Committee	Dated:
Housing Management & Almhouses Sub-Committee	3 July 2017
Subject: Financial Support for Leaseholders	**Public**
Report of: Director of Community & Children's Services	**For Discussion**
Report author: Bayo Igoh – Head of Estates Nazia Noman - Home Ownership Manager	

Summary

The current Five Year Programme of Major Works to City of London estates is much-needed, but will result in large service charge bills for a number of our leaseholders. The highest estimated costs will be for leaseholders in Great Arthur House, on the Golden Lane Estate, where the current project to replace the cladding and windows means that leaseholders will face particularly large bills.

The City already has provision in place to offer financial support to leaseholders in respect of major repairs bills. Under the terms of their lease, they can repay major works bills in instalments, effectively mortgaging their property to the City. Local authority landlords are required by law to offer loans to owner-occupiers who purchased under Right to Buy legislation.

Legislation introduced in 2009 also gave local authority landlords discretionary powers to go further than the mandatory scheme and offer loans under a range of different terms. The City currently offers loans of up to £41k, with an interest-free period of up to 3 years. In cases of severe financial hardship, the City will consider buying back the property. These discretionary measures are only available to owner-occupiers.

The City recognises that it can be difficult for some leaseholders to meet the costs of major works bills. In the light of the major works programmed in the next few years, it is appropriate to review the current range of measures offered and consider improving these. At the same time, it is essential to consider the impact that this will have on the Housing Revenue Account (HRA), as it has to be sufficiently robust to fund the Five Year Programme of Major Works, the City's strategy for building new affordable housing and the day to day running of the service.

This discussion paper sets out the current position for Member, outlines options available and some initial proposals, and seeks a view from your Sub-Committee to inform a paper which will be presented to the Community & Children's Services Committee in September for decision.

Main Report

Background

1. The City's Housing Revenue Account (HRA) has within it 2858 homes, of which 910 have been sold under Right to Buy (RTB) legislation. Some of these sold properties are still occupied by the original RTB purchasers, the former social tenants. Many have been sold on the open market and a proportion of these are sub-let to private tenants.

2. Tenants who exercise their RTB do so under a leasehold agreement (or 'lease') with the City. The lease sets out, amongst other things, the costs which can be recovered from the leaseholder, in respect of service charges, repairs, major works and improvements. The terms of the lease stipulate that the leaseholders are responsible for the cost of works to their home that are the City's responsibility (e.g. replacement windows), and also for a proportion of the costs of works to communal areas of their block or the estate.

3. The City has a legal duty to recover these costs. The HRA 30 Year Business Plan, which every local authority housing provider is required to produce, is based on the assumption that leaseholders are charged for their proportion of the costs of works. Failure to collect these costs would severely compromise the HRA and its ability to fund the Five Year Major Works Programme and would mean that, effectively, social tenants were subsidising private homeowners.

4. In 1992, legislation was introduced to provide schemes to assist leaseholders with the costs of major works. Local authorities were required to offer a mandatory loan scheme for RTB purchasers and their successors, and also given powers to offer discretionary loans schemes under more generous terms.

5. In 2009, in recognition of the fact that leaseholders were facing higher bills, the government updated this legislation and issued a number of regulations. The Housing (Service Charge Loan) 2009 Regulations have both mandatory and discretionary schemes. The mandatory scheme is for an interest payable loan in respect of service charges for repairs and is offered to Right to Buy purchasers and their successors for a period of 10 years from the purchase of the lease. The two discretionary schemes available to landlords through these regulations are the provision of interest-free periods and the offering of equity loans, where the lender is entitled to a percentage of the market value of the property when it is sold.

6. The Purchase of Equitable Interest Regulations enable the local authority landlord to buy back all or a part of a leasehold property. The housing authority will be entitled to a specific share of the value of the flat when it is sold. Rent is chargeable on the share of the property reverting to the local authority.

Current Position

7. Failure to pay charges for major works is a breach of the lease, and could lead to forfeiture. However, the City recognises that large bills for major works can cause financial hardship for some leaseholders and, therefore, already offers a range of support measures.

8. Under the terms of a City of London lease, leaseholders have the option to pay for major works over a ten year period, with interest. This allows them to spread the cost of large service charge bills. Major works are defined as refurbishment, renewal or repair works that cost more than 2.5% of the valuation for the property when it was purchased.

9. Interest payable loans are offered under the mandatory scheme to RTB purchasers and their successors for a period of 10 years from the purchase of the lease. The interest is regulated by the Housing Act 1985 and set at the standard national rate (currently 3.13%).

10. In July 2010, following the revised legislation, the Community & Children's Services Committee and the Finance Committee reviewed the discretionary loans offered to the City's leaseholders, and agreed new terms. Discretionary loans of up to £41,000 are offered with an interest-free period of up to three years.

11. Current payment options for discretionary loans are as follows

Current Payment options		
Amount	Interest free period	Repayment period
£930.00 - £1,599.99	1 Year	3 years
£1,500 - £4,999.99	1 year	5 years
£5,000.00 - £9,999.99	2 years	5 years
£10,0000 - £41,000	3 years	10 Years

12. The discretionary loans are offered to resident leaseholders who occupy their property as their principal home – not to leaseholders who either use the property as a second home or rent it out. The HRA cannot subsidise properties which are, effectively, businesses.

13. To qualify, the leaseholder has to have a good credit history. The loans are secured by a mortgage on the property and there is an administration charge. Because the agreement of any existing mortgagee of the property is required, the discretionary loans can take some time to arrange.

