

# LONDON BOROUGH OF NEWHAM

## CABINET

<b>Is it a key decision?</b>	Yes
<b>Is it in the Forward Plan? (date)</b>	Yes
<b>Date report published</b>	25/03/09
<b>Date of meeting</b>	02/04/09

**Subject:** Advice and Assistance for Council Leaseholders

**Source:** Housing and Public Protection

**Wards affected:** All

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### **Purpose of Report**

This report reviews the current level of support available for Council leaseholders and identifies and seeks agreement to options for increasing the range and depth of support offered to leaseholders who are required to pay large service charges for major works. It makes specific recommendations in relation to the adoption of both these support mechanisms and of revised repayment arrangements.

### **Recommendations**

The Mayor in consultation with Cabinet is asked to agree:

1. to continue with the provision of a welfare advice service for leaseholders funded from the annual service charge;
2. that the resources of Newham's Home Improvement Agency and the sub-regionally funded independent financial advocacy service are made available to support the welfare advice service in relation to major works and home improvements;
3. note and comment on the arrangements for targeting vulnerable leaseholders in relation to energy efficiency and fuel poverty;
4. not to resurrect any form of Advance Payment Scheme;
5. the proposed step by step framework for supporting leaseholders as set out in Appendix B
6. the proposals for leaseholder payment plans as set out in the report and in

## Appendix C

7. to use the existing full buy-back powers only on an exceptional basis in accordance with the Schemes of Delegation
8. that officers review the provisions relating to discretionary loans and partial buy-back powers contained in the forthcoming regulations when they are made; however pending any further report and recommendation:
9. Agree not to make provision for discretionary loans by the Council
10. Agree to use the new partial buy-back powers only on an exceptional basis in accordance with the Schemes of Delegation
11. agree to retain the use of discretionary capping in line with the limited set of circumstances agreed by Cabinet in April 2004.

### **Reasons for the Recommendations**

The report is submitted to the Mayor and Cabinet in line with the requirements of the Council's constitution. The recommendations reflect the need to set out in more detail the arrangements for supporting leaseholders in the light of the current high level of capital investment and consequent increases in the level of recharges which are being imposed. They also need to address changes in legislation which affect the Council's powers, and also enable the provision of a coherent and up to date framework in relation to leaseholder support.

### **Consultation**

Full Member consultation on this report has been undertaken via the Influential Councillor process and this was completed on 27 February 2009.

The Executive Member for Housing, Process and Business Efficiency, Councillor Andrew Baikie, has also been consulted.

The draft report was considered by Newham Homes' Service Improvement Committee on 12 February 2009.

The issues raised in this report have been discussed at a number of Newham Leaseholder Group meetings, and the final version of this report will go to their meeting on 26 March 2009.

**NAME OF LEAD OFFICER:** Debbie Dinsdale

**POSITION:**

Interim Head of Housing and Public Protection

Originators of report: Shane Whitehead & William Grosvenor

Tel no: 020 8430 2000 ext 43241 (Shane Whitehead) 020 8430 4663 (William Grosvenor)

E-mail address:

[Shane.Whitehead@newhamhomes.com](mailto:Shane.Whitehead@newhamhomes.com)

[William.Grosvenor@newham.gov.uk](mailto:William.Grosvenor@newham.gov.uk)

## **Local Government (Access to Information) Act 1985**

### **Background papers used in preparing this report:**

- Report to the Mayor and Cabinet: A New Framework for Leaseholder Recharging 2004
- DCLG: Assessment of the Impact of the Cost of Repairs for Right to Buy Leaseholders 2006
- DCLG: Report of the Social Sector Working Party January 2007
- DCLG: Press Release 29 March 2007
- Housing and Regeneration Act 2008

### **List of enclosures / Appendices:**

- Appendix A: Leaseholder service charge debt profile 2007/09
- Appendix B: Step by Step Framework for supporting leaseholders
- Appendix C: Leaseholder payment plans
- Appendix D: Case studies
- Appendix E: Examples of discretionary loans provided by London Councils

## Report

### 1. Introduction and Background

#### *The previous report*

- 1.1 On 22 April 2004 the Mayor, in consultation with the Cabinet, considered a report entitled: *"New Framework for Leaseholder Recharging"*. That report, from the Director of Housing & Customer Services, sought approval for a new framework and approach within which to consider the recharging of leaseholders. The report was wide ranging and took account of recent legislative changes affecting the statutory rights of leaseholders. It also sought to establish a basic approach to the way leaseholders would be consulted in the event of a planned programme of major works. The report recommended an approach to leaseholder charging which is *"pragmatic, reasonable"* and confirmed that recharging should only take place *"when it is in the Council's overall financial interests to do so"*. The report specified a framework within which the remission of service charges for leaseholders might be approached, and recommended steps to be adopted in relation to hardship cases. The recommendations were approved.
- 1.2 It should be noted that, at the time this earlier report was approved, the Council's procedures for both raising and collecting service charges for major works schemes were evolving and under development, because the volume of major works schemes up to that time was not as great as the present volume under the Decent Homes programme. Prior to the 2004 Report, the Council had pursued major works service charge income collection, but this activity was undertaken without a policy framework to guide its actions. The report confirmed that *"historically, Newham has been inconsistent in recharging leaseholders in relation to capital works"*. Until that time, the main emphasis was upon the annual service charge collection for routine housing management services rather than major works.
- 1.3 The 2004 Report pre-dated the outcome of the Council's strategic options review for housing and the eventual decision by the Mayor and Cabinet to create an Arms Length Management Organisation (ALMO) in Newham. That decision led to the creation of Newham Homes in December 2005 and the subsequent access to Decent Homes funding following a successful Audit Commission Housing Management Inspection in 2006. As a result of that successful inspection, the housing capital programme grew substantially, and with it an increased liability for Council leaseholders to pay service charge contributions towards major work schemes.

#### *Leaseholders in context: a profile*

- 1.4 There are 5,500 Council leaseholders in Newham, representing nearly a quarter of all households living in Council estates. In terms of age, ethnicity and disability, the equalities profile of the Council's leaseholders is not dissimilar to that of the Council's tenants. However, there are some

differences. A third of all leaseholders are in some form of employment, but in a recent survey nearly half said that they struggled to pay their routine housing costs e.g. mortgage, service charge, fuel bills etc. Of this half, the large majority of them said that the cost of owning a home was far higher than expected. Nearly a quarter of leaseholders are aged 65 years or over, with a quarter also having some form of disability or long-term illness. Up to 70% of leaseholders purchased their Council home via the Right to Buy scheme. This figure rises to 93% for those leaseholders aged 60 years or over. Half of the leaseholders receive an annual service charge bill in the region of £625 - £900, although this much depends on the type of leasehold dwelling and the level of services provided. Of leaseholders who have had major works undertaken 54% expressed overall satisfaction with the housing service.

