

REPORT TO:	Executive Board
REPORT NO:	HHPP/17/13
DATE:	9 July 2013
LEAD MEMBER:	Councillor Mark Pritchard (Housing and Planning)
CONTACT OFFICER:	Ryan Rogers (Tel: 315328)
SUBJECT:	Leasehold Flats Policy for Service Charge Payment Options for Major Works/Improvements
WARD:	All

1. PURPOSE OF THE REPORT

To seek Executive Board approval for a Service Charge Payment Options Policy for leaseholders in respect of major repairs/improvements to flats purchased under the Right to Buy.

2. EXECUTIVE SUMMARY

- 2.1 The Council has powers to assist leaseholders with the repayment of service charges on flats purchased under the Right to Buy Scheme.
- 2.2 A policy has been developed in order to assist leaseholders with service charge costs by way of either statutory or discretionary loans, for repairs and improvements to blocks of flats.

3. RECOMMENDATION

That Members approve the Service Charge Payment Options Policy attached at Appendix 1.

REASON FOR RECOMMENDATION

- (i) To ensure that leaseholders in Council blocks of flats are able to meet the obligations of their lease by contributing towards the cost of major works/improvements, and ensuring that the Council fully maximise their income potential towards the cost of these works in accordance with the Housing (Service Charge Loans) Regulations 1992 (as amended).

4. BACKGROUND INFORMATION

- 4.1 Wrexham County Borough Council has leased approximately 450 flats to former tenants who have purchased their properties under the Right to Buy legislation.
- 4.2 Under the legislation, the Council, as landlord, is still responsible for repairing the structure and external fabric of the building in which the leased flat is situated. This includes not only routine repairs and maintenance but major works and improvements such as roof repairs and communal door entry systems.
- 4.3 The lease also requires the leaseholder to contribute to the Authority's costs in providing these services by paying a service charge, and to pay a contribution towards the Authority's costs of major works and improvements (over £250) to the building which could amount to several thousand pounds to each leaseholder.
- 4.4 Any repairs/improvements to flats costing over £250 to the individual leaseholder, are subject to the Commonhold and Leasehold Reform Act 2002, in which consultation with leaseholders takes place. This consultation must inform the leaseholder of the works to be carried out, the reason for the works and the estimated cost to the leaseholder.
- 4.5 In the case of blocks of flats, where some homes have been sold under the Right to Buy Scheme, the cost of the works should be borne by the landlord and the leaseholders (via service charges). In some cases individual leaseholders can be asked to pay up to £6,000 for their share of the cost of refurbishing their block of flats.
- 4.6 It has been identified that leaseholders of ex-Council properties may be finding it difficult to meet their obligations to contribute to the costs of these major works of repairs, maintenance and refurbishment. In some cases, owners might have purchased their flats many years ago and could now be living on modest incomes or pensions. They may not, therefore, be able to access sufficient capital to meet their share of the cost of the work undertaken by the landlord. This situation is not only causing distress for owners but also difficulties for landlords in funding the cost of all the work undertaken on blocks of flats.
- 4.7 Currently there are three ways in which leaseholders can pay towards repairs and improvements. The amount due can be paid either in full on receipt of the invoice, paid by instalments or by way of statutory service charge loan under the Housing (Service Charge Loans) Regulations 1992 ("the Regulations") which may only be granted in specified circumstances. The object of the policy is to introduce the new option of a discretionary loan aimed at persons aged 60 or over, or those on low incomes, which will be secured by way of a legal charge registered at the Land Registry. It also seeks to extend the facility for paying the charges by way of interest free instalments.
- 4.8 The Regulations provide local authorities with the power to assist leaseholders with their service charges by way of statutory loans and discretionary loans. Some leaseholders have the right to a statutory loan in specified circumstances set out in Option 2 of the policy attached at Appendix 1. The maximum amount of these loans and the period of repayment are prescribed by the Regulations. Interest is charged at a statutory rate and administration fees charged by the authority are limited to £100. Discretionary loans may be granted by the authority on terms and eligibility

criteria determined by it, including whether interest is charged on the loan or not. Although the Regulations describe these facilities as 'loans', in fact they merely permit the Council to leave the service charges outstanding until they are repaid under the terms of the loan or repayment is prompted by a particular event (eg the flat is sold). There is therefore no advance of the loan by the Council but the arrangements are secured by way of a legal charge registered at the Land Registry.

- 4.9 **Policy Framework** - Community Strategy: creating a healthier living environment and creating an attractive, accessible, safe and sustainable environment.

Health, Social Care and Well Being Strategy: to improve the health, social care and well being of people within Wrexham County Borough Council.

Council Plan 2012/2016: Strategic Theme PL 1 Priority Outcome – Homes that meet people's needs and aspirations.

Theme PL 3: Communities with sustainable, attractive settlement, neighbourhoods, buildings and spaces.

Corporate Theme 01: Engaged and satisfied customers.

