

	Individual Cabinet Member Decision Report
	Report from Strategic Director, Community Well Being
Rechargeable Repairs Policy – Request for approval of Lead Member for Housing and Welfare Reform for Formal Resident Consultation.	

Wards Affected:	All
Key or Non-Key Decision:	Non-Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 – Rechargeable Repairs Policy
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	<p>Valesca Wilton-Smith Responsive Repairs & Voids Manager Valesca.Wilton-Smith@brent.gov.uk</p> <p>Sean Gallagher Head of Property Services Sean.Gallagher@brent.gov.uk</p> <p>Hakeem Osinaike Operational Director, Housing Hakeem.Osinaike@brent.gov.uk</p>

1.0 Purpose of the Report

- 1.1 The purpose of this report is to request that the Lead Member for Housing & Welfare Reform approve the consultation of residents on the new Rechargeable Repairs Policy.
- 1.2 Housing Management do not currently have a policy in place to recharge former and current tenants and leaseholders of Brent Council for responsive repairs, service charge and void works as well as the financial recovery of garage repairs, household clearance, vehicle removal and garden maintenance, which result directly from their action(s) or negligence.

- 1.3 Having this policy in place will contribute to the effective maintenance of Brent Council's housing stock as well as related spend, as rechargeable repairs do have a significant impact on expenditure.
- 1.4 The ability to recharge residents who are negligent or cause intentional damage will also assist in changing behaviours, as residents will be held to account for their actions.
- 1.5 We acknowledge that some people are currently struggling financially and now may not seem the best time to introduce a policy such as this. However, the majority of people do look after their homes and not only do we want to encourage them to keep doing so, we do not believe it is right that they pay for those who do not. Therefore, the primary objective of the policy is to discourage wilful neglect and/or abuse, rather than being punitive.

2.0 Recommendations

- 2.2 That the Lead Member for Housing & Welfare Reform approves the commencement of a formal resident consultation process on the Rechargeable Repairs Policy. The consultation process is set out in Section 5.0 – Next Steps.

3.0 Background

- 3.1 It is normal practice for social landlords, such as Housing Associations and Local Authorities, to have a recharge policy in place. This is important to achieve value for money. We must manage our homes and tenancies effectively and achieve value for money by ensuring:
 - We minimise the cost of carrying out work, which is not our responsibility.
 - We recharge the costs back to those responsible, where we know who they are, rather than the current situation where every tenant and leaseholder is being held responsible.
 - That we chase those who do not pay, following the Council's debt recovery process.
 - We enforce tenancy and lease conditions consistently.
 - That we have a clear audit trail for our customers, should they refute the recharge.
- 3.2 Brent Council's Housing Management Team dealt with in excess of 38,000 repair works orders in the financial year 2019-2020. The cumulative cost of these works orders was £11m (inclusive of the Price per Property contract payments Brent Council make).
- 3.3 Out of the total orders raised, 4,819 works orders were exclusions, which means the repair works are not covered by fixed contract payments to repairs contractors.
- 3.4 Based on a sample testing by officers, it is estimated that 386 (8%) works orders arise directly because of damages caused by tenants. The average cost per

work order for exclusions was £362. This gives a potential to recover £0.1m from residents.

3.5 Examples of works that will be rechargeable are:

- Graffiti in communal areas.
- Dumped rubbish in communal areas (when the perpetrator can be identified).
- Replacements for damaged internal doors (except when they are related to Domestic Violence or a vulnerability).
- Rectifying unauthorised alterations to properties.
- Property clearances following moves or evictions.

3.6 At the end of tenancies, tenants are expected to leave the property in a reasonable condition, with all their personal belongings removed from the premises. In reality the Council's voids team undertake extensive clearances following the end of tenancies. It has been calculated that the Council spent £95,290.12 on void clearances in 2019/20.

3.7 The total estimated rechargeable amount for voids £0.1m plus excessive day-to-day repairs £0.1m, totals £0.2m. These are funds that could cover some of the income lost from rent payments or contribute to savings, which will bring the HRA reserves to a more reasonable level. Alternatively, these are funds that could be spent on other essential works, such as:

- 33 Kitchen renewals (approximate unit cost of £6,000) or,
- 66 Bathroom renewals (approximate unit cost of £3,000) or,
- 66 full rewires (approximate unit cost of £3,000) or.