### ***The Decent Homes Programme***

- 1.5** Newham Homes had a revised investment programme for 2007/08 amounting to £62.8 million, and £87.8 million for 2008/09. A substantial part of that investment programme covered works to the external fabric of the Council's flatted accommodation, and included roof renewals, window replacement schemes, and repairs to main entrance doors, communal lighting systems, and footpaths. In addition to these external works, repair and improvement works were planned for internal communal areas as well, including the rewiring of communal lighting, lift replacement, repairs to door entry systems, and the redecoration of wall surfaces.
- 1.6** Under the terms of the standard lease, the Council is contractually obliged to carry out these works, and the Council's leaseholders are obliged to pay a contribution towards the cost. The actual level of the contribution to be made by a leaseholder towards the cost of the works, in comparison to a neighbouring leaseholder, is determined by the lease version, the year of purchase, and the rateable value of the property. It is, at the present time, difficult to forecast the precise number of Newham Council leaseholders that will be obliged to pay a major works service charge bill as a result of the overall investment programme. London-wide research undertaken by the Department for Communities and Local Government (DCLG) suggests that approximately 6% of leaseholders will receive a bill in excess of £10,000 at sometime during the investment programme. In its response to the research findings, the DCLG formed the view that this was a 'modest' figure, and that the vast majority of leaseholders will have to contend with a bill substantially less than this. The situation in Newham suggests that the actual figure could actually be higher than 6% because it is known that at the beginning of the Decent Home programme approximately 50% of the Council's housing stock did not qualify as 'decent'. It should be further noted that many leaseholders within Newham living on marginal incomes would struggle a great deal to make payment for a major works bill substantially less than £10,000. Indeed, it is likely that many Council leaseholders would struggle to make a payment of £5,000.

- 1.7 Leaseholders living in high rise, systems built housing, are particularly prone to receiving large major works bills because of the relatively high contract costs for works carried out to these blocks. Also the elemental costs are high, particularly for items like lift replacement work, which is very expensive but essential for residents. Most recently, statutory consultation letters sent out to Newham leaseholders living in high rise blocks have contained estimated recharge figures in the range of £13,000 to £45,000. Although for the year 2006/07, the average major works bill for leaseholders was only £3,500, this figure cannot be relied upon as an accurate guide for future charge levels to leaseholders because it predates the start of the much larger capital investment programme which is now in place. The actual overall number of major works bills for that particular year was also very small. In future, major works bills for Council leaseholders will be greater in size and volume, and this will continue for the duration of the Decent Homes programme. Profiles of leaseholder debt for 2007/08 and 2008/09 are attached at **Appendix A**.

### ***The view of Central Government***

- 1.8 Since the early stages of the roll out of the Decent Homes programme, the DCLG became increasingly aware that some leaseholders were struggling to pay large major works bills. This awareness was heightened in 2004 with a media campaign in the London region. In response, DCLG commissioned research into the financial impact of major work schemes for leaseholders. It formed a Social Sector Working Party (SSWP) to consider the problem more broadly. The SSWP produced a report for the DCLG in January 2007 with a number of recommendations. The issue was further considered by the DCLG Parliamentary Select Committee in March 2007. A final press release, having taken into account the previous research and the findings and recommendations of the SSWP, was issued on 29 March 2007. In the press statement, Housing Minister Baroness Andrews said that: *“the Government was working with councils and lenders to ensure leaseholders understood what help was available so they can pay their major works bills”*. She added that: *“although the vast majority of leaseholders are able to manage their bills for repairs and refurbishment, which in turn can increase the value of their home, we know that in a minority of cases families are facing particularly high bills which they can find hard to meet. That is why the Government is working with local councils to provide a wider range of support, including developing options for equity release and equity loans, which will help leaseholders with particular problems”*. The press release went on to specify a number of initiatives to help leaseholders, but crucially it tasked local authorities with:
- Having a strategy in place for identifying and offering advice to leaseholders who face particularly high bills
  - Offering the full range of payment options already available and share best practice to ensure that this happens everywhere
  - Working with lenders and independent financial advisors, landlords and leaseholder representatives to develop the use of existing equity release/ equity loan schemes (including the “Houseproud” scheme).

Leaseholders are nevertheless owner occupiers, who are obliged by the terms of the lease to pay all service and major works charges. The assumption must be that they have freely entered into the agreement to purchase their homes knowing that such obligations will arise. However both good practice and Government policy require local authorities to have in place a clear support framework.

- 1.9** The press release committed the Government to *“legislate at a suitable opportunity to enable local authorities to offer equity loans to leaseholders (i.e. when deferring payment until the property is sold, to take a proportion of the proceeds instead of charging interest during the deferral period), and to buy back shares in properties so that leaseholders in difficulties do not have to revert to being tenants”*.

The press release concluded by acknowledging that this area of leasehold management is both complex and sensitive, and regarded these developments by local authorities very much as *“work in progress”*.

Upon its receipt, Newham Homes’ officers consulted the press release authors so that there was a clear understanding of the expectations now placed upon local authorities and their managing agents, particularly in the context of the range and extent of advice and support to be given to leaseholders who struggle to pay their major works bills. The advice received was that local authorities and their managing agents should now actively consider the full range of advice and assistance to be offered to leaseholders. Furthermore, authorities should be able to both demonstrate *and evidence* a process of consideration in developing its new strategy.

## **2. Key Considerations and Sustainability**

### ***Types of Assistance***

- 2.1** The original 2004 Framework set out the various types of advice and assistance that were potentially available at that time. Since 2004, and as a result of the ongoing dialogue between DCLG, London Councils and local authorities across the country, that list has now widened. The available research has shown that the following types of leaseholder advice and assistance are now being provided by local authorities, or at least being considered for implementation at a future date.
- 2.2** However the recent “credit crunch” and recession have clearly reduced the range of products that might be available. Also the historical reluctance of lenders to invest in leasehold properties in tall blocks will have increased for the same reasons.
- 2.3** The following paragraphs consider the various approaches that might be considered, together with consideration of the relative advantages and

disadvantages, and recommend whether, and in what way, they should be applied in Newham. In order to have a clear and consistent approach a step by step framework is proposed. This is set out in **Appendix B**. Essentially the first step is to look at income maximisation, then try to agree a payment plan or look to some external support mechanism e.g. equity release, before considering either a statutory or discretionary loan under the new legislation. Discretionary capping or buy back are seen as options of last resort.

