

## READING BOROUGH COUNCIL

### REPORT BY DIRECTOR OF ENVIRONMENT & NEIGHBOURHOOD SERVICES

<b>TO:</b>	POLICY COMMITTEE		
<b>DATE:</b>	8 APRIL 2019		
<b>TITLE:</b>	FINANCIAL ASSISTANCE FOR RESIDENTIAL LEASEHOLDERS		
<b>LEAD COUNCILLOR:</b>	JOHN ENNIS	<b>PORTFOLIO:</b>	HOUSING
<b>SERVICE:</b>	HOUSING	<b>WARDS:</b>	BOROUGHWIDE
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#### 1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval to establish a framework for the financial assistance options to be offered to Council residential leaseholders with regards to rechargeable major works undertaken by the Council in relation to fire safety.

#### 2. RECOMMENDED ACTIONS

##### 2.1 That Policy Committee approve the following:

- a) The Financial Assistance Guidelines outlined within paragraph 4.2 which sets out the repayment options which may be offered to leaseholders being charged for major works undertaken by the Council on residential blocks of flats in relation to its fire safety and replacement cladding programme.
- b) Where leaseholders are unable to pay a major works invoice for works relating to the fire safety and cladding programme in full within 28 days of receipt, they are entitled to apply for assistance under the Financial Assistance Guidelines. Applications will be assessed based on the qualifying eligibility criteria as set out in this report.
- c) Delegated authority is given to the Head of Finance and the Head of Housing and Neighbourhood Services to operate the Financial Assistance Guidelines and the assessment process.
- d) The Council adopt the process for dealing with exceptional hardship as set out in The Social Landlord's Discretionary Reduction of Service Charges (England) Directions 2014 outlined within paragraph 4.2.1.

#### 3. POLICY CONTEXT

- 3.1 In November 2017, HNL Committee received a report which set out the Council's response following the Grenfell Tower fire in Kensington on 14th June. This included action taken in relation to the Authority's own housing stock, other corporate buildings and schools, as well as wider work in partnership with the Royal Berkshire

Fire and Rescue Service in respect of privately owned high rise residential blocks within the Borough boundaries.

- 3.2 The November report advised that the Housing Service had appointed an external, qualified Fire Engineer (FireSkills) to carry out a review of fire safety practices in respect of the management and maintenance of Council housing stock. FireSkills were also asked for a professional view on whether additional fire precautions were advised in any of the building types surveyed, to improve the fire safety standard in the context of recent incidents nationally and the learning from those.
- 3.3 Overall FireSkills noted that the Council's Housing Service has a 'forward facing and proactive fire safety strategy' and whilst the Council is fully compliant with current legislation, FireSkills have recommended that the Council consider implementing a number of additional measures. These include a range of measures but principally:
  - a. The installation of a new fire suppression sprinkler system to the 15 storey blocks in Coley. This will be procured imminently as part of the project to replace the existing water storage facility, water supply mains and distribution pipework at the Coley High Rise Flats.
  - b. Additional smoke and/or heat detectors for some block types, for example where access/exit is via a lounge and in properties with 'stacked windows'.
  - c. In blocks where the flat front doors open directly onto the enclosed escape staircase, installation of communal smoke detector systems at each landing level.
  - d. Further to work already underway for Coley high rise blocks, the inspection of flat front doors to check smoke seals and fire resistance is advised for some blocks.
  - e. In terms of the Council's sheltered accommodation, whilst outside of scope and not inspected, FireSkills recommended ensuring that a smoke detector or heat detector is allowed in all habitable rooms as well as the main exit corridor of the flat. In addition where residents are immobile and unable to self-evacuate, consideration should be given to installing a single unit misting system.
- 3.4 The Council will need to monitor and take on board any future Government recommendations regarding external cladding. However, the cladding to the 15 storey Coley blocks is already reaching the end of its design life. There is no current requirement to remove such cladding retrospectively, although the regulatory framework is under review. However, in terms of proactively maintaining stock, minimising future repair liabilities and optimising safety, it would be beneficial if over the next few years this could be stripped and replaced with an alternative cladding system that does not utilise a polystyrene based insulation board as this is classed as 'fire retardant' rather than 'fire resistant'.
- 3.5 The cost of the installation of sprinklers and replacement of the cladding for Coley High Rise blocks will be substantial and as such will have a significant impact on some leaseholders in terms of the level of contribution they will be expected to pay in line with the terms of their lease.
- 3.6 This report sets out the current position in respect of leaseholders' responsibilities for service charges and proposes that in respect of major works relating to the fire safety programme the Council provide financial assistance where it is deemed

