

Report for: Cabinet Member Signing 3 April 2017

Item number: 4

Title: Rents and Charges for Temporary Accommodation

Report authorised by: Lyn Garner, Director of Regeneration, Planning and Development

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Ward(s) affected: All

**Report for Key/
Non Key Decision:** Key Decision

1. DESCRIBE THE ISSUE UNDER CONSIDERATION

- 1.1. The Council provides temporary accommodation to around 3,200 households and uses a range of different accommodation types. Historically, the rent and charges have been set independently for each type of accommodation.
- 1.2. Following recent legislation and regulations affecting the rent which can be charged for such accommodation, this paper sets out a unified rent and charging policy for temporary accommodation.

2. CABINET MEMBER INTRODUCTION

- 2.1. The rents for temporary accommodation have previously been adopted through a range of policies. This paper sets out a unified rent setting policy and sets a rent for each type of accommodation which the Council has procured or owns. This policy also ensures that no residents in our temporary accommodation have an increase in their rent, and many will have a reduction. I therefore welcome the introduction of this policy and its annual review each year.

3. RECOMMENDATIONS

It is recommended that the Cabinet Member:

- 3.1. Approves the 2017/18 rents for temporary accommodation as set out in 6.18 to 6.27 and 2017/18 charges for temporary accommodation as set out in 6.28 to 6.40.
- 3.2. Notes and considers the Equalities Impact Assessment (Appendix 1).

4. REASONS FOR DECISION

- 4.1. Recommendation 3.1 is proposed in order to
- a) ensure that the temporary accommodation rents are compliant with the rent reduction provisions in the Welfare Reform and Work Act 2016 and the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016; and
 - b) standardise rents for residents in temporary accommodation.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1. The Council could continue to charge current rents for their temporary accommodation. However, where rents are above those allowed by the rent reduction provisions, these would be subject to challenge. Where rents are below these rents, there would be a loss of income to the Council.

6. BACKGROUND INFORMATION

Welfare Reform and Work Act 2016

- 6.1. The Welfare Reform and Work Act 2016 (“the 2016 Act”) and the Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 (“the Regulations”) require social housing rents to be decreased by 1% on 1 April each year from 1 April 2016 until 1 April 2019. These provisions were announced in the Budget on 8 July 2015.
- 6.2. The Regulations do not exclude temporary accommodation from the 2016 Act, save accommodation which is not owned by the Council, where the property is leased to the Council for more than two years – broadly, this is PSL accommodation.
- 6.3. Where a household has been continuously occupying the same property, the rent from which the reductions are to be made (the applicable rent) is their rent as at 8 July 2015.
- 6.4. Where there is a new tenant of existing social housing (i.e. existing at 8 July 2015), the applicable rent is defined as the highest of the formula rent for the property as at 8 July 2015 or the rent that was paid by the existing tenant as at 8 July 2015.
- 6.5. Where a property was social housing, but was void on 8 July 2015, then the applicable rent is the rent which would have been charged had the property been let on that date.
- 6.6. Where the accommodation is new social housing (that is, was not social housing as at 8 July 2015) the applicable rent is the formula rent.
- 6.7. Where however the accommodation is supported housing (including homelessness hostels), the formula rent is increased by 10%, plus a further 0.9% for CPI inflation from 8 July 2015 to 1 April 2016; and the 1% reductions only begin on 1 April 2017.

- 6.8. Other than in Affordable Rent housing, service charges are not included in calculating the rent for the purposes of the 2016 Act.

Changes to temporary accommodation funding

- 6.9. Department of Work and Pensions (DWP) circular HB G8/2016 sent to Housing Benefit teams, sets out that DWP will not be paying the £40 additional HB subsidy payment for temporary accommodation management fee from April 2017 onwards.
- 6.10. This payment was credited to the claimants rent account in addition to the rent of 90% of the LHA rent.
- 6.11. In replacement of the lost revenue which Local Authorities would suffer, additional block funding has been provided from the Department of Communities and Local Government.

