

Leaseholder Income Management Policy Changes



To:

Cllr Bird, Executive Councillor for Housing and Homelessness
Housing Scrutiny Committee, 20th June 2023

Report by:

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Wards affected:

All Wards

Key Decision

1. Executive Summary

- 1.1 This report provides background information about how service charges are levied against the Council's Leaseholders and details the Council's statutory obligation to provide interest-bearing loans to Leaseholders.
- 1.2 The Leaseholder Income Management Policy has been updated to reflect the statutory rights Leaseholders have under legislation if they meet the criteria.

2. Recommendations

The Executive Councillor is recommended to:

- 2.1 Note the Council's statutory obligation to provide Service Charge Loans to Leaseholders as detailed in the report.

- 2.2 Approve the offer of retrospective loans to be offered to a limited number of Leaseholders who would have been entitled to a loan in previous years.
- 2.3 Approve the proposed amendments to the Leaseholder Income Management Policy.

3. Background

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- 3.1 Cambridge City Council is committed to undertaking necessary repairs and maintenance of its housing stock. Fulfilling this commitment means that where tenants become leaseholders, having purchased their Council property under the terms of the right to buy arrangements, they are required to pay their share of repairs and major works assessed as being necessary.
- 3.2 Under Section 20 of the Landlord and Tenant Act 1985 (as amended), the Council is obliged to notify leaseholders of the contribution they are required to make towards the cost of necessary works and repairs where these costs are expected to exceed £250 for any individual leaseholder. A consultation process is completed before the Council appoints a contractor and estimates the cost of the work. Once the cost of required works is assessed, the total amount due from each leaseholder is specified on the annual service charge demand notice. Any charges due in respect of Section 20 works are identified separately from management and maintenance costs as part of the annual actuals exercise.
- 3.3 The Council currently has approximately 1,100 leaseholders. Service charge demands are sent out in February each year after the Housing Revenue Account budget has been approved.
- 3.4 Major works to blocks of flats can be particularly expensive even when that cost is apportioned across all the flats within the block. When expensive works need to be undertaken this increases the service charge payable by leaseholders.
- 3.5 Some leaseholders may struggle to budget for these additional costs when set alongside their other day-to-day expenses, particularly given significant increases in the cost-of-living at the present time. The offer of a formal loan to eligible leaseholders in

order for them to repay their service charges over a period of years (up to 10 years), should allow them to budget for the expense more effectively.

Statutory Arrangements

- 3.6 The statutory requirement to provide a loan to eligible leaseholders is set out in The Housing (Service Charge Loans) Regulations 1992 ('the Regulations'). These regulations were re-issued last year, prompting authorities to review their existing policies.
- 3.7 Whilst leaseholders have had the statutory right to obtain a loan for many years, there are no loans currently outstanding. The Council's financial records indicate that no loans have been requested or provided previously. This means that leaseholders who have an outstanding balance have effectively been granted an interest free loan to date. Our current policy allows them to spread the cost interest free, with periods of up to 18 months routinely offered for payment. These short term arrangements will continue as part of this policy update.

Financial Thresholds

- 3.8 The Regulations establish that loans are available within specified parameters to any leaseholder who acquired their property directly from the Council in the 10 years prior to receipt of the service charge demand notice.
- 3.9 The Regulations state that the parameters are subject to adjustment based on the Retail Price Index in January of each year. The parameters, as set out in the Regulations, and the current parameter uplifted to reflect subsequent inflationary increases are set out in the table below:

| Parameter | 1992 Amount (Original Regulations) | Amount as at January 2023 |
|---------------------|---|--------------------------------------|
| Minimum Loan Amount | £500 | £1,330 |
| Maximum Loan Amount | £20,000 | £53,150 |

| | | |
|---|--------|--------|
| Contribution to Service Charges required from Leaseholder before loan available | £1,500 | £3,990 |
|---|--------|--------|

- 3.10 Having analysed service charges notices issued in the previous three financial years, 2020/21 to 2022/23, officers have determined that there were only 10 instances where service charges exceeded £3,990, with 5 of these leaseholders still having balances outstanding. Whilst there are some major upcoming works in the current capital programme, it is not anticipated that the threshold giving rise to the possibility of a loan will be exceeded any more frequently than has been the case in recent years.

