

Executive Decision required by	MAYOR AND CABINET	
Report Title	Response to matters referred by the Public Accounts Select Committee – Councils obligation to Leaseholders	
Key Decision	No	Item No. 6
Ward	All	
Contributors	Executive Director, Customer Services	
Class	Open	Date: 24 th March 2010

1. Summary

- 1.1 This report provides a response to the recommendations made by the Public Accounts Select Committee (PAC) to Mayor and Cabinet on 20th January 2010 concerning the PAC's review of leaseholder services. PAC made 22 recommendations in total, some for the Council and others for Lewisham Homes (LH) and Regenter B3 (RB3). PAC undertook a review of the Council's obligations to its leaseholders and the report sets out each recommendation and response individually.

2. Purpose of the Report

- 2.1 To respond to matters referred to and recommendations made to Mayor and Cabinet by the Public Accounts Committee on the Council's obligations to leaseholders.

3. Recommendations

The Mayor is recommended to:

- 3.1 Note the financial implications of introducing the extended repayment options as set out in section 8 i.e. £200,000 full year costs from 2011/12 and if agreed note that officers should identify budgetary provision as part of the budget setting process for 2011/12 onwards.
- 3.2 In the light of paragraph 3.1 consider whether to agree the extended Leaseholder Repayment Policy as set out in Appendix 1
- 3.3 Agree that the additional performance information recommended by PAC and agreed by LH and RB3 as set out in the report on items such as correspondence response times, notification of walkabouts, the accuracy of bills are provided to the Housing Select Committee and/or any other committee which may be established in the post election period.
- 3.4 Agree the 22 responses made to the 22 recommendations by the Public Accounts Committee.

4. Policy context

- 4.1 *"Shaping our Future"* Lewisham's Sustainable Community Strategy (2008-11) includes a specific commitment to *"delivering together efficiently, effectively and equitably"*. The issues in the report feed into this commitment and the Council's priorities in respect of: *"decent homes for all"* and *"inspiring, efficiency, effectiveness & equity"*.

5. Background

- 5.1 As part of its work programme for 2009/10, the Public Accounts Select Committee (PAC) agreed to carry out a review of the Council's obligations to leaseholders. This review was scoped in June 2009; two evidence gathering sessions were held in July 2009 and September 2009: and a series of follow-up questions were sent to officers and witnesses following those sessions. In addition 1,000 questionnaires were sent to a random selection of Lewisham Homes and Regenter B3 (RB3) leaseholders at the start of July 2009; and two focus groups for leaseholders were held in August 2009, facilitated by an independent consultant.

6. Response to the Recommendations of the Public Accounts Committee

PAC Recommendations for the Council

6.1 PAC Recommendation 1

We recommend that the Council's clienting procedures are reviewed in relation to the services being provided by Lewisham Homes and Regenter B3 to leaseholders. The review should assess whether current procedures are sufficient to ensure value for money for leaseholders, with particular attention given to how the Council monitors (a) how Lewisham Homes and Regenter B3 check the quality of repairs, maintenance and major works; and (b) whether the bills Lewisham Homes and Regenter B3 issue are accurate.

6.1.1 Response

There are a number of existing procedures in place to check the quality of works and accuracy of bills. For example both LH and RB3 undertake repairs post inspections on a percentage of the total works ordered on a monthly basis. Both organisations inspect the quality of works undertaken on major works schemes and the decent homes programme. Both organisations arrange walkabouts with residents (leaseholders and tenants) and ward councillors where quality of works issues are picked up and addressed. The paragraphs below set out the checks that are undertaken by each organisation and ways in which these can be improved as well as additional procedures which will be put in place as part of the Council's Clienting role.

- 6.1.2 RB3 currently complete an average of 34 communal repairs per calendar month and post inspect 34% of these. The post inspections have been 100% satisfactory. The number of communal repairs carried out are small due to the decent homes works being underway. On the decent homes works an

independent check via an independent certifier is undertaken. The independent certifier is required to check all the properties in the decent homes programme. By January 2010 a total of 1,219 rented and 389 leasehold homes had been certified as being of a reasonable standard. The Clienting Team currently carry out quarterly joint inspections with the PFI contractor and in addition RB3 carry out monthly inspections. RB3 also arrange walk abouts with tenants and leaseholders and ward councillors and the Clienting team attend these.

