



Agenda item:

[No.]

**Report to Overview and Scrutiny Committee**      **On 29<sup>th</sup> July 2008**

Report Title: **Home Ownership Report on the Call-in of a decision taken by the Cabinet on the 15 July regarding payment options for leaseholders** – Minute no and title of item CAB35 (Cabinet Meeting 15 July 2008)

Forward Plan reference number

Report of: **Niall Bolger, Director of Urban Environment**


Wards(s) affected: **All**

Report for: **Key decision**

**1. Purpose**  
1.1 To respond to matters raised in the call-in of the report,

**2. Introduction by Cabinet Member (if necessary)**  
2.1 The Service Improvement Initiatives for Leaseholders presented to Cabinet on 15 July 08 included a raft of improvements to ensure that leaseholders managed by the arms length management organisation would be afforded a high quality leasehold service that is comparable to other 2 and 3 star London ALMO's. The proposals set out in the original report and discussed in this report will support the development of a 3 star leasehold service for Haringey.

**3. Recommendations**  
3.1 That Members note the response to the matters raised in the call-in.

Report Authorised by: **Niall Bolger, Director of Urban Environment** 

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**4. Director of Finance Comments**  
4.1 The revised payment plans should be advantageous, both to the HRA (by improving the cash flow) and the leaseholders as they an option getting a bigger saving from the increased discount (from 2.5% to 5%) for prompt payment. They also have an option

to repay over a longer instalment period (from 12 to 36 months), in effect getting a interest free loan. (Para 8.17 refers)

- 4.2 The leaseholders should not be worse off with the revised payment options as detailed in Para 8.11 to 8.15

## **5. Head of Legal Services Comments**

The Head of Legal Services confirms that there are no legal reasons preventing Members from approving the recommendations of this report. Further Legal Comment is provided at paragraph 10 below.

## **6. Local Government (Access to Information) Act 1985**

- 6.1 No relevant documents

## **7. Matters raised in the Call-in - Strategic Implications**

- 7.1 It is unacceptable that the Council is proposing a fundamental change in leaseholder charging without a full consultation of all leaseholders.
- 7.2 The Council's consultation to date has not fully explained to leaseholder groups the nature of the proposals.
- 7.3 The changes to the payment options will result in leaseholders being worse off than under the current system.
- 7.4 The report focuses solely on the advantageous financial implications to the Council – 15.9 shows "The main advantages that these changes will bring are: (i) Maximising cash flow . . . Discount for payment in full will help reduce the Council's borrowing costs . . ."
- 7.5 A leaseholder should not be required to pay for work before it has been completed – the report gives no detail to the remit of the leaseholder if work is not carried out to a satisfactory level.
- 7.6 Making such a significant change at a time when charges to leaseholders will change significantly due to the Decent Homes Programme is not appropriate.

## **8. Response to matters raised.**

- 8.1 **It is unacceptable that the Council is proposing a fundamental change in leaseholder charging without a full consultation of all leaseholders.**
- 8.2 The relevant issues have been discussed at the annual Leaseholders' Forum (to which all leaseholders are invited) and at meetings of the Leasehold Panel. The Panel (which usually meets every month) is open to all leaseholders. Regular attendees and those who have expressed an interest (180 approx) receive a formal notice for each meeting and copies of the relevant documents. Copies of the minutes for the last 12 months are provided on the website. It should be noted that the Forum and the Panel are part of Homes for Haringey's resident involvement structures, which have been set up to

enable the Board to be kept informed of the views of residents. Haringey Leaseholders' Association was also consulted separately – please see paragraph 8.9 below.

8.3 The Home Ownership Team sent invitations to all 4,500 leaseholders to attend the annual Leaseholders' Forum on the 7 July 2007, the theme of which was preparing for the Decent Homes Programme. A very important part of it was the holding of a workshop to discuss the need for new payment options in respect of major works. It was explained that the introduction of payment in advance would enable the Council to allow longer interest free monthly instalment periods.

