

Epping Forest District Council

IMPROVING PAYMENT OPTIONS FOR LEASEHOLDERS

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OVERVIEW

EFDC have in the region of 446 blocks of flats throughout the District (ongoing development may increase this in the future). Many of the flats contained within these blocks have been sold under the Right to Buy Scheme and the purchasers have therefore become leaseholders.

In line with the terms of the lease the Council as the Freeholder are responsible for keeping the structure of the building and communal areas in a good state of repair and redecoration.

The leaseholder is responsible for paying a proportion of the cost in respect of any such works undertaken, following statutory consultation under Section 20 of the Landlord and Tenant Act 1985 (As amended by the Commonhold and Leasehold Reform Act 2002).

Leaseholders are required to pay their proportional charges in the year in which the Major Works take place. Estimated charges are payable in 12 monthly instalments from April to March each year with the actual account being raised and sent the following September.

The Council operate a 30-year plan which shows expected life cycle of building elements. In previous years Major Works programmes were carried out on an element by element basis over multiple financial years as and when necessary such as roof covering replacement, replacement windows, external repair and redecoration, resurfacing to walkways, communal electrics etc.

The Council now wish to consider its options with regards to how they manage Major Works programmes to their blocks.

There are many areas within the District which require improvements and a Major Works programme would have a positive impact, however, to achieve this the blocks contained within these areas will require many elements of Major Works to be carried out under one such scheme.

The Council have a vision to regenerate the areas and create places where people want to live, whilst considering the financial implication to their leaseholders.

1. EXECUTIVE SUMMARY

- 1.1. The Council currently offers a limited range of payment options to its leaseholders to assist them in making their contributions towards Major Works. This report reviews the payment options available and proposes improvements to these payment options to make it more affordable to leaseholders and therefore easier and more cost effective for the Council to collect Actual charges incurred.

2. RECOMMENDATIONS

The Council review its current Corporate Debt Policy to allow increased payment terms for leaseholders.

Current Corporate Debt Policy as shown on the table below;

Value	Terms (from date of invoice)
Debts below £500	No more than 3 months
Debts below £1,500	No more than 6 months
Debts below £2,500	No more than 9 months
Debt above £2,500	No more than 12 months

- 2.1. That approval is given to offer the following menu of payment options for resident leaseholders and for non-residential leaseholders who do not sublet more than one EFDC leasehold property where the property is owned by individuals¹.

Major Works Proposed Repayment Plan

Invoiced amount	Interest free period available	Interest bearing period available	Total repayment period
> £7,500 < £12,500	36 Months	48 months	84 months
> £12,500 < £17,500	48 months	60 months	108 months
> £17,500	48 months	72 months	120 months

- 2.2. To approve that any repayment plan for a sum of £12,500 or above to be secured as a voluntary charge on the property. The administration cost associated with this should be borne by the applicant and will be in the region of £150.
- 2.3. To agree to an interest rate for leasehold payment options based on 0.25% above the average Council lending rate for the previous year for the above.
- 2.4. To delegate authority to the Director for Housing & Property to consider any applications from leaseholders on the grounds of extreme hardship to vary the length of repayment periods.
- 2.5. To delegate authority to the Director for Housing & Property in consultation with the Cabinet Member for Housing the ability to agree payment plans on a project by project basis where leaseholders estimated bills are likely to be in excess of £12,500

¹ i.e. the options will not be available properties owned by a company, trust or similar vehicle

3. REASONS FOR DECISION

- 3.1. Waiting for a potentially large Major Works invoice can cause significant stress to a leaseholder and the additional payment options will help them to reach suitable repayment arrangements as soon as possible.
- 3.2. The proposals are likely to improve collection rates by giving leaseholders more options, as well as reducing the need for legal action. This will increase cash flow and benefit the Housing Revenue Account.
- 3.3. Interest rates have been very low for many years and charging a reduced rate will assist leaseholders to pay the capital sum as quickly as possible.
- 3.4. The options are likely to reduce disputes by improving affordability. This will benefit the Council by reducing the number of cases that escalate to the Courts and the financial and reputational risk that comes with that.