- 6.1.3 The Council has asked RB3 to report at the monthly clienting meetings on the post inspections undertaken and the independent certifier checks. RB3 have also been asked to provide a written report back on items picked up during estate walkabouts. In addition RB3 have agreed to work with leaseholders on the future cyclical decorations programme to ensure transparency in how those works are procured under the current Private Finance Initiative (PFI) contract and to engage leaseholders in signing off the works.
- 6.1.4 LH currently complete an average of 850 communal repairs per calendar month. Over the last six months they have post inspected 550 of these repairs, which equates to 10.75% of all communal repairs over the period. Their post inspections monitor Value for Money (via schedules of rates charged), quality of the work completed, customer care and quality/quantity of materials used. The pass rate is currently at 95%. For any failures on quality of work and quality of materials an operative is sent back to site to rectify the issues on a call-back ticket with no further payment or charge. LH are currently in discussion with their estate services team about the possibility of caretakers carrying out a 100% inspection of communal repairs. These checks are in place to ensure lessees are only billed for works correctly carried out.
- 6.1.5 On major works LH have a dedicated Resident Liaison Officer and a Clerk of Works. LH post inspect 100% of works and they will not accept them as 'passed' unless it is up to the standard set out in the contract documents.
- 6.1.6 The Council is already working with LH on the procurement of Decent Homes Works via its Procurement Board. The membership includes a tenant and lessee representative and an independent LH Board member. The Council encourages its housing providers to involve lessees in these processes either directly in the procurement process (as is happening in respect of the LH decent homes procurement) or via their lessee consultative groups. Within the proposed specification for the decent homes programme quality is given a high level of consideration.
- 6.1.7 The Council agrees that it is critical that both organisations are able to establish accurate and consistent billing for service charges and major works. In Lewisham Homes and RB3 an independent audit is carried out by RSM Bentlet-Jennison on service charge bills before the actual costs are sent out. The audit is conducted on a sample basis and looks at accuracy and the method used to calculate a leaseholder's share of the cost. In addition RB3 have recently involved leaseholders in agreeing the methodology for how bills

are calculated for 2010/11. The Council has received assurances from both organisations that their estimates for 2010/11 are accurate and will be sent out on time. For major works bills in both organisations quantity surveyors carry out a rigorous examination of the specification and any variations that have been applied to ensure the final account is accurate. These issues will be added to the existing reporting framework at the Councils monthly monitoring meeting.

- 6.1.8 As well as each managing agent having checks in place, Lewisham Homes are subject to external inspection by the Audit Commission. RB3 are subject to the contractual performance requirements of the Private Finance Initiative (PFI), which covers performance in areas such as voids and rent arrears .

6.2 PAC Recommendation 2

We also recommend that the performance management framework is reviewed as part of this work, with a view to implementing a system whereby Lewisham Homes and Regenter B3 are required to make a reduction to the annual service charge bill if performance targets fall below a certain level. We would like the review to identify a mechanism whereby leaseholder input can help drive forward this change.

6.2.1 Response

The Council will re-examine this issue but at the present time, the contractual obligations are being met. If for example, repairs are not up to standard then the provider must remedy the defect at no cost to the lessee. In this situation full costs have been incurred by RB3 and LH so passing on service charge reductions to leaseholders will be an additional cost. The Council will need to explore how the costs associated with reducing service charge bills could be funded. The Council's current policy and the terms of the leasehold contract is to recover full costs from leaseholders.

6.3 PAC Recommendation 3

The results of the review should be reported to both the Mayor and the Housing Select Committee.

6.3.1 Response

The Council undertakes to report the results of the review to M&C and the Housing Select Committee.

6.4 PAC Recommendation 4

We note that the Council is currently considering the options for allowing lessees longer repayment periods for bills. As part of this, we strongly recommend that service charge instalment arrangements are reviewed; and consideration given to extending the time allowed for the service charge to be paid from 10 to 12 months.

6.4.1 Response

LH and RB3 will be offering direct debit payments in 2010/11 with a view to payment over 11 months as they need some time to set these up. Once

lessees are paying by direct debit then the 12 month option will become available. Other forms of payment such as standing orders will stay at 10 months as they require a greater level of administration. This is in line with payment options for Council Tax.