3.8 The intention to introduce this policy has been mooted at TalkBack sessions with residents and indications are that responsible residents will welcome this policy, as it will reduce service charge expenditure for damage caused in communal areas and encourage responsible behaviour, plus adherence to tenancy/lease conditions.

3.9 For the policy to be successful, we have to ensure we recognise vulnerability and ensure we provide appropriate support, rather than create any extra burden for some of the most vulnerable people in our society. As part of our response to the lockdown, we have identified and now keep in contact with all our vulnerable residents. Our records will be updated as it becomes necessary and we will ensure the policy is not misapplied to this group of people.

4.0 Rechargeable Repairs Policy

4.1 The policy sets out the Council's intention to recharge former and current tenants and leaseholders of Brent Council for responsive repairs, service charge and void works as well as the financial recovery of garage repairs, household clearance, vehicle removal and garden maintenance, which result directly from their action(s) or negligence. Section 4.0 of the policy sets out the when the Council will consider recharging residents and are summarised below:

- When a resident has not completed works in line with their tenancy agreement (such as garden clearances) or when they have been formally asked to complete work (such as removing items from a communal area).
 - When a resident has completed unauthorised alterations and where further alterations need to be made to return the property to Brent's void standard.
 - When a tenancy ends due to a resident moving and items are left in the demise of the premises and are cleared at a cost to the Council.
 - In the event of a tenancy ending because of death, the estate can be recharged for any clearance, neglect or damage when it is deemed appropriate. This will only be done where there is evidence that the estate can meet the cost.
 - Repairs that become necessary as a result of negligence or abuse. In cases of accidents, a decision will be made on a case-by-case basis.
- 4.2 The work will be recharged to the resident at cost, which is detailed in section 5 of the policy, plus a 15% administration fee. The administration fee is to cover the resource used to consider and process recharges.
- 4.3 The Housing Management Service will accept appeals to the charges. Appeals will be considered by a more senior officer than the one who initially assessed the charge. This can be managed within existing resources, as we have estimated under 500 cases a year and even fewer number of appeals. Appeals can relate to whether the calculation of the charge is correct and whether it is reasonable to apply the charge in certain circumstances (for example if the tenant is vulnerable). Appeals should be decided within four weeks.
- 4.4 Appeal decisions are final. Tenants can make complaints relating to appeals but as is the case with other appeal processes, the complaints procedure can only consider administrative issues (such as, was the appeal considered within a reasonable time scale, was all the relevant evidence considered, etc.), not the substance of the appeal itself.

5.0 Next Steps

- 5.1 Should approval be given to enter formal consultation, a variety of engagement activities will be undertaken to provide the opportunity for key stakeholders to feed into the final version of the rechargeable repairs policy.
- 5.2 The draft policy will be published on the Council's consultation hub for comments and will be shared via social media. It will be available on the consultation hub for a month.

- 5.3 An opportunity to provide feedback will also be shared in the Housing e-newsletter and Your Voice publication, providing the details of the Housing Management's dedicated inbox to receiving feedback.
- 5.4 The draft policy will also be presented to residents and leaseholders at Housing Management's Customer Experience Panel for review and comments.
- 5.5 Virtual focus groups will be facilitated via MS Teams for both tenants and leaseholders. To ensure as many residents can take part, there will be a morning, afternoon and evening session for both tenants and leaseholders. In total, there will be six virtual focus groups.
- 5.6 Additionally, officers will also conduct phone interviews as a further opportunity to gather feedback to help feed into the final policy.

6.0 Financial Implications

- 6.1 The Housing Revenue Account (HRA) has a budget of £11.7m for repairs and maintenance of Council housing stock during 2020/21. The cost of repairs from damages caused by residents, such as intentionally breaking doors and walls, are outside of the Councils fixed cost repairs contract (price per property). It is therefore an additional cost pressure to the council.
- 6.2 There is potential to recover an annual estimated amount of £0.2m, with an average net invoice value of £362 excluding admin fee and VAT. The ability to recover cost from residents will allow Brent Housing Management to reduce budget pressures, and re-invest any recovered costs towards other essential improvement works such as kitchen and bathroom renewals.
- 6.3 Repairs expenditure passed on to residents will be based on schedule of rates paid by Council to external repairs contractors. An admin fee of 15% is in line with Councils service charge invoicing policy to leaseholders. The fee will cover additional officer responsibilities of issuing and pursuing charges to residents for recoverable repairs.
- 6.4 The rechargeable repairs policy will seek to collect full amount of the invoice charged to resident. Risk of non-payment from residents will be monitored through existing debt recovery procedures.
- 6.5 This Rechargeable Repairs policy is a new proposal, and requires implementation of processes at an operational level. The housing service need to ensure systems are able to distinguish between repairs costing data recorded in systems, and repairs considered as recoverable from residents, so that it enables accurate charging and monitoring of cost.

