

## ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	<b>Meeting:</b>	<b>Cabinet Member for Safe and Attractive Neighbourhoods</b>
2.	<b>Date:</b>	<b>18 March 2013</b>
3.	<b>Title:</b>	<b>Payment Options for RMBC's Leaseholders to Meet the Cost of Capital Works</b>
4.	<b>Directorate:</b>	<b>Neighbourhoods and Adult Services</b>

### 5. Summary

When buying leasehold properties, many people are not aware of their obligations to contribute towards the cost of repairs to communal areas and to the fabric of the building. The charges for major repairs often stretch their financial capacity to breaking point. The Council wishes to support leaseholders with a set of affordable solutions, which:

- Sign post leaseholders to financial advice, working in partnership with a Credit Union and the voluntary sector, in particular for pensioners and people with disabilities.
- Maintain deferred payment facilities over 12 months, interest free and without charges.
- Offer 5 year loans secured by a legal charge and managed by a credit union, with a cap on the value of the loan, and
- Use discretionary powers to grant voluntary charges on properties to people in financial hardship.

### 6. Recommendations

- **That the Cabinet Member for Safe and Attractive Neighbourhoods support the payment options in this report to enable leaseholders to meet the costs of capital works to their flats.**
  - **That the LASER Credit Union administers the loans on behalf of Rotherham Metropolitan Borough Council.**
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## **7. Proposals and Details**

### **7.1 Background**

There are 459 leaseholders in owner occupation in Rotherham who have exercised their right to buy and are paying service charges to Rotherham Metropolitan Borough Council. A very small number of these leasehold agreements were signed post-2002. (< 10 years). It is estimated that 60 leaseholders will receive invoices for major repair works which total £180,000 in 2012-13.

17,090 properties were sold under the right to buy scheme between 1982 and 2012, of which 459 properties were sold under 125-year long leases (2.6%). The Government's 'reinvigorated right to buy scheme' increased the cap on discounts to a maximum of 70% of the market value (or £75,000), which is likely to result in more local authority tenants becoming leaseholders.

Data collected indicates that Rotherham Council levy charges averaging around £200 annually per leaseholder per flat. However, service charges may often exceed £3,000 if properties are subject to major works, in particular non-traditional properties and roof repairs.

It is estimated that over 30% of the leaseholders in Rotherham are over 55 and the majority are on low incomes, cash poor, but with housing assets worth between £50,000 and £75,000.

The Land Valuation Tribunal (LVT) hears cases of legal dispute between leaseholders and landlords and will examine how far a landlord has considered the financial impact of its plans for major repairs. The landlord should offer a range of payment options, which reflect the financial circumstances of leaseholders, whilst allowing major works to proceed as necessary.

On the understanding that local authorities are not authorised to operate sinking funds, the Council is not able to help leaseholders manage their finances ahead of a programme of major repairs, thus it is proposed that payment options are offered through loans, instalments in arrears, or other measures.

### **7.2 Sign Post Leaseholders to Financial Advice**

Claiming missing benefits is likely to be very relevant among older home owners. Analysis by the Department for Work and Pensions (DWP) indicates that home owners are much more likely than tenants to fail to take up their entitlement to pension credits. DWP estimates indicate that only about 50%-60% of home owners entitled to pension credits claim them.

A survey conducted in 2010 by the Joseph Rowntree Foundation, on older people interested in Equity Release, indicated that nearly one in five (18%) were not claiming any of the state benefits they were entitled to, and a further 26% were identified as under-claiming.

RMBC and partners, such as Age Concern and Citizens' Advice Bureau, can check benefit entitlements, and encourage people to claim the welfare benefits they are entitled to.

### **7.3 - Preferred Payment Options**

#### 7.3.1 - Payment plan

Local authorities may offer discretionary loans as provided for in the Housing Regulations 1985. The eligibility criteria and terms, including interest rates, are determined by the local authority. For example, Sheffield offers a two year discretionary loan, other councils, such as East Durham Homes, extend the repayment term to allow leaseholders to pay over a period of 1, 2 or 3 years.

