

# Public Document Pack

Penallta House,  
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Am unrhyw ymholiad yn ymwneud â'r agenda hwn cysylltwch â Sharon Hughes  
(Rhif Ffôn: 01443 864281 E-bost: [hughesj@caerphilly.gov.uk](mailto:hughesj@caerphilly.gov.uk))

**Dyddiad: 1 Mehefin 2022**

I bwy bynnag a fynno wybod,

Cynhelir cyfarfod aml-leoliad o'r **Pwyllgor Craffu Tai ac Adfywio** yn Nhŷ Penallta, a thrwy Microsoft Teams ar **Dydd Iau, 9fed Mehefin, 2022** am **5.30 pm** i ystyried y materion a gynhwysir yn yr agenda canlynol. Gall Cynghorwyr ac aelodau'r cyhoedd sy'n dymuno siarad ar unrhyw eitem wneud hynny drwy wneud cais i'r Cadeirydd. Mae hefyd croeso i chi ddefnyddio'r Gymraeg yn y cyfarfod, mae angen o leiaf 3 diwrnod gwaith o rybudd os byddwch chi'n dymuno gwneud y naill neu'r llall. Bydd gwasanaeth cyfieithu ar y pryd yn cael ei ddarparu ar gais.

Gall aelodau'r Cyhoedd neu'r Wasg fynychu'n bersonol yn Nhŷ Penallta neu gallant weld y cyfarfod yn fyw drwy'r ddolen ganlynol: live via the following link: <https://civico.net/caerphilly>

Bydd y cyfarfod hwn yn cael ei ffrydio'n fyw a bydd recordiad ar gael i'w weld drwy wefan y Cyngor, ac eithrio trafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig. Felly, bydd delweddau/sain yr unigolion sy'n siarad ar gael yn gyhoeddus i bawb drwy wefan y Cyngor: [www.caerffili.gov.uk](http://www.caerffili.gov.uk)

Yr eiddoch yn gywir,

A handwritten signature in black ink, appearing to read 'CHARRY'.

**Christina HARRY**  
PRIF WEITHREDWR

## A G E N D A

Tudalennau

1 I dderbyn ymddiheuriadau am absenoldeb.

A greener place Man gwyrddach



## 2 Datganiadau o Ddiddordeb.

Atgoffi'r Cyngorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cyngorwyr a Swyddogion.

I dderbyn ac ystyried yr adroddiadau Craffu canlynol:-

3	Gorfodi a Chydymffurfio â'r Weithdrefn Safonau Gofynnol Effeithlonrwydd Ynni mewn Eiddo Domestig wedi'u Rhentu'n Breifat (MEES).	1 - 14
4	Deddf Rhentu Cartrefi (Cymru) 2016.	15 - 26
5	Adolygu Polisi Rhent y Cyfrif Refeniw Tai.	27 - 50

### Cylchrediad:

**Cyngorwyr** Mrs P. Cook (Is Gadeirydd), D. Cushing, G. Ead, Mrs C. Forehead, A. Hussey, L. Jeremiah, C.P. Mann, A. McConnell, B. Owen, L. Phipps, Mrs D. Price, J.A. Pritchard, A. Whitcombe (Cadeirydd), S. Williams, W. Williams a J. Winslade

A Swyddogion Priodol

### **SUT FYDDWN YN DEFNYDDIO EICH GWYBODAETH**

Bydd yr unigolion hynny sy'n mynychu cyfarfodydd pwyllgor i siarad/roi tystiolaeth yn cael eu henwi yng nghofnodion y cyfarfod hynny, weithiau bydd hyn yn cynnwys eu man gweithio neu fusnes a'r barnau a fynegir. Bydd cofnodion o'r cyfarfod gan gynnwys manylion y siaradwyr ar gael i'r cyhoedd ar wefan y Cyngor ar [www.caerffili.gov.uk](http://www.caerffili.gov.uk). ac eithrio am drafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig.

Mae gennych nifer o hawliau mewn perthynas â'r wybodaeth, gan gynnwys yr hawl i gael mynediad at wybodaeth sydd gennym amdanoch a'r hawl i gwyno os ydych yn anhapus gyda'r modd y mae eich gwybodaeth yn cael ei brosesu. Am wybodaeth bellach ar sut rydym yn prosesu eich gwybodaeth a'ch hawliau, ewch i'r Hysbysiad Preifatrwydd Cyfarfodydd Pwyllgor Llawn ar ein gwefan <http://www.caerffili.gov.uk/Pwyllgor/Preifatrwydd> neu cysylltwch â Gwasanaethau Cyfreithiol drwy e-bostio [griffd2@caerffili.gov.uk](mailto:griffd2@caerffili.gov.uk) neu ffoniwch 01443 863028.



## **SPECIAL HOUSING AND REGENERATION SCRUTINY COMMITTEE – 9TH JUNE 2022**

**SUBJECT: ENFORCEMENT AND COMPLIANCE OF THE MINIMUM ENERGY EFFICIENCY STANDARDS IN PRIVATE RENTED DOMESTIC PROPERTIES (MEES) PROCEDURE.**

**REPORT BY: CORPORATE DIRECTOR FOR SOCIAL SERVICES AND HOUSING**

### **1. PURPOSE OF REPORT**

- 1.1 For Members of the Housing & Regeneration Scrutiny Committee to consider and take a view on the adoption of the enforcement approach and protocol set out in Appendix 1 to satisfy the requirements under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended, regarding rented domestic properties, prior to its presentation to Cabinet on 13<sup>th</sup> July 2022.

### **2. SUMMARY**

- 2.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulation 2015 sets out the legal obligation for landlords to provide energy performance certificates of E or above to existing, new and prospective tenants in most rented homes unless they are exempt such as listed buildings or officially protected. The Regulations impose a minimum energy efficiency standard to help reduce fuel poverty and carbon emissions.
- 2.2 An Energy Performance Certificates (EPCs) provide a rating for the energy performance of a home ranging from A to G, with A being the most efficient. The rating is based on factors such as age, layout, heating, lighting, and insulation. A landlord could be liable to a penalty notice if a property is privately rented which either does not have a current EPC or the EPC is rated energy bands F or G.
- 2.3 The Council has been awarded £60,000 following a successful application for funding to a compliance and enforcement competition organised by UK Government Business, Enterprise, and Industrial Strategy Department.
- 2.4 Work has been ongoing since October 2021 to identify private rented properties with no EPC or with an EPC of F and G. A promotional campaign is underway to reach as many landlords and tenants as possible with advice and information. A large proportion of landlords have already engaged and/or taken the required action without the need to take enforcement action.

- 2.5 There are also several third-party companies that offer financial support for private sector landlords to help improve the energy efficiency of their rented property such as LA ECO Flex, Nest Wales, and Rent Smart Wales Warm Homes funding.
- 2.6 The regulation also has a financial cap that only requires landlords to spend a maximum of £3,500 to improve the property. If, after the landlords spends £3,500 on the property, a rating of E or above has not been achieved; the landlord can provide the evidence to BEIS and register an exemption on their register.
- 2.7 Enforcement action is always a last resort. However, where the landlord fails to engage and ensure compliance informally, officers authorised under the MEES regulations must have the authority to serve Penalty Notices to ensure compliance.

### **3. RECOMMENDATIONS**

- 3.1 Members are requested to consider and give a view on the following recommendation which will be presented to Cabinet on the 13<sup>th</sup> July 2022:-
- 3.2 Members recommend to Cabinet to agree and adopt the Enforcement Protocol in Appendix 1 as the Council's approach to dealing with identified non-compliances, including the use of Compliance Notices and Penalty Notices where appropriate.
- 3.3 The Enforcement & Compliance of the Minimum Energy Efficiency Standards in Private Rented Domestic Properties (MEES) procedure will be periodically reviewed and updated in line with Welsh Government Legislation to reflect the maximum values of penalty permitted and the minimum Energy Performance Rating required under the regulation.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 Adopting the Enforcement Protocol will improve the energy efficiency of private rented sector housing whilst ensuring landlords comply with their legal obligation under the MEES regulation.
- 4.2 The authority has also committed to reducing fuel poverty by making homes more energy efficient within the Corporate Plan Wellbeing Objectives. Ensuring compliance with the MEES regulation will have a direct impact on achieving objective 3, addressing the availability, condition, and sustainability of homes throughout the county borough and providing advice, assistance or support to help improve people's well-being.
- 4.3 The MEES regulation will help:
  - i. Tackle the determinants of poor health and wellbeing by improving housing conditions in the private sector.
  - ii. Help reduce fuel poverty by making homes more energy-efficient and providing people with advice on how best to heat their homes.
- 4.4 The Office of National Statistics published information based on data up to March 2021 that the cost of renting a G rated property in Wales is £2,613 compared with £1,200 for a E rated property. This means that a tenant living in a substandard property could be paying £1,413 extra in energy bills due to the landlord's unwillingness to meet his legal obligation.

## **5. THE REPORT**

### **Background Information**

- 5.1 Section 34 (2) of the regulations imposes a statutory duty on Local Authorities to enforce compliance with Part 3 of the regulations which impose the minimum energy efficiency requirements. A link to the regulations and statutory guidance is included in Appendix 1.
- 5.2 Since 1<sup>st</sup> April 2020, for all tenancies in private rented properties (new and existing), the property must meet minimum energy efficiency standard (MEES) of E in its Energy Performance Certificates (EPCs) unless there is a valid registered exemption, or the property does not require an EPC.
- 5.3 Long term, the UK Government has an aspiration to raise the minimum EPC requirements for domestic properties to a rating of C. Legislation introducing this change is now under consultation, with a proposed implementation by 2030.
- 5.4 The procedure attached as Appendix 1 has been developed in accordance with a compliance and enforcement toolkit provided by BEIS to Local Authorities who were successful in their bid applications. Working with partners like Rent Smart Wales (RSW), officers will act on properties with an F and G rating, encouraging landlords to make the necessary improvements, signposting to funding opportunities, but also take enforcement action against any landlords who are unwilling to implement the changes to improve their properties.
- 5.5 There are third party funding opportunities being offered to landlords and tenants to help with improving the energy efficiency of the properties and reduce the energy bills. This includes the LA ECO flex which the authority offers.
- 5.6 Other third-party funding streams such as Nest Wales and Rent Smart Wales warm fund. RSW offer partly funding for first-time gas central heating in properties with EPC bands F and G. RSW has written to landlords of affected properties to promote this offer of funding towards energy efficiency improvements. Advice and information have also been included within RSW newsletters and their website.
- 5.7 Over the last 6 months landlords of all known F and G properties have been contacted with information on their obligation under the MEES regulation and the potential grant funding available. There has also been a designated MEES officer giving information and advice to any landlord or tenant requesting support.
- 5.8 Officers are also regularly scrutinising the Register of Exemptions to ensure that any exemption recorded by a landlord is valid and meets the level of evidence required by BEIS.
- 5.9 The Regulations empower authorised officers to serve a Compliance Notice on a non-compliant landlord, giving at least one month to provide the required energy performance documentation relating to the rented property. Failure to provide the information makes the person liable to pay a penalty notice.
- 5.10 A detailed breakdown of the offences and associated penalties is detailed within the Enforcement Procedure in Appendix 1. The maximum fine permitted per property is £5,000.
- 5.11 The regulations also enable officers to issue a Publication Notice for publishing details of the breaches of the regulations on the BEIS Private Rented Sector Exemptions register. The details such as the name of the organisation receiving the financial penalty,

information on the breach of these Regulations in respect of which the penalty notice has been issued, the address of the property in relation to which the breach has occurred and the amount of any financial penalty imposed.

- 5.12 It is important to note that the penalty notices are civil penalties and there are no provisions to take a prosecution forward should the landlord continue to breach the regulation.
- 5.13 Therefore, the penalty notice will be the only form of punishment for non-compliance with the MEES regulation. The level of the penalty must be set at a high enough level that encourages compliance.
- 5.14 Where the Local Authority decides to impose a financial penalty, they have the discretion to decide on the amount of the penalty, up to maximum limits set by the Regulations. The enforcement procedure to support the enforcement approach, including the recommended penalty limit, is included in Appendix 1.

## **Conclusion**

- 5.15 The adoption of the MEES Enforcement Procedure will improve the standard of Private Rented Sector Housing within Caerphilly CBC, will help reduce fuel poverty for many private sector tenants and households struggling with high energy bills. Improving properties and improving the energy efficiency of these properties will also have a positive impact on the environment and reduce carbon emissions produced by the substandard and inefficient properties.

## **6. ASSUMPTIONS**

- 6.1 There are no assumptions made in this report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 The Integrated Impact Assessment (IIA) concluded that the proposal will have a positive impact on all private sector tenants living in substandard properties. Enforcing the MEES regulation will help drive the standard of (the) private rented sector housing up to ensure an Energy Enforcement Rating of E or above.
- 7.2 The regulation is based on the property, not the occupiers or the landlord. Therefore, the IIA concluded that there will be no negative impact on the protected characteristics.
- 7.3 The IIA also highlighted the financial benefit for tenants experiencing fuel poverty and struggling due to high energy bills. The MEES regulation's prime objective is to address private rented properties that are difficult and expensive to run. Improving the energy rating of a property from a G or F to E or above will have a positive impact and the tenants should see financial benefit in lower energy bills. This should help tenants that financially struggling.
- 7.4 The Office of National Statistics published information based on information up to March 2021, the cost of renting a G rated property in Wales is £2,613 compared with £1,200 for a E rated property. This means that a tenant living in a substandard property could be paying £1,413 extra in energy bills due to the landlord's unwillingness to meet his legal obligation.

- 7.5 Landlords will have a duty to comply with the MEES regulation. The landlord will be given every help and support to meet the requirement informally before resulting in the authority taking Enforcement action and serving a Penalty Notice.
- 7.6 The IIA also identified how enforcing the MEES regulation will help achieve the authority corporate Well-being objectives including:
- i. Tackle the determinants of poor health and wellbeing by improving housing conditions in the private sector.
  - ii. Help reduce fuel poverty by making homes more energy-efficient and providing people with advice on how best to heat their homes.
- 7.7 The IIA confirmed that the proposal will have a positive impact on the Welsh language as the Principal Housing Officer is fluent in Welsh giving an opportunity for a person to use Welsh in obtaining advice and information if required. All material will also be available in both languages.

#### 7.8 **Link to Integrated Impact Assessment**

### **8. FINANCIAL IMPLICATIONS**

- 8.1 The Private Sector Housing Team was successful in obtaining £60,000 to promote and encourage compliance with the MEES regulation dealing with domestic properties. This funding has been used to engage with the landlords and set up the team should enforcement become an option. No additional funding implication will be needed for the Private Sector Housing to continue with the work of implementing the proposed Enforcement Procedure.
- 8.2 The Penalty Notices have the potential of generating some funding to the authority. However, the aim of the notice is to ensure compliance and not to be used as an income generator.

