



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Finance, Property and Regeneration
Date:	28 August 2018
Classification:	General Release
Title:	Leaseholder Policy for Housing Renewal Areas August 2018
Wards Affected:	All
Key Decision:	Yes
Financial Summary:	<p>The impact of this Policy on the viability of current and future housing renewal schemes has been considered in depth. These are subject to multiple factors, which are not quantifiable at this stage. The costs are modelled on predicted take up of 10% to 25% of eligible leaseholders. For Ebury and Church Street, the revenue cost would be between circa £0.5m to £1.4m/yr. The capital held by the Council is estimated at between £10m to £27m. As mentioned above, due to the variables involved, it is very difficult to project levels of take-up and hence project the ultimate cost to the Council. Individual schemes will need to be monitored to ensure overall affordability. If the Housing Revenue Account is not able to carry these costs then the General Fund may do so and receive the income when loans are repaid.</p>
Report of:	Executive Director of Growth, Planning and Housing Director of Policy, Performance and Communications

1. Executive Summary

- 1.1 An updated Leaseholder Policy for Housing Renewal Areas is needed in order to respond to the changing housing renewal landscape in Westminster. The proposed Policy for approval is in Appendix B. The Policy sets out the rehousing offer to resident leaseholders, where their homes are identified for acquisition by the Council, in order for housing renewal to go ahead. It will firstly be applied in the Ebury Bridge and Church Street/Edgware Road areas but could be applied over time to any housing renewal area.
- 1.2 The updated Policy was consulted on between November 2017 and January 2018 and feedback from consultees has been taken into account as far as is possible in the proposed updated Policy. The wider policy environment and legal framework have also been fully considered while developing the updated Policy.
- 1.3 Overall, the updated Policy improves the Council's rehousing offer to resident leaseholders. It provides a range of options to enable resident leaseholders to remain in or close to the housing renewal area. They can buy one of the new build homes, which will be of a higher value, with an equity loan, or on a shared equity or shared ownership basis. A key area where the updated Policy has changed from the original Policy, originally published in 2014, is that it now offers more provision for leaseholders to pass on the equity loan or equity share arrangement to family members. Resident leaseholders also have options to buy another property of a similar value to their own in the local area and to become a social or intermediate tenant in some circumstances.
- 1.4 A full equalities impact assessment (EIA) has been carried out on the Policy and is in Appendix C. Both positive and potentially negative impacts of the Policy have been identified and steps have been taken to mitigate those potentially negative impacts as far as is possible.
- 1.5 The costs of the updated Policy have been considered and while these cannot be fully quantified for current housing renewal projects at this stage, they have been estimated assuming 10 – 25% of resident leaseholders will take up the offer of buying one of the new homes, with an equity loan or on a shared equity basis.
- 1.6 The risks of the Policy have been considered and measures are in place to mitigate them. Key residual risks relate to external factors, such as legal or national or regional policy changes, which may result in parts of the Policy having to be amended. The changing mortgage market is also an external risk, in that leaseholders may not be able to get a mortgage on the products offered by the Council. To mitigate these external risks the Policy will be reviewed and updated as it is needed and the products offered to buy one of the new homes will be market tested.
- 1.7 Once the updated Policy is approved it will be widely communicated and a simple easy to read summary will be produced.

2. Recommendations

- 2.1 That the Policy for Leaseholders in Housing Renewal Areas August **2018** in Appendix B is agreed and that it replaces the Policy for Leaseholders in Housing Renewal Areas (Updated January 2017).
- 2.2 That the Policy for Leaseholders in Housing Renewal Areas August 2018 in Appendix B is applied to current and future designated housing renewal areas.
- 2.3 That the Director responsible for Regeneration has the delegated authority, in conjunction with the Cabinet Member responsible for Regeneration, to decide when the Policy should be implemented.
- 2.4 That in order to implement the Policy, the Director responsible for Regeneration, or any other person duly delegated by them, has the delegated authority to enter into individual equity loan agreements with leaseholders, where it has been agreed they can buy one of the new build properties in one of the housing renewal areas with an equity loan.
- 2.5 That in order to implement the Policy, the Director responsible for Regeneration, or any other person duly delegated by them, has the delegated authority to enter into shared equity or shared ownership leases or arrangements with leaseholders, where it has been agreed they can buy one of the new build properties, in one of the housing renewal areas, on a shared equity basis, or as a shared owner.

