



Haringey Council

Report for:	Cabinet on 12 November 2013	Item number	
Title:	Enhancements to leaseholders' payment options for service charge invoices		
Report authorised by :	Mun Thong Phung, Director of Adult & Housing Services Signed: Date:		
Lead Officer:	Phil Harris, Deputy Director for Community Housing Services Tel: 0208 489 4338 E-mail phil.harris@haringey.gov.uk Astrid Kjellberg-Obst Executive Director of Operations Tel: 0208 489 5912 E-mail Astrid.Kjellberg-Obst@homesforharingey.org		
Ward(s) affected: All	Report for: Key Decision		

1. Describe the issue under consideration

- 1.1. The current Council's policy for providing flexible payment options to leaseholders for their major works invoices was adopted on 15 August 2008 and subsequently enhanced on 23 February 2010. This policy has proved very effective in enabling leaseholders to pay the Decent Homes invoices with the minimum of disputes and complaints.
- 1.2. The final three years of the Decent Homes programme has been determined and it is apparent from the current phase of works (Year 6 of



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the programme) that the scale of investment will result in invoices for a small number of leaseholders in the region of £25,000 to £40,000. These fall outside the scope of the original flexible payments policy with regard to leaseholders living in their own homes, since the maximum invoice envisaged was approximately £25,000.

- 1.3. This report contains proposals for enhancements to the payment options for both major works and the annual service charge and for improved arrangements for the recovery of the costs of collection. The proposals include new charges for the recovery of the administrative costs of arranging loans and monitoring the monthly payments.

2. Cabinet Member Introduction

- 2.1. Our Decent Homes work will bring significant improvements to thousands of properties across the borough. I recognise that meeting their share of the cost of the improvements delivered through the Decent Homes programme can pose a financial challenge to leaseholders, some of whom can be faced with significant bills.
- 2.2. Officers have identified that in the current phase of Decent Homes work, a small number of leaseholders will be faced with larger invoices than has previously been the case, so we have looked again at our payment policy. We are keen to support leaseholders to be able to manage their repayments effectively and reduce the financial impact of making repayments where we can. This report recommends giving leaseholders with larger bills the option to pay over a longer period, interest free, to allow leaseholders to spread the cost of repayments. Haringey already has generous payment options for leaseholders in comparison to other social housing providers. The changes recommended in this report, will further enhance the flexibilities open to leaseholder to spread payments.

3. Recommendations

It is recommended that Cabinet agree:

- 3.1. That the interest free period available to leaseholders living in their leasehold properties (owner-occupiers) and unable to obtain bank loans should be extended by a further 1 year (interest free) for invoices from £20k to less than £30k and by a further 2 years (interest free) for invoices of £30k and above. An additional 2 years will be available with the payment of interest.



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- 3.2. That where leaseholders receive major works bills in successive years they should have the option to add them together and pay the total in monthly installments where they have already entered into such an agreement and have kept their payments up to date.
- 3.3. That administration charges of £25 annually are applied to cover the cost of monitoring monthly loan arrangements and a one-off charge of £100 is applied for setting up secure loan arrangements of £10,000 and above.
- 3.4. That flexible payment arrangements will be made available for the annual actual service charge, with a prompt payment discount of 2½% for bills over £100 where they are paid in full within 14 days from the date of issue.
- 3.5. That for actual bills from £100 - £500 leaseholders should be allowed to pay in monthly instalments over 6 months and for amounts over £500 they should be allowed to pay in monthly instalments over 12 months, in both cases interest free.
- 3.6. That all the proposals contained in this report should be implemented with effect from 1 December 2013.

4. Alternative options considered

Equity release

- 4.1. In addition to the enhanced payment options, the possibility of an equity release scheme has been considered. Local authorities have been empowered to grant leaseholders the option of granting loans on an equity release basis under Sections 308 and 309 of the Housing & Regeneration Act 2008. This would be a form of mortgage.
- 4.2. Guidance was issued in an Explanatory Memorandum which was laid before Parliament in 2009. Paragraph 7.1 of the guidance states that the new regulations give housing authority landlords discretionary powers for the purpose of assisting their leaseholders in the payment of their service charges to:
 - (a) offer them loans on equity share terms, i.e. wholly or partly interest-free loans, in which instead the lender is entitled on repayment of the loan to a percentage of the market value of the flat;
 - (b) purchase an equitable interest in the flat, so that the housing authority will be entitled to a specific share of the value of the flat when it is sold.



