

## LEGACY ADJUSTMENTS TO THE HOUSING REVENUE ACCOUNT

### Executive Summary

The General Fund and Housing Revenue Account (HRA) 2024/25 budget reports advised that a review of the recharges between the General Fund and the HRA was underway. This report provides an update on this review against the assumptions made in the budget. This update includes details of discrepancies on the historic recharges made and outlines the adjustments required to correct the recharges.

This report also provides an update on the amount of interest the HRA is entitled to receive from the General Fund (GF) on its reserves and the impact of this on the 2024/25 reserves position.

### Recommendations

The Executive is requested to:

#### RESOLVE That

- (i) the additional work since the setting of the budget identifying the further £782k reduction in historic recharges to the Housing Revenue Account (HRA) be noted;
- (ii) it be noted that this results in a cumulative adjustment of £2.9 million to the benefit of HRA reserves, improving the financial stability of the HRA;
- (iii) it be noted that an impact on the General Fund of £2.1 million was included in the 2024/25 budget and that the further impact of £782k can be covered by the Capitalisation Direction provisionally approved by the Government; and
- (iv) it be noted that the interest on balances of £460k will improve the HRA reserves and improve its viability. The impact on the General Fund can be covered by the Capitalisation Direction provisionally approved by the Government.

### Reasons for Decision

Reason: To correct the historic accounting treatment of recharges and interest receipts debited and credited to the HRA, increasing the HRA reserve balance accordingly.

The Executive has the authority to determine the recommendation(s) set out above.

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**Background Papers:** None.

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## **Legacy Adjustments to the Housing Revenue Account (HRA)**

### **1.0 Introduction**

- 1.1 The Executive is asked to consider this report by the Section 151 Officer (Strategic Director of Finance) on the legacy and outstanding adjustments to be made to the HRA.
- 1.2 The HRA is an account separate from the Council's General Fund (GF) which is ring-fenced, by law, to be limited to expenditure purely on housing. The Council's GF covers the general services of the Council outside those specifically defined in the HRA.
- 1.3 The purpose of this report is to provide clarity to Members of the Council on events that have played out over a prolonged period that relate to the Housing Revenue Account and which have resulted in an understatement of the historic the HRA reserves and the viability of the HRA.
- 1.4 The work on the evaluation of the HRA recharges showed incorrect recharges of over £1.759m from the GF to the HRA. This is in respect of overheads wrongly charged to the HRA during the period 2019/20 to 2023/24. The total including the 2024/25 adjustments is £2.103m.
- 1.5 These included costs associated with a fuel cell at a leisure facility that did not serve HRA properties, plus other charges for health and wellbeing services, corporate transformation, corporate management, and support to Council companies and community development that were unrelated to the Council's social landlord function.
- 1.6 These led to a cumulative adjustment of £1.759m (including the fuel cell adjustments) from 2019/20 to 2023/24, the breakdown is shown in table 1 of Appendix 1. As part of the budget process, the 2023/24 amount, was adjusted in the budget monitoring, and now reflected in the HRA outturn position, so the amount to apply retrospectively is £1.379m.
- 1.7 Further work has shown an additional £782k of fuel cell recharges which were wrongly charged to the HRA between 2015/16 and 2018/19. The breakdown of this is shown in table 2 of Appendix 1.
- 1.8 The HRA is entitled to interest on the balances of its earmarked reserves and Major Repair Reserves (MRR) from the GF. A review of previous year's accounts shows that these amounts were not credited to the HRA.
- 1.9 The interest on balances calculation shows the HRA entitlement from the General Fund for the period between 2008/09 and 2022/23 of approximately £460k. The table in Appendix 2 provides a breakdown of the calculation. These figures are provisional and may be subject to changes if there are other adjustments between the GF and the HRA.
- 1.10 The incorrect HRA recharges and interest not credited to the HRA have had a negative impact on the HRA long-term viability, as showed in the latest update of the 30-year HRA Business Plan.
- 1.11 The legal advice to the Council, regarding the historical making of unlawful recharges from the GF to the HRA, confirmed that if the Council made the relevant corrections by crediting the HRA with the incorrect recharges, then there would not be a requirement to take additional action under section 114 of the Local Government and Housing Act (1988). This is because the rectification of the incorrect charge was already in process.

