



# Cabinet

16 September 2019

**Report of:** Councillor Alan Pearson - Portfolio Holder for Housing and Communities

## Housing Revenue Account Rent and Service Charge Setting Policy

<b>Corporate Priority:</b>	Providing high quality council homes and landlord services
<b>Relevant Ward Member(s):</b>	N/A
<b>Date of consultation with Ward Member(s):</b>	N/A
<b>Exempt Information:</b>	No

### 1 Summary

- 1.1 This report seeks approval to adopt a formal Rent and Service Charge Setting Policy for the Council's landlord function. This will confirm the Council's approach to rent setting, providing clarity for partners, tenants and leaseholders.
- 1.2 The Council is aware that some of its tenants may be on low incomes and seeks to provide accommodation that is affordable for all. The policy seeks to strike a balance between the need to keep rents and service charges affordable while providing sufficient funds to support the Council's need to look after and improve its housing stock.

### 2 Recommendations

- That Cabinet:**
- 2.1 **Notes the content of the Report and the responses received to the consultation on the Policy;**
  - 2.2 **Approves the proposed Rent and Service Charge Setting Policy with effect from April 2021;**
  - 2.3 **Approves the continued work on Service Charges as laid out in the report; and**
  - 2.4 **Delegates to the Director for Housing and Communities:**
    - a) **Decision-making in relation to Service Charge de-pooling and disaggregation and consultation with affected tenants and leaseholders; and**

- b) **Authority to make minor amendments to the Policy if required by future changes to legislation and regulation.**

### **3 Reason for Recommendations**

- 3.1** Each year local authority housing landlords must set rents and budgets for the forthcoming financial year and provide each individual tenant with a statutory notice of any proposed rent change. The Council has established practice in respect of rent setting and its discretion is limited by regulation, but no clear policy statement.
- 3.2** In relation to service charges, the Council has established custom and practice in recharging tenants and leaseholders for the additional property-related services they receive, but no clear policy statement. Section 9 of the Policy draws together and makes explicit the principles the Council adopts in terms of service charges collection and calculation:
- a) It is right the Council collects income to pay for the services it provides.
  - b) The Council will act lawfully and reasonably in the setting and recovery of service charges.
  - c) Service charges will be de-pooled i.e. they will be payable only by those tenants or leaseholders who receive additional services.
  - d) Service charge costs will be calculated on a block-by-block basis, unless it is impracticable to separate costs to that level of detail. If that is the case, costs will be aggregated (i.e. the total cost of the service is to be divided by the number of properties that benefit from the service to calculate the charge).
  - e) Information will be provided on service charges, including the costs that the charges cover, how charges are budgeted, and how increases/decreases calculated.
  - f) Tenants and leaseholders will be involved in the procurement of contracts for the services they pay for.
- 3.3** The adoption of these principles with effect from April 2021 provides a clear framework for work in the remainder of the financial year 2020/2021 to de-pool and, where appropriate, disaggregate property-related service charges. This will enable preparation for the annual charges to be considered and reflected as part of the normal decision making processes. This work will involve further consultation with affected tenants and leaseholders.

### **4 Background**

- 4.1** Following a corporate restructure in April 2020, most landlord functions have been brought together in the new Housing and Communities Directorate. April 2020 also saw the adoption of a new Corporate Plan, with clear ambitions for the Council's landlord function. It is natural for the Council to consider its policy framework in relation to its landlord function and it is intended to bring forward a number of key policies for Council consideration.
- 4.2** Melton Borough Council is committed to providing good quality, affordable housing and to looking after its housing stock for the long-term benefit of residents. The primary source of

funding to achieve this ambition is the Council's housing rental and service charge income.

- 4.3** On 12 February 2020, Cabinet approved a decision to introduce a new service charge for Health & Safety Works for purpose built flats in the Borough of £3.10 per week for 2020-21. Following feedback from the Tenants Forum Executive Committee, and in light of the pressures on tenants during the developing Covid-19 crisis, a decision was made by the Portfolio Holder for Housing and Communities on 01 June 2020 to not collect the charge in the 2020/21 financial year, thus enabling the Council to undertake a full review of all service charges with a view to introducing them in 2021.