### ***(i) Welfare Advice***

- 2.4 Here, a full-time officer within Newham Homes gives advice to leaseholders on marginal incomes, including income maximisation, benefit take-up, and limited debt counselling. In limited circumstances, a Welfare Advisor can help leaseholders gain access to benefit entitlement towards the payment of service charge bills. This service has been provided to Newham's leaseholders since 2004. It is very popular with Newham's leaseholders, with high levels of customer satisfaction being recorded. The service is paid for by all of the leaseholders through their annual service charge. It is, therefore, a revenue funded service which is available to all leaseholders regardless of residency. The financial impact of this service is neutral because the cost is already covered as a revenue funded service. **It is recommended that this continue and that it be marketed to leaseholders to increase awareness of the service.**

### **Comments from the Head of Finance:**

- 2.5 *The approximate cost of this activity is £50k per annum. This is already budgeted for and funded via Service Charge income. The total amount of extra service income generated by increased benefit take-up has not been quantified. However, it is known that approximately 90% of all leaseholders who access this service acquire extra income. The service is very popular with service charge payers.*

### ***(ii) Independent Financial Advice***

- 2.6 Leaseholders facing problems paying bills may need independent financial advice before they decide on the best approach that is suited to their individual circumstances. The Council's Home Improvement Agency (HIA) could support the work of the Welfare Advisor as it already acts as a referral agency for its private sector clients. It could also help leaseholders access other support available to owner occupiers; e.g. the handyman scheme. However, there may be a need for additional resources to be made available to the HIA depending upon take up. The HIA caseworkers would work with leaseholders to establish the best course of action, and, where it is appropriate, they could refer them to an independent financial advocacy service funded by the East London Renewal Partnership (ELRP), of which LB Newham is the lead authority. The independent financial advocate can in turn refer clients to other

agencies offering a range of financial and equity-based products including e.g. Houseproud and reversionary and property appreciation loans offered by the London Rebuilding Society. The cost of this advisory service can be met from the ELRP funding stream. Confirmation of funding for 2009/10 is expected on 31 March 2009. **It is recommended that the resources of Newham's HIA and the independent financial advocacy service are made available to leaseholders.**

**Comments from the Head of Finance:**

- 2.7 *The financial advocacy service is provided externally – this is a basic requirement in order for the advice to be independent. It is possible to help leaseholders along the pathway to such advice. To avoid FSA regulation issues, officers will need to ensure that it is not seen to be recommending particular advisers.*

**(iii) Advice on Commercial Loans**

- 2.8 Leaseholders can be given limited advice to go to their bank or building society for a personal loan or mortgage product, or to extend an existing mortgage (remortgage with their current provider). Such advice can often be advantageous for leaseholders because the interest rate offered by an existing provider may well compare favourably with the rate offered by e.g. Houseproud, and has invariably been lower than that required for a local authority loan. However, it must be noted that neither Newham Council nor Newham Homes' officers can act as independent financial advisors in this situation, unlike specialist agencies. Any advice given by staff can only extend to reminding leaseholders of this option, and to encouraging them to seek independent financial advice. As with the funding of the Welfare Advice Officer, any advice given by staff in the HIA can be funded by all leaseholders via the routine annual service charge bill. The independent financial advocacy service will be free as the cost is covered by the ELRP funding.

**Comments from the Head of Finance:**

- 2.9 *The Council can be more pro-active in reminding leaseholders of the option of going to their existing or previous loan provider. However, in order to avoid FSA regulation issues, officers will need to ensure that it is not seen to be recommending particular advisers.*

**(iv) Houseproud**

- 2.10 This is a national scheme supported by central Government that provides mortgage products to both leaseholders aged 60 and over, and those with a disabled person in the household of any age. . The main loan options are:
- a) Capital release loan (for those aged 75 or over)
  - b) Interest only loan

c) Capital and interest repayment loan.

- 2.11 The attraction of the scheme for elderly persons is that it contains a 'no repossession' guarantee. Despite this advantage and extensive advertising (particularly in London), there has been very little take-up of the scheme nationally, with minimal take up in Newham. The scheme can involve high set up costs payable by the leaseholder, and there is a long and complicated procedure to follow which is a disincentive for those who might otherwise be interested.

#### **(v) Equity Release Schemes**

- 2.12 Under an equity release scheme, a leaseholder enters into an agreement for part of their equity in the leasehold interest to be shared with a loan provider or landlord. In recognition of this, the major works bill would be paid off by the lender who would then recover their money when the property is sold by the leaseholder. The value of the equity can be represented either as a specific monetary sum or a percentage of the re-sale proceeds. Such schemes are usually structured around the needs of elderly freehold owner occupiers who have a full repairing liability for the property they own. This is not the case for Council leaseholders, where the Council, as the freehold owner, has repairing obligations for the external envelope and structure of leasehold premises. The London Rebuilding Society (LRS) is an independent agency that operates in partnership with Newham and provides such schemes. Potentially, the Council could explore the possibility of developing the links between its leaseholders and LRS so that greater use of equity release is made. However, the same caveat must be made that Council staff cannot offer independent financial advice to its leaseholders. The idea of equity release / equity share is just one option amongst a number available to struggling leaseholders, and it may not follow that this is the most economic way to clear a service charge debt. Financial products like those offered by LRS are often regarded as products of last resort and they do not necessarily represent value for money for leaseholders where leaseholders are eligible for interest on loans to be paid via the benefits system.
- 2.13 Where considered appropriate, access to LRS, or any other loan / equity release product, is via the HIA and the independent financial advocacy service, and this approach is recommended to continue.

#### **Comments from the Head of Finance:**

- 2.14 *The associated costs with all of these arrangements are already fully funded, including services to be provided to Council leaseholders. Therefore, there will be no additional cost.*

#### **(vi) Thermal Comfort**

2.15 Private Sector renewal financial assistance might extend to the interior of a leaseholder's home e.g. 'Thermal Comfort Works', but not towards major works schemes under the Decent Homes programme. However, the promotion of financial assistance might help the overall ability of the leaseholder to pay their major works bills by e.g. having reduced heating costs. London Warm Zone, Newham Council's partner in thermal comfort work in the Borough since 2001, assists vulnerable local households to access both energy efficiency measures (which, for leaseholders will essentially mean having efficient, controllable central heating), and ensures that benefit entitlement is maximised. **Because London Warm Zone is focused on private sector housing, discussions are taking place between the Council's Domestic Energy Efficiency Team and Newham Homes to ensure that a mechanism exists for referrals to Warm Zone of potentially vulnerable leaseholders.** This will allow leaseholders to take advantage of the existing external funding arrangements.