necessary. Currently this relates to Coley but proposals will cover future major works which might be required in support of fire safety.

## **4. OPTIONS**

### **4.1 Current Position:**

- 4.1.1 The Council still retains legal ownership of a large number of leasehold dwellings previously sold under the Right to Buy scheme (RTB) and consequently still retains obligations to provide, maintain, refurbish and improve shared communal services and facilities and the structure and exterior of blocks of leasehold flats. Leaseholders have a responsibility under the terms of their leases to pay a proportion of those costs via annual service charges. The charge is based on the number of flats in the block and in cases of major works such as replacement windows, the charge may be considerable. Statutory consultation with leaseholders and other residents is undertaken before the commencement of any major works to a building.
- 4.1.2 Leaseholders may be resident or non-resident. Non-resident leaseholders may be an individual who rents the property out on the private rental market. In each case the provisions of the lease together with the rights and obligations contained within would apply regardless. The number of leaseholders will continue to increase as properties are sold under the Right to Buy. Currently there are 215 leaseholders in Council flatted blocks in total and 8 in the Coley High Rise blocks.
- 4.1.3 The Housing Revenue Account (HRA) capital programme includes provision for refurbishment and other major works on residential flat blocks throughout Reading. Major works can also arise outside of the capital programme for instance where an unexpected major improvement is needed to a block of flats, for example the installation of sprinklers.
- 4.1.4 The general provisions for the recovery of service charges and major works liabilities are set out in the respective leases of individual leaseholders and the Council can, under the terms of most of its leases, also collect an annual payment towards a sinking fund, so that in cases of major works where the charges may be considerable, a sum has already been set aside to minimise the cost to the leaseholders.
- 4.1.5 Leaseholders are required to settle their major works bills within 28 days of invoice and failure to comply or otherwise make an arrangement with the Council, would leave them liable for forfeiture proceedings so that the outstanding debt can be settled on the re-sale of the property.
- 4.1.6 The current Home Ownership Management Policy sets out how the Council can assist leaseholders to meet their repayment obligations in addition to the Housing (Service Charge Loans) Regulations 1992, as amended by the Housing (Service Charge Loans) (Amendment) (England) Regulations 2009, which sets out the statutory right to a loan for leaseholders (Statutory Scheme).
- 4.1.7 Under the Statutory Scheme the right to a loan is only applicable to leaseholders where the property was purchased under RTB within 10 years prior to the major works service charge liability arising and the statutory right to a loan may still provide an unaffordable solution for leaseholders with an invoice for these types of major works. The Council's proposed financial assistance option outlined in paragraph 4.2.2 below may be more suitable.

### **4.2 Options Proposed**

4.2.1 As well as the statutory obligations referred to in paragraph 4.1.6 the Council has additional powers available under the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 (Directions) which gives the Council discretionary powers which it can exercise to assist leaseholders facing large bills. These discretionary powers include:

- providing a range of repayment and loan options to leaseholders;
- the ability to purchase equity shares and offer equity loans;
- on application and in exceptional circumstances, to waive or reduce the service charge for repair, maintenance or improvement by an amount the Council considers to be reasonable.

4.2.2 The Directions also set out criteria which should be considered by the Council and factors to consider relating to exceptional hardship.

4.2.3 The option proposed is that the Council adopt the Directions to provide financial assistance (Financial Assistance Guidelines) to leaseholders facing large bills for major works in relation to the fire safety programme and replacement cladding, in addition to the statutory provisions available.

