	0	1
2019/20	19	0	0
2020/21	0	0	0
2021/22	5	1	1
2022/23	23	2	2

'Other' evictions can be for various reasons under a number of the grounds for evictions for example for the condition of the property or if a tenant is not using their property as their principal home.

- 3.2. It is challenging to look at the last 3 years comparatively. It should be noted that the unintended consequences of an eviction ban meant several tenants took advantage of well intended legislation by not paying their rent, which has meant that some tenants have the highest arrears balances the service has seen.
- 3.3. This table demonstrates the high level of engagement attempts Housing Officers try to stop rent arrears cases escalating. Please note this information is from 2022/23, to pull from previous years would be time consuming and disproportionate:

Number of evictions	23
Total number of contact attempts	1,251
Average per case	54
Total number of arrangements broken	73

- 3.4. As at 20th October 2023, Housing have 5 decrees that are unenforceable, due to the further protections added under The Cost of Living (Tenant Protection) (Scotland) Act 2022. These are where rent balances are less than £2,250.
- 3.5. Of the 27 Households evicted in 2022/23, 14 made a homeless application within the same financial year. The majority were found to be intentionally homeless. Where an applicant was accepted for rehousing, this was due to a change in their circumstances. The Council received 593 Homeless applications in 2022/23 therefore those evicted from Council tenancies, applying to be considered as homeless represented just 2% of homeless applications.
- 3.6. The Council's tenancy agreement sets out obligations on both the landlord and tenants in terms of their responsibilities.
- 3.7. Before legal action is considered there are several activities and engagements actioned to ensure tenants are supported to adhere to their tenancy conditions.
- 3.8. The Housing (Scotland) Act 2010 introduced pre-action requirements that all social landlords should comply with when seeking possession of a social tenant's property because of rent arrears. This requirement came into force on 1st August 2012. The aim of the pre-action requirements was to protect tenants in a number ways as follows:
- Early intervention – to ensure that social landlords engage with tenants who are in rent arrears as soon as possible,
 - Eviction as a last resort – ensuring that eviction is always a last resort in rent arrears cases,
 - Alternative to eviction – to make sure that all social landlords consider alternatives to eviction in rent arrears cases,
 - Consistency – to ensure that all social landlords across Scotland are consistent in their approach to handling cases which involve rent arrears.
- 3.9. Part 1, Schedule 2 of the Housing (Scotland) Act 2001 outlines the grounds where evictions can be sought in Court. The first seven grounds for repossession are collectively known as 'conduct' grounds.

- 3.10. It must be reasonable for the court to grant the order. In addition to establishing the ground, the landlord must also satisfy the sheriff that it is reasonable to grant the order for possession. The onus in the legislation is on the landlord to prove reasonableness. The burden then shifts to the tenant to persuade the sheriff that, although the ground has been established, it is not reasonable to grant the order. In deciding whether to grant possession, the sheriff must take into account every factor that is relevant to the tenant and the case as a whole.
- 3.11. The information in section 3.10 in relation to the 'reasonable test' does not apply where ground 2 is used and the notice was served within 12 months of the conviction). The Housing (Scotland) Act 2014 removed the test of reasonableness for actions relying upon ground 2 as long as the notice is served within 12 months of the date of conviction. Further information on this process is in sections 3.13 - 3.15.
- 3.12. Antisocial Behaviour etc. (Scotland) Act 2004 brought a number of different powers to the Local Authority and Police Scotland to deal with anti-social behaviour (ASB). Housing Officers should use the tools in this legislation to try and modify the behaviour of the person who is acting in an anti-social manner. Any legal case brought to a Sheriff has to demonstrate that the Council has tried to modify the behaviour and given the tenant the necessary supports to help that tenant.
- 3.13. Further to the previous Acts mentioned further provisions were introduced in the Housing (Scotland) Act 2014. One of the measures in this Act is a streamlined eviction process where there has been a recent criminal conviction punishable by imprisonment for tenancy related anti-social or criminal behaviour with the previous 12 months. This provision took effect from 1st May 2019.
- 3.14. The purpose of the streamlined eviction process is to help landlords to take action on serious anti-social or criminal behaviour more quickly to reduce the harm that is caused to individuals and communities.
- 3.15. The legislation states that prior to any court action for a streamlined conviction the landlord must give consideration to the guidance. To assist with this obligation a form was created which is included in the ASB procedures. The Housing Officer should complete this and then arrange to speak to their Senior Housing Officer prior to it being passed to the Legal Service.
- 3.16. Notice periods for evictions were extended to 6 months for most types of evictions on 7th April 2020 in response to the coronavirus pandemic. This had previously been 1 month.
- 3.17. As a result of the Health Protection (Coronavirus) (Protections from Eviction) (Scotland) Regulations 2020, evictions were banned. This came into effect from 11th December 2020. This ban remained in force until 31st March 2021. Only in exceptional such as serious anti-social or criminal behaviour, could eviction orders be enforced.