Current rent policy

- 6.12. The Council provides temporary accommodation to around 3,200 households and uses a range of different accommodation types. Historically, the rent and charges have been set independently for each type of accommodation.
- 6.13. Temporary accommodation in Council owned stock has traditionally had the same rent that would have been charged had the stock been used as general needs accommodation. This rent is either at a social rent, or, in more recent lets, the slightly higher formula rent. However, there are 153 Council owned units which have been used as temporary accommodation since they were acquired and, as such, charged a higher rent.
- 6.14. In February 2016, the Cabinet endorsed the provision of temporary accommodation in properties which had been vacated in advance of estate renewal schemes. The Cabinet set the rent for these units at the Local Housing Allowance (LHA) rate. Currently there are 10 units on the Love Lane estate which are being charged this rent, while around 100 other properties on the estate that are used as temporary accommodation are being charged formula rent.
- 6.15. In October 2016, the Cabinet approved the charging of LHA rents for the Broadwater Lodge shared facility hostel and future shared facility hostels. This hostel opened in January 2017 and currently has around 50 households who are being charged at LHA rents.
- 6.16. The Council has also purchased a small number of properties through its Acquisitions fund, and other properties on regeneration schemes. These properties are also charged at LHA rents.
- 6.17. In addition to properties that it owns, the Council also uses accommodation which is leased to it through its Private Sector Lettings Scheme (around 1,000 properties), Housing Association Lettings Scheme (around 230), through nightly contracts such as Annexes (around 1,650), private hostels (around 25),

and, on rare occasions, Bed and Breakfasts. These properties are currently charged at 90% of the 2011 LHA rate plus a management fee of £40 per week.

Proposed rents for 2017/18 for current residents

Temporary Accommodation in Council Owned properties

- 6.18. All Council owned properties that are used as temporary accommodation or social housing will have an annual 1% rent reduction as set in the 2016 Act and Regulations.
- 6.19. The rents paid by current residents will be decreased by 1% or more if their rent is subject to the limits described in 6.18 below.
- 6.20. The 2017/18 maximum rent will be based on the highest of the following;
- (a) 110.99% of formula rent as at 8 July 2015, less 1% of that figure; or
or (where the property was let as social housing/temporary accommodation as at 8 July 2015)
 - (b) the actual rent charged for the unit as at 8 July 2015, less 1.99%
- 6.21. Properties with rents higher than the above limits will be reduced to the highest of the two rent limit described in (a) and (b) above.

Such properties include:

- previously tenanted properties on regeneration estates which are awaiting demolition,
- previously hard-to-let properties which have been used as temporary accommodation,
- demountable housing,
- buildings which have historically been used as temporary accommodation such as Russell Road,
- properties which have been purchased since 8 July 2015 including those on regeneration estates, and
- Broadwater Lodge and future shared facility hostels.

Temporary Accommodation in properties leased to the Council, or purchased on a nightly basis

- 6.22. The rent for these properties in 2016/17 was set at the 90% of the 2011 LHA rent plus £40 a week management charge. Although the Council is still awaiting the settlement award from the Government, it has been confirmed that the management fee will no longer be met by the DWP.
- 6.23. The rents payable for these properties 2017/18 will remain at 90% of 2011 LHA plus £40 a week management charge. The £40 management fee will be paid in the first instance by Housing Benefit, where the household is in receipt of Housing Benefit. Once the settlement has been received an accounting mechanism will be put in place to transfer the appropriate funds to Housing Benefits to replace the loss of subsidy previously received from DWP.

- 6.24. Such properties include annexes, private sector leased properties, and private hotels.

Proposed rents for 2017/18 for new lets or new temporary accommodation

- 6.25. Any Council owned properties that are re-let on new tenancies or licences, will be let at the higher of;
- 110.99% of formula rent as at 8 July 2015, less 1% of that figure;
or (where the property was let as social housing/temporary accommodation as at 8 July 2015)
 - The actual rent charged for the unit as at 8 July 2015, less 1.99%
- 6.26. Any Council owned properties which were not previously used for temporary accommodation or social housing will also be let at the higher of the two rents set out in 6.25 above;
- 6.27. Any new properties and re-lets leased to the Council or let on a nightly basis as described in 6.24 will be let at 90% of the 2011 LHA, plus £40 and funded as set out in 6.22 and 6.23.

Proposed charges for 2017/18

Service charges for Council owned accommodation (excluding Broadwater Lodge)

- 6.28. In addition to the above rent, homeless households living in Council owned temporary accommodation will pay the same services charges which would be charged if the property was let as a general needs secure tenancy.
- 6.29. The following explanation of these charges has been reproduced from the Medium Term Finance Strategy 2017-21 and 2017/18 Budget report sections 9.9 to 9.14.
- 6.30. In addition to the rent, tenants pay service charges for services not covered by their rent. Service charges must be set at a level that recovers the cost of the service, and no more than this. The Council's policy has been to set charges at the start of each financial year to match budgeted expenditure. Therefore, the weekly amount is fixed and a flat rate is charged.
- 6.31. Charges are calculated by dividing the budgeted cost of providing the service to tenants by the number of tenants receiving the service. The amount tenants pay increases where the cost of providing the service is anticipated to increase. Equally, charges are reduced when the cost of providing the service reduces or where there has been an over-recovery in the previous year.
- 6.32. Tenants pay for the services listed below:
- Concierge
 - Grounds maintenance, bin and chute cleaning and caretaking
 - Street sweeping (Waste collection)

