

Report for: Cabinet 8 December 2020

Title: Enhancements to leaseholder payment options for major repair works

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

Lead Officer: Tracey Downie, Executive Director of Housing Management, Homes for Haringey

Ward(s) affected: ALL

Report for: Key decision

1. Describe the issue under consideration

- 1.1. This report contains recommendations to improve the leaseholders' payment options for major works previously approved by Cabinet on 12 November 2013.
- 1.2. The current options were adopted with the expectation of major works invoices within the region of £25k to £40k. Whilst most works are within or less than these limits, a relatively small number of leaseholders may be presented with much larger bills in the near future.
- 1.3. This report seeks to update the Council's payment terms to ensure that any major work bills in excess of £39.99k can be paid through an enhanced range of flexible options, minimising the financial stress on these households and limiting the risk of leaseholders being unable to pay.

2. Cabinet Member introduction

- 2.1. The current investment programme will deliver significant improvements to thousands of residents across the borough. Whilst this programme is welcomed by most residents, it is recognised that some leaseholders will be faced with significant debts. In particular, during the current financial circumstances because of Covid-19, more leaseholders may find it very difficult to pay.
- 2.2. Recent section 20 notices¹ outlining major works with a potential cost to 76 leaseholders of £60-£117k, has resulted in them raising concerns about their ability to pay. Officers have recognised that leaseholders will need more support to pay these invoices. By introducing more flexible options we will provide this support and minimise the risk of leaseholders defaulting on their payments.

¹ See glossary

- 2.3. Benchmarking with other Councils has demonstrated that other boroughs have improved the payment options since the current arrangements were approved in 2013. The changes outlined in this report will ensure that the Council's payment terms are brought up to date and reflect the best payment options available across all Council housing providers.

3. Recommendations

It is recommended that Cabinet approves consultation on the following payment terms for new major works invoices as follows: -

- 3.1. For leaseholders living in their property (resident leaseholders):-
- 3.1.1. The payment period for invoices between £30k and up to £40k is set at 15 years, with the first 10 years being interest free and the remaining 5 years charged at the Public Works Loan Board (PWLB) rate.
 - 3.1.2. The payment period for invoices between £40k and £60k is set at 20 years, with the first 12 years being interest-free and the remaining 8 years charged at the PWLB rate.
 - 3.1.3. The payment period available for invoices above £60k is set at 25 years with the first 15 years being interest-free and the remaining 10 years charged at the PWLB rate.
- 3.2. For resident leaseholders that are facing severe hardship, are unable to secure funding from a High Street Bank/Building Society, the Council will offer them an interest-only payment option. This will be secured by a charge on the property, for the actual amount of the invoice.
- 3.3. For leaseholders who are not living in their leasehold property (non-resident leaseholders):-
- 3.3.1. The payment period available for invoices between £30k and £60k is set at 10 years with interest charged at the PWLB rate with the Assistant Director for Housing in consultation with the Council's Finance Service, having discretion to approve an offer for the first 5 years to be interest-free, following a recommendation from Homes for Haringey. (That is, if the non-resident landlord has no other tenanted properties and an illness/disability or caring responsibility that is preventing their occupation of their Haringey Council home).
 - 3.3.2. The payment period available for invoices above £60k is set at 15 years with the first 5 years being interest-free and the remaining 10 years charged at the PWLB rate.
 - 3.3.3. An extended interest free period to be approved by the Assistant Director for Housing in consultation with the Council's Finance Service, following a recommendation from Homes for Haringey, if there will be a benefit to the Council's homelessness prevention strategy.

3.4. That for all leaseholders:-

3.4.1. The Council offers a discount of 5% for full payments made within 60 days of the invoice being issued.

3.4.2. The Council offers an equity share scheme under section 308 of the Housing and Regeneration Act 2008.

3.5. To note the intention to consult and the outcome from this will be considered by Cabinet in February 2021, to enable them to formally approve and adopt the payment terms for leaseholders.

4. Reasons for decision

4.1. It is important that that the Council offers fair and considerate terms that recognise the needs of residents and any debts incurred are recovered in an ethical, reasonable and just manner.

4.2. Approving the enhanced payment options will mean that the Council's new terms reflect some of the best options offered by other London Councils and will give leaseholders greater flexibility to choose a payment option that meets their financial circumstances. It also reduces the risk of the Council incurring debts that remain unpaid as well as the risk of lengthy and costly court proceedings to recover the debt.

5. Alternative options considered

5.1. A do-nothing option could mean that some leaseholders will struggle to pay the monthly payments associated with bills in excess of £30k. This is not in the Council's interest since this could result in lengthy court action to recover the debt.

5.2. The alternative of not introducing this scheme would mean the Council could run the risk of not providing sufficient options for leaseholders, to enable them to agree repayment terms that are affordable and reflect the full range of financial and other circumstances which households may find themselves in.

