

Key Decision Required:	Yes	In the Forward Plan:	Yes
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REPORT OF CORPORATE DIRECTOR OF OPERATIONAL SERVICES

MARCH 2020

A.1 INTRODUCTION OF PROVISIONS FACILITATING THE EXTENSION OF SHARED EQUITY LEASES

(Report prepared by Emma Norton)

PART 1 – KEY INFORMATION

1.1 PURPOSE OF THE REPORT

To seek the approval of the Portfolio Holder for Corporate Finance and Governance and the Portfolio Holder for Housing to introduce a policy facilitating the extension of leases for the Council's Shared Equity Scheme lessees, based upon the statutory scheme that exists in the Leasehold Reform Act 1967 (the LRA 1967).

1.2 EXECUTIVE SUMMARY

In 1989 the Council introduced a shared ownership scheme to assist those on lower incomes with the part purchase of a property. The scheme, known locally as the Council's "Shared Equity Scheme" enabled eligible applicants to purchase a long lease of a purpose built residential property based on a percentage equity share with the Council retaining the remaining share in the property and ownership of the land for which a weekly rent is payable. It also enabled lessees to increase their stake into the property through the purchase of the land, thereby achieving full freehold ownership.

The initial leases granted were for 99 years with the lessees having full repair and maintenance responsibilities during this term. This responsibility was reflected in a reduction in the rent calculation for the proportion of the property owned by the Council.

At this time, no provision was made for the extension of the leases beyond their initial term. With the oldest lease now having less than 70 years to run, it is becoming increasingly difficult for existing lessees to sell their interest as mortgage lenders are often reluctant to offer mortgages on leasehold property where the lease has a term of this length or less. Therefore, the Council has been asked to look in to the possibility of lease extensions by leaseholders.

The application of the statutory scheme for lease extensions as set out in the Leasehold Reform Act 1967 was thought not to apply to these leases as they are commonly deemed to be "shared ownership". That classification often means, due to the provisions of Section 33A and Schedule 4A of the LRA 1967 that the leases are excluded from the statutory right to extend. However, it is now the Council's view that the legislation does apply to these properties and therefore the leaseholder's have recourse to a lease extension under the statutory scheme.

To qualify to extend the lease:

1. the tenant must have to have owned (but not necessarily lived in) the house for at least two years;
2. the original lease must be longer than 21 years and not expired;

3. must not have been extended before;

4. must be at a low rent.

Subject to the first criteria which will have to be assessed on an individual basis, it is believed that all of the Shared Equity Scheme leases will fulfil the qualifying criteria.

Where the qualification criteria are met, the legislation entitles the tenant to a new lease:

- For a term of 50 years plus the remainder of the term of the existing lease; and
- At a "modern" rent from the start of the new 50 year term.

No premium is paid for the lease extension but the tenant is required to pay the Landlord's valuation and conveyancing costs associated with the grant of the extended lease. These will be set out in the policy.

It is proposed that the lease extensions assist existing lessees to sell their interests in a property or enable them to re mortgage the same.

1.3 RECOMMENDATION(S)

That the Portfolio Holder for Corporate Finance and Governance and Portfolio Holder for Housing authorise the implementation of a policy facilitating the policy attached to this report as Appendix A facilitating the extension of leases for the Council's Shared Equity Scheme lessees, based upon the statutory scheme that exists in the Leasehold Reform Act 1967 (the LRA 1967).

PART 2 – IMPLICATIONS OF THE DECISION

2.1 DELIVERING PRIORITIES

The introduction of this policy will assist the Council's tenant's will contribute towards the following priorities in the Council's Corporate Plan for the period 2016 to 2020:

Council and Community

Make the most of our assets

Health and Housing

Deliver a high quality living environment

It will also contribute towards the priority in the emerging Corporate Plan for 2020 – 2024 of Building Sustainable Communities for the future.

2.2 FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The proposed scheme would require the applicant to pay the Council's costs, as well as an increased ground rent in respect of the new lease. The value of the ground rent would be based on advice obtained by an independent valuer engaged by the Council, as well as that of the Council's Solicitor (Property), with the aim of ensuring best consideration is obtained in relation to the Council's assets. No premium would be payable in respect of the lease extension.

The applicant will pay the Council's legal costs and the valuation costs for the lease extensions.

Risk

If the Council fails to introduce a policy explaining how it will operate the statutory scheme this is likely to result more Officer time being required to deal with enquiries and increased dissatisfaction from lessees who are experiencing difficulty in selling or re mortgaging their property.

2.3 LEGAL

In coming to decisions to the management or procurement of assets, the Council must act in accordance with its statutory duties and its responsibilities.

The Property Dealing Procedure with the Constitution requires a decision to be made to initiate lease extensions.

The Leasehold Reform Act 1967 entitles leaseholders of qualifying houses the right to extend their leases in accordance with the Act. The Council are obligated to implement those provisions when it receives an application from a leaseholder; to not do so will cause difficulties for applicants to sell or re mortgage their properties.

There are exemption rights in Section 17, 18 and 19 of the Act relating to the Landlord's right to redevelopment, occupy or retain management rights but these do not seem to apply at present. The application should be reviewed by the Council's decision maker with each application made.

For the reasons above it is therefore advisable for the Council to have a policy in place for how this will be dealt with internally as this will save time and therefore costs for the Council and leaseholders.

The Council would be unable to give applicants or potential applicants legal advice in connection with any proposed lease extension request.

Individual lessees would be recommended to take their own legal advice before deciding to progress with a lease extension to ensure that they have sufficient information to decide whether a lease extension is the correct route. The need to extend a lease for saleability and mortgage requirements would always need to be balanced with against the issue of whether it would be more beneficial to purchase the freehold of the property.

2.4 OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and there are not considered to be any significant issues.

Crime and Disorder / Equality and Diversity / Consultation

None

Ward

Kirby le Soken and Hamford

Dovercourt All Saints

PART 3 – SUPPORTING INFORMATION

3.1 BACKGROUND

At the current time, the Council retains an interest in 62 shared equity properties, 11 at Edenside and 51 at Allfields.

The leases were initially granted for a term of 99 years but no contractual provision exists nor was any subsequent policy provision made for these to be extended.

As leases decrease in length, the value of the lease decreases and this can affect the value of an

individual lessees share in the property. Additionally, the Council appreciates that, as these leases are reducing in term, they will become increasingly difficult for the owners to re mortgage or sell.

3.2 BACKGROUND PAPERS FOR DECISION

None

3.3 APPENDICES

Lease Extension Policy