



## Mayor and Cabinet

### **Response to the comments of the Housing Select Committee on the Housing Revenue Account- Rent Setting report**

**Date:** 8<sup>th</sup> February 2023

**Key decision:** No

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Executive Director for Housing, Regeneration and Public Realm

### **Outline and recommendations**

This report provides Mayor and Cabinet with a response to the comments of the Housing Select Committee on the Housing Revenue Account (HRA) - Rent Setting report, which were referral to Mayor and Cabinet on 8<sup>th</sup> February 2023.

It is recommended that Mayor and Cabinet note the views of the committee and proceed with the recommendations made in the Rent Setting report.

#### **1. Summary**

- 1.1. On 5<sup>th</sup> January 2023, the Housing Select Committee considered a report from officers titled Housing Revenue Account (HRA) - Rent Setting. The Committee received an overview of the report from Fenella Beckman, Director of Housing Services. Officers from Lewisham Homes and Regenter B3 also attended the meeting. Following questions to officers, the Committee agreed to refer its views to Mayor and Cabinet.

#### **2. Recommendation**

- 2.1. That Mayor and Cabinet note the officer response to the Housing Select Committee's referral, as set out below, and take it into consideration when making their decision on 8<sup>th</sup> February 2023. Mayor and Cabinet's decision, and the officer comments set out below, will be reported back to the Committee.

#### **3. Policy Context**

- 3.1. The contents of this report are consistent with the Council's policy framework. It supports the achievements of the following corporate strategy objective:
  - 3.1.1. Tackling the housing crisis – Everyone has a decent home that is secure and affordable.
- 3.2. The contents of this report also support the objectives of the Housing Strategy 2020-

26, as ensuring an appropriately funded HRA will work towards the delivery of the following objectives:

- 3.2.1. Delivering the homes that Lewisham needs;
- 3.2.2. Improving the quality, standard and safety of housing;
- 3.2.3. Supporting our residents to live safe, independent and active lives;
- 3.2.4. Strengthening communities and embracing diversity.

#### **4. Housing Select Committee's views**

- 4.1. At its meeting on the 5<sup>th</sup> of January 2023, the Committee considered a report on Housing Revenue Account (HRA) - Rent Setting.
- 4.2. The report outlined the forecast rent, service charge, garage and heating and hot water charge changes for Lewisham Council Dwellings and garages in 2023/24, including resident feedback on the proposals.
- 4.3. The Committee made the following observations in their referral to Mayor and Cabinet:
  - 4.3.1. The potential average service, heating and hot water charge changes were contained in the Regenter B3 & Lewisham Homes Service charge reports 2023/24. The proposal was for an increase of £2.32pw or 7.0% for leaseholders and £1.24pw or 7% for tenants in the Lewisham Homes areas, and an increase of £0.93pw or 13.6% for the Regenter B3 area for tenants and an increase of £2.19pw or 13.6% for leaseholders.
  - 4.3.2. The Committee believed it is inequitable to charge one group of residents an increase below inflation (Lewisham Homes) and the other not (Regenter B3).
  - 4.3.3. The Housing Select Committee recommended to Mayor & Cabinet that they look again at the proposal to pass on in full the service charge increase in line with RPI + 1% for Regenter B3 tenants. This recommendation was made in the full knowledge that there are financial limitations and that the Council needs to ensure the HRA is not in deficit but the Committee asked that Mayor & Cabinet look at this again and see if some dispensation can be made to assist RB3 tenants given the Cost-of-Living crisis.

#### **5. Officer response to Housing Select Committee**

- 5.1. Council officers are very aware that people across the borough and country are facing rising goods and energy prices, inflation and other cost of living pressures and fully understand the concern raised by the Committee with regards to the service charge increases for residents within the Regenter B3 area. The Council is supporting households and signposting residents to other support they could be eligible for. Additionally, Pinnacle, as the housing management provider for the PFI contract, are offering specific support and advice to their residents who are experiencing financial difficulties to ensure they are able to maximise any benefits and payments they may be eligible for, and to discuss additional arrangements which may be needed.
- 5.2. The key principles that should be considered when setting service charges are that:
  - 5.2.1. The charge should be fair and be no more or less than the cost of providing the service
  - 5.2.2. The charge can be easily explained
  - 5.2.3. The charge represents value for money
  - 5.2.4. The charging basis allocates costs fairly amongst those receiving the service
  - 5.2.5. The charge to all residents living in a block will be the same
- 5.3. The principle of full cost recovery ensures that residents pay for services consumed and minimises any pressures in the Housing Revenue Account in providing these services. Statutory requirements state that the HRA must not incur a deficit and therefore the budget strategy must pursue the principle of full cost recovery.
  - 5.3.1. Both tenants and leaseholders pay caretaking, grounds maintenance, communal lighting, bulk waste collection and window cleaning service charges, with leaseholders

paying additionally for services such as repairs, ground rent and insurance. In addition, tenants pay a contribution of £0.15pw to the Lewisham Tenants Fund. There were no proposals to increase the Tenants Fund charges.