### **9. PERSONNEL IMPLICATIONS**

- 9.1 There are no personnel implications arising from this report.

### **10. CONSULTATIONS**

- 10.1 There are no consultation responses that have not been reflected in this report

### **11. STATUTORY POWER**

- 11.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulation 2015
- 11.2 The Energy Performance of Building (certificate and Inspections) (England and Wales) Regulations 2007

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Consultees: Cllr Shayne Cook - Cabinet Member for Housing  
**Page 5**

Cllr Andrew Whitcombe	- Chair Housing and Regeneration Scrutiny Committee
Cllr Patricia Cook	- Vice Chair Housing and Regeneration Scrutiny Committee
Dave Street	- Corporate Director Social Services & Housing
Nick Taylor-Williams	- Head of Housing
Fiona Wilkins	- Housing Service Manager
Rob Tranter	- Head of Legal Services & Monitoring Officer
Stephen Harris	- Head of Financial Services & S151 Officer
Claire Davies	- Private Sector Housing Manager
Lesley Allan	- Principal Group Accountant – Housing
Kerry Denman	- Housing Solutions Manager
Anwen Cullinane	- Senior Policy Officer
Jacqui Morgan	- Trading Standards, Licensing & Registrars Manager .

Appendix 1 - Enforcement & Compliance of the Minimum Energy Efficiency Standards in Private Rented Domestic Properties (MEES) procedure.



## Appendix 1:

Caerphilly County Borough Council

Enforcement & Compliance of the Minimum Energy Efficiency Standards in Private Rented Domestic Properties (MEES) procedure.

### Purpose:

The purpose of this document is to set out a framework for Caerphilly County Borough Council to enforce the Minimum Energy Efficiency Standards regulations in Private Rented Domestic Properties (MEES) requirements which prohibit sub-standard properties from being let.

The Domestic Minimum Energy Efficiency Standard (MEES) Regulations set a minimum energy efficiency level for domestic private rented properties.

The Regulations apply to all domestic private rented properties that are:

- let on specific types of tenancy agreement
- legally required to have an Energy Performance Certificate (EPC)

Since 1 April 2020, landlords can no longer let or continue to let properties covered by the MEES Regulations if they have an EPC rating below E, unless they have a valid exemption in place.

Caerphilly County Borough Council recognises the importance of improving the energy performance of the private sector housing with the borough and has committed to reducing fuel poverty by publicising their statement of intent under the LA ECO flex.

### Background:

The Energy Performance Certificate provides information about a property's energy use, typical energy costs, and recommendations about how to reduce energy use and save money. It rates a property's energy efficiency from A - most efficient to G - least efficient. Landlords are required to have an EPC and provide a copy of it to occupants at the start of a tenancy unless the property is exempt from the requirements.

The MEES regulations acknowledge that properties that have an energy performance rating of F and G are extremely difficult and expensive to run and the tenant is likely to be in fuel poverty. Therefore, the regulations require all Landlords of private sector housing that meet the definition above to improve the energy efficiency of their properties to E or above.

However, the regulation also acknowledges that some of these properties are very difficult to improve and there are some situations where improving the property will not be possible. Therefore, there are several exemptions available for landlords to address this concern as seen in the table below (Taken from BEIS Guidance)

High cost - The prohibition on letting property below an EPC rating of E does not apply if the cost of making even the cheapest recommended improvement would exceed £3,500 (inc. VAT)
All improvements made - Where all the "relevant energy efficiency improvements" for the property have been made (or there are none that can be made) and the property remains sub-standard. Applies to domestic and nondomestic property
Wall insulation - There is a special provision for circumstances in which cavity wall insulation, external wall insulation systems, and internal wall insulation systems should not be installed

Consent - Information on when and where consent is required will be contained within relevant documentation, for example in the landlord's lease or mortgage conditions
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Devaluation - An exemption from meeting the minimum standard will apply where the landlord has obtained a report from an independent surveyor who is on the Royal Institution of Chartered Surveyors (RICS) register of valuers advising that the installation of specific energy efficiency measures would reduce Page 41 the market value of the property, or the building it forms part of, by more than five percent.
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New landlord - from 1 April 2020, when the minimum standard applies to all privately rented properties that are occupied by tenants, a temporary exemption of 6 months will apply from the date from which a person became a Landlord in the following situation: A person becomes the landlord on purchasing an interest in a property and, on the date of the purchase, it was let on an existing tenancy.
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The landlord must register any exemption with BEIS and provide sufficient evidence to confirm they meet the criteria under the specific exemption.

All landlords letting their properties with an EPC rating of F and G without a registered valid exemption will be committing an offence under the Requirements.

### **Identifying Private Rented Properties Breaching the Requirements:**

The legal requirement for landlords and agents to register their private rented properties with Rent Smart Wales (RSW) makes identifying breaches in the MEES requirement much easier.

RSW has confirmed that they will be able to provide the Caerphilly Council with details of all F and G rented properties registered with them. Up to September 2021, they have provided details of 114 properties that appear to be in breach of the MEES. An agreement has been made with RSW that they will provide an updated list every quarter to continue to identify any new breaches.

RSW has also provided a list of properties registered with RSW that have no EPC. This list is less reliable and requires cleansing and further investigation. It is impossible to determine how many of these properties are substandard without first obtaining an EPC. The Energy Performance of Buildings (England and Wales) Regulation 2012 gives the local weights and measures team authority to serve a Penalty Notice for landlords not meeting the basic requirement of obtaining a valid EPC. The maximum fine for not having a valid EPC is £200.

Social media campaigns and tenant engagement are also ongoing to inform tenants of the requirement, give advice and invite any that are concerned to contact the Private Sector Housing Team to discuss their options.

### **Enforcement and Engagements**

Enforcement is always a last resort and work is ongoing to engage with landlords and agents to support and give advice on how they can meet their obligation under the MEES regulations. This includes sending an advice leaflet and an informal letter requesting contact and offering support to every landlord identified as a potentially breaches.

Information on any third-party funding available is also promoted. Information is sent to the landlord and tenant of any potential financial support available to help with compliance. However, should the landlord fail to respond to our informal effort, enforcement action is pivotal to ensure compliance.

### **Compliance Notices**

Where there is evidence suggesting that the landlord may still be in breach of the MEES regulation despite two attempts of informal engagement; the case will be escalated to enforcement. The initial stage will be serving a compliance notice requesting information to

confirm if a breach has occurred. A compliance notice can be served up to 12 months after a suspected breach occurred.

A compliance notice may request information on:

- Copy of the current EPC
- the EPC that was valid for the time when the property was let
- the tenancy agreement used for letting the property
- information on energy efficiency improvements made
- any Energy Advice Report in relation to the property
- any other relevant document

## **Penalties**

Action can be taken if it is established that a property is (or has been) let in breach of the Regulations, they may serve a financial penalty up to 18 months after the breach and/or publish details of the breach for at least 12 months.

The maximum penalties amount applies per property and per breach of the Regulations. They are:

- up to £2,000 and/or publication penalty for renting out a non-compliant property for less than 3 months.
- up to £4,000 and/or publication penalty for renting out a non-compliant property for 3 months or more.
- up to £1,000 and/or publication for providing false or misleading information on the PRS Exemptions Register.
- up to £2,000 and/or publication for failure to comply with a compliance notice.

The maximum amount you can be fined per property is £5,000 in total.

Caerphilly County Borough Council believes that breaching this regulation has a significant impact on tenants struggling in fuel poverty.

The Office of National Statistics published information based on data up to March 2021, that the cost of renting a G rated property in Wales is £2,613 compared with £1,200 for an E rated property. This means that a tenant living in a substandard property could be paying £1,413 extra in energy bills due to the landlord's unwillingness to meet his legal obligation.

Furthermore, the private sector housing will make at least two attempts to engage informally with the landlord to help and support compliance before considering enforcement action.

Therefore, non-compliant landlords in breach of the Regulations must bear the full cost of the enforcement of the regulations, minimising the cost to the council taxpayer for providing this service.

To ensure that the £5000 is not breached a maximum penalty notice of £1,000 will be served for landlords that provide false or misleading information on the PRS Exemptions Register or for failing to comply with a compliance notice. This will allow the penalty maximum to be imposed for renting out a non-compliant properties with penalty reduction criteria being considered for mitigating factors set out below: -

<p>Landlord provides evidence of meeting the requirement under the regulation before the penalty payment is due.</p> <p>This will include:</p> <p>Providing evidence of a valid exemption registered against the property.</p> <p>Providing a copy of a valid EPC certificate meeting the MEES regulations.</p>	<p>75% discount</p>
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### **Publication Penalty (Regulation 39)**

A publication penalty means that the enforcement authority may publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The enforcement authority can decide how long to register the information for, but it will be available to view by the public for at least 12 months. The information that the enforcement authority may publish is:

- The Landlord's name (except where the landlord is an individual).
- Details of the breach.
- The address of the property in relation to which the breach occurred.
- The amount of any financial penalty imposed.

The Council will routinely place the information on the register at the appropriate time, for a minimum of 12 months.

### **Reviews, waiving and modification of penalties (Regulation 42)**

Where a landlord serves a notice on the Local Authority requesting a review of its decision to serve a penalty notice, authorised senior officers within Private Sector Housing will review the application in accordance with Regulation 42

### **Right of Review and Right of Appeal (Regulation 43 & 44)**

A Landlord that does not agree with a penalty notice, can ask the authority to review its decision. They can withdraw the penalty notice if:

- new evidence shows a breach has not occurred
- a breach has occurred, but evidence shows the landlord took all reasonable steps to avoid the breach
- they decide that because of the circumstances of the case, it was not appropriate to issue a penalty

If a local authority decides to uphold a penalty notice, a landlord may appeal to the First-tier Tribunal if they think that:

- the penalty notice was based on an error of fact or an error of law

- the penalty notice does not comply with a requirement imposed by the Regulations
- it was inappropriate to serve a penalty notice on the landlord in those particular circumstances.

### **Recovery of Financial Penalty (Regulation 45)**

The amount of an unpaid financial penalty will be recovered as a debt owed to the Council. This means that the Council will enter into legal proceedings to recover outstanding penalties.

### **Failure to Comply**

The MEES regulation has no provision to prosecuting the landlord following non-compliance with the Penalty Notices. Therefore, should the landlord fail to comply with the provisions under the MEES regulations and the maximum financial penalty of £5,000 is reached; The case will be referred to the District Housing Environmental Health Officer to investigate potential hazards under the Housing Act 2004. RSW will also be notified with a request to consider grounds to revoke the landlord's license or to undertake an agent audit if applicable.

### **Government Guidance**

The following Guidance has been considered in producing this procedure:

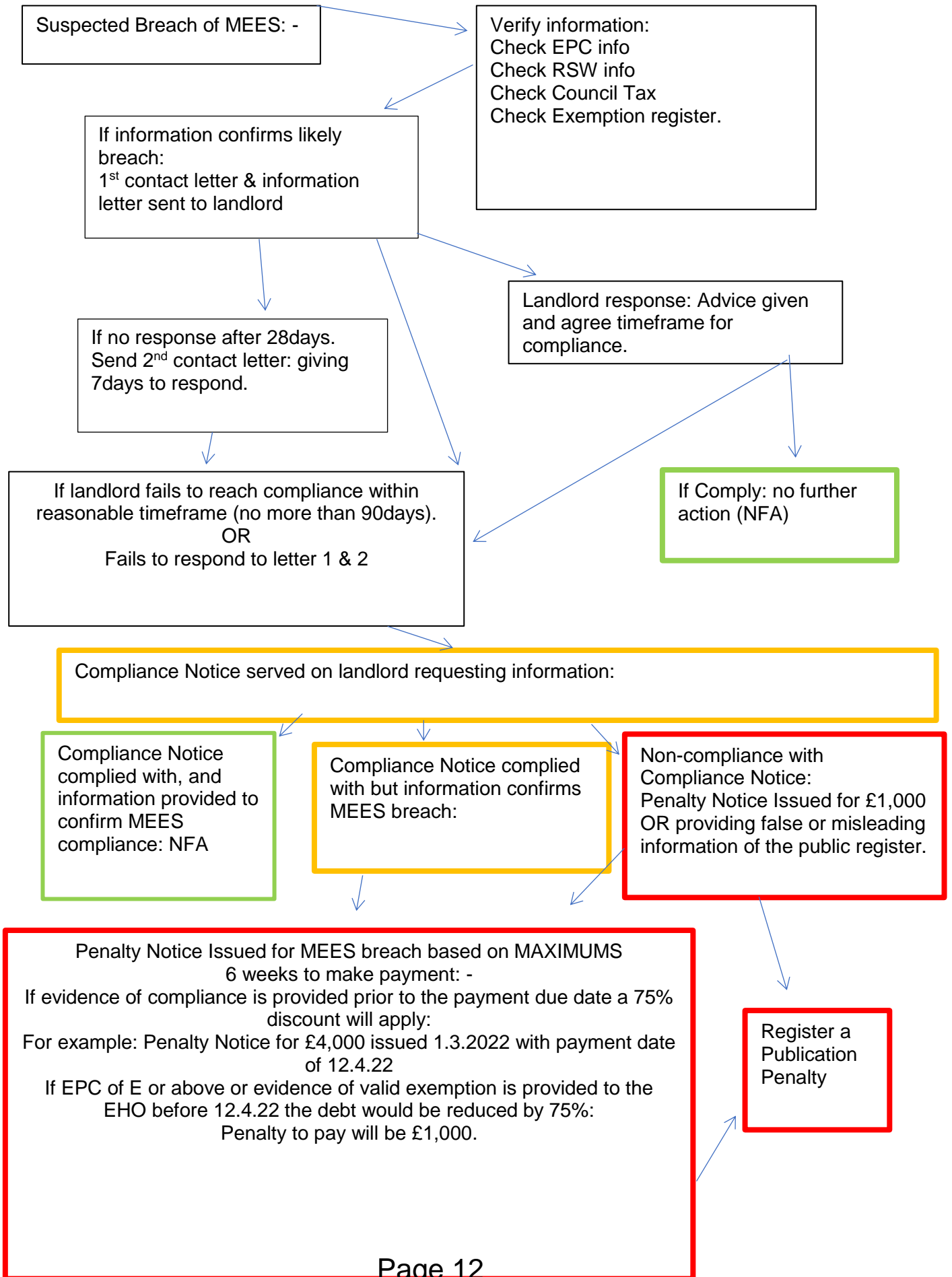
The Department for Business Energy and Industrial Strategy have produced guidance for domestic properties published in 2017 and updated in 2020;

[Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#)

[They also published guidance for non-domestic landlords in 2019](#)

<https://www.gov.uk/government/publications/non-domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

## Enforcement Flow Diagram



## The Instigation of Debt Recovery of Civil Penalty: Housing Act 2004

Where the landlord fails to pay a civil penalty, Caerphilly CBC may recover the debt in the County Court as it were payable under an order made by the County Court.

