

## MID SUFFOLK DISTRICT COUNCIL

<b>TO:</b> Council	<b>REPORT NUMBER:</b> MC/20/6
<b>FROM:</b> Councillor Julie Flatman – Cabinet Member for Housing	<b>DATE OF MEETING:</b> 24 September 2020
<b>OFFICER:</b> Gavin Fisk, Assistant Director for Housing	<b>KEY DECISION REF NO.</b> N/A

### MSDC SHELTERED HOUSING SERVICE CHARGES FOR 2020/21

#### 1. PURPOSE OF REPORT

- 1.1 We are proposing that we do not increase the MSDC Sheltered Housing service charges for 2020/21. This proposal requires the agreement of full Council as doing so means that we will be failing to implement an earlier resolution of the Council. More than six months have passed since the earlier decision therefore the Council can legitimately revisit this issue.
- 1.2 This report sets out the background to this proposal and its implications.

#### 2. OPTIONS CONSIDERED

- 2.1 That the service charges are increased for Sheltered Housing tenants as per the resolution of full Council on 27 February 2020
- 2.2 That the service charges are not increased for Sheltered Housing tenants for 2020/21.

#### 3. RECOMMENDATION

- 3.1 To approve the decision that the MSDC Sheltered Housing service charges do not increase in 2020/21.

#### REASON FOR DECISION

- 3.2 The chain of events, as outlined below, would have led to MSDC Sheltered Housing tenants being informed of the increase to their service charges in late April 2020. By this time, we were in lockdown and our Sheltered Housing services were impacted by this. It did not seem reasonable, therefore, that we should then contact tenants to inform them about a rise in the charges that they pay for those services.

#### 4. KEY INFORMATION

- 4.1 At the Mid Suffolk District Council meeting held on Thursday 27 February 2020 a decision was made in relation to Item 11 on the meeting agenda, being the proposed Housing Revenue Account Budget.

- 4.2 Prior to a vote being taken on the substantive motion before the Council, a request was made to take recommendations 3.5 and 3.6 of the report separately, with the remainder of the recommendations being taken together. This request was granted by the Chair.
- 4.3 In accordance with the Council's Procedure Rules, the vote was a recorded vote. However, during the voting process a procedural error occurred, and it was unclear whether the declared result of the vote (that the motion was carried) was correct. The Monitoring Officer immediately sought Counsel's opinion and it was established that the affirmative vote could stand.
- 4.4 The resolution was therefore passed and the minutes for the meeting show the Sheltered Housing service charges would be increased by £2 per week, and the Sheltered Housing utility charges be increased by 5%.
- 4.5 However, prior to the legal advice being received, residents in the Mid Suffolk Sheltered Housing Schemes had received their annual rent letters that indicated that the service charge would not be increasing in 2020/21. To then implement the resolution of the Council a second letter would have been needed to be sent to tenants correcting this position. This letter was due to be sent in late April.
- 4.6 The timing of this coincided with the coronavirus pandemic and subsequent lockdown. The Council moved to critical services only which impacted on residents in several ways. In particular, tenants in Sheltered Housing no longer received visits from their Sheltered Housing Officer, with the support service being delivered by telephone instead. Officers also spent significantly less time at the Sheltered Housing schemes.
- 4.7 Therefore, it did not seem reasonable that, at the very time we were reducing the services that tenants were used to receiving, we should contact them to announce a rise in the charges that they pay for that service. It is for that reason that we seek the agreement of Council to retain service charges for 2020/21 at the same level as 2019/20.

## 5. LINKS TO CORPORATE PLAN

- 5.1 This proposal does not link to the Corporate Plan

## 6. FINANCIAL IMPLICATIONS

- 6.1 There are 286 Sheltered Housing units that are affected by this proposal, and the subsequent costs to the Mid Suffolk HRA are set out below:

	Annual Income 2019/20	Proposed income 2020/21	Subsequent loss of income 2020/21
Service Charge income	£465,026	£494,770	£29,744
Utility Charge income	£167,696	£172,759	£5,063
<b>TOTAL</b>	<b>£632,721</b>	<b>£667,529</b>	<b>£34,807</b>

- 6.2 The S.151 Officer has advised that any deficit resulting from not increasing service charges would be funded from the HRA reserves

## **7. LEGAL IMPLICATIONS**

- 7.1 It was determined, having considered the advice received from Bevan Brittan LLP, that the decision in favour of the recommendations 3.5 and 3.6 in agenda item 11 of the 27 February 2020 should stand.
- 7.2 This was based on the principles established in *Nell v Longbottom [1894] 1 Q.B. 767 (1894)*, i.e. that if the Chair had been correctly advised that the Councillor could alter his vote, she would have used the Chair's discretion to allow him to change his vote to 'for'. Thus, the outcome of the vote would have been 17 votes 'for' and 16 votes 'against'. It remains the case that two further errors were made; disregarding the Councillor's vote in the count and advising the chair that the casting vote had been engaged.
- 7.3 Correcting all three of these procedural errors would ultimately result in the same outcome being achieved and therefore there is no requirement for the monitoring officer to overturn the decision.
- 7.4 Council Procedure Rule 18.1 states that "Council decisions are normally final and should not normally be altered or amended for six months". More than six months has passed since the original Council decision, therefore the Council can determine to rescind its prior decision and not increase the service charges.

## **8. RISK MANAGEMENT**

- 8.1 This report is not linked to any of the Council's Corporate / Significant Business Risks.

## **9. CONSULTATIONS**

- 9.1 Other than seeking the legal advice outlined above, there have been no other consultations carried out in relation to this report.

## **10. EQUALITY ANALYSIS**

- 10.1 An Equality Impact Assessment (EIA) was required and can be found in Appendix 1.

## **11. ENVIRONMENTAL IMPLICATIONS**

- 11.1 There are no anticipated environmental implications of the proposal outlined in this report.

## **12. APPENDICES**

Title	Location
(a) Equality Impact Assessment (EQIA)	Attached

## **13. BACKGROUND DOCUMENTS**

- 13.1 Legal advice from Bevan Brittan LLP, dated 2 March 2020