## **5 Main Considerations**

### **Rent Setting**

- 5.1** The rent levels charged by local authorities like Melton Borough Council have reflected a number of variables, including when the housing was built; individual property characteristics; changes in the capital and revenue subsidies; and the different rent policies pursued at the time by central government. Local authority housing has clear regulatory and statutory restrictions in respect of rent setting, but these requirements have made rent setting increasingly complex: for example, the use of "Affordable" Rents where Homes England funding is obtained.
- 5.2** Given the level of legislation and regulation and the importance of the rental income, the Policy provides for the Council to follow its existing practice in rent setting. The Policy does formalise the resetting to formula rent when a property is re-let. Previously, authority to do this has been sought annually through the budget and rent setting report.

### **Service Charges**

- 5.3** In relation to Service Charges, a key principle is whether charges are a) de-pooled and b) aggregated or not. In essence, service charge de-pooling is a process whereby the landlord stops sharing the costs of services specific to communal areas amongst all its tenants and introduces a separate service charge payable only by those tenants who receive these additional services (the vast majority of service charges are eligible for housing benefit). A good example is grounds maintenance, which is currently pooled.
- 5.4** Alongside this, there is the option of aggregating costs across all tenants and leaseholders (so the total cost of the service is divided by the number of properties to calculate the charge) or disaggregating, i.e. charging on a block-by-block basis, reflecting the cost of the service to that block. There is a trade-off between administrative burden and transparency.
- 5.5** After assessing the options the Council is proposing to adopt a policy which would de-pool the charges therefore creating an individual charge for each block.
- 5.6** An example using the charge in relation to grounds maintenance may assist in illustrating the change detailed above:

Property	Current description and weekly amount	Proposed description and weekly amount
Example - St John's Court	<b>Property Charge Sheltered Housing</b> £5.03 (This includes not only grounds maintenance but other elements, including electricity, but this is not broken down)	<b>Grounds Maintenance (one element of the £5.03 total)</b> £1.20* (The share of the costs for the grass cutting (dependent on weather, usually 14 cuts per year) and hedge/shrub cutting (usually twice a year) for the shared external area)

\*This figure is calculated by taking the total annual hours grass cutting, hedge trimming and weed spraying at the scheme, expressing that as a percentage of the operative hours, and then applying that percentage to the overall cost (of course, this example is illustrative for the purpose of this report and does not commit the Council in advance of further work on Service Charge setting).

- 5.7** It should also be noted that the Policy covers existing charges and changes to the way they are collected; any new services provided will be procured and consultation completed in line with the principles in the new Policy.
- 5.8** Cabinet will also wish to give consideration to any financial impact on tenants. Service Charges directly related to the costs of the accommodation are typically eligible for support from Housing Benefit or Universal Credit, dependent of course on underlying entitlement. A breakdown using figures as at August 2020 is given below:

Properties with a service charge	446	
Of those properties, households in receipt of <b>full</b> Housing Benefit	136	30%
Of those properties, households in receipt of <b>partial</b> Housing Benefit	41	9%

It should of course be noted that benefit eligibility can change; additionally, some tenants may be in receipt of Universal Credit in addition to those in receipt of Housing Benefit.

There are other households that receive Universal Credit payments direct, this may form part of the remaining 61% alongside households not on any benefit but this information is not held by the Council.

- 5.9** Clearly, the Policy focusses on the setting of rent and other charges, and income collection and arrears management is outside its scope. However, it may be helpful in the broader context to confirm the Council aims to actively develop and facilitate a culture where customers understand and act upon their responsibility to meet their financial obligations. Key principles that underpin this culture are:
- Rent is a priority debt.
  - The prioritising of other debts will not be accepted as a reason for non-payment of rent.
  - Tenants have responsibility for payment of their rent, even if they are in receipt of Housing Benefit or Universal Credit.

- Nurturing an active engagement between tenants and Council officers.
- Tenants should take every possible opportunity to improve their financial situation. This includes applying for all relevant benefits and working with other partners.
- The Council supports tenants who are struggling through the work of Housing Officers, Benefits Officers, the Case Management and Intensive Housing Management Service, or alternatively, signposting to external agencies.

**5.10** The Council's approach is to enable an effective and continuous conversation with all tenants and leaseholders. The Council will ensure this contact is appropriate to the individual and proportionate to the situation so as not to over burden or confuse. It is hoped this approach will ensure tenants and leaseholders have a clear understanding of their options, rights and responsibilities and that officers are available to work with them.