No.	Action
1	<p>If no representation has been made against the Penalty Notices have been served and no appeal has been made against the Penalty Notice</p> <p>Recovery action <b>MUST</b> commence.</p>
2	<p>Prepare an explanatory file for the Head of Housing with a brief explanation of the case (case summary) include copies of</p> <ul style="list-style-type: none"> <li>• All documentation prior to the Penalty Notice</li> <li>• The Penalty notice and accompanying letters</li> <li>• Any representations</li> <li>• Any appeal documents</li> </ul>
3	<p>On receipt of file with the signed certificate enclosed you must make a decision as to what method you are proposing to enforce the debt (arrange a meeting with legal to discuss this).</p> <p>In deciding the method, you should consider whether:</p> <ul style="list-style-type: none"> <li>• you are likely to get the Council's money and court fee from the defendant;</li> <li>• the defendant owes other people money or has other court judgments;</li> <li>• the defendant owns any goods or assets which can be taken and sold at auction;</li> <li>• the defendant is working;</li> <li>• the defendant has other earnings, such as income from investments;</li> <li>• the defendant has a bank, building society or other account;</li> <li>• the defendant owns property (a house); and</li> <li>• anyone else owes the defendant money.</li> </ul> <p>If the Council does not have any information about the defendant's finances, an order can be served to obtain information.</p> <p><b>Third-Party Debt Order</b></p> <p>A third-party debt order is made to stop the defendant taking money out of their bank/building society account. The money the Council is owed is paid from the account (unless the account is overdrawn on the day the bank/building society receives the order). If the defendant has a bank/building society account, the bank/building society will freeze the account when it receives the order from the court. The defendant will be aware of the order and may stop paying money into the account.</p>

	<p><b>Charging Order</b></p> <p>A charging order allows a charge to be put on the defendant's asset (such as their home, land or investments) and prevents the defendant from selling their assets without paying what they owe the Council. The Authority will not get the money until the defendant sells their assets, but in some circumstances the Council may be able to ask the court for an order to force them to sell their assets.</p> <p><b>Warrant of Control</b></p> <p>A warrant of control gives court enforcement agents the authority to take goods from the defendant's home or business. Enforcement agents will try to either:</p> <ul style="list-style-type: none"> <li>• collect the money owed; or</li> <li>• take goods to sell at auction.</li> </ul> <p>The Council cannot ask the County Court to issue a warrant if the amount is more than £5,000, but it can ask an enforcement agent (through the High Court) to try to collect the money the Council is owed or to remove goods. The procedure in the High Court is different from the County Court and can be complicated and more expensive.</p> <p><b>Attachment of Earnings Order</b></p> <p>An attachment of earnings order is sent to the defendant's employer. It tells the employer to take an amount from the defendant's earnings each pay day and send it to a collection office. The money is then sent to the Council. The defendant must be employed by someone before we can issue an attachment of earnings order and an order cannot be made if the defendant is unemployed or self-employed, so will not likely be applicable to landlords. Also, the court may not be able to make an order, or may only make an order to pay the debt back in small instalments; if the defendant's living expenses are greater than the amount they earn.</p>
4	On completion, obtain written sign off from Head of Housing and refer the file to Legal Services to take forward to the County Court





## **SPECIAL HOUSING AND REGENERATION SCRUTINY COMMITTEE – 9TH JUNE 2022**

**SUBJECT: THE RENTING HOMES (WALES) ACT 2016**

**REPORT BY: CORPORATE DIRECTOR OF SOCIAL SERVICES AND HOUSING**

### **1. PURPOSE OF REPORT**

- 1.1 To inform Members of The Renting Homes (Wales) Act 2016, which is new legislation the provisions of which affect all rented homes in Wales from 15<sup>th</sup> July 2022.
- 1.2 To advise Members of the statutory changes that Caerphilly Homes is required to make to comply with The Renting Homes (Wales) Act 2016 and the implications of those changes on the service.
- 1.3 To obtain the observations of Members prior to presentation to Cabinet on 13 July 2022.

### **2. SUMMARY**

- 2.1 The Renting Homes (Wales) Act 2016 (The Act) is the biggest change to housing law in Wales for decades. From 15 July 2022, The Act will change the way by which all landlords in Wales rent their properties and it is intended to improve the way in which rented homes in Wales are managed and lived in.
- 2.2 The Act aims to make it simpler and easier to rent a home, intending to replace the various and complex pieces of existing legislation with one clear legal framework.
- 2.3 The Act gives greater clarity on the rights and responsibilities of both tenants and landlords through written contracts. These are currently known as a Tenancy Agreement and the Act aims to standardise these for all renters.
- 2.4 The Act requires Caerphilly Homes to comply with statutory obligations, including making changes to terminology, converting the existing Tenancy Agreement to a new Converted Occupation Contract for current tenants, the introduction of a new Occupation Contract for new tenants and revision of all relevant policies.
- 2.5 The Act will also have an impact on how the Local Authority via its Statutory Homelessness functions provides Emergency temporary accommodation and access to supported accommodation to those households who are threatened with/or who are Homeless and without suitable accommodation to occupy.
- 2.6 The changes will impact to varying degrees on the roles of all teams within Caerphilly

Homes but will provide significant additional obligations in respect of tenancy management and property maintenance, creating considerable additional workloads, in both the development and ongoing implementation phases. There will be associated financial costs associated with these ongoing workload obligations, and the risk of financial penalties and reputational damage in the case of non-compliance with these new obligations.

### **3. RECOMMENDATIONS**

- 3.1 That the contents of this report are noted and discussed by the Housing and Regeneration Scrutiny Committee and that any amendments or clarifications are raised in advance of the Cabinet meeting on the 13<sup>th</sup> July 2022.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 To raise awareness of the implications and obligations on Caerphilly Homes and others associated with the Renting Homes (Wales) Act 2016

### **5. THE REPORT**

- 5.1 The Law Commission's 2006 report 'Renting Homes', called for a reform of the law in relation to all rented housing. At the core of the Law Commission's recommendations was the creation of a straightforward and simplified statutory framework, replacing the large number of tenancy types with two main contracts. It also recommended providing model contracts, which set out the basis by which rented homes are occupied in clear terms.
- 5.2 In May 2012, Welsh Government published a White Paper – Homes for Wales, where they acknowledged the need for tenancy reform and agreed to use the Law Commission's proposals as a basis for progressing that reform.
- 5.3 The Renting Homes (Wales) Act 2016 takes forward the recommendations of the Law Commission's Report. The Act received Royal Assent on 18 January 2016, however it has taken longer than anticipated to be enacted due, in part, to a subsequent amendment of the Act to increase security of tenure for some tenants, and the preparatory work that was required by Welsh Government to develop statutory instruments.
- 5.4 Julie James, Minister for Climate Change, announced on 12<sup>th</sup> January 2022 that the Renting Homes (Wales) Act 2016 will be implemented on 15<sup>th</sup> July 2022, providing landlords six months' notice to prepare for the changes. Previously an undertaking had been given that all statutory instruments and key information would be available six months prior to implementation. However, this has not been the case and some statutory instruments, supplementary provisions and further guidance, including some transitional arrangements, remain outstanding and will need to be considered leading up to implementation date.
- 5.5 The Act represents the biggest change to housing law in Wales for decades, it aims to simplify housing law and make it easier to rent a home in Wales. The Act replaces various, complex pieces of existing legislation with one clear legal framework.

- 5.6 The Act makes landlord and tenant responsibilities and obligations clearer, and introduces a number of important changes, some of which increase landlord obligations, enhance contract holder rights and impose financial penalties for a landlord's non-compliance. These changes include:

#### Changes to Terminology

- 5.6.1 There will be two types of landlords:

- (i) Community Landlords - Local Authorities and Registered Social Landlords.
- (ii) Private Landlords - all other Landlords.

- 5.6.2 Tenancy Agreements will be known as 'Occupation Contracts' and there will be two main types:

- (i) Secure Occupation Contract for use by Community Landlords
- (ii) Standard Occupation Contract which will be the default contract for the private rented sector, but able to be used by Community Landlords in certain circumstances.

- 5.6.3 Tenants will now be known as 'Contract-Holders, for legal purposes, however it is acknowledged that use of the term 'tenant' will likely remain commonplace in informal settings.

#### Terms of Occupation Contracts

- 5.6.4 Welsh Government have provided some model contracts in the ten most frequently used languages in Wales and, whilst landlords are not obligated to use them without alteration, any contract used will need to ensure the obligations of The Act are complied with. The model contracts provide a comprehensive, consistent, and clear structure. There are four elements that will feature in Occupation Contracts:

- (i) **Key Matters:** The names of the contract holders, landlord, address of the property, contract start date and rent.
- (ii) **Fundamental Terms:** Cover the most important aspects of the contract, including the possession procedures and the landlord's obligations regarding repair.
- (iii) **Supplementary Terms:** Deal with the more practical, day to day matters applying to the Occupation Contract, for example, the requirement for a contract holder to notify the landlord if the property is going to be empty for four weeks or more.
- (iv) **Additional Terms:** Any other specifically agreed matters, for example a term which relates to the keeping of pets. These terms must be fair, as required by the Consumer Rights Act 2015.

- 5.6.5 Landlords will be required to issue a 'written statement' of the relevant Occupation Contract to all Contract Holders (this will replace the current Tenancy or Licence Agreement). The written statement must contain all the terms of the

contract, clearly setting out the rights and responsibilities of the landlord and the contract holder and some additional information for both parties.

- 5.6.6 For new rentals after the 15<sup>th</sup> of July 2022, the written statement must be issued within 14 days of occupation.
- 5.6.7 Existing Tenancy Agreements will 'convert' to the relevant Occupation Contract on the 15<sup>th</sup> of July 2022, and all landlords have a maximum of six months to issue their contract holders a written statement of the converted Occupation Contract.
- 5.6.8 Any landlord who fails to provide a written statement in the required time, or provides an incomplete or incorrect statement, will be in breach of The Act and can face financial penalties.

#### Ending Occupation Contracts

- 5.6.9 Where the contract holder has breached the Occupation Contract the minimum notice period that must be given is one month. This notice period can be shorter where it relates to a breach under the prohibited conduct or serious rent arrears terms.
- 5.6.10 There is greater security for people who live in the private rented sector.
  - (i) Where a 'no fault' notice is issued, the minimum notice period that must be given is six months.
  - (ii) A Landlord will not be able to give such a notice until six months after the contract starts.
  - (iii) A Landlord will not be able to give such a notice unless they have complied with certain obligations, including registration and licensing with Rent Smart Wales and deposit protection rules.
  - (iv) Landlord break clauses will only be permissible where a fixed term contract is two years or greater and Landlords will not be able to exercise a break clause within the first eighteen months of occupation.

#### Repairs and Conditions

- 5.6.11 The Act will ensure that homes are in repair and are fit for human habitation (FFHH) for the duration of the contract. FFHH is defined within the Act and, in addition to property condition, includes requirements for an increased frequency of periodic electrical safety testing, working carbon monoxide detectors and hard-wired smoke alarms. In addition, rent will not be payable for any period during which the dwelling is agreed or found by Court to not be fit for human habitation.
- 5.6.12 Landlords will have a continuing obligation to keep the structure and exterior of the property in repair and keep installations for the supply of water, gas or electricity, for sanitation, for space heating, and hot water in repair and proper working order. Landlords will also be required to make good any damage caused by works and repairs that the landlord is obliged to carry out.

5.6.13 If a private sector Landlord issues a 'no fault' possession notice in response to a request for repair (commonly known as retaliatory eviction), the court can refuse to make a possession order and it will not be possible for the Landlord to issue a further 'no fault' notice until 6 months later.

#### Joint Contracts

5.6.14 Contract Holders will be able to request landlord's consent to add another person(s) to the Occupation Contract. A joint contract holder may remove themselves from an Occupation Contract without the landlord's consent and without the need to end one contract and start another.

#### Enhanced Succession Rights

5.6.15 Improved succession rights will enable both a 'priority' and 'reserve' successor to succeed to the Occupation Contract. This allows for up to two successions to the contract to take place, for example a spouse followed by another family member. In addition, a new 'reserve' succession right for carers is created.

#### Abandonment

5.6.16 Landlords will be able to repossess an abandoned property without needing a court order, after serving a four-week warning notice and carrying out investigations to be sure the property is abandoned. This will make it simpler and quicker for landlords to recover possession of properties when the contract holder has left.

#### Anti-Social Behaviour

5.6.17 Contract holders will no longer be automatically liable for the behaviour of anyone he/she has living with them, and criminal behaviour in the locality and immorality are no longer able to be included within the contract.

#### Rent Increases

5.6.18 The minimum notice period required to be provided to contract holders to increase rent has been amended from one month to two months, and rents can only be increased once within a calendar year. Community Landlords will still only increase rent in line with the Social Rent Policy, as set by Welsh Government.

#### Consultation

5.6.19 Landlords will be permitted to change non-fundamental terms within an Occupation Contract following appropriate consultation:

- (i) Community Landlords will be obligated to carry out a consultation process with contract holders, giving due regard to any comments that come back from that consultation. This is the same as currently happens within Local Authorities for secure tenancies.
- (ii) For Private Landlords, any amendment must be discussed and agreed between both parties.

## Supported Accommodation

5.6.20 Supported accommodation is provided by a community landlord or a charity, where there is a connection between the provision of accommodation and the support services provided there.

5.6.21 The relevant support services include:

- (i) Support in controlling or overcoming addiction
- (ii) Support in finding employment or alternative accommodation
- (iii) Supporting someone who finds it difficult to live independently because of age, illness, disability or any other reason

5.6.22 A landlord of supported accommodation can choose initially to provide a tenancy or licence agreement that is not an occupation contract, however, if a person occupies supported accommodation for a period of six months or more, they will normally become entitled to a 'Supported Standard Occupation Contract' (unless the landlord chooses to offer them a Secure Occupation Contract). This will operate in a similar way to the Standard Occupation Contract however, the Landlord may include terms relating to:

- (i) The ability to change where the Contract Holder is living within the building.
- (ii) The ability for the Landlord to temporarily exclude the Contract Holder from the dwelling for up to 48 hours, a maximum of three times in six months, to ensure the safety of residents and staff or to prevent an eviction. For example, if the contract holder uses violence against another person at the property

## **Caerphilly Homes' Statutory Changes**

- 5.7 The Act introduces significant additional obligations in respect of our management and maintenance responsibilities which have necessitated a comprehensive review of our contracts, policies, and procedures, and WG have only provided six months' notice to prepare for implementation. These changes will permanently impact on the operations of the various teams, creating significant additional workload responsibilities in housing management, property maintenance and homeless prevention services in particular, which will have associated financial consequences.
- 5.8 Caerphilly Homes must comply with the requirements of The Act from 15<sup>th</sup> July 2022 and has established a Project Board which has overall responsibility for project delivery. There are various working groups that are undertaking a comprehensive review of services and relevant documents to ensure statutory changes are incorporated. We are also collaborating with other Local Authorities in relation to consistency of our communications to tenants and to share good practice. In addition, we are being supported by colleagues from Legal Services and specialist housing law solicitors to ensure compliance with the requirements of the Act.
- 5.9 Caerphilly Homes secure tenants will, from the 15<sup>th</sup> of July 2022, now be referred to as contract holders and Tenancy Agreements will be known as Occupation Contracts.

