

# STROUD DISTRICT COUNCIL

## HOUSING COMMITTEE

TUESDAY, 28 MARCH 2023

<b>Report Title</b>	<b>DEPOOLING OF RENTS AND SERVICE CHARGES</b>			
<b>Purpose of Report</b>	<p>This report seeks approval from the Committee to implement depooling of rents and services charges with effect from 1 April 2024, thereby enabling the Council to recover fully where possible - in a fair and transparent manner, the costs we incur delivering services to our residents; some of which are currently subsidised by the Housing Revenue Account (HRA) or other residents</p> <p>It also seeks approval of the new Rents and Service Charges Policy.</p>			
<b>Decisions</b>	<p><b>The Committee RESOLVES to approve:</b></p> <p><b>a) the depooling of rents with effect from 1 April 2024;</b></p> <p><b>b) new and re-let tenancies will be subject to the formula rent and service charges with effect from 1 April 2024; and</b></p> <p><b>c) the Rents and Service Charges Policy as at Appendix A.</b></p>			
<b>Consultation and Feedback</b>	Consultation with officers, Finance, Director of Communities, Interim Head of Housing.			
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<b>Options</b>	<p>The Committee can consider that:-</p> <ol style="list-style-type: none"> <li>1. depooling will be implemented with effect from April 2024 as follows: <ul style="list-style-type: none"> <li>• Capped or,</li> <li>• Fully chargeable</li> </ul> </li> <li>2. no action is necessary if they feel the current charging structure is equitable and fair to all our residents, or</li> <li>3. service charge costs will be clearly reported, including how they are funded, or subsidised, but no significant changes are made to the charging mechanism</li> </ol>			
<b>Background Papers</b>	<a href="#">Local Authority registered provider social housing in England – stock and rents 2020 - 2021</a>			
<b>Appendices</b>	Appendix A – Rents and Service Charges Policy Appendix B – Equality Implications Assessment			
<b>Implications (further details at end of the report)</b>	Financial	Legal	Equality	Environmental
	Yes	Yes	No	No

## 1. BACKGROUND

- 1.1 On 9 April 2019<sup>1</sup>, Housing Committee approved an investigation into the depooling of service charges from rents for all social housing residents.<sup>2</sup>

Whilst we currently levy service charges to tenants of flats, independent living, and leaseholders, there are a number of charges we incur in the delivery of our housing service which are funded not as a service charge but as part of our rental income, for example, grounds maintenance. This has been the case for many decades, being very much a legacy of a common standard of practice.

Rent is expected to cover a charge for the occupation of a home including its management and repairs, whilst charges for services, such as: communal facilities, car parking, grounds maintenance, communal area heating and cleaning are regarded as a service charges.

Whilst Section 24 of the Housing Act 1985 gives local authorities the power to make reasonable charges for the tenancy or occupation of dwellings, they retain discretion to decide what services to charge for separately and what services should be included in the rent, within a broad framework. Not all authorities have disaggregated charges for services from rent, nor depooled services, although they are encouraged to do so by the rent restructuring policy.

- 1.2 The Council currently operates two forms of rent calculations for social housing rents:-

- a) Social rent tenancies incur a weekly rental charge calculated using the Communities and Social Housing (CLG) guidance first issued in 2001. A formula is applied for each property using a combination of local capital values, local earnings, and bedroom size, compared to national capital and earnings averages, changes to the rent is subjected to an annual increase limit, which is a ceiling not a target. The rent calculation, which does not take account of any service charges, is:

70% of the national average rent, multiplied by relative county earnings and by a bedrooms' weighing PLUS

30% of the national average rent, multiplied by relative property value (as at 1 Jan 1999)

Under the Rent Standard 2020, social rents are defined as excluding any identified service element. This means that any service charge would have to be recovered separately or subsidised, either deliberately or by default, as the Council's social rented properties rents exclude service charges.

As at 31 March 2022, the total number of properties set at target/social rent was 4,822.