- Light and power (Communal lighting)
- Heating (including Gas or Oil/Electricity)
- Integrated reception service (Digital TV)
- Estates road maintenance

6.33. The table below sets out the proposed changes in tenants' service charges for 2017/18.

Tenants' service charge	Current Weekly Charge 2016/17	Proposed Weekly Charge 2017/18	Increase / (decrease)	Projected Annual Income
Concierge	£15.66	£15.43	-£0.23	£1,554
Grounds maintenance	£3.16	£2.77	-£0.39	£1,306
Caretaking	£4.29	£4.02	-£0.27	£1,544
Street sweeping (Waste collection)	£3.56	£3.62	£0.06	£1,553
Light and power (Communal lighting)	£2.19	£2.62	£0.43	£1,203
Gas (Elderly)	£10.64	£11.16	£0.52	£217
Gas (Not Elderly Person)	£10.17	£10.67	£0.50	£60
GLC Heating	£11.66	£12.23	£0.57	£38
District Heating 6	£10.93	£11.47	£0.54	£0.60
Oil/Electricity (Elderly Person)	£8.33	£8.74	£0.41	£18
Integrated reception (Digital TV)	£0.77	£0.77	£0.00	£349.90
Estates road maintenance	£0.50	£0.57	£0.07	£266
Bin and chute cleaning	£0.16	£0.16	£0.00	£72.70
Proposed tenants' service charge income				£8,186.10
<i>Projected annual income is based on the number of tenants receiving the service for 52 weeks with an allowance of 1% service charges loss due to empty properties.</i>				

6.34. The Council collects weekly water rates on behalf of Thames Water Utilities Ltd from tenants where the water supply to their home is unmetered. The amount is set by Thames Water on the basis of the rateable value of each property.

6.35. The weekly water rates to be paid by each tenant in 2017/18 will be provided by Thames Water in March 2017. Tenants will be notified accordingly.

Broadwater Lodge and future shared facility hostels

- 6.36. The Broadwater Lodge hostel has 51 shared facility rooms, and one self-contained mobility standard unit. The hostel provides the following services to residents;
- Reception and security services,
 - Communal kitchen diners, toilets and washing facilities,
 - Internal cleaning of communal areas and shared facilities, and
 - Laundry
- 6.37. For 2017/18, the costs of these facilities are set out at Appendix 2 and are estimated to be £406,289 per year, or £153.20 per week per unit.
- 6.38. In 2016/17, these costs were met through the weekly rent. This was set at the LHA rent for a one-bedroom property for the shared facility units, and the LHA rent for a two-bedroom property for the self-contained mobility standard room. In the Outer London Broad Rental Market Area these rents were £199.68 per week and £255.34 respectively. In the above rent setting calculations, the rent for Broadwater Lodge will be reduced to 110.99% of the formula rent, less 1%.
- 6.39. In light of the previous rent levels, it is therefore recommended that the charges for Broadwater Lodge are recharged to residents, but that the total rent and charges are capped to be no higher than the 2016/17 rent of the appropriate LHA rate.
- 6.40. Any future Council owned hostels created in the year, namely the proposed Whitehall Street hostel, will also be subject to the same rent policy, and with total rent plus charges also capped at the applicant LHA rate.

7. CONTRIBUTION TO STRATEGIC OUTCOMES

- 7.1. These proposals support the objectives of Priority 5 in the Corporate Plan – Creating homes where people choose to live and are able to thrive. In particular, the Corporate Plan notes that “*We will provide realistic and achievable options for people to find housing or alternative housing*”.

8. STATUTORY OFFICERS COMMENTS (CHIEF FINANCE OFFICER (INCLUDING PROCUREMENT), ASSISTANT DIRECTOR OF CORPORATE GOVERNANCE, EQUALITIES)

a. Finance

- 8.1. Overall the changes to the rents of the Council properties will mean that the rental income is approximately £300k lower than it would otherwise have been. However, the 2017/18 budgets are based on social rents so there will be no budget shortfall.
- 8.2. The rental for the Council owned properties is income into the housing revenue account (HRA) with any additional costs for using the units as temporary accommodation also being borne by the housing revenue account. This situation is under review by officers as prevention of homelessness is a general fund duty and the HRA should not suffer additional costs as a result.

