

<b>Item No.</b> 12.	<b>Classification:</b> Open	<b>Date:</b> 19 June 2012	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Officer Response to Recommendations in the Housing and community Safety Scrutiny Report on Leaseholder Council Charging dated March 2012	
<b>Ward(s) or groups affected:</b>		All Wards / All Leaseholders	
<b>Cabinet Member:</b>		Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	

### **FOREWORD – COUNCILLOR IAN WINGFIELD, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING MANAGEMENT**

Many councillors will agree that one of the more common type of enquiry we receive, either at surgeries or in correspondence, are from council leaseholders; usually about their service charge or other types of charge made of them. This area of the council's service is complex, the terms of the council's leases are complicated and open to interpretation; as are the numerous statutory provisions which govern the council's landlord relationship with its long lease tenants. With this in mind I asked the Housing and Community Safety Scrutiny Sub Committee to spend some time examining leaseholder charges. Whilst understanding that this scrutiny follows on from other recent audits and inspections of these services, it is necessary to continue to show that leaseholders' concerns are of importance to this administration and that we will strive to ensure continuous improvement which reflects in equitable charges.

### **RECOMMENDATIONS**

1. Cabinet Members are asked to receive officers' responses to the Housing and Community Safety Scrutiny Report dated March 2012 'Review of Leaseholder Charging in Southwark' for information.
2. Cabinet ask the Cabinet Member for Housing to receive a report in June 2013 on further progress toward implementing the recommendations contained in the Scrutiny Report.

### **BACKGROUND INFORMATION**

3. On 12 July 2011 the Housing and Community Safety Scrutiny sub committee agreed to carry out a scrutiny of 'leaseholder charging' (of the council's leaseholders) in the borough. At its meeting on 11 October 2010 the Cabinet Member for Housing had said that he wanted to ensure that leaseholders were being treated fairly and that it would be useful for the sub committee to investigate the issue. The sub committee co-opted members from Southwark's Home Owner Council and LAS (Leaseholders across Southwark) 2000 and reported in March 2012. On 17 April 2012 the cabinet approved the report including its 14 recommendations. These recommendations cover a range of service issues across the Housing Services department; this paper sets out officers' response to each of the recommendations.

## RECOMMENDATIONS FROM SUB-COMMITTEE/ UPDATED RESPONSE

- a) **During the scrutiny the sub-committee felt that, as a general principle, the more information that could be given to leaseholders to allow them to scrutinise their own service charges, the better. Leaseholders themselves have a strong financial incentive to ensure they are getting value for money. The council should seek to maximise their involvement in checking that bills are accurate. Interviews with staff from the Home Ownership and Tenant Management Initiative Division also showed that they thought providing leaseholders with more detailed information helped to improve the accuracy of charging. In keeping with this principle, full details of how the actual service charge is calculated should be provided online, rather than waiting for individual requests for this information. Currently, these details are only provided on request, after the actual bill has been issued. The completion of the BAR project should assist officers in providing this additional information.**

Agreed. The first phase of the BAR (Billing and Accounts Receivable) project went live on the 24<sup>th</sup> February 2012 giving each leaseholder their own single invoiced based account. The second phase of the project is now underway to enable leaseholders to access to their individual accounts on line using the BAR self serve facility. This is currently being tested and will, when released, allow leaseholders to look at their individual accounts, invoices and breakdown of charges within those invoices.

- b) **Steps should be taken, as an extension of the BAR Project to make available online details of major works and annual service charges relating to individual leaseholders. Leaseholders would then be able to see an on-going calculation of the charges being levied and to hold the council and its contractors to account for works which are being charged for. Leaseholders should be issued with details of an individual account to which they can log-on and see details of the annual and major works service charge calculations to which they are subject.**

Agreed. Future phases of the BAR system will involve leaseholders being able to access communal repair records as repairs are ordered and paid so as to understand which repairs will be included in future invoices.

- c) **Clearly there are certain legal requirements around service of invoices; notices etc. which mean electronic communication cannot currently replace letters. However, leaseholders should be able to opt to receive more of the necessary correspondence from the council via email rather than paper letter.**

Agreed. Home Ownership and Tenant Management Initiatives Division already respond via e-mail when correspondence is received by e-mail. Statutory notices and invoices still need to be sent to a property address. There is an issue with keeping e-mail addresses up to date,

but with the advent of self serve (see 3.1 ante) there is no reason why home owners should not be able to opt in to receiving certain information via e-mail rather than post. This could include their statements of account. This would resolve the problem of keeping e-mail addresses up to date as it would be the responsibility of the home owner to update their details on their own account.