- b) Affordable rents are set at a level which is no more than 80% of the estimated market rent for the property (inclusive of service charges). The market rent is based on a valuation method recognised by the Royal Institution of Chartered Surveyors (RICS). A market rent would not be expected to include personal charges such as heating inside the dwelling, these are in addition to the market rent and dealt with as a separate contract, or a clause within a tenancy agreement.

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<sup>1</sup> [Depooling of Rents and Service Charges](#)

<sup>2</sup> Tenants, leaseholders, and shared owners in social housing

Currently, affordable rent is calculated for properties that are either new developments or leasehold properties which the Council has “bought back”.

As at 31 March 2022, the total number of properties set at affordable rent was 202.

- 1.3 From 1 April 2020, rents have been set in accordance with the Government’s Policy Statement on Rents for Social Housing (2019)<sup>3</sup>. This permits annual rent increases on both social rent and affordable rent properties of up to CPI+1% for 2020, for a period of at least 5 years. For 2023/24, the annual rent increase is limited to 7%.
- 1.4 Within the Housing Revenue Account (HRA), the dwelling rental and service charges income has a combined 2023/24 budget of £25.8m. The amounts by which rents can be increased are, in effect, controlled by central Government.
- 1.5 The Council’s running costs, to provide the functions of the HRA including repairs and maintenance, are budgeted for at an overall service level, rather than at an individual property level.
- 1.6 The costs that could become service chargeable to individual residents are currently covered by the income going into the HRA, which is mainly from rent charged. As such, ALL residents are currently paying these costs, although they may not directly receive the service or benefit. One way to make this more equitable is by depooling service charges resulting in costs that are linked to a particular group of residents being only shared by them, rather than pooled into the HRA overall, bringing more fairness, openness, and transparency to our charging regimes.
- 1.7 Depooling will not bring a complete end to all residents covering some costs, as there will always be services incurred by the HRA that may not be linked to a particular tenancy, for example, the prevention of Anti-Social behaviour and the collection of rent arrears.
- 1.8 Residents living in independent living accommodation already pay some service charges separately to rent as shown at 2.3, alongside some tenants and leaseholders in flats.

## **2. CONTEXT**

### **2.1 Rent and Service Charges Policy: (Appendix A):**

This new policy is the framework to support how the Council meets all statutory, contractual, regulatory, legal requirements, and best practice, in relation to rent and service charges.

It supports the Council’s aim to ensure current and future rents are fair and affordable for residents and are set at levels which maintain the HRA’s financial stability and viability.

It sets out how the Council aims to deliver fair and transparent chargeable services, to high standards and good value for money. It also identifies that residents should pay for all the services they receive, whilst continuing to protect our assets and vulnerable customers by subsidising an element of service to them.

### **2.2 Examples of service charges which could be depooled:**

- Caretaking services
- Communal area cleaning - contract and direct supervision costs
- Communal area electric / heating in blocks
- Communal window cleaning - internal and external

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<sup>3</sup> <https://www.gov.uk/government/publications/rent-standard/rent-standard-april-2020>

- Grounds maintenance costs - contract and direct supervision cost and litter collection
- Cyclical pest control
- Communal and emergency lighting
- Communal area repairs and graffiti removal
- Additional refuse collections
- Door entry
- CCTV
- Street lighting
- Children's play areas

Whilst clarification would be required prior to setting service charges, the above charges would be eligible for housing benefit/universal credit housing costs, where residents are eligible to receive them.

- 2.3 Some service charges are already charged and itemised separately to the rent, including:
- Communal facilities in independent living schemes
  - Communal electric / heating / lighting in independent living schemes
  - Water supply in independent living communal areas (the charge is not eligible for housing benefit when the water supply is in the resident's own flat)
  - Heating in independent living schemes communal areas (the charge is not eligible for housing benefit when the heating supply is in the resident's own flat)
  - Communal cleaning in general needs blocks
  - Communal television aerials in general needs blocks/dwellings/independent living schemes
  - Scooter storage in independent living schemes

### **3. DEPOOLING METHODOLOGY**

#### **3.1 All properties:**

Service charges will be identified and allocated in a fair and transparent manner, the charges depooled from the rent where appropriate. Where the rent is different from formula rent (often a legacy issue), the formula rent will also be shown to ascertain the full rent and service charge due. It is expected that an apportionment basis will be used.