- 5.10 There will be two types of Secure Occupation Contract after 15<sup>th</sup> July 2022. All new contract holders will sign up to the new Occupation Contract and all current tenants will become contract holders and will be issued with a converted Occupation Contract.
- 5.11 Unlike new Occupation Contracts issued after the Act comes into force, which will wholly reflect the model contract provided by Welsh Government, a converted Occupation Contract will be required to comprise of some terms which exist within the current Tenancy Agreement along with any new terms from the model contract that provide improved rights for the contract holder.
- 5.12 Unlike new contract holders, Caerphilly Homes will be required to provide all existing contract holders with a copy of the converted Occupation Contract no later than six months from 15<sup>th</sup> July 2022, however, it is proposed that they will be issued as soon as achievable. These contract holders will not be required to sign the converted contract and will enjoy the benefits of increased rights from 15<sup>th</sup> July 2022, even though they may not yet have received a copy of the converted Occupation Contract.
- 5.13 There is an obligation that any Policies are consistent and compatible with The Act and the following Policies are being reviewed and amended in so far as is necessary to reflect the requirements of The Act:
- (i) Response Repairs Policy
  - (ii) Rechargeable Repairs Policy
  - (iii) Anti-Social Behaviour Policy
  - (iv) Common Allocations Policy

These amended Policies will be available on the intranet and CCBC website from 15<sup>th</sup> July 2022.

- 5.14 Working practices and documentation will be amended to incorporate the additional responsibilities and obligations associated with being a landlord following implementation of The Act. This will necessitate increased capital and revenue resources within some teams.
- 5.15 A communication strategy has been developed to complement the promotional material being issued by Welsh Government, in an effort to ensure all tenants (contract holders), housing applicants, landlords, residents, Caerphilly Homes' staff and councillors are aware of the Act. All private landlords are already required to be registered with Rent Smart Wales who have their own publicity campaign to promote the changes associated with The Act.
- 5.16 A training strategy has been developed to ensure Caerphilly Homes' staff are aware of and gain an understanding of The Act relevant to their role and to ensure they are able to provide appropriate advice and assistance to their customers and partner organisations.
- 5.17 The Caerphilly County Borough Council website has a dedicated Renting Homes (Wales) Act 2016 page and the Caerphilly Homes pages have been reviewed and amendments prepared in accordance with The Act.

## **Homelessness Functions and the Provision of Emergency Temporary Accommodation**

- 5.18 The Act will impact on the type of licences/contracts held by households who are offered or placed in emergency temporary accommodation by the Local Authority.
- 5.19 Under The Act, occupiers of Homeless Accommodation used by the Local Authority to discharge its Homelessness functions can be given a licence instead of an Occupation Contract, until a duty is owed to secure accommodation for them because they are determined to be unintentionally homeless and in priority need (Section 75 duty) or, if such accommodation is being provided by another landlord on behalf of the Local Authority, until a period of 12 months expires.
- 5.20 Where Homeless Accommodation is provided by the Local Authority:
- (i) A tenancy or licence made by the Local Authority because of its Homelessness functions will not become an Occupation Contract until the Local Authority is satisfied it owes a Section 75 duty.
  - (ii) Once a Section 75 Duty is triggered the accommodation can be provided using a Standard Occupation Contract rather than a Secure Occupation Contract.
  - (iii) Where a Local Authority arranges for a landlord (Community / Private Sector / RSL) to provide temporary accommodation related to its Homeless functions a tenancy or licence will not become an Occupation Contract until 12 months after the applicant was notified that the Local Authority has a duty to carry out an assessment of their circumstances, unless the landlord decides to give an Occupation Contract.
- 5.21 For households in emergency temporary accommodation provided as part of the Local Authority's Homelessness Duties on the 15<sup>th</sup> of July 2022 transitional arrangements will apply
- (i) A Tenancy or Licence made by the Local Authority because of its homelessness functions will remain unless the authority is satisfied that it owes a section 75 duty.
  - (ii) After a Section 75 duty is accepted households in Local Authority accommodation will have a Secure Occupation Contract unless a notice is served on them to provide a Standard Occupation Contract, for which there is a 14 day right to review.
  - (iii) Where this accommodation is provided by another landlord an Occupation Contract will not be held until the 12 months notification period has ended.
- 5.22 The Housing Solutions Team are currently working with all its emergency and supported accommodation providers to review current licences and contracts to ensure that we are able to meet the requirements of The Act.
- 5.23 Local Authorities are currently in discussion with Welsh Government to highlight the impact that The Act will have on the provision of temporary accommodation in meeting its Homelessness duties to consider if possible further exceptions can be considered given the unprecedented numbers that are in temporary accommodation at this time as a result of the pandemic and the Welsh Government directive of "everyone in".



## **Conclusion**

- 5.24 All landlords, including Caerphilly Homes, have a legal obligation to implement the changes brought about by the Renting Homes (Wales) Act 2016, from the implementation date of 15<sup>th</sup> July 2022.
- 5.25 The Act brings about the biggest reform to housing legislation in decades and Caerphilly Homes is undertaking a comprehensive review of contract documentation, policies and procedures for implementation both before and following the implementation date to ensure compliance.
- 5.26 Caerphilly Homes' tenants (contract holders) will benefit from the positive changes brought about by The Act, their legal rights to live in their home will not be any less secure and no-one will have to move home. Caerphilly Homes will continue to provide the same services, and all existing legal rights will remain, with the addition of some new rights.
- 5.27 Any changes to existing Caerphilly Homes' policies and procedures will only be to the extent that is necessary to reflect the requirements of The Act.
- 5.28 There will be greater security of tenure for tenants (contract holders) who live in the private rented sector.
- 5.29 The Act will have a significant impact on the provision of temporary accommodation by the Local Authority in meeting its Homelessness duties. Conversations remain ongoing with Welsh Government in this regard.
- 5.30 There will be capital and revenue resource implications associated with implementation of The Act to ensure that we comply with our obligations and responsibilities.

## **6. ASSUMPTIONS**

- 6.1 There may be a resource issue in the availability and turnover of emergency and temporary accommodation irrespective of landlord, due to lack of suitable move on accommodation options within the county borough and as a result of the notices to end the arrangements that would need to be served on the occupiers if Occupation Contracts have been issued.
- 6.2 Some Private Landlords could make the decision to exit the market due to The Act and the additional obligations it places on them when providing homeless accommodation.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 An Integrated Impact Assessment has not been carried out as this report relates to statutory changes and is for information only.
- 7.2 A communication strategy has been developed to complement the promotional material and methods prepared by Welsh Government, to ensure all tenants (contract holders), housing applicants, landlords, residents, Caerphilly Homes' staff and councillors will have access to information regarding the Act.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 There are costs associated with producing and issuing bilingual copies of the converted Occupation Contract to all existing Contract Holders and arranging translation of the document in a number of languages to meet the needs of our customers. It is anticipated that the written statement of the Occupation Contract required to be provided to all existing tenants will extend to approximately 50 pages. Translation, print, and postage costs are estimated at £47,000 excluding VAT.
- 8.2 The services of a specialist housing law solicitor are being engaged to support officers within Caerphilly Homes and Legal Services in preparing for the implementation phase of The Act.
- 8.3 Additional temporary accommodation costs are likely to be incurred as per 6.1 above.
- 8.4 The additional responsibilities and obligations in respect of housing management and maintenance will require additional staff resources which are yet to be determined. This will include costs associated with the increase in frequency of periodic electrical testing, with an additional 3,000 having to be completed over the next 5 years.
- 8.5 There are a number of financial risks for the Housing Revenue Account associated with The Act. These include:
- The introduction of a two-month notice period for rent increases and an inability to increase rents more than once in a calendar year. If decisions on rent increases are delayed, then rental income will be lost for a defined period. A delay in implementing a rent increase of 3.1% by one month would currently result in lost rental income of £131,515.
  - There is the potential for contract holders to withhold rent and seek damages if Caerphilly does not fully comply with its obligations under the Act, such as where properties are found not to be FFHH due to, for example maintenance delays, or a failure to meet defined time limits for responses to requests and notifications from contract holders. Our current average weekly rent is £91.97.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 There are no personnel implications associated with this report.

## **10. CONSULTATIONS**

- 10.1 The report has been sent to the Consultees listed below and all comments received are reflected in the report.

## **11. STATUTORY POWER**

- 11.1 Not applicable

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Kerry Denman, Housing Solutions Manager, denmank@caerphilly.gov.uk

Consultees:

- Cllr Andrew Whitcombe, Chair Housing & Regeneration Scrutiny Committee
- Cllr Pat Cook, Vice Chair Housing & Regeneration Scrutiny Committee
- Cllr Shayne Cook, Cabinet Member for Housing
- Dave Street, Corporate Director of Social Services and Housing
- Nick Taylor-Williams, Head of Housing
- Robert Tranter, Head of Legal Services and Monitoring Officer
- Steve Harris, Head of Financial Services & Section 151 Officer
- Todd Rawson, Housing Solicitor
- Lesley Allen, Principal Group Accountant
- Sandra Isaacs, Rents Manager
- Claire Davies, Private Sector Housing Manager
- Jane Roberts-Waite, Strategic Co-ordination Manager
- Mark Jennings, Principal Housing Strategy Officer
- Jason Fellows, Housing Repair Operations Manager
- Alan Edmunds, WHQS Implementation Project Manager
- Rachel Hawker, Service Development Officer

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## SPECIAL HOUSING AND REGENERATION SCRUTINY COMMITTEE – 9TH JUNE 2022

**SUBJECT: HOUSING REVENUE ACCOUNT RENT POLICY REVIEW**

**REPORT BY: CORPORATE DIRECTOR OF SOCIAL SERVICES AND HOUSING**

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### 1. PURPOSE OF REPORT

- 1.1 The 2022/23 Housing Revenue Account charges report which determines the annual rent charges was agreed by Cabinet on the 9<sup>th</sup> of February 2022. An additional recommendation agreed in this report was to review the current rent policy in order to reflect affordability. This was to address Welsh Governments expectations that all social landlords should evidence that their rent is affordable to tenants using an appropriate affordability model.
- 1.2 This report seeks the views of the Housing and Regeneration Scrutiny Committee on the new Rent Policy prior to its presentation to Cabinet (date to be confirmed).

### 2. SUMMARY

- 2.1 Members will be aware that the preparation of the Housing Revenue Account (HRA) budget is quite separate to the work involved in setting the General Fund Budget and Council Tax. The HRA is funded by rental income received from council tenants, rather than the Council Taxpayer. Whilst there is a clear separation of these funds, a significant proportion of council tenants rent is funded from financial support in the form of Housing Benefit or Universal Credit, which is derived from the taxpayers' purse, therefore value for money must always be sought. 75% of our tenants receive financial assistance towards their rent.
- 2.2 The Affordable Housing Supply Review was published in April 2019. The purpose of the review was to examine current arrangements supporting the development of affordable housing, and to make recommendations for changes designed to increase supply and improve delivery from the resources available, which included making a recommendation on how a sustainable rent policy can help determine long term affordability for tenants and the viability of existing and new housing developments.
- 2.3 The key recommendations from this review in correlation to affordability within the rent policy was:-
  - *There should be a focus on landlords considering Value for Money alongside affordability. An explicit annual assessment on cost efficiencies should be part of the rationale for justifying any rent increase*
- 2.4 In reaction to this review, the Minister for Housing and Local Government has stated “*There must be a clear balance between the interest of landlords and residents. Affordability for tenants must take into account the whole cost of living in a property and Landlords are expected to consider these costs when setting rents each year. Affordability is an issue I take very seriously, and I am mindful of not placing excessive financial burdens upon tenants*”.

2.5 Welsh Government have devised a mandatory self-certification monitoring return that social landlords are expected to complete on an annual basis to confirm compliance with the Welsh Government rent standard. Questions around affordability include the following:-

3 *Please outline the factors you considered when assessing the affordability when you set your rents and service charges for the 2022/23 year. Include details of how affordability for your tenants was taken into account and influenced the approach taken.*

4 *Please indicate any of the affordability models used when assessing your rents*

*a) Joseph Rowntree Foundation Living Rent Model b) CHCs/Housemark Affordability Tool  
c) Other models – please name.*

Welsh Government will note favourably where social landlords have used an established affordability model such as the ones mentioned above.

2.6 The WG rent policy allowed a maximum of 3.1% rent increase for 21/22. Members recognised the current cost of living crisis and adopted a 2% increase which was one of the lowest in Wales.

2.7 Caerphilly Homes have explored the Joseph Rowntree Foundation (JRF) Living Rent Model which is designed on the principle that a single person should not spend more than 28% of their net pay on rent for a standard single person unit of accommodation.

2.8 When considering our current rent levels, the majority fall below the JRF Living Rent levels thus evidencing affordability. However, there is a small number of stock that is just above the JRF rent level.

### **3. RECOMMENDATIONS**

3.1 Members are requested to consider and give a view on the following recommendations which will be presented to Cabinet (date to be confirmed) for their decision: -

3.2 To include the JRF Living Rent model as part of our existing rent policy, using the JRF model to benchmark at least every 2 years against our current rent policy to ensure affordability levels are evidenced.

3.3 Any variances outside of the benchmark Living Rent model to be reported to members as part of the annual rent increase report with appropriate recommendations.

3.4 To adopt an average household earnings approach to the JRF model rather than based on earnings over 24 Middle Super Output Areas in Caerphilly County Borough. This would maintain the current basic 14 property rent types as opposed to 336 basic property rent types

### **4. REASONS FOR THE RECOMMENDATIONS**

4.1 To comply with requirements of Welsh Government Social Rent Policy.

4.2 To address the response from the Minister for Housing and Local Government as stated above, regarding taking the whole cost of living in a property into account when setting the rent.