6.5 PAC Recommendation 5

Consideration be given to extending the time allowed for major works bills to be paid, to allow staged payments over two years from the date the final bill is issued.

6.5.1 Response

A proposal for an extended leaseholder repayment policy is set out at Appendix 1 of this report. The policy takes account of the current economic climate and the potential problems leaseholders may face in accessing loans and/or being able to re-mortgage. Some RB3 leaseholders have already been billed for their decent homes related work and others are still to be billed for this work. RB3 leasehold bills are capped at £10,000. The decent homes programme has yet to start in LH and the bills will not be capped at £10,000. The proposed extended repayment policy attached at Appendix 1 takes account of the different circumstances of lessees. There are a range of options already available and these are set out in the proposed policy together with the additional extended repayment options. It is proposed that RB3 lessees will have until March 2013 to repay their bills which will allow up to a three year interest free period for lessees receiving estimated bills in April/May 2010 and longer for leaseholders who have already received their final account bills but have not yet completed payment. The interest free period will be contingent on the staged payments being agreed and received. There is a cost of up to £200,000 p.a. to facilitate the extended repayment options and Mayor and Cabinet will need to consider the financial impact of this when making a decision.

6.5.2 At the present time the Council's policy is to bill at final account and allow 10 months to pay. The current repayment policy takes place at the end of the process after works have completed, rather than at the start. The Council is proposing that lessees are billed soon after works start on site and provides a 3 years interest free payment period. The period in which lessees will be able to plan how they will repay their bills will also include the period leading up to and during the section 20 consultation process during which time lessees can set aside funds or make arrangements to raise finance to pay for the works.

6.5.3 Longer repayment periods may be considered but this will need to be individually assessed with interest payable after 3 years.

6.5.4 The proposed policy is primarily aimed at leaseholders who live in their homes, rather than absentee landlords.

6.5.5 Individual cases of hardship can also be considered and more detail of this is provided in the proposed extended Repayment Policy at Appendix 1.

6.5.6 The financial implications of the proposed extended repayment arrangements are set out in paragraph 8.

6.6 PAC Recommendation 6

Leaseholders be encouraged to start making provision for major works as soon as the initial notice is issued, rather than waiting until the final bill is received.

6.6.1 Response

This is fully supported as a prudent and sensible way forward. As set out above, leaseholders will usually know of future works or cyclical decorations long before the actual works takes place. It is important therefore that lessees plan well in advance in terms of either saving or thinking about raising finance to pay for the works and this has been encouraged in discussions with lessees and via newsletters.

6.7 PAC Recommendation 7

In view of the fact that leaseholder major works charges act as a drag on property values and property market liquidity, we would like to suggest that radical options are considered as part of the payment review, such as on-account billing for each leasehold property, where regular payments can be made to contribute to major works.

6.7.1 Response

The Council's view is that major works are an investment in the property and enhance the value of the property, which the leaseholder benefits from and should not therefore be a drag on property values or market liquidity. The Council supports on account billing and has asked LH and RB3 to send out estimated bills soon after works start on site.

6.8 PAC Recommendation 8

We recommend that the Council investigates the possibility of encouraging, where feasible, the transfer of the freehold to leaseholders.

6.8.1 Response

We have asked our providers to advertise this option in their newsletters. A transfer of a property occurred in January, so it is clear that some leaseholders know of this process and have exercised their right to buy the freehold.

6.9 PAC Recommendation 9

We welcome the efforts made by Lewisham Homes and Regenter B3 to ensure that leaseholders are aware of their rights and responsibilities and we note that a statement of leaseholder's rights and obligations is enclosed with every bill. However we recommend that more be done to advise potential leaseholders of the implications of buying a leasehold property before they purchase.

6.9.1 Response

Prospective right to buy purchasers receive as of right, a full 5 year costed schedule which details all the major costs they will be liable for in the first five years of their purchase. If works are carried out within this period and not listed in the schedule, then the lessee cannot be charged for this work. The Council is not able to advise potential purchasers other than those purchasing via the RTB and the basis for this is set out above via matters such as the costed schedule protection which is a statutory requirement.