For affordable rents, the service charges are deemed to be included unless they are a personal charge or the subject of a separate agreement. An assessment will be made of how much of the rent is available to fund "core services" once service charges are identified. If this residual rent is low because service charges are high, it means there are less funds available to maintain and manage the properties.

#### **3.2 Existing Tenancies:**

There may initially be a need for a hardship fund to reduce the impact on residents who might not have access to welfare benefits.

Initially, the majority of existing residents incurring the service charge could have their rents reduced by the same amount so it would only be new tenants who generated additional income. There may be a need to access the hardship fund to reduce the impact on residents who may not have access to welfare benefit.

In 2022/23 (YTD), there were 351 terminations of tenancies, around 7% of the Council's tenancies<sup>4</sup>. This means around 7% of the Council's housing stock<sup>5</sup> would be eligible for increased service charges in a year. Over time that figure would fall as relets would include properties where the rent and service charges were already depooled and at their maximum.

### 3.3 New and Re-let Properties:

From 1 April 2024, when tenants start a new tenancy, the rent will be the formula rent plus any service charges. The tenants will be made aware of all service charges and rent due ahead of the tenancy, in a clear manner, explaining what charges might be eligible for welfare benefit.

Currently, 3,601 properties<sup>6</sup> have not reached their rent target as calculated by the Government formula. As the target covers rent only, service charges would be additional to this. When properties are re-let, the incoming resident would pay the rent at the full formula rent plus any service charges.

## 4. CONCLUSION

### 4.1 Advantages of depooling:

- Greater transparency and accountability: charging separately for services is viewed nationally as good practice because residents can see what they are paying for, will be better able to judge value for money and can be better involved in deciding what are the services they need.
- Fairness and removal of cross-subsidy: charging separately for services results in residents only paying for the services they receive; it encourages them to monitor services; this is a fairer charging basis as costs are not subsidised by the wider community. Any subsidy would need to be monitored and reported.

To test the assumption that creating service charges will detrimentally affect the demand for certain types of property, benchmarking has taken place with registered social property owners (RSLs) that have already carried out this procedure. Early indications from these RSLs highlight that there has been negligible impact on demand, and residents seem content with depooling charges, as it has increased local choice about what services are provided and they can have some influence over what is charged, and how it is charged. It increases engagement of residents in the cost of providing services, introducing an additional driver to obtain value for money. It can also help prioritise spending, as with leaseholders, tenants' priorities can change when a cost is attached to an option.

- Service charges to tenants would be more akin to how leaseholders are charged, as leaseholders get details of what they pay for. It promotes fairness and equity of charges between residents.
- The revised charging structure could increase the number of residents eligible for Housing Benefit. The revised rent would be set against the claimant's applicable amount, to assess if they are eligible for a rent rebate. Indeed, if a new claim were successful, it could passport the applicant to other forms of benefit. For example, non-housing related benefits such as free school meals.

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<sup>4</sup> 4,870 tenancies as at 6 March 2023

<sup>5</sup> 5,029 properties as at 31 March 2022

<sup>6</sup> As at 13 January 2023

- The combined impact of lower rent increases compared to increases in revenue and capital expenditure, and increasing financing costs, is already leading to significant challenges in restoring resilience and flexibility to the Council's business plan and service delivery.

Current choices are focused on expenditure reductions, leading to decreases in planned maintenance programmes and in turn a risk of deterioration of standards, increased repair costs and increased disrepair claims, which in turn could attract adverse publicity (around for example, damp, mould, and condensation). By depooling, income streams to the HRA would be protected and maximised, regardless of potential central government rent directives, as service charges can be recovered in full.