14. In the past five years, nine loans have been given. Two were for £2k - £5k, one was for £5k-£7.5k and six were for over £7.5k. The loans are usually for periods of three, five or ten years dependent on the value of the loan.

15. Following the interest-free period, the interest rate is variable and follows the standard national rate.

16. Two other options were also agreed by Members in 2010. These were equity loans and a buy-back scheme. However, these are only offered as a last resort measure in cases of extreme hardship, where it can be demonstrated that the leaseholder does not have the means to pay for major works and is at risk of homelessness without such support. These options are only available to RTB purchasers who remain resident in the property. Agreement is subject to an assessment done in conjunction with the Town Clerk and Chamberlain, which includes means testing.

17. For buy-back, the purchase price is the lower of the current market price or the original right to buy price (net of discount). Under this scheme the full ownership of the property is returned to the City and the former leaseholder remains as a tenant. This option is only offered to the original Right to buy purchaser. There has been only one buyback in the last five years.

Options for consideration

18. The Five Year Programme of Major Works will involve significant costs for some leaseholders, in particular those who own properties in Great Arthur House. It is, therefore, appropriate to review the current offer to leaseholders and consider whether any changes should be made.

19. The extension of equity loans to all leaseholders is not recommended, as there are products on the financial market available to meet any demand for these. The cost to the HRA of making such loans could be extensive, and could jeopardise the programme of planned works and developments.

20. The introduction of buy-back on a shared-ownership basis is also not recommended. Such a scheme would be complex and require additional staffing resources. With property prices unlikely to drop significantly, it is unlikely that buy-back will be popular for homeowners on either a full or shared ownership basis.

21. However, it would be recommended that equity loans and buy-back be retained as options for leaseholders in severe financial difficulty.

22. Members may wish to consider improvements to the discretionary loans currently on offer. These might include:

    - Increasing the maximum loan limit to £72,500 or the final total cost for the Great Arthur House project, whichever is higher;
    - Offering loans for all major works bills over £1,000;
    - Offering flexible payment options so that additional payments can be made at any time to reduce the length of the loan;
    - Offering discounts for early payment;
    - Increasing the interest-free period.

23. Alternatively, Members may decide to retain the existing interest-free loan provisions.

24. It is not proposed that discretionary loans be extended to leaseholders who are not resident in their properties.

25. Any proposals to be presented to the Community & Children's Services Committee for a decision must have regard to the City's legal duty to maximise the HRA and recover costs from leaseholders, whilst minimising costs on actionable recovery and offering leaseholders in financial hardship a reasonable opportunity to fulfil their obligations under the terms of their lease.

Corporate & Strategic Implications

26. This proposal links to the Department's strategic aim to enhance and promote a better quality of life for residents.

Financial Risk Implications

27. The Local Authority is responsible for the management of the Housing Revenue Account (HRA) and for this reason it is necessary to recover all sums of money owed by leaseholders. There may be an adverse effect on the ability of the Housing Revenue Account to adhere to the timing of its major works programme if increasing number of leaseholders takes up the offer of interest free and extended loan periods.

28. It is not expected that all leaseholders would wish to take up a loan for the full amount owing; some leaseholders may seek a partial loan and/or also look to extend their mortgage. However, the interest free element and extended repayment periods of a loan may encourage some leaseholders to make arrangements to pay at an earlier stage thus reducing the need for legal proceedings.

29. Also, if a leaseholder takes out a loan to pay for service charges for repairs and improvements to their property, and they are in receipt of Income Support, income-based Jobseeker's Allowance or Pension Credit, then they can in certain circumstances obtain assistance with the payments under the loan.

Legal Implications

30. Under Section 20 of the Landlord and Tenant Act 1985 as amended by the Commonhold and Leasehold Reform Act 2002, leaseholders must be consulted before the landlord carries out works above a certain value. The prescribed consultation process includes a requirement to serve notices prior to the commencement of the works setting out a description of the works, the reasons why they are necessary and the estimated total expenditure likely to be incurred. Therefore, although the policy states that estimated bills are sent out six to eight weeks after the works have started, in practice consultation will usually have already taken place with regard to estimated costs.

31. There are lengthy and complex statutory procedures for dealing with the recovery of service and maintenance charges from residential leaseholders and the City will comply with these processes to ensure that the charges are both fair and lawful. The City of London owes a fiduciary duty of care in managing the Housing revenue account and for this reason it is necessary to endeavour to recover all sums of money owed.

Conclusion

32. The government is keen for social landlords to offer help to their leaseholders who are facing significant major works bills and secondary legislation is in place to facilitate such measures.

33. The City of London Corporation is keen to offer support to our residents who may be facing difficulties paying these bills. Offering longer interest free periods, higher loans and flexible repayment terms for service charge loans, will help leaseholders meet the cost of such works.

34. There will be a cost to the HRA in loss of interest. However, the increase in leaseholders seeking these loans will form a structured payment plan which will reduce the need for recourse to legal proceedings for non-payment of major works bills.

35. Where leaseholders are suffering severe hardship, an equity loan or equity purchase would offer an alternative to the buy-back scheme.

Appendices

None

Bayo Igoh
Head of Estates
T: 020 7332 1916
E: Bayo.igoh@cityoflondon.gov.uk

Nazia Noman
Home Ownership Manager
T: 020 7332 3013
E: Nazia.noman@cityoflondon.gov.uk