



**Executive  
18 January 2010**

**Report from the Director of Housing  
& Community Care**

Wards affected:  
ALL

**Allocation of HRA Rooftop Telecommunication Income**

Forward Plan Ref: H&CC-09/10-09

**1.0 Summary**

**1.1** There has been a substantial accrual of income in the Housing Revenue Account (HRA) over the years arising from the telecommunications equipment rental situated on 13 housing tower blocks around the borough which stood at £1.195 million (excluding Watling Gardens) at March 2009. Following the introduction of the Corporate Manslaughter and Corporate Homicide Act 2007 and the recent fire at Lakanal House in Camberwell, Brent Housing Partnership (BHP) has had to review its health & safety procedures in order to ensure that all blocks are compliant with health and safety legislation. Given the substantial cost of the new Health and Safety initiatives, the funds that have accrued should be used to finance Health and safety improvements and other works on the Council's stock borough wide.

**2.0 Recommendations**

**2.1** That Members agree in principle to rescind the decision made by the Housing Committee in 1996 to allocate the telecommunication income to the Area Housing Boards for communal repairs and improvements and to grant delegated authority to the Director of Housing and Community Care in consultation with the Lead Member, to make a final decision on this issue following the outcome of consultation with the Area Housing Boards.

- 2.2 That Members agree in principle that historic telecommunication rental income generated from masts located on Housing Revenue Account (HRA) tower blocks (excluding Watling Gardens) should be used to support expenditure on the Council's housing stock borough wide and to grant delegated authority to the Director of Housing and Community Care in consultation with the Lead Member, to make a final decision on this issue following the outcome of consultation with the Area Housing Boards.
- 2.3 That Members agree in principle that the future telecommunication rental income generated from masts located on Housing Revenue Account (HRA) tower blocks should be used to support expenditure on the Council's housing stock borough wide and to grant delegated authority to the Director of Housing and Community Care in consultation with the Lead Member, to make a final decision on this issue following the outcome of consultation with the Area Housing Boards.
- 2.4 In relation to the in principle decisions set out in paragraphs 2.1, 2.2 and 2.3 above, Members agree to grant the Director of Housing and Community Care in consultation with the Lead member, discretion to refer the in principle decisions back to the Executive for a final decision if he considers it prudent to do so following the outcome of the consultation with the Area Housing Boards.
- 2.5 That Members agree, subject to Paragraph 2.2 above, that the accrued income of £1.195m from Housing Tower Blocks Rooftop Telecommunication Masts (excluding Watling Gardens and which is held in the Housing Revenue Account), be allocated to be spent on the Council's housing stock borough wide.
- 2.6 That Members agree to the budget virements for the HRA Budget for 2009-10 as set out in paragraph 4.3.

### **3.0 Details**

- 3.1 On 16<sup>th</sup> December 1996 the Housing Committee resolved to allocate the income received from existing and future telecommunication agreements to the Area Housing Boards for repairs and improvements in order allow them to determine the expenditure on repairs and improvements of the properties on which the telecommunication equipment was sited.
- 3.2 However over the years, there has been a considerable accrual of revenue which has not been utilised for this purpose due to the Tenants/Residents Associations failing to make decisions about the expenditure of this income or due to the lack of consultation or interest by active Tenant/Resident Associations.

- 3.3 Some expenditure has been made on refurbishment works, CCTV & intercoms to a handful of blocks and only Watling Gardens TMO appear to have utilised funds from this telecoms revenue for the year ending 2008. To date no further applications for the use of these funds have been received from any Tenant/Resident Associations. It should be noted that the legal status of the Watling Gardens Tenancy Management Organisation allows them to operate independently under their own management agreement in order to carry out the management duties that are delegated to them.
- 3.4. As a result, there has been an accrual of funds in the sum of £1.195m at March 2009 (excluding Watling Gardens) which has not been fully utilised to the benefit of tenants and residents at these blocks, whilst at the same time annual administration fees ranging of 15% have been deducted (the balance of the accrued telecommunications income from Watling Gardens stands at £71k as of the end of 2008/9 and the projected income for the current year is expected to be approximately £30k).
- 3.5 In order to rectify this situation, Members are being asked to consider in principle a new resolution which is that all HRA telecommunication income, including existing (but excluding that from Watling Gardens) and all future income be allocated within the HRA account for works on the Council's housing stock.
- 3.6 If the recommendations in paragraphs 2.1, 2.2 and 2.3 above are approved and implemented, although the residents and tenants associations may no longer be able to apply for funding from the telecommunication income in the future, they will substantially benefit from the works to the Council's housing stock.
- 3.7 Under the recommendation set out in paragraph 2.2 above, it is proposed that Watling Gardens TMO will still be allowed to continue to apply to the Council/BHP for funds for repairs and improvements to their estate from their accrued telecommunications income to March 2009.
- 3.8 BHP will consult with the Area Housing Boards subject to Members agreeing in principle to the recommendations set out in paragraphs 2.1 2.2 and 2.3 above before the Director of Housing and Community Care, in consultation with the Lead Member, makes a final decision regarding these recommendations.

