




Haringey Council

Report for:	Cabinet on 17 December 2013	Item Number:	
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Title:	Leaseholders Grant Funding Recharge
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Report Authorised by:	Mun Thong Phung Director of Adults and Community Housing Services
Signed:	
Date:	6 December 2013

Lead Officer:	Phil Harris Deputy Director for Community Housing Services Tel: 0208 489 4338 E-mail: phil.harris@haringey.gov.uk
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Wards affected: All	Report for: Key Decision
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1. Describe the issue under consideration

- 1.1 The Council's current policy is to recharge the cost of improvement works to leaseholders regardless of the source of the funding for those works.
- 1.2 This report proposes a policy change that, if agreed, will mean that leaseholders will not be recharged for works that are funded by external grants or other sources of non-Council funding for specific schemes, including the Community Energy Savings Programme and community improvement schemes.



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2. Cabinet Member Introduction

- 2.1 Our Decent Homes work brings significant improvements to thousands of properties across the borough. I recognise that our arrangements for leaseholders to meet their share of the cost of these improvements need to be fair and reasonable.
- 2.2 Following our recent decision to make more options available to leaseholders who face higher than usual levels of charges, this report recommends that where green and community improvement works are not funded directly by the Council, discretion should be exercised. In the specific case of the works funded by the Community Energy Savings Programme, an exemption is recommended.
- 2.3 I welcome this report as it responds directly to leaseholder concerns and proposes a new approach that is fair, transparent and reasonable.

3. Recommendations

- 3.1 It is **recommended** that Cabinet agrees that:
- (a) The Council, as landlord, should exercise discretion in respect of recharges to leaseholders in cases of improvement works that are not funded directly by the Council, and that this discretion will be applied only to the grant element received from third parties for improvement works in respect of community energy saving programmes, other equivalent green initiatives and community improvement initiatives, as set out in paragraphs 5.13 – 5.18;
 - (b) Leaseholders who have been recharged for CESP will be granted an exemption and refunded, as set out in paragraph 5.16; and
 - (c) Where the exemption of a recharge results in a refund of more than £5,000, the leaseholder will be required to repay it if they sell the property within 5 years from the date of completion of the work.

4. Alternative options considered

- 4.1 The alternative option of continuing with the current policy has been considered. A change is proposed in the light of leaseholder representations and comparison with the practice of other local authorities.



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5. Background information

- 5.1 The Council, as the landlord for leaseholders of council properties, has the power under the terms of the lease to recharge the cost of improvement works to the leaseholders. Current policy is to apply these recharges to the total costs of works, even where that total includes an element of funding from third parties. This funding has in the past taken two forms, energy efficiency initiatives and community improvement initiatives as set out below.

Community Energy Saving Programme

- 5.2 The Community Energy Saving Programme was an obligation placed by government on large UK energy companies to deliver energy saving measures to low income households. It is one of a number of successive policies to reduce carbon emissions through the funding of energy efficiency measures. Outputs were measured in terms of carbon savings rather than work completed and the programme ended in December 2012.
- 5.3 Some CESP funding was arranged through an agreement with Carillion Energy Services for a number of efficiency schemes. These included external wall insulation and therefore resulted in quite substantial costs to leaseholders under the current policy.
- 5.4 SSE Energy Supply Limited (formerly Scottish and Southern Energy plc) also provided a relatively small amount of funding in relation to some energy saving works. These works related mainly to flat roof insulation and cavity wall insulation and they are also listed below.
- 5.5 These works were carried out in the Tiverton Estate, Trulock Court and Ferry Lane. Apart from the Tiverton Estate, the CESP funded work was carried out in conjunction with Decent Homes work. Tiverton and Trulock was funded by Carillion, while Ferry Lane was funded by EDF Energy. SSE contributed to insulation and glazing works for a number of other blocks within the Decent Homes programme.
- 5.6 Leaseholders were recharged for the above works in line with the current policy. Some expressed opposition to paying the charges in respect of the CESP element of the cost on the grounds that the Council has not itself incurred the full cost of the works. Leaseholders have also argued that these works constitute an improvement that does not directly relate to the upkeep of the building and that the insulation benefits, though significant, are generally quite small and the payback period rather long.



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- 5.7 The landlord obligation in relation to observing environmentally responsible policies is not directly referred to in the lease though it can generally be justified in terms of compliance with the regulatory requirements.

Community improvement schemes

- 5.8 Improvement work sometimes arises as a result of local neighbourhood improvement initiatives as part of schemes promoted by the GLA, the Metropolitan Police and other bodies as well as the Council. Some schemes also arise from development gain (section 106 funding). Such work is very beneficial in improving aspects of a neighbourhood such as the general communal facilities, appearance, social cohesion, safety and security. The aims of such schemes are not primarily to address maintenance issues in respect of buildings or an estate but to improve aspects of a neighbourhood in order to enhance the morale and wellbeing of the local community.
- 5.9 These improvements generally benefit a wider area and are not designed simply to improve the estate where they take place. However owing to the fact that leaseholders are liable to pay towards the cost of any work undertaken by or on behalf of the landlord for estate areas, regardless of its purpose or the source of funding, they currently receive bills for a proportion of the cost of such work. This is open to question since the work is not solely for the benefit of residents of a particular estate.

