

Report for: Cabinet 10 November 2020

Title: Alterations Policy for Leaseholders

Report authorised by: David Joyce, Director for Housing, Regeneration and Planning

Lead Officer: Robbie Erbmann, Assistant Director for Housing

Ward(s) affected: All

**Report for Key/
Non Key Decision:** Key Decision

1. DESCRIBE THE ISSUE UNDER CONSIDERATION

- 1.1. In support of the wider actions being taken by the Council to mitigate the risk of fires within Council owned buildings as a result of the Grenfell Tower fire, this report seeks to ensure that the Council fulfils its obligations as a 'responsible landlord' in accordance with current legislation. By removing the permission that allows leaseholders to procure and install their own windows and external doors, the Council is taking the necessary fire precautions to ensure safety is not compromised.
- 1.2. In accordance with the terms of the tenancy or lease agreement, tenants and leaseholders living in Council properties are required to obtain permission from Haringey Council as their landlord before they carry out any alterations or improvements that will affect the internal or external structure of the Council's asset.
- 1.3. This report outlines a review of the existing 'Alterations Policy for Leaseholders' to comply with current statutory requirements in terms of fire safety and provides further clarity on the types of works where landlord consent is required and the fee charges to be paid by leaseholders.
- 1.4. It also, in effect, rescinds the Cabinet decision of 15 July 2008 titled 'Service Improvements Initiatives for Leaseholders' which allowed leaseholders to install and maintain their own external windows and doors. This is to ensure any alterations to external windows and doors does not compromise fire safety.

2. CABINET MEMBER INTRODUCTION

- 2.1 The alterations policy for leaseholders will provide clear guidance on the different categories of work within and outside their home, for which the Council's consent will be required. The implementation of the policy will ensure that all external installations adhere to the current regulatory standards and do

not compromise fire safety. This in turn will make sure that leaseholders continue to be safe in their home.

- 2.2. In addition, the policy provides clear guidance on the fees, so that leaseholders can be clear as to the potential costs, before deciding whether to undertake alterations to their home.

3. RECOMMENDATIONS

It is recommended that Cabinet:

- 3.1. Approves the revised 'Alterations Policy for Leaseholders' regarding the improvement works that leaseholders are permitted to make to their property as set out in appendix 1 of the policy.
- 3.2. Approves the introduction of a requirement that, where a leaseholder's external windows and doors need to be changed, all such installations are to be carried out by the Council and its approved contractors.
- 3.3. Approves the fee structure detailed in paragraphs 6.13, 6.16 and appendix 1 of the policy which will be subject to an annual review.
- 3.4. Notes the process for deciding whether landlord consent can be granted as detailed in paragraphs 6.6 to 6.12 and appendix 1 of the policy.

4. REASONS FOR DECISION

- 4.1. The recommendations in section 3 are being proposed to ensure there is a clear and transparent process in place for allowing leaseholders to improve their properties. In providing consent, the Council will give consideration to the effect works may have on the structural integrity of Council owned buildings and the possible impact of these works on other tenants and leaseholders.
- 4.2. The recommendations also seek to ensure that all external installations have been manufactured and fitted correctly, in accordance with current regulatory standards and do not compromise fire safety. This is because the Council, as landlord, is ultimately responsible for the health and safety of all residents within Council owned buildings.
- 4.3. The recommendation also seeks to provide leaseholders with clarity on the fees payable for obtaining landlord's permission for alterations to their home.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The only alternative option was to continue with the existing 'Alterations Policy for Leaseholders' which was not feasible due to the Housing Health and Safety Rating System Regulations 2005 conferring powers on local authorities to ensure fire safety in occupied buildings. It is ultimately the Council's responsibility to have robust processes in place to ensure doors and windows are installed to current regulatory standards in the event of a fire.

6. BACKGROUND INFORMATION

- 6.1. The lease sets out the property location, extent and boundaries. Under clause 4(13) of the standard lease, the leaseholder must obtain the landlord's written consent (a 'licence') for any alterations they may wish to carry out within their home or to the exterior of the building. However, no part of the exterior fabric of the building forms part of the leasehold property, though there may be a private garden specified as being included within the lease.
- 6.2. Section 19(2) of the Landlord and Tenant Act 1927 states that where a lease permits alterations with consent that consent cannot be unreasonably withheld. The Act does give the landlord considerable latitude in imposing conditions of giving such consent. For example, it enables the landlord to require the payment of a reasonable fee to cover any legal or other expenses incurred when granting consent; or to require the payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or any neighbouring premises belonging to the landlord.
- 6.3. The Council will not consider certain types of alterations. For example, the subdivision of flats or the installation of security grilles for either windows or doors. More details are given in appendix 1 of the policy. The Council will also not consider an application for consent where an alteration would be in breach of the lease agreement.
- 6.4. Cabinet previously approved a policy 'Service Improvement Initiatives for Leaseholders', on 15 July 2008. This granted permission to leaseholders wishing to replace and maintain their own external windows and doors. In the aftermath of the Grenfell fire, Homes for Haringey undertook risk assessments on a number of Council buildings. Following this, concerns were raised by Homes for Haringey's Asset Management and Health and Safety teams about leaseholder alterations that had the potential to affect the safety of the building in the event of a fire. Therefore, as a landlord with responsibility for ensuring the safety of all residents, it is proposed that permission will no longer be granted to any new applications from leaseholders to install external windows or doors. This will ensure that all external installations have been manufactured and fitted correctly because these are key components in maintaining the buildings integrity.
- 6.5. Leaseholders who previously obtained the Council's consent to replace windows and doors will not be required to have these installations replaced. However, if as part of the cyclical programme of Council building maintenance works it is assessed that these installations do not comply with current regulatory standards and pose a risk to the fire safety of the building, the Council reserves the right to replace these.
- 6.6. Landlord's consent must be granted before carrying out any works or obtaining any other consent. This consent takes account of the requirements for the management of the building and the various criteria listed in appendix 1. Where alterations have already been undertaken, this will be considered as a breach of the lease, unless and until a retrospective application for consent has been made and approved. The work required in processing applications is undertaken by Homes for Haringey. In certain circumstances Homes for

