

INDIVIDUAL CABINET MEMBER DECISION-MAKING

RECORD OF DECISION

PART A

DETAILS OF REPORT <i>(Officers to complete this section prior to issuing to cabinet member)</i>	
Title of report	Amending the shared equity rehousing policy for qualifying homeowners affected by regeneration
Decision-maker	Leader of the Council
Earliest date when decision can be taken	26 March 2018
Key decision – Yes/No?	Yes
Date published on forward plan	N/A - General Exception Issued 15 March 2018
Date sent to cabinet member	16 March 2018
Recommendations	<p>1. That the Leader of the Council:</p> <ul style="list-style-type: none"> • Approves the amendments as set out in paragraphs 17 to 37 the Council's rehousing policy for qualifying homeowners affected by regeneration and summarised below: <ul style="list-style-type: none"> ○ Minimum share under shared equity purchases to be revised from 50% to 25% ○ Homeowners will no longer have to invest their home loss payment as part of the acquisition of a replacement Council property ○ Homeowners will now be able to choose between two different Council shared equity products – shared equity or an equity loan ○ Inheritance clauses in shared equity and equity loan leases to be amended to allow one inheritance ○ Pre-emption clauses to be removed from shared equity or equity loan leases ○ Commitment to cover additional Stamp Duty Land Tax (SDLT) costs to homeowners as a result of homeowners opting for the new equity loan model

	<ul style="list-style-type: none"> Instructs officers to progress discussions with the Council's development partners for major regeneration schemes to seek where appropriate and possible, parity in the terms of the rehousing offer made by the Council and that of its partners.
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ORIGINATING AUTHOR'S DETAILS	
<i>(Officers to complete this section prior to issuing to cabinet member)</i>	
Lead officer	Neil Kirby, Head of Regeneration South Richard Selley, Director of Customer Experience
Report author	Simon Chambers, Regeneration Manager Ross Reddy, Sales and Acquisitions Manager
Contact Number	020 7525 7495 / 1315

PART B
(Cabinet member to complete this section)

DECISION(S)
<p style="font-size: 1.2em; font-family: cursive;">as per recommendations</p>

REASONS FOR DECISION
<p style="font-size: 1.2em; font-family: cursive;">as per report.</p>

ALTERNATIVE OPTIONS CONSIDERED
<p style="font-size: 1.2em; font-family: cursive;">None.</p>

REPRESENTATIONS RECEIVED
<p>Representation received from local resident</p> <p>"Dear Peter,</p> <p>This is a formal representation to you in respect of your forthcoming decision (no earlier than 26 March) on the captioned matter. The report for your consideration is found on the below link:</p> <p>http://moderngov.southwark.gov.uk/mglIssueHistoryHome.aspx?Id=50016624&Opt=</p> <p>You will recall that I asked a question in cabinet on 13 March about progress on this matter.</p>

REPRESENTATIONS RECEIVED

I have discussed the proposals before you with a number of those concerned with leaseholders facing displacement from the Aylesbury Estate, and would request that you give consideration to two aspects which we believe should be improved upon, and could be without detriment to the council's interests:

1 Paragraph 42 of the report refers to a prohibition on sub-letting in the following terms:

"the Council's policy is to prohibit subletting whilst ownership is less than 100% and where the property is subject to a charge" [my emphasis]. If this is intended to prevent leaseholders, who would otherwise benefit from the new "equity loan" option, from sub-letting in any circumstances, then, I would submit, a large part of the purpose of the new option would not be achieved, for the following reasons:

- (a) the leases currently enjoyed by the leaseholders permit sub-letting;
- (b) an aim of the new proposals is, per paragraph 17, to "encourage greater take-up of the council's rehousing offer and reduce the need to rely on compulsory purchase".
- (c) therefore, an option which provides for more restrictive leaseholder rights than their current leases should not be adopted without good reason - the first sentence of paragraph 41 does not, I think, set out sufficient reason for imposing an absolute prohibition on sub-letting.
- (d) the boroughs of Lambeth and Wandsworth have adopted policies which permit sub-letting in certain circumstances. I would refer you to the attachments to this e-mail, notably the following in the Lambeth policy:

- *You would not be allowed to let your home without the council's permission, not to be unreasonably refused*

and the following in the Wandsworth policy (paras 36 and 37)

36. However, the restriction on sub-letting should be tempered in order to ensure that residents are not disadvantaged as a result of the regeneration scheme. So it is recommended that the restriction only applies to properties where shared equity is in place and not where the resident owner acquires a 100 per cent stake of the new property. Furthermore, the restriction should no longer apply should the property be sold on and the shared equity paid off.