4. PROPOSAL AND ISSUES

- 4.1. The Council has 1082 leaseholders. 611 are resident owner-occupiers and 471 are non-resident. The non-resident leaseholders are likely to be subletting but may also be absent for some other reason such as work commitments.
- 4.2. Our leases oblige the council, as landlord, to keep the buildings in a reasonable state of repair and decoration. Under the leases the Council can recover a contribution towards cost of this work from the leaseholders.
- 4.3. Work may include, roof repairs/replacement, window repairs/renewal, external repairs and redecorations, communal electrics, etc. The larger projects, which are carried out to blocks or estates, are known as Major Works. The leaseholders in those blocks and/or estates are consulted before work starts². Once the final account is received and the work has been signed off by the Contracts Officer the Major Works costs are applied to leasehold accounts for payment of their contribution³. Actual Accounts to include such works are sent to leaseholders in September of each year.
- 4.4. The Council follows The Mandatory Reduction Directions for social landlords (councils or housing associations) which came into force in England on 12 August 2014. The Mandatory Reduction Directions limit the amount of service charges recoverable from leaseholders of social landlords, who occupy their flat or house as their only or principal home. Within any 5-year period, the maximum a landlord can recover is limited to £15,000 within London and £10,000 outside London. This applies to the cost of repair, maintenance or improvement undertaken with assistance from a programme such as Decent Homes Backlog Funding, where the application for assistance was made on or after 12 August 2014.

² Very occasionally emergency work may be done without consultation

³ Estimated payments are requested from the leaseholder in the financial year the works take place with the final demand for payment/invoice being raised and sent in the following September.

Payment of current major works invoices

- 4.5. Each leasehold property has two service charge accounts which are managed separately. The Ongoing Service Charge Account covers items such as grounds maintenance and communal lighting. The second account is solely for Major Works charges and therefore these costs are easily identifiable.
- 4.6. During the first five years of a right to buy lease major works charges are limited to the amounts detailed in the offer notice issued prior to purchase. The offer notice contains details of possible works and an estimate of the cost. The limitation applies to the sum listed plus an allowance for inflation. The offer notice details the maximum that can be charged; and Any major works completed outside this five-year period are fully chargeable
- 4.7. The Council's Invoices require payment on demand with the first reminder sent out on day 28.
- 4.8. Although all leaseholders usually receive notices before any works start to warn them of the impending bill, many leaseholders find it extremely difficult to raise enough funds to settle the full invoice within 21 days as the lease requires. So, the Council already offers some payment options.
- 4.9. The current options which are available to all leaseholders are set out below:

Current Corporate Debt Policy as shown on the table below;

Value	Terms (from date of invoice)
Debts below £500	No more than 3 months
Debts below £1,500	No more than 6 months
Debts below £2,500	No more than 9 months
Debt above £2,500	No more than 12 months

• **Mandatory service charge loans (S450A Housing Act 1985):** an interest-bearing loan with set criteria and only available to the Right to Buy leaseholder for the first 10 years of the lease.

- 4.10 If the leaseholder is unable to pay the invoice/demand for payment in the time frame referred to in the Council Debt Policy, then further payment terms will be considered by the Corporate Debt Team on the completion of an income and expenditure form. This agreement is then reviewed every 6 months.

Proposed additional interest free & interest-bearing instalment options

- 4.11. The Council wants to help Leaseholders make affordable payments towards their Major Works. This will avoid increasing the level of homelessness in the district⁴ or breaking up established communities by forcing residents to seek cheaper housing options elsewhere.
- 4.12. For this reason, a tiered payment period is proposed depending on the size of the invoice, with an interest free and an interest-bearing period:

Major Works Proposed Repayment Plan

Invoiced amount for Major Works Programmes	Interest free period available	Interest bearing period available	Total repayment period
> £7,500 < £12,500	36 months	48 months	84 months
> £12,500 < £17,500	48 months	60 months	108 months
> £17,500	48 months	72 months	120 months

- 4.13. Access to the above payment plans will be open to residential leaseholders. This payment plan will also be available to non-residential leaseholders who do not sublet more than one EFDC leasehold property where the property is owned by individuals⁵.
- 4.14. To further safeguard the Council's interests, Payment Plans in excess of £12,500 will be secured by a charge on the property with the cost of placing the charge being borne by the leaseholder.
- 4.15. These proposals compare favourably with those offered by other local authorities as set out in Appendix B.
- 4.16. In the interest of Leaseholders, the length of the Major Works Repayment Plan has been limited. Council properties require maintenance work on a cyclical basis of, on average, every 7 years. By limiting the repayment period, we are encouraging Leaseholder to pay for repair works before they happen again.
- 4.17. Some leaseholders can have very difficult financial circumstances, so the report asks for authority to be delegated to the Director of Finance & Resources to authorise variations to the repayment periods for leaseholders in cases of hardship.

⁴ As sometimes when the mortgagee adds the bill to the leaseholders existing balance, they become unable to keep up repayments and fall into arrears

⁵ i.e. the options will not be available properties owned by a company, trust or similar vehicle.

