

Report of the Strategic Director, Place to the meeting of Executive to be held on March 5, 2024.

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Subject:

HOUSING REVENUE ACCOUNT – RENTS AND SERVICE CHARGES

Summary statement:

The purpose of the report is to set out the issues that have been identified in relation to the historic setting of rents and service charges within the Housing Revenue Account.

EQUALITY & DIVERSITY:

There are no specific Equality and Diversity implications. However, due to the vulnerability of residents at the Extra Care facility at Fletcher Court, additional support has been provided to ensure effective engagement with residents and their families.

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Overview & Scrutiny Area: Regeneration & Environment

1. SUMMARY

- 1.1 The council re-opened its Housing Revenue Account (HRA) on April 1, 2023, as a requirement of a change in Government regulations. This applied to all 428 units of accommodation owned by the council that have been constructed since 2010. The procedure by which rents, and service charges is set has resulted in 259 tenants and former tenants being overcharged since April 2020. A process is in place to refund the requisite amounts to both existing and former tenants affected.
- 1.2 Measures have been implemented to ensure that moving forward rent and service charge setting is compliant with the regulatory framework for social housing. In accordance with legal requirements, the issues identified have been discussed with the Regulator of Social Housing (RSH) and the council is implementing their advice and observations.
- 1.3 Members are asked to note the content of the report, agree the process put in place to ensure affected tenants / former tenants are suitably compensated and to agree the measures taken by officers to ensure regulatory compliance in future.

2. BACKGROUND

- 2.1 The council transferred its social housing stock (and its housing management functions and staff) to Bradford Community Housing Trust (now InCommunities) during 2003. However, since 2010, the council has developed further housing in accordance with Government consent and currently owns 428 units of accommodation. The council's general needs housing stock is presently managed on its behalf by InCommunities, and Mears in relation to the 69-unit Extra Care facility at Fletcher Court. However, the council made the decision to retain responsibility for setting its own rents and service charges as well as the processing of 'Right to Buy' applications.
- 2.2 Changes in Government regulations now mean that any council owning more than 200 units of housing must either dispose of the stock to below this 'de-minimis' number or re-open a HRA. The council decided to re-open its HRA rather than dispose of its stock and this was re-established with effect from April 1, 2023.

Issues Identified

- 2.3 During the process of re-establishing HRA, it became apparent that historically, the setting of rents and service charges had not been conducted in accordance with the requirements of the Regulatory Framework for social housing. Three issues were found.
 - In the case of Fletcher Court, while rents were set well below the 80% of Market Rent that is the 'cap' for affordable rented accommodation, service charges were applied in addition to affordable rents, rather than inclusively.
 - General needs dwellings let at affordable rents had not been correctly revalued prior to re-let (after former tenants had left), and the new rents established based on 80% of current market value as should have been the case.

- Those general needs homes let as Social (also known as Formula) rents had in some cases had the rent incorrectly calculated. The formula for establishing such rents is very complex and requires a degree of expertise to do so accurately.
- 2.4 Having identified the issues above, the council self-reported the matter to the Regulator of Social Housing (RSH). The council appointed a specialist consultancy to determine the extent of the impact of the issues identified. An Interim Housing Manager was also appointed to ensure that from April 2024, the housing service is regulatorily compliant and has adequate structure and capacity to effectively manage and maintain its housing stock.
- 2.5 The impact of the matters identified have been forensically assessed and have determined that a total of 259 current tenants and former tenants have been overcharged. The total amount of overcharging amounts to £344k since April 2020. Most of this amount relates to the additional service charges applied to the Extra Care accommodation at Fletcher Court– a total of £265,000 – with the remaining £79,000 relating to overcharging amongst the council general needs housing stock.
- 2.6 A process has been put in place to identify tenants and former tenants who have been overcharged. When overcharges are identified, these are verified by the council’s internal audit function to ensure accuracy. In respect of existing tenants, net refunds will normally be provided in the form of a credit to the individual rent account, with future payments reduced until the refund is fully used. For former tenants and in relation to any Housing Benefit payments made via DWP, direct refunds will be arranged. The process of tracing former tenants may in some cases be lengthy, as it is not always immediately possible to ascertain current whereabouts. In the case of deceased former tenants, refunds to the deceased’s estate / beneficiary will be arranged.
- 2.7 The process above has been agreed with the RSH who is satisfied that the council is aware of its requirements and obligations under the social housing regulatory framework.