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- 4.3. Paragraph 4.22 of the CLG guidance confirms that all the administrative costs must be recharged to the leaseholder in respect of an arrangement of this nature. Paragraph 4.23 states that where an equity release arrangement is entered into, this should be covered either by a new shared ownership lease or an amendment to the existing lease which would incur additional costs for the leaseholder.
- 4.4. The Council used to grant mortgages to some Right to Buy applicants but this policy was discontinued on the grounds of cost and the administration of the remaining loans was outsourced to an external provider
- 4.5. The only local authority which appears to have actively implemented a policy of this kind is Southwark Council, which informs leaseholders of the two options on its website. Although Ealing has included equity release in its payment options policy, it does not promote it since the administrative costs are too great. Hence no leaseholder in Ealing has taken up this option to date.
- 4.6. Given the considerable administrative costs involved, it is very likely that the private sector can offer better value to leaseholders in this area. Specialist departments in banks can set up the necessary procedures for dealing with relatively large volumes of applications which greatly reduces the administrative costs per unit.
- 4.7. The adoption of an equity release scheme is not recommended on the grounds of the considerable administrative costs involved. These would have to be recharged to the leaseholders themselves and would involve the Council in granting loans with no set date of expiry.

5. Background information

- 5.1. Leaseholders are required under the terms of their lease to pay towards the costs of major works to the roof, the exterior, the foundations and the common parts of the building, regardless of the source of funding. They must also pay their proportion of the costs of providing day to day services (in their annual service charges)
- 5.2. The contributions leaseholders pay the Council in respect of major works comprise a significant source of funds which are recycled as part of the capital works programme. The efficient and timely collection of these



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monies is thus an important aspect of the Council's income collection policy.

- 5.3. By pursuing a policy of offering flexible payment options for major works (similar to other local authorities and ALMOs), the Council has minimised disputes and complaints from leaseholders which has greatly assisted in the process of achieving the cost effective recovery of the Council's rechargeable costs.
- 5.4. Within the current and planned Decent Homes programme it has become apparent that a small number of blocks and estates will require rather more work per dwelling than has been the case to date, resulting in charges to leaseholders in the region of £30k - £40k. Charges at this level were not envisaged when the current policy was drawn up. Although the number of such properties will be very low, it is recommended that the payment options should be further enhanced in order to maintain the consistency of the Council's approach on such matters.
- 5.5. In view of the fact that some leaseholders receive large major works bills in successive years, particularly where internal work (such as lift replacement) is carried out separately from external work, it is proposed to roll up leaseholders bills so they can pay the total amount in monthly instalments. This will only be permitted where they are keeping to a payment arrangement they have already made.
- 5.6. A large volume of Decent Homes work is programmed to be carried out in the remaining three years of the programme as follows:

Year	Number of leaseholders to be recharged	Total value of the annual Decent Homes programme
2013/14	201	£15,500,000
2014/15	926	£38,936,766
2015/16	696	£30,197,734
Total	1,823	£84,634,500

This spending will be in addition to the normal annual capital programme. Leaseholders will be liable for a significant proportion of these costs.

- 5.7. Whilst the works will enhance the value of leaseholders' properties, it must be acknowledged that very large bills are likely to represent a financial



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burden for them. It is therefore considered necessary to review the payment options to maintain the Council's objectives (with reference to owner occupiers), underpinning the original flexible payment options policy for leaseholders.

- 5.8. Extending flexibility in respect of the payment of very large bills by leaseholders living in their own homes will assist in promoting the sustainability of home ownership in the borough. Furthermore it will tend to reduce the number of disputes and possible challenges through the Leasehold Valuation Tribunal (First-tier Tribunal – Property Chamber, Residential Property). Such matters incur considerable costs for the Council, most of which are not recoverable.
- 5.9. Generally the advance notice given to leaseholders of the estimated cost of major work for their block is relatively short. This gives leaseholders limited time to plan their budgets. Furthermore the estimated cost notified to the leaseholder is occasionally subject to a considerable increase after the scaffolding has been put in place. This is because a detailed survey of the outside of the building and the roof is often only possible when all the exterior elevations have been scaffolded.
- 5.10. It is not envisaged that the enhanced payment options for major works will apply to many properties in view of the eligibility conditions and the nature of the planned works. At present the proposal for the extension of the payment periods may only apply to one block as equivalent levels of expenditure on other blocks are not currently expected. However further possible cases have been identified, largely confined to conservation areas, but more cases may become apparent given the planned volume of expenditure.