8.4 The main points raised at the Forum were as follows:

- The interest free period given by the Council should be increased – the larger the amount, the longer people should have to pay. The new policy therefore proposes that people should have up to 36 months (interest free) to pay.
- The discount for payment in full should be increased. It has therefore been increased from 2½% to 5%.
- Use of sinking funds. There were mixed views on the use of sinking funds. Subsequently the Leasehold Panel decided against in view of the substantial administrative costs involved.

8.5 The policy recommendations agreed at the Forum were discussed at meetings of the Leasehold Panel on the 30<sup>th</sup> July 07, 15<sup>th</sup> November 07, 6<sup>th</sup> December 07 and the 10<sup>th</sup> June 2008. A meeting of the Panel on the 15<sup>th</sup> November 07 discussed all the main proposals (included in the report to the Council). Mr Martin-Clark (a leading member of Haringey Leaseholders Association and Chair of the Panel) endorsed the proposals from the chair and the Panel voted in favour with a substantial majority.

8.6 The period of notice to be given in respect of a bill for major works was discussed at the meeting on the 6 December 07 and there was a report back to the Panel on the 28 January 08. The proposals in respect of this matter were accepted by the Panel.

8.7 Regular reports on all the main issues have been published in Homes Zone, which is sent to all the Council's leaseholders. A two page report of the proceedings of the Forum was published in the September issue. The June 2008 issue outlined the most important areas where improvements are proposed – that is, longer to pay, larger discount and additional options for people on benefits.

**8.8 The Council's consultation to date has not fully explained to leaseholder groups the nature of the proposals.**

8.9 The only independent leaseholder group is the Haringey Leaseholders Association (the HLA) and it is recognised by Homes for Haringey. Officers of the HLA attend all the Leasehold Panel meetings. Furthermore Homes for Haringey holds meetings with the HLA when important issues arise. The last one was held on the 19 February 08.

8.10 The Home Ownership Team subsequently wrote a letter (9 April 08) to provide additional information in relation to some of the matters raised at the meeting.

Although the HLA raised some questions about other aspects of the proposals, it did not raise any issues relating to the payment options at this meeting. Moreover it has not subsequently made any criticism of them.

**8.11 The changes to the payment options will result in leaseholders being worse off than under the current system.**

8.12 The proposed changes have been designed generally to be financially neutral (in comparison with the current policy) and in accordance with the criteria (KLOE 12) published by the Audit Commission, which put the emphasis on advance billing. A number of ALMOs now bill in advance, for instance Ascham (Waltham Forest), CityWest (Westminster), Homes for Hackney, Homes for Islington, and some local authorities such as Greenwich, Kensington and Chelsea and Wandsworth. Advance billing will help to prompt leaseholders to report defects prior to the completion of the work or before the end of the defects liability period.

Its implementation will constitute the adoption of an important criterion of the Audit Commission (as indicated above) which will be very relevant in respect of the assessment during a future inspection. It will also demonstrate our ability to adapt to changes within the sector in conjunction with the introduction of service improvements for leaseholders.

8.13. Under the Decent Homes Programme, average bills will be significantly higher, so the current 12 month period is likely to be much too short for quite a lot of leaseholders. It is proposed that they will have up to 36 months to pay in future.

8.14 The proposed new policy will also mean that leaseholders will have up to 6 weeks to arrange payment of their invoice, rather than 14 days at present.

8.15 Prior to the Commonhold and Leasehold Reform Act (2002) if a leaseholder paid part or all of their bill the courts considered that this was evidence of leaseholder's consent and would not accept any dispute in relation to it. However the position was changed by section 155(1)(5) of the Act which states that "the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment". Hence payment in advance will not cause any disadvantage to a leaseholder.