- 8.3. Service charges on both the Council owned and non-Council owned properties reflect the cost of providing the services.
- 8.4. The loss of the Temporary Accommodation Management Fee Subsidy reduces the maximum housing benefit subsidy the Council can receive on each of the properties listed in paragraph 6.24 to 90% of the Local Housing Allowance. This will usually be a loss of £40 per property per week. However, this would only be an impact on properties where the tenants receive housing benefit. The overall estimated loss of income is anticipated to be in the region of £6m-£8m. Officers are working to produce a more precise figure.
- 8.5. The Department of Communities and Local Government (CLG) have advised that there will be a grant to local authorities to ensure there is no revenue impact from the loss of Temporary Accommodation Management Fee Subsidy in 2017/18. The Government estimates that Haringey would see a reduction of £7,386,509 in payments from the DWP in 2017/18, and has replaced this with £8,630,852 in 2017/18 and £8,272,890 for 2018/19. For future years it is not yet known how the value of the grant will be arrived at and officers will need to take into account the drivers for the grant determination when formulating the approach to addressing the Council's homelessness duty.

b. Legal

- 8.6. The Assistant Director Corporate Governance has been consulted in the preparation of this report and comments as follows.
- 8.7. Rent setting on all Council properties is a function reserved to Cabinet by the Constitution.
- 8.8. Part VII of the Housing Act 1996 ("the 1996 Act") places obligations on the Council to secure accommodation for homeless applicants, firstly while investigating their entitlement and secondly, where a full housing duty is accepted following investigation, until that duty ceases usually by provision of a settled alternative. There are also more limited duties and discretions under which the Council provides temporary accommodation under Part VII.
- 8.9. By s206(2) of the 1996 Act the Council is empowered to require applicants to pay such reasonable charges for accommodation secured under Part VII as it may determine. The sole limitation on such charges under the 1996 Act is that they be reasonable. The Council is not generally bound, in setting those charges, by provisions applicable to general needs housing.
- 8.10. Councils have historically set higher rents for temporary - Part VII - accommodation than for general needs accommodation, reflecting a number of factors including the cost of obtaining that accommodation in the market.
- 8.11. That general discretion in setting rents is however now subject to the 2016 Act and the Regulations. They apply to "social housing" using a definition of that term (from the Housing and Regeneration Act 2008¹) which applies equally to general needs – Part VI – housing and Part VII accommodation.

¹ Housing is social housing for these purposes if:

- 8.12. The purpose of the 2016 Act as announced in the Budget was to require a reduction generally in social housing rents which were said to be increasing faster than rents in the private sector.
- 8.13. The effect however is to freeze the position as at 8 July 2015. Whereas before the Council would have the broad discretion outlined above in setting the rent on any newly acquired temporary social housing, the 2016 Act and Regulations create a structure which not only requires rent reductions going forward but (to prevent avoidance) limits initial rent-setting. The effect is described above in Background Information under the heading “Welfare Reform and Work Act 2016”.
- 8.14. To fall within the modified scheme as supported housing and therefore allow rent setting as set out in paragraph 6.18 above, the accommodation must be:
- made available only in conjunction with the supply of support, and
 - available exclusively to those who have an identified need for that support, and
 - either accommodation that has been designated as being available only to individuals within an identified group with specific support needs, or have been designed, structurally altered or refurbished in order to enable residents to live independently

The definition of support for these purposes also includes “hostels for the homeless”.

- 8.15. Where the modified scheme does not apply, rents in temporary accommodation (other than PSL) that is social housing within the 2016 Act and Regulations will be limited to the 8 July 2015 formula rent with applicable annual 1% reductions.
- 8.16. The exclusion of service charges from the calculation of rent other than in relation to Affordable Housing means that any such appropriate and reasonable costs can be charged in addition to the rent fixed according to the 2016 Act and Regulations, whether or not the accommodation falls within the modified scheme.

c. Equality

- 8.17. A full equality impact assessment has been undertaken which concludes that the rent proposals for temporary accommodation will have a positive impact on all those households who are not receiving full housing benefit, in particular those groups who are more vulnerable to homelessness.

9. USE OF APPENDICES

Appendix 1 Equalities Impact Assessment

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- (a) it is made available for rent,
 - (b) the rent is below the market rate, and
 - (c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.
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10. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Medium Term Finance Strategy 2017-18 and 2017/18 Budget report

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=7850&Ver=4>