Current payment options

- 5.11. **Owner-occupiers.** Leaseholders who live in their properties currently have the following options in relation to large bills:
 - (a) **Discount of 5% for payment in full.** This meets the requirements of leaseholders who have sufficient savings to pay in full or those who want to take out a bank loan or mortgage since they can offset the discount against the cost of their loan.



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- (b) **Interest-free loan of 72 months (6 years) for invoices over £15,000** (payable in monthly instalment secured on the property – there is a charge of £200 for the legal costs)
 - (c) **Combination loan – interest-free and then with interest.** For invoices over £15,000 the first 72 months (6 years) are interest free, the subsequent 24 months (2 years) are at a rate of interest of 7.5% (secured on the property – there is a charge of £200 for the legal costs). Hence the leaseholder has a total of **8 years** to repay the loan.
 - (d) **Right to a secured loan from the Council (mandatory loan).** Anyone with a lease of less than 10 years has the statutory right to receive a loan of this kind. The maximum amount of the loan is £31,000. Interest is charged at 7.5%. The Council may charge a maximum of £130 in respect of its legal and administrative costs.
 - (e) **Discretionary loan from the Council** (secured on the property; interest of 2% above the Base Rate.) This is only for leaseholders living in their leasehold properties and is means tested. There is a loan repayment period of 10 years for amounts over £5,000. There is an administrative fee of £100. It must be secured on the property for which there is a legal fee of £200.
 - (f) **Help from the Department for Work & Pensions (DWP) for leaseholders on benefits.** Generally the DWP will provide assistance to owner occupier leaseholders in receipt of benefits who receive an invoice for Decent Homes works. The Home Ownership Team will refer anyone with payment problems to the Citizens Advice Bureau for help with making a claim to the DWP. An option for leaseholders working is an interest only loan, since the DWP can pay the interest in cases which meet the necessary criteria.
- 5.12. **Subletting.** Leaseholders who sublet their properties can have 36 months (3 years) to pay their major works invoice or they can opt for a discount of 5% for payment in full within 6 weeks of receiving the invoice.
- 5.13. The current payment options already agreed by Cabinet are already the most generous terms for payment of all social housing providers for leaseholders who own their homes and also for leaseholders subletting. Thus at present a leaseholder living in their leasehold property can have up to 8 years (including two years with interest) to repay a major works bill of £15,000 and above. A summary of the current options and proposed enhancements is provided in Appendix A.



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Proposed enhanced payment options

5.14. In order to qualify for an extended loan period the leaseholder will have to demonstrate that their application for mortgage loans has been turned down by two high street lenders. Loans from the Council will also be subject to the conditions referred to in paragraph 5.11 above.

- (a) **Extension of the interest free loan period for bills of £20,000 to £29,999 from 6 years to 7 years** (with another optional 2 years with interest).
- (b) **Extension of the interest free loan period for bills of £30,000 and above from 6 years to 8 years** (with another optional 2 years with interest).

5.15. **Existing 'debt' for major works.** It is proposed that the policy should take account of a leaseholder's outstanding payments in relation to a previous major works invoice where they are subject to any additional recharges for major works. In these cases the Council will offer an extended payment period by rolling up the amount outstanding with the new invoice, providing that the monthly repayments have been kept up to date.

Additional proposals for extending flexibility

5.16. The issue of the final accounts each year often results in supplementary invoices ('actuals'). These are issued in August or September in respect of the previous annual estimated service charge. The invoices can sometimes be quite large. The usual reason for this is that significant amounts of work are carried out on a responsive, day to day basis by Haringey Repairs Service. It is therefore proposed to introduce flexible payment options for the actual invoices as well.