7 PAC Recommendation 10 – For Lewisham Homes and RB3

We recommend that leaseholders are provided with adequate notice in respect of major works (and walkabouts). In particular that Leaseholders are provided with details of who the contractors are and why they were selected at least 6 weeks ahead of major works taking place.

7.1.1 Lewisham Homes response

Leaseholders usually have this information 6 weeks before but always have a minimum of 30 days notice except in emergencies. The procurement process for the decent homes works is currently underway. The works will not start before September 2010 so this will ensure that leaseholders know who the contractor is and why they were chosen, well in advance of the works being carried out.

7.1.2 There is a lessee representative on the Decent Homes Procurement Board and matters are regularly discussed at the lessee major works forum.

7.1.3 Brockley PFI response

RB3 undertake to notify lessees prior to the s20 Notice of possible forthcoming major works and the cyclical decorations programme. RB3 are currently liaising with lessees on possible works to balconies and are currently conducting a consultation exercise before the formal s20 process. RB3 will also undertake to conduct a pre s20 consultation exercise with lessees prior to the cyclical decoration programme which commences from 2013.

7.2 PAC Recommendation 11

Leaseholders are informed of the dates when major works will take place at least 4 weeks in advance of the works starting.

7.2.1 Lewisham Homes response

Agreed, subject to those carried out in an emergency.

7.2.2 Brockley PFI response

Agreed, subject to those carried out in an emergency.

7.3 PAC Recommendation 12

Leaseholders are given at least ten days notice of walkabouts.

7.3.1 Lewisham Homes response

Agreed. Walkabouts will be advertised widely in newsletters and via the

website.

7.3.2 Brockley PFI response

Agreed. Walkabouts will be advertised widely in newsletters and via the website.

7.4 PAC Recommendation 13

We recommend that compliance with these performance targets is regularly monitored and reported on; and included in the Lewisham Homes and Regenter B3 performance information regularly provided to the Housing Select Committee.

7.4.1 Lewisham Homes response

Agreed.

7.4.2 Brockley PFI response

Agreed.

7.5 PAC Recommendation 14

We recommend that the target to respond to letters, emails and 'phone calls from leaseholders within ten working days should mean that a meaningful response is received, and not just an acknowledgement, within this time frame, although it is accepted that the response might not necessarily be the full and final response. We recommend that this target be supplemented by a target of acknowledging any correspondence within two working days, making better use of email.

7.5.1 Lewisham Homes response

LH's service standards were agreed by the LH Board in September 2009 and are reviewed annually.

7.5.2 We acknowledge complaints from all residents within 2 days and other correspondence within 3 days. At peak times of year when the annual service charge bills are sent and when the actual costs are issued there can be delays. Where this happens we advise leaseholders when we send the acknowledgement and give the date by which a full response will be given. We undertake to review the recommendation by PAC during our annual review.

7.5.3 Brockley PFI response

The response times for correspondence are set out in the PFI contract and require a 10 day response time. During the current financial year RB3 have met this target save for one month when it dropped below 100%.

7.6 PAC Recommendation 15

We recommend that compliance with these performance targets is regularly monitored and reported on; and included in the Lewisham Homes and Regenter B3 performance information regularly provided to the Housing Select Committee.

7.6.1 Lewisham Homes response

Agreed, subject to a review by the LH Board.

7.6.2 Brockley PFI response

Agreed.

7.7 PAC Recommendation 16

We recommend that a strategy is developed to raise awareness of the complaints procedure operated by Lewisham Homes and Regenter B3. It would also be helpful if leaseholders were provided with feedback on how complaints information was being used to improve services.

7.7.1 Lewisham Homes response

Information on the complaints procedure is on the LH website, has been promoted in several editions of 'Home', Lewisham Homes quarterly magazine which is sent to all residents. There has been a further promotion in the February 2010 edition. We will also include information on the complaints procedure in the Spring leaseholder newsletter.

7.7.2 The July 2009 magazine contained feedback on how we had used customer feedback and complaints to develop our service standard. 'Home ' also has a 'your voice' section which includes customer feedback an our response.

7.7.3 Brockley PFI response

7.7.4 RB3 (Pinnacle) deal with complaints in the same way as Lewisham Homes. In future the complaints procedure will be posted on the residents' website and we will look at the possibility of providing a link where complaints can be made online.

