



ADUR & WORTHING  
COUNCILS

Joint Strategic Committee  
13 July 2021  
Agenda Item 14

Key Decision [Yes/No]

Ward(s) Affected: Various

**Major Works Payment Options for Council Leaseholders**

**Report by the Interim Chief Executive**

**Executive Summary**

**1. Purpose**

- To propose a new policy on payment options for the Adur District Council homes leaseholders that reflects current best practice.
- To seek approval to consult leaseholders on the Major Works Payment Options Policy

**2. Recommendations**

- 2.1 That JSC agree for the Council to consult leaseholders on the proposed Major Works Payment Options Policy

**3. Context**

- 3.1. Leaseholders are liable under the terms of their lease to contribute their share of the costs the council incurs as landlord in carrying out major works to the fabric and main structure of their homes.
- 3.2. Examples of major works include external decorations, roof repair or renewal; brickwork or structural repairs, door entry installation or replacement; lift renewal etc.

- 3.3. The council recognises that some residential leaseholders may find it difficult to pay their major works contribution in a lump sum.
- 3.4. The existing charges and repayment offer was approved by Members in 2010<sup>1</sup>. As the council embarks on a programme of significant major works, which in some instances will give rise to substantial leaseholder recharges, it is pertinent to review the offer to ensure it is still fit for purpose and that it is aligned to best practice.
- 3.5. An internal audit carried out in March 2018 made recommendations on the existing recharge policy. Following the audit recommendation, a detailed review of the existing policy took place.

#### **4. Review of the existing policy**

- 4.1. Benchmarks were done of other local authority and social landlords policies. This showed that the most common features of assistance offered to leaseholders include the following:
  - Extended payment (“loans”)
  - Interest-free periods
  - Deferred payment option
  - Prompt payment discount
  - Some options were not offered to non-resident leaseholders
- 4.2. In creating the new policy, there were a number of practical issues relating to managing service charge loans that had to be considered.
  - There is no functionality in the council’s current service charge account management (debtor) system to calculate interest, deal with interest rate changes, provide redemption figures etc. Managing a portfolio of loans would require an appropriate software application.
  - Research by the Finance Department established that the cost of buying such a package is prohibitive and would not be cost effective given the small number of leaseholders in the Council’s stock who would require a loan.
  - Furthermore, the current interest rate charge is very low and low interest rates are likely to prevail in the short to medium term.

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<sup>1</sup> ADC Cabinet 15 June and 13 July 2010

- 4.3. Discussions were held with a local credit union to explore the feasibility of that organisation setting up and managing service charge loans and collecting payments on behalf of the council. Unfortunately the arrangement proposed did not fully fit our requirements and would not represent value for money.

## **5. Benefits of the proposed policy**

- 5.1. Having considered all the issues above, the Council proposes the following assistance to residential leaseholders
- an interest rate of 0% to residential leaseholders who are given an extended time to repay their charges.
  - defer payment of a major works service charge for residential leaseholders subject to a charge secured against the property. The principal and interest to be payable on the sale of the property
  - A prompt payment discount of 5% where the major works invoice is paid in full within 28 days. This is also available to non-residential leaseholders
- 5.2. The proposed policy reflects best practice and offers payment options that are straightforward and are simple to set up and manage using existing systems.
- 5.3. The proposed policy gives the Chief Financial Officer and Head of Housing delegated authority to periodically review fees and interest rates in the future to ensure the policy reflects any changes to the financial situation. The existing scheme provides no mechanism to make changes.

## **6. Engagement and Communication**

- 6.1. Upon the agreement of the JSC, the Council will consult leaseholders on the proposed policy
- 6.2. An equality impact assessment will be conducted on the proposed policy before it is implemented.