- 4.18. The report also recognises that on occasion Major Work may be required that results in a very large bill and asks for authority to approve specific payment terms on a project by project basis for any invoices in excess of £12,500 to be delegated to the delegate authority to the Lead Director for Housing & Property in consultation with the Cabinet Member for Housing.

Proposed changes to the interest rate

- 4.19. The proposal is to charge a lower amount of interest on all Major Works debt for residential leaseholders and for non-residential leaseholders who do not sublet more than one EFDC leasehold property where the property is owned by individuals⁶. The proposed interest rate is 0.25% above the average Council lending rate for the previous year on the loan period to be reviewed annually.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. The Council has a fiduciary duty to collect debts due to it. These additional payment options are designed to maximise efficient debt collection.
- 5.2. The extended interest-free proposal will only be available to qualifying leaseholders within the parameters set within par 4.10. It will bring benefits such as improved affordability and reduced disputes.
- 5.3. The Council could choose to not adopt the extended repayment periods but, this is likely to increase collection costs as the Council having to pursue payment via the debt recovery process and ultimately the Court.
- 5.4. The Council could choose not to reduce interest rates for Major Works, but this will result in longer repayment periods.

6. CONSULTATION

- 6.1. These extended options are proposed following conversations with leaseholders who were concerned about paying invoices following residents' meetings in respect of Limes Farm Regeneration Project.

7. EQUALITY IMPLICATIONS

- 7.1. The new extended interest-free repayment options, the greater flexibility in repayment periods and the reduced interest rate is expected to have a positive impact on vulnerable leaseholders (in receipt of state pensions, disabled leaseholders receiving state benefits, those on maternity leave who may have reduced income and any low-income households which are likely to include BME and single parent households).
- 7.2. The interest-free option accommodates conditions of a Sharia-compliant loan.

⁶ i.e. the options will not be available properties owned by a company, trust or similar vehicle.

8. LEGAL IMPLICATIONS

- 8.1. The Council has a fiduciary duty to recover all debts owed to it. By making the proposed payments options available to leaseholders the Council is, in effect, giving loans to the leaseholders on concessionary terms. Sections 450A and 450B of the Housing Act 1985 give the Council power to make loans secured by a mortgage on the property but as there is no security these "loans" can be made further to the Localism Act 2011.
- 8.2. Section 1 of the Localism Act 2011 provides a general power of competence for local authorities and replaces the "well-being" powers from the Local Government Act 2000. It gives local authorities the same power to act that an individual generally has and provides that the power may be used in innovative ways. The only restriction is that there must be no statutory prohibition against the proposed action.
- 8.3. Section 3 of the Local Government Act 1999 requires the Council as a best value authority to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness".
- 8.4. Offering and continuing the payment options detailed in this report can be seen as an efficiency measure as the Council may not have to expend resources in chasing late payments.

9. FINANCIAL IMPLICATIONS

- 9.1 It is anticipated that as a result of the additional options being offered will have a positive impact on collection.
- 9.2 There will also be an additional revenue stream in the form of administration fee in the cases of repayment plan for a sum of £12.5k and above that will cover the cost of placing charges on properties giving the Council more security over the collection of debt.

10. IT IMPLICATIONS

- 10.1. The ability to manage payment plans, income recovery and the interest calculation is dependent on a system with a proven track record of delivering on these requirements. The leasehold accounts are managed via OHMS however collection of Actual Accounts are managed in the Corporate Debt Team so their systems will need to be tested to ensure that the functionality is present. Any replacement system must be tested to ensure that the functionality is available.

Appendix A – Benchmarking Data

Organisation	Offer prompt payment discounts	How is it calculated?	Payment options available to subletting leaseholders?	Offer interest free repayment options	How long?	Offer any interest-bearing repayment options?	Interest rate	How long?
Barnet Homes	Yes	2.5% if paid within 28 days	No	Yes	First two years	Yes	?	<ul style="list-style-type: none"> • £5k to £7,5k – 3 years • £7,5k to £15k – 5 years • £15k and above – 10 years.
Brent	Yes	5% if the invoice paid in full within 28 days	Yes	Yes	Up to 24 months	Yes	7.20%	3 years - 10 years
Camden	Yes	5%	No	Yes	<ul style="list-style-type: none"> • Less than £5k up to 12 months • Over £5k up to 24 months • Over £10k up to 36 months • Over £15k up to 48 months • Over £20k up to 60 months 	No	n/a	n/a
City West Homes	No	n/a	Yes, only up to 2 years instalments	Yes	Up to 24 months	Yes	?	3-5 years
Greenwich	Yes	n/a	Yes	Yes	24 months pending the final account, the instalment arrangement is then reviewed.	Yes	3% above the	Once the final account is available leaseholders have an additional 10 months to pay. Any balance due after