4.3 To ensure affordability for our tenants is measured fairly using a well-established affordability model.

4.4 To evidence that affordability is considered as part of the annual rent setting process.

4.5 To allow flexibility within the current rent policy so that affordability can be taken into account.

## 5. THE REPORT

5.1 Affordability for tenants is a factor that must be considered as part of setting any rent increases. This involves working with our tenants to capture their views and establishing a suitable model that would evidence affordability together with a system for accurately recording such information.

5.2 In consideration for setting the 2022/23 rent, officers surveyed tenants in October 2021. The survey was called “Your Rent, Your Views” with the aim of capturing tenants’ views on their rent, particularly on affordability and value for money, which would assist in setting future rents. Details of the survey are shown in the Rent Increase Report which is attached for information (Appendix A).

5.3 The survey overall suggested a higher proportion of our tenants agreed that their rent is affordable and offers value for money.

5.4 54% agreed that Caerphilly Homes should consider the average household income when setting rent and 83% thought Caerphilly Homes should take into account the costs of running a home when setting rent.

5.5 As a follow up to “Your Rent Your Views” last October, officers have been engaging further with tenants through social media and focus groups, to discuss the JRF Living Rent model in more detail, gauging their views on how it should be incorporated into our current rent policy.

5.6 Currently our rent policy charges the same rent for the same size property irrespective of location within the Borough (e.g. a 1 bed flat would have the same rent throughout the borough). Three focus group sessions were held in May with tenants, to specifically discuss the JRF Living Rent model and the impact on rents. A survey was also targeted to tenants via social media (Facebook & Twitter), our engaged tenants list, Caerphilly C.B.C website and the EGov bulletin.

The survey explored tenants’ views on:-

- Whether we should adopt the JRF Living Rent methodology (i.e. lower quartile earnings) when setting the rent
- A number of options of how the rent could be based on earning levels, if the JRF Living Rent model was adopted, such as:-
  - i. Average earnings for the whole of the Borough, so that the same size property would be the same rent throughout the Borough (retaining the current level of 14 basic rent types).
  - ii. Using the 24 Middle Super Output Areas (MSOA) so there would be different rents for each of the 24 areas (meaning a potential 336 different basic rent types).
  - iii. Reducing the 24 MSOA’s into 5 or 6 bands, where each band would hold a range of similar earnings (meaning a potential 70 -84 different basic rent types).

5.7 Our current rent policy includes different rents for 14 basic property types (e.g. 1 to 5 bed houses, 1-3 bed flats, 1-4 bed bungalows and 2-3 bed maisonettes) and sets the same rent for each type irrespective of where they are located within the borough. There are further subdivisions of the rent type dependent on square footage and positioning (e.g. mid terrace, first floor, detached, etc.) but this report deals with the high level rent types. The same percentage increase is currently applied each year across our stock.

5.8 The Current profile of our stock is as follows:-

**Caerphilly Homes current stock profile**

Type	No of Bedrooms					Total	% stock
	1	2	3	4	5		
BUNGALOW	568	900	75	2	-	1545	15%
FLAT	1294	1444	66			2804	26%
HOUSE	24	1309	4794	163	1	6291	59%
MAISONETTE	-	3	5			8	0%
<b>Total</b>	<b>1886</b>	<b>3656</b>	<b>4940</b>	<b>165</b>	<b>1</b>	<b>10648</b>	
<i>% bedrooms</i>	<i>18%</i>	<i>34%</i>	<i>46%</i>	<i>2%</i>	<i>0.01%</i>		

- 5.9 Officers have continued to work on developing the affordability survey and have met colleagues in Welsh Government and other local authorities with the aim of sharing best practice.
- 5.10 To our knowledge Cardiff is the only other Local Housing Authority using this model, although a number of other LHA's are considering it. A large number of Housing Associations are already using an affordability model
- 5.11 The JRF Living Rent model establishes a link between rents and the ability of people on low income to afford them, using the lower quartile localised earnings data from the Office for National Statistics Annual Survey of Hours and Earnings.
- 5.12 The model states that a Living Rent should be affordable for a household with someone in full-time employment, working the average number of hours worked per week and earning around the minimum wage. The model therefore uses the lower quartile national earning figures.
- 5.13 The lowest quartile earnings for Caerphilly County Borough are £294.10 gross per week (2021 provisional figures ASHE 25<sup>th</sup> percentile earnings) or £15,293.20 per annum.
- 5.14 A salary calculator converts this to a net annual earning of £14,031.31 by calculating a typical tax and NI deduction (using 2022 tax rates). This is equivalent to £269.83 per week (net) but needs to convert to a 48-week basis to compare with the period Caerphilly Homes charges its rent, which is £292.32 over a 48-week basis.
- 5.15 The principle of the JRF model states that 28% of these net weekly earnings (lowest quarter) is therefore £81.85 per week, meaning a person on social rent should not be paying more than £81.85 per week on rent for a single person in a one-bedroom flat.
- 5.16 Weightings are necessary to reflect the different composition of our property types and sizes.
- 5.17 If the JRF Living Rent model is adopted, any new tenancies could be let at the current Living Rent model. However, existing tenants are protected under the current WG rent policy which allows LAs to increase their rent each year by the agreed percentage uplift plus a maximum of £2 per week. Conversely, LA's also have the option to freeze or reduce each year by a maximum of £2.
- 5.18 The methodology described above is clearly different to our current local rent policy, where uplifts are applied consistently to all tenants irrespective of location or earnings. However, in order to comply with the requirements of Welsh Governments social rent policy and affordability principles below, we must ensure we can evidence that the rent we set for tenants is fair, transparent, affordable, and sustainable.



5.19 Weightings are necessary to represent the larger size property types e.g. more than one bedroom, and the actual properties e.g. houses and bungalows. This is similar to the established model used in Monmouthshire Housing Association.

<u>Property Category</u>	<u>Factor</u>	<u>Bedroom No</u>	<u>Factor</u>
BEDS	-0.10	Bedsit	0.00
BUNG	0.10	1 Bed	0.00
FLAT	0.00	2 Bed	0.20
HOUSE	0.10	3 Bed	0.30
MAIS	0.05	4 Bed	0.40
		5 Bed	0.50

5.20 This results in an average Living Rent model using the financial information on Living Rents provided above for Caerphilly Homes, are as follows:-

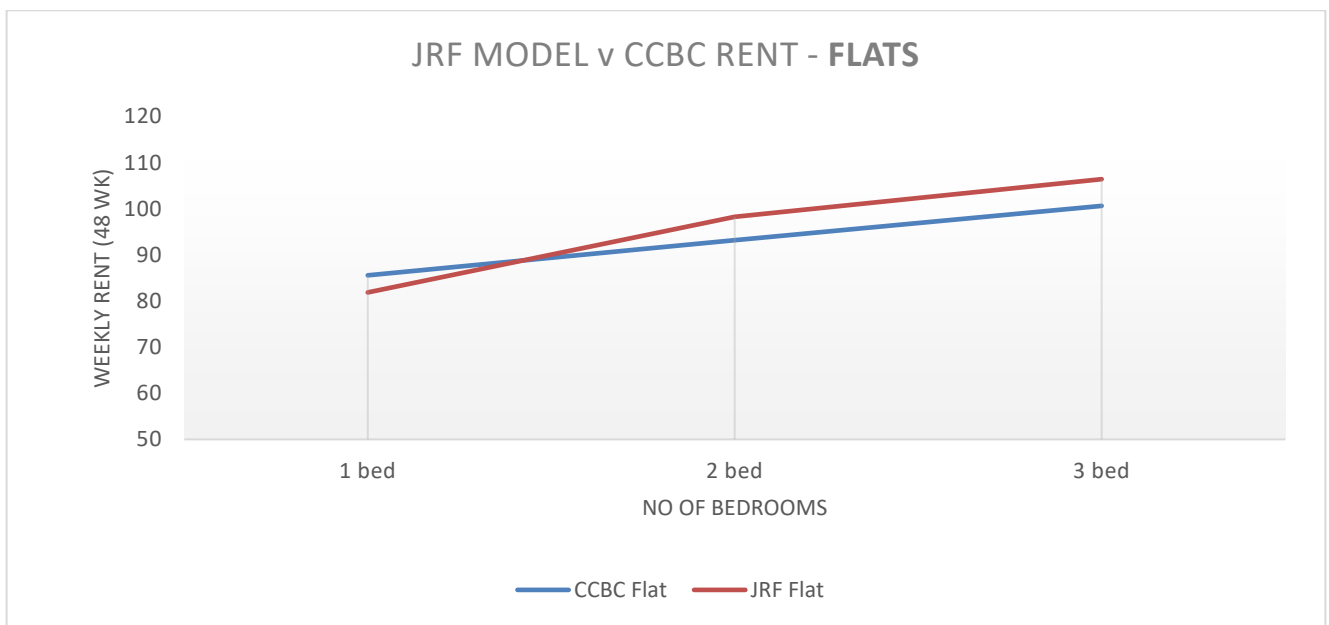
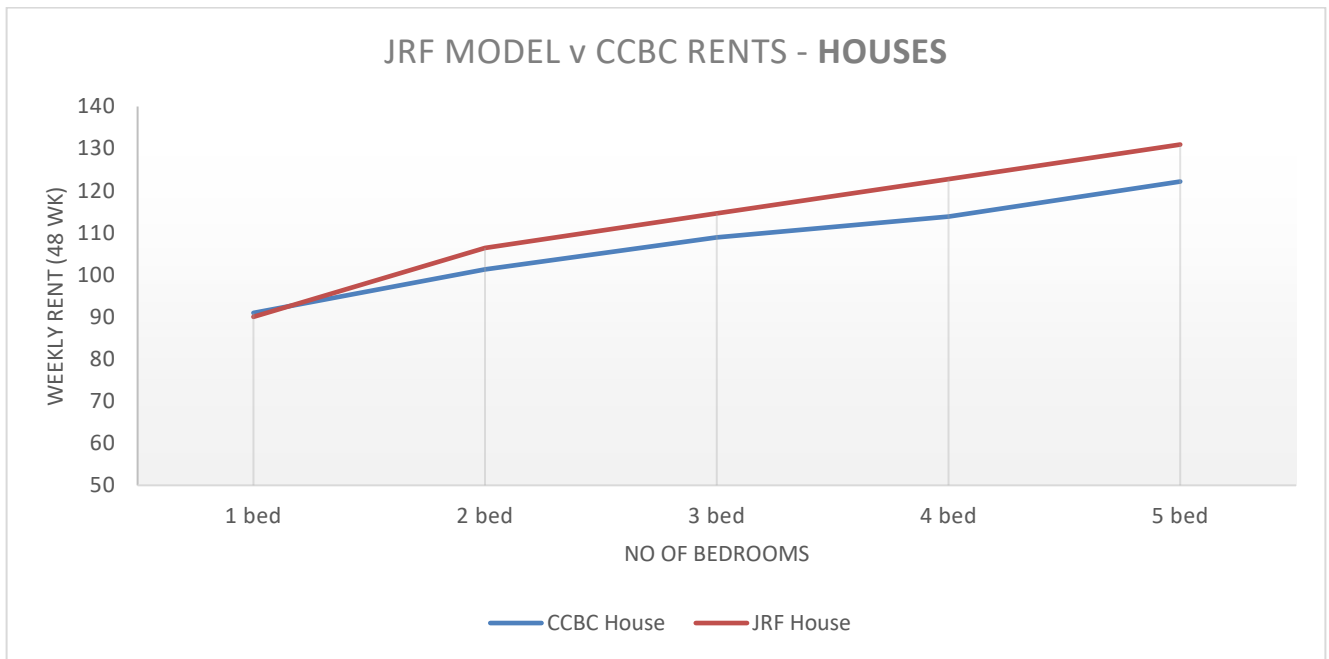
Property Type	Bedroom No	Start factor	Adj factor	Living Rent
BEDS	Bedsit	1.0	0.90	73.66
BUNG	1 bed	1.0	1.10	90.03
BUNG	2 bed	1.0	1.30	106.40
BUNG	3 bed	1.0	1.40	114.59
BUNG	4 bed	1.0	1.50	122.77
FLAT	1 bed	1.0	1.00	81.85
FLAT	2 bed	1.0	1.20	98.22
FLAT	3 bed	1.0	1.30	106.40
FLAT	4 bed	1.0	1.40	114.59
HOUSE	1 bed	1.0	1.10	90.03
HOUSE	2 bed	1.0	1.30	106.40
HOUSE	3 bed	1.0	1.40	114.59
HOUSE	4 bed	1.0	1.50	122.77
HOUSE	5 bed	1.0	1.60	130.96
MAIS	1 bed	1.0	1.05	85.94
MAIS	2 bed	1.0	1.25	102.31
MAIS	3 bed	1.0	1.35	110.50

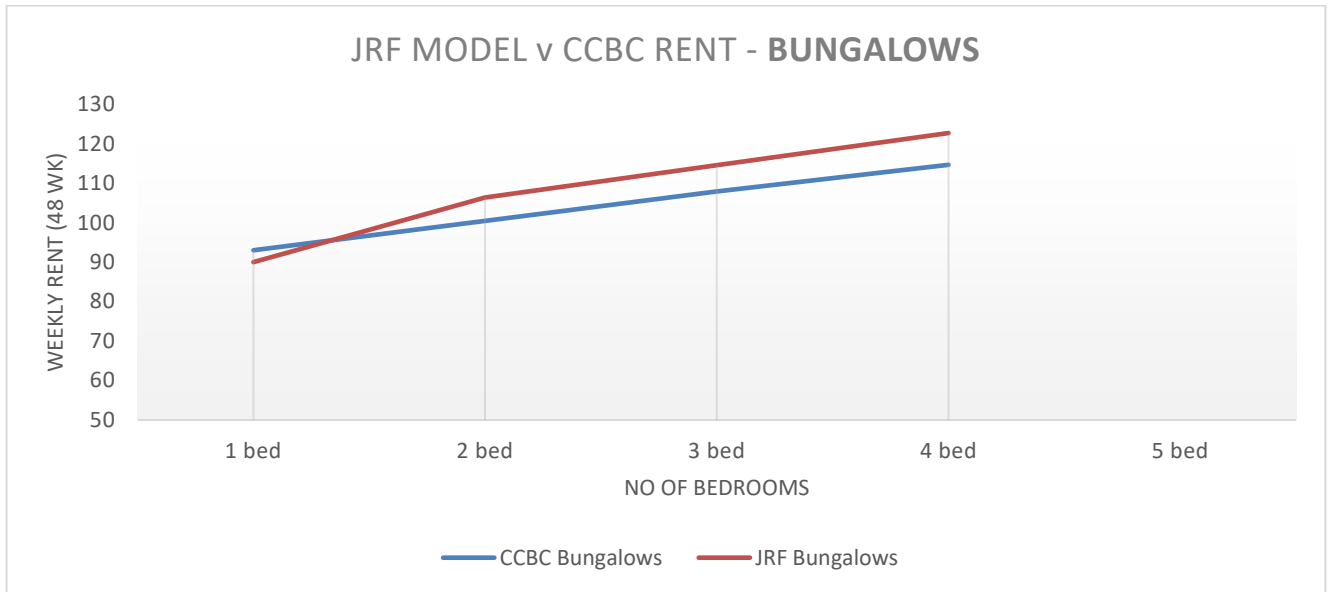
5.21 This is our current average rent for the property and bedroom types compared to the JRF Living Rent (based on a 48 week basis) which gives some interesting results.