- d) **Given the problems outlined in this report (and previous scrutiny reports), very serious consideration should be given to whether or not a contracted out model of repairs is the most suitable for a service which needs to be flexible and subject to direct management control of senior managers. This recommendation should be borne in mind during the decision making process regarding the reconfiguration of repairs services.**

Agreed. However, there are issues with awarding the whole of the repairs and maintenance contract to an internal provider. Statutory consultation with leaseholders under section 20 Landlord and Tenant Act 1985 (as amended) would not apply, because a service level agreement is not a qualifying long term agreement. What would be required is that any job which would cost any leaseholder more than £250 as a service charge would have to be subject to full statutory consultation, obtaining at least two quotes and offering leaseholders the opportunity to nominate contractors. This would be particularly prevalent for street properties and small blocks. It would add a minimum of two months to the current process, making it difficult to carry out some routine repairs and maintenance in a timely fashion. It could also impinge on the response in 3.1 and 4.1 ante.

The Council is currently considering its strategy for providing a repairs and maintenance service with a view to procuring a new long term repairs and maintenance contract. The Housing Services Department will be taking the opportunity to look at all aspects of such a contract, including the contract management. One suggestion is the formation of a communal repairs team which would provide a necessary level of knowledge and expertise in the pre-inspection, ordering and post inspection of communal repairs, particularly in regard to the potential resultant service charges.

This is a timely recommendation: the Council is proposing to end the contract with Vangent and bring this aspect of the current service in-house. In addition, the Project Board which deals with the procurement of the repairs service in the south of the borough will be carrying out an options appraisal which will include the potential to internalise the repairs service across the whole borough. Initial proposals are that the SBS (Southwark Building Services) remit be extended to cover the whole borough in relation to void repairs and the emergency call out service.

- e) **Council officers responsible for signing off work should be encouraged to refuse to pay contractors for poor quality or incomplete work. The case studies outlined in this report show that there are incidents in which this happens and this must come to an end.**

Agreed. Within the Major Works Division all works are signed off by a qualified surveyor prior to payment certificates being approved for payment. A full audit trail is available to leaseholders upon request. The Maintenance and Compliance Division has confirmed that whilst there is increased post-inspection of work for responsive repairs, the quantity of repairs carried out each year does mean that only a small proportion can be inspected. On average the Council carries out 260,000 repairs per year, of which 25,000 are pre or post inspected. On average just over 13,000 are post inspected, although these figures do not include inspections carried out by the contractors. Greater resources are concentrated on communal repairs – although there are non-communal repairs which do have to be inspected. Council officers are identifying trends in repairs costs/variations and problems – and the level of defaults has risen. The name of the officer is included on post-inspection sign-offs when they are carried out and officers are expected to refuse payment or request credit where work is not to a sufficient standard or has not been done. The creation of a communal repairs team would also increase the knowledge and expertise in this area.

- f) **The signing-off of poor quality or unfinished works and repairs continues to be a problem. To help address this, the name of the individual officer who has signed off works should be attached to all works and repairs. The name of the officer should be available to leaseholders as part of the information they will be able to access online about ongoing and recently completed works. (See recommendation 2). The name of the officer signing off works should, in essence, be publicly available. This will encourage clearer lines of responsibility for the signing off of work.**

Agreed – see above. There are a number of communal repairs which are raised by Resident Officers – the name of the officer should be on the system so that they can be identified. There are a large number of small repairs raised on estate inspections – and these should be picked up and inspected automatically at the next estate inspection or estate action day. The creation of a communal repairs team would increase the knowledge and expertise of the relevant officers in this area.

- g) **In 2012, the Housing & Community Safety Scrutiny Sub-committee dedicates a meeting to the council's work on contract management in Housing. This should be attended by Councillor Ian Wingfield (Cabinet Member for Housing), Gerri Scott (Strategic Head of Housing Management), David Lewis (Head of Maintenance and Compliance) and David Markham (Head of Major Works) to review progress on the council's work to tighten up contact management (both on major works and service contracts) by Southwark's Housing Department. A report will be published by the sub-committee on the progress of this work.**

Agreed.

- h) **It is clear that the ability for leaseholders to “drop in” to the Home Ownership and Tenant Management Initiatives office and speak to a person face to face is highly valued by leaseholders. Whatever**

**changes are made in the future, this aspect of the service should be maintained.**

Agreed. HO&TMI are due to move to the old Abbeyfield Housing Office in Rotherhithe in June 2012. The Abbeyfield office has better reception facilities, so the service should be enhanced. Transport links to the new office are also better, as there is a tube station close by, along with the overground and bus routes.