7.0 Legal Implications

7.1 Section 11 Landlord and Tenant Act 1985 (LTA 1985) states that, a secure tenancy of a dwelling house, for a term of seven years or less contains an implied covenant for the landlord to:

- keep in repair the structure and exterior of the dwelling house including drains, gutters and external pipes
- keep in repair and proper working order the installations in the dwelling house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity)
- keep in repair and proper working order the installations in the dwelling house for space heating and heating water

7.2 The obligation does not extend to parts of the building in which the landlord has no estate or interest.

7.3 Section 11(2) LTA 1985, states that the landlord is not required to:

- carry out works or repairs for which the tenant is liable by virtue of their duty to use the premises in a tenant-like manner, or would be so liable but for an express covenant on their part
- rebuild or reinstate the premises in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident
- keep in repair or maintain anything which the tenant is entitled to remove from the dwelling house

7.4 In addition, as of 20 March 2019, section 1 of the Homes (Fitness for Human Habitation) Act 2018 amended LTA 1985, to imply a covenant on the part of a landlord into a lease of a dwelling (as defined in LTA 1985, s 38) in England which is let wholly or mainly for human habitation, that:

- the dwelling is fit for human habitation at the time the lease is granted or created, or at the beginning of the term of the lease if this is later, and
- will remain fit for human habitation during the term of the lease

These provisions apply to a lease granted for a term of less than seven years, or a secure or introductory tenancy for a fixed term of seven years or more.

7.5 The tenancy terms and conditions dated 29 September 2017 state at Part C, Repairs, paragraph 5 that:

7.5.1 “You [the tenant] are responsible for any damage caused to your home by you or anyone who lives with or visits you. As we are not responsible for repairing any such damage, you must pay us for any necessary repairs. However, we will give you a chance to carry out the repair.”

7.6 Under section 105 of the Housing Act 1985, a landlord housing authority shall maintain such arrangements as it considers appropriate to enable those of its

secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies - (a) to be informed of the authority's proposals in respect of the matter, and (b) to make their views known to the authority within a specified period; and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements. For the purposes of section 105 of the Housing Act 1985, a matter is one of housing management if amongst other things, in the opinion of the landlord authority, represent— a change in the practice or policy of the authority, and are likely substantially to affect either its secure tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).

7.7 Section 151 of the Commonhold and Leasehold Reform Act 2002 (which replaced the previous consultation procedure in the Landlord and Tenant Act 1985, section 20 though the old title 'section 20' is still used) sets out the requirements for consulting leaseholders. Under the provisions of s151 Landlords must consult leaseholders before carrying out qualifying work or entering into a long-term agreement for providing services. S20 does not apply in this case.

7.8 The individual leaseholder's repairing responsibilities will be set out in their lease. There are several variants of the RTB lease so each leaseholder's responsibilities should be checked before action is taken against them.

7.9 Agreement of broad public consultation arrangements is one area of decision making which is delegated to the Lead Cabinet Member in consultation with the Leader pursuant to paragraph 13 of Part 3 of the Council's Constitution

8.0 Equality Implications

8.1 Pursuant to section 149 of the Equality Act 2010 ("the Act), the Council has a duty to have 'due regard' to eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, advancing equality of opportunity between persons with a protected characteristic and those without, and foster good relations between persons with protected characteristics and those without.

8.2 The Council will ensure that no individual is discriminated against on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief (including political opinions), sex or sexual orientation as part of the implementation of this policy.

9.0 Human Resources / Property Implications

9.1 None

10.0 Consultation with Ward Members and Stakeholders

- 10.1 All key stakeholders have been fully consulted on this policy and their feedback has been incorporated in developing the attached policy.
- 10.2 Following approval, this policy will also be shared with residents as part of the formal consultation process, as set out in section 5.0.

Report sign off:

Phil Porter

Strategic Director, Community Wellbeing