6. Background information

6.1. Under the terms of their lease, leaseholders are required to pay towards the costs of major works to the common parts of their building and to the external fabric – the roof, windows, doors, foundations etc. They are also required to pay a proportion of the provision of day to day services, such as repairs to common parts. These charges are billed annually as service charges.

6.2. Major works are funded through the Housing Revenue Account (HRA). Leaseholders are charged the full amount of the costs of services (including major works) so that the HRA does not provide any subsidy to them and HRA funding is available to invest in improving Council housing. Any costs

of services must be reasonable and reasonably incurred. Therefore, any payment terms offered, must consider the affordability to the leaseholder and help minimise the risk of leaseholders accruing debts that they are unable to pay.

- 6.3. Flats occupied by leaseholders co-exist in blocks and on estates with flats let on secure tenancies. When steps are taken to improve Council housing through significant levels of investment, it results in some leaseholders receiving high bills in excess of £30k.
- 6.4. Whilst care is taken to consult with leaseholders as early as possible and before the section 20 notice is issued, the actual estimated amount of the cost to individual leaseholders is often not known until shortly before the leaseholder is given formal notice of the costs. This means that leaseholders can receive very little advance notice before they are able to consider how they will pay for the potential major works.
- 6.5. There are three major works proposals currently being considered where the potential costs to leaseholders are already expected to be in excess of £30k:-
 - At Noel Park, some leaseholders have received estimates as high as £110k and have expressed concerns that the current payment options do not offer a reasonable period to pay bills of this amount.
 - At Turner Avenue and Imperial Wharf, some of the estimates are in the region of £30k - £60k.
- 6.6. As the landlord, it is in the Council's interest to consider residents' needs and offer a reasonable period for leaseholders to pay these estimates. Although the estimates are unlikely to become demands for payment for another 18 months or more; flexible options now, will provide reassurance to leaseholders. These will enable most leaseholders to work with officers to develop payment plans, in advance of the first payments becoming due.
- 6.7. The current payment options were last reviewed in 2013 in recognition of the Decent Homes investments proposed at that time. The charges then were expected to be in the region of £5k - £35k. The current payment options have worked reasonably well, ensuring that income collection across leasehold services is maintained at 99-100% for major works' bills. Although most major works in the current investment plans will result in invoices below £40k, it has been over 7 years since these payment options were last reviewed and given the current commitment to significant investment in Council homes, a review now is considered prudent.
- 6.8. The current payment terms include the following: -
 - Options to pay in advance.
 - Interest-free period terms of 8 years.

- Interest-bearing period terms of 10 years.
 - A blended approach combining interest-free and interest-bearing period terms.
 - Longer payment periods that support resident leaseholders with a limited income.
- 6.9. There are statutory options that leaseholders have access to, including enfranchisement² and access to financial aid from the Department of Works and Pensions, where appropriate.
- 6.10. Finally, there is an option for the leaseholder to offer the property for purchase by the Council.
- 6.11. The full list of current options for leaseholders is attached as appendix A.
- 6.12. The new payment terms propose the following:-
- Extending all the payment periods to enable a more affordable payment plan.
 - Increasing the interest free periods.
 - Reducing the interest rate for interest-bearing payment terms.
 - Removing the means-tested approach for payments secured on a charge against the property (where interest payments are made annually).
 - Introducing a new equity share scheme as an alternative payment option.
 - The potential to extend the interest-free periods for non-resident leaseholders, where a direct benefit to the Council's homelessness prevention strategy would be realised.
- 6.13. The payment terms proposed continue to differentiate between resident leaseholders and non-resident leaseholders - offering better terms for resident leaseholders. This is a common approach reflected by landlord Councils and recognises that non-resident leaseholders often own the flat as a business proposition and are not at risk of losing their home.
- 6.14. The proposal that the Council offers an equity share scheme under section 308 of the Housing and Regeneration Act 2008 is a new option that has not previously been offered. This legislation enables housing authority landlords to offer loans on equity share terms. The Council acquires an equitable interest in the flat so that on the sale of the property, the Council is entitled to a specific share of the value of the flat that reflects the amount of the loan for major repair works.
- 6.15. The scheme is available to give Councils discretionary powers to assist leaseholders in paying service charges.
- 6.16. The full list of proposed options is attached as appendix A.

