



**Title of meeting:** Cabinet Member for Housing and Preventing Homelessness

**Date of meeting:** 18 September 2024

**Subject:** Rent & Service Charge Setting Policy for Housing Revenue Account (HRA) owned social housing.

**Cabinet Member:** Councillor Darren Sanders - Cabinet Member for Housing and Tackling Homelessness

**Report by:** James Hill - Director for Housing, Neighbourhood and Building Services

**Report Author:** Mark Fitch Head of Local Authority Housing

**Wards affected:** All

**Key decision:** No

**Full Council decision:** No

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## 1. Purpose of report

1.1. To present and approve a new Rent & Service Charge Setting Policy for the Housing Revenue Account (HRA) owned social housing.

## 2. Recommendations

2.1. To approve the new Rent & Service Charge Setting Policy (Appendix A) for the Housing Revenue Account (HRA) owned social housing.

## 3. Background

3.1. The Council retains its own housing stock of social and affordable housing, for those that need it, and is considered a Registered Provider and Landlord of Social Housing, now regulated by the Regulator for Social Housing. It currently owns and manages approximately 15,400 general needs and sheltered housing dwellings which are predominantly in the city of Portsmouth, but also in the neighbouring authorities of Havant, Fareham, Gosport and Winchester. In addition to this it owns and manages an additional 2,000 leasehold and shared ownership dwellings.

3.2. The Councils social rented housing properties are allocated to from the Portsmouth Housing Register, or via the relevant Local Authorities Choice based lettings scheme. All properties are managed by the Councils Local Authority Housing



Service and funded through the Housing Revenue Account (HRA), for which rents & services are charged. As a Registered Provider and Landlord of Social Housing, the council is regulated by the Regulator of Social Housing.

- 3.3. Changes to rents charged to social housing tenants is governed by the Rent Standard and Rent Standard Guidance, outlined by the Regulator, that relates specifically to rent and service charge setting. In addition, the Social Housing Rents (Exemptions and Miscellaneous Provisions) Regulations 2016 must also be applied.
- 3.4. The proposed Rent & Service Charge Setting Policy outlines the Council's policy for dealing with rent and service charge setting in all of its stock, including those that are outside of the Portsmouth City Council boundary.
- 3.5. The purpose of the policy is to ensure that the Council comply with the statutory, regulatory, and contractual obligations within tenancy agreements and leases, and to provide clarity to tenants on how charges are set. We will review this Policy every 5 years or when there has been an update to legislative, regulatory, best practice or operational changes
- 3.6. The policy also aims to ensure a fair and consistent approach to rent and service charge setting is adopted by the Council and applied to all tenants, regardless of tenure, although it is acknowledged that there are differences between Fixed and Variable Service Charges, and differences between social rented general service charges and leasehold service charges.
- 3.7. In October 2016, the Government set out proposals to reduce rents by 1.0% each year for 5 consecutive years. A new Rent Standard was introduced in 2020, limiting the annual increase to the Consumer Price Index (CPI) for September the previous year (published in October), plus 1%. This relates to both Social and Affordable Rents. This was the maximum increase, and every Registered Provider is able to set rents at any level up to this maximum. The increases were planned to last for 5 years. However, for the financial year 2022/23, the Government imposed rent increases capped at 7.0% due to exceptionally high inflation rates. In April 2024, the Government announced that the existing social housing rent settlement will be rolled over by a further year until April 2026, meaning annual rent increases will continue to be capped at Consumer Price Index (CPI) +1% for 2025/26.
- 3.8. There are two main charges on tenants
  - 3.8.1. Rent - Rent is money paid by tenants to landlords in return for living in their property. The tenant and landlord will agree on the amount of rent to be paid before the tenancy starts. Tenants should not be expected to pay any rent until the day they move into the rental property. The rent charge includes an element

to cover the cost of the repairs and maintenance to the home, and in the case of "Affordable Rent" will be inclusive of Service Charges, these are known as Gross Rents.

3.8.2. Service Charge - Service Charge is money paid by tenants and leaseholders to landlords in return for additional services provided by the landlord or other parties required to manage buildings, estates and shared facilities.

