

## Advice NI Briefing Paper

### Housing Costs and New Tenancies

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# Housing Costs and New Tenancies

Housing costs associated with taking up a new tenancy can be difficult for many people to afford. How landlords handle new tenants can make all the difference when it comes to someone being able to access accommodation or not. Because social and private landlords have different policies regarding the costs that are expected from new tenants, we have gathered information about how these costs can vary. We contacted a number of relevant bodies such as Landlords Association for NI (LANI), all of the Housing Associations across NI, NIHE and DfC (as the Housing Association regulator). We asked them about the upfront costs that must be paid at the start date of a tenancy and about payment arrangements that might be in place such as when rent is due, how often it's paid, the approach taken when a tenant is in arrears or has debt, and whether there are any special arrangements for tenants in receipt of social security benefits.

## Responses

### *Landlord Association (LANI)*

- LANI told us that almost all “private landlords will require one month's rent as a deposit and one month's rent in advance. Following the recent court case, most other fees charged by agents are now considered unlawful. So the upfront costs should be limited to the deposit and rent in advance.”
- The total sum that tenants are expected to pay in advance can reach up to £1,500.
- The recent court case LANI refers to here took place in 2018. It ruled in favour of a tenant who was charged an administration fee by an agent. Prior to this court ruling, tenants were liable to be charged up to an £100 in addition to advance payment by agents to cover letting fees, credit checks, guarantor checks, inventory services, tenancy renewal fees, and general administration work, such as providing copies of tenancy agreements. The 2018 ruling means that tenants should not be paying any letting or other fees to agents and if they are charged fees, they should seek advice from an independent adviser.

### *NIHE*

- NIHE ask tenants to “make an advance payment for their rent/rates depending upon their circumstances at sign-up stage. Whilst non-payment of this advance payment will not preclude the commencement of tenancy, customers are made aware that the purpose of this payment is to ensure their account is in credit from the start of the tenancy, providing a safety net should there be any difficulty in paying rent/rates in the future.” NIHE use a rule of thumb approach to govern requests for advance rent:
  - “Tenants working full time are requested to pay full rent.
  - Tenants working part time, with no non-dependents, are required to pay at least 50% of their rent/rates charge.

- Tenants working part time, with non-dependents, are required to pay at least 50% of their rent/rates charge and the additional non-dependent charge up to a maximum of their remaining rent/rates liability. Current non-dependent charges are advised by Patch Manager.
- Tenants not working/on benefits, with no non-dependents, are not required to pay anything.
- Tenants not working/on benefits, with non-dependents, are required to pay the non-dependent charge up to a maximum of their rent/rates liability.”
- New NHIE tenants also have the additional support of a Patch Manager who provides a range of supports such as:
  - “Signposting customers, where appropriate, to make a claim for the correct benefit (UC or HB) for housing costs and advice is also given on making an application for rates.
  - Setting up a payment method suitable to the customer.
  - ‘Making Your Money Work’ advice for all new tenants or any tenant who falls into arrears. This service aims to provide simple household budgeting, identify any specialist debt advice requirements, identifying any vulnerabilities and referral to floating support services.
  - Provision of a start-up pack for applicants.”

## **DfC**

- We contacted DfC to seek their view on the practice of asking for rent (or any other costs) in advance, and whether they’re aware of a standard policy across the social rented sector for such practice. They said that their Housing Regulation Branch regulates “the Housing Associations in NI in accordance with the 2018 regulatory framework.<sup>1</sup>” They went on to explain that they had “no role in the setting of Housing Association rents or input when a Housing Association decides to ask for rent in advance, this would be decided by the individual Housing Association” but that their Discretionary Support Scheme<sup>2</sup> is available to provide support with rent in advance or costs associated with moving into a new property.”
- As a point of interest, in November 2019, DfC launched a pilot telephone or face-to-face mediation service, to run for two years, for the private rented sector in NI to help resolve disputes between landlords and tenants and reduce evictions. There is limited regulation or options available to resolve disputes and problems that arise between landlords and private tenants. Currently, the only way to resolve disputes is through court action which is an extreme measure and can lead to retaliatory eviction and homelessness.

<sup>1</sup> <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-ha-advice-overview-regulatory-framework.pdf>

<sup>2</sup> <https://www.nidirect.gov.uk/articles/extra-financial-support#toc-0>