**Comments from the Head of Finance:**

2.16 *This service is currently provided at no direct cost to the leaseholders or to the Council. If the Council were to promote this there would be modest publicity costs. While this is an exercise that may be worthwhile on its own merits, it is unlikely to have a significant impact on leasehold collection rates. There is a cost to the Council indirectly. LBN provides approximately £69k a year in revenue support to London Warm Zone.*

**(vii) Payment Plans**

2.17 Here, an agreement is reached with a leaseholder for regular payments to be made over a defined period of time until the debt is totally cleared. Such arrangements have been a long-standing practice in Newham, and have proved popular with leaseholders who struggle to meet their contractual obligations, as set out in the standard lease, to make full payment of any service charge bill within 28 days of receipt. Approximately one quarter of the 5,500 Council leaseholders enjoy the benefit of such an arrangement at any one time. Such arrangements are strictly dependent upon the leaseholder being prepared to openly discuss their financial difficulties with a member of the Corporate Income and Recovery Team so that financial hardship can be proven. However, at present payment plans in Newham are only allowed for a maximum period of two years. The timescale for total payment is driven by administrative reasons. However, research has shown that many other local authorities are now adopting a longer term view of payment plans. For example, for large major works bills, some local authorities now routinely offer payment plans of 2, 5 and 10 year's duration. Some offer interest free payment plans, whereas some offer interest free payment plans for the first two years with interest charged thereafter. As a variation of this, some offer extended interest free payment periods provided regular payments are kept up.

2.18 The Accounting Practice requires that any interest free payment arrangements should be recognised as a cost and that the Council should show this notional

cost with its accounts.

- 2.19 It is clear that payment plans offer leaseholders an opportunity to reach an understanding with their freehold landlord and eventually meet their financial obligation to pay their service charge bills, even if it is not in strict accordance with the terms of their leases (i.e. because total payment is not made within 28 days). With the larger size of major works bills, it is equally clear that payment plans need to be longer in duration than the two years presently given if they are to provide a leaseholder with a realistic chance to clear the debt.
- 2.20 Cabinet is therefore requested to agree to the proposed payment plan options set out in Appendix C. These plans would be interest bearing depending on both the size of the debt and the time required by the leaseholder to discharge it. For vulnerable leaseholders an extended period for the interest free plan is allowed. All payment plans for £1,500 or over are subject to continuous review depending on the leaseholder's personal circumstances. A series of case studies at Appendix D show how such a framework approach might work in practice.

**Comments from the Head of Finance:**

- 2.21 *Payment plans effectively allow leaseholders longer to pay. This has two effects:*

- a) leaseholders who would not have paid otherwise now do, a benefit to the Council*
- b) leaseholders who would otherwise have paid up front (in line with the conditions of the lease) spread payment over a longer period, which has a cashflow cost to the Council*

- 2.22 *There is no evidence to indicate which will be the higher figure. The Council is not a specialist lending organisation and is unlikely to be able to offer as large a range of repayment options as a bank or building society.*

**(viii) Statutory Service Charge Loans**

- 2.23 The Housing (Service Charge Loans) Regulations 1992 grant a right to a leaseholder to obtain a Council loan towards payment of a major works bill. This is a statutory right. Leaseholders who have bought under the Right to Buy have a right to a loan from the Council within the first ten years of their lease. The loan can cover service charge payments for all repairs and improvements. There is a minimum amount that can be borrowed, and a maximum amount. The loan must be repaid within 3 to 10 years (depending on the amount). Since it was introduced, the statutory right to a loan has not been extensively used by leaseholders because the applied Local Government Lending Rate i.e. the interest rate (currently 6.02% and 5.38% from 1 April 2009) does not compare favourably with commercial loan rates. Going to a bank or building society is often a cheaper alternative for leaseholders. However, for a leaseholder with a poor credit rating, this option can be regarded as a useful

fall-back position.

**(ix) Discretionary Service Charge Loans**

- 2.24 Under the provisions of the Housing Act 1985, a local authority can offer a discretionary loan to a leaseholder where a loan is not available as of right under the mandatory loan provisions (see above). In effect, a discretionary loan is granted to a leaseholder who either:
- doesn't meet the criteria set out for a mandatory service charge loan, or
  - requires a loan which is greater than that allowed for under the mandatory loan provisions.
- 2.25 If granted, the debt must be registered as a charge on the property, and interest is payable. The function of discretionary loans is one area where local authorities have recently sought greater freedoms in being able to decide the terms of loans granted to leaseholders, including how and when interest should be charged and recovered. The need for greater freedom and controls for local authorities wishing to provide discretionary loans to leaseholders is recognised and addressed in the provisions within the Housing and Regeneration Act 2008. When in force, section 308 of the Act and any regulations made under it, will give local authorities greater flexibility in offering equity loans and equity shares to leaseholders. Loans can be made on terms other than of interest bearing loans. It will also allow local authorities to let leaseholders defer interest payments on their loans until the leaseholder sells the leasehold interest in the property.
- 2.26 Appendix E provides examples of discretionary loans provided by other local authorities in London.**

**Comments from the Head of Finance:**

- 2.27 *The Council could offer interest free loans – however this is an effective subsidy from the HRA so the cost of any such loan should be recognised. At an interest rate of 6%, if 100 leaseholders were to take up such loans (say £10k each), the cash flow impact would be a cost to the Council £60,000 per annum. This is approximately 10% on the annual interest on HRA cash balances. Interest free loans would be very attractive to those leaseholders who could afford commercial loans. This suggests either that:*
- a) *they are limited to cases of genuine hardship – criteria for determining this would need to be in place*
  - b) *if this is not done, take up could be much greater; with 1,000 leaseholders, the impact would be £700k per annum, a significant subsidy.*
- 2.28 *The costs of administration of such a scheme would be charged to individual leaseholders, although there may be some scope to capitalise the cost.*

*The administration of discretionary loans to leaseholders may be time consuming and expensive, and would give rise to debt collection issues. These were some of the reasons why the Council sold its previous portfolio. In addition, the Council's loan terms would not match those available in the high street, although the current recession may mean that this is not necessarily so. The current Local Government Mortgage Interest Rate is 3.93 per cent per year with effect from 2 February 2009. The Council's applicable interest rate (its own internal borrowing rate plus ½%) is currently 6.02% and 5.38% from 1 April 2009. The Council is obliged to charge the higher of these rates on mortgages, and this rate has been applied to the following analysis. Comparable High Street rates are lower than this and would be subject to status. Leaseholders may be able to obtain more favourable rates by extending their existing loan.*

