HOUSING COMMITTEE	Agenda Item 41 Brighton & Hove City Council

Subject:		**Leaseholder Payment Options - Update**	
Date of Meeting:		**17th November 2021**	
Report of:		**Executive Director Housing, Neighbourhoods and Communities**	
Contact Officer:	**Name:**	**Martin Reid Geof Gage**	**Tel: 01273 293235**
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Ward(s) affected:		**All**	

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 Brighton & Hove City Council is responsible for keeping our residential blocks of flats in good repair including, where necessary, carrying out major works. Leaseholders are responsible for meeting the relevant costs of works under the terms of their leases 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 Where substantial repairs and improvements are carried out to blocks this can mean that leaseholders contributions are significant. The council has a range of payment support options available to support leaseholders with payments for works. The current payment support options have been set out in previous reports to Housing Committee.

1.3 Following a report to Housing Committee on 23 June 2021, consultation with Area Panels (week commencing 16 August 2021) and Leaseholder Action Group meeting (19th August 2021) on potential changes that could be made to the current payment support options was undertaken.

1.4 Housing Committee on 22 September 2021 noted the outcome of the consultation with the Leaseholder Action Group and Area Panels on proposals to make changes to the leaseholder payment options.

1.5 Housing Committee noted the full financial, legal and other implications of the points arising from the consultation would need to be considered and recommendations arising from consultation on changes to the leaseholder payment options would be bought to the next meeting of Housing Committee to enable an informed decision.

1.6 This report sets out proposals for extension of the current payment options scheme to non-resident leaseholders for whom this is the only property they own where it has been demonstrated that all other options to meet the cost of the works have failed.

2. RECOMMENDATIONS:

2.1 That Housing Committee approve extension of payment options for non-resident leaseholders as set out in the report for whom this is the only property they own where it has been demonstrated that all other options to meet the cost of the works have failed.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Brighton & Hove City Council owns around 2,900 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 insulation
- Services to their building such as cleaning or grounds maintenance
- Management charges

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 – Section 20 consultation under the Landlord and Tenant Act 1985. These are typically capital works undertaken to the block.

Extending the Payment Options

3.3 The current payment options were put in place to assist resident leaseholders who could not afford the major works charges and who may be put in a position of having to sell their property to meet these costs. The options were designed to particularly assist those who had sufficient equity in their properties but had low or fixed incomes to enable them to stay in their homes.

3.4 The scheme was not intended to provide the same options to all leaseholders as it was likely that those who sub-let and received market rate rents for the properties could fund major works through other sources. However, there has been some leaseholder consultation feed-back that this may not be the case for every non—resident leaseholder. It is also important to balance the interests of leaseholders with those of tenants in considering how to plan and pay for major works.

3.5 In recent years there have been enquiries from a small number of non-resident leaseholders regarding the possibility of extending the payments options to them as their circumstances were such that while non-resident they may be in financial hardship. An extension of the policy in these cases would be of benefit to those leaseholders. It is estimated this would be of benefit to a very small number of leaseholders, at most possibly 3-5 a year.

3.6 This report sets out proposals for extension of the current payment options scheme to any non-resident leaseholders for whom this is the only property they own where it has been demonstrated that all other options to meet the cost of the works have failed, including demonstrating that they have been unable to raise a commercial loan. The intention of the policy is to support leaseholders where they are in genuine cases of hardship. Each case would need to be subject to an individual financial assessment at the time of the application. Payment options proposed for extension include those outlined below.

Equity Loans

3.7 The loan will be secured on the property to which the service charge relates and charged at the Land Registry. The charge on the property is expressed as a percentage of the value of the property. The loan will be paid back either when the property is sold or earlier if the leaseholder wishes to. The amount paid back is dependent upon the valuation at the time of sale of the property.

Maturity Loans

3.8 This is where a loan is agreed to fund the value of the works and a charge is placed on the property. The loan will attract interest. When the property is sold the value of the loan plus interest is repaid to the Council. There is no maturity date for the loan so it can carry on indefinitely. It will be paid either when the property is sold or earlier if agreed.

Long-term interest-bearing loans up to 25 years

3.9 These are interest bearing loans over 25 years offered by the council and work in the same way as any other commercial mortgage.

Interest-free repayment option

3.10 The interest-free repayment option from 12 months to a maximum of 5 years, depending on the loan amount. This is where the Council makes a formal agreement with the leaseholder to repay in monthly instalments over a specified period without adding interest.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 If payment options were extended to the group of leaseholders who own more than one property (e.g their permanent residence and their BHCC leasehold property) this would potentially apply to between 500-700 leaseholders. This option could therefore have significant financial implications for the HRA, as described in the financial implications at Section 7.

