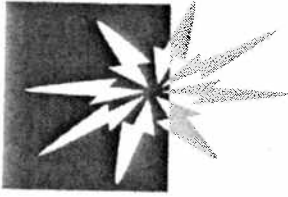


Haringey Council

Report for:	Cabinet -18 December	Item number	To be added by the Committee Section
Title:	New Right to Buy Lease and Regulations		
Report authorised by :	Mun Thong Phung Director of Adult and Housing Services Tel: 020 8489 3385 Email: phungmt@haringey.gov.uk Signed:  Date:  10.12.12		
Lead Officer:	Phil Harris Deputy Director for Community Housing Services Adult & Housing Services Directorate Email: phil.harris@haringey.gov.uk Tel: 0208 489 4338		
Ward(s) affected:	All	Report for Key Decision:	Ward(s) affected: Key



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1. Describe the issue under consideration

1.1 There has been a significant increase in the number of applications for the Right to Buy since the government increased the maximum discount to £75,000 in April this year. It is therefore appropriate to look at some new clauses and review the existing regulations in the standard Right to Buy lease. The new provisions will help to support the housing management policies for the building and estate and they will simplify the calculation of the management fees.

2. Cabinet Member Introduction (Councillor Bevan)

2.1 Changes to the Right to Buy lease

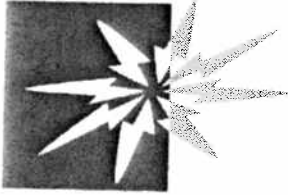
Proposed new clauses will make it easier for the Council to charge for its management costs and for the costs of late payments if leaseholders fall into arrears. The clause to enable setting up a reserve or sinking fund will assist new leaseholders in future to avoid unexpected large bills and will also help the Council with the collection of future major works costs.

2.2 New regulations for all leaseholders

The regulations will introduce improved standards and publicise the importance for all leaseholders of gas safety, internal wiring, overcrowding and fire safety measures (smoke alarms, and the banning of security grills). This will help to improve the overall safety of the Council's blocks of flats.

There will also be a new regulation to ban the disposal of items through sinks and bathrooms that could block the sewage pipes. Consultation has been carried out on all the proposals with existing leaseholders. Thus the new regulations will apply to all current leaseholders as well as to new leaseholders.

The consultation with leaseholders was carried out through a number of meetings of the Leasehold Panel and via letter and email responses in respect of observations received. As a result, the original proposals have been amended significantly so that leaseholders will now not be required to provide an annual gas certificate or to confirm in writing that they have installed a smoke alarm. However the proposed new regulations will still provide a valuable way of bringing to leaseholders' attention the importance of these issues for everyone in the Council's blocks of flats.



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3. Recommendations

Cabinet is asked to agree the following proposals contained in this report and details are provided in sections 5.2 and 5.3, and implementation and monitoring and enforcement are contained in sections 5.4 and 5.5:

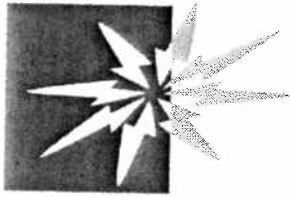
- a. New clauses in the standard Right to Buy Lease for all new leaseholders regarding:
 - i. **Arrears** – to charge all leaseholders the costs of late payments
 - ii. **Subletting** – to enable the landlord more easily to recover the administrative costs
 - iii. **Management fee** – to simplify the calculation
 - iv. **Reserve or sinking fund** for the costs of future major works for all leaseholders.
- b. New regulations for all leaseholders concerning:
 - i. Gas safety
 - ii. Internal wiring
 - iii. Overcrowding
 - iv. Ban on security grills over windows and doors and stricter enforcement of standards relating to the outer doors of leaseholders' properties
 - v. Disposal of waste through the sewage and waste water pipes.

4. Alternative options considered

The consideration of other options was not relevant in this context.

5. Background information

A standard lease is used for the sale of all residential properties where the Council is the landlord. Although various changes have been made to the lease over the years the core part (which is common to all the leases issued by the Council) is regarded as very sound and it has not been subject to any significant challenge to date. From time to time it has been necessary to clarify the inherent principles of the lease or to incorporate new legislative provisions.