It will bring clarity to the impact of the current energy increases on other budgets: where service charges include energy costs, those can be recovered. When a charge is capped in one year, it has a compound impact on future years as the gap between that service charge and its costs widen, assuming the energy prices rise above inflation. This means that direct actions need to be taken to reduce costs such as retrofitting, smart meters, and reducing consumption through efficiency or residents' awareness.

#### 4.2 Risks and uncertainties of depooling:

- Implementing additional charges during the current cost of living crisis could have an impact on affordability which could bring adverse publicity to the Council at a time when the economy is in recession. However, at the point of depooling, an assessment will be made to deal with any hardship; although there may be an increase over the coming years due to the way the rent increase formula is applied. For example, if the target rent for a property is £80 and the actual rent is £75, the rent only must increase by £5 over the following years to reach the target. However, if the rent is reduced to £70 because of depooling, it must increase by £10 to reach the target (these are illustrative figures only).
- All residents will need to be consulted as some service charges could cover houses and through the pooled HRA income/expenditure they are currently contributing to the costs which could be separated out.
- The residents who currently subsidise some services, but derive no benefit from them, may challenge the current charging structure as being unjust. This could be difficult to defend if the Local Government / Housing Ombudsman's were to become involved.
- For residents in receipt of Housing Benefit/Universal Credit, any increase would be met by a rent rebate. However, a small number of people could still be affected, where they are not in receipt of benefits or have their benefit capped which might place them on the margins of poverty, whilst those eligible for benefits remain trapped where it is not viable for them to get paid employment.
- Any alteration to the rent structure could impact negatively on the income collection rate. If bad debt provision is assessed at 0.5% then it not unreasonable to assume that amending the charges could add £1k to arrears. In context this would only be a 0.3% increase to an outstanding current debt of £324k.

#### 4.3 Timescale for implementation

Pascale Mézac, trading as Plan2moro, was commissioned in January 2022 to assist with the project and was also tasked with writing the Rents and Service Charge Policy. Ms Mézac provides business planning services for social housing and charities and her expertise and knowledge around service charge and depooling charges from rents is vast.

A lot of tasks identified as part of the project plan have already been completed under Ms Mézac's guidance

However, given the requirement for consultation, and the significant systems work required, it is proposed that depooling is implemented with effect from Monday, 1 April 2024.

## **5. IMPLICATIONS**

### **5.1 Financial Implications**

This reports sets out a proposal to depool service charges from rents in line with best practise in social housing. It cannot yet set out what charges would be in place from April 2024, and these would need to be part of a separate decision from Housing Committee (expected to be a recommendation to Council as part of the budget setting and rent setting papers in December 2023). This would be following a period of consultation with tenants and members which would inform the desired level of service and so determine the cost of the service charges – as these must be based on the cost of delivering the service. It is currently expected that existing tenants could be protected through a gradual implementation of the full charges. Further details of this would accompany the proposed charges to Housing Committee.

If a full recovery of service chargeable items is achieved, it can be expected that this would improve the financial position of the HRA as some of these costs are currently subsidised within rents. The exact amount of this subsidy is not available with existing systems, but it can be estimated in the low hundreds of thousands of pounds. As existing tenants could be protected, it would not be expected that income would increase significantly in the short term, and additional cost may be incurred initially to support tenants through the changes. The primary driver and benefit of this change would be an increase in tenant involvement in service levels and the ability for tenants to hold the council, as a landlord, to account if these service levels are not delivered

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### **5.2 Legal Implications**

The Council shall be required to undertake a consultation exercise with tenants of rented houses and flats to seek their views on the proposed changes and the likely impact on them. Consultation is not required in respect of leaseholders of sold right to buy flats as provision is already made for a service charge within those leases.

A review of the Council's Tenancy agreement is being undertaken to reflect any changes brought about by any decision to de-pool service charges.

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### **5.3 Equality Implications**

An EIA has been carried out in relation to the decision made in this report and due regard will be given to any implications identified in it.

### **5.4 Environmental Implications**

There are no significant implications within this category.