4.2 Another option discussed was to extend the period of the interest free loans (current maximum length of 5 years). However, this soon becomes prohibitively expensive as of the loss of interest increases each year. See example in the financial implications in section 7.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The extension of the current policy has been the subject of discussions with the Leaseholders Action Group, including following the report to Housing Committee on 23 June 2021. Officers have continued to work with the Leaseholders Action Group, Area Panels and the Home Service Improvement group on the items covered in this proposal.

5.2 As part of our consultation exercise, there was a presentation and discussion at Area Panels (week commencing 16th August) and Leasehold Action Group (19th August). The key points arising were fed back to Housing Committee on 22 September.

6. CONCLUSION

6.1 As set out below, the recommended option provides for additional support to the small number of leaseholders who do not own other properties and have no other means to meet their financial obligations as set out in the lease but will have a minimal impact on the HRA.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 Extending the payment options to non-resident leaseholders who own no other properties will allow a small number of leaseholders (possibly 3-5 per year) to access further payment options from the council. The option with the largest cost to the council is the interest free loans for up to 60 months. Based on 5 leaseholders with loans of £20,000 each, the council is foregoing interest payments of approximately £21,000 if they were to access this interest free option rather than an interest- bearing loan over 5 years. For those wishing to access the equity loan scheme, the council takes a risk for each loan of this type offered. Where the housing market is slow or declining then at the point of sale the equity share the council receives may not cover the loan amount with a nominal interest. However, if house prices increase, the council will make a small margin on the equity loan. Given that the number of non-resident leaseholders who own no other properties is small, this is very low risk for the council.

7.2 Extending the payment options to a wider group of non- resident leaseholders would have a significant financial impact on the HRA. If, for example these payment options were extended to a group of leaseholders where the property and potentially their permanent residence are the only properties they own, this would potentially apply to between 500-700 leaseholders. As mentioned above, every offer of an interest free loan of £20,000 costs the HRA an estimated £4,000 in lost interest over a 5 year period.

7.3 Another option would be that the council extends the interest free loan period from 5 years to 10 years, say. This could significantly increase costs to the HRA. For example, one loan of £20,000 over 10 years would cost the council approximately £10,000 in lost interest. If this was offered to 30 leaseholders, the costs to the HRA would be an estimated £300,000. The reason for the relatively short period of loan is that this facility was set up to be used for smaller debts that can be paid back monthly in instalments. It was never intended for longer term, larger debts due to the cost becoming prohibitive

7.4 The main risk of offering equity loans to a wider group increases the risk that more loans will not be fully paid at the point of sale due to the value of the equity share reducing in a slow or declining housing market. For example, if a loan of £20,000 is taken out on a property worth £200,000, the council would hold a 10% equity share in the property. If the property was sold 15 years later, then in order to recoup its borrowing costs on the £20,000 loan, the council would need to receive £36,000 at the point of sale. (Over 15 years the loan would accrue approximately £16,000 in interest at an average rate of 4%). If the sale price 15 years later was £210,000, say, then the council would only receive 10% of £210,000 equating to £21,000 and would therefore make a loss of £15,000. The council therefore needs to use this facility with care and only offer such loans once all other options have been discounted.

7.5 The Leaseholder action Group also asked about the possibility of using a mix of payment options. So if the debt was £14,000 they may want to use a short term interest free loan and the remainder as an equity loan. This is not problematic but this would be a mix of the payment options that are open to that particular leaseholder.

Finance Officer Consulted: Monica Brooks *Date: 29/10/21*

Legal Implications:

7.6 By virtue of sections 450A to 450D of the Housing Act 1985 and the Housing (Service Charge Loans) Regulations 1992 (SI 1992/1708) the Council has the power to make loans to its tenants/leaseholders in respect of service charges and therefore the Committee can authorise what is proposed by the recommendation in this report.

Lawyer Consulted: Elizabeth Culbert *Date: 02/11/21*

Equalities Implications:

7.7 Individual circumstances of leaseholders are carefully considered as part of the payment options process.

Sustainability Implications:

7.8 There are none identified.

Brexit Implications:

7.9 There are none identified.

Any Other Significant Implications:

Crime & Disorder Implications:

7.5 There are none identified.

Risk and Opportunity Management Implications:

7.6 These are outlined in the body of the report.

Public Health Implications:

7.7 There are none identified.

Corporate / Citywide Implications:

7.8 There are none identified.

SUPPORTING DOCUMENTATION

Appendices:

1. There are none.

2.

Background Documents

1. There are none.

2.