**5.11** The Council is sensitive to the ongoing impact of Covid-19 at the time of developing this Policy; the Council is operating in unprecedented times. Government has given clear direction in respect of their expectations of Councils in the recovery of rent and support to tenants affected. The Council will operate at all times in accordance with the current guidance which may vary from the above "usual" approach to income recovery.

## 6 Options Considered

**6.1** Due to the reasons noted at 5.2 above, options in relation to rent setting have not been considered.

**6.2** In relation to Service Charges, options are tabulated below:

Option	Positives	Negatives	Conclusion
No change to current calculation methods	Little impact on Council resources to deliver	Some inconsistencies in relation to different functions, lack of transparency	Rejected
Remove all Service Charges	Reduction in expenditure for tenants subject to Service Charges	Reduction in the Council's income and ability to deliver the HRA Business Plan	Rejected
De-pool all Service Charges	Clear and transparent	Possible increase in charges	Proposed as part of the Policy
Disaggregate all Service Charges	Clear and transparent	Considerable administrative burden in some instances	Proposed as part of the Policy on a block-by-block basis where possible

## 7 Consultation

**7.1** As rent setting affects all tenants, the Council formally wrote to all current tenants on 10 July 2020 inviting comment on the draft Policy; the consultation period ran for twenty eight days and closed on 09 August 2020. Only one formal response was received, and this outlined concerns around:

- the consultation methodology
- previous service charge setting

- clarification around the itemisation elements within the service charge breakdown and how these are applied.

It is confirmed the Council's position is that rent and service charges have been set and calculated lawfully, and that the adoption of the Policy seeks to clarify the Council's approach.

- 7.2** Consultation has also taken place with the Tenants Forum Executive Committee (TFEC), who have welcomed the adoption of a formal policy, having advocated for this for some time. TFEC are supportive of the principles and Officers will continue to work closely with TFEC in developing the definitions and further consultation, as work on the implementation of the Policy continues.

## **8 Next Steps – Implementation and Communication**

- 8.1** The Policy takes affect from April 2021, allowing work to continue in the current financial year as noted above. The Policy will be hosted on the Council website and referred to in consultation with affected tenants as work continues to de-pool and disaggregate Service Charges.

## **9 Financial Implications**

- 9.1** The HRA Business Plan contains prudent assumptions in relation to the likely rent increases allowed in future years; this allows the Council to understand the likely funding available for the provision of services and capital programmes. The Policy is consistent with these financial processes.
- 9.2** In relation to Service Charge income, it is not anticipated that the adoption of the principles will have any impact in terms of increasing expenditure; although charges on an individual block basis may change, the overall budgets are for functions the Council currently delivers.

**Financial Implications reviewed by: Section 151 Officer**

## **10 Legal and Governance Implications**

- 10.1** The Policy is consistent with the Council's rights and obligations as a landlord. The Policy contains reference to relevant legislation and regulation.

**Legal Implications reviewed by: Monitoring Officer**

## **11 Equality and Safeguarding Implications**

- 11.1** An Equality Impact Assessment has been completed and is appended to the report; no negative impacts have been identified.

## **12 Community Safety Implications**

- 12.1** No direct implications.

## 13 Environmental and Climate Change Implications

13.1 No direct implications

## 14 Other Implications (where significant)

14.1 No direct implications.

## 15 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Risk of legal challenge due to unlawful rent levels	Very Low	Marginal	Low Risk
2	Risk of legal challenge due to unlawful service charge setting (mitigated by the adoption of a formal Policy)	Low	Marginal	Low Risk
3	Risk of increased rent and service charge arrears (not directly due to the adoption of the Policy but anticipated financial impact due to Covid)	Significant	Marginal	Medium Risk
4	Risk to HRA Business Plan if rent and service charges set too low to sustain capital programme and service delivery	Very Low	Critical	Medium Risk

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant		3		
	3 Low		2		
	2 Very Low		1	4	
	1 Almost impossible				

<b>Risk No</b>	<b>Mitigation</b>
<b>1,2</b>	This is mitigated by the adoption of a formal Policy
<b>3</b>	Not directly related; mitigated by offer of money and benefits advice and proactive income collection
<b>4</b>	Mitigated by continued work on HRA Business Plan to demonstrate financial sustainability

## **16 Background Papers**

**16.1** Consultation letter to all Council tenants and leaseholders

**16.2** Individual Tenant Response to the Consultation (referred to in section 7.1 above)

## **17 Appendices**

**17.1** Appendix One – Draft Policy

**17.2** Appendix Two – Equality Impact Assessment

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