7.7.5 Complaints will be analysed at quarterly intervals where patterns are found to be developing these will be reported in the newsletter and website, with a response on how to improve the service in the identified area.

7.7.6 RB3 are also keen that lessee groups are part of this process and feed in their comments on how services can be improved. We were pleased that the Brockley Leaseholders Association recently signed of the methodology to calculate the 2010/11 estimated service charges.

7.8 PAC Recommendation 17

In view of the strong feeling amongst a number of leaseholders that bills are often inaccurate, we recommend that the way in which information on costs is communicated to leaseholders is changed to allow a clear and complete breakdown of costs (what work took place, when and how much it cost) to be provided with every service charge or major works bill, so that leaseholders can more fully understand what they are being asked to pay for. If feasible, service charge and major works files, including redacted invoices, should be made available on the Lewisham Homes / Regenter B3 website.

7.8.1 Lewisham Homes response - Major Works

We are improving (and recognise the need to improve) the breakdowns sent with both consultation notices and bills. Earlier last year we consulted with a leasehold focus group and the Leasehold Improvement Group to inform these changes. The new breakdowns were used in December 2009. Leaseholders receive a statement of rights and obligations with their annual service charge and major works bills, this includes their right to inspect accounts. The version of the statement of rights and obligations that we send is the same as that recommended by the independent Leasehold Advisory Service (LEASE).

7.8.2 Annual Service Charges

Leaseholders receive their statement of actual costs in the autumn. We do not seek to recover additional charges for repairs until the following April. This gives leaseholders time to raise any concerns about the charges and make provision for payment. The actual costs are also reviewed by the Council's externalised audit service.

7.8.3 We are investigating options for providing every leaseholder with a complete breakdown of repair charges, giving consideration to the cost to leaseholders for providing the information at this level against the benefit.

7.8.4 We will have to explore the issues around posting all invoices on the website and we do undertake to ensure that all such invoices, surveys and other related billing information are always made available so that leaseholders can inspect these at a local office.

7.8.5 RB3 response

In relation to service charges. Residents already receive breakdown of cost for the individual service they receive. As a legal right leaseholders have the opportunity up to 6 months after receiving the actual adjustment to query any of the costs. A breakdown will be provided then. They also have the opportunity to attend the office and view and take copies of all paperwork/invoices.

7.8.6 RB3 will ensure that all such invoices, surveys and other related billing information for major works are available for viewing and for taking copies at our local office.

7.9 PAC Recommendation 18

We recommend that consideration be given to benchmarking and reducing major works management fees.

7.9.1 Lewisham Homes response

Recent benchmarking by LH shows that 10% management charge is in line with charges raised by other organisations.

7.9.2 The management charge needs to cover the cost of:

- complying with leasehold legislation, this requires 2 and in some cases 3 stages of consultation for major works contracts
- leaseholders share of the in-house procurement and project management.
- supporting enquiries about major works and payment options.

7.9.3 The Council's policy in respect of leasehold service charges is for full cost recovery. We will review the cost of management charges for major works but this will not necessarily result in a reduction. If leaseholders are under charged for the cost of management the shortfall will, by default, be borne by the Council. It is also the case that requirements for more information and consultation may result in higher charges. We do agree to report on benchmarking on an annual basis.

7.9.4 RB3 response

The PFI is by its nature a contractual relationship between the Council and the PFI contractor Regenter B3. The contract was subject to a competitive tendering process and part of the contractual obligations relating to both parties are of course financial. The Council regularly reviews progress but any changes in the current arrangements may prejudice the basis of the contract and so have to be taken fully into account. We do agree to report on benchmarking on an annual basis. Regarding the level of charges these are currently the subject of a Leasehold Valuation Tribunal case and the outcome of this hearing may affect how charges are dealt with in the future.

7.10 PAC Recommendation 19

We welcome the fact that Regenter B3 will survey leaseholders separately when it carries out its satisfaction survey this year, so that their specific concerns can be picked up, and that Lewisham Homes already does this. We would like there to be some crossover in the questions asked by both organisations to allow some benchmarking. In addition, in view of the discrepancy between the results of the provider surveys and our survey, we would like to recommend that the method of surveying is reviewed in time for the 2010 cycle to ensure that the surveys adequately pick up on all leaseholder concerns. (For example, a free text section could be included to capture specific complaints and the survey could be accompanied by mystery shopping and focus groups). We feel that the cost of making the surveying process more in-depth will be more than outweighed by the benefits of picking up the worst performance.