							base rate	this period may be subject to interest
Hackney	Yes	5%	Yes	Yes	<ul style="list-style-type: none"> • £0-£300 6 months • more than £300 12 months 	Yes	4.50%	<ul style="list-style-type: none"> • £1k or more 24 monthly instalments (if the debt is cleared within 12 months the interest is removed) • Above £5k 36 months (if the debt is cleared within 12 months the interest is removed) • Above £10k 60 months (if the debt is cleared within 12 months the interest is removed)
Hammersmith & Fulham	Yes	2.5% of the invoiced amount	Yes, in some cases where the leaseholder only sublets one property	Yes	3 years	Yes	5.50%	5 years, where the first three years are interest free
Harrow	Yes	2.5% if paid within 6 weeks of invoice date	Yes	Yes	Up to 48 months depending on the value of the invoice.	No	n/a	n/a
Havering	Yes	1.50%	No	Yes	<ul style="list-style-type: none"> • £250-£1500 12 months • £1,501-£3,000 24 months • £3,001-£5,000 36 months • £5,001-£10,000 60 months 	Yes	4%	7 years, the first 5 years interest free for invoice in excess of £10,000

Hillingdon	No	n/a	Yes, maximum 12 months to subletters whereas resident leaseholders can extend	Yes	Usually 12 months for all (residential or subletting leaseholders) or 36 months subject to income and expenditure checks for residential leaseholders	Yes	3.72%	3 to 10 years with interest, subject to legal charge on property
Homes for Haringey	Yes	5%	Yes, a maximum of 36 months	Yes	72 months maximum	Yes	5.19%	Up to 120 months with strict conditions
Islington	Yes	5%	Yes, they can spread payments over 24 months interest free	Yes	36 months for resident leaseholders and 24 months for non-resident	Yes	Bank of England Base Rate	<ul style="list-style-type: none"> • Less than £10k 5 years • More than £10k 10 years
KCTMO	Yes	2.50%	Yes	Yes	<ul style="list-style-type: none"> • Under £2,500 up to 12 months interest free • £2,500 to £4,999 up to 24 months interest free • £5,000 to £7,499 up to 36 months interest free • £7,500 to £9,999 up to 48 months interest applied to year 4 • Over £10k up to 60 months interest applied to years 4 and 5 only 	Yes	2% above the NatWest base rate	<ul style="list-style-type: none"> • 7,500 to £9,999 up to 48 months interest applied to year 4 • Over £10k up to 60 months interest applied to years 4 and 5 only Plus legal costs of £500 as a legal charge will be placed against the property until full settlement of debt.

Lewisham Homes	No	n/a	No, but they have the option to pay up to 10 monthly instalments	Yes	<ul style="list-style-type: none"> • Up to £3k 24 months • More than £3k 36 months 	Yes	5.63%	Any period over the initial interest free period up to 10 years
Redbridge	No	n/a	12 monthly instalments on some bills. Longer timeframes may be available on completion of an income and expenditure form	Yes	<ul style="list-style-type: none"> • Up to £1,500 12 months • £1,500 to £5k 24 months • £5k and above 36 months 	No	n/a	n/a
Southwark	No	n/a	Yes, must pay in accordance with the lease (12 months)	Yes	<ul style="list-style-type: none"> • Under £7,200 36 months • Over £7,200 48 months • May consider up to 72 months interest-free repayments for particularly large invoices 	Yes, Discretionary Service Charge Loan	1.5% above the NatW est base rate	Up to 25 years
Sutton Housing	No	n/a	Yes	Yes	<ul style="list-style-type: none"> • £0-£100 28 days • £100 - £600 12 months (minimum payment of £50 per month) • £600 or over up to 2 years (minimum payment of £50 per month) 	Yes	4.50%	<ul style="list-style-type: none"> • £1,500 - £4,999 up to 3 years (minimum payment of £50 per month) • £1,500 and over up to 10 years (minimum payment of £50 per month) • £3,000 and over Charge placed on property

Tower Hamlets Homes	Yes	5% over £1k	Yes, for invoices over £1,999	Yes	2 years for invoices over £1k	Yes	?	<ul style="list-style-type: none"> • Over £2k first two years interest free and then 3 years interest bearing • Over £10k first two years interest free and then 3-10 years interest bearing
Waltham Forest	Yes	<£10k 1.5% and >£10k 2.5%	No	Yes	<ul style="list-style-type: none"> • Up to £1.5k payable over 12 months • Between £1.5k - £2.5k payable over 18 months • Between 2.5k to £5k payable over 24 months • Over 5k payable over 36 months 	No	n/a	n/a