Benchmarking

² See glossary

- 6.17. In August 2020, Homes for Haringey contacted other London Councils requesting the payment options available to their resident and non-resident leaseholders.
- 6.18. Comparison with the 12 Councils who provided responses revealed the following: -
- 6.19. All Councils had more favourable payment terms for resident leaseholders than those for non-resident leaseholders.
- 6.20. The Council is already offering longer interest-free periods for resident and non-resident leaseholders.
- 6.21. The terms offered for interest-bearing periods were less favourable, particularly when compared to those Councils carrying out significant investment within their stock. The Councils' terms tended to be either at higher interest rates or for shorter periods.
- 6.22. All Councils offered at least 10 years interest-bearing payment options, with Southwark and Camden Councils offering 25-year interest-bearing options.
- 6.23. The interest rates offered for interest bearing payments in Haringey Council were generally higher than for most other Councils.
- 6.24. The Council currently offers a rate of 5.19% for residents. Two other boroughs had higher interest rates, with the remaining Councils offering variable interest rates equal to, or 1 – 3% above, the base rate.
- 6.25. Only two Councils offered less favourable rates for the discretionary loan scheme than Haringey Council currently offers. The rates offered by the remaining Councils equalled the base rate or between 0.25% and 1.5%, plus the base rate. The Council currently offers a rate of 2% above the base rate.
- 6.26. There are also a range of additional options offered by other Councils. These include the following: -
- Deferring payments where there is financial hardship or where the resident leaseholder has retired and has a limited income.
 - Buy-backs for residents who will remain in the property as a secure tenant only or buy-back scheme for all leaseholders.
 - A voluntary interest-bearing charge for up to 25 years.
 - An equity share scheme.
- 6.27. A table setting out the results of the benchmarking exercise is attached at appendix B.

Consultation

- 6.28. The payment proposals are being brought to Cabinet ahead of the consultation. Once Cabinet has reviewed and approved the appropriate

payment options, a full consultation of all leaseholders will be carried out in line with the approved options.

- 6.29. Formal consultation will be carried out by Homes for Haringey. Their officers will provide the background to these proposals and an explanation for all resident and non-resident leaseholders. Consultation information is expected to be delivered electronically where possible or otherwise by post. Leaseholders will also be offered open virtual meetings or telephone contact so that the proposals can be explained in more detail. Residents will have six weeks to comment on the proposals. This will include an additional ten days to reflect the Christmas and holiday closures.
- 6.30. Officers will review the outcome of the consultation and recommend any appropriate changes for Cabinet to consider. If there are no recommended changes, Cabinet will be asked to formally approve and adopt the payment option terms for leaseholders.

7. Contribution to strategic outcomes

- 7.1. This project will help to achieve the Borough Plan Outcome 3: 'We will work together to drive up the quality of housing for everyone'. This will include contributing to delivering the following objectives: -
- Improve the quality of Haringey's Council housing, including by ensuring that a minimum of 95% of homes meet the Decent Homes Standard by 2022.
 - Improve residents' satisfaction with the service they receive from Homes for Haringey to be in the top quartile for London (78% by 2022).
 - Ensure safety in housing of all tenures across the borough, responding to any new regulations as they emerge.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 8.1. This report recommends that Cabinet approves consultation on the proposed amendments to the enhanced payment options available to leaseholders as detailed in appendix A.
- 8.2. The consultation will involve largely officers time and communication materials. The costs of these will be met from the existing leasehold services budget within the Housing Revenue Account.
- 8.3. Leaseholders are required to contribute towards the cost of major works undertaken by the Council. Considering the size of some of these payments, it is appropriate for the Council to review the payment options available to leaseholders.

- 8.4. Payment options allow leaseholders to pay their debt in a way that is manageable and reduces the risk of bad debt to the Council.
- 8.5. The risk of bad debt is to a small extent being managed through reserve/sinking fund for new leaseholders only. The payment options outlined within the report provide further mitigation of bad debt through spreading payment over several years.
- 8.6. Providing such payment options will ensure maximisation of income towards the cost of the improvement works and will also assist leaseholders in meeting their legal obligations.
- 8.7. The revision of interest rate for payment options that attract interest, ensures that interest rate compensates for the Council's borrowing cost and debt administration.
- 8.8. The prompt payment discount incentivises leaseholders to settle debt sooner, therefore, reducing the Council's borrowing need and associated cost of borrowing.
- 8.9. It is difficult at this stage to accurately assess the financial implication of the proposed payment option, but this will be reasonably estimated and factored into future HRA Business Plans.
- 8.10. It is however expected that this should lead to an improved recovery rate and an improved cashflow position for the Council.
- 8.11. There is a risk with forward funding of works accruing to leaseholders. Failure to collect major works cost could lead to the Council being left with unfunded liability.

Legal

- 8.12. The Assistant Director for Corporate Governance has been consulted in the drafting of this report.
- 8.13. Legal comment appears in the body of the report.
- 8.14. The Assistant Director confirms that there are no legal reasons preventing Cabinet from adopting the recommendations in this report.

Equality

- 8.15. 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.
- 8.16. The three parts of the duty apply 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.
- 8.17. The proposed decision is to introduce additional payment options for leaseholders who receive invoices for major works. To the extent that the leaseholders share the protected characteristics and to the extent that the additional options make payment more manageable, the decision can be expected to have a positive effect on people who share the protected characteristics. It is likely to benefit socio-economically disadvantaged groups and people who are less likely to be in full-time employment to a greater extent and these groups include disabled people, pregnant women and people from BAME communities.

9. Use of Appendices

- 9.1. Appendix A: Table comparing current options to proposals
- 9.2. Appendix B: Outcome of the benchmarking exercise
- 9.3. Appendix C: Glossary of terms

10. Local Government (Access to Information) Act 1985

- 10.1 Not applicable.