

**Report for:** Cabinet 13 July 2021

**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. Following Cabinet approval on 8 December 2020, for Officers to undertake a consultation exercise with Leaseholders in respect of enhanced repayment options for major works invoices, this report provides details and feedback on the outcome of this exercise.
- 1.2. The report also sets out proposals to amend and improve the Council's leaseholder repayment options for major repair works.

**2. Cabinet Member introduction**

Haringey Council and Homes for Haringey are undertaking an ambitious major works programme to improve council-owned housing stock, on a holistic basis throughout the borough. These works, which will involve section 20 works, (major works) will also deliver significant improvements to thousands of residents. With this important work gathering pace, we are keen to improve the financial repayment terms under which leaseholders contribute to this essential programme.

- 2.1. It is recognised that some leaseholders will be faced with significant major works invoices as a result. During the current financial circumstances because of Covid-19, more leaseholders may find it very difficult to pay these. By introducing more flexible options we aim to provide increased support and minimise the risk of leaseholders defaulting on their payments.
- 2.2. The changes proposed 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**

- 3.1 It is recommended that Cabinet notes the outcome of the consultation and approves the revised leaseholder repayments options set out at appendix A, which includes the proposed changes and enhancements as set out in detail in appendix B of this report.

### **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 will mean that some leaseholders will struggle to pay the monthly payments associated with bills, particularly bills in excess of £30,000. 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. When the Council proposes to undertake works or repairs where a leaseholder is required to contribute more than £250.00, the Council is required to consult with leaseholders under section 20 of the Landlord and Tenant Act 1985. The Council must have regard for any observations that are received during the consultation period. If as the landlord it fails to meet all or some of the consultation requirements the leaseholder's contribution can be reduced or capped unless the landlord obtains dispensation from the First Tier Tribunal for the consultation failure. These works are commonly called major works.
- 6.3. When the Council proposes to undertake major improvement works or repairs under section 20 of the Landlord and Tenant Act 1985, where a leaseholder

is required to contribute more than £250.00, the Council is required to consult with those leaseholders. The Council must have regard for any observations that are received during the consultation period. If as the landlord it fails to meet all or some of the consultation requirements the leaseholder's contribution can be reduced or capped unless the landlord obtains dispensation from the First Tier Tribunal for the consultation failure. These works are commonly called section 20 works or major works.

- 6.4. 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, with a view to helping minimise the risk of leaseholders accruing debts that they are unable to pay.
- 6.5. 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 £30,000.
- 6.6. There are three major works proposals currently being considered where the potential costs to leaseholders are already expected to be in excess of £30,000:-
  - At Noel Park, some leaseholders have received estimates over £60,000 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, major works are due to start shortly with estimates of leaseholder final bills over £30,000.
- 6.7. 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 12 – 18 months, the offer of 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.
- 6.8. 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 £5,000 - £35,000. 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 £40,000, it has been 8 years since these payment options were last reviewed and given the current commitment to significant investment in Council homes, a review was considered prudent; this report presents the outcome of that review following consultation.

6.9. The current payment terms include the following: -

- Options to pay in advance.
- Interest-free period terms of up to 8 years.
- Interest-bearing period terms of up to 10 years.
- A blended approach combining interest-free and interest-bearing period terms.
- Longer payment periods that support resident leaseholders with a limited income.

6.10. There are statutory options that leaseholders have access to, including enfranchisement<sup>1</sup> and access to financial aid from the Department of Works and Pensions, where appropriate. Major works charges are also capped by direction, where supported by certain forms of central government funding.

6.11. Finally, there is an option for the leaseholder to offer the property for purchase by the Council.

6.12. Some of 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. Where the non-resident leaseholder can demonstrate that they are unable to live in their home or have moved out temporarily and intend to return to occupy the property as their principal home, there is an option to offer the same options as a resident leaseholder.

6.13. In recognition of the potential financial hardship faced by leaseholders in repaying large major works invoices Cabinet gave approval on 8 December 2020 for a consultation exercise on a series of enhanced payment options.