## **7. Financial Implications**

- 7.1. The Council will forgo annual interest of £3.13 per £100 of debt outstanding on the extended payment scheme, based on the current interest rate. However, assuming interest rates remain low, the rate that the Council could charge would reduce in line with the Council's average borrowing rate. If rates rise significantly, the new scheme allows for the introduction of interest.
- 7.2. This compares favourably with the set up costs and annual fees chargeable by both the external service provider and the local credit union who were approached.
- 7.3. The external service provider would charge £15k to set up the system, an annual fee of £6,500 plus disbursements relating to the collection of arrears.
- 7.4. The credit union would charge a £3k set up fee and annual fees of £30k to £50k. The credit union's scheme also contained financial disadvantages to both the leaseholders (including interest rates of between 7% and 11% and a requirement of compulsory savings) and the Council (requirement for a £300k loan to fund the leaseholder loans and the loans given by the credit union would not be secured by a charge on the properties). The high interest rate would result in most eligible leaseholders opting instead for a loan from the Council, which would reduce the value of this scheme even further.
- 7.5. The loss of interest will not be a charge to the General Fund and any borrowing required will be undertaken within the HRA.

## **8. Legal Implications**

- 8.1. The Housing Act 1985<sup>2</sup> (as amended) enables housing authorities (including a local authority) to offer a loan for service charges for eligible leaseholders and also grants powers to offer discretionary loans in other cases.
- 8.2. A loan in this context does not involve the release of any advance to the leaseholder but gives them the right to pay in instalments subject to terms.

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<sup>2</sup> Housing Act 1985 [Section 450A](#)

8.3. The right to a loan only applies in the first 10 years beginning on the date the property was first sold under the Right to Buy or 10 years beginning on a date specified by the Landlord and the repayment period and maximum/minimum loan amounts and the interest rate are all prescribed by the legislation<sup>3</sup>. The current interest rate that would apply is 3.13%.

8.4. Both categories of loan must be secured by a charge on the property<sup>4</sup>.

### **Background Papers**

- Payment Options for Leasehold Major Works Charges Policy
- ADC Cabinet Report "Leasehold Payment Options" 15 June 2010
- ADC Cabinet Report "Leasehold additional payment options" 13 July 2010

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<sup>3</sup> [The Housing \(Service Charge Loans\)\(Amendment\)\( England\) Regulations 2009](#)

<sup>4</sup> [The Housing \(Service Charge Loans\) Regulations 1992. Paragraph 7](#)

## **Sustainability & Risk Assessment**

### **1. Economic**

- As property owners, Leaseholders are key to building a thriving community. The viability of their asset is important either in providing homes or in the development of the community.

### **2. Social**

#### **2.1 Social Value**

- The payment options help support leaseholders with major works service charges sustain owner occupation and contribute to stable communities

#### **2.2 Equality Issues**

- An Equality Impact Assessment will be carried out before the policy is implemented.

#### **2.3 Community Safety Issues (Section 17)**

- Matter considered and no issues identified.

#### **2.4 Human Rights Issues**

Matter considered and no issues identified.

### **3. Environmental**

- Matter considered and no issues identified.

### **4. Governance**

- Matter considered and no issues identified.



ADUR DISTRICT  
COUNCIL



AdurHomes

PUTTING RESIDENTS AT THE HEART OF WHAT WE DO

# PAYMENT POLICY FOR LEASEHOLD MAJOR WORKS CHARGES

## 1. Introduction

- 1.1. This policy affects residential leaseholders of the council. These include those who have bought their home under the Right to Buy and those who have purchased a council leasehold property on the open market.
- 1.2. The policy covers major works service charges which are payable by the leaseholder to the council as freeholder under the terms of the lease.
- 1.3. Major works can include maintenance and repair, and sometimes improvement, of the exterior and structure of the building and common parts. Examples of major works might include repairing, replacing or decorating the roof, window frames, exterior brickwork or structural repairs, communal areas, soffits, fascias, external guttering, downpipes, pathways, door entry installation or replacement; lift renewal.
- 1.4. Major works will not include maintenance and repair of the 'demised premises', which will normally be the interior parts of the flat. The lease would have a definition of what is included within the demised premises and what is, therefore, what is the leaseholder's responsibility.
- 1.5. Leaseholders have the legal right to be consulted where any major works charge would be more than £250 per leaseholder. Section 20 of the Landlord & Tenant Act 1985 requires a landlord to consult with leaseholders or a Recognised Tenants' Association before major works are carried out.