**8.16 The report focuses solely on the advantageous financial implications to the Council – 15.9 shows "The main advantages that these changes will bring are: (i) Maximising cash flow . . . Discount for payment in full will help reduce the Council's borrowing costs . . ."**

8.17 Although there are clear advantages to the Council in the proposals, there are also definite advantages for leaseholders arising from the proposed changes. Thus leaseholders will derive the following benefits:

- i. Early billing gives longer to pay. Billing in advance will mean that the Council can afford to provide a longer period for payment by instalments. This will mean that leaseholders have longer to pay large bills.
- ii. Discount for immediate payment of the full amount in advance – increase from 2½% (at present) to 5%. It will benefit leaseholders who:
  - want to pay in full or
  - have to raise a bank loan over a longer period – they can use the discount to reduce their borrowing costs.
- iii. Interest free monthly instalments: Leaseholders will now get up to 36 months to pay their bills instead of the current 12 months.
- iv. Interest only loans. This means that leaseholders on Benefit will often be able to have the interest paid by the Department for Work and Pensions, so they will not have to pay anything (while they are on Benefit).
- v. Voluntary charge on the property (deferred interest loan). It is expected that this will be of considerable help to some elderly people who are unable to pay anything in respect of repayments for a large loan.

**8.18** If the policy is not changed, all leaseholders will be expected to pay their major works bills in full within 12 months. Given that these bills are likely to rise significantly due to the Decent Homes programme this could have a negative impact on the leaseholders ability to pay. It is expected that major works bills will be between £4,000 and £20,000 per leaseholder dependant on the level of work which is required. The table below shows the monthly repayments each leaseholder would be required to make on a range of charges.

Major Works Charge	Monthly Payment - Interest Free					
	12 months	Total Repayment	24 months	Total Repayment	36 months	Total Repayment
4,000	333	4,000	167	4,000	111	4,000
10,000	833	10,000	417	10,000	278	10,000
15,000	1,250	15,000	625	15,000	417	15,000
20,000	1,667	20,000	833	20,000	556	20,000

Advantages - discount on advance payments

If a leaseholder was able to secure a personal loan and pay off the debt immediately the discounts they would receive would be:

- £4,000 – discount of £200
- £10,000 - discount of £500
- £15,000 - discount of £750
- £20,000 - discount of £1,000

The two tables in appendices 1 and 2 illustrate that the discount we offer to leaseholders for a full payment will go some way in meeting their borrowing cost, while at the same time they will be able to keep up affordable repayments in accordance with their budgets.

As it is likely that a number of leaseholders would secure loans from personal finance companies, rather than from banking institutions, the likely impact of this has also been exemplified in the table shown below. It should be noted that we have not exemplified the impact on leaseholders of loans secured against their properties.

Examples of repayments on these loans offered by high street banks and other personal financial institutions are shown in the appendices 1 and 2.

- 8.19 A leaseholder should not be required to pay for work before it has been completed – the report gives no detail to the remit of the leaseholder if work is not carried out to a satisfactory level.**
- 8.20** Where work extends over more than one year, leaseholders already have to commence payment before completion of the work (that is at the end of each financial year), since this is normal practice. The proposed system of advance billing will generally give leaseholders a longer period to pay (through interest free instalments) than under the present policy.
- 8.21** Where a leaseholder is dissatisfied with any aspect of the work or the charges made, they can raise the matter through the complaints procedure. If it cannot be resolved by this means then an arrangement has been set up whereby it can be referred to the Mediation Service operated by the Leasehold Advisory Service (LEASE). Finally it is always open to a leaseholder to take the question of a disputed bill to the Leasehold Valuation Tribunal, which now has full authority to issue rulings in all such cases.
- 8.22** With regard to the reporting of faults and making complaints, a booklet has been produced entitled *Decent Homes – a Guide for Residents* (copy attached). This contains a lot of information for all residents on reporting faults and how customer care issues are being addressed by the employment of Resident Liaison Officers, who will be responsible for each project.
- 8.23** The Leasehold Panel has appointed the Chair of the Leasehold Panel, Mr Martin-Clark to liaise with Asset Management regarding the use of the schedule of rates in relation to the pricing of individual projects. He will thus be able to provide independent confirmation of the procedures that are being employed by the Constructor Partners and the Compliance Teams with regard to these matters. The view of someone from outside the organisation will provide leaseholders with additional assurance with respect to the methods used in producing the invoice for each scheme of work.
- 8.24 Making such a significant change at a time when charges to leaseholders will change significantly due to the Decent Homes Programme is not appropriate.**