#### 4. Rents and service charges

4.1. **All Rents.** Rents will be set on an annual basis and the Council will limit the rent to the published applicable Local Authority Housing Allowance (LHA) Rates to ensure that they remain affordable to its tenants.

4.2. **Garage & Parking Spaces.** The Council will set rents for non-residential units including, but not limited to garages, parking spaces etc. by seeking the maximum charge that customers can afford in the area, based on market levels and demand. The Council will apply the relevant taxation (VAT) at the relevant rate to those who are not Council social housing tenants.

4.3. **Other Rents and Charges.** The Council will set charges for other rents such as sheltered housing scheme guest rooms, scooter storage and charging, Communal Lounge Private Hire etc. by balancing the commercial value and the social value of the intended use. The Council will charge relevant taxation (VAT) at the relevant rate where appropriate.

#### 4.4. Service Charges.

4.4.1. **For the majority of Tenants.** Service Charges will be managed as Fixed Service Charges with no under or over collections at the end of each financial year, so may not achieve full cost recovery.

4.4.2. **For a small number of Tenants.** Service Charges will be managed as Variable Service Charges with under and over collections at the end of each financial year resulting in full cost recovery.

4.4.3. **For all Leaseholders including Shared Owners,** Service Charges will be managed as Variable Service Charges with under and over collections at the end of each financial year resulting in full cost recovery.

4.5. The Council will consult with its tenants and leaseholders on its proposals prior to a decision being made regarding rents and other charges by the appropriate councillor, although under current legislation, formal consultation is not legally required. All that is required, is the formal Demand Letter advising of the change, the

new charges and the effective date. However, as a responsible landlord the Council feel it is appropriate that tenants and leaseholders have an opportunity to input onto the decision and understand the potential consequences. Consultation will include:

- 4.5.1. Annual review of how the HRA budget is set including all elements, trends and areas of concern including a line-by-line explanation of the HRA income and expenditure in September.
- 4.5.2. Information provided in the Housetalk Magazine, which is delivered to all tenants and leaseholders, as well as a letter to each household seeking their feedback in December.
- 4.5.3. Opportunity to join the Resident's Consortium in Somerstown where there are specific presentations dedicated to Rent & Service Charge Setting and the HRA Budget in December and January. This year the December presentation will be repeated in venues in Paulsgrove, Leigh Park and Gosport/Fareham.
- 4.5.4. The rent and service charge recommendations form part of the formal budget setting process with a decision paper taken to the Housing & Preventing Homelessness decision meeting in January or February, that representatives of the Resident Consortium attend and do fully participate in

## **5. Housing Revenue Account**

- 5.1. The Housing Revenue Account (HRA) is reliant on the Rent and Service Charge Income from its tenants and leaseholders to be able to provide the appropriate Housing Management Services. These services are wholly funded by the HRA, and the HRA is ringfenced to these services only, for the benefit of its tenants and leaseholders.
- 5.2. Therefore, the HRA has to be financially viable on an annual and long-term basis, and decisions relating to increases to rent & service charges have a direct impact on the Housing Management Services that can be provided.
- 5.3. The HRA is required to hold reserves, and cannot run at a deficit without reserves, therefore the Rent & Service Charge Setting Policy will help ensure that the HRA remains viable and appropriate Housing Management Services are delivered.
- 5.4. To help ensure that rental income is maximised, the Council have purchased Rentsense, a software package that identifies tenants that may need support in meeting their rental obligations, helping to support our tenants at the right time, reducing tenant arrears and maximising rental income.
- 5.5. The Council also provide a breadth of tenancy support with qualified Money Advisors and skilled Housing Officers, to support tenants to maximise income, reduce outgoings, manage under occupation and other tenancy issues that impact on their ability to meet their rental obligations.