### **2.0 Background**

- 2.1 The HRA is a ring-fenced account, which is governed by Section 75 of Schedule 4 to LGHA 1989. It must be maintained in accordance with "proper practices". These are described in Section 21 of the Local Government Act 2023.

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- 2.2 Schedule 4 to LGHA 1989 specifies the income and expenditure items that may be recorded in the HRA. They are sums “in respect of” what can broadly be described as social housing.
- 2.3 Recharges to the Housing Revenue Account (HRA) were evaluated as part of the 2024/25 budget setting process. The review was retrospective and covered the period back to 2019/20, which is the last period of currently open (unaudited) accounts. The review was in two parts:
  - (a) charges from the Management and Administration Accounts for staff time, staff resources, and overheads and
  - (b) charges for the HRA share of a fuel cell used primarily for Woking Park leisure centre and Pool in the Park, part of which were erroneously allocated to the HRA: there was no connection from the fuel cell to HRA properties.
- 2.4 The review of the fuel cell recharges was for the period between 2013/14 and 2023/24. There are neither invoice records nor information from ThamesWey (TW) for 2012/13 and previous years, and while it is possible that there were charges made to the HRA in these periods, there is no accounting evidence on which to reliably base any reallocation for these recharges. Table 2 in Appendix 1 provides the breakdown of the adjustments.
- 2.5 Although there are records from TW for 2013/14 and 2014/15, there were no invoices or records of payment of the invoices from the Council. Assumptions can be made from Integra records, combined with TW usage data to derive the figures. However, the calculation shows that the estimated adjusted charge for these two years on this basis would exceed those for later years, which does not seem reasonable.
- 2.6 The sums to be credited by the General Fund to the Housing Revenue Account under Item 8 of Part I of Schedule 4 to the 1989 Act should include interest on the notional HRA cash balances. The balances on which the HRA should have been credited with interest include: the Housing Revenue Account general reserve; the Housing Revenue Account Repairs Account; and the Major Repairs Reserve.
- 2.7 The review of the Council Accounts from 2008/09 to 2022/23 shows that the HRA has not received sufficient interest on its reserve balances.
- 2.8 Under the Local Government Act, the HRA budget cannot be set in deficit. The Council cannot set an unbalanced HRA budget, and it is good practice to maintain, at any time, a reasonable level of reserves within the HRA – a guideline target being around £500 per property.
- 2.9 Consultants from Housing Finance Associates were engaged to produce the 30-year HRA Business Plan. Their work has shown the HRA is viable if measures are in place to reduce revenue costs and streamline the HRA Capital Programme. The update of the business plan confirms that without these measures, the HRA reserves balance would be in negative territory from 2027/28 onwards.
- 2.10 The unlawful recharges have given rise to discussions amongst the Council’s statutory officers (Strategic Director for Finance, Monitoring Officer (MO), and Head of the Paid Service, under Section 4 of LGHA 1989), around whether it would be appropriate to consider the issuing of:
  - (1) By the Section 151 Officer, of a Report pursuant to Section 114(2) of LGFA 1988; and
  - (2) By the MO, of a Report pursuant to Section 5 of LGHA 1989.
- 2.11 Legal advice was sought by the Council as to whether the incorrect recharges identified above are unlawful as provided by S114 (2) (b) of the LGFA and, particularly in view of the historical nature of the recharges, and would require the S151 Officer and Monitoring Officer under a

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statutory duty to consider issuing a S114 (2) LGFA report and/or a S5 LGHA report respectively.