Rotherham's lease offers leaseholders the option of paying for service charges 12 months in arrears, free of interest charges.

#### 7.3.2 - Discretionary Loans administered by a Credit Union

Administering loans beyond the 12 month interest free option, already offered to leaseholders, will be costly to manage and place a significant administrative burden on the Council's services. A more suitable option would be to work with a local credit union to manage longer term loans.

A Credit Union could offer competitive loans as follows:

- Personal loans with maximum 2% interest per month (26.4% APR up to 18 months) when the loan is not secured on the property.
- Premier loan with 13.7% APR (1.14%), up to 10 years, guaranteed by a legal charge option on the property.
- The interest payments received would be apportioned between RMBC and the Credit Union. Lower APR could be negotiated when the loan is fully secured on the property (not second charges).
- Loans will not attract set up fees or early redemption fees but would attract administration costs. The personal loan will not attract penalties for repaying the loan early and no additional charges will apply.

An affordability exercise will have to be carried out to ensure that loan repayments do not cause undue hardship for leaseholders.

If the affordability test demonstrates that the applicant cannot afford a loan repayment, RMBC will seek to register a legal charge on the property to include the loan principal, interest payments and administration fees.

It is predicted that a number of leaseholders will be facing severe financial hardship. This could be because of one or a combination of the following reasons:

- No access to mainstream banks
- Consolidation of high interest loans
- Low value loans <£1,000 (including crisis loans)
- Debt management agreement or Individual Voluntary Arrangements
- Administration Order (<£5,000 debts)

In these instances, RMBC will seek to proceed with a legal charge and will not consider a loan option, in order to protect the leaseholder's best interests.

### 7.3.3 - Voluntary charges against the property

This will apply when a leaseholder:

- Is not able to meet interest free loan repayment obligations with RMBC (12 months).
- Is not able to secure a long-term loan with a Credit Union.
- Makes a request for a voluntary charge. A qualifying value for the works should apply to the granting of a voluntary charge, and could be calculated to meet the full value of major repairs such as roof refurbishments and non traditional improvements (£3,000 to £5,000). RMBC would have discretionary power to grant or reject an application on the basis of financial circumstances and the age of the leaseholder.

## **7.4 - Other Payment Options**

### 7.4.1 - HCA Loan

If the following conditions are met, a leaseholder may request a loan from the HCA to cover the cost of major repairs:

- Only for charges made within the first 10 years of purchase
- For the element of the annual service charge and major repairs over £2,633

It is the responsibility of the Council to inform the leaseholder of their right to apply for a loan from the HCA. The loan period will range from three years to a maximum of 10 years depending on the value. The loan will be secured by a mortgage on the property.

This measure is limited in its application in Rotherham as very few of Rotherham's leaseholders bought in the last 10 years and as most repairs cost are likely not to exceed £3,000.

### 7.4.2 - Equity Release

A large proportion of those aged over 55 are already aware of the existence of Equity Release (ER) options, but despite the introduction of strict FSA regulations and a growing acceptance that realising the value of assets may be a reasonable solution to meet major costs in later life there is a perception that:

- Equity release is risky and of poor value
- A home is a family asset to be valued as a statement of personal freedom and intended for passing on to other members of the family

Two main equity release products are available:

- 1) Home Reversion plans by which the owner sells their home to a lender in exchange for a lump sum or an income for life and retain the right to stay in their property until death or a permanent move into residential care.
- 2) Lifetime mortgages are similar to conventional mortgages. The owner retains ownership of their home but borrows against it and the lender secures the loan with a first charge over the property. Some lenders, such as the Home Improvement Trust, offer interest only payments but in the vast majority of cases, interest is rolled up and repaid with the capital sums on the sale of the property following death or a move into permanent residential care.

It is important to note that people in ex-Council flats and leaseholds properties with less than 70 years remaining on the lease face difficulties securing an ER deal. Finally, for low income households there is a real risk of losing pension credits if the loan is not carefully designed to meet pre-determined spending needs and takes into account the savings threshold (currently £10,000).