- 4.10 **Budget** – Providing payment options to leaseholders to assist with increased services charges, will help ensure that income potential towards the cost of improvement works will be maximised. There will be additional costs in respect of registering properties with the Land Registry by the Council's Corporate and Customer Services Department, but administration fees will be charged to leaseholders requesting to secure a charge on their property, to the extent permitted by the legislation. These fees will subsidise the Council's costs in registering this charge.
- 4.11 **Legal** – The Council is permitted to offer the repayment options set out in the policy by virtue of Sections 450A and B Housing Act 1985 and the Housing (Service Charge Loans) Regulations 1992. Legal input will be required in order to register charges at the Land Registry in order to protect any loans. It is, however, likely that such loans will be required to rank in priority after any existing mortgages on the properties concerned.
- 4.12 **Staffing** – Any additional work will be undertaken within existing resources.
- 4.13 **Equality/Human Rights** – An initial equalities impact assessment has been carried out (EIA/00734).
- 4.14 **Risks** – By not providing options for leaseholders to pay service charge payments for improvement works to Council flats, the risks to the Council are large. Risks to be considered by both the Council and leaseholder:-
- Failure of leaseholders to pay the service charges leading to Court action – the risks of this will be minimised by providing payment options.
 - Failure of Council to obtain full payment on completion of improvement works – the risk is that the Council will have already paid for the improvement works, but over a period of time the leaseholder will pay the full amount back to the Council.

- Failure of the leaseholder to pay the service charge – by providing these options for payment will keep to a minimum the risk of non-payment. Leaseholders who meet specified criteria when requesting a discretionary loan (charge) on their property will benefit both the elderly and those on low income and benefits who may not be able to afford these large payments.

5. CONSULTATION

- 5.1 Discussions held with the Council’s Corporate and Customer Services Department on legal aspects of administering additional payment options.
- 5.2 Finance – discussions held with Debtors Section on invoicing and payment issues.

6. SCRUTINY COMMITTEE COMMENTS

- 6.1 This report has not been considered by Scrutiny Committee.

BACKGROUND PAPERS	LOCATION	WEBSITE INFO
None.		

WREXHAM COUNTY BOROUGH COUNCIL

DEPARTMENT OF HOUSING AND PUBLIC PROTECTION

Leaseholder Service Charge Payments Policy

This policy explains the available repayment options for charges for repairs and improvements to leasehold properties purchased from the Council under the Right to Buy (RTB) scheme.

The Council's Head of Finance and Head of Housing and Public Protection are authorised to approve the issue of statutory loans (Option 2) to qualifying leaseholders, the issue of discretionary loans (Option 3(a)) to persons eligible under this policy, and to administer the extended interest free repayment system (Option 3(b)).

Option 1 Prompt payment

This option to pay for works within 14 calendar days of the date of invoice is available to all leaseholders.

Option 2 Statutory Loan (Section 450A Housing Act 1985 and Regulation 2 Housing (Service Charge Loans) Regulations 1992)

Under this option, eligible leaseholders are permitted to repay the service charge over a prescribed time period as a loan.

By law, this option is only available where:

- the property is a flat;
- the loan relates to charges accrued in the first 10 years following the date of purchase from the Council;
- the loan relates to a service charge which exceeds £1,500 (less the amount of any service charge already demanded under the lease) and which does not exceed £20,000 (less the amount of any outstanding loan); and the loan exceeds £500;

The loan period shall be 3 years for loans less than £1,500, 5 years for loans £1,500 to less than £5,000 and 10 years for loans of £5,000 to £20,000. Repayment of the loan must be made in equal instalments of principal and interest combined. Interest shall be calculated in accordance with Schedule 16 of the Housing Act 1985 (currently 6.06%).

The Council will charge the statutory maximum fee of £100 for administration of this repayment option, which may be added to the loan or paid in full. The leaseholder will be required to sign an agreement and the loan will be secured by way of a charge on the property.

Option 3a Discretionary Loan (Section 450B Housing Act 1985 and Regulation 5 Housing (Service Charge Loans) Regulations 1992

The Council has decided that this option 3a shall only be available to leaseholders who live in their property, who are aged 60 or over or those leaseholders whose household income is under £10,500 (single person) or under £21,000 (couple) (proof of age and proof of income will be required)

The loan will not require repayment but will remain as a loan secured against the property until it is sold or otherwise changes hands, or until the qualifying leaseholder and their named spouse (if any) dies or no longer lives at the property for a qualifying period of six months or more. The leaseholder will be required to sign an agreement and the loan will be secured by way of a charge on the property registered at the Land Registry.

The Council will charge an administration fee of £200 which will be added to the loan or paid in full when signing the agreement.

Option 3b Discretionary Loan (Section 450B Housing Act 1985 and Regulation 5 Housing (Service Charge Loans) Regulations 1992

This option is available to all leaseholders and the leaseholder will be required to sign an agreement for interest free payments to be incurred over an agreed period, which will be secured by way of a charge on the property registered at the Land Registry.

This option provides a series of extended repayment periods to cover the full value of the relevant invoice without incurring interest. The available repayment periods are 12, 24, 36, 48 and 60 months. The amount of time given to repay the invoice will depend on the value as follows:

Invoice value of £250 - £499.99	=	12 month repayment period
Invoice value of £500 - £699.99	=	12 or 24 months repayment period
Invoice value of £700 - £999.99	=	12, 24 or 36 repayment period
Invoice value of over £1000	=	12, 24, 36 48, or 60 months

All repayment instalments must be spread equally over the monthly periods.

The Council will charge an administration fee of £200 which will be added to the loan or paid in full when signing the agreement.

Leaseholders who are letting their flat to private tenants will not be eligible for Options 3 or 3b, but if eligible will be able to apply for the interest payable Statutory Loan Option 2