5.4. The Regenter B3 contract conditions include an annual inflationary uplift based on the February RPIX index which is published by the Office of National Statistics. Therefore, the authority has no option other than to apply the contract uplift annually based on the movement of the index.

5.5. Leasehold service charges

5.5.1. The proposal put forward by Regenter B3 was to increase leasehold service charges by 13.6% which would move the average actual charge from £16.06 per week to £18.25 per week, an increase of £2.19 per week.

5.5.2. In contrast, the Lewisham Homes service charges are proposed to be capped at a 7% increase. For leaseholders, the proposed increase is from £37.18 per week to £39.50, representing an increase of £2.32.

5.6. Tenant service charges

5.6.1. The proposal put forward by Regenter B3 was to increase tenant service charges by £0.93 per week which would move the current weekly charge from £6.86 to £7.79. This represents an increase of 13.6%.

5.6.2. In contrast, the Lewisham Homes service charges are proposed to be capped at a 7% increase. However, in actual terms, the increase for Lewisham Homes tenants is from £25.34 per week to £26.58, and increase of £1.24.

5.7. It is considered that the increases for Regenter B3 residents, of £0.93 for tenants and £2.19 for leaseholders per week, are very similar and in line with the actual increases at Lewisham Homes, even though they represent a higher percentage increase.

5.8. Restricting the service charge increase to 7% for Regenter B3 tenants would mean an increase of £0.48 per week for tenants, moving the charge to £7.34pw. For leaseholders, the increase would be £1.13 per week and move the average charge to £17.19. Overall however, this would result in a loss of income of £43.2k during 2023/24 when compared to a 13.6% increase.

5.9. This loss of income would put pressure into the HRA and is likely to cause a deficit between the cost of the services being provided and income.

5.10. This deficit would have to be covered either by the use of reserves, rental income or through savings/efficiencies within the HRA which would affect all tenants and leaseholders.

5.11. The actual service charge costs are always fully audited following completion of the financial year, which will ensure any necessary adjustments are undertaken to ensure full cost recovery.

5.12. It is important to note that if the actual service charge costs incurred exceed the amount recovered it is likely that tenants and leaseholders would be asked to contribute in future years in order to ensure costs from 2023/24 were fully recovered. The proposal to increase service charges by 13.6% will go some way to ensuring full cost recovery as the estimates issued will likely be closer to the actual costs incurred.

5.13. Those in receipt of Housing Benefit receive an uplift to their housing benefit for increased service charges. Within Brockley PFI managed stock, there are approximately 177 tenants in receipt of Housing Benefit and 365 tenants in receipt of Universal Credit. All residents, including leaseholders, are offered private consultations with the income collection team and welfare advice officers to discuss any financial difficulties they may have. In specific response to the cost of living crisis Pinnacle's Financial Inclusion Team hosting specific Cost of Living Support Surgeries for Regenter Brockley residents where all residents can book an appointment to discuss their personal financial situation, receive practical support on debt management and apply for additional income.

## 6. Financial implications

- 6.1. Statutory requirements as to the keeping of a Housing Revenue Account (HRA) are contained in the Local Government and Housing Act 1989. The provisions include a duty, under Section 76 of the Act, to budget to prevent a debit balance on the HRA and to implement and review the budget.
- 6.2. The Regenter B3 contract conditions includes an annual inflationary uplift based on the February RPIX index which is published by the Office of national statistics. Therefore, the authority has no option other than to apply the contract uplift annually based on the movement of the index.
- 6.3. Regenter B3 will recommend an annual increase in services charges for the authority to consider and agree, which seeks to maintain full cost recovery. This has been based on an increase of the September RPI + 1% since 2015/16.
- 6.4. The authority has generally agreed the recommendations of the contractor for the annual uplift to be applied, but is under no obligation to accept and can, if it so wished, vary from the proposals received.
- 6.5. The current Regenter B3 proposals for an increase in service charges at 13.6% would have generated an additional income of £89.7k. Implementing a cap to the increase of 7% would generate additional income of £46.5k and result in a loss to the authority of £43.2k.
- 6.6. If a cap to the Service Charge increase was to be implemented, the loss of income would put pressure into the HRA and is likely to cause a deficit between the cost of the services being provided and income.
- 6.7. This deficit would have to be covered either by the use of reserves, rental income or through savings/efficiencies within the HRA which would affect all tenants and leaseholders.
- 6.8. The audit of actual costs incurred once completed the following year, will ensure that any necessary adjustments are undertaken to leaseholder's accounts to ensure full cost recovery. However, when the 2024/25 estimated increase is being considered, it is likely that the new proposals will include an element of recovering the shortfall from the previous year's estimate if a been cap on increases has been applied.