6.14. Ahead of the consultation Officers developed a range of detailed options. This followed the detailed benchmarking exercise reported to Members in the 8 December 2020 report. A summary of the results of this exercise is set out at paragraph 8 below.

## 7 **Benchmarking**

7.1 In August 2020, Homes for Haringey contacted other London Councils requesting the payment options available to their resident and non-resident leaseholders.

7.2 Comparison with the 12 Councils who provided responses revealed a range of more favourable options offered for both residential and non-residential leaseholders.

7.3 Only two Councils offered less favourable rates for the discretionary loan scheme than Haringey Council currently offers. The rates offered by the

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<sup>1</sup> See glossary

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.

7.4 There were also a range of additional options offered by other Councils. These included the following: -

7.4.1 Deferring payments where there is financial hardship or where the resident leaseholder has retired and has a limited income.

7.4.2 Buy-backs for residents who will remain in the property as a secure tenant

7.4.3 An equity share scheme.

## **8. Consultation**

8.1. Consultation with leaseholders on the proposed new repayment options was carried out over a 6-week period between 14 May 2021 and 25 June 2021. This included a variety of mechanisms. Residents were encouraged to provide comments and further suggestions in relation to the proposed changes to the payment policy.

8.2. A consultation booklet, copy attached at Appendix F, detailing the proposed changes to the payment policy and highlighting the five main changes, was issued to leaseholders at their place of residence.

8.3 In addition, for ease of access, the consultation booklet was also posted on-line.

8.4 Three online presentations were offered to leaseholders. These were led by senior officers from Homes for Haringey and the Council and were held during the daytime, evening and at the weekend to maximise, the opportunity for leaseholders to provide feedback on the proposed new repayment options.

8.5 Leaseholders were also invited to respond in writing and to request a detailed telephone or on-line discussion. This was again to enable them feedback on the proposed new repayment options.

### **Online resident engagement consultation events**

8.6 Details of the online resident engagement events including the number of attendees are set out below:-

Date and time of event	Number of resident attendees

26 May 2021 – 1pm – 3pm	11
3 June 2021 – 12noon to 2pm	7
10 June 2021 – 6pm to 8pm	20

- 8.7 Recordings of these events were immediately available on the Council's website after each event and available until the close of the consultation on 25 June 2021. These recordings are still available on the website.
- 8.8 In relation to the observations received formally from leaseholders this was received in several formats: -
- Postal returns
  - Via email
- 8.9 There were 310 postal returns received and 103 online responses - a total of 413 responses. Of these, 60% or more were in favour of each of the proposed changes to the payment options offered.
- 8.10 77% of respondents agreed that the prompt payment discount should be extended, with suggestions that it should be extended to 120 days rather than the 60 days proposed.
- 8.11 Generally, feedback from all leaseholders welcomed the proposals, details of consultation results received are shown within Appendix C

## **9 New proposed repayment options**

- 9.1 Appendix A of this report sets out in detail the proposed repayment options to be offered to Council leaseholders for major works invoices forming the Council's new leasehold repayment options policy. It also provides details of the operation of different parts of the scheme. Appendix B identifies, where applicable, how the current payment option arrangements are being changed in the new proposals.
- 9.2 These proposals have been reviewed following consultation with leaseholders, taking into account leaseholder's views. One amendment has been made as a result of the consultation as noted in 8.10 above. These repayment options have also been developed following the benchmarking exercise.
- 9.3 A summary of the new proposals are as follows: -

