Summary

The Housing Act 1985 and Housing (Service Charge Loans) Regulations 1992 require the Council to consider requests from eligible leaseholders for statutory loans to assist in meeting the cost of major works to their properties. A Service Charge Loans Policy has been produced in response to this statutory requirement; it also includes a set of discretionary options to help leaseholders pay these costs.

Recommendations

To approve the Service Charge Loans Policy (as shown at Appendix 1).

Report

1. Under the terms of the Housing Act 1985 and subsequent Housing (Service Charge Loans) Regulations 1992, leaseholders have a statutory right to apply for a loan to cover the cost of major works, for example the decent homes programme. This only applies where the property has been purchased under the Right to Buy in the preceding 10 years and where the value of the major works is over and under a certain amount as detailed in the Policy (Appendix 1). The draft Service Charge Loans Policy details the statutory right to a loan and sets out provision for discretionary assistance to leaseholders who would qualify other than for the 10 year rule. It also proposes flexible payment options that can be an alternative to the statutory loan.

2. The local authority’s current liability is to give consideration to the request and if refused an adequate explanation is given. It should be noted that under the terms of the policy, leaseholders will have the right to appeal if their application is unsuccessful. An appeals panel would meet to consider individual cases comprising of a representative from the Council at Head of Service/Director level, a representative from South Lakes Housing at Director level and elected member.

3. The cost of the loan should be the same as the cost of a mortgage from the local authority, i.e. the interest rate charged should be the same as that charged for a mortgage. Loans are secured on the property.

4. The Service Charge Loans Policy has been considered by the Leaseholders’ Service Improvement Group on 12 May 2008 and in July 2008, together with South Lakes Housing, the Council’s Solicitor and Finance Group and Mike Schirwing, a former lead Audit Commission inspector who has been assisting South Lakes Housing.

5. A leaseholder is entitled to a statutory loan provided:
   - The property was acquired within the previous 10 years.
• The cost of the charge for major works exceeds £2,230 less the amount of any service charge already requested in the same accounting period. Most leaseholders will have only been charged the “routine” service charge of around £160, so that the effective minimum for loans is £2,070.

• The cost of the charge does not exceed £29,700 less any outstanding loan already made

• The amount qualifying for a loan exceeds £750.

These current financial limits were originally set in 1992 as £1,500, £20,000 and £500 respectively. They increase annually in line with the Retail Price Index (RPI).

6. The discretionary element of the policy extends the same criteria to leaseholders who qualify under the financial limits but who acquired their properties more than 10 years earlier.

7. To date since 2007/08, 64 leaseholders have been invoiced a total of £61,159 for works under the Decent Homes Programme, of which £30,923 has already been paid. Invoices range in size from £69 to £2,242. The Finance Group has already offered leaseholders the opportunity to pay their bills over a longer period, typically by up to 24 months subject to a minimum monthly instalment of £10. The policy confirms this practice as a flexible payment option for leaseholders willing to pay by standing order or direct debit.

A further option is proposed for any leaseholders who would find any form of regular payments difficult to manage eg people on benefits, pensions or low incomes. The policy would allow a legal charge to be registered against the property: no payments would be due until the property was sold when the debt and accrued interest would be paid out of the proceeds. It is suggested that the same financial limits as for loans would apply.

8. Some leaseholders will find difficulty in paying the costs, whichever method is adopted. The policy allows the appeals panel to consider and approve more favourable alternatives in cases of exceptional financial difficulties. These cover:

• Discretionary loans or legal charges outside the stated parameters

• Extended payment periods for invoiced costs.

9. As this is a new policy offering a range of payment options, it is difficult to predict the take up. Of the 64 leaseholders already billed, 27 have cleared their debts, 20 have been paying by instalments and 17 have made no payment. 10 of the 64 have been billed amounts above the financial limit: 7 have paid their invoices in full so 3 would be entitled to either statutory or discretionary loans, although 2 of these are already paying by instalments. South Lakes Housing have confirmed that they are currently half way through the decent homes programme and therefore the numbers and amounts charged are likely to double; awareness of the new policy could mean that loans are taken up regularly.

**Alternative Options**

1. Not to approve the basic provisions of the Service Charges Loans Policy. However, these are a statutory requirement and the Council could be open to legal challenge.

2. Not to approve the discretionary elements of the Service Charge Loans Policy: this would be unreasonable and likely to cause undue financial difficulties for some leaseholders.

**Key Decision**

This report relates to Key Decision KD08/017/H&D.

**Material Considerations**

**Finance**

With any form of deferred payment, the Council will incur additional interest costs on its working capital. In corporate terms, the amounts involved are not significant and will be offset by interest

Date: 08/08/2008
Version No:
Amended by:
charged to leaseholders, either regularly in respect of loans or longer term when a charge is placed on a property.

**Risk Management**

<table>
<thead>
<tr>
<th>Risk</th>
<th>Consequence</th>
<th>Controls required</th>
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</thead>
<tbody>
<tr>
<td>If the Council does not approve the Service Charge Loans Policy the Council could be called to account at a Leasehold Valuation Tribunal.</td>
<td>Possible legal challenge.</td>
<td>Agree proposed policy.</td>
</tr>
<tr>
<td>Failure to have a policy in place could result in households facing financial hardship in paying for major works.</td>
<td>Increased financial hardship that could lead to bad debts.</td>
<td>Agree proposed policy.</td>
</tr>
</tbody>
</table>

**Staffing**

The Legal Services section will set up the loan agreements and register charges on properties. The Exchequer section will make payments arrangements, monitor and chase up outstanding debts. An administrative fee for making loans and legal charges will help to recover some of the Council’s costs. Staff will also be involved in servicing the appeals panel.

**Links to Corporate Plan**

Values - “Seeking continuous improvement” and “Working in partnership”

**Links to Other Strategic Plan(s)**

Cumbria Housing Strategy 2006–11

**Equalities & Diversity**

In keeping with the Council’s Comprehensive Equality Policy the Service Charge Loans Policy has sought to take into account the need for equal access to loans irrespective of age, gender, disability, sexuality, race or faith.

**Community Safety**

Not applicable.

**Background Documents**

**Document:** None

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Date: 08/08/2008
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