5.17. Further flexibility can be made available to leaseholders in relation to annual charges and prompt payment as follows:

- (i) **Annual actual service charge** – In some cases leaseholders are faced with significant additional bills. These are often on account of day to day, responsive repairs undertaken in their block. It is proposed that:



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- (a) If the additional recharge is from £100 to £500, leaseholders should be allowed to pay in monthly instalments over 6 months interest free.
 - (b) If the bill is more than £500, they should have 12 months to pay in monthly instalments, interest free.
- (ii) **Prompt payment discount** – a discount of 2.5% is proposed if a supplementary invoice for the annual actual account is more than £100 and is paid in full within 14 days from the date of issue. This will enable savings to be made on transaction costs and on the time spent in monitoring monthly repayments. It will also assist in maximising the Council's cash flow.

5.18. Proposals for additional charges and conditions

Alongside the enhanced payment options and additional flexibility, it is proposed that certain charges will apply in future to all loans for major works granted by the Council. These will enable a recovery of all the administrative costs from the recipients of the loans. These are as follows:

- (a) **Annual administration fee of £25.** This will be for the monitoring of the repayment of the loan, provision of statements and dealing with any queries.
- (b) **Set up charge of £100.** This will be for all loans of £10,000 and above and it will be in addition to the standard legal fee of £200 for putting a charge on the property.

Advantages of the proposals

5.19. It is not anticipated that there will be many instances of bills of more than £30k - £40k since the level of expenditure resulting in such bills is only likely to occur in the case of a relatively small number of properties. It is not anticipated that there will be in excess of 100 invoices above this level based on current knowledge.

5.20. Bills in the region of £30k - £40k are more likely to result in challenges at the Leasehold Valuation Tribunal. Any cases taken to the Tribunal incur costs which the Council will not be able to recover. The costs in such cases



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are generally substantial requiring a great deal of case preparation, expert witnesses and sometimes leading counsel. The offer of a longer period to pay will reduce the possibility of leaseholders commencing a challenge.

- 5.21. Where the Council has to undertake recovery action through the courts, past precedents indicate that judges often give defendants quite long periods to pay for large invoices especially where they are at possible risk of becoming homeless. The courts are also very mindful of the fact that leaseholders only receive quite short notice in advance of receiving the large invoices for major works whereas freehold homeowners can plan their maintenance expenditures and budget accordingly.
- 5.22. In a small number of cases there may not be sufficient equity in the leasehold properties which will make it impossible for the Council to obtain the amounts due through court action.
- 5.23. With regard to the enhanced payment options for the actual accounts, the extended instalment periods will not result in much additional income being collected after the end of the financial year. Furthermore, improved options will reduce complaints and queries and reduce the costs of administration.

Consultation

- 5.24. A briefing containing the full details of the enhanced payment options and the additional charges was circulated to all leaseholders on the email circulation list (about 1800) thus reaching over 40% of leaseholders. No comments were received in reply to this email.

The briefing was then presented to a meeting of the Leasehold Panel on Monday the 8 October. At this meeting, some argued strongly that all leaseholders who sublet their properties should not be subject to the limitation of only having 36 months to pay their major works invoices regardless of the size of invoice. They identified the following three main groups of leaseholders who sublet their properties:

- Accidental landlords who have had to move for personal reasons, such as short to medium term contracts abroad.
- Leaseholders who have bought a property as a small private investor.
- Corporate landlords such as housing associations and large private landlords with large property portfolios.



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They took the view that the leaseholders in the first two groups above were quite similar to those who were owner occupiers and should therefore have the same or similar payment options.

With regard to the proposals for the annual actual invoices some leaseholders felt that the option to receive a discount for payment in full of this invoice should be within 21 days (as for major works) rather than the proposed 14 day period. There were no other observations made in relation to the proposals contained in the briefing by those attending the meeting and none were submitted in writing.

Capping of charges

- 5.25. The government's capping proposals do not affect the Council's options with regard to this matter for the reasons given below.
- 5.26. On the 7 October 2013 the government issued a consultation paper on their proposals to update the Mandatory Directions to councils to include in the programmes described in the 1997 Directions all central government funding for repair, maintenance or improvement, including Decent Homes Grant from the 2013 Spending Review. The proposals are to have a £10,000 cap on leaseholder works on homes outside London, and £15,000 on homes within London.
- 5.27. The paper explained that the proposals would cover any central government funding for works of repair, maintenance or improvement, provided by the Secretary of State or the Homes and Communities Agency. The proposals therefore include those councils eligible for the 2015/16 Decent Homes funding announced as part of the Spending Round 2013. The paper confirms this (page 9) as follows: *"these caps are not intended to affect any funding already confirmed, but would affect any allocations made from the 2013 Spending Round Decent Homes funding"*
- 5.28. Hence the cap proposal will not affect the current programme of work planned by Haringey Council. This is because no external funding has been included for the year 2015/16 - it will all be internal to the Council. (*Report for Leader: Housing Capital and Decent Homes Programme 2014-16, paragraph 6.1*)