7.10.1 Lewisham Homes response

Lewisham Homes will provide RB3 with the questions used in our 2009 survey. PAC was provided with a summary of the results of the other ALMOs who jointly commissioned the 2009 survey. This showed a like for like comparison. Many of the comments received from leaseholders relate to services and works provided before Lewisham Homes' management of the properties. At the time of the PAC meetings, survey and focus group, leaseholders had not been billed for any major works where the contracts were wholly let and managed by Lewisham Homes.

7.10.2 Lewisham Homes will be surveying leaseholders in 2011. We will feed the PAC recommendations to the ALMO group commissioning the survey. We would also recommend that leaseholders are consulted about the extent and cost of the survey as this cost should be included in leasehold service charges. We will take forward the PAC recommendation on harmonising questions with RB3 and will undertake a cost analysis on mystery shopping and conducting focus groups.

7.10.3 Brockley PFI response

RB3 have already started their 2010 survey but undertake to work with Lewisham Homes on agreeing standard questions. RB3 will also be part of the next STATUS survey where questions are harmonised. We will take forward the PAC recommendation on harmonising questions with LH and will undertake a cost analysis on mystery shopping and conducting focus groups.

7.11 PAC Recommendation 20 for Lewisham Homes only

We note that a large number of other housing providers (including Regenter B3, Hyde and L&Q) operate a 5 year external repairs and decoration cycle. We recommend that when the cycle for external repairs and decoration is reviewed as part of the preparation of the Asset Investment Plan for Decent Homes compliance, consideration is given to whether a five year cycle (rather than the current eight year cycle) is more appropriate. Leaseholders should be specifically consulted on their views as part of the review.

7.11.1 Response

The current cycle reflects the financial reality of operating against a Housing Revenue Account which is subject to an annual review by Government and as such an unknown revenue pattern. This situation leads to an inability to reduce the cyclical decorations programme. A review of the HRA by the Government is ongoing and one of the possible reforms has been self financing. If self financing were to be introduced then a reduction to a 5 year programme may be possible and will therefore be kept under review.

7.12 PAC Recommendation 21

We do not feel that separate service charges for Anti-Social Behaviour, Customer Services and Resident Consultation should be levied on top of the existing service charge; as these services should be funded from within the standard service charge. We do not feel that leaseholders in street properties should be required to pay a charge for anti-social behaviour services.

7.12.1 Response

We can include charges for customer services, resident involvement and ASB charges as part of the 'leasehold management' charge, by increasing the charge by the cost of these services. However, showing these charges separately, we believe, gives greater transparency to leaseholders about the services for which they are paying. In introducing the different charges we held two rounds of Area Panels in October and December 08 (a total of 6 meetings). In addition there were focus groups of leaseholders and the leaseholder improvement group were consulted on changing the management charge to a flat rate from the then percentage. In general the comments we

received from leaseholders about service charge bills are that they want as much transparency as possible.

7.12.2 Showing the elements of ASB, Customer services and Resident involvement separately from the main management charge was one of the ways we tried to meet leaseholders requests for greater transparency. In last years annual service charge 2009/10 we also separated the charges for caretaking and sweeping, as they have different providers.

7.12.3 Lewisham Homes are not currently charging street properties for ASB but this could change in the future. The service charges for resident involvement, customer services and ASB are services that benefit both leaseholders and tenants. These charges will be reviewed annually when the actual costs are prepared.

7.13 PAC Recommendation 22 for Regenter B3 only

We recommend that consideration be strongly given to introducing a transparent and equitable flat rate charging policy for service charge management fees.

7.13.1 Response

The PFI is subject to a legally binding contract which has built into it certain financial criteria. One of these being the management charge and so at this time there is no proposal to change the current charging regime but this will be kept under review. RB3 will also undertake to conduct benchmarking and report this back to the Housing Select Committee. As commented above there is a current Leasehold Valuation Tribunal and the outcome of this may affect future management charges.

8 Financial Implications

8.1 The estimated cost of the extended payment proposals set out in Appendix 1 is approximately £200k per annum, being the average financing cost of providing interest-free loans for up to three years.