#### **4.0 Financial Implications**

- 4.1 The annual income from masts located on Housing Revenue Account (HRA) tower blocks is credited to the Council's HRA, in line with the Local Government and Housing Act 1989.

- 4.2 Since 1997, the Council has built up an Earmarked Reserve within the Housing Revenue Account in relation to telecommunication income. The following table summarises the key movements on this reserve over the last 3 years:-

	<b>2006-07 £000</b>	<b>2007-08 £000</b>	<b>2008-09 £000</b>
Opening Balance	716	924	1,083
Addition	297	221	190
Used	-89	-62	-7
Closing Balance	924	1,083	1,266

The closing balance at March 2009 of £1.266m includes accrued income from Watling Gardens of £71k. Therefore the accrued income at March 2009 excluding Watling Gardens is £1.195m.

- 4.3 In line with the decision by the Housing Committee in 1996, the income from telecommunication masts is being held to be spent at the direction of the Area Housing Boards. This report is now seeking agreement from Members in principle that this balance of £1.195m instead be spent on works associated with the Council's Housing stock.
- 4.4 The estimated future annual revenue from Rooftop Telecommunications in the Housing Revenue Account is expected to be in the region of £150k in 2009-10. If Members agree in principle to the recommendations in this report, subject to the provisos set out in paragraphs 2.1 to 2.3 above, then this income can be used for works associated with the Council's housing stock. If the recommendations in this report are agreed, it would be necessary to amend the HRA budget for 2009-10 as follows:-

<b>Budget Line</b>	<b>Current Budget £000</b>	<b>Virement £000</b>	<b>Revised Budget £000</b>
Rent Income	-45,675	-150	-45,825
Housing Repairs	13,158	150	13,308

- 4.5 In future years, this specific additional expenditure will need to be kept in line with the telecommunications income – for example, if the income from telecommunication reduces, then the expenditure budget will need to reduce accordingly.

## **5.0 Staffing Implications**

- 5.1 There are no specific staffing implications arising out of this report.

## **6.0 Legal Implications**

- 6.1 There are no legal restrictions in relation to the Council's Executive passing a new resolution dealing with the significant sum of

telecommunication money which is not being expended, and to ensure that Brent Council retains the benefit of future telecommunication income.

- 6.2 On 16 December 1996, the Housing Committee decided that the income arising from individual rooftop telecommunication agreements be allocated to the Area Housing Boards. In paragraph 6.2 of that report to that Housing Committee, it was suggested that through the Area Housing Boards and representatives of blocks where the masts are situated, the rental income accruing from the masts on the tower blocks be used for repairs and improvements.
- 6.3 The Housing Revenue Account was established by the Local Government Housing Act 1989. ("The 1989 Act"). Under section 74 of the 1989 Act, the Council is required to keep a separate Housing Revenue Account (HRA) of sums falling to be credited or debited in respect of its housing stock. Sections 75 and 76 of the 1989 Act set out the rules for establishing and maintaining that account. Under section 76 of the 1989 Act, the Council is required to formulate in January and February of each year proposals for the HRA for the following year which satisfy the requirements of that section and which relate to income, expenditure and any other matters which the Secretary of state has directed shall be included.
- 6.4 The rental income from the telecommunications masts will have no affect on the amount of subsidy which the Council receives from central Government in relation to the HRA. The rental income will be credited to the HRA under the heading of "Gross Rental Income" (Statutory Credit Item 1). The expenditure for Health and Safety purposes will be debited under "Expenditure on repairs, maintenance and management" (Statutory Debit Item 1) unless it is deemed to be capital expenditure and in that case, it will be debited it as "Expenditure for capital purposes" (Statutory Debit Item 2). Brent has not exercised the power under section 77 of the 1989 Act to operate a Housing Repairs Account.
- 6.5 Under section 1 of the Corporate Manslaughter and Corporate Homicide Act 2007, an organisation (which includes local authorities) is guilty of an offence if the way in which its activities are managed or organised causes a person's death and amounts to a gross duty of a relevant duty of care owed by the organisation to the deceased. A "relevant duty of care" includes a number of duties owed by an organisation under the laws of negligence including the duty owed by a landowner to occupier of premises. An organisation that is guilty of corporate manslaughter or corporate homicide is liable on conviction on indictment to a fine.

## **7.0 Diversity Implications**

- 7.1 There are no direct implications although the additional income for

repairs and improvements will benefit all of our residents living in Council housing stock.

## **8.0 Background Papers**

- Report to the Housing Committee, 16<sup>th</sup> December 1996

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