## 7. Legal implications

- 7.1. s103 Housing Act 1985 .. Notice of variation of periodic tenancy states that ... (1)The terms of a secure tenancy which is a periodic tenancy may be varied by the landlord by a notice of variation served on the tenant ... (2)Before serving a notice of variation on the tenant the landlord shall serve on him a preliminary notice — (a)informing the tenant of the landlord's intention to serve a notice of variation, (b)specifying the proposed variation and its effect, and (c)inviting the tenant to comment on the proposed variation within such time, specified in the notice, as the landlord considers reasonable; and the landlord shall consider any comments made by the tenant within the specified time. (3)Subsection (2) does not apply to a variation of the rent, or of payments in respect of services or facilities provided by the landlord or of payments in respect of rates.
- 7.2. The Council's duties in relation to the consultation of tenants on matters of housing management, as set-out in Section 105 of the Housing Act 1985, do not apply to rent levels, nor to charges for services or facilities provided by the authority. There is therefore no requirement to consult with secure tenants regarding the proposed increase in charges. The Council still needs to act reasonably and the decision maker should therefore be satisfied that the increase is reasonable and justified.
- 7.3. The Equality Act 2012 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 7.4. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
  - 7.4.1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - 7.4.2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - 7.4.3. Foster good relations between people who share a protected characteristic and those who do not.
- 7.5. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.6. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-actcodes-of-practice-and-technical-guidance/>
- 7.7. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
  - 7.7.1. The essential guide to the public sector equality duty
  - 7.7.2. Meeting the equality duty in policy and decision-making
  - 7.7.3. Engagement and the equality duty
  - 7.7.4. Equality objectives and the equality duty
  - 7.7.5. Equality information and the equality duty
- 7.8. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at <http://www.equalityhumanrights.com/advice-and-guidance/public-sectorequality-duty/guidance-on-the-equality-duty/>

## **8. Equalities implications**

- 8.1. Social housing is a tenure type reserved for those households who are on lower incomes. There is a likelihood that they may be in receipt of housing benefit or universal credit to support their ability to pay their rent.
- 8.2. Where a tenant is in receipt of Housing Benefit, the increased rent will be applied to all affected claims and a mass recalculation done. This will increase the HB for those both in receipt of full HB and for those on partial HB. Where a tenant is in receipt of Universal Credit, the full schedule of rents with the new rent level applied will be uploaded by Lewisham Homes to the UC portal for a recalculation and recovery for tenants.
- 8.3. Where tenants may struggle with the increased rent, Lewisham Homes and Regenter B3 offer in depth budgeting and financial support, which is available for all residents regardless of their arrears level.
- 8.4. Revenues raised as a consequence of the rent changes to HRA tenants will be

retained within the HRA. This will be used to run the service and deliver future improvement programmes and stock investment to benefit our residents.

- 8.5. Residents of Lewisham's housing stock represent a wide range of protected characteristics. Whilst this change will have the same broad impact on all affected groups, any re-investment as noted above, means that those affected will continue to receive the expected level of service and benefit from future investment programmes.

## **9. Climate change and environmental implications**

- 9.1. There may be implications for climate change and the environment if the services charges for Regenter B3 residents are capped, rather than achieving full cost recovery. Any drop off in income to the HRA, could have a knock-on impact to the Council's ability to fund improvement works which for example would bring about improvements to the energy efficiency of our properties. This is particularly crucial in respect of the Regenter B3 contract, as the contract does not allow for improvement works of this nature within the existing parameters of the contract and therefore these works represent an additional cost to the Council.

## **10. Crime and disorder implications**

- 10.1. There are no direct crime and disorder implications arising from this report.

## **11. Health and wellbeing implications**

- 11.1. There are no direct health and wellbeing implications arising from this report.

## **12. Background papers**

- 12.1. [Housing Select Committee- Meeting Papers](#), 5<sup>th</sup> of January 2023

## **13. Report author and contact**

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