- i) **Improvements need to be made in cross-departmental working. Works needs to continue to be done in getting officers in the wider Housing Department to work more closely with officers in HO &TMI, and vice versa. The newly appointed senior management team should be supported in their efforts to encourage collaborative and supportive working across divisions in the housing department. Where silos continue to exist, managers need to give consideration to how more co-operative working can be encouraged.**

Agreed. Following discussions between senior officers in each division it has been agreed that senior officers from the HO&TMI, Area Management, Maintenance and Compliance and Major Works divisions meet on a regular basis to discuss areas of concern and put agreed processes in place to resolve issues. The Head of HO&TMI has agreed to repeat previous training with current senior managers in the other three divisions who will then disseminate to staff. Home Ownership officers will continue to meet regularly with Maintenance and Compliance division colleagues to review communal repairs orders. Home Ownership officers will attend estate action days to provide advice on leaseholder/service charge issues to gain a greater understanding of the work of other divisions.

- j) **Given the consensus that there is a clear lack of appreciation of leaseholder issues by housing management staff, the sub-committee wishes to suggest two possible options which could be considered as ways of rectifying this problem:**

- I. **Expand the remit and function of HO & TMI to take on a more general housing management role and activities to cover these issues; or**
- II. **Have a dedicated leaseholder officer based in each of the other housing management services who may or may not come under the HO & TMI but will have to liaise and report to it.**

**There should also be increased training and raising awareness amongst staff dealing with leaseholders, promoting a more integrated system.**

Agreed. There is no longer a Housing Management service per se – there are now three Divisions within the new Housing Services Department which deal with housing management issues – Area Management, Major Works and Maintenance and Compliance. All three have been approached with regard to these recommendations.

Area Management has agreed that recommendation 10(b) should be accepted. The division will give a 'leasehold management' portfolio to a senior officer in each of the two areas and will nominate 'leasehold management' champions in the area teams. The Heads of Major Works and Maintenance and Compliance have confirmed that all members of their teams have to have expertise in leasehold management issues and have to work closely with HO&TMI officers already, in order to progress both major works and repairs contracts. They do not believe that a dedicated officer in the team will bring any other benefits, but would prefer to ensure that all staff within their divisions understands home owner issues. As stated for recommendation 7, the Heads of Major Works and Maintenance and Compliance will have regular liaison meetings between MW, M&C and HO&TMI Divisions.

The Head of HO&TMI has carried out training with housing management previously. In addition, other HO officers have carried out training with particular groups of staff on home ownership issues. HO&TMI will carry out further training with senior officers within each division which should then be disseminated to other officers.

- k) **HO &TMI must be made aware of works which would involve charges (and therefore a section 20 consultation) for leaseholders. Failing to do so is essentially leading to tenants subsidising leaseholders. These incidents should no longer be allowed to "slide". Prior to this recommendation being implemented, senior managers in the housing department should inform the relevant managers and officers that a new, firmer approach is being taken on this issue.**

Agreed. HO &TMI meet with Maintenance and Compliance on a monthly basis and will continue to identify errors. Training has been carried out and procedure notes provided. The procurement of the new repairs and maintenance contract will provide the opportunity for the Housing Services Department to look at its procedures in this respect, in particular with regard to inputting a flag onto the system to identify the consultation limits for each block.

- l) **A new two-tier system of charges should be introduced to cater for requests to make minor changes to properties. The current flat rate £193 charge should be replaced so that leaseholders making requests for minor changes should be charged significantly less than those making requests to make major changes.**

Agreed and implemented. The Housing Services – Fees and Charges 2012/13 IDM decision dated 15 February 2012 created a tiered fee system for consents. In the case of the permission requests fee, the proposed charge for minor alterations (£75), internal works (£213) and structural alterations (£325) all of which were covered by the previous £203 fee, have been introduced to appropriately reflect the variation in the level of work required for minor, normal and retrospective permissions.

- m) **The sub-committee accepts that it would be sensible to investigate further offering leaseholders the option of a fixed service charge**

**which incorporates both the annual services charge and major works service charges. The cabinet member and director should be urged to review counsel's advice already received, make a thorough assessment of the financial implications for the council, and see whether any difficulties need to be overcome in order to make this option available to leaseholders.**

Agreed. HO&TMI have held an initial meeting with the Head of Legal Services to appoint a suitably experienced counsel and will have on-going discussions. Should there be no impediment, and the Cabinet agrees, then HO&TMI will offer all leaseholders the opportunity to surrender and renew their lease on a fixed service charge basis. The fixed service charge would incorporate an amount for future major works as well as the annual service charge, and will take into account works carried out in the past. Leaseholders will not have the opportunity to "swap back" once major works have taken place. The offer will be made once, and left open for a period of time, but not indefinitely. The scheme could be repeated in the future.