- 2.29 *Under this option, the Council is in effect a lender of last resort, and would therefore face a high bad debt risk, plus the cost of administration. If the Council were to offer this facility, the cost to capital would be £100k to £200k depending on the level of take up. There would be an adverse cashflow impact of servicing bad debt. This would be approximately 6% of the value of the bad debt per annum. The Council would be entitled to place a charge on the property (inclusive of interest) and would therefore in effect gain the equivalent of an "Equity Share" in the property over the long term. For a loan of £20k, not repaid for 10 years, the Council would have an equity share of £32,000 by the end of the period.*
- 2.30 *If 100 leaseholders were to take up such loans but not repay at all, the cash flow impact would be a cost to the Council of £120,000 per annum. This is approximately 20% on the annual interest on HRA cash balances. The full implication can only be determined when the regulations are published.*

### **(x) Discretionary Capping**

- 2.31 Under Ministerial directions that came into effect in 1997, local authorities may waive or reduce service charge bills for major works where the total charges are more than £10,000 in a five year period. The final cost cannot be reduced to less than £10,000 in the same period. This power can only be used when having regard to specific criteria, including whether the Leaseholder would suffer "exceptional hardship" in paying the major works bill. The regulations set out further criteria so that the grounds of "exceptional hardship" can be established.
- 2.32 Of all the various forms of assistance that can be offered to a leaseholder struggling to pay a major works bill, discretionary capping is perhaps the one that has generated the greatest concern. Unlike any of the previous forms of assistance listed above in the report, discretionary capping actually involves the *discounting* of service charge debt. Whereas all the other forms of assistance involve either a) a deferral or delay of payment, or b) a cost to revenue via the leaseholders' annual service charge, discretionary capping effectively reduces a leaseholder's financial liability on a permanent basis. Its

critics have therefore labelled it a form of subsidy for homeowners with a leasehold interest. Any decision to allow discretionary capping effectively leaves a gap in the Council's finances because it is a loss to the public purse. This in turn potentially increases the Council's debt profile for capital funded works. The resulting increase in the debt charges to service the capital debt is partially funded by Council tenants' weekly rents. This controversial point was covered by the Social Sector Working Party (SSWP) during its deliberations in 2006. The SSWP was mindful of an unacceptable scenario whereby one group of residents (tenants) would in effect be subsidising the tenure of another group of residents (leaseholders).

- 2.33 In 2007 DCLG made it known that it does not wish to subsidise unsustainable home ownership. "Unsustainable" in this respect should be given a pre recessionary meaning. The principle was no doubt meant to extend to residents who have purchased a leasehold interest. Since its introduction in 1997, local authorities have been extremely cautious in granting discretionary capping to their struggling leaseholders, and there are very few instances across the country where it has been used. This perhaps reflects the ongoing concerns surrounding the question of how equitable it is to offer assistance in this manner. That being said, discretionary capping is nonetheless a power that has been granted to local authorities to use in limited circumstances. The view is therefore taken that any strategy to assist leaseholders would be very much weakened and vulnerable to challenge in the Leaseholder Valuation Tribunal if it did not make reference to the availability of discretionary capping.
- 2.34 In the 2004 report on leaseholder recharging, it was recommended and agreed that where all other approaches as set out above have been considered and are felt to be insufficient, not viable or inappropriate, then in cases where the leaseholder or anyone residing with him / her is elderly or vulnerable within the definition of Newham's private sector housing strategy, then remission of charges should be offered to limit the total amount of recharges to £10k in any 5 year period on the basis that:
- the period chosen minimises the potential reduction from the Council's perspective
  - as a condition for this remission the leaseholder must agree to a charge being placed on the property to ensure that the £10k can be recovered on the sale thereof, unless other satisfactory arrangements are made to discharge this debt.
- 2.35 Such a course of action is only contemplated in exceptional circumstances because the discounting of such debt involves a loss to the public purse, and to date it has not been used. However it is likely to be utilised more frequently in the future given the age profile of leaseholders and the relatively high level of billing during the decent homes programme. **Government would expect it to be reflected in the Council's policy and it is therefore recommended that it be retained, to be implemented in line with the relevant Schemes of Delegation.**

- 2.36 A clear distinction has to be made between ‘*discretionary*’ capping, of the type set out above, and ‘*mandatory*’ capping. As with discretionary capping, mandatory capping is also framed by Ministerial directions but it specifically covers major works schemes with central government funding streams, such as the Private Finance Initiative (PFI) and the New Deal for Communities (NDC). With these types of schemes, the service charge contributions of leaseholders towards the cost of works are effectively capped at £10,000. Mandatory capping for leaseholders has already been applied to major works schemes in the Borough where applicable.

**Comments from the Head of Finance:**

- 2.37 *At this stage, no profile has been provided of the potential range of Service Charge invoices to be issued. It is therefore difficult to quantify the potential take up of this option. However, officers are of the view that discretionary capping would only be considered in very exceptional circumstances. However, for illustrative purposes only, and as a worse case scenario, if it is assumed that there will be 100 leaseholders with invoices of £20k, £30k and £40k respectively, the total income forgone by limiting the liability to £10k would be:*

*£10k x 100 = £1 million*

*£20k x 100 = £2 million*

*£30k x 100 = £3 million*

*Giving a total of £6 million.*

- 2.38 *As Newham has 5,500 leaseholders, the full extent of the financial impact of the decision would need to be known before agreeing to use this option more widely. If capping were adopted as an option, the effect would be for the leaseholder involved to be subsidised by the HRA – in effect, by the other leaseholders and tenants. Discretionary capping has been available as an option since 2004 but has never yet been used. The Intention is to use it within the limited set of circumstances agreed in 2004 and not beyond.*

**(xi) Full Buy Back**

- 2.39 Here, the Council or an agency acting on the Council’s behalf, would buy back the leasehold interest in the property from the leaseholder and the leaseholder would revert to being a tenant. The major works bill is then paid off by the sale proceeds. Historically, repurchase by Newham Council has only occurred as a result of redevelopment and regeneration schemes within the Borough.

