



# Andover Town Council

To **consider** costs in relation to using the small claims court, and to **agree** on actions to take.

Item No. **8**

**Produced for:** Allotments Committee

**By:** Town Clerk

**Date of Report:** 10 Apr 2024

## Background:

Officers are routinely charging allotment tenants for remedial works that are undertaken on plots that have been surrendered but not left in a satisfactory condition.

One has so far refused to pay after works are completed, despite being given the opportunity to carry out the works themselves before surrender.

The Town Clerk would prefer that official letters and a process are drafted by the Council's legal advisors that will allow progression of any debt collections through the small claims court if necessary.

There is no proposal for this item. Councillors are asked to discuss and advise the next course of action bearing mind that a process already exists for chasing invoices.

**This only for debts that tenants refuse to pay, or which remain unpaid after our usual procedure has been followed.**

## Councillors are asked to:

- A. **Review** cost estimates that have been provided by Surrey Hills for each item.
- B. **Consider** whether Surrey Hills should be instructed for some/all of the quotes.
- C. **Consider** if another individual or organisation should be asked to assist.

Quotes requested:

From TC Officers	Response from Surrey Hills.	Cost indication
1. A "preparation for small claims court" process to be used after our usual invoice chasing process has been carried out.  (Would not apply to rental fees, which we are able to evict the tenant for non-payment.)	As this is a debt claim the Council will have to follow the Pre-Action Protocol for Debt claim: <a href="https://www.justice.gov.uk/courts/procedure-rules/civil/pdf/protocols/debt-pap.pdf">https://www.justice.gov.uk/courts/procedure-rules/civil/pdf/protocols/debt-pap.pdf</a> . In short yes, a pre-action letter before action needs to be send, the Defendant must be allowed a reasonable opportunity to provide the information requested, but then a claim can be issued.	I would suggest an hour or so to draft a basic process for unpaid invoices.

Draft letter before action.	As a preliminary point you need to check that the allotment tenancy agreement / allotment rules allow the Council to recover costs for clearing the plots	1 – 2 hours at my hourly rate of £275 + VAT.
If a standard letter should be sent BEFORE the letter before action	There is certainly no harm in sending a very succinct informal letter before sending a letter before action. It shows that the Council is taking all steps to be reasonable.	I anticipate costs up to an hour, so up to £275 + VAT.
A process for going to the small claims court AFTER The letter before action.	I anticipate 1 -2 hours to draft a summary of the process once it becomes obvious a claim will need to be issued, setting out the process from drafting and issuing a claim to the final hearing.	1 – 2 hours at my hourly rate of £275 + VAT.
The processes don't need to be complicated, just a short list of things we ought to do/information to prepare for the court.		

### Considerations:

Other organisations / individuals may be able to advise officers in relation to:

- A. Specific language / phrases which must go in template letters.
- B. A draft process for officers to follow once it is clear that small claims court is the next step.
- C. Timeframe / legal requirements for notices etc.

The National Allotment Society legal adviser has been asked for his thoughts, however no response has been received as at the time of writing this paper.

Other sources of advice may be cheaper / free, however, Council must be sure that the advice can be relied upon.

**The amount of funds which are currently outstanding and may need to follow this process are <£500.**