

REPORT FOR: CABINET

Date of Meeting:	11 October 2018
Subject:	Housing Tenant Service Charges Review
Key Decision:	Yes
Responsible Officer:	Nick Powell, Divisional Director, Housing Services Paul Walker, Corporate Director, Community
Portfolio Holder:	Cllr Phillip O'Dell, Housing Portfolio Holder
Exempt:	NO
Decision subject to Call-in:	YES
Wards affected:	All
Enclosures:	Appendix 1- Average Rents and Service Charges 2018/19 (Tenants) Appendix 2 - Equality Impact Assessment (EqIA)

Section 1 – Summary and Recommendations

This report sets out the current and proposed position for the Council's Housing Revenue Account ("HRA") Tenant Service Charges. To ensure the cost of services provided is fully recovered, it is essential tenants are charged appropriately.

Recommendations:

Cabinet is requested to agree the following principles:

- To undertake a review of the service charging framework to ensure the charging is fair, reasonable and transparent and achieves full recovery of the cost for the services provided;
- To consider the findings of the review when agreeing tenant service charges for 2019/20, and to reflect the outcome of the review within the recommendations to Cabinet in the December 2018 Housing Revenue Account (HRA) Budget 2019/20 and Medium Term Financial Strategy (MTFS) reports.
- To review the service charging framework annually in line with the annual MTFS process.

Reason: To ensure the cost of HRA services are fully recovered by charging to tenants on an equitable and reasonable basis for services provided. The Council should look to recover its costs in respect of discretionary services and these services must therefore be accurately charged for.

It is illegal for the HRA to fall into deficit therefore any discretionary services being provided need to be fully recoverable.

Section 2 – Report

Introduction

Be more Business like & Business Friendly

All Council services should aim to recover the cost of their discretionary services. The decision sought is relevant to the viability of the HRA by maximising cost recovery.

Protect the Most Vulnerable & Protect Families

The views of stakeholders especially tenants via consultation will be sought to ensure the charges are fair, reasonable and transparent.

The impact of the review, the affordability and the services eligible for housing benefit is paramount to tenants who want to see Council housing protect and support the most vulnerable and families.

Options considered:

1. **Take no action.** This would not be advisable after such a long period (over 15 years) since last having a review.
2. **Undertake a review of service charges and aim for full costs recovery.** We must do this for three reasons:
 - a) To clearly understand the specific make up of charges that are included within the current heading of 'service charges' on tenants' rent statements.
 - b) Tenants have a right to receive a breakdown of what charges are being made and for what service.
 - c) To maximise cost recovery from service charges to avoid or minimise deficits to the HRA and ensure the business plan remains viable in the long term.
3. **Undertake a review and not aim for full cost recovery.** The HRA budget is currently required to achieve permanent reduction of £1.9m to prevent year on year deficits; to adopt a policy of under recovery of discretionary services provided will add to an already unsustainable position.

Option 2 is the preferred option to:

- a) To set a baseline position so we can improve on the fair and transparent service we want to provide to our tenants in the longer term;
- b) Address the priorities in our Smarter Housing Plan by conducting this review and maximising cost recovery;
- c) Involve out tenants in meaningful consultation via a structured programme.

Background

1. Since the economic downturn the operating environment for social landlords has become increasingly challenging. Both government cuts, major changes to Housing Benefit and other welfare reforms and with the introduction of Affordable Rent, the reduction in grant funding for new build has meant social landlords have had to take a fresh look at their services and business processes to re-evaluate their business plans. The HRA is currently under financial pressure and needs to achieve permanent base budget savings of £1.9m to bring itself back into a sustainable position. A 'de-pooling' of the cost of services was undertaken many years ago, where these costs were previously shared across all tenants. De-pooling can make charging fairer, by accurately charging the tenants for the services they are actually receiving, making services more sustainable and Value for Money more transparent. In addition to their rent, tenants may also pay charges for services. Rent generally includes all charges associated with

occupation of a dwelling, such as maintenance and general housing management. Service charges usually reflect additional services which may not be provided to every tenant, or which maybe connected with communal facilities rather than to the occupation of a dwelling. Different tenants may receive different types of service reflecting their housing circumstances.

