

# HOUSING CABINET MEMBER MEETING

**Agenda Item 99**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Extending Payment Options for Council Leaseholders</b>		
<b>Date of Meeting:</b>	<b>18 April 2012</b>		
<b>Report of:</b>	<b>Head of Housing &amp; Social Inclusion</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Dave Arthur</b>	<b>Tel:</b> 293072
	<b>Email:</b>	<b>dave.arthur@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

1.1 Brighton & Hove City Council is responsible for keeping our residential blocks of flats in repair including, where necessary, carrying out high cost major works. The leasehold owners are responsible for meeting the costs of works so long as:

- The costs are reasonably incurred
- The works are carried out to a reasonable standard
- The consultation requirements have been complied with

1.2 Significant works of repair and improvement are currently planned for a number of blocks of flats and the potential charges for leaseholders are considerable.

1.3 This report sets out the financial assistance that is currently available to leaseholders and recommends that the council extends the payment options available for leaseholders in residence, for high cost works where there are payment difficulties, to include:

- Equity loans
- Maturity loans
- Long-term interest bearing loans up to 25 years
- Extending the interest-free repayment option from 12 months to a sliding scale with a maximum of 5 years (see 3.14)

1.4 This will increase the options available to the council to help leaseholders who are in residence throughout the term of the loan or arrangement, and where there is financial difficulty or vulnerability when faced with high major works bills. These options will not be available for leaseholders who sub-let their properties. They will be of particular benefit where there is sufficient equity in the home but low or fixed incomes.

### 2. RECOMMENDATIONS:

2.1 That the Cabinet Member for Housing agrees the following proposals for leaseholders in residence throughout the term of the loan or arrangement only:

- (1) Brighton & Hove City Council offers additional payment options in the form of equity loans, maturity loans and monthly repayment loans over 25 years to leaseholders who are in financial difficulty and struggling to pay high major works bills as outlined in this report.
- (2) The council increases the interest-free repayment limit from 12 months to a sliding scale depending on the amount with a maximum of 5 years. (See table at 3.14).
- (3) The specific criteria to be met when offering these additional loans will be agreed by the Head of Housing & Social Inclusion and the Chief Finance Officer in consultation with the Cabinet Member.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Brighton & Hove City Council manages around 2,250 leasehold flats across the city. Under the terms of their leases, leaseholders are responsible for paying the service charge which is a proportion of the costs incurred by the council for the works and services at their building. This includes but is not limited to:
  - Repairs to the exterior, structure or common parts
  - Major works and improvements, e.g. lift replacement, window replacement, refurbishment or over-cladding
  - Services to their building such as cleaning or grounds maintenance
  - Management
- 3.2 The term 'major works' normally refers to works that cost individual leaseholders more than £250. Where this applies the council is legally required to undertake a formal consultation process.
- 3.3 It is recognised that many leaseholders struggle to pay their contribution for large major works projects. In response to this the council adopted a Service Charge Collection Strategy in June 2010 which provides procedures that seek to identify leaseholders who are vulnerable or have payment or financial difficulties.
- 3.4 The options currently available to leaseholders in financial difficulty are:

From bodies external to the council:

- A mortgage lender (if any) may add the amount to an existing mortgage
- A loan from a private lending institution such as a bank or building society
- Leaseholders over 60 may be entitled to help from the Pension Centre
- Leaseholders of working age may be entitled to help from Income Support

From the council:

- An interest-bearing council loan to spread the cost for up to ten years for any major works bill over £1,000 or five years for over £500
- An interest-only loan from the council for those of pension age

- A formal agreement can be made to spread the payment over a maximum of 12 months
- 3.5 In cases of extreme hardship and where none of the above options can help, a financial assessment can be undertaken with a resident leaseholder, and a voluntary legal charge considered. Once secured, this would offset payment (and interest) until the property is sold or assigned. There must be sufficient equity in the property and any mortgagee must consent.
- 3.6 The Social Landlords Discretionary Reduction of Service Charges (England) Directions 1997 gives the council the discretion to reduce major works charges costing more than £10,000 in any five year period. This is again for cases of extreme hardship. The government has issued guidance on how to comply with these directions.
- 3.7 If a leaseholder makes an application under this discretion, the case needs to be considered on its merits, taking into account whether the dwelling is the leaseholder's only home, their financial resources, their ability to pay over a longer period of time, the impact on the value of their home and other matters.
- 3.8 A formal report in each case with supporting documentation goes to the Head of Service for a decision in consultation with the Cabinet Member for Housing.

### **The Impact of the Decent Homes Programme on Major Works Charges**

- 3.9 Because structural repair issues are being addressed at the same time as seeking to achieve the Brighton & Hove Decent Homes Standard by 2013, some blocks will be subject to a number of large scale works occurring either at the same time or in quick succession. For example, works may include lift replacement, over-cladding and common way re-wiring. In some cases charges in excess of £20,000 are liable to be incurred.
- 480 leaseholders in high rises have been consulted on contributions of between £3,000-£10,000 each for proposed lift replacements over the next decade
  - 20 leaseholders have been notified they are facing bills of between £23,000-£30,000 each for over-cladding, windows and roof renewal
  - 120 leaseholders are to contribute costs ranging from £2,000-£5,000 for external refurbishment
- 3.10 In the circumstances of high charges the existing financial assistance to a leaseholder may not always be helpful. This is emphatically the case when dealing with charges of more than £10,000 and potentially three or four times that figure. The table below shows the monthly repayments on a 10-year council loan at the current rate of interest. The rate for the 6 months from 1 April 2012 is 5.07%.