- 9.3.1 The introduction of three new repayment periods for resident leaseholders for paying major works invoices over £30,000. These are as follows: -
- 9.3.2 Works between £30,000 and £39,999 introduce a maximum repayment period of 15 years. (From the current period of 10 years). This will include the first 10-year repayment period being interest free and the final 5 years being repaid with interest.
- 9.3.3 Works between £40,000 and £59,999 introduce a maximum repayment period of 20 years. This will include the first 12 years repayment period being interest free and the final 8 years being repaid with interest.
- 9.3.4 Works over £60,000 introduce a maximum repayment period of 25 years. This will include a maximum of the first 15 years being interest free and the final ten years being repaid with interest.
- 9.4 The introduction of two new repayment periods for non-resident leaseholders for works over £30,000.
- 9.4.1 Works between £30,000 and £59,999. Introduce a maximum repayment period of 10 years. This will include the first 5 years being interest free.
- 9.4.2 Works over £60,000. Introduce a maximum repayment period of 15 years. This will include the first 10 years being interest free.
- 9.5 A proposal to increase the period within which a discount of 5% for all leaseholders is offered who pay their major works invoices from the current period of 30 days to 120 days.
- 9.6 The introduction of a new discretionary equity share scheme for all leaseholders where their major works invoice exceeds £40,000 and they cannot secure a loan for a Bank or Building Society. The proposal that the Council offers an equity share loan 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 a share in the value of the flat that reflects the amount of the loan for major repair works and on the sale of the property, the Council is entitled to be paid that share. The scheme is available to give Councils discretionary powers to assist leaseholders in paying service charges.
- 9.7 The removal of the requirement for the resident leaseholder to have a detailed means test, to be eligible for the interest only payment option.



- 9.8 Offering non-resident leaseholders the ability to pay their major works invoice over the same period as resident leaseholders if they are facing homelessness or have an agreement with the Council to prevent homelessness in the borough.
- 9.9 These new payment options are in addition to the statutory options of a loan from the Department of Works & Pensions (DWP) for qualifying persons in receipt of an eligible benefit, or a loan from Homes England under the Housing (Service Charge) Loans) Regulations 1992 or a discretionary loan from the Council which is secured on the property.

## **10 Contribution to strategic outcomes**

- a. 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 100% of homes meet the Decent Homes Standard by 2025.
  - 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.

## **11 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

### **11.1 Finance**

The Council has responsibility to ensure that apportioned cost of works to Leasehold properties are recovered and that Leaseholders are offered options for payment of these costs.

Considering the size of some of these payments, it is appropriate for the Council to review the payment options available to leaseholders.

Providing these payment options will ensure maximisation of income towards the cost of the improvement works and will also assist leaseholders in meeting their legal obligations.

Payment options allow leaseholders to pay their debt in a way that is manageable and provide further mitigation of bad debt through spreading payment over several years.



The revision of interest rate for payment options that attract interest, ensures that interest rate compensates for the Council's borrowing cost.

The prompt payment discount incentivises leaseholders to settle debt sooner, therefore, reducing the Council's borrowing need and associated cost of borrowing.

The cashflow implication of the proposed payment options, will be factored into the next iteration of the HRA Financial Plans.

It is however expected that this should lead to an improved recovery rate and an improved cashflow position for the Council.

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.

## **11.2 Legal**

11.2.1 The Assistant Director for Corporate Governance has been consulted in the drafting of this report.

11.2.2 Legal comment appears in the body of the report.

11.2.3 As always, the Gunning/Mosely principles apply to the Cabinet's approach to the consultation; particularly the last:

- 1) Consultation must be at a time when proposals are still at a formative stage;
- 2) Sufficient reasons must be given for any proposal to permit of intelligent consideration and response;
- 3) Adequate time must be given for consideration and response; and
- 4) The product of consultation must be conscientiously taken into account.

11.2.4 The Assistant Director confirms that there are no legal reasons preventing Cabinet from adopting the recommendations in this report.

## **11.3 Equality**

11.3.1 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.

11.3.2 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.

11.3.3 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.

11.3.4 An Equality Impact Assessment has been completed and is attached at Appendix D.

## **12 Use of Appendices**

Appendix A: Proposed Leasehold Payment Options Policy.

Appendix B: Details of current payment options and proposed changes

Appendix C Details of consultation results.

Appendix D: Equality Impact Assessment.

Appendix E: Glossary of Terms.

Appendix F: Consultation document to residents.

## **13 Local Government (Access to Information) Act 1985**

13.1 Not applicable.