2. There is no evidence of a service charge review prior to the mid 1990s in Harrow. For some years the Council has recovered the costs of services it provides through a rent charge and a de-pooled service charge, although there is currently no information available on the make-up of what that de-pooled service charge consists of.
3. Annual inflation based uplift has been applied although this has not been linked to the real cost of the associated services which include communal utilities, grounds maintenance, communal lighting, heating, window cleaning. Local authorities have discretion to decide what services to charge for separately and what services should be included within the rent. There is an expectation that local authorities set reasonable and transparent service charges which closely reflect what is being provided to tenants and have been encouraged to move towards identifying service charges separately, based on the actual costs of services to individual properties. This would also allow tenants to see what they are getting for their money and to assess the reasonableness of the charge.
4. In general Local Housing Authorities and Registered Providers review service charges on a regular basis to ensure the costs of services provided are recovered as far as possible. The Council has not conducted a review of service charges for many years and recognises the need to do so given the financial pressures caused by the statutory rent reduction and the need for a more fair and transparent charging mechanism.

Current situation

5. A project team consisting of Housing, Finance and IT staff has been working on this review which has identified the need to demonstrate to tenants:
 - How we are providing the services;
 - Where we are providing the services;
 - The fair and reasonable cost of the services.
6. There is a consultation plan. Consultation has taken place since May 2018 with the Portfolio Holder for Housing, other elected Members (including the Portfolio Holder for Resident Engagement), various tenant groups, our Residents Board and as a main feature at our main tenant meeting, Housing Matters. Further workshops and large and small consultation meetings are planned across the Borough up to January 2019.

A main email account has been set up for enquiries regarding the review: consult_tenants@harrow.gov.uk

7. To support the project team an external IT specialist has been commissioned to ensure the computer system used to calculate service charges for tenants and leaseholders does so using a methodology which is fair and transparent using data and bases for apportionment which are understandable and up to date. It is therefore envisaged the resulting charges will be equitable and reasonable with any disparities between similar properties and/or tenure types explainable.

Why a change is needed?

8. It is the aim and ambition of the organisation to be more business-like and levying the charges to fit the costs of the service is working towards that objective.
9. As a landlord, we have duty to ensure our tenants receive services at a fair and reasonable cost which leads to increased customer satisfaction.
10. Review of the charges will ensure full cost recovery, whilst being fair and reasonable, to assist in stabilising financial position of the HRA as required by the Cabinet approved budget. Full cost recovery is defined as all the direct costs of providing the service including overheads recoverable as per the tenancy and leaseholder agreements. This is the most reasonable method for landlords and occupiers alike as it is a transparent, non-profit/non-loss method of recovery. The key principle of this method is simply that, as the occupiers are (usually) the sole beneficiaries of services provided to a building, the occupiers must pay the full cost of these services, with no shortfall being met by the landlord.

Implications of the Recommendation

11. We aim to incorporate the results of the review following consultation into the annual HRA Budget report. Work is still under way to identify the impact of the review and agree mitigations. Once we have all the information a plan will be put in place and developed.
12. The consultation plan is designed to explain the reasons for the review clearly to tenants and to mitigate the risk of criticism from tenants as to why this is being done now after so many years of annual percentage uplifts.

Risk Management Implications

13. The external IT specialist we are using is the only one available in the United Kingdom; there is therefore a significant risk to the success of the project should this resource become unavailable.

14.

- In the event of any hardship, an increase in service charges to tenants can be mitigated by a phased increase and support from dedicated Housing Officers to manage their rent accounts;
- 70% of Harrow tenants are in receipt of full or partial housing benefit which will also mitigate any financial strain on our vulnerable tenants (including sheltered housing tenants). This is because the current costs, as charges for communal services or shared areas, will be able to be included in the rent and therefore able to be claimed from the Department for Work and Pensions.
- Colleagues in Revenue and Benefits have provided details of a recent eligibility review demonstrating what items are covered by Housing Benefit. Most if not all of the existing service charges are eligible for Housing Benefit.
- The HRA needs to achieve full cost recovery to make a contribution towards the Cabinet approved savings target of £1.9m by 2020/21.
- The HRA savings are identified on the risk register.