8.2 In estimating this officers have assumed that the council will be able to invest to bring properties up to the decent homes standard, which is largely contingent on a successful inspection result for the ALMO. The cost referred to in paragraph 8.1 will therefore be significantly lower if the decent homes investment programme is not able to proceed. Furthermore, even with a successful inspection, the ensuing investment programme will take some time to commission, and so the financing costs referred to in paragraph 8.1, which are an average cost over several years, will be rather lower in 2010/11.

8.3 Members must appreciate that the costs of this proposal can only be estimated at this stage, given that there is no certainty over the size and timing of the investment programme.

8.4 There is no provision for the additional costs within the Council's budget and any costs relating to the extension of the scheme would have to be met from reducing funds available for other services.

8.5 With the exception of the costs shown in paragraph 8.1 above, there are no financial implications arising from this report.

9 Crime and Disorder Implications

9.1 There are no specific crime and disorder implications contained within this report.

10 Equalities Implications

10.1 The report addresses cases of hardship which may involve elderly lessees or others who have special needs. The policy incorporates existing statutory and non-statutory regulations that address issues of genuine hardship.

11 Environmental Implications

11.1 There are no specific environmental implications contained within this report.

12. Legal Implications

12.1 Service Charges are defined by section 18(1) of the Landlord & Tenant Act 1985, (as amended) as meaning "an amount payable by a tenant ...as part of or in addition to the rent- (a) which is payable, directly or indirectly, for services, repairs, maintenance [improvements] or insurance or the landlord's costs of management, and (b) the whole or part of which varies or may vary according to the relevant costs. (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord...in connection with matters for which the service charge is payable". Challenges as to the reasonableness of services charges may be determined upon following an application to the Leasehold Valuation Tribunal.

12.2 There are a number of statutory provisions dealing with loans in respect of service charges to leaseholders. A leaseholder has a right to a "statutory" loan under section 450A of the Housing Act 1985 and the Housing (Service Charge Loans) Regulations 1992. The criteria for entitlement is that the charge is payable within the first ten years after the grant and the charge is between £1,500 and £20,000.

12.3 There is a statutory discretion to make loans in other cases, under section 450B and Regulation 5 of the said 1985 Act and 1992 Regulations. Under the provisions of the 2009 Housing (Service Charge Loans) (Amendment) (England) Regulations 2009, an Authority is allowed to waive interest on part or all of a discretionary loan.

12.4 Section 450D of the Housing Act 1985 (as amended), together with the provisions of the Housing (Purchase of Equitable Interests) (England)

Regulations 2009 provide for the power to enter into, in effect, an “equity release”. Under these provisions, the Authority landlord may agree with the leaseholder to take a share of the equity value to the same amount of the service charge, plus any administration charges. This does not carry interest and repayment, although secure, will usually not be made until the property is sold.

- 12.5 Leaseholders of flats have a statutory right to collective enfranchisement of the freehold under Part I of the Leasehold Reform, Housing and Urban Development Act 1993. In the context of Local Authority “blocks”, the requirement is that at least half of the flats in the “block” must participate and many Local Authority “blocks” usually contain a mix of leaseholders and other tenants.

13 Background papers and report originator

- 13.1 There are no background papers to this report.
- 13.2 For further information on this report please contact Genevieve Macklin, Head of Strategic Housing on 020 8314 6057.

Appendix 1

Proposed policy on extended repayments for leaseholders

There are a variety of statutory and non-statutory options offered by the Council to assist leaseholders to pay their major works bills. Some of these are discretionary where the Council will 'means test' the financial ability of the leaseholder to make payments and others are of a mandatory nature such as the £10,000 cap on PFI schemes.

The Council is proposing a new policy for extended periods of repayment for leaseholders in recognition of the current economic climate and the potential problems of accessing loans and/or being able to re-mortgage. The Council will also take account of cases of genuine hardship, especially those who originally bought under the right to buy scheme and may be 'asset rich but cash poor'. In such circumstances each case will be treated on its merits.

Lewisham's current policy is to bill after works have completed at final account and then allow 10 months to pay. Billing therefore takes place at the end of the process rather than at the start. The Council is therefore seeking to introduce a new policy that allows lessees a considerably longer period in which to pay and to plan for how they will repay their bills. The Council is also keen to ensure that leaseholders receive as much advanced notification of possible works before the s20 Notice is served.