Ensuring Future Regulatory Compliance

- 2.8 In order to ensure that moving forward, the setting of rents and other regulatory requirements are complied with, a range of activity has been undertaken and new processes implemented.
- A new Housing Management and Maintenance contract specification has been developed and approved in relation to the councils General Needs housing stock and will take effect from April 1, 2024. The provider will in future be responsible for all aspects of housing management and maintenance including the implementation of rent levels in accordance with the regulatory framework and the council’s role will be as client / contract manager.
 - The current Affordable Rents that are payable in respect of Fletcher Court will be converted to the lower Social Rents and service charges can then be applied in addition in accordance with the regulatory framework. This requires consultation with Tenants which took place during February.

- Upon the event of any unit of affordable rent accommodation being vacated, a full market revaluation or rent calculation will be undertaken by the council's contractor and rents set appropriately based on value and the application of the relevant cap or formula to determine affordable and social rent levels, respectively.
- The role of agreeing the annual rent and service charge increases remains a decision for the council. However, once agreed by the council, the role of implementing the increase in accordance with regulatory requirements and informing tenants will be the responsibility of the councils Housing Management Contractor.
- Reflecting the requirement to maintain compliance with the regulatory framework and the focus on client / contract management function, a revised housing structure will be developed and implemented to ensure effective contract management arrangements are in place.
- In relation to Fletcher Court (subject to a separate management agreement), the same processes will apply from April 1, 2024, and a new contract specification will be agreed prior to re-commissioning of the management and maintenance service in September 2025.

3. OTHER CONSIDERATIONS

- 3.1 Following consideration / approval of this matter by the Executive, the RSH will be advised of the processes and procedures that have been adopted by the council to compensate affected tenants / former tenants and to avoid a recurrence in future.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The total financial impact of the overcharging is as set out within this report (£344,000). Of this, £49,000 is attributable to HRA since its establishment in April 2023 and the remaining £295,000 is attributable to General Fund, prior to establishment of HRA.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The risk associated with the process is now reduced to low as the full implications of overcharging have been assessed and the figures provided within this report are considered to reflect the maximum financial impact for the council. In addition, controls have been set up through a new contract management role and client function, and outsourcing the specialist rent calculations within the specification of the new housing management contract.

6. LEGAL APPRAISAL

- 6.1 There has been a technical breach of Regulatory Standards through inaccurate rent calculations. This has been self-referred to the Regulator of Social Housing (RSH), the improvement plan shared and discussed and corrections to operations, skills and structures made to prevent recurrence.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

None

7.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

None

7.3 COMMUNITY SAFETY IMPLICATIONS

None

7.4 HUMAN RIGHTS ACT

None

7.5 TRADE UNION

None

7.6 WARD IMPLICATIONS

The properties affected are located across several different District Wards.

7.7 AREA COMMITTEE LOCALITY PLAN IMPLICATIONS

None

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

None

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

There is no alternative option but to ensure that all tenants and former tenants affected by this issue are suitably compensated for overpayments and that the housing stock is managed in a regulatorily compliant manner.

10. RECOMMENDATIONS

10.1 That Executive.

1. Notes the identified issues in relation to the rent standard for social housing as set out within this report and the financial implications thereof.
2. Approves the process of refunding tenants and former tenants in respect to any overcharging that has occurred since April 2020.
3. Notes the actions undertaken to resolve the existing breach of regulatory standards and to prevent future breaches from occurring.
4. Instructs the Strategic Director Place to confirm with the Regulator of Social Housing the measures put in place to resolve the breach of the rent standard and to ensure future regulatory compliance.

11. APPENDICES

None

12. BACKGROUND DOCUMENTS

None