#### 7.4.3 - Example of Equity Release - Home Cash Plan

The Home Cash Plan is a new equity release product introduced by Just Retirement Solutions, following a pilot scheme conducted with the Joseph Rowntree Foundation. The scheme is devised to be safe from loss of benefits and with a minimum initial drawing of £5,000. This solution is designed for income-poor older people and, unlike other equity release products, allows home-owners to release small sums of money from their property safely and easily, without jeopardising their benefits. Older people with housing equity can use this facility to pay for major repairs or/and pay for additional support at home.

The administrative and legal costs of organising the loan are estimated to be £1,000. Just Retirement Solutions Limited (JRS) is part of Just Retirement (Holdings) Limited. Leaseholders may be reluctant to deal with a private financial adviser and may prefer to deal with a voluntary organisation that has received Local Authority support.

#### 7.4.4 - Buy Back of properties

Local authorities have powers to buy back properties from homeowners who are experiencing financial difficulties. This will add financial burdens to the HRA 30 year investment plan and should only be considered if it meets the Council's strategic objectives, in particular in terms of land assembly and reduces the risk of absentee landlords in vulnerable estates in the future.

### **8. Finance**

Major repairs to leasehold properties are part of the HRA refurbishment budget. The contribution of leaseholders to refurbishment work represents a very small portion of the work allocation this year and in 2013-14. The programme of interventions can be summarised as follows:

- £220,000 of re-roofing and miscellaneous interventions across 122 properties in 2012/13

- A minimum of £153,000 of capital works to 54 properties in 2013/14

£76,000 of service charges were in arrears at the end of January 2013, however, it is understood that many leaseholders have agreed to payment plans and that the debt level should be significantly reduced at the end of the financial year. 65% of the debts in arrears are held between 50 leaseholders. It will be essential to work closely with these individuals to ensure that appropriate financial arrangements are in place when major repairs works are conducted.

## **9. Risks and Uncertainties**

9.1 The financial impact of refurbishment plans on leaseholders, in ex-local authority flats in particular, can be considerable and, in case of dispute, the Leasehold Valuation Tribunal (LVT) will examine how far a landlord has gone to consider the financial impact of its plans for major repairs on leaseholders. Local Authorities are at risk of having to fund the bulk of leaseholders' refurbishment costs if they cannot evidence that they have taken the necessary steps to:

- Explain that the leasehold contract clearly state leaseholders' financial obligations in relation to the costs of repairs, maintenance and structural improvements to the common areas of their buildings.
- Prepare accurate estimates of the works.
- Engage with a robust consultation process before starting repairs and refurbishment works.
- Sign-post leaseholders to financial and benefit advice, and
- Offer payment options that reflect the financial circumstances of each leaseholder, while allowing major works to proceed as necessary.

9.2 Major repairs interventions are engaged by Rotherham in advance of their payment by leaseholders. Local Authorities are not authorised to operate sinking funds and help leaseholders manage their finances ahead of a programme of major repairs, thus creating a medium to high risk of payment default and bad debts. A comprehensive payment options plan and sign-posting to financial advice will be part of a revised programme of consultation and information in Rotherham. The cost of managing bad debts will be charged to leaseholders in arrears and legal charges will guarantee loans and payment arrangements. This will ensure that all debts are recovered in Rotherham, albeit in some circumstances with considerable delay after the sale of the property.

## **10. Policy and Performance Agenda Implications**

Payment options for leaseholders contribute to three of the ten commitments within Rotherham's new Housing Strategy:

- Commitment 2: We will increase and improve the supply of affordable rented housing in Rotherham.
- Commitment 6: We will help people to access the support they need.
- Commitment 7: We will help people in Rotherham's most disadvantaged communities.

The changes also support priority 3 of [Rotherham's Community Strategy, 2012 - 2015](#):

- Priority three: supporting those that are vulnerable within our society

## **11. Background Papers and Consultation**

- Rotherham's Housing Strategy, 2013 – 2016
- Rotherham's Community Strategy, 2012 – 2015
- Capital Programme Monitoring 2012/13 and Capital Programme Budget 2013/14 to 2014/15, Self Regulation Select Committee, 22 November 2012
  
- Financial Services
- Legal Services

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