The policy takes account of the different circumstances of lessees in Lewisham. Some RB3 leaseholders have already been billed for their decent homes related work and others are still to be billed for this work whereas the Decent Homes programme has not yet started in Lewisham Homes. RB3 leasehold bills are capped at £10,000 but this will not apply to LH's lessees.

RB3 lessees will have until March 2013 to repay their bills which will allow a three year interest free period for lessees receiving estimated bills in April/May 2010 and longer for leaseholders who have already received their final account bills but have not yet completed payment.

In general terms it is proposed that the new policy allows for estimated billing soon after works start on site. Lessees will start to pay by instalments at this time and in so doing be given a longer period in which to pay. If a leaseholder's bill is in excess of £3,000 they will be given 36 months in which to clear the bill.

Leaseholders are to be advised as early as possible about future major works and cyclical decorations so they can use the time before and from notification of the s20 notice to set funds aside, to arrange finance and therefore make arrangements to pay their bill.

The options for payment are set out below. The options are only available for payment against the estimated bill. Payment arrangements must be made within 28 days of receipt of the bill and only apply to resident lessees.

Payment options	Eligibility	Conditions that apply
2 years interest free.	Resident lessees*	Bills up to £3,000. Bills will be issued within 6 weeks of works starting on site. The interest free period will be contingent on the staged payments being agreed and received.
3 years interest free.	Resident* lessees	Bills must be over £3,000 and up to £10,000. Bills will be issued within 6 weeks of works starting on site. The interest free period will be contingent on the staged payments being agreed and received.
Over 3 years	Resident* lessees	For bills over £10,000 an interest free period of 3 years will still be available. Repayment options will be subject to individual agreement and personal circumstances. Interest will be incurred after the third year at the prevailing local authority rate. Lessees will cover the administration costs for setting up the agreement and a legal charge will be placed on the property (subject to there being sufficient equity in the property). The interest free period will be contingent on the staged payments being agreed and received.
Payment to March 2013	PFI lessees only	A monthly payment arrangement to clear the decent homes bill by March 2013 must commence on receipt of a final account or estimated bill.
Loans or taking out equity in the property	All lessees	Lessees can approach their existing lender for additional mortgage and/or loan finance; or apply to another lender for a loan.
Mandatory service charge loan	Lease must have been granted within the last 10 years.	A loan governed by statute and offered to leaseholders within the first ten years of the term of their lease. It is subject to certain criteria and is repayable over a maximum of ten years. Interest is payable at a set rate (although this will vary at any point in time). There is a fixed administration charge and the loan is secured against the property.
Discretionary Service Charge Loan	Applies to those not eligible for Statutory Loan and have no other means of repayment	This loan is offered by the Council and operates on the same basis as the Statutory Loan and can be provided if the lessee does not meet the Statutory Loan criteria and has no other means of repayment. Interest is also payable on this loan. The term of the loan can be varied to suit the leaseholders circumstances. There is also an administration charge and the loan is secured against the property.
Mandatory	PFI	Charges for repairs and improvements cannot

Payment options	Eligibility	Conditions that apply
reduction of service charges in a five year period	lessees only	exceed £10k in any five year period.
Discretionary reduction of service charges exceeding £10k	All lessees	The Council (via Lewisham Homes) considers each case where the charge for works of repair and improvement exceed £10k to a leaseholder in any five year period. The reduction is made against criteria set out in guidelines and principles established in previous cases.
Voluntary Charge	Resident lessees*	A vulnerable lessee who has sufficient equity in their property but cannot access Bank or Building Society Loans and is unable to pay through other payment options, can apply to place a charge against the property until it is sold. The charge will then become repayable with interest.

The extended repayment period starts on receipt of the estimated bill (not the final account bill) which will usually be issued soon after start on site of the works. Leaseholders must commence their repayments 28 days after receipt of the bill.

In most cases leaseholders will have been notified many months in advance of the estimated bill of the works that are likely to take place.

Only resident leaseholders qualify for the extended repayment periods.

* Resident lessees are leaseholders who live at their premises and the residence must be their only home.