4.2.4 To qualify for assistance leaseholders would be required to:

- a) Make an application to the Council, setting out their current financial circumstances, including details of income, savings and assets such as other properties they may also own.
- b) If they qualify for assistance, leaseholders would be expected to use a reasonable proportion of their available cash (savings) or realisable assets to reduce their liability as part of the loan agreement.
- c) How much a leaseholder will be expected to pay towards a loan each month will be based on their applicable disposable income, so that a leaseholder can retain some disposable income while making affordable loan repayments.
- d) Where a leaseholder has insufficient funds or realisable assets to settle the invoice but has equity in property or properties (excluding the property leased), the leaseholder would be expected to make arrangements to release the equity and reduce the outstanding invoice amount.
- e) Each case will be considered on its own merits based on the assessment. Qualification for loan options will depend on affordability across the period of the loan. Loans will be available on the basis of the shortest repayment time possible.

#### **4.2.5 Repayment options**

- a) Loan with a variable interest rate as set under the statutory scheme;
- b) Interest free loan over 36 months provided payments are made by direct debit;
- c) 5 year payment plan 36 months interest free and with 24 months at interest as set under the statutory scheme provided payments are made by direct debit;
- d) Legal Charge entered into by the leaseholder and registered against the title of the property and the Council's outstanding sum is recovered when the property is

subsequently sold. The charge would be based on an 'equity share' represented by the percentage of the value of the property that the financial assistance required relates to from the date on the demand (example value of flat £200,000, outstanding service charge £40,000. Council's equity share 20%).

#### **4.3 Other Options Considered**

- 4.3.1 That the Council does not adopt the Directions and continues to apply only the Statutory Scheme;
- 4.3.2 A leaseholder not protected by the Statutory Scheme and unable to fund the payment either from savings or by obtaining a personal loan or re-mortgage would be required to sell their property or the Council would have to consider taking forfeiture proceedings.

#### **5. CONTRIBUTION TO STRATEGIC AIMS**

- 5.1 The proposal supports the following priorities of the Council's Corporate Plan 2016-2019 Building a Better Reading:
  - 1. Safeguarding and protecting those that are most vulnerable;
  - 2. Providing homes for those in most need;
  - 3. Remaining financially sustainable to deliver these service priorities.

- 5.2 The fire safety and replacement cladding programme ensures that the Council is providing a safe and healthy environment for all. Providing financial assistance for leaseholders who require it promotes equality and social inclusion.

#### **6. COMMUNITY ENGAGEMENT AND INFORMATION**

- 6.1 Tenant involvement is a priority for the service. Tenants and leaseholders will be consulted and advised of works planned as required at a local block level.

#### **7. EQUALITY IMPACT ASSESSMENT**

- 7.1 An Equalities Impact Assessment is not applicable

#### **8. LEGAL IMPLICATIONS**

- 8.1 The Directions give the Council the power to provide financial assistance to leaseholders and to waive or reduce a service charge for repair, maintenance or improvement by an amount the Council considers to be reasonable which it can exercise to assist leaseholders facing large bills.
- 8.2 It is proposed that the Head of Finance and the Head of Housing and Neighbourhood Services be delegated to operate the Financial Assistance Guidelines and the assessment process referred to above.

#### **9. FINANCIAL IMPLICATIONS**

- 9.1 There are a number of potential financial liabilities arising in respect of necessary fire safety assessments following the Grenfell Tower fire and provision for these is reflected in the current capital programme and within the HRA Business Plan.
- 9.2 The impact of this proposal on the HRA Business Plan is likely to be limited as there are few leaseholders in high rise blocks and several have adequate provision within

sinking funds to cover costs or their liability is otherwise covered. In the context of a circa annual budget of £43m and a 30 year business plan the impact will not be material.

## **10. BACKGROUND PAPERS**

- 10.1 November 2017 HNL Committee Report - Update on Fire safety Considerations Post Grenfell Tower.