Terms of Loans Available

- 3.11 The Regulations specify that loans above £5,000 shall be for a term of no more than 10 years. Leaseholders have the flexibility to repay early without penalty if they wish to do so. Loans between £1,330 (the current minimum amount) and £1,500 are for a period of three years and loans above £1,500 but less than £5,000 have a term of five years. All loans attract an administration charge of £100.
- 3.12 Loans are interest-bearing with equal monthly repayments due comprising principal and interest. The interest rate is updated annually and in the regulations is the higher of the local authority's cost of finance plus 0.25% and the standard national rate, as published by government. In the absence of the government continuing to publish the standard rate, the authority will use the cost of finance plus 0.25%. For any loans advanced in this financial year this would equate to an interest rate of 3.76%.
- 3.13 Using the information above, a worked example is provided below. This example assumes a constant rate of interest although in practice, as noted above, the rate of interest is subject to an annual update.

| | |
|---|----------|
| Total Service Charge | £15,000 |
| Less Minimum Leaseholder Contribution | (£3,990) |
| Loan Advanced | £11,010 |
| Monthly Payment Due (120 Payments/10 Years) | £110.22 |
| Interest Payable Over Life of Loan | £2,217 |

- 3.14 The interest rate the Council is required to charge is lower than current market-rates for comparable finance. This is because the Council borrowed funds several years earlier at a time when interest rates were lower. However, whilst this aspect of the loan might make it attractive to some leaseholders, the requirement to provide a minimum contribution of £3,990 is likely to restrict the number of leaseholders able to take out a loan.
- 3.15 The regulations state that all loans are to be secured by a charge on the leaseholder's property. Providing the necessary searches are completed by the prospective purchaser, this prevents the sale of a property taking place before the amount due to the Council has been settled.

Proposed Retrospective Entitlement

- 3.16 The regulations specify that loans will only be available if the leaseholder makes an application within 6 weeks of receiving their service charge demand.
- 3.17 Historically, service charges for amounts greater than the minimum contribution leaseholders are required to pay have not included any reference to leaseholder's statutory rights to obtain a loan.
- 3.18 Officers have identified that there are currently 5 leaseholders who owe amounts greater than the minimum loan amount whose original service charge exceeded the threshold which would have applied at the time the service charge demand was issued. Officers propose that these leaseholders be contacted to advise that an interest-bearing loan is available to spread the cost of any outstanding balance above the relevant threshold.

- 3.19 Any such loans shall be made on the same basis as the statutory schemes including loans being restricted to leaseholders who acquired their property less than 10 years before the service charge demand notice was issued.

4. Implications

a) Financial Implications

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The financial implications associated with this decision can be managed within existing budgets. At current rates of interest if loans were granted these would attract a rate of interest not materially dissimilar from the interest the Council might expect to receive on its own treasury investments. This assessment incorporates a reasonable allowance for bad debt consistent with existing practice within the Council. Whilst the difference between the interest rate to be charged and the Council's return on short-term investments will vary over the life of the loan, the expected low level of take-up (for the reasons explained in this report) mean the budgetary impact is considered insignificant.

b) Staffing Implications

None.

c) Equality and Poverty Implications

An Equality Impact Assessment has been completed and is attached as **Appendix A**.

d) Net Zero Carbon, Climate Change and Environmental Implications

The climate change tool has been completed and has concluded that this policy change has a nil rating and therefore a nil impact overall.

e) Procurement Implications

None.

f) Community Safety Implications

None.

5. Consultation and communication considerations

Tenant and Leaseholder Representatives are consulted as part of the Housing Scrutiny Committee process. Leaseholders who are eligible will receive communications about the loans on offer when they receive their service charge demands or invoices.

6. Background papers

The Housing (Service Charge Loans) Regulations 1992.

7. Appendices

Appendix A – Equalities Impact Assessment

Appendix B – Leaseholder Income Management Policy (2023)

8. Inspection of papers

If you have a query on the report please contact Anna Hill, Housing Services Manager (City Homes), tel: 01223 458312, email: anna.hill@cambridge.gov.uk or Carol Amos, Home Ownership Manager, tel: 01223 457834, email: carol.amos@cambridge.gov.uk .