## ***Housing Associations***

- Responses from the Housing Associations were varied as policies differ from HA to HA.
- While some HAs do not require any rent to be paid in advance, most HAs do. The amount of rent in advance requested differs from HA to HA. Some ask for one week in advance, some for two weeks in advance and others a months' rent in advance. For certain HAs, the advance rent may be refundable when Housing Benefit or UC comes into payment.
- Several HAs require a deposit to be paid before a tenancy agreement is signed but others require no deposit at all.
- Certain HAs ask for neither rent nor deposit in advance of taking a tenancy.
- It is important to point out that for those HAs who do require rent in advance, their rationale for doing so is similar to the rationale given by NHIE i.e. that rent in advance places a tenant's account in credit from the start of the tenancy and thus provides a safety net.
- All HAs, regardless of whether or not they request rent or a deposit in advance will offer a range of support and assistance when there is a difficulty in paying rent, and may even waive the need for advance payments depending on circumstances. Some examples of the types of support and assistance offered include:
  - Carrying out a benefit check.
  - Providing help to apply for Discretionary Housing Payments.
  - Assisting with any form filling/phone calls.
  - Referring or signposting tenants to external agencies for debt advice and benefits advice.
  - Signposting tenants to support services such as Store House who can provide furniture, clothing and food; voluntary providers who can assist with tenancy sustainment and foodbank assistance.
  - Ensuring new tenants receive a Council for the Homeless Starter Pack which includes a microwave oven, cutlery, crockery, ironing board, iron and duvet.
  - Discussing with the tenant if there is any shortfall in their benefit and how that might be paid.
  - Providing a breathing space for tenants while they seek professional debt advice.
- HAs are aware that benefits will be paid in arrears, especially UC, and that this results in housing arrears. More HAs are coming to accept that, because tenants are experiencing massive delays on benefits payments, they have to just wait for these payments to come though and ensure the tenant has applied for them.
- A number of HAs have in place specific arrangements for people claiming UC who are caught up in the prison system. As soon as a person arrives in custody, their UC standard allowance will stop. However, any housing costs element of their UC award (whether rent or mortgage interest) will continue to be paid as long as they don't remain in prison beyond 6 months, either on remand or sentenced. The key thing is for the claimant to make UC aware of their change of circumstances as not doing so could result in an overpayment that they'll have to pay back.

## Consequences for Tenants

- The insistence on upfront payments as part of the tenancy agreement creates a significant barrier to accessing housing for many of the people most in need of this resource, including people who have been homeless, people fleeing violence or abuse, people leaving institutional care, foreign nationals, and any person on a low income or in receipt of benefit-only income.
- In some cases, tenants have rejected an offer of accommodation on the basis that they could not afford the rent in advance demanded by the landlord, causing them to lose one of the three reasonable offers they were entitled to by housing legislation.
- Tenants in financial distress may have to borrow money to cover the upfront costs of moving home. They may even end up resorting to expensive or unregulated sources of credit in order to pay tenancy costs.
- Rent in advance is fairly standard in the private sector but this practice is becoming more common with HAs. For tenants on housing benefit, their HB won't be paid until the end of the month and therefore cannot be used to pay in advance.
- The agreed system of housing allocation set out in the common selection scheme whereby access to housing is governed by the applicant's needs rather than his or her resources.<sup>3</sup> This principle should be paramount at all times.
- There is also a wide diversity of policies in Housing Associations regarding the upfront costs for new tenants which creates inconsistency.
- Supporting Communities, who are the appointed Independent Tenant Organisation (ITO), recently announced the launch of their new Tenant Participation Standards accreditation for social housing providers. This accreditation is a way for social landlords to review their Tenant Participation Strategy and carry out a health check. Supporting Communities hope that the new accreditation will raise the overall standard of tenant engagement and improve how social landlords engage with tenants.
- In March 2020, just before the lockdown, DfC and the Department of Finance announced that fees should not be passed on to tenants for services that a letting agent carries out on behalf of a landlord, and that it is unlawful to do so.
- Despite legal directions to ensure such fees are not passed on to tenants, there is still evidence to suggest that some letting agents are continuing to charge these fees so it is something tenants should look out for. Housing Rights NI have found that despite the fees being deemed illegal, some tenants report feeling forced to pay these so they do not risk losing accommodation<sup>4</sup>.
- In November 2020, the Minister for Communities told the Assembly that her department was bringing forward legislation to "improve the safety, security and quality of the private rented sector" and that "in terms of letting agencies, as this issue cuts across the responsibilities of other Departments, officials are working with

<sup>3</sup> <https://www.housingrights.org.uk/news/pre-tenancy-screening-creates-barriers>

<sup>4</sup> <https://www.housingrights.org.uk/sites/default/files/policydocs/Preventing%20Homelessness%20and%20Sustaining%20Tenancies%20in%20the%20PRS.pdf>

these stakeholders on the most appropriate method to introduce a regulatory framework.”<sup>5</sup>

## Recommendations

1. Apply a standardised approach across Housing Associations and NHIE regarding their policies for upfront costs for new tenants. These standardised policies would be written such that they:
  - a. Put the tenants’ needs first and aim to reduce or, better still, eliminate the need for upfront costs.
  - b. Allocate housing based on the applicant’s needs rather than his or her resources.
  - c. Abide by the ITO Tenant Participation Standards.
2. Require that tenancy agreements are standardised to provide clear information for tenants at the start of their tenancy written in plain English<sup>6</sup>.
3. Require that LANI and their members adopt ITO Tenant Participation Standards.
4. Require that ITO Tenant Participation Standards must be adopted by landlords as a condition of their eligibility for Housing Benefit tenants.
5. Deliver a publicity campaign to inform the public about their rights e.g. that letting agencies should not pass fees onto them.
6. Pass legislation to ensure the practice of letting fees is stopped<sup>7</sup>.
7. Provide Starter Packs for private renters, like those provided for social tenants<sup>8</sup>.
8. Provide help to pay deposits and rent in advance through affordable or interest-free loans that could be provided through statutory funding or Credit Unions<sup>9</sup>.

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<sup>5</sup> <http://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=314238>

<sup>6</sup> Recommended by Housing Rights NI

<sup>7</sup> Recommended by Housing Rights NI

<sup>8</sup> Recommended by Housing Rights NI

<sup>9</sup> Recommended by Housing Rights NI



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