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The Council's lease, clause 4, sub-clause 5 allows for the right to introduce new regulation for all leaseholders subject to them not being unduly burdensome or onerous.

5.1 Consultation with leaseholders

5.1.1 Tenants- The proposed additions and amendments to the Right to Buy Lease were discussed at the June meeting of the Tenancy and Estate Management Panel. They considered that the proposals were fair and reasonable.

5.1.2 Leaseholder- A consultation paper was circulated to all leaseholders on email and with the June issue of Homes Zone. Subsequently an article was published in the July issue of Leaseholder News about the results of the consultation and about the new regulations. In response a significant number of observations were received from leaseholders.

The introduction of the new regulations was discussed at four meetings of the Leasehold Panel (May, June, July and September 2012). The majority of the Panel were in favour of the proposals which they felt would assist in improving the general safety of all residents. However some felt that the proposals would place a significant burden on leaseholders, especially those in financial hardship. In particular quite a lot of those who submitted observations said the requirement to provide a gas certificate annually in respect of gas safety would put an additional burden on them.

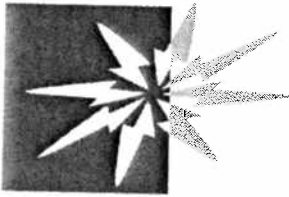
This was the original proposal but as a result of the consultation it has been withdrawn. Quite a lot of leaseholders were opposed to it and also the cost of compliance monitoring would have been quite considerable. In addition the proposal requiring leaseholders to provide annual confirmation in respect of a smoke alarm has been amended so that it is now only advisory.

5.2 The proposed new lease clauses

These will be included in all new leases.

5.2.1 The management fee

The Council will be enabled to charge the leaseholder a reasonable amount on a flat rate or a percentage basis to recover the Council's management



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costs – it will not state that they should be calculated in relation to the building and the estate.

The method of calculation included in the current text of the lease theoretically requires detailed costings for the building and the estate, which are impractical to produce since virtually all management costs are incurred centrally. The proposed change will result in a considerable simplification of this process.

5.2.2 Sinking fund for future major works

New leaseholders will have to pay into a sinking fund or reserve fund every year as part of their annual service charge. The new clause will make the Council's right to do this more explicit.

The amount of the annual payments will be based on the estimated future maintenance requirements. When major work is carried out money will be withdrawn from the sinking fund by the Council as the landlord to pay towards the cost of the work. This is the standard policy of some housing associations.

It will have a number of benefits in Haringey including spreading the burden of payments for leaseholders and giving the Council more certainty on the collection of major works charges.

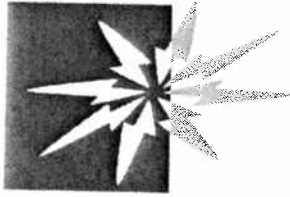
5.2.3 Charging of recovery and litigation costs

It is proposed that the Council as landlord will have the right under the lease to charge interest (after 21 days) on arrears of payment and additional provisions to recover the administrative and legal costs of collecting any arrears.

The current standard lease requires that all service charges should be paid quarterly in advance. The landlord can take action if payment is not received within 21 days of the due date. It is therefore proposed that the landlord should have the additional right to charge interest and other recovery costs relating to overdue payments if they are not received within 21 days.

5.2.4 Annual fee for subletting

Leaseholders will continue to be required to inform the Council when they sublet their properties. They will then have to pay an annual charge for the recovery of the costs of administration when a property is sublet.



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At present there is only a provision under the current lease for a registration charge which is payable whenever the property is sublet. In March this year Cabinet approved a policy of giving leaseholders the option of paying a lower fee on an annual basis as an alternative to the registration fee. It is proposed that the annual fee will be made mandatory in respect of new sales of the Council's properties under the Right to Buy. The reason is that the landlord must have permanent administrative arrangements in place in order to keep the records for sublet properties up to date and to respond to queries and problems as they arise.

5.3 The proposed new regulations

These will apply to all leaseholders regardless of when they purchased their properties.

5.3.2 Gas safety

The proposed new regulation will give the Council the right to see on request a copy of a gas safety certificate or a copy of a check-list from a certified contractor showing that a satisfactory service check has taken place.