Haringey will seek confirmation that it is appropriate to grant consent from Haringey Council.

- 6.7. Alterations are subject to Planning and Building Control laws and regulations and are dealt with by Haringey's Planning and Building Control services who operate under statutory authority. Decision notices giving Planning permission or Building Control consent do not, in themselves, constitute Landlord's consent nor the right to undertake the works without this consent.
- 6.8. The Council will generally grant consent for proposed alterations to the interior of a leaseholder's home, subject to a number of important qualifications. These include not permitting the subdivision of a property into two flats and that bedroom sizes must be acceptable. (Further information can be found in the London Housing Design Guide). The proposed work must also not cause or be likely to cause any maintenance or structural problems to Council owned buildings.
- 6.9. Requests to purchase loft spaces or land not included within the lease demise can be made to the Council where requests to acquire and alter can be considered simultaneously; but the decision on request to acquire is not subject to any statutory limitation.
- 6.10 The type of authorisation for leaseholder alterations depends on the nature of the work and whether it requires alterations to their lease.
- 6.11 Appendix 2 of the policy identifies the types of improvements work where no permission is required. Homes for Haringey will provide a letter of consent for minor work.
- 6.12 Where more extensive work is agreed, a licence for alterations is required and this will be issued by the Council.
- 6.13 If the work alters the description of the property as per the lease agreement, this will require a Deed of Variation to ensure the accuracy of the lease agreement. Any increase in the number of bedrooms may also lead to increased service charges.
- 6.14 All work that requires consent is subject to a fee charge. The table below shows the different documents that will be required, depending on the type of work being undertaken, the responsible department and the level of fee to be charged. These fee charges will be subject to an annual review.

SERVICES RESPONSIBLE FOR ISSUING DOCUMENTS AND FEES PAYABLE				
Type of approval	Homes for Haringey		Property Services	Legal Services
	Minor Work	Medium/Major Work		
No permission required	Nil	n/a	n/a	n/a
HfH	£60	£144	n/a	n/a

permission letter				
License for alterations	£60	£144	Min £850 Max £1,850	£950
Deed of variation	£60	£144	Min £850 Max £1,850	£950

- 6.15 Where a structural assessment of the proposed works is required, Homes for Haringey's Property Management Team will carry out a pre and post inspection. The charge for this is currently levied at £28.00 per hour.
- 6.16 Where there is a significant amount of administrative work required to resolve a matter arising from a failure by the leaseholder to undertake their responsibilities with regard to the work they carry out, Homes for Haringey will discuss and advise the Council of any additional charges to be made. Homes for Haringey currently charges £20.00 per hour, for this additional work.
- 6.17 In addition to the fees chargeable (outlined at 6.13), a charge will be made where retrospective permission is required, when a leasehold has carried out work prior to obtaining landlord's consent.

ADDITIONAL FEES PAYABLE FOR RETROSPECTIVE CONSENT				
Type of approval	Homes for Haringey		Property Services	Legal Services
	Minor Work	Medium/ Major Work		
No permission required	Nil	n/a	n/a	n/a
HfH permission letter	£50	£50	n/a	n/a
License for alterations	£50	£50	Min £850 Max £1,850	£950
Deed of variation	£50	£50	Min £850 Max £1,850	£950

- 6.18 For any future proposals in respect of a review or change to demands for fee charges, the Council, as landlord, shall maintain arrangements to notify leaseholders and enable them to make their views known in accordance with section 158 of the Commonhold and Leasehold Reform Act 2002.

7. RESIDENT ENGAGEMENT

- 7.1 All Council residential leaseholders (circa 5,000) have been contacted to seek their opinion on the proposal to reverse the decision that gave leaseholders the ability to apply for permission to replace their external windows and doors themselves. The ending of this decision would mean a return to following the terms of the lease where the windows and external doors remain the property and responsibility of the Council.

7.2 On 24 February 2020, Homes for Haringey wrote to all leaseholders by either post or email (where this was held), outlining the proposed policy changes. Frequently Asked Questions was also included with the letter inviting leaseholders to send in their comments on the proposals.

