

Committee: OVERVIEW AND SCRUTINY	Date: 8 March 2011	Classification: Unrestricted	Report No.	Agenda Item No. 6.1
Report of: Assistant Chief Executive		Title: Cabinet Decision Called-in:		
Originating Officer(s): Amanda Thompson Team Leader, Democratic Services		Leasehold policy review		
		Wards: All		

1. SUMMARY

- 1.1 The attached report of the Corporate Director, Development and Renewal, was considered by the Cabinet on 9 February 2011 and has been "Called In" by Councillors Marc Francis, Shahed Ali, Kabir Ahmed, Abdal Ullah and Stephanie Eaton for further consideration. This is in accordance with the provisions of Part Four of the Council's Constitution.

2. RECOMMENDATION

- 2.1 That the Committee consider the contents of the attached report, review the Cabinet's provisional decisions arising and decide whether to accept them or refer the matter back to Cabinet with proposals, together with reasons.

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

Brief description of "background paper"

Cabinet report - 9 February 2011

Name and telephone number of holder
and address where open to inspection

Amanda Thompson
02073644651

3. THE CABINET'S PROVISIONAL DECISION

3.1 The Cabinet after considering the attached report provisionally agreed:-

That the new Leasehold policies listed as appendices to this report (CAB 080/101) be approved, subject to the following revisions to Section 6.6 of the Major Works Policy:

- 1) The property must be the leaseholders' only or principal home and the leaseholder must be living in the property full time.
- 2) The leaseholder must be the original RTB purchaser and the relevant work was not specified on the S125 notice.
- 3) The leaseholder must not have any service charge arrears.
- 4) The policy will only apply to individual recharges for £10,000 or above.
- 5) Where leaseholders wish the discretion to be exercised they must agree to enter into a legal charge on the property securing the costs of the major works. This legal charge will be for a period of seven years and will provide the costs plus interest to become payable if the property is assigned or sold within the seven years, (except in the case of an assignment on the death of a resident partner). At the expiry of the seven year period the legal charge will be discharged and no payment required.
- 6) The leaseholder is in receipt of state pension, income support or other state benefit or tax credit or job seeker's allowance or is able to demonstrate exceptional hardship as follows:-
 - Inability of the leaseholder to pay this major works charge even if the Council were to extend the period for payment.
 - Inability of the leaseholder to pay this major works charge due to the value of this bill for major works any other relevant circumstance.

4. REASONS FOR THE 'CALL IN'

4.1 The Call-in requisition signed by the five Councillors listed above gives the following reasons for the Call-in:

'Historically, there has been considerable disagreement between Tower Hamlets Council and its residential leaseholders about the quality of services provided and the value for money offered. This resulted in many council leaseholders refusing to pay their bills and others successfully challenging them at the Leasehold Valuation Tribunal.

In October 2008, the Full Council authorised an independent audit of leasehold service charges to be undertaken to investigate these concerns. After several delays the terms of reference for that audit were agreed by representatives of the political parties and representatives of leaseholders, and a draft report from the auditors received in the summer of 2010. This audit report is still awaiting sign off from the Project Steering Group.

This Leasehold Policy Review has been run by council officers in parallel with the independent audit. It is appropriate to seek to make clear policy, especially in relation to annual service charges and major works recharges. However, it is surprising that the Cabinet is seeking to agree these policy statements before the publication of the report from the independent audit.

We welcome the Lead Member's amendment to the recommendations to retain the £10,000 cap on major works recharges for some older leaseholders on very low incomes. We also welcome the robust action that will be taken to ensure leaseholders sub-letting their properties take responsibility for the actions of their tenants. However, we are concerned about the changes to existing policy in Para 9.1, whereby leaseholders on the ground floor will start become liable for the costs of day-to-day maintenance and replacement of lifts and Door Entry Systems.

We also have very serious concerns about the change in Para 9.5, whereby leaseholders who succeed in having a component exempted from major works will nevertheless be recharged a share of the preliminaries, professional and management fees arising from the major works contract. We note that officers have failed to include either a specific counsel's opinion setting out the necessity of these changes or any evidence that leaseholders themselves were consulted upon them'.

5. ALTERNATIVE COURSE OF ACTION PROPOSED:

5.1 The Councillors submitting the Call-in requisition have proposed the following alternative course of action:

'We call on the Lead Member for Housing & Development to urgently convene the final Project Steering Group meeting to "sign off" the report of the independent audit.

We call on the Mayor and Cabinet to suspend a decision agreeing to the fundamental changes to leasehold policy contained in Paras 9.1 and 9.5 until the independent audit report is published and consultation on these specific proposals is undertaken with leaseholders and councillors.

We call on the Mayor to publish Counsel's Legal Opinion in relation to these changes to help inform consideration of them'

6. CONSIDERATION OF THE “CALL IN”

6.1 The following procedure is to be followed for consideration of the “Call In”:

- (a) Presentation of the “Call In” by one of the “Call In” Members followed by questions.
- (b) Response from the Lead Member/officers followed by questions.
- (c) General debate followed by decision.

N.B. – In accordance with the Overview and Scrutiny Committee Protocols and Guidance adopted by the Committee at its meeting on 5 June, 2007, any Member(s) who presents the “Call In” is not eligible to participate in the general debate.

6.2 It is open to the Committee to either resolve to take no action which would have the effect of endorsing the original Cabinet decisions, or the Committee could refer the matter back to the Cabinet for further consideration setting out the nature of its concerns and possibly recommending an alternative course of action.