**Comments from the Head of Finance:**

- 2.40 *The cost of repurchase would have to be funded from the Council’s housing capital programme and this could prove a very costly option for which funding is unlikely to be readily available. Should repurchase take place, there would be an expectation by the leaseholder to remain a rent paying tenant in the existing leasehold property. Therefore, the property would not be given with vacant possession at the time of repurchase. In this situation, it might be*

*possible for the Council to negotiate a lower repurchase price, but this would be subject to agreement with the leaseholder and their legal representative. Repurchase of a leasehold interest could be limited to exceptional hardship cases.*

### **(xii) Partial Buy Back**

- 2.41 Under a partial buy back arrangement, the Council or an agency acting on its behalf would buy back part of the leasehold interest. The leaseholder would remain a leaseholder but pay part rent. As with a full buy back arrangement, the major works bill would be paid off by the sale proceeds. If required, the leaseholder would be able to sell back further parts of their equity at a later date. This process has been commonly referred to as 'reverse staircasing'. In effect, the leaseholder would become a shared owner with the Council or its agent, and would have to pay part rent as a proportion of the equity sold back. In its press release dated 29 March 2007, DCLG confirmed that it was keen for Councils to explore this option as a way of providing assistance to leaseholders because the leaseholder does not have to lose their leasehold status in the event of a partial buy back, as happens with a full buy back. The DCLG confirmed that new legislation would be required to allow local authorities to operate a partial buy back scheme. This is now contained in Section 309 of the Housing and Regeneration Act 2008. *However detailed implementation is by way of new regulations and these are not due until later this year.*
- 2.42 The ability to buy back would be limited by funding constraints and that, should the Council decide to put a charge on a property, it would have to be recognised that there is an 'interest foregone charge'. At 5%, the interest foregone charge would be a significant amount and would potentially erode the leaseholder's equity. **In view of this it is recommended that the new partial buy-back powers when implemented are used only exceptionally, and exercised in full compliance with the relevant Schemes of Delegation.**

### **Comments by the Head of Finance:**

- 2.43 *Full buy back of properties would be at existing rates, say £180k per property. There are no resources for this currently within the HRA capital programme. It may be possible to identify such resources, but the opportunity to repurchase a significant number of properties is limited. For £1 million, the Council would be able to repurchase 5 or 6 properties. There would also be rehousing issues in respect of the current owner, and the obligations for the Council would need to be clarified. This would have an adverse impact on decent homes. Scope for this before 2012 is non-existent without reducing the existing programme.*
- 2.44 *There is greater scope for partial buy back – for example, if the Council took a 25% stake in the properties involved, for £1 million, a stake in between 20 and 24 properties may be acquired. The owner would remain in situ, and there would need to be an arrangement in respect of on-going maintenance obligations.*

### **(xiii) Advance Payment Scheme**

- 2.45 An advance payment scheme allows leaseholders to pay in advance for major works bills. By doing so, leaseholders are able to prepare for a large payment to the Council and so cushion the impact of having to make such a commitment. Unfortunately, the Council's standard lease does not provide for an advance payment scheme to be administered and paid for via a leaseholder's annual service charge bill. Therefore, the administrative cost of providing this service, should it be introduced in Newham, would have to be covered as part of a voluntary scheme for leaseholders. In effect, it would be a voluntary savings plan into which participating leaseholders would have to contribute. Current legislation prevents the Council paying interest to leaseholders. However, if such a scheme were introduced, the Council or its managing agent would still be liable to pay basic income tax on any interest accrued. Advance payment schemes are popular with leaseholders whose leases already allow for such a service, but they are costly to run. If introduced, further consideration would have to be given to the funding of the service. For example, the administrative costs could be pooled amongst all participating leaseholders, or alternatively a charge could be made to individual leaseholders based upon their individual use of the scheme.
- 2.46 **However it is not recommended that such a scheme be set up. The advance payment arrangements were very unpopular when Newham last provided a similar scheme. It was subsequently withdrawn.**

#### **Comments from the Head of Finance:**

- 2.47 *When the scheme was last operated, a number of leaseholders did not contribute, increasing the level of arrears. Such a scheme also increases administration costs – with 5,500 leaseholders contributing (or not) to the scheme, extra monitoring and collection costs would be incurred. As a payment in advance rather than a debt, it would be difficult to recover any arrears, and would complicate debt recovery as officers would have to distinguish between the two.*
- 2.48 *If successful, the scheme would assist the Council's cash flow (in that payment would be made in advance of expenditure). From the leaseholder's perspective, they could reasonably seek interest, which if paid, would further increase the Council's administration. As Banks and Building Societies offer a range of savings products that would allow Leaseholders to earn interest if they invested the sums they would otherwise pay to the Council, interest rates are likely to be more attractive, as a greater range of savings options will be available. The costs of administering such a scheme would be in the region of £50k to £100k per annum There is a risk that arrears would increase if leaseholders did not contribute to the scheme.*

## ***The Cost of Advice and Assistance – Who pays?***

**2.49** Whatever form of advice and assistance for leaseholders is considered, there is a cost implication. In broad terms, these costs will reflect as a cost to revenue within the Housing Revenue Account, or alternatively as a cost to the housing capital programme. Funding for the various types of advice and assistance for leaseholders can be separated as follows:

**Cost to Revenue** (the cost of these services would be recoverable from all Council leaseholders via their annual service charge bills):

- Leaseholders Welfare Advisor
- Advice on Commercial Loans via HIA
- House Proud (administration) via HIA
- Private Sector Renewal via HIA (independent financial advocate save where already funded via the East London Partnership)
- Advance Payment Scheme.

**Cost to Capital** (Delayed / Deferred Payment):

- Service Charge Loans (mandatory)
- Service Charge Loans (discretionary)
- Charge on property
- Payment Plans (short and long term)
- Full Buy back
- Partial Buy back
- Equity Release.

**Cost to Capital** (Loss to Public Purse):

- Discretionary Capping.

## **3. Service Delivery and Performance Issues**

**3.1** It is four years since Cabinet last specifically considered issues in relation to leaseholder recharging. In the intervening period the context for addressing this subject has changed. The size and scope of the capital investment programme has grown because of the decent homes programme, construction costs have increased well beyond annual inflation rates, the legislative framework has changed and the guidance from Government has become clearer as to what local authorities should deliver in this area. It is therefore timely to review the framework approach. The level of recharging has grown and agreement to these recommendations will help to more effectively manage leaseholder debt.

3.2 Local authorities are required to show that they have fully considered the various types of assistance that can be offered to leaseholders. It does not however follow that the Council, or its managing agents, are obliged to adopt *all* of the current forms of potential assistance within its overall policy towards leaseholder recharging. This specific issue has been confirmed with the DCLG. Ultimately, it is for each local authority to determine the level of advice and assistance to be given to its leaseholders, reflecting local priorities. The framework that Newham adopts must both enable both the proper discharge of its fiduciary duty to the Housing Revenue Account and the exercise of a fair and reasonable approach to the problems of its leaseholders.