6 Comments of the Chief Financial Officer and Financial Implications



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- 6.1 The report states that, based on the Decent Homes Programme from 2013/14 to 2015/16, the number of leaseholders likely to be invoiced for capital works is likely to be 1,823. It should be noted that this figure will increase as applications for Right to Buys are processed each year. It is not therefore possible to state with accuracy how many leaseholders will be facing invoices in excess of £20,000. It is also not possible to say whether all leaseholders offered these enhanced terms will take them up. These financial implications are based on the assumption that 60 leaseholders are offered these enhanced terms, 30 of them with bills for £25,000 each and 30 of them with bills for £35,000 each.
- 6.2 The proposed scheme offers an additional interest free year to leaseholders with bills in excess of £25,000 and two additional interest free years for leaseholders with bills in excess of £30,000. The impact of this for the council will be the cost of foregone interest charges in the sum of £62,875.
- 6.3. The introduction of these enhanced payment terms will assist leaseholders in the management of their debt and their ability to hold onto their homes. It will also increase the debt recovery levels for the Council without resorting to legal action.
- 6.4. The enhanced scheme does however propose an additional legal charge of £100 per leaseholder who takes up the scheme. The total generated for the 60 leaseholders would amount to £6,000.
- 6.5. The introduction of a £25 per annum administration fee for these leaseholders would generate a £14,250 contribution towards the running costs of the Home Ownership Team.

7 Head of Legal Services and Legal Implications

- 7.1 The Head of Legal Services confirms there are no legal reasons preventing the Council from providing the enhanced payment options described in the report.

8 Equalities and Community Cohesion Comments

- 8.1 The enhanced flexible payment options will help to advance equality of opportunity between different groups, in particular financially less well off, owner occupiers. The interest free instalment scheme will meet the requirements of people with diverse cultural beliefs as well as the less well



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off. The offer of translations into different languages will ensure that the proposals are accessible to all in line with the Council's policy.

9 Head of Procurement Comments

Not Applicable

10 Policy Implications

The proposed enhancements will enable the Council to better ensure that leaseholders do not suffer financial hardship (which could put their homes at risk) as a result of the high costs of elements of the decent homes programme. This will be in line with the Council's key priorities for ensuring that residents have a decent place to live.

11. Reasons for Decision

A decision is required in order that revised payment options and charges can be introduced to assist leaseholders facing larger than usual bills for works to their homes.

12. Use of Appendices

Appendix A – Current and proposed enhanced payment options for leaseholders - owner-occupiers

13. Local Government (Access to Information) Act 1985

Not applicable



Appendix A

Current and proposed enhanced major works payment options for leaseholders - owner-occupiers (proposed changes shaded)							
	Invoice amount	Interest free period – monthly instalments	Additional period with interest at Council's borrowing rate 7½%	Total period of loan	Legal fee of £200	Set up charge of £100	Annual admin fee
	£						
	0 - 999	12 (1 yr)	-	12 (1 yr)			£25
	1,000 - 2,999	24 (2yrs)	-	24 (2 yrs)			£25
	3,000 - 4,999	36 (3 yrs)	-	36 (3 yrs)			£25
	5,000 - 9,999	48 (4 yrs)	12	60 (5 yrs)			£25
	10,000 - 14,999	60 (5 yrs)	24	84 (7 yrs)	£200	£100	£25
	15,000 - 19,999 (and above)	72 (6 yrs)	24	96 (8 yrs)	£200	£100	£25
Enhancement	20,000 - 29,999*	84 (7 yrs)	24	108 (9 yrs)	£200	£100	£25
	30,000 and above*	96 (8 yrs)	24	120(10 yrs)	£200	£100	£25

* In order to qualify for the extended loan period the leaseholder will have to demonstrate that their applications for mortgage loans has been turned down by two high street lenders.