Average rent 2022/23 (48 wk)												
No of Bedrooms	Bungalow			Flat			House			Maisonette		
	JRF	CCBC	diff	JRF	CCBC	diff	JRF	CCBC	diff	JRF	CCBC	diff
	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk	£/wk
1	90.03	93.04	3.01	81.85	85.56	3.71	90.03	90.96	0.93	-	-	-
2	106.4	100.53	-5.87	98.22	93.20	-5.02	106.4	101.30	-5.10	102.31	98.68	-3.63
3	114.59	107.93	-6.66	106.4	100.61	-5.79	114.59	108.9	-5.69	110.5	98.68	-11.82
4	122.77	114.71	-8.06	-	-	-	122.77	113.81	-8.96	-	-	-
5	-	-	-	-	-	-	130.96	122.17	-8.79	-	-	-

The shaded figures show the properties where rent is higher than the JRF Living Rent model.

5.22 Further analysis has been made in graph form for our main property types, comparing our current rents with the adjusted JRF Model rents:-





- 5.23 It is noted from the above data that overall, the rents charged by Caerphilly Homes are some 3.9% lower on average than the Living Rent model.
- 5.24 Breaking down the profiles shows that all of our properties, with the exception of 1 beds, are between the range of 25% and 27% when compared to the Living Rent model of 28%. This represents 83% of our stock. This suggests that 83% of our current rent profile is therefore affordable because it is lower than the recommended average from the JRF Living Rent model. If we aligned our rent to the Living Rent model (i.e. 28%) on these properties this would result in additional income of some £2.4m per annum for the HRA.
- 5.25 However, 17% of our stock which represents our 1 bed portfolio are between the ranges of 28.3% and 29.3% when compared to the Living Rent model of 28%. This includes 1 bedroom flats, houses and bungalows.
- 5.26 Therefore, officers suggest that this area can be reviewed separately under the rent policy if the recommendations are agreed. The rent increase for 2023/24 due to be presented to members at the end of the year, could possibly propose a reduction or a rent freeze on our 1 bed properties to align with the Living Rent model. If we aligned our rent to the Living Rent model on these properties this would result in a reduction in income of some £314k per annum.
- 5.27 The above JRF Living Rent calculation uses lower quartile average earnings for the whole of the county borough. However, there are 24 Middle Super Output Areas (MSOA) for Caerphilly County Borough which all have different levels of earnings. This could mean that for each area there could be 14 levels of rent to cover the 1 to 5 bed flats, houses and bungalows, meaning a potential 336 different rent types for our tenants. This is likely to become confusing and complex to manage and explain.
- 5.28 The options were discussed at the tenant focus groups who met in May. Tenants were asked what their preference was, and overall, they preferred the average approach. There were however concerns that an area such as Caerphilly might have more affluent areas that would distort the average earnings figure and hide the fact that there are many people on low income, and also the lowest rent areas could be stigmatised or increase voids in higher rent areas, but it was generally agreed that a rent for each of the 24 areas would be complicated for tenants to understand and expensive to administer.
- 5.29 The results of the survey (of which 137 responded) are as follows

1. Applying average earnings for the whole of the Borough, so that the same size property would be the same rent throughout the Borough (retaining the current level of 14 basic

rent types) – 52%.

2. Using the 24 Middle Super Output Areas (MSOA) so there would be different rents for each of the 24 areas (meaning a potential 336 different rent types) – 15%.
3. Reducing the 24 MSOA's into 5 or 6 bands, where each band would hold a range of similar earnings, or over a wider geographic (e.g. North, South, East) (meaning a potential 70 -84 different rent types) – 4%.

29% didn't express a preference but commented "leave it as it is", "Don't think it should be chosen like any".

- 5.30 Comments also included that "people can lie about what they earn" and "some people have different circumstances" and "should be worked out on individual circumstances". However, the earnings for each area are taken from the official ONS website and represents the lower quartile of earnings across the whole of the Borough. We would be unable to ask individual tenants to confirm or prove their earnings.
- 5.31 Other comments included "It's not encouraging people to work", "Its social housing it should be equal" "it may help those worse off".
- 5.32 Views were also sought on charging different rents in different locations for the same size home based on average household income. 46% said No, 40% said Yes and 14% didn't know. Comments included "I don't think it matters where you live", "not to discriminate between areas".
- 5.33 The lowest earning area within the Borough is 19% below the £81.85 average calculated above, but the highest earning area is 35% above. 13 (54%) of the areas are below the £81.85 average and 11(46%) of the areas are above. However, It is important to note that all these calculations use only the lower quartile earning levels for Caerphilly County Borough.
- 5.34 There is an option to band these using a 10% rent differential basis, meaning the 24 areas could reduce to 5 bandings. However, this still means 70 different rent rates and each year the banding could change depending on the earnings for each area, again making this difficult to manage and explain to tenants. Neighbouring authority Cardiff has chosen to use the average approach across their properties.
- 5.35 It is also important to note that the data used for calculating this method is inconsistent in terms of timelines. The latest release by the ONS Total Household Income by MSOA area is 2018. The lower quartile pay from ONS is 2021 (provisional), and the tax rates used to calculate the net salary is based on 2022, but they are the latest available at this time. If the JRF Living Rent model is adopted as part of our rent policy then it would be reviewed and updated with the most recently available data at least every 2 years.
- 5.36 It is also worth noting that the current cost of living crisis could put into question whether the 28% rate by JRF is now too high and perhaps should be lowered to reflect the current economic climate but officers have not seen any pending notifications that this is going to happen. For 83% of our properties however, we are already some 2% below the JRF threshold of 28%.

## **6. ASSUMPTIONS**

- 6.1 Assumptions are noted within the report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 An Integrated Impact Assessment was carried out as part of the annual rent increase report which recommended that the JRF Living Rent Model be considered as part of the annual rent increase, and is detailed below.
- 7.2 Section 24 of the Housing Act 1985 provides Local Housing Authorities (LHA's) with the power to set rents for its properties relating to Part II of said Act. A LHA is under a duty to act reasonably by determining rent levels. When setting rents under this section, a LHA must comply with any standards relating to rent set by the Welsh Ministers under section 111 of the Housing (Wales) Act 2014 and must also have regard to guidance issue under section 112 of the 2014 Act. Section 74 of the Local Government and Housing Act 1989 requires a LHA to keep and maintain a HRA ring-fenced account which ensures that the income raised from operating council housing is spent on council housing, and that neither the HRA nor General Fund are cross subsidised. Section 76 of the Local Government and Housing Act 1989 requires that the HRA cannot be set into a deficit.]
- 7.3 An increase in rents is required in order to not set a deficit budget within the HRA. The additional income is utilised on maintaining or improving existing services as well as creating financial resource to be able to meet WG agendas and challenges such as minimising evictions, not to evict into homelessness, deliver high quality homes, evidencing affordability and value for money, maintaining WHQS, installing Optimised Retrofit Programmes on existing stock, and enhancing tenant involvement.
- 7.4 65% of tenants who were surveyed on "Your rent your view" survey confirmed that their rents were deemed fair and affordable and 61% thought their rents provided value for money. 76% of tenants who were surveyed on the STAR survey also thought their rents provided value for money and 77% were satisfied with the services provided. As part of the rent setting process, tenants were also involved in focus groups and question of the week polls.
- 7.5 The latest statistics for the All-Wales averages (2019/20) ranks Caerphilly 3<sup>rd</sup> lowest in terms of Local Authority rent and 5<sup>th</sup> highest in terms of workplace earnings. 75% of Caerphilly CBC tenants are in receipt of financial support for their rent in the form of Housing Benefit or Universal Credit. Tenancy support is offered to all tenants.

[Link to the Integrated Impact Assessment](#)

## **8. FINANCIAL IMPLICATIONS**

- 8.1 This report outlines the financial impact of considering the JRF Living Rent Model as part of its annual rent setting. More detailed financial implications will be confirmed in the annual rent setting report when the WG rent policy is confirmed for the following year.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 The proposals contained in this report will not alter the current arrangements for the collection of housing revenue account monies.

## **10. CONSULTATIONS**

- 10.1 All consultation responses have been reflected in this report.

## 11. STATUTORY POWER

11.1 Local Government Acts 1972. This is a Cabinet function.

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Consultees:

Cllr Andrew Whitcombe	- Chair Housing & Regeneration Scrutiny Committee
Cllr Patricia Cook	- Vice Chair Housing & Regeneration Scrutiny Committee
Cllr Shayne Cook	- Cabinet Member for Housing
Dave Street	- Corporate Director Social Services & Housing
Nick Taylor-Williams	- Head of Housing
Robert Tranter	- Head of Legal Services/Monitoring Officer
Stephen R Harris	- Head of Financial Services & S151 Officer
Fiona Wilkins	- Housing Services Manager
Sandra Isaacs	- Rents Manager
Amanda Main	- Acting Benefits Manager
Jane Roberts-Waite	- Strategic Co-ordination Manager
Alan Edmunds	- WHQS Project Manager
Jason Fellows	- HRO Manager
Kerry Denman	- Housing Solutions Manager
Mandy Betts	- Tenants & Community Involvement Manager

Background Papers: N/A  
Appendix A – Rent increase report



## CABINET 9TH FEBRUARY 2022

**SUBJECT: HOUSING REVENUE ACCOUNT CHARGES – 2022/2023**

**REPORT BY: CORPORATE DIRECTOR OF SOCIAL SERVICES & HOUSING**

### 1. PURPOSE OF REPORT

For Members to consider and make a decision on the increased Council Housing rent charges proposed in this report. The charges predominantly focus on council house rents, but also include garages, and are intended to be effective for the Housing Revenue Account (HRA) for the 2022/2023 financial year. Comments made by the Housing & Regeneration Scrutiny Committee are included in this report

### 2. SUMMARY

- 2.1 Members will be aware that the preparation of the Housing Revenue Account (HRA) budget is quite separate to the work involved in setting the General Fund Budget and Council Tax. The HRA is funded by rental income received from council tenants, rather than the Council Taxpayer. Whilst there is a clear separation of these funds, most of the proportion of council tenants rent is funded from financial support in the form of Housing Benefit or Universal Credit, which is derived from the taxpayers' purse, therefore value for money must always be sought. 75% of our tenants receive financial assistance towards their rent. We charge our council tenants rent over a 48-week basis, but the Welsh Government (WG) base their rents on a 52-week basis, so this report shows the 52-week equivalent.
- 2.2 The Affordable Housing Supply Review was published in April 2019. The purpose of the review was to examine current arrangements supporting the development of affordable housing, and to make recommendations for changes designed to increase supply and improve delivery from the resources available. One of the tasks included making a recommendation on how a sustainable rent policy can help determine long term affordability for tenants and the viability of existing and new housing developments.
- 2.3 The key recommendations from this review in correlation to the rent policy was
- *The Welsh Government should implement a five-year rent policy from 2020-21. This has been based on CPI plus 1% plus an additional £2.*
  - *There should be a focus on landlords considering Value for Money alongside affordability. An explicit annual assessment on cost efficiencies should be part of the rationale for justifying any rent increase*
- 2.4 In reaction to this review, The Minister for Housing and Local Government has stated “*There must be a clear balance between the interest of landlords and residents. Affordability for tenants must take into account the whole cost of living in a property and Landlords are expected to consider these costs when setting rents each year. Affordability is an issue I take very seriously, and I am mindful of not placing excessive financial burdens upon tenants*”.

2.5 Having considered the review, along with wider factors such as the pressures arising from growing levels of homelessness, the need to decarbonise our existing stock, to maintain the Welsh Housing Quality Standard and to build new high-quality homes that are near zero carbon, The Minister on the 29/12/21 confirmed the following for the 2022/23 Rent Policy: -

1. An annual uplift of up to **CPI only** for this year using the level of CPI from the previous September each year. The decision has been taken to remove the “plus 1%” option which is prescribed in the rent policy as follows, “should CPI fall outside the range of 0% to 3%, the responsibility will rest with the Welsh Ministers to determine the appropriate uplift to be applied for that year only”
2. CPI will be the maximum increase allowable in this year, but this must not be regarded as an automatic uplift. Landlords’ decisions on rent should take into account the affordability of rents for tenants.
3. The level of rents for individual tenants can be reduced or frozen, or can rise by up to an additional £2 over and above CPI, on condition that the total rental income collectable across the whole stock increases by no more than CPI
4. As an intrinsic part of the 5-year policy, landlords will be expected to set a rent and service charge policy which ensures that social housing remains affordable for current and future tenants. As part of their annual decision, they should assess cost efficiencies, value for money and affordability for tenants.

2.6 In light of the pandemic, the lack of data collection whilst government resources have been re-prioritised, has meant no robust data available to generate the Target Rent Bands for the year ahead, and The Minister therefore suspended the role of Target Rent Bands when confirming the 2021/2022 rent policy. For the 2022/23 Rent Policy the suspension has been continued. Members will recall that the original policy set a Target Rent Band for each Authority which allows Authorities flexibility to increase the rent to ensure the level is within the Target Rent Band envelope. Conversely, if the average weekly rent is above the Target Rent Band, average rents will increase at a lower rate, to bring the rent back within the Target Rent Band envelope.

2.7 The Minister is also keen to continue with a number of new initiatives as part of the wider rental agreement which include:

- Strengthen approaches designed to minimise all evictions, working effectively with partners to deliver on a new agreement not to evict into homelessness.
- Undertake a standardised tenant satisfaction survey for publication on a central website to assist tenants in scrutinising and comparing landlord performance. This is the STAR (Survey of Tenants and Residents) survey. The next submission date based on the revised core questions is 28 February 2022 for publication in April 2022.
- Build on existing commitments to deliver high quality homes which comply with the new housing quality standard “WDQR 2021” across all tenures on sites which attract Welsh Government funding
- Continue to work towards an aspiration that all new build housing, regardless of tenure, achieves energy efficiency standards of no less than EPC A on sites that attract any Welsh Government funding.
- All Social landlords are required to make, and evidence, an annual assessment of affordability for tenants, cost efficiencies and to demonstrate their homes and services represent value for money as part of their decision on the rent uplift to be applied each year. To assist with providing Welsh Government with the necessary assurance, each



social landlord will be required to complete a self-certification monitoring form which will be used to monitor compliance with the Welsh Government Rent Standard. This form must be completed and returned by the end of February 2022.