- n) That all recommendations of the Grant Thornton report be speedily implemented.**

Agreed. It is anticipated that all of the recommendations will have been implemented in the near future. There are currently 6 recommendations out of 17 that have not been yet been completed but these are mainly the longer term issues and all are due to complete during 2012. Further monitoring is taking place on some of the completed recommendations.

- o) The sub-committee (or its successor) should return to this subject in twelve months' time to assess what progress has been made with regard to the recommendations made in this report.**

Agreed – see recommendation 2 to this report.

## **KEY ISSUES FOR CONSIDERATION**

### **Community impact statement**

4. There are approximately 15,000 home owners who pay service charges to the Council. Of these approximately 4,500 do not live in the property, most of whom rent it out and receive an income. Approximately 500 of these home owners are not people but companies.
5. Over 70% of current home owners are not the original right to buy applicants, but have purchased on the open market. In many cases the property has been sold on more than once. For these reasons it is impossible to identify the age, ethnicity, disability or religious background of our home owners.
6. Within a ring-fenced housing revenue account it is imperative that home owners pay their fair share of the cost of services and management, including repairs. If home owners do not pay their fair proportion then the burden falls on the rent payers and the general public (through, for example, housing benefit). It is inequitable that the cost of home ownership should be subsidised by those who cannot afford owner occupation and the tax payer.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

7. As per Officer's response (c), Southwark's standard form residential leases provide that any notices shall be served in accordance with Section 196 of the Law of Property Act. Section 196 provide that the notice must be in writing, and shall be served by either leaving at the last known place of abode or business, by leaving on the land or building or by sending by registered post. Further, Section 233 of the Local Government Act 1972 provide that any such document may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
8. As per Officer's response (d), under the Service Charges (Consultation Requirements) (England) Regulations 2003 an agreement with an internal provider is not a Qualifying Long Term Agreement and therefore statutory consultation under Section 20 of the Landlord and Tenant Act 1985 would not apply.
9. As per Officer's response (d), under Section 20 of the Landlord and Tenant Act 1985 and under the Service Charges (Consultation Requirements) (England) Regulations 2003 any works on a building or any other premises, that is works of repair, maintenance or improvements which are expected to cost over £250 per leaseholder are Qualifying Works and must be subject to full statutory consultation.
10. As per Officer's response (k), under the legislation referred to above, failure to follow the full statutory consultation process when required will result in the landlord not being able to recover service charges over £250 from any leaseholder.
11. Members are reminded that they must declare a personal interest if they are a leaseholder in the Borough or in cases where the matter affects the well-being or financial position of the member, the members of your family, or people with whom the member has a close association, more than it would affect the majority of people in the ward or electoral division affected by the decision, or in the authority's area or constituency. Regarding prejudicial interest it is likely that this matter falls into exempt category so no declaration is necessary, however this is a decision for members.

### **Finance Director**

12. This report is primarily concerned with operational leaseholder issues pertaining to service delivery, account information and access and value for money and sets out how the council proposes to address the recommendations of the Housing & Community Safety Scrutiny sub-committee. As such there are no specific or quantifiable financial implications arising from the recommendations at this time, but it is anticipated that more robust monitoring of works contracts and the impending contract changes taking place during 2012 will lead to improved quality and better value for money being achieved for the benefit of both the council and leaseholders. Closer liaison between Home Ownership and Area Management and greater appreciation of leaseholder issues at a local level should also improve service delivery, whilst

the recent introduction of the BAR system now provides an enhanced level of customer account information that was not previously available.

13. The report also makes specific reference to the Grant Thornton Audit and it is important to recognise that the longer-term issues identified around greater transparency of costs, charging and account construction are progressing and due to be concluded by Autumn 2012.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Housing and Community Safety Scrutiny Report March 2012	160 Tooley Street, SE1 2QH	Shelley Burke, Head of Overview and Scrutiny Tel: 020 7525 7344

## APPENDICES

No.	Title
Appendix 1	Action Plan

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	
<b>Lead Officer</b>	Gerri Scott, Strategic Director of Housing Services	
<b>Report Author</b>	Martin Green, Head of Home Ownership and Tenant Management Initiatives	
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
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