- 8.25** In view of the larger bills that a lot of leaseholders will receive, most feel that some changes are necessary to the existing payment options for major works.
- 8.26** The Council has a fiduciary duty to recover all the costs it incurs which relate to leaseholders. Following a review of policies in this area the Government has not given additional powers to social landlords to assist leaseholders facing the large bills arising from the Decent Homes Programme. Thus in a major ministerial statement in March last year Yvette Cooper said that local authorities should “*offer the full range of available payment options to help leaseholders pay their bills, and share best practice to ensure that this happens everywhere*”.
- 8.27** The Home Ownership Team therefore undertook a review of the policies of all local authorities in London and obtained benchmarking information from more than 20 of them (a summary is provided in appendix 3 of this report). The proposed policy options are comprehensive – they not only cover people who are able to pay but also the vulnerable people on benefit and the elderly on low pensions. They are representative of current best practice and if adopted will put this borough at the forefront of social housing providers in the country.

## **9. Financial comments**

- 9.1 There are no specific financial implications arising from this report. However, implications for the main report are:
- 9.2 Income received from leaseholders is accounted for within the Housing Revenue Account Managed Budgets. The introduction of earlier billing of leaseholder contributions for major works will mean that income can be accounted for earlier and will therefore have a favourable impact on the cash flow of the Housing Revenue Account. Although the increase in the discount for payment in full from 2½% to 5% will reduce the sum collectable, the additional interest earned from earlier payment will more than offset the higher discount offered.
- 9.3 The extension of the period for interest free instalments may have a favourable impact on cash flow. Although the interest free period is longer, the earlier billing for works will leave the council in a more favourable financial position overall. The precise financial implications of the changes are difficult to accurately forecast as they will be dependent on the sums chargeable to leaseholders and the take up on the discount. However, there will be favourable financial impact overall for the Housing Revenue Account.
- 9.4 The introduction of the policy to allow leaseholder to install their own windows and doors may lead to a lower level of recovery than otherwise from leaseholders. Consequently there will be a lower level of income to the Housing Revenue Account as a result. The impact will depend upon the level of take up from leaseholders and some exemplifications of the effect are set out in Appendix 5. The financial impact will be incorporated into the Medium Term Financial Strategy taking account of actual take up if the arrangements are introduced.

9.5 However where leaseholders opt out, there would be a clear loss of income on account of the reduced contribution chargeable to the remaining leaseholders (the loss would probably be in the region of 2% to 5% of the total cost of window replacement

## **10. Legal Implications**

10.1 The Head of Legal Services confirms that leaseholders will not lose any rights if the proposed repayment options are implemented.

10.2 Specifically, as set out in paragraph 8.15 above, payment in advance of works will not preclude leaseholders from disputing the charge in the Leasehold Valuation Tribunal ('LVT'). The jurisdiction of the LVT extends to service charges which have already been paid and to prospective service charges. So if work is not carried out to the satisfaction of a leaseholder who has already paid, that leaseholder will still be able to challenge the cost of the work, the standard of the work and the need for the work in the LVT.

10.3 The standard long lease document sets out the mechanics of service charge billing. The terms of the lease allow the Council to demand payment of service charges by leaseholders quarterly in advance (that is, the Council provides leaseholders with an estimated service charge at the beginning of every financial quarter). The Legal Service understands that the proposed requests for payment in advance will be made with the quarterly requests for payment in advance and is therefore satisfied that the proposed changes to leaseholder billing are consistent with the requirements of the standard lease.