#### **4. Links to community, Local Area Agreement, corporate strategies and any other relevant plans or strategies**

4.1 Ensuring that there is a sustainable long term approach to meeting the legitimate problems faced by relatively marginal homeowners who lease their homes from the Council is reflected in a number of aspects of both Newham's Corporate Plan and Community Strategy.

4.2 The Corporate Plan addresses the need to protect the Borough from a tougher economic climate, with objectives to provide support to residents, in particular in relation to help and support to keep residents in their homes, make financial advice more widely available, and promote the uptake of welfare benefits. The Community Strategy links these to the need to remove barriers that hinder social inclusion; e.g. increasing income via benefit uptake both reduces social isolation and supports the local economy. It also emphasises the role of financial services for residents.

4.3 Newham's recession recovery package for residents includes:

- Greater access to money advice and debt counselling
- Greater promotion of welfare benefits
- Support for residents in danger of eviction or homelessness to keep them in their homes.

#### **5. Risk Management**

5.1 If this report is agreed there will be a clear, up to date framework for the collection of leaseholder recharges which can form a coherent policy for Newham Homes' staff to operate. Counsel's opinion, provided in 2004, emphasised the need to consider each case on its merits but within a clear framework. The risk to the Council in agreeing this report is far less than the risks inherent in inconsistent decision-making, with the greater threat of challenge at a Leasehold Valuation Tribunal or via judicial review, and the consequence of potential reputational damage.

5.2 Newham leaseholders have always argued for the need for transparency and consistency in terms of Council recharging, and the more clear the framework,

the greater the chance of acceptance from that group of residents. The tables below set out the main risk issues:

<b>If the proposals in the report are agreed.....</b>	
<b>Risk &amp; Consequences</b>	<b>Controls</b>
If a policy on payment plans is agreed then income would be delayed / and interest possibly foregone dependent on the detailed strategy agreed	The rules of such plans would have to be tightly drawn to avoid more than minimal loss to public funds
Buy-backs would require capital funding provision & divert from other investments	They would only be in exceptional circumstances
Capping writes off large amounts of potential income	They will only apply to elderly / vulnerable leaseholder families and only when all other options have been exhausted

<b>If the proposals in the report are declined.....</b>	
<b>Risk &amp; Consequences</b>	<b>Controls</b>
Inconsistent decision-making	
Legal challenges	
Reputational damage	
Lack of compliance with Government policy Potentially adverse inspection reports Less financial certainty	

## **6. Impacts**

### **6.1 Equalities/Diversity implications**

None specific. However Newham Homes are carrying out a full Equalities Impact Assessment for all aspects of Leaseholder Services and this work is due to be completed by the end of April 2009.

### **6.2 Protecting Children**

Not Applicable.

### **6.3 Human Rights**

Advice and assistance to vulnerable leaseholders will go some way to assist them to retain their homes.

#### **6.4 Climate Change implications and the effect on the Carbon footprint**

Not applicable.

#### **6.5 Crime and Disorder**

Not applicable.

#### **6.6 Economic Impact**

Newham's Community Strategy emphasises the need to ensure that barriers to social inclusion are removed. One aspect of this is enabling citizens to receive all the welfare benefits they are entitled to, as increasing income will in turn support the local economy, as well as reducing exclusion. Providing welfare advice is also in line with the Council's recession package for residents, which includes an emphasis on accessing money advice and debt counselling, as well as the promotion of welfare benefits.

### **7. Comments of the Finance Officer**

- 7.1** Service charges recovered from leaseholders are credited to the Housing Revenue Account (HRA) and recharges for capital works to HRA capital. Service charges are levied each year on leaseholders to reflect the cost of managing and maintaining the properties in line with the lease signed when the property was transferred. Additionally costs incurred in respect of major works are recoverable from leaseholders, subject to the terms of the lease, the legal requirements as to consultation, and reasonableness.
- 7.2** The Council owes a fiduciary duty to the HRA, its local taxpayers and tenants to recover all the monies expended that it legitimately can. Where it does not seek to recover the full cost from leaseholders, the balance has to be met from within the HRA to the detriment of other spending. Therefore any policies or strategies, under which income might be foregone, need to be balanced against the interests of both tenants and taxpayers.
- 7.3** Specific financial implications for Newham where they exist are, for completeness, set out under each of the types of assistance recommended within the body of the report, and summarised in the table below. Any additional revenue costs incurred in these proposals would be recoverable from leaseholders via annual service charge bills or funded from sub-regional private sector funding streams. In terms of capital expenditure, any use of buy-back powers would reduce available HRA capital accordingly. Use of discretionary capping leaves a gap in the Council's finances because that money is effectively lost to the public purse. The resulting increase in debt charges is partially funded from tenants' weekly rents. Use of payment plans involves a delay in receipt – possibly significantly – and any remission of interest charges must be recognised as a financial cost.

<b>Option</b>	<b>Extra cost</b>	<b>Risk</b>	<b>Impact on ability to pay\ collection rates</b>
Welfare advice	£50k per annum	Currently funded	Believed positive, uncertain
Independent financial advice	Externally funded	Limited	Believed positive, uncertain
Advice on commercial loans / Houseproud / equity release schemes	Via existing HIA budget	Currently funded	Believed positive, uncertain
Thermal comfort works	£10k per annum	Savings made for leaseholders could be used elsewhere	Marginal at best
Advance payment scheme	£50/100k per annum	Could make arrears worsen	Marginal at best, could be adverse
Payment Plans	£50/100k per annum Adverse Impact on cashflow	Adverse Impact on cashflow	Should improve
Full / partial buy back	Say £1 million	Minor – likely to target poorest leaseholders?	Limited to small number of properties
Discretionary capping	£6 million or more?	Could reduce amount that would otherwise be paid by some leaseholders.	Significant for the properties involved, balanced by significant adverse impact on Council's resources