- 2.8 The previous September's CPI inflation figure was 3.1%. The policy therefore allows a maximum of 3.1% increase on our total rental income. Landlords also have a discretion to apply a further £2 on top of the CPI but this is as a means of aligning rents over certain property types or areas. The overall increase cannot be more than CPI even by applying the discretionary £2.
- 2.9 The latest Business Plan submitted for 2021/22 assumed a rent increase of between 1.5% and 2.5% over the next 5 years, but this plan would not have assumed the unprecedented sharp increase in costs that is being experienced nationally in terms of materials and the fluctuating supply of resources. The plan allowed for a 2% increase in material costs, but the construction industry is being hit with staggering material price increases with no indication this will change over the next 6 to 12 months. Price increases are varying dramatically with sources confirming between 8% and 200% depending on product, which will heavily impact not only on maintaining the WHQS standard we have just achieved on our current properties, but also our ambitious new build agenda.
- 2.10 Members will recall there was limited time to consider a full affordability options appraisal for setting the rent for 2021/22, and due to the Covid-19 restrictions, officers could not progress to the extent desired, as resources were prioritised elsewhere. However, an affordability survey was sent to tenants and the responses received were considered when setting the 2021/22 rent last year.
- 2.11 In consideration for setting the 2022/23 rent, officers have developed this survey further which was targeted to tenants in October 2021. The survey was called "Your Rent, Your Views" with the aim of capturing tenants' views on their rent, particularly on affordability and value for money, which would assist in setting future rents. 373 tenants completed this survey
- 2.12 In addition to the affordability survey, as mentioned in 2.11 above, as a landlord, we are obliged to survey our tenants under a standard STAR survey, as mentioned in 2.7 above, which is a consistent framework for social landlords to collect, report and measure on tenant's satisfaction. The survey was sent out in September/October 2021. The survey consists of seven core questions and one of these key questions include a direct reference to value for money. 1847 tenants completed this survey.

### **3. RECOMMENDATIONS**

- 3.1 Members of Cabinet are requested to consider and make a decision on the following recommendations
- 3.2 Officers recommend to Cabinet a range of increases per property for consideration from April 2022 based on the options explained in the report, which are: -
- (i) 3.1% (CPI only) – (£94.63/52 week – additional £2.85/wk) the maximum allowed under the rent policy Resulting in additional income of some £1.6m.
  - (ii) 2.5% (£94.08/52 week – additional £2.29/wk). This would generate additional income of some £1.3m and would be some £500k higher than the rent assumed in last year's business plan, allowing a more comfortable margin for the unprecedented increase in material costs
  - (iii) 2% – (£93.62/52 week – additional £1.84/wk) which is additional income of £1m, allowing for a small margin to reflect the unprecedented increase in material costs.

- (iv) 1.5% - (93.16/52 week – additional £1.38/wk). This is as per the business plan for 2022/2023 only, generating additional income of some £762k, but does not reflect the unprecedented increase in material costs
- (v) 0% (No increase) – (£91.79/52 week) would reduce our income by £762k to that assumed within our business plan. Higher increases may need to be considered in the future to get back within the policy target rent band, on the assumption this is re-introduced and uplifted by inflation-
- (vi) The level or rent for garages from April 2022 be increased by 2% to £8.39 per week
- (vii) Recommend a review of the current rent policy to reflect affordability

#### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 Inflationary increases on providing all aspects of the housing service are experienced annually, however as the HRA cannot legitimately set a deficit budget, the loss of additional income will result in reduced resources being available to effectively manage and maintain the stock impacting on service delivery and could result in increased levels of borrowing, which is an additional cost to the HRA.
- 4.2 Housing Benefit/Universal Credit will cover the increased costs for the rent charge in this report for 75% of our tenants up to the Housing Benefit limitation rate (yet to be confirmed).
- 4.3 If charges are not increased annually it has a detrimental effect on subsequent years as higher increases are then needed to recover the shortfalls from previous years.
- 4.4 The Council's Business Plan relies on inflationary increases to remain viable and cover increasing costs associated with the delivery of the service.
- 4.5 Additional resource is necessary to be able to meet the demands from Welsh Government on maintaining the WHQS, the provision of new affordable housing, decarbonisation of the existing stock and increasing support for tenants in order to sustain tenancies and reduce homelessness.
- 4.6 The impact of Covid has significantly impacted on the HRA, in particular material costs, but with a considerable reduction in productivity, meaning that our budget has been delivering less. This has resulted in a backlog of work which will increase costs in 2022/23.

#### **5. THE REPORT**

##### **5.1 Rent Increase**

- 5.1.1 Members will recall that the rent policy under Welsh Government has changed over recent years and the Minister has reacted where necessary year on year. More recently however, the rent policy has been fixed for a five-year term. We are currently under the 2020/21 to 2024/25 five-year rent band which was set at CPI plus 1%. Under the current rent policy, a target rent band for each Authority was set by WG so there is still some degree of control retained by WG however, all of the rental income will be retained by the Authority and used to fund expenditure, service debt and create borrowing headroom to support the delivery of WHQS and future investment. However, during 2021/2022 the target rent band was suspended as a consequence of the Covid-19 pandemic. Furthermore the "plus 1%" has been removed for the 2022/23 financial year as a reaction to the ongoing pressures during the Covid-19 pandemic and Brexit, which has seen inflation rise higher than expected. The Welsh Ministers can determine the appropriate charge to the rent levels in that year if CPI falls

outside of the range 0% and 3% and has therefore decided to remove the “plus 1%” from the 2022/23 rent policy.

5.1.2 As a result of the housing benefit limitation scheme, rent increases above Department of Work and Pension (DWP) rent limits do not produce extra income from the benefits system, as any shortfall would be required to be met by the tenant. This would therefore be an added financial burden to some of our most vulnerable tenants. At this stage however, as in previous years, details regarding the DWP limit under the current rent policy are yet to be confirmed, but all the recommendations contained within this report are compliant with the WG. Typically, the limit rent is increased by the rent policy, therefore it is assumed that the DWP rent limits will increase by 3.1%. Approximately 75% of tenants are in receipt of financial support in the form of Housing Benefit or Universal Credit.

5.1.3 The 2020/2021 policy target rent band for CCBC was

- Low end           £90.41       per week
- Mid-point       £95.17       per week
- High end       £99.92       per week

The rent increase applied in 2020/21 of 2.7% meant that the average rent was £90.66 which was just within the low end of the target rent band.

5.1.4 However, the target rent band for 2021/2022 and 2022/23 has been suspended as a consequence of the Covid pandemic, so we are unable to measure the impact of any increased proposal. We can, however, evidence the impact that a lower than required increase can have when compared to the Housing Business Plan.

5.1.5 Initially, WG have stated that “*The rent policy allows you to apply the inflation plus £2 (per week) if you are aiming to move to a higher point within the Target Rent Band to meet your business plan commitments...*” This was removed for 2019/20 and was only applicable if Social Housing Landlords were below the rent envelope. This was subsequently changed under the 2020/21 policy, and the “plus £2” could only be applied on condition that the total rental income collected by the landlord is no more than CPI +1%. Furthermore, as part of the 2022/23 rent policy this means the overall income collectable cannot increase any more than CPI only for 2022/23. This provision is designed to enable social landlords to restructure rents where appropriate.

5.1.6 CCBC’s average rent based on a full rent debit as at week 37 is £91.79 (52-week basis) which when compared to the 2020/2021 target rent band (allowing for a 1.5% increase as per the 2021/22 rent policy) is at the low end of the band.

5.1.7 Applying the maximum of 3.1% increase means our average rent would be £94.63. Even with the suspension of the target rent band, this still places the rent within the low end of the previous two year’s banding, as per the table at 5.1.3.

5.1.8 The latest business plan submitted to WG in March 2021 included a rent increase of 1.5% for 2022/23 increasing to 2% for 2023/24 to 2025/26 with an increase to 2.5% from 2026/27 onwards. For 2022/23 this was on the assumption of applying CPI only and that CPI would be 1.5%. Applying CPI only (as opposed to CPI plus 1%) was considered a prudent approach at that time whilst in a pandemic environment where conditions were volatile. However, the unprecedented increases in materials could not be foreseen and these increases need to be reflected in the next business plan to be submitted to WG in March 2022.

5.1.9 To give members an idea of how changes in one area can affect the business plan, officers have modelled an example in respect of price increases for materials against the current business plan. If a 10% increase in materials is factored into the current plan whilst maintaining the 1.5% assumption for rent, this would result in an additional borrowing requirement of £4m.

- 5.1.10 If a 5% increase in materials is factored into the current plan whilst maintaining the 1.5% assumption for rent, this would result in an additional borrowing requirement of £1.9m
- 5.1.11 By applying the maximum 3.1% rent increase against the 10% & 5% scenario increase in costs for materials this would reduce the additional borrowing requirement to £2.1m or £200k respectively. The maximum rent increase would therefore offer more protection in terms of cost increases.
- 5.1.12 By applying a 2.5% rent increase against the 10% and 5% scenario increase in costs for materials this would reduce the additional borrowing requirement to £2.8m or £900k respectively.
- 5.1.13 By applying a 2% rent increase against the 10% and 5% scenario increase in costs for materials this would reduce the additional borrowing requirement to £3.3m or £1.4m respectively
- 5.1.14 By applying a 0% rent increase against the 10% and 5% scenario increase in costs for materials this would increase the additional borrowing requirement to £5.3m or £3.7m respectively.
- 5.1.15 Council agreed on the 26<sup>th</sup> February 2020 to a £75m borrowing level to complete the WHQS programme and progress with new build. This was estimated to be in the region of £45m for WHQS and £30m for new build. In the light of the pandemic, it was clear that progress of the WHQS programme was inhibited due to social distancing regulations, tenant refusals, and potential sickness of the workforce, contractors and/or tenants. Work progressed slowly and Welsh Government extended the deadline across the sector to December 2021. The additional costs associated with the pandemic restrictions resulted in an estimated total cost of £270m to achieve the WHQS Standard although due to the pandemic, spend was delayed whilst we were subject to lockdown restrictions, which meant funding could be carried over into the final year with a minimum impact on borrowing. Total borrowing for WHQS is therefore £40.9m. Borrowing for new build can therefore be confirmed at £34.1m within the current approval limit.
- 5.1.16 Furthermore, the pandemic resulted in additional costs to the HRA. In 2020/21 this was a net cost of £1.2m with no financial support from Welsh Government. In theory, therefore, this is a direct cost to tenants which is at a detriment to other services provided and deflects funding from our ambitious new build programme.
- 5.1.17 On its own, a rent increase of less than 1.5% for 2023/24 will mean less income to deliver housing services which could result in a review of the services and the way they are currently delivered, the extent of work to be undertaken, alternative options for increasing income or an increase in borrowing. However, we also need to factor in the increasing costs of materials which will impact on our Housing Repairs Operations, our Planned Programme for maintaining our current stock, and our New Build Programme.
- 5.1.18 Members must also consider the pressure Local Housing Authorities are facing from Welsh Government on increasing housing supply and ensuring we meet the decarbonisation agenda, both of which require significant investment. The report to The Housing and Regeneration Scrutiny Committee on the 26<sup>th</sup> November 2019 outlined the need for £14m additional borrowing to kick start the new build programme with the aim to deliver 400 affordable homes between 2020 and 2025. This directly links with the Council's commitment contained within the Corporate Plan 2018-2023 and Wellbeing Objective 3 which aims to address the supply, condition and sustainability of homes throughout the county borough.
- 5.1.19 A nil increase for 2022/23 would mean the rent would remain at £91.79 but this would require considerable future rent increases to get back into the target rent band envelope range if and when this is re-introduced. This would also result in reduced income of £1m annually to that

assumed within our business plan, and this is without factoring in any further cost increases as explained in the report Again, members must consider the ongoing effect of this reduced rent to address the significant investment required as explained above.

- 5.1.20 An increase of 2.5% means the average rent would be £94.08 over a 52-week period. This would generate additional income of some £1.3m which would be £500k more than the assumption within the current business plan but will allow for some growth to offset the unprecedented increase in material costs. This still places Caerphilly within the low end of its target rent band.
- 5.1.21 Generally, the DWP increases the Housing Benefit Subsidy Limit within similar lines to the rent policy guidance, meaning for the majority of our tenants, the maximum 3.1% increase would be covered.
- 5.1.22 Additional borrowing as a consequence of income shortfalls must be affordable under the Prudential Code. It also means an increase in debt and interest charges which takes resources away from the HRA to manage and maintain our housing stock and support our tenants.
- 5.1.23 In addition, affordability for tenants is now a factor that must be considered as part of setting any rent increases. This involves engaging with tenants to capture relevant data and views and establishing a suitable model that would evidence affordability together with a system for accurately recording such information. Unfortunately, due to restrictions from the pandemic, this was not progressed fully in 2020 although a tenants' affordability survey was sent out in November 2020 and repeated in 2021.
- 5.1.24 Since 2014/15 the average rent increase for Caerphilly Homes is 3.1%
- 5.1.25 With the exception of the previous year (2021/22) where CPI was at an unprecedented low level due to the economic impact from Covid-19,(resulting in a 1.5% rent increase), the average rent increase is 3.3% so the recommendations in this report would be lower than the average.

## **5.2 Affordability**

- 5.2.1 Officers have continued to work on developing the affordability survey and have met colleagues in Welsh Government and other local authorities with the aim of sharing best practice. The feedback from Welsh Government on the previous year's rent setting process across the sector gave us more of an understanding as to what Welsh Government were expecting in order to evidence affordability. For example, landlords automatically received a favourable score if they used the Joseph Rowntree Foundation (JRF) Living Rent model or an equivalent affordability tool. Caerphilly Homes Officers had been considering the JRF model prior to the pandemic but did not have the resources to progress during 2020/21. The JRF model has now been considered as part of the 2022/23 rent setting process
- 5.2.2 Other areas of good practice included a wide range of tenant consultation platforms and appropriate feedback, working in collaboration with tenants to set rents. As an authority we have been limited to certain media platforms due to GDPR concerns, which has restricted our ability to reach all tenants. However, officers have developed a full consultation process including an online survey during October/November 2021, 3 focus groups, and a 'question of the week' poll for each week during November. The survey was posted on Facebook and Twitter and was also available on the Council's website. An EGov bulletin was sent to those tenants who have registered with the link. There were periodic reminders over the term of the survey and there was also a dedicated helpline for any tenants who required assistance in completing the survey.
- 5.2.3 Overall, there were 373 tenant responses to the survey with a mix of areas and tenures being represented. This was an increase of 133 compared to the previous year.

