

SUBJECT:	Monmouthshire Housing Association – Request to De-Pool Service Charges
MEETING:	County Council
DATE:	1st December 2016
DIVISION/WARDS AFFECTED:	ALL

1. PURPOSE:

- 1.1 To consider a request for the Council to provide consent to Monmouthshire Housing Association (MHA) to disaggregate service charges from rents paid by social housing tenants. This is known as de-pooling. MHA is seeking the Council to consent to waiving compliance with a part of the Stock Transfer Agreement

2. RECOMMENDATIONS:

- 2.1 To agree to provide consent to Monmouthshire Housing Association to de-pool their service charges, subject to MHA undertaking a programme of resident consultation to ensure all affected tenants are fully aware of the proposals and their affect.

3. KEY ISSUES

- 3.1 Under the Stock Transfer Agreement made in 2008, a number of promises were made to tenants by MHA prior to transfer, including the following:
- If transferring tenants did not pay a separate service charge for a service they received pre-transfer, they would not do so if the transfer to MHA went ahead and
 - That no new service charges would be introduced as a result of the transfer for services which tenants received before transfer
- 3.2 The above promises are protected by MHA's covenants in the Fourth Schedule of the Transfer Agreement.
- 3.3 The Transfer Agreement (Clause 5.2 of Appendix 1) states that MHA shall comply with all promises and commitments made by the Council to former secure tenants of the Council
- 3.4 The Transfer Agreement, however, allows the Council to waive compliance with the covenants where it is satisfied that circumstances outside of the control of MHA prevent them from complying with the covenant. Also of relevance is that the Council would not be able to enforce the said covenants if the required compliance had a detrimental effect on MHA
- 3.5 The driver behind the request from MHA is essentially Welsh Government policy for Social Housing Rents. This includes:
- 'Where a social landlord currently pools rents and service charges, they are now required to start the process of disaggregating service charges from rent and to complete the exercise by March 2016. Where a landlord is unable to

meet this timescale, consideration will be given to the provision of extended transitional arrangements.'

3.7 MHA were unable to meet the March 2016 target date due to a timing issue relating to Welsh Governments annual rent increase determinations, which last year was not announced sufficiently early to provide enough time to implement the policy. Welsh Government are aware of this and, therefore, have acknowledged MHA's inability to achieve the intended deadline.

3.6 MHA has calculated that its ability to recover charges for services provided pre-Transfer and which continue to be provided (such as grass cutting) is costing approximately £450,000 per year. It is not sustainable to continue with this, which in effect is a subsidy to tenants and MHA consider this will increasingly have a material and detrimental impact on the business.

3.7 De-pooling will **not** result in overall increases in rents as the service charge element will be extracted from the current gross rent (resulting in a reduction in the rent element). The proposal, therefore, results in no additional costs to tenants.

3.8 A proposed approach to the de-pooling is planned, which is detailed in **Appendix 1**, with a view to being implemented from April 2017.

4. REASONS:

4.1 MHA is under a regulatory requirement to de-pool, which is a circumstance beyond their control.

5. RESOURCE IMPLICATIONS:

5.1 There are no resource implications for the Council.

6. SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS:

6.1 Positive implications have been identified. **See Appendix 2**

7. SAFEGUARDING & CORPORATE PARENTING IMPLICATIONS

7.1 No implications have been identified.

8. CONSULTEES: Cabinet; Senior Leadership Team and Monmouthshire Housing Association

9. BACKGROUND PAPERS:

9.1 The following papers are of relevance:

- Welsh Government
- Stock Transfer Agreement
- The Council transfer promise document to tenants

10. AUTHOR: Ian Bakewell, Housing & Communities Manager

11. CONTACT DETAILS: Tel: 01633 644479 Email: ianbakewell@monmouthshire.gov.uk

Appendix 1

Monmouthshire Housing Association – Proposed Approach to De-Pooling

Late 2016

Consultation with all current tenants on de-pooling service charges will start. This will include the following:

- De-pooling will enable tenants to understand what services they receive and how much they will pay for them going forwards.
- De-pooling will not result in overall increases in rents as the service charge element will be extracted from the current gross rent (resulting in a reduction in the rent element)
- De-pooling will not require any changes to tenants tenancy agreements, so will not affect their rights
- Future service charges (from April 17) will be calculated on a variable basis eg tenants will pay an estimated charge each week 'on account' and following reconciliation with actual cost at the end of the financial year, any resultant deficit or credit will be carried forward to the following year. In that way tenants will pay no more than the actual cost of the service.
- MHA will not make any profit from service charges and will only recharge to tenants the actual cost of the service
- Tenants will have statutory rights under the Landlord and Tenant Act 1985 to ask for information about the service charges and to challenge the level of charges or the standard of the service.
- If new services are introduced in future, MHA will consult with them beforehand in line with tenancy agreements.

Prior to April 2017

Individual tenants will be forwarded lists of services they currently receive so they can check the list and confirm it is correct.

April 2017

The de-pooled service charges and rents will be introduced. The review materials will show the reduction in rent to reflect the introduction of the separate variable service charge. Tenants will be served with a Summary of Service Charge rights and obligations as required by the 1985 Act.