## **8. Comments of the Legal Officer**

- 8.1** Under the terms of the various forms of Newham leases, leaseholders are obliged to pay their service charges within 28 days of receipt of invoice. This obligation binds both the original tenant(s) who purchased their home under the Right to Buy and the leaseholders who may have subsequently acquired the lease from them. The obligation also extends to the payment of service charge contributions for major works schemes.
- 8.2** The Council is under a fiduciary duty to its tenants and council tax payers to recover monies due to it and there is limited scope to waive or reduce service charges. There are a variety of means by which the Council can assist leaseholders to manage the burden of their service charges and these are addressed in paragraph 2 of the report. All the measures proposed are ones which the Council can adopt lawfully.
- 8.3** In addition to specific powers (see below), there is the general power to do anything which is likely to improve the social, environmental and economic well being of the inhabitants of its area. Any measures to ease the burden of service charges on its leaseholders are likely to improve the economic and social well being of the target group. This power can be relied on in addition to, or instead of the specific powers, provided that the measure proposed is not prohibited under any other piece of legislation.
- 8.4** Extending the use of the Council's welfare advice and HIA service to leaseholders, which can offer them general advice about sources of assistance or refer them to independent financial advisors for advice which may assist them to access other products that could help them pay / reduce the burden of their service charges, is likely to improve their economic and social well being. The Council must take care not to give financial advice as it is not authorised by the Financial services Authority to do so.
- 8.5** Under the Housing (Service Charge Loans) Regulations 2002 as amended, a tenant who purchased the property under the Right to Buy has a right to a loan in respect of service charges for the first 10 years of the lease. The amount of service charge for which a loan is available is set out in regulations and the loan is repayable with interest over periods of 3-10 years, depending on the amount. Where a tenant does not have a right to a loan under the above provisions, there is a discretionary power to give a loan on such terms as the landlord determines. In either case the loan must be secured by a mortgage on the property.
- 8.6** The Housing and Regeneration act 2008 (s.308) contains provisions which when in force, will give local authorities greater flexibilities in relation to loans, including the power not to charge interest on all or some of the loan.
- 8.7** There are powers to cap or waive service charges under the Social Landlords Discretionary Reduction of Service Charges Directions 1997 and the Social Landlords Mandatory Reduction of Service Charges Direction 1997. Under paragraph 5 of the former, social landlords may waive or reduce service

charges for “works of repair, maintenance or improvement” where the total service charges are more than £10k in any five year period for the same property, although the cost cannot be reduced to less than £10k in the same period. It is open to the landlord to choose a period which would maximise (or minimise) the potential reduction. Such a power however can only be used having regard to a set of detailed criteria set out in paragraph 6 of the Directions, both as to whether to waive or reduce and as to the amount of reduction.

The criteria are as follows:

- any estimate of costs of the works notified to the lessee or any predecessor in title before purchase of the lease
- whether the purchase price paid by the lessee took account of the cost of the works
- any benefit that the landlord considers will accrue to the lessee as a result of the works e.g. improved security, energy efficiency
- whether, upon receipt of an application by a lessee, the landlord, having regard to the criteria set out in Paragraph 7, considers that the lessee would suffer “exceptional hardship” in paying the service charge
- any other circumstances of the lessee which the social landlord considers relevant.

**8.8** Paragraph 7 of the Directions set out criteria for considering applications for reduction, on ground of exceptional hardship. These are:

- whether the dwelling is the lessee’s only or principal home
- the total amount of the service charges which have been paid or are payable by the lessee since the lessee’s purchase of the lease
- the amount of the service charge payable in the year in which the lessee applies for a reduction because of exceptional hardship
- the financial resources available to the lessee
- the ability of the lessee to raise funds to pay the service charge
- the ability of the lessee to pay the service charge if the social landlord were to extend the period for payment
- any other circumstances of the lessee which the landlord considers relevant.

**8.9** Paragraph 8 of the Directions provides that “any waiver or reduction made under any paragraph in these Directions is in addition to any other waiver or reduction which may be made”. This suggests that there is the potential for yet further reduction in individual cases because of specific relevant facts e.g. regarding poor workmanship. [In practice, in Newham, where a complaint is made and upheld in relation to poor workmanship, a remission of charges is already made under delegated authority.]

**8.10** In detailed advice given to Newham by Counsel in 2004, it was recommended that any application of discretionary reduction should be as part of an overall policy on the matter.

**8.11** Under the Social Landlords Mandatory Reduction of Service Charges (England) Directions 1997 the Council is obliged to reduce/waive costs for schemes where assistance was applied for after 25 February 1997 and where costs are over £10k in any 5 year period and the work is funded by:

- SRB
- ERFC
- PFI (from 16 January 2000)
- NDC (From 16 August 1999)

and where the works do not increase the value of the property by more than £10k. If the works increase the value by *more than* £10k, the Council can charge up to the increase in the value of the property.

Works carried out under the capital programme are funded by Supported Capital Expenditure, the Major Repairs Allowance and ALMO funding. Accordingly they would fall to be considered under the discretionary scheme, which the Council has had in place since 2004. Despite the concerns expressed at paragraph 2 of the report, it remains a legitimate option for the Council to adopt for use, even if only in the most extreme cases.

**8.12** Under s.309 of the Housing and Regeneration Act 2008 (when in force), the Council will be able to acquire an equity share in property acquired under the Right To Buy for the purpose of assisting the tenant to pay the service charges. The details are to be set out in regulations which are yet to be made.

**8.13** In relation to buy-backs, the Council has the power to acquire land for housing purposes under the Housing Act 1985. The Council also has a power to acquire land for the purposes of any of its functions under the Local Government Act 1972.

**8.14** Whatever measures the Council adopts, it needs to be mindful of its fiduciary duty to its council tax payers and the measures must be reasonable. Any policy must allow for exceptions as one size would not fit all. This is particularly relevant in the context of the step by step framework proposed at Appendix B.

**8.15** The consultation process that needs to be followed to ensure full service charge recovery allows leaseholders to make observations about proposed works and estimates for work. The Council must have regard to the observations made before deciding to go ahead with the works. Leaseholders are also able to challenge the reasonableness of works and their cost at the Leasehold Valuation Tribunal.

## **9. Consultation**

- 9.1** Full Member consultation on this report has been carried out via the Influential Councillor framework during February 2009. Only one query was received and this has been responded to. The Executive Member for Housing, Process and Business Efficiency, Councillor Andrew Baikie, has been consulted. His comments have been reflected in the final version of the report.
- 9.2** The draft report was considered by Newham Homes' Service Improvement Committee, which consists of Board Members, on 12 February 2009.
- 9.3** The matters that are the subject of this report have been previously discussed at a number of Newham Leaseholder Group Meetings over the last twelve months. Their members are broadly supportive of these proposals. The final version of this report will be taken to their meeting on 26 March 2009, and a verbal update will be provided to the Mayor and Cabinet on 2 April.

## **10. Conclusions**

- 10.1** The key issue is one of balance. As explained in this report, the advice and assistance can range across a spectrum, from revenue funded services paid for by the leaseholders themselves, right through to permanent discount of service charges via discretionary capping. However, there is also the overriding fiduciary duty to safeguard the HRA, and any alleviating provisions for the payment of service charge debt must be established within a clear policy framework. The 2004 Framework spoke of the need for a "pragmatic, reasonable" approach to the problem, and it is still the view that this is the basis upon which future policy should now be developed. This report takes forward those principles to reflect the additional demands of the current works programmes.