- 3.18. The Cost of Living (Tenant Protection) (Scotland) Act 2022 has been in force from 28th October 2022. This introduced the promise of a rent freeze and the moratorium on evictions announced on 6th September 2022. This Act is in place until 31st March 2024. This is part of the Scottish Governments measures to reduce the impact of the cost of living on people who rent their home in Scotland.
- 3.19. The eviction enforcement ban does not apply to certain ground for Council tenants who have a Scottish secure or short Scottish secure tenancy, detailed below:
- Ground 1: Rent arrears of £2,250 or more,
 - Ground 2: Using the house for illegal or immoral purposes or other criminal offences.
 - Ground 5: The tenant is absent from the property,
 - Ground 7: Anti-social behaviour or conduct amounting to harassment,
 - Ground 8: Nuisance, annoyance or conduct amounting to harassment,
 - Ground 10: Demolition of, or substantial work on, the property.
- 3.20. The rent cap for social tenancies expired on 26th February 2023.
- 3.21. In 2016 the function of recovering arrears fully returned to the Housing Service after being managed by the Revenues Service. At this point recruitment of more Housing Officers was carried out. This was to ensure that our customer got to see the 'experts at the front of system'. Housing Officer's were allocated smaller patches at between 150-250 properties. This was to ensure that each Housing Officer could build meaningful relationships with the tenants in their patch and would encourage tenants to come to their Housing Officer in the first instance if they required assistance.
- 3.22. The following sections of the report illustrate the approach taken by the Service in relation to enforcement action. Housing Officers come into this profession to help people. They feel that they can have a direct impact on people's day to day lives and are solution focused. This is why evictions are a last resort as Officers will try to help their tenants in any way they can.
- 3.23. There are a set of robust procedures in relation to both rent arrears and ASB. This assists Housing Officers with the information they need to follow throughout the life of a case and provides information on how to take a case to court and the tools that can be used to assist in rent recovery and ASB.
- 3.24. Housing Officers will take advice from a solicitor. For cases that do not include unpaid rent this advice will normally be sought prior to the service of a Notice. Advice given will normally be in relation to the reasonableness and the likely outcome of any action.

- 3.25. Further advice and discussions are had with Senior Housing Officers to ensure a consistent approach is taken. Officers have their cases reviewed on a regular basis which forms part of Officers one to one supervision and support meetings.
- 3.26. Eviction should always be the last resort as it is the ultimate sanction. The Housing Officers will attempt to engage (as per table 3.3), if they can with other agencies such as Social Services, Citizens Advice Service and any other third sector support services as they may be able to add value to the landlord/tenant relationship in a way which negates the need for eviction.
- 3.27. Cases can be referred to Safeguarding through Early Intervention (STRIVE), our multiagency approach which intends to get the right help to the right people at the earliest opportunity and often looks at the whole household. With the sharing of information between partners and an early intervention model the aim is to prevent the need for further intervention and action.
- 3.28. The Housing Service procured and launched a software system in August 2020 (Mobysoft Rentsense). This system promotes our commitment to engage as early as possible with our tenants when they go into arrears. We can appreciate that the higher debt gets, it is more difficult to pay back. The algorithms have helped Officers target the right people quickly. Recently, the Head of Account Management at Mobysoft wrote to the Councils Chief Executive, commending exceptional performance at Clackmannanshire Council in relation to arrears performance. By comparing those in arrears from March 2022 to March 2023 23% of cases were now out of debt, highlighting again the support that officers are offering and putting in place.
- 3.29. In 2020/21 the Housing Service introduced the Covid Assistance Scheme to provide financial support to those who had been financially impacted because of covid restrictions. Just over £52,000 was shared between just under 300 of our tenants. Credits averaged at £189 and amounts given were dependant on a set of pre determined set of principles. Before this scheme was introduced the Housing Service had been engaging with tenants who looked to be struggling to pay their rent. A number of letters were designed to give advice and encourage tenants to get in touch with their Housing Officer to get the necessary advice and assistance during the pandemic.
- 3.30. Housing Services are relaunching the Tenant Grant Fund. A soft launch has already taken place by engaging with the Home Energy Advice Team who has made referrals. This grant is to help prevent homelessness and sustain tenancies by directly reducing, alleviating or paying off rent arrears altogether, where a tenant is in either the social or private sector, and has faced financial difficulties. Each local authority was awarded with an allocation of funding in 2021/22, based on the distribution agreement between Convention of Scottish Local Authorities (COSLA) and Scottish Government. Clackmannanshire Council has funds remaining and will strive to spend the full allocation before the end of the 2022/23 financial year. The eligibility criteria has been updated and any applications received will be processed on this basis. Council will be advised of the progress of applications received and monies spent.

3.31. When looking solely at the evictions from one particular year to another, this can of course, look alarming. However, this report demonstrates the reasons of why the evictions have changed in recent years. The detail in this report around the approach the Housing Service takes in relation to both rent arrears and ASB, attests the determination of the service to use every tool and support avenue at their disposal before considering legal action.

4.0 Resource Implications

4.1. Financial Details

Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.0 Exempt Reports

5.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

6.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please click on the check box)

Clackmannanshire will be attractive to businesses and people and ensure fair opportunities for all

Our families, children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

Welfare & Hardship Support (Emergency Decision Making Forum, 20th April 2020)

7.0 Equalities Impact

7.1. Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? Yes No

8.0 Legality

- 8.1. It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

9.0 Appendices

- 9.1. N/a

10.0 Background Papers

- 10.1. Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered).
Yes No
(please list the documents below)

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