The Health and Safety Executive advises that everyone should ensure that all gas appliances, flues and pipework are installed, regularly maintained and serviced annually by a properly registered gas engineer. The Council as landlord has to carry out annual gas checks for all its tenanted properties.

5.3.3 Internal wiring

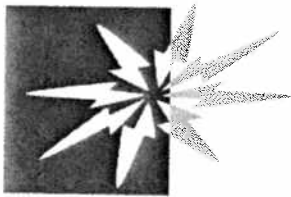
The regulation will state that the leaseholder must ensure that the condition of the internal electric circuits, wiring, fixtures, fittings and equipment in the flat are in a safe and serviceable condition.

5.3.4 Overcrowding

It will state that the leaseholder must not allow their property to become overcrowded. There are clear standards laid down by Part 10 of the 1985 Housing Act. This particularly applies to leaseholders who sublet their properties.

5.3.5 Disposal of waste through the sewage and waste water pipes

This is to prohibit the disposal of materials or substances through sinks, baths, lavatories, cisterns or waste or soil pipes in the flat that might cause a blockage or contamination of the sewage system.



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5.3.5 Ban on security grills over windows and doors and stricter enforcement of standards relating to the outer doors of leaseholders' properties

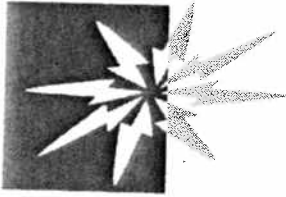
Security grills- The new regulation will state that the leaseholder must not erect any security grill or gate over or across the windows or the front door or any other external door of the flat without the prior written consent of the Council. This is because grills often block escape routes or obstruct access for the fire service. London Fire Brigade has confirmed that grills should definitely not be fitted where 'Secure by Design' doors have been installed.. They also detract from the appearance of the Council's buildings and estates.

Exterior doors- Stricter enforcement of the standards for exterior doors is necessary because fire rated doors are often required in blocks of flats. It is also necessary they should withstand forced entry. Therefore closer monitoring and enforcement of the standards for fire safety and security is required particularly in relation to external doors which leaseholders have replaced.

The Council has upgraded its specification for its replacement doors in all its properties to provide greater security and to improve the general aesthetic appearance of its buildings. They are now all 'Secure by Design' glass reinforced plastic doors. In addition it is undertaking fire assessments in all its blocks of flats. As a result of these considerations it has been ascertained that the doors in many blocks need to be fire-rated doors. In view of these factors the Council will have to exercise its powers under the lease to ensure that leaseholders' doors meet the necessary standards, replacing them where necessary.

5.3.6 Replacement of external doors

This will provide the council with the provision to further regulate the style and design of external doors and provide further powers with which to enforce breaches by leaseholders who change the exterior doors without consent and in a style not fitting with council policy. This will also assist in maintaining the appearance of the block/estate. In addition the council will have the right to replace doors where leaseholders have failed to adhere to the Council's specification.



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5.4 Implementation

Once approved by the Cabinet, a copy of the new regulations will be provided to all leaseholders.

5.4.1 Monitoring and enforcement

There will be a proactive policy of responding to problems as they arise. This will be facilitated by Council's existing powers under the terms of the lease, principally clause 4, subclause 10 which provides the right to inspect and to carry out any necessary work as described below:

5.4.2 Right to inspect the inside of the flat

The landlord has the right of access to the flat (after giving 48 hours notice) if there are any significant concerns about safety issues relating to gas, electricity, water and so on. Thus in buildings where the Council has replaced or is planning to replace gas boilers or internal wiring in its tenanted properties, it will now be possible with the new regulations to make leaseholders more aware of the necessity of ensuring that their flats also meet the necessary standards of gas and electrical safety.

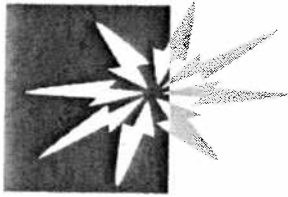
5.4.3 Right to carry out necessary work

Clause 4(10) also gives the landlord the right to carry out work inside the leaseholder's flat on a fully rechargeable basis where it is considered necessary for the safety of the building. Hence if it is found that the internal wiring or the gas appliances in a flat are in a very poor condition the Council will be able to take action if the leaseholder declines to do so.