- 5.2.4 42% of the tenants were represented from the East of the Borough, 28% from the South and 28% from the North.
- 5.2.5 The majority of responses were from tenants in 3-bed houses, with the main source of income being from sickness or disability benefits, closely followed by full time employment.
- 5.2.6 65% of the respondents received some form of benefit support towards paying their rent. 35% of respondents received no support.
- 5.2.7 65% of responding tenants think our rents are fair and affordable and 35% do not. Mixed responses vary from “compared to the private sector it’s good value” “Better and more secure than private renting” “Fair price” to “It’s not affordable for one low-income person”, “Because Universal Credit don’t give you enough to live on with rent”, and “The rent is fair but I’m finding it hard to pay with the low income”.
- 5.2.8 54% agreed that Caerphilly Homes should consider the average household income when setting rent and 83% thought Caerphilly Homes should take into account the costs of running a home when setting rent.
- 5.2.9 61% of tenants thought that their rent provides value for money. Comments included: “The homes are modern and well looked after”, “It is a warm home, fair rent costs and we feel safe here” “I think your repair and servicing team are very efficient and very easy to contact”, “You don’t do enough to maintain the property” “Delays in repairs and neglect of environment”, and “Repairs never completed or charged for mistakes”
- 5.2.10 Any tenant who expressed difficulties with paying their rent within the survey comments, was contacted and offered support by Tenancy Support Team.
- 5.2.11 The survey overall gave us a mixed response, and there are clearly some responses that need to be followed up, but it does suggest a higher proportion of our tenants agree that their rent is affordable and offers value for money.
- 5.2.12 In addition to the survey, we are able to measure certain indicators against an All-Wales Average to ascertain, from a statistical point of view, if rents appear affordable within the Caerphilly County Borough. Due to the lack of resources explained in 2.6 above, WG have not yet published 2020/21 data, so we have used the previous year as a comparator.
- 5.2.13 The average social rent for Caerphilly CBC in 2019/20 is £88.27/wk, which is nearly 4% lower than the All-Wales Average for Local Authorities of £91.65/wk. The All-Wales Average for Registered Social Landlords is £92.50/wk. Caerphilly CBC is ranked the 3<sup>rd</sup> lowest Local Authority in terms of its weekly rent.
- 5.2.14 Private rents in Caerphilly CBC for 2019/20 average £105.80/wk, some 6.4% lower than the All-Wales Average at £113.00/wk.
- 5.2.15 Caerphilly CBC ranked 5<sup>th</sup> highest out of the 22 Local Authorities in terms of workplace earnings at £384.47, which is some 3.5% higher than the All-Wales Average of £371.63/wk.
- 5.2.16 The results of the 2021 STAR survey to tenants, on their satisfaction with the housing service, confirmed 77% were satisfied overall with the service provided by Caerphilly Homes, and 76% were satisfied that their rent provides value for money
- 5.2.17 These statistics together with the tenant’s affordability survey suggest that the rent is affordable and provides value for money. However Welsh Government require us to prove this in terms of measuring our current rent against an appropriate affordability model.

- 5.2.18 To expand on the affordability measure that WG require us to evidence, and to prove our rents are affordable, 54% of our surveyed tenants thought we should consider income when setting the rent. Using the JRF living rent model means a link is established between rents and tenants' ability to afford them. The affordability criteria are designed on the principle that a single person should not pay more than 28% of their net pay on rent for a standard single person unit of accommodation. This is then weighted for equivalence values to reflect the different property types within our portfolio and typical family compositions, using a tool developed by the Organisation for Economic Co-operations and Development (OECD)
- 5.2.19 This principle requires the use of average income data. The Office of National Statistics (ONS) releases an Annual Survey of Hours and Earnings (ASHE) every October which provides an estimate of income levels from those in the lowest 25% of earnings, across the UK, broken down into Middle Super Output Areas (MSOA). There are 24 MSOA's for Caerphilly Borough.
- 5.2.20 If an existing tenant's rent is lower than the affordable Living Rent assessment, rent should be increased each year by the agreed percentage uplift plus a maximum of £2 per week allowed under the current rent policy.
- 5.2.21 If an existing tenant's rent is higher than the affordable Living Rent assessment, rent can either be frozen or decreased each year by a maximum of £2 per week until the rent has aligned with the affordable living rent assessment.
- 5.2.22 Any new tenants would be let at the current living rent model.
- 5.2.23 The methodology described above is clearly different to our current local rent policy, where uplifts are applied consistently to all tenants irrespective of location or earnings. However, in order to comply with the requirements of Welsh Governments social rent policy and affordability principles below, we must ensure we can evidence that the rent we set for tenants is fair, transparent, affordable, and sustainable.
- 5.2.24 The principles expected from Welsh Government when setting rent are: -
- **Affordable:** We will consider the total costs of renting homes and incomes to understand what is affordable for our residents, and ensure that residents have the greatest opportunity to sustain their tenancies and thrive,
  - **Sustainable:** We will set rents that allow us to continue to provide high quality, safe, warm homes for the people who need them in the communities we serve
  - **Engage:** We will involve residents to develop and review our approach to rent setting, and inform our decisions on rents
  - **Fair:** We will work to ensure that rents and other charges are set fairly, and our homes and services represent value for money
  - **Accountable:** We will be open, transparent and accountable when we make decisions on rents.
- 5.2.25 In order to meet these requirements Caerphilly Homes needs to review its current rent policy.
- 5.2.26 Early indications on exploring the JRF model suggest that Caerphilly Homes rent levels compare favourably, which gives initial assurance that our rent levels are broadly affordable. Officers will be carrying out further work on the model in the New Year.
- 5.2.27 Officers are requesting that the current rent policy be reviewed in the Spring of 2022 to consider incorporating the JRF affordability model when setting future rents.

### 5.3 Tenancy Support

- 5.3.1 Caerphilly Homes Rents team offers person centred support to its tenants. A team of tenancy and welfare benefit support staff are available to provide support as soon as a tenancy starts. Staff have the discretion and flexibility to deal with differing individual circumstances when tenants are in difficulty and are empowered to deliver innovative solutions. The number of tenants claiming housing benefit or universal credit housing costs to help pay their rent has increased from 72% to 75% between December 2020 and December 2021. Since April 21 our staff have assisted tenants to claim over £2.3m in additional benefits. This support is not only offered to tenants experiencing financial hardship, but to tenants who we recognise using key data sets are not claiming their full entitlement of benefits.
- 5.3.2 Surveys completed by tenants receiving the service have shown the huge difference it has meant to their lives. Quotes below have been extracted directly from the surveys:

“Thank you for everything you have done for me it has made a huge difference. I fell into heaven when I came to this wonderful council”, “Been told so many times that I wasn't able to claim (including by DWP) but the Council staff helped me to claim successfully. This has changed my life massively”, “Given me a different perspective of people from the council, reassured me that if there was anything else to get it touch. Built up trust, so great that I know where to call if I need help” and, “I didn't expect to get a backdate I am so happy I am going to use the money to buy a mobility scooter something I never ever thought I could afford to buy. I can't thank you enough”

This support is integral to the Rents Team and will continue to be offered to all tenants

### 5.4 Garage Charges

- 5.4.1 The garage rationalisation and refurbishment programme, linked to the WHQS programme has led to a reduction in our garage stock but has resulted in improvements to our remaining stock. This work had a significant impact on void levels as the blocks of garages had to be fully vacated prior to commencement of works on each site. On completion of works to each block, former garage tenants and former leaseholders of garage plots have been offered new tenancies of the newly built or refurbished garages, prior to new tenants being sought for the remainder from existing waiting lists or through marketing. In addition, a number of garages have been demolished due to unsuitability and lack of demand. However, due to Covid-19 the void position on garages has not yet improved due to resources being deployed in more critical areas. Currently 30% of our garage stock remains void.
- 5.4.2 The rent on garages had not been increased for 3 years while the rationalisation programme was being undertaken but an increase was re-introduced in 2020/21 at 1.5%. Total investment to our garage stock was £2.6m and we can collect £380k per annum in charges if all garages are let. Currently our garage charge is £8.23 per week and 79% of garage tenants are not council tenants. The 2021/22 business plan assumed a 2% increase for the 2022/23 financial year. For the 21% who are council tenants this would equate to £8.39 per week and for the 79% non-council tenants this would equate to £10.07 to include VAT.

#### Tenants in receipt of benefit

- 5.4.3 Garage rents are not eligible for housing benefit and the majority (79%) of garage tenants are not actually council house tenants.

#### Financial impact

- 5.4.4 The Business Plan has included a 2% increase on garage rental income. Not increasing the income will mean a loss of approximately £5k. Although this does not appear significant, there has also been a compounding loss of approx. £30k from the previous 3 years where



increases were not applied.

## **6. ASSUMPTIONS**

- 6.1 Assumptions are prevalent within the Housing Business Plan and are necessary to create a 30-year projection as requested by Welsh Government. Assumptions are included on key drivers such as (i) Interest rates (ii) Inflation (iii) Rental Increases (iv) Staffing levels (v) stock movement (vi) capital programme expenditure (vi) level of rent arrears, and (vii) level of voids and are taken from projections, local knowledge and Welsh Government guidance.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 Section 24 of the Housing Act 1985 provides Local Housing Authorities (LHA's) with the power to set rents for its properties relating to Part II of said Act. A LHA is under a duty to act reasonably by determining rent levels. When setting rents under this section, a LHA must comply with any standards relating to rent set by the Welsh Ministers under section 111 of the Housing (Wales) Act 2014 and must also have regard to guidance issue under section 112 of the 2014 Act. Section 74 of the Local Government and Housing Act 1989 requires a LHA to keep and maintain a HRA ring-fenced account which ensures that the income raised from operating council housing is spent on council housing, and that neither the HRA nor General Fund are cross subsidised. Section 76 of the Local Government and Housing Act 1989 requires that the HRA cannot be set into a deficit.]
- 7.2 An increase in rents is required in order not to set a deficit budget within the HRA. The additional income is utilised on maintaining or improving existing services as well as creating financial resource to be able to meet WG agendas and challenges such as minimising evictions, not to evict into homelessness, deliver high quality homes, evidencing affordability and value for money, maintaining WHQS, installing Optimised Retrofit Programmes on existing stock, and enhancing tenant involvement.
- 7.3 65% of tenants who were surveyed on "Your rent your view" survey confirmed that their rents were deemed fair and affordable and 61% thought their rents provided value for money. 76% of tenants who were surveyed on the STAR survey also thought their rents provided value for money and 77% were satisfied with the services provided. As part of the rent setting process, tenants were also involved in focus groups and question of the week polls.
- 7.4 The latest statistics for the All-Wales averages (2019/20) ranks Caerphilly 3<sup>rd</sup> lowest in terms of Local Authority rent and 5<sup>th</sup> highest in terms of workplace earnings. 75% of Caerphilly CBC tenants are in receipt of financial support for their rent in the form of Housing Benefit or Universal Credit. Tenancy support is offered to all tenants.
- 7.5 The proposed increase is the lowest increase for a number of years with the exception of 2021/22 where CPI was an unprecedented low value due to Covid-19

<http://www.caerphilly.gov.uk/CaerphillyDocs/IIA/iia-form-rent-increase-2022-2023-final>

## **8. FINANCIAL IMPLICATIONS**

- 8.1 This report deals with the financial implications of the proposed rent increases which affect the HRA.
- 8.2 The impact of the Welfare Reform Act is not taken into consideration

## 9. PERSONNEL IMPLICATIONS

- 9.1 The proposals contained in this report will not alter the current arrangements for the collection of housing revenue account monies.

## 10. CONSULTATIONS

- 10.1 All consultation responses have been reflected in this report. This report came before the Housing & Regeneration Scrutiny Committee on February 1<sup>st</sup>, 2022.  
One Member asked about the impact of high levels of inflation on material costs. The Head of Housing advised on how cost efficiencies were explored, how managed procurement contracts with fixed prices provided some protection and also outlined some of the benchmarking work that took place with partners. The Member asked about any cost benefits from future plans for the construction of Council housing. The Head of Housing outlined economies of scale associated with modern construction methods and advised that cost efficiencies were constantly sought with partners.  
One Member asked for an update on apprenticeships in light of high labour costs. The Head of Housing advised that in terms of the technical side the number of apprentices was currently in the teens. Members also heard how new ways of training for Caerphilly Homes would be explored in the future.
- 10.2 Following consideration of the report, it was moved and seconded that option (iii) in section 3.2 be recommended to Cabinet for consideration. By way of a roll call vote and in noting that there were 8 votes FOR, 1 vote AGAINST and 0 ABSTENTIONS this was agreed.  
**RECOMMENDED to Cabinet that they approve 3.2 (iii) 2% – (£93.62/52 week – additional £1.84/wk) which is additional income of £1m, allowing for a small margin to reflect the unprecedented increase in material costs.**
- 10.3 It was also moved and seconded that (vi) in section 3.2 be recommended to Cabinet for consideration. By way of a roll call vote and in noting that there were 9 votes FOR, 0 votes AGAINST and 0 ABSTENTIONS this was unanimously agreed.  
**RECOMMENDED to Cabinet that they approve 3.2 (vi) - The level or rent for garages from April 2022 be increased by 2% to £8.39 per week.**
- 10.4 It was further moved and seconded that (vii) in section 3.2 be recommended to Cabinet for consideration. By way of a roll call vote and in noting that there were 9 votes FOR, 0 votes AGAINST and 0 ABSTENTIONS this was unanimously agreed.  
**RECOMMENDED to Cabinet that they approve 3.2 (vii) - Recommend a review of the current rent policy to reflect affordability.**

## 11. STATUTORY POWER

- 11.1 Local Government Acts 1972. This is a Cabinet function.

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Consultees: Cllr J Ridgewell - Chair Housing & Regeneration Scrutiny Committee  
Cllr M Adams - Vice Chair Housing & Regeneration Scrutiny Committee  
Cllr Shayne Cook - Cabinet Member for Housing  
Dave Street - Corporate Director Social Services & Housing  
Nick Taylor-Williams - Head of Housing

Robert Tranter	- Head of Legal Services/Monitoring Officer
Stephen R Harris	- Head of Corporate Finance & S151 Officer
Sandra Isaacs	- Rents Manager
Amanda Main	- Acting Benefits Manager
Fiona Wilkins	- Housing Services Manager
Jane Roberts-Waite	- Strategy & Co-ordination Manager
Alan Edmunds	- WHQS Project Manager
Jason Fellows	- HRO Manager
Kerry Denman	- Housing Solutions Manager
Mandy Betts	- Tenants & Community Involvement Manager

Background Papers: N/A

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