2.12 The conclusions from the legal advice were:

- (1) that the incorrect recharges were unlawful, and a contravention of the HRA ringfence;
- (2) the Council owed and owes a duty to the general body of its HRA tenants to ensure reversal of the diversion of HRA funds;
- (3) This causes or would cause a loss or deficiency on the part of the GF;
- (4) That might trigger a Section 114(3) of LGFA 1988 Report.

2.13 However, the legal advice resolved that S114 and S5 reports will not be required once the Council had ceased to take a course of action, which would be unlawful and likely to cause a loss or deficiency to the HRA by correcting the issue through crediting the HRA, debiting the General Fund and making appropriate adjustments to the Accounts.

### 3.0 Financial Implications

3.1 The impact of the cumulative £2.9 million recharges adjustments on the HRA is to increase its level of reserves. The £2.1 million impact of the adjustment back to 2019 on the General Fund was included in the budget set at Council in March 2024.

3.2 The other £782k fuel cell adjustment now reported will have a financial implication on the General Fund budget, via the Capitalisation Directive (CD). A provision of up to £5 million was made in the CD for the HRA adjustment. The impact will be accounted for as part of finalising the Capitalisation Directive in the 2023/24 and 2024/25 accounts.

3.3 The impact of the cumulative £460k interest on balances to be credited to the HRA will increase its level of reserves. The impact on the General Fund will be considered as part of finalising the Capitalisation Directive in 2023/24 and 2024/25 accounts.

3.4 The table below shows the impact of the proposed amendments to the HRA reserves.

#### HRA estimated reserves - 2024/25 (£000)

HRA Reserves 2023/24 closing reserves**	-599
Fuel cells recharges adjustment 2015/16 to 2018/19	-782
Interest on Balances adjustments	-460
Transfer from reserves to fund overspends	505
HRA Reserves 2024/25 (closing)	-1336

\*\* already including the recharges adjustments from 2019/20 to 2023/24

### 4.0 Conclusion

4.1 The adjustments detailed above will correct the historic recharges made to the Housing Revenue Account over the previous years and improve the HRA reserves balances.

### 5.0 Corporate Strategy

5.1 This report is designed to contribute to the proper financial management of the Council.

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### 6.0 Implications

#### Finance and Risk

6.1 The financial implications are in the body of the report.

#### Equalities and Human Resources

6.2 None.

#### Legal

6.3 The legal background is as set out in section 2 above and the Monitoring Officer has been consulted on and has agreed the contents of this report.

### 7.0 Engagement and Consultation

7.1 None

REPORT ENDS

## Legacy Adjustments to the Housing Revenue Account (HRA)

Appendix 1

**Table 1 - breakdown of recharges incorrectly charged to the HRA.**

<b>Year</b>	<b>£'000</b>
2019/20	292
2020/21	283
2021/22	286
2022/23	518
2023/24	380
<b>Sub-total</b>	<b>1,759</b>
<b>2024/25</b>	<b>344</b>
<b>Total</b>	<b>2,103</b>

(The fuel cells adjustment between 2019/20 to 2022/23 are included in the above figures)

**Table 2 - Fuel Cells adjustments**

(2019/20 to 2022/23) - included in Table 1 above.

<b>Year</b>	<b>£'000</b>
2019/20	242
2020/21	220
2021/22	224
2022/23	129
<b>Total</b>	<b>815</b>

(2015/16 to 2018/19)

<b>Year</b>	<b>£'000</b>
2015/16	193
2016/17	195
2017/18	185
2018/19	209
<b>Total</b>	<b>782</b>

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Appendix 2

### Breakdown of interest on Balances not credited to the HRA.

<b>Year</b>	<b>£'000</b>
2008/09	1
2009/10	1
2010/11	6
2011/12	21
2012/13	24
2013/14	26
2014/15	34
2015/16	39
2016/17	9
2017/18	23
2018/19	36
2019/20	26
2020/21	(4)
2021/22	17
2022/23	201
<b>TOTAL</b>	<b>460</b>