37. It is likely that exceptions will also be allowed to the no sub-letting policy where, for instance, the owner needs to move away for a certain period due to a change in their circumstances (for example, a work contract, caring for a relative etc.). A more detailed policy will be put in place which allows for such circumstances to be set out clearly. There is precedent for this; typically, an exceptions clause allowing sub-letting in a range of circumstances is normally included within Housing Association shared ownership properties. The exceptions policy would be drawn up in line with these

(e) It should also be noted that Westminster is consulting on a policy which would appear to be even more effective in achieving the aim of achieving less reliance on compulsion. Their proposals are also attached to this e-mail. Note the following on p2:

- *Shared ownership properties can be sublet.*

REPRESENTATIONS RECEIVED

2 Paragraph 64 of the report before you makes a proposal with regard to the sharing of proceeds of on-sale under the new "equity loan" option which is one-sided, unfair and militates against achievement of the overall aim of the proposals: namely the proposal that, under the new "equity loan" option, the leaseholder would protect the landlord from any general fall in property values, ie that in those circumstances the leaseholder's share in the property would fall and he/she would suffer disproportionate detriment. I would submit that there can be good reason for introducing into the "equity loan" option this element of one-sidedness, which does not apply to the existing "shared equity" option.

I trust that you will consider these representations carefully, and implement the minor changes required to meet the concerns expressed."

ADDITIONAL ADVICE RECEIVED

1. The rationale of this policy change is to support resident leaseholders who are affected by regeneration and who wish to stay living in a home in the local area. It is not to provide leaseholders with an opportunity to acquire a subsidised income-generating asset. We are not seeking to recreate a RtB lease, nor is a RtB lease necessarily the right model for what we are offering.

In the representation received, three borough's policies, or emerging policies are attached (Lambeth, Wandsworth and Westminster). Of the three we consider that the only relevant policies are the Lambeth and Wandsworth policies, which as a basic premise do not allow sub-letting and so are in line with what the Council is proposing here. The Westminster example is different in that this specifically deals with a scenario where the resident leaseholder is purchasing a property on shared equity terms from a Housing Association and the Council is providing a loan to assist with the purchase. It does not deal with shared equity being purchased from Council stock.

In line with the policies set out by both Lambeth and Wandsworth we recognise that there may be a small number of situations in the future where resident leaseholders may be compelled to sublet their home, e.g. if they had to move to care for a relative or were seconded overseas. It is officer's position that the default policy position be that subletting is not permitted, however the Council does have discretion to make exceptions to policy on a case by case basis and should an evidenced need to sublet be proved through application to the Council then the Council will consider that at that point.

2. The equity loan option is proposed as an option for resident leaseholders who are looking to sustain long term home ownership in the local area. The policy amendment proposed in this paper also allows for one inheritance of the property, which could result in a significant number of years passing before the Council realises the full value of the asset. If for example a 50 year old resident leaseholder bought a property under this equity loan scheme and lived until they were 100, passed the property onto their son or daughter who was living in the property and who then lived for another 20 years, it might be 70 years until the Council saw a capital receipt from the loan.

ADDITIONAL ADVICE RECEIVED

Historically over this sort of period there has been significant growth of the property market and so it is the Council's view that the leaseholder or their descendants would not be disadvantaged by this policy. Even over ten year timeframe since the property crash in 2007/08, house prices are now greater than they were in 2007, so backing the trend for long term growth.

The Council does however recognise that the equity loan option may in very limited scenarios (i.e. where there has been a significant fall in the property market) result in a negative impact on the leaseholder. Whilst the debt in the form of the charge is expressed as a percentage, the Council has to report a minimum figure on its long term debt portfolio. If the final figure was to fall below this in the future this would involve a separate debt write-off and approval process by the Council. This is different to the current model where the Council still owns a percentage of the property and so no long term debt is technically held. The existing shared equity policy therefore remains open as an option for resident leaseholders as an alternative.

Taking the two points together, the Council therefore considers that the restrictions in place are proportionate and that the equity loan is in place to encourage long term homeownership within the borough.

ANY INTERESTS DECLARED

Note: If the decision-maker has a disclosable pecuniary interest in the matter the report must be referred to the full cabinet for decision.

Where a cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the cabinet member must notify the monitoring officer of the interest within 28 days and must not take any steps or further steps in the matter.

If a member is unsure as to whether an interest is a disclosable pecuniary interest they should contact the governance team for advice.

DECLARATION

I approve/~~reject~~ the recommendations set out in the report.*

or

I approved an alternative course of action set out in Part B.*

or

I have referred this matter to the Full Cabinet for decision.*

(* - Please delete as appropriate)

Signed.......... Dated..... 4.4.18

Cabinet Member

Please return completed hard copy of the form to Constitutional Team, 160 Tooley Street, PO BOX 64529, London, SE1P 5LX – tel: 020 7525 7221.

Seeking advice

You should seek advice from the relevant officer on a number of occasions:

- (a) If you wish to consider alternative options
- (b) If you are considering rejecting the proposals

Otherwise it is at your discretion when you should seek further advice and you should do so when you consider it appropriate.