6. Comments of the Chief Financial Officer and Financial Implications

6.1 If the recommendations of this report are agreed, new clauses will be inserted into the leases for RTB properties that will affect existing and future Leaseholders.

6.2 The current method of calculation of the management fee is to be simplified and be defined as 'a reasonable amount to recover the Council's management costs.' This simplification will reduce the administrative burden and confusion among leaseholders. It is also likely to lead to a higher recovery rates. The successful operation of a sinking fund will require the establishment of robust administrative and accounting procedures.



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- 6.3 The proposal to set up a sinking fund for future major works is likely to make these costs more manageable for leaseholders by spreading the cost over a number of years and is also likely to lead to an increased recovery rate.
- 6.4 Allowing the Council to charge a fee for interest on arrears and the associated legal costs for leaseholders who do not pay their debts will reduce the costs that have to be met by other Leaseholders and tenants within council housing.
- 6.5 The introduction of an annual fee for subletting will provide the administrative basis for the Council to maintain up to date details of Leaseholders and their tenants living in Council Housing. The fee is likely to be set at an amount to meet the administrative costs.

7. Head of Legal Services and Legal Implications

Legal Services have advised HfH on the proposed changes in conjunction with Queen's Counsel, and are of the view that there are no legal implications arising out of the proposed amendments to the lease.

The Head of Legal therefore agrees to the recommendations to insert new clauses in relation to the Arrears of Service Charge, the Management Fee, the Reserve or Sinking Fund and Sub letting and to make new regulations.

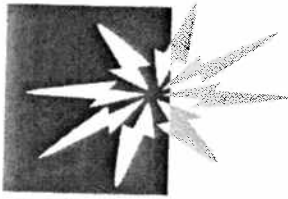
8. Equalities and Community Cohesion Comments

The Policy and Equalities Team have been consulted in the preparation of this report and they comment as follows:

"It is not immediately apparent that on the whole, the proposals will have adverse implications for any of the groups identified for protection (i.e. persons that have any of the protected characteristics) and detailed in section 4 of the Equality Act 2010. However, consideration should be given to two equalities related issues which may have a bearing on the proposals.

- i. Communication/provision of relevant information – Translations

Many of the existing and potential leaseholders may not have English as their primary language and may have difficulty understanding the changes and what



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they would mean for them. There may therefore be a need to offer translation of the relevant documents and information to those who may have this problem. This applies also to people who may be visually impaired and may therefore need information in formats that they can easily access.

ii. Ban on security grills – implications for fear of crime

Perhaps people install these grills to mitigate their fear for their personal safety and for the security of their homes and belongings. Any blanket ban may expose vulnerable people, especially older people and children to increased fear of crime against their persons and homes. Consideration should be given to accompanying the ban with alternation measures to enhance protection from crime.

Implementation of the proposals should be followed by equalities monitoring and any disproportionate impact on any of the protected groups should be identified and addressed by the Service.

The proposals have no obvious cohesion implications”.

9. Head of Procurement Comments

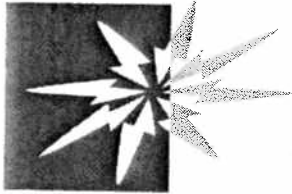
Not Applicable

10. Policy Implications

The new regulations will better enable the Council to ensure that leaseholders meet their responsibilities under the lease, especially in relation to sublet properties. This will help the Council in enforcement action and reduce its maintenance obligations regarding the structure of the building. It will assist it in making the best use of its housing stock and meeting its statutory obligations.

11. Reasons for Decision

The government’s increase of the Right to Buy discount is likely to lead to an increase in the sale of Council flats. In addition there is an increasing trend for leaseholders to sublet their properties. These factors require additional regulations to enable the Council as the landlord to make leaseholders more



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aware of their responsibilities both before and after they purchase their properties.

12. Use of Appendices

None

13. Local Government (Access to Information) Act 1985

- Standard right to buy lease
- Schedule 6 of the Housing Act 1985