## **11. Recommendation**

11.1 That Members note the responses to the matters raised in the Call-in.



## Appendix 1

### 24 Monthly Payment- Interest at 7.7% ( offered by High street banks)

	Current policy			Proposal		
	24 months	Total repayment	Discount @2.5%	24 months	Total repayment	Discount @ 5%
Major works charges						
4,000	189	£4,536	100	189	£4,536	200
10,000	450	£10,800	250	450	£10,800	500
15,000	675	£16,200	375	675	£16,200	750
20,000	890	£21,360	500	890	£21,360	1000
			Net cost to the leaseholder			Net cost to the leaseholder
			436			336
			550			300
			825			450
			860			360

### 36 Monthly Payment- Interest at 7.7% (offered by High street banks)

	Current policy			Proposal		
	36 months	Total repayment	Discount @2.5%	24 months	Total repayment	Discount @ 5%
Major works charges						
4,000	133	£4,788	100	133	£4,788	200
10,000	311	£11,196	250	311	£11,196	500
15,000	467	£16,812	375	467	£16,812	750
20,000	622	£22,392	500	622	£22,392	1000
			Net cost to the leaseholder			Net cost to the leaseholder
			688			588
			946			696
			1,437			1,062
			1,892			1,392

## Appendix 2

### 24 Monthly Payment- Interest at 10.53% (offered by personal finance companies)

Major works charges	Current policy		Proposal					
	24 months	Total repayment	Discount @2.5%	Net cost to the leaseholder	24 months	Total repayment	Discount @ 5%	Net cost to the leaseholder
4,000	189	£4,536	100	436	189	£4,536	200	336
10,000	450	£10,800	250	550	450	£10,800	500	300
15,000	675	£16,200	375	825	675	£16,200	750	450
20,000	890	£21,360	500	860	890	£21,360	1000	360

### 36 Monthly Payment- Interest at 10.58% (offered by personal finance companies)

Major works charges	Current policy		Proposal					
	36 months	Total repayment	Discount @2.5%	Net cost to the leaseholder	24 months	Total repayment	Discount @ 5%	Net cost to the leaseholder
4,000	133	£4,788	100	688	133	£4,788	200	588
10,000	311	£11,196	250	946	311	£11,196	500	696
15,000	467	£16,812	375	1,437	467	£16,812	750	1,062
20,000	622	£22,392	500	1,892	622	£22,392	1000	1,392

**Appendix 3 – payment options of other boroughs**

<b>Borough or ALMO</b>	<b>Decent Homes</b>	<b>Billed on estimate or actual</b>	<b>Pay by instalments</b>	<b>Discount</b>	<b>Loans (plus interest)</b>
Ascham Homes	Ongoing	Estimate	Yes	-	Interest only
Barnet Homes	Ongoing	Actual	Yes	-	-
Brent Housing Partnership	Complete		24 months		Yes
Camden Council	-	Actual	10 months	-	-
CityWest	Complete	Estimate /Actual	12/24 months	-	Yes
Ealing Homes	Ongoing	Actual	12 months	-	Yes - current mortgage rate
Greenwich	Ongoing	Estimate	10 months	-	-
Hackney Homes	Ongoing	Estimate	12/24 months	5%	Yes
H&F Homes	Ongoing	-	-	-	-
Homes in Havering	Being planned	Actual	12 months	-	-
Hillingdon Homes	-	-	12 months	-	Interest only
<b>Homes for Haringey – Current policy</b>	<b>Being planned</b>	<b>Actual</b>	<b>12 months</b>	<b>2.5%</b>	<b>-</b>
<b>Homes for Haringey – Proposed</b>	<b>Being planned</b>	<b>Estimate</b>	<b>36 months</b>	<b>5%</b>	<b>Interest only</b>
Homes for Islington	Ongoing	Estimate	24 months	-	Yes
Hounslow Homes	Complete	Actual	-	-	-
(Continued)					

<b>Borough or ALMO</b>	<b>Decent Homes</b>	<b>Billed on estimate or actual</b>	<b>Pay by instalments</b>	<b>Discount f</b>	<b>Loans (plus interest)</b>
Kensington & Chelsea	2008	Estimate	24/36 months	-	-
Newham Homes	Ongoing	Actual	-	-	-
Redbridge Homes	-	Actual	12 months	-	Secured loan at Council's mortgage rate
Richmond Housing Partnership	-		Yes		
Southwark Councils	-	-	36 months	-	Yes
Tower Hamlets	-	-	12/24 months	-	-
Wandsworth Council	-	Estimate			Yes (and interest only for benefit claimants)