Procurement Implications

None

Legal Implications

15. Under Section 103 of the Housing Act 1985, the terms of a secure tenancy which is a periodic tenancy may be varied by the landlord by a notice of variation served on the tenant. The landlord authority is required to serve a preliminary notice on the secure tenant giving them advance notification of any change proposed to be made to the terms of their tenancy and inviting their comments. A preliminary notice is not required for variation of rent or payments in respect of services or facilities provided by the landlord. Although a preliminary notice is not required in respect of a variation to the rent (or services/facilities) charge, a notice of variation is needed and this must set out what the change is and the date on which it takes effect. The period between the date on which the notice is served and the date on which it takes effect must be at least four weeks or the rental period, whichever is the longer.
16. Section 105 of the Housing Act 1985 requires a landlord authority to maintain such arrangements as it considers appropriate to enable those secure tenants who are likely to be substantially affected by matters of housing management, to be informed and consulted about the proposals, and before deciding on the matter, the landlord authority has to consider any representations made. The legislation sets out what matters of housing management relate to but this does not extend to the rent payable under a secure tenancy or to charges for services or facilities provided by the authority. However, as mentioned in

paragraph 6 we are consulting widely with our tenants about the tenant service charge review despite the fact we are not obliged to by statute.

17. Under Section 74 of the Local Government and Housing Act 1989 Council, as a local housing authority, must maintain a Housing Revenue Account (HRA) which includes sums falling to be credited or debited in accordance with the category of properties listed within Section 74(1), which consists primarily of Council housing stock. The HRA must include any capital expenditure on housing stock which a Local Authority has decided to charge to revenue. Save in accordance with a direction of the Secretary of State, sums may not be transferred between the HRA and the General Fund, therefore the HRA is ring-fenced and cannot be used to subsidise a budget deficit within the General Fund, neither can the General Fund be used to subsidise a budget deficit in the HRA. Section 76 of the 1989 Act requires Local Authorities to formulate and implement proposals to secure that the HRA for each financial year does not show a debit balance. If a debit occurs, this must be carried forward to next financial year.

Financial Implications

18. This report looks at seeking approval of the principles for the review of the services charges. The results of the review and hence the financial implications will be incorporated within the HRA Budget 2019/20 and the Medium Term Financial Strategy (MTFS) report scheduled for Cabinet in December 2018.

Equalities implications / Public Sector Equality Duty

19. Pursuant to the Equality Act 2010 (“the Act”), the Council, in the exercise of its functions, has to have ‘due regard’ to (i) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (ii) advancing equality of opportunity between those with a relevant protected characteristic and those without; and (iii) fostering good relations between those with a relevant protected characteristic and those without. The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership.
20. When making decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. There are no further new equality impacts of the proposed review identified at this time. An initial EQIA has been carried out (Appendix 2) but this will need to be revisited when the review is complete. At the moment, it is anticipated that any impact will be minimal due to housing benefits supporting vulnerable tenants. Consultation with our tenant and resident representative groups on the review proposals has occurred since May 2018, including Housing Matters in July 2018. There are more planned particularly with our sheltered housing tenants.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

- **Making a difference for the vulnerable**
The existing and new service charge provision and costs will be reviewed and affordable for vulnerable tenants. Where the new charges may be unaffordable we will work with tenants and signpost them to where they can receive support in order to experience the same service as other tenants
- **Making a difference for communities**
Improve the environment and quality of life by enhancing existing services and contributing towards new services being introduced.
- **Making a difference for local businesses**
At some stage during the review, a new service provision may be agreed. A local business provider may be the procured choice.

Section 3 - Statutory Officer Clearance

Name: Dawn Calvert Director of Finance	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 17 September 2018		
Name: Andrew Lucas Senior Lawyer - Litigation	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 6 September 2018		

Section 3 - Procurement Officer Clearance

Name: Nimesh Mehta	<input checked="" type="checkbox"/>	Head of Procurement
Date: 2 October 2018		

Ward Councillors notified:	NO, as it impacts on all wards
EqIA carried out: EqIA cleared by Johanna Morgan	YES (the EQIA will be revisited when the review is completed)

Section 4 - Contact Details and Background Papers

Contact:

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Background Papers: None