- 1.6. The consultation process involves
- 1.6.1. Writing to leaseholders (Notice of Intention) describing the proposed works, explaining why they are necessary and giving an estimate, or estimates, of the total cost of the works. The notice(s) would invite leaseholders to comment on the proposed works and estimate(s) within the following 30 days.
  - 1.6.2. Providing leaseholders with at least two estimates after the consultation period above (Notice of Estimates) – provide the leaseholders with a minimum of 30 days to make observations and specify the address where observations should be sent.
  - 1.6.3. Serving a Notice of Award of Contract if the contractor chosen is not the lowest estimate.

## 2. Leasehold financial assistance

- 2.1. We offer a support package to leaseholders in council-owned blocks for major works costs.
- 2.2. For non-resident leaseholders, payment is due within 14 days of the invoice. In certain circumstances, we may consider an extended repayment term of up to two years with interest charged on the outstanding debt at an interest rate based on the bank base rate plus 2%.

### Extended payment options

- 2.3. The table below states the extended payment options available to residential leaseholders. These options are not available to non-residential leaseholders

Amount	Maximum repayment period	Interest	Admin fee	Land Registry fee
> £1,000	1 year	0%	-	-
£1,000-£2,000	2 years	0%	-	-
£2,000-£5,000	3 years	0%	Yes	Yes
£5,000-£10,000	5 years	0%	Yes	Yes
< £10,000	10 years	0%	Yes	Yes

- 2.4. The following are the terms and conditions of the extended payment options
- 2.4.1. Leaseholders must set-up the arrangement within 28 days of receiving the invoice
  - 2.4.2. Payment must be by direct debit
  - 2.4.3. The maximum repayment period offered to leaseholders where the property is not their only or principal home is 2 years
  - 2.4.4. Any balances must be cleared on /before the sale of a property
  - 2.4.5. The administration fee is for the council's costs of setting up the legal charge on the property. The land registry charge is the fee for registering the charge.

**Deferred payment scheme**

- 2.5. The option to defer payment of a major works service charge subject to a charge secured against the property. The principal and interest to be payable on the sale of the property.
- 2.6. The option is available where the major works charge is at least £2,000.00 and for leaseholders who:
- 2.7. The following are the terms and conditions of the deferred payment scheme; leaseholders must
- 2.7.1. Reside in the property as their only or principal home
  - 2.7.2. Be of pensionable age OR
  - 2.7.3. In receipt of state benefits as their only source of income
  - 2.7.4. Be able to demonstrate that they cannot afford the repayments under the extended payment scheme
  - 2.7.5. Be able to demonstrate that they cannot access alternative finance
  - 2.7.6. Provide satisfactory evidence that there is sufficient equity in the property
- 2.8. Leaseholders wishing to defer payment will also have to meet the following cost at the time of setting up the agreement
- 2.8.1. an administration charge for setting up the loan agreement
  - 2.8.2. a fee for registering the charge.
  - 2.8.3. a further fee when the loan is discharged
  - 2.8.4. Solicitors fees depending on amount of work or negotiation involved

- 2.9. Interest will be charged based on the bank base rate plus 2% which compounded annually will apply to the sum deferred.
- 2.10. The principal and interest will be repaid when the property is sold or on the death of the leaseholder/joint leaseholders (as the case may be).

### **3. Prompt Payment Discount**

- 3.1. A prompt payment discount of 5% is available where the major works invoice is paid in full within 28 days.

### **4. Signposting and advice**

- 4.1. Leaseholders are encouraged to make their own arrangements to make payment of major works charges, for example by approaching their existing lender. This reflects the fact that it is not a primary function of the landlord to facilitate the financing of a leaseholder's obligations to pay the charges due under their lease.
- 4.2. The council will provide information and support and signpost leaseholders to independent sources of advice.

### **5. Review of policy**

- 5.1. The Head of Housing and the Chief Financial Officer have delegated authority to review the terms and conditions, interest rate (for new cases) and administration fees every 3 years.