7.3 From this engagement exercise, 147 responses were received. The responding leaseholders expressed a variety of views, which can be summarised as follows: -

For the proposal	44	30%
Against the proposal	53	36%
Didn't express a view on the proposal	50	34%
TOTAL	147	100%

7.4 Haringey Leaseholder Association requested that Homes for Haringey carry out further engagement with leaseholders and on 24 June 2020, Homes for Haringey again contacted all leaseholders to provide a summary of the previous engagement and invite them to attend one of three online meetings to discuss the proposals. A total of 113 leaseholders attended the three online meetings held on 6, 7 and 9 July 2020. Leaseholders who were unable to attend the online meetings were given the opportunity to request a telephone call to raise any questions.

7.5 During the online meetings, the leaseholders who voiced an opinion made it clear that they were against the proposed changes. Officers reiterated the rationale for this proposal, that is, the Council as landlord is ultimately responsible for the health and safety of all residents within Council owned buildings and the change is to ensure all external installations have been manufactured and fitted in a manner that does not compromise fire safety. All the questions and suggestions raised by leaseholders at these meetings have been considered by Homes for Haringey who have responded by email accordingly (See appendix 2, 3 and 4).

8. CONTRIBUTION TO STRATEGIC OUTCOMES

8.1 These proposals support the objectives within the Borough Plan 2019-2023. The recommendations in this report will support the delivery of the Housing Priority within the Borough Plan that '*we will work together to drive up the quality of housing for everyone*' and in particular the objective to: '*Ensure safety in housing of all tenures across the borough, responding to new regulations as they emerge*' and provide an effective response to changes in fire safety and general buildings regulations.

9. STATUTORY OFFICERS COMMENTS

FINANCE

9.1.1 This report requests Cabinet to agree the amended Leasehold Alterations policy as set out in the document "Revised Alteration Policy for Leaseholders".

- 9.1.2 The document is aimed at amending an earlier policy that allowed leaseholders to alter, install and maintain the windows and front doors of the properties they are leasing as this is not consistent with the lease and legislation.
- 9.1.3 It is also aimed at providing clarity about the types of work that leaseholders may consider carrying out, and to set out what the Council's policy is with regards to each of these.
- 9.1.4 The fees disclosed in the report are in line with other boroughs.
- 9.1.5 This policy, once approved, will lead to additional landlord responsibilities. However, cost associated with these responsibilities will be apportioned and leaseholders recharged with their contributions.
- 9.1.6 Where alterations lead to additional space, leaseholders will be paying additional service charges as a result and where maintenance works are carried out, they will pay additional major works costs.
- 9.1.7 The Council property database will have to be updated following alterations leading to changes in layout and additional space.
- 9.1.8 These fees will be reviewed on an annual basis as part of the review of charges to leaseholders.

PROCUREMENT

- 9.2.1 Strategic Procurement notes the contents of this report; however, there are not procurement implications in respect of the proposed policy.

LEGAL

- 9.3.1 The Assistant Director of Corporate governance has been consulted on the content of this report.
- 9.3.2 The relationship between the Council and the leaseholders is governed by the lease. RTB leases are granted in accordance with the provisions contained in the Housing Act 1985. Legal advice will be required to ensure that the Council is able to enforce the policy in respect of all of the leases affected.
- 9.3.3 Further comment appears in the body of the report.

EQUALITY

- 9.4.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not

- Foster good relations between people who share those characteristics and people who do not.

9.4.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

9.4.3 The proposed decision is to approve the revised 'Alterations Policy for Leaseholders' regarding the improvement works that leaseholders are permitted to make to their property, introducing a requirement that, where leaseholders wish to install new external windows and doors, all such installations are to be carried out by the Council and its approved contractors. The objective of this decision is to ensure the health and safety of tenants and leaseholders living in Council properties.

9.4.4 Leaseholds have been engaged on the proposed decision, with reasonable adjustments made to ensure that all leaseholders were able to participate. There is no indication that any objections to the proposed decision arise from concern regarding the Council's public sector equality duty.

9.4.5 The profile of tenants and leaseholders in Council properties is such that women, individuals over 45 years old, BAME communities, and individuals with disabilities will be overrepresented among those affected by the decision. As the decision represents a step to ensure the health and safety of tenants and leaseholders, it can be expected to have a positive impact for residents who share the protected characteristics of sex, age, race/ethnicity, and disability.

10 USE OF APPENDICES

10.1 Appendix 1: Alterations Policy for Leaseholders

10.2 Appendix 2: Resident engagement correspondence – 24.02.2020

10.3 Appendix 3: Resident engagement correspondence – 26.06.2020

10.4 Appendix 4: Resident engagement correspondence – 14.08.2020

11 LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Alterations Policy for Leaseholder, 2012

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MI d=5907&Ver=4>

Service Improvements Initiatives for Leaseholders, 2008

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MI d=3078&Ver=4>

London Housing Design Guide, 2010

<https://www.london.gov.uk/sites/default/files/Interim%20London%20Housing%20Design%20Guide.pdf>