Consultation

- 5.10 No formal consultation has been carried out with leaseholders, but a significant amount of feedback was received in response to the bills sent to them. These views are reflected in the proposals contained in this report.
- 5.11 Since a number of leaseholders are still in the process of repaying bills in relating to the Decent Homes works undertaken in 2009 with individual recharges ranging from £13k – £26k, they are finding it very difficult to pay other large bills during this difficult economic period.
- 5.12 In response to the feedback received at a consultation meeting, the Home Ownership team contacted a number of local authority landlords in London to ascertain their recharging policy to leaseholders in respect of funding of this nature. All of them stated that their policy is not to recharge leaseholders for this type of work.



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Proposals

- 5.13 It is proposed that the current policy is changed in order that the Council can waive charges of this nature (environmental and community improvement works), equal to the amount of the grant funding received. This will only apply to schemes where grant funding is being used for an element of the works. It will not apply to works funded directly by the Council, which will continue to be rechargeable to leaseholders.
- 5.14 The exemption will not cover any maintenance work required as part of the scheme or which may arise at a later date. No exemptions under this proposal will apply to any funding which the Council provides as the landlord or which it receives direct from the government or any other funding it receives in respect of the maintenance and repair of the fabric of the building.
- 5.15 The exemption will apply to future cases of work undertaken as a result of general community improvement initiatives carried out by third parties, such as the Metropolitan Police, the Greater London Authority or the Council acting in its local authority role on behalf of all residents in the borough. The exemption will not cover any maintenance work required as part of the scheme or which may arise at a later date. No exemptions under this proposal will apply to any funding received by the Council direct from the government or for the maintenance or repair of estate areas.
- 5.16 It is also proposed that this policy change is applied retrospectively in the case of the CESP schemes set out below, which will mean cancelling a total recharge of £346,933 as follows:

	<i>Total scheme cost £k*</i>	<i>Total CESP funding</i>	<i>No of Lease holders</i>	<i>Total recharge to leaseholders</i>	<i>CESP funding recharged to leaseholders</i>
Tiverton	£1,335	£851,000	39	£384,730	£139,007
Trulock	£1,150		9	£118,725	£16,016
Ferry Lane	£2,990	£296,300	108	£1,595,032	£176,227
Other blocks (SSE funded)	n/a	£15,683	66	£15,683	£15,683
Total					£346,933

* This total is for external and communal works only



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Exemptions and Repayment

- 5.17 It is proposed that in cases where the exemption or the refund of the grant to the leaseholder exceeds £5,000 that a charge is placed on their property. This will impose a condition that if the leaseholder sells the property within 5 years of the completion of the work, they will be required to repay the full amount of the exemption or refund. They will also have to pay the administrative and legal costs incurred in placing the charge on the property and removing it after the end of the 5 year period. This is similar to the statutory condition imposed on tenants who exercise their Right to Buy.
- 5.18 Any outstanding arrears for one off improvement works recharges and annual service charges will be deducted from the amount of any refund.

6. Comments of the Chief Financial Officer and Financial Implications

- 6.1 It is currently Council policy to recharge leaseholders for grant funded capital works. In 2004 Haringey Council successfully defended this policy when challenged in court by leaseholders.
- 6.2 If the recharges for the Community Energy Savings Scheme (CESP) works listed in paragraph 5.16 were to be waived, this would mean that a total of £346,933 would no longer be available to the Housing Revenue Account to be used to fund future capital works.
- 6.3 It is not possible to quantify the amount of cash flows that may arise in the future for neighbourhood improvement schemes and how much may have been recoverable from leaseholders under current policy.
- 6.4 The CESP scheme was designed to assist low income households. The proposed policy of placing a charge on properties if the exemption totals £5,000 or more to recover the money in case of a sale within 5 years is consistent with this aim.

7. Head of Legal Services and Legal Implications

- 7.1 The Head of Legal Services notes that while the Council is entitled to charge leaseholders in this instance it is within the Council's discretion not to charge in such circumstances provided that is applied across the Borough to all leaseholders in similar circumstances.



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- 7.2 Careful consideration needs to be given to the financial implications of such a decision.

8. Equalities and Community Cohesion Comments

- 8.1 Strategy and Business Intelligence have been consulted in preparing this report and they have commented that:

- 8.2 The Council has a duty to consider the implications of these actions for its public sector equality duty, in particular, to have due regards to the effects its decisions are likely to have on persons that possess any of the characteristics protected under sections 4 – 12 of the Equality Act 2010.

- 8.3 This report recommends that members agree that the Council as landlord should exercise its discretion to provide some relief to leaseholders on the estates listed paragraph 5.16 by waiving charges associated with costs community energy savings scheme and community improvement schemes. This is in recognition that leaseholders have in recent years been subject to substantial charges in particular instances of works associated with those schemes.

- 8.4 The waiver would be a benefit to all the leaseholders covered in the report whatever protected characteristics they may possess within the meaning of sections 4 – 12 of the Equality Act 2010.

- 8.5 It is not likely that the report would have adverse impact on any leaseholders covered whatever their protected characteristics. For this reason, a full equality impact assessment has not been considered necessary.

9. Head of Procurement Comments

Not applicable.

10. Policy Implications

- 10.1 The proposals will enable the Council to better ensure that leaseholders do not suffer financial hardship (which could put their homes at risk) as a result of improvement works to their blocks. This is in line with the Council's key priority for ensuring that residents have a decent place to live.



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11. Reasons for Decision

- 11.1 A decision is required in order to vary the current policy and practice in relation to the recharging of leaseholders for improvement works.
- 11.2 A change to the recharge policy will enable the Council to exercise discretion in specified cases where it is appropriate to ensure that improvement works are achieved equitably and without placing undue financial burdens on leaseholders.

12. Use of Appendices

There are no Appendices.