<b>Amount</b>	<b>Monthly repayments: 10 years</b>	<b>Monthly repayments: 10 years (interest only)</b>
£2,500	£27	£11
£5,000	£54	£21
£10,000	£108	£42
£20,000	£216	£84
£30,000	£324	£126

3.11 Even the interest-only option (for those of pensionable age) may be impossible for some leaseholders on a low fixed income.

### **Extending the Payment Options**

3.12 In recent years the government has introduced new powers to local authorities to add to the ways in which they could assist leaseholders in financial difficulties. The use of these powers is wholly at the discretion of the authority and also entirely at the discretion of the leaseholder whether to enter into any such agreement.

3.13 This report proposes that Brighton & Hove extends its range of payment options as a last resort for those leaseholders faced with large major works bills of £5,000 or more, by offering equity loans, maturity loans and 25-year interest-bearing loans to households meeting the following criteria:

- Where the leaseholder is resident in the property throughout the term of the loan or arrangement
- There is sufficient equity in the property (if applicable)
- Where all other options to meet the cost of the works have failed, with evidence provided of refusal of a loan from at least two specialist mortgage lenders

Each case will be subject to an individual financial assessment at the time an application to make such an arrangement is received.

3.14 It is also proposed that Brighton & Hove extends the interest-free repayment period, for leaseholders in residence throughout the term of the arrangement only, from 12 months to the periods set out in the table below.

<b>Amount</b>	<b>Interest-free repayment period</b>
Up to £2,000	12 months
£2,000 - £5,000	24 months
£5000 - £10,000	36 months
£10,000 - £15,000	48 months
£15,000 +	60 months

3.15 The council will determine with the leaseholder the most appropriate type of loan or payment arrangement to offer. A risk appraisal of the four options is included at Appendix 1.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 A presentation and discussion on equity loans was well received by Housing Management Consultative Committee on 7 March 2011.
- 4.2 A report on these proposals was discussed at HMCC on 19 March 2012 at which the Cabinet Member for Housing or the relevant committee was recommended to agree the proposals after they have been considered by the Leaseholders Action Group.
- 4.3 The proposals have been discussed and welcomed by the Leaseholders Action Group committee in the drafting of the proposals. A committee meeting has been called for 16 April 2012 specifically to discuss and consider the final proposals.
- 4.4 Workshops undertaken at the Annual General Meeting of the Leaseholders Action Group on 26 November 2011 on payment options have fed into the proposals set out in this report.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The Housing Revenue Account funds the Housing capital programme and an assumption is made that a share of these costs will be recouped from leaseholders as they have to pay for their share of capital works. In normal circumstances, the bills are paid within months of the demands being made. However, it is recognised that some leaseholders will have difficulty paying their share of these costs, given that some costs will be very high as investment increases to meet the Decent Homes standard. Therefore, there is a need to offer more innovative types of loans to ensure that the HRA maximises its recovery of costs. Without these measures there is a risk that large amounts will remain unpaid, leading to the costs being met from the HRA.

The financial implications associated with each loan type are set out in Appendix 1.

*Finance Officer Consulted:* Monica Brooks, Principal Accountant

*Date:* 19 December 2011

##### Legal Implications:

- 5.2 Local Housing Authorities have long been required to provide mandatory loans on terms which required them to charge interest. They also had powers to give discretionary loans – but it was unclear whether they had the flexibility to offer a discretionary loan on terms other than those requiring interest to be charged.

By virtue of section 308 of Housing and Regeneration Act 2008, and the Housing (Service Charge Loans) (Amendment) (England) Regulations 2009 local housing authorities were given express powers to make loans that do not require the payment of interest or that require the payment of interest on only part of the

loan. The proposal to offer equity loans is therefore clearly within the council's powers. Under the 2009 Regulations, loans may be on such terms as the lender may determine. There is therefore no legal limit as to the period of any loan.

*Lawyer Consulted:* Liz Woodley

*Date:* 24 January 2012

Equalities Implications:

- 5.3 An Equalities Impact Assessment has been carried out on introducing these options. The additional options will enable some leaseholders on low or fixed incomes the chance to agree a payment option that will allow them to remain in their home should they wish to do so rather than selling on or facing problems in a market or location where selling may be extremely difficult. This is likely to benefit those on low incomes, for example older people on fixed pensions or those in receipt of state benefits.

The options are intended to secure some debts where the council would otherwise be in the position of issuing court proceedings for a money judgement and enforcement action in cases of resident lessees who are not well off, are disadvantaged or vulnerable.

Sustainability Implications:

- 5.4 Enabling people to remain in their homes prevents the possibility of homelessness arising and potential statutory duties to re-house.

Crime & Disorder Implications:

- 5.5 There are none.

Risk and Opportunity Management Implications:

- 5.6 There are competing risks. There is a need to balance the risk to the council of not securing the money it is owed and the danger of default with the more controlled risk of ensuring there are enough options to secure these debts with payment along with maximising any interest due in the longer term. The risks associated with each option are set out at Appendix 1.

Public Health Implications:

- 5.7 There are none.

Corporate / Citywide Implications:

- 5.8 The proposal aims to help those lessees on low incomes to remain in their homes and thus prevent the possibility of homelessness arising, along with giving the council enough options to resolve these high debt cases with the minimum recourse to unnecessary and distressing court actions.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The alternative is to leave the payment options for leaseholders as they are. The council would be unable in some cases to secure a debt with consequent risk of

default. Some leaseholders on fixed or low income who otherwise might be helped will face the prospect of court, money judgements and potential loss of their home.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To give the council more options to work with leaseholders to secure and collect debt which would otherwise be at risk of default. To give council leaseholders who reside in their own properties as many options as possible to meet high major works costs without having to sell their home or face legal proceedings instigated by the council for debt.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Appendix 1 – Financial risk assessment of the four options

### **Documents in Members' Rooms**

None

### **Background Documents**

None