

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	AUDIT COMMITTEE
Report of:	Chief Finance Officer
Date of Decision:	26 March 2019
Subject:	HRA Funding of Waste Collection
Wards affected: All	
1 Purpose	
1.1	A Whistleblowing complaint was received in relation to the 2017 Waste dispute. The complaint alleged that there had been unlawful expenditure insofar as some refuse collection costs relating to tower blocks had been funded from the HRA.
1.2	As Section 151 Officer, any allegation of unlawful expenditure is a concern and I commissioned an investigation and report from Birmingham Audit. The report is attached as Appendix 1.
2 Decisions recommended:	
2.1	To note the results of the investigation, namely that some of the charges are likely to be non-compliant with the statutory ring-fence and a level of reinstatement of HRA balances should be considered. In addition, a full review of HRA charges should be commissioned, including internal recharges.

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3 Compliance Issues:

- 3.1 Are Decisions consistent with relevant Council Policies, Plans or Strategies?
Yes.
- 3.2 Relevant Ward and other Members/Officers etc. consulted on this matter:
The Chairman of the Committee has been consulted.
- 3.3 Relevant legal powers, personnel, equalities and other relevant implications (if any):
The relevant guidance remains Department of the Environment Circular 8/95 - The Housing Revenue Account.

The Internal Audit service is undertaken in accordance with the requirements of section 151 of the Local Government Act and the Accounts and Audit Regulations 2015. The work is carried out in compliance with Public Sector Internal Audit Standards.

- 3.4 Will decisions be carried out within existing finances and resources?
The investigation report recommends that consideration should be given to reimbursement of the HRA at a level where the housing repairs service became a replacement refuse service.
- 3.5 Main Risk Management and Equality Impact Assessment Issues (if any):
The risk relating to the Grenfell Tower enquiry is a corporate risk, reported to Audit Committee.

4 Relevant background/chronology of key events:

- 4.1 During the 2017 Waste dispute, arrangements were made for Housing Repairs contractors to clear uncollected refuse from BCC tower blocks. The industrial action created a fire risk from accumulations of refuse which was of particular concern to tenants in the wake of the Grenfell Tower fire. The total cost of this arrangement was £817,980 and the costs were HRA funded in 2017/18.
- 4.2 A whistleblower alerted the chair of the Resources Overview and Scrutiny Committee to the expenditure and it was raised at the November committee. I subsequently asked for an audit investigation to explore the allegation.
- 4.3 The audit findings are that the costs “defaulted” to the HRA rather than being a strategic decision. The use of the Housing Repairs contract was a legitimate response, the contract specification being wide enough to accommodate the requests to clear backlogs (initially) and put in place a regular service when it was clear that it would be needed longer-term.
- 4.4 The payment mechanism for housing repairs is through a cost collection workbook – this creates a feeder file and charges the relevant cost centres. An express decision would have had to have been made to move the costs to a General Fund code. This was not done before the closure of the accounts.

The focus of Housing Management was on the health and safety aspects primarily.

- 4.5 The audit included an extensive review of legislation and guidance around the HRA which found no direct reference to these costs being allowable within the statutory ring-fence or otherwise. There is a degree of discretion within the costs chargeable by the Council in the discharge of its landlord function and where the costs can be demonstrated as representing an additional service to the benefit of tenants, they can be legitimately charged to the HRA. Several London Borough Councils charge some waste collection and/or waste disposal to their HRA.
- 4.6 The overriding principle is that council taxpayers do not subsidise services specifically for the benefit of tenants and that rent is not used to subsidise functions which are for the benefit of the wider local community.
- 4.7 Ultimately it will not be straightforward to determine what proportion of the total costs should be reimbursed to the HRA. This will be subject to discussion with Grant Thornton during the 2018/19 audit.
- 4.8 Costs of collections from tower blocks for the current dispute are to be funded from the General Fund, as set out in the January 2019 Cabinet Report.
- 4.9 Having found that elements of the charges are potentially unlawful, I have to consider the implications under S114, The sums involved are not likely to be material and the accounting entries are capable of being corrected so at this stage I am not inclined to issue a report.

Signature:

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Clive Heaphy – Chief Finance Officer