## **6. Implementation**

- 6.1. The new policy will allow consistency of approach and clarity of the process to ensure all charges are correctly reviewed at the relevant time and changes implemented effectively.
- 6.2. It is proposed that all rent changes will be effective from the first Monday of April each year for weekly charges, or the 1<sup>st</sup> of April each year for monthly charges.
- 6.3. At present the Council have just over 15,000 tenancies, of which approximately 6250 (41.7%) are in receipt of UC, and a further 5250 (35%) are in receipt of Housing Benefit.
- 6.4. It is likely that a high percentage of tenants currently in receipt of Housing Benefit will be transitioned to UC over the coming months/years as the transition progresses.

## **7. Reasons for recommendations**

- 7.1. The new policy will allow consistency of approach and clarity of the process to ensure all charges are correctly reviewed at the relevant time and changes implemented effectively.
- 7.2. The new policy will help protect the HRA and ensure that it operated effectively and is financially viable.
- 7.3. The new policy will ensure that PCC comply with our statutory, regulatory, and contractual obligations within our tenancy agreements and leases.

## **8. Integrated impact assessment**

- 8.1. An integrated impact assessment has been completed and is attached at Appendix B.

## **9. Legal implications**

- 9.1. The Local Government and Housing Act 1989 requires the council to maintain a ring-fenced budget for its housing stock related income and expenditure, known as the Housing Revenue Account. Section 76 requires the council to formulate proposals which satisfy the requirements of this section relating to the income of the authority for the following year from rents and other charges and the expenditure in respect of the repair, maintenance, supervision and management of such properties.

- 9.2. Under s.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. A preliminary notice of variation inviting comments 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 required 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 the change take effect must be at least four weeks or the rental period, whichever is longer. Changes to rent and service charges are excluded from the duty to consult with tenants on matters of housing management under s.105 HA 1985 and s.137 HA 1996.
- 9.3. In respect of setting service charges, the Landlord and Tenant Act 1985 sets out the basic rules for service charges, defining what is considered a service charge, setting out requirements for reasonableness and for prior consultation of leaseholders. S.18(1) of the Act defines a service charge. Leasehold service charges are required to be transparent and reflect the actual cost of the services incurred and where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard in accordance with the Landlord and Tenant Act 1985.
- 9.4. The Council is a registered provider of social housing and has a duty to have regard to relevant standards set by the Regulator of Social Housing under s.193 of the Housing and Regeneration Act 2008. The Council must therefore take account of Government guidance and the Rent Standard as set by the regulator of social housing when setting rents and service charges.
- 9.5. The new policy detailed in this report and shown in Appendix A will ensure the Council meets the requirements set out in the legislation and the available guidance and standards in setting future rent and service charges, and will provide a fair and transparent process.
- 9.6. The Council is required to act in accordance with the public sector equality duty under the Equality Act 2010 and have due regard to the duty when carrying out its functions, which includes making decisions in the current context. The Council also has a duty to show they have consciously addressed their mind to carrying out an EIA.
- 9.7. It is within the Cabinet Member's powers to make the recommendation set out in this report, as provided for by the Council's constitution.

## **10. Director of Finance's comments**



10.1. The decision on the annual HRA budgets, rent setting, service charges and other charges is delegated to the Cabinet Member for Housing and Tackling Homelessness and is taken in the January or February prior to the new financial year commencing on the first of April. A joint report of the Director of Housing, Neighbourhood and Building Services and the Director of Finance and Resources sets out the officer recommendations following consultation with residents as set out above. This budget report details the HRA dwelling rent policy for the year and will in future refer to the new Rent & Service Charge Setting Policy recommended for approval in this report.

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Signed by: James Hill - Director of Housing, Neighbourhood and Building Services

**Appendices:**

- Appendix A - Rent and Service Charge Setting Policy
- Appendix B - Integrated Impact Assessment

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Rent & Service Charge Setting Policy	
Regulator for Social Housing standards	<a href="http://www.gov.uk">Regulatory standards, procedures and guidance - GOV.UK (www.gov.uk)</a>
Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016	<a href="http://legislation.gov.uk">The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 (legislation.gov.uk)</a>
Policy statement on rents for social housing	<a href="http://publishing.service.gov.uk">Policy statement on rents for social housing (publishing.service.gov.uk)</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by: