

## BABERGH DISTRICT COUNCIL

<b>TO:</b> Babergh Cabinet & Mid Suffolk Cabinet	<b>REPORT NUMBER:</b> BCa/22/10
<b>FROM:</b> Cabinet Member for Housing	<b>DATE OF MEETINGS:</b> 05/07/22
<b>OFFICER:</b> Gavin Fisk	<b>KEY DECISION REF NO.</b> CAB292

### RENT AND SERVICE CHARGE POLICY

#### 1. PURPOSE OF REPORT

- 1.1 This briefing note outlines the content of a proposed new Rent and Service Charge Policy. It should be read in conjunction with the Policy which can be found in Appendix A. Further information about rent setting and service charging can be found in Appendix B.
- 1.2 The Policy, once adopted, will ensure that Babergh & Mid Suffolk Councils (BMSSDC) comply with current legislation, recognised best practice, the requirements of the Housing Regulator, and our tenancy agreements.
- 1.3 The policy proposes to enhance and expand the charging for services to tenants, to maximise income for the Councils and ensure that service charging is fair and transparent to all tenants. The policy proposes that in future Babergh and Mid Suffolk District Councils will:
  - Maximise income by charging for services where possible
  - Charge tenants for services in a fairer and more transparent way for services which they receive
  - Create opportunities for the provision of new and improved services

#### 2. OPTIONS CONSIDERED

- 2.1 The policy sets out how the Councils comply with legislative and regulatory requirements for the most part, although consideration was given to:
- 2.2 **A. Apply rent flexibility, or not**
  - 2.2.1 Rent flexibility is described in section 4.4 of Appendix B, and in paragraph 3.7 of the draft policy. The Government's Rent Policy Statement recognises the need for discretion over rent levels to take into account local factors and concerns. In summary, Councils have the option to apply an increase to social rents above 'formula rent' at the point of letting a property, to generate additional income for the HRA. Use of the flexibility should take account of local conditions and be used following consultation with tenants and other key stakeholders.
- 2.3 **B. Rent setting in Temporary Accommodation Excluded from the Rent Standard**

2.3.1 Leased properties used for temporary homeless provision are excluded from the requirements of the RSH Rent Standard if certain criteria are met. This is described in paragraph 4.7 of this briefing, section 4.10 of Appendix B, and 3.21 of the draft policy. The option is to set these rents at formula rent, or at a higher rate to match LHA.

#### 2.4 C. 'De-pool' service charges, or not.

2.4.1 Where a service is not fully accounted for in a service charge to the tenant receiving the service, the service is funded (partly or in full) by the general rent pool. Changing this approach, to charge for services only to tenants who receive them is referred to as 'de-pooling'.

### 3. RECOMMENDATIONS

3.1 That Cabinet approves the Rent and Service Charge Policy attached in Appendix A with the following decisions:

**A – That rent flexibility is not applied.**

**B – That rents in certain Temporary Accommodation, which is excluded from the rent standard, may be set at LHA rates**

**C – That service charges are de-pooled.**

#### REASON FOR DECISIONS

**A – That rent flexibility is not applied.** Due to the current economic climate and challenges around affordability for the Council's tenants, Rent Flexibility will not be used for any new tenancies. Should there be a requirement to change this decision and adopt any level of Rent Flexibility, a decision will be taken by full Council and will have a clear rationale, considering local circumstances and affordability. Tenants will be consulted about the proposals and their views taken into account by the Councils.

**B - That rents in certain Temporary Accommodation, which is excluded from the rent standard, may be set at LHA rates.** The Policy provides for both BMSDC to continue to set rents at LHA in circumstances such as this, where the Rent Standard and Rent Policy Statement do not apply. Doing so provides greater opportunity to provide temporary accommodation in new settings and maximise income for the HRA.

**C - That service charges are de-pooled.** It is generally considered to be inequitable to fund or to subsidise the cost of services from the general rent pool, and fairer to charge the cost of services to those tenants who benefit directly, referred to as 'de-pooling'. De-pooling service charges will free-up limited funds of within the HRA budgets which are currently subsidising services to meet changes in national housing policy which benefit all tenants. Exemptions to this rule could be made if its application meant that a service became unaffordable, as could be the case with some support services. In these cases, the service charges would be pooled across multiple locations.

### 4. KEY INFORMATION

4.1 The key points of the draft Rent and Service Charge Policy are as follows:

- 4.2 **Formula Rents.** General needs, temporary accommodation and sheltered housing properties which are let on 'social rents' will have their rent levels set according to requirements contained set out in the Government's Policy Statement on Rents for Social Housing. This contains the formula that is used to determine these rent levels.
- 4.3 **Rent Flexibility** Due to concerns about affordability for our tenants amidst a rising cost of living, the Councils will not exercise the ability to apply an increase on formula rents offered by 'rent flexibility' in the Government's Rent Policy Statement (+5% in general needs, +10% in supported housing). The Councils may wish to consider this option in future in consultation with tenants.
- 4.4 **Affordable Rents.** General needs accommodation let at Affordable rents will be set at 80% of a market rent valuation as determined by a RICS compliant methodology. Where the Local Housing Allowance (LHA) rate is lower than 80% of the market rent, the rent will be capped at LHA.
- 4.5 **Shared Ownership** Leases are not covered by the Rent Standard. There are variations in how the rental element is calculated between leases. The rent of all shared ownership properties is reviewed annually in April in line with the Retail Price Index (RPI) (in the previous September), plus 0.5%.
- 4.6 **Temporary accommodation** is provided in the main by letting Council-owned dwellings. In Council-owned properties, the rent must be set at formula rent levels on re-let as prescribed in the Rent Standard and Rent Policy Statement.
- 4.7 **Temporary Accommodation excluded from the Rent Standard.** If units of temporary accommodation meet certain criteria they are excluded from the Rent Standard, and a higher rent may be charged if required to sustain the accommodation provision. Currently this applies to just one House of Multiple Occupation in Babergh.
- 4.8 In these instances the rent charge may be set at LHA at the point of re-let and increased annually in line with LHA rates each April. Being able to charge a higher rent will increase options for providing temporary accommodation in new settings (e.g. to lease a property for homeless accommodation and charge a higher rent to make it financially viable).
- 4.9 BMSDC will ensure that the rents in these settings remain below market rate levels in order for them to meet the definition of low-cost housing/social housing as outlined in section 69 of the Housing and Regeneration Act 2008. At the point of increasing the rent, a valuation will be obtained using a RICS recognised methodology and the rent capped if necessary.
- 4.10 **Ground rent** is a small charge that leaseholders must pay, for the renting of the land on which their flat stands. The amount charged is determined by the Housing Act 1985 and is invoiced annually.
- 4.11 **Service charges.** It is recommended that service and utility charges are based on the actual cost of service provision at any given location. The proposed method is for the charges that are set from April each year to be based on the actual costs for the year up to the previous September. Exemptions to this rule could be made if its application meant that a service became unaffordable, as could be the case with some support services. In these cases, the service charges would be pooled across multiple locations.

## 5. LINKS TO CORPORATE PLAN

- 5.1 The Rent and Service Charge policy contributes to our Housing Vision, supporting our strategic aim to be an 'effective social landlord for delivering quality service'. The additional capacity generated in the HRA budget (by charging tenants for services they receive rather than funding them from the general rent pool) will support improved investment of our limited fund into improvements to estates, properties and services.

## 6. FINANCIAL IMPLICATIONS

- 6.1 Once the Policy is approved we will set about bringing the policy to life in revised service charging methodologies. This is a complex undertaking and it is intended that this assessment and recovery of costs will be developed as a project over the next 1-4 years. We are aware that large scale introduction of additional service charging could become a matter of concern for tenants. Residents will always be consulted before any new services are introduced, or existing services changed, that will lead to an increased or additional service charge. It is proposed that we will implement changes in two stages;
- 6.2 (1) Review the setting of service charges in sheltered and temporary accommodation and propose amendments at full Council in the normal manner ahead of rent increase in April 2023.
- 6.3 (2) Build the foundations for de-pooling service charges in general needs accommodation, and improving service charge setting in leasehold accommodation, and produce an implementation plan to be signed off by Council prior to implementation.
- 6.4 The total costs of providing some key services in 2020/21 which may be, in part, recoverable through service charging in future years is set out below for indicative purposes.

<b>2021/22 Tenancy Services</b>	<b>Babergh £</b>	<b>Mid Suffolk £</b>
Heating Costs	215,860	202,005
Fire Prevention	141,207	130,868
Grounds Maintenance	103,843	105,661
Tree Maintenance	42,720	32,631
Cleaning	28,127	11,317
Water Charges	24,211	92,916
Improvements	18,713	4,866
Community Alarm Costs	14,380	4,834
Furniture	2,379	1,574
<b>Total:</b>	<b>591,441</b>	<b>586,671</b>

## 7. LEGAL IMPLICATIONS

- 7.1 The policy sets out how BMSDC will comply with all regulatory and legislative requirements, including:
- 7.2 The relevant sections of the Housing Act 1985 are section 24 (Rents) and section 47 (Service Charges).
- 7.3 Registered providers must set rents from 1 April 2020 in accordance with the Government's Policy Statement on Rents for Social Housing 2019, published by the Department of Levelling Up, Housing and Communities.
- 7.4 The Regulator for Social Housing 'Rent Standard' applies to Local Authorities from April 2020.

## 8. RISK MANAGEMENT

Risk Description	Likelihood	Impact	Mitigation Measures
Housing Delivery 1BO1: If policies or procedures are not robust enough or complete, then we may breach legislative or regulatory requirements	3	4	The Policy will ensure that Babergh & Mid Suffolk Councils comply with current legislation, recognised best practice, the requirements of the Housing Regulator, and our tenancy agreements.
Reputational risk: Increasing charges to tenants during cost of living crisis	4	1	It is proposed that rent flexibility is not applied during cost-of-living crisis, this shows consideration. If adopted at a later stage, the higher rate would only be for new tenants and our approach would be justified by a direct link between additional income and improvements to tenants homes and services.  De-pooling of service charges is a well established and common/best practice in the sector represents the fairest approach to meeting the costs of providing services. Fairness and transparency would be well evidenced. Decisions about how service charges would be implemented would be taken at Full Council.
The HRA budget is negatively impacted by changes in	2	4	In October 2017, the government announced its intention to set a long term rent deal for both local authority landlords and housing

Government policy in rent increases		associations. This would permit annual rent increases on both social rent and affordable rent properties of up to 'CPI plus 1 percentage point' from 2020, for a period of at least five years. There is a risk that Government policy will change after April 2025 in light of rising inflation, which could have an impact income to the HRA budget, which would in turn threaten our ability to meet the aims of the HRA business plan.
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## 9. CONSULTATIONS

- 9.1 The policy in the most part, sets out how BMSDC will comply with all regulatory and legislative requirements. Residents will always be consulted before any new services are introduced, or existing services changed, that will lead to an increased or additional service charge.

## 10. EQUALITY ANALYSIS

- 10.1 An Equality Impact Screening (EQIA) has been undertaken (Appendix C).
- 10.2 The service charges will not be (and are not currently) set differently relating to any individuals' characteristics however they will vary between different accommodation types, where members of protected groups may be in a higher proportion e.g. a higher proportion of older tenants in sheltered housing and in general needs accommodation.
- 10.3 A full EQIA will be undertaken to review the impact on different individuals and groups when new service charges have been calculated and in preparation for approval by Full Council at a future date (as described at 6.1 - 6.3).

## 11. ENVIRONMENTAL IMPLICATIONS

- 11.1 The policy sets out how enhancing and broadening service charging to tenants will generate capacity in the HRA to support meeting national carbon targets all housing, including council housing, must meet net zero carbon levels by 2050, and all Council homes meeting EPC C by 2030.

## 12. APPENDICES

Title	Location
(a) BMSDC Rent and Service Charge Policy	Attached
(b) Extended Rent and Service Charge Policy Briefing Note	Attached
(c) EIA Screening	Attached

**13. BACKGROUND DOCUMENTS**

13.1 N/A

**14. REPORT AUTHORS**

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