3. Reasons for Decision

- 3.1 A Policy for Leaseholders in Housing Renewal Areas is needed in order to set out the Council's rehousing offer to leaseholders in housing renewal areas, where their homes are identified for acquisition, as a result of housing renewal. Vacant possession of these properties is needed in order to proceed with the housing renewal programme.
- 3.2 An updated Policy is needed, in order to take into account of the changing nature of the housing renewal programme, to respond to ongoing feedback from leaseholders about the current Policy and in light of the changing external policy environment.

4. Background, including Policy Context

- 4.1 In 2010, the Council published its Housing Renewal Strategy which identified a number of housing renewal areas across Westminster. The Strategy aimed in each of these areas to develop new replacement and additional affordable housing and new homes for private sale, all of which will meet modern standards.

Current housing renewal areas are the Tollgate Gardens and Ebury Bridge Estates and the Church Street/Edgware Road area and these projects are all at different stages.

- 4.2 Improving and increasing affordable housing through housing renewal and other means are key policy objectives for the Council. There is an acute shortage of affordable housing in Westminster to meet demand, with 4,000 households in need of social housing and 2,300 registered for intermediate housing. The Housing Strategy: Direction of Travel Statement 2015 highlighted the Council's intention to deliver existing renewal programmes and to continue moving towards housing renewal becoming 'business as usual'. Housing renewal will also help deliver the Council's City for All objective of delivering 2,000 new affordable homes by 2023.
- 4.3 Housing renewal involves the Council acquiring some leaseholders' properties. In 2014, the Council issued a Leaseholder Policy for Housing Renewal Areas which set out the Council's rehousing offer and general support to affected leaseholders. The Policy was consulted on and an equalities impact assessment was carried out. It was updated in 2017, although only minor adjustments were made.
- 4.4 Core to the Policy is the option for resident leaseholders to buy one of the newly developed homes with an interest free, payment free, equity loan from the Council, as the new build properties will be of a higher value than their existing home. The loan does not need to be repaid until the property is sold. The Policy also includes other options for leaseholders to buy one of the new homes, (outright if they can afford it and as a shared owner). It also includes a range of other rehousing options and support to meet different needs, such as the Council facilitating the sale of a property in the local area, which might be from the Council's own stock. There are also options to become a social housing tenant in some cases. Practical help and support is also available to help leaseholders buy on the open market, if this option is chosen and it is needed and there is also access to independent advice. There is only one option for non-resident leaseholders, which is to sell their property to the Council and receive the statutory compensation.
- 4.5 A review of the Policy has taken place and an updated draft Policy was consulted on between November 2017 and January 2018. The review was mainly in response to the changing nature of the housing renewal programme, which has meant that some of the processes in the original Policy were no longer relevant and to continuous feedback from leaseholders on how it could be improved.

4.6 The proposed updated Policy improves the Council's offer to resident leaseholders. The main changes proposed are:

- There is a new option to buy one of the new homes on a shared equity basis. This works in a similar way to the equity loan as the criteria are the same and it is payment free, but has been added to respond to situations where the leaseholders might buy a new build property directly from the Council, rather than a developer.
- There is more ability for leaseholders to pass on the equity loan/shared equity arrangement to their heirs that are family members.
- Leaseholders taking up the equity loan/shared equity option are now expected to hold their own capital from the sale of their home to the Council, if the new properties are not ready to move into straight away. This responds to the relatively low rate of interest that leaseholders will receive if the Council holds their money.
- Leaseholders that are eligible to become tenants may be offered a social or an intermediate tenancy (intermediate tenancies have higher rents and will be offered to eligible leaseholders with higher incomes).
- Detailed processes, which can become outdated quickly, have been taken out.

4.7 While updating the Policy, the Mayor's Better Homes for Local People: Good Practice Guide to Estate Regeneration 2018 has been considered. At section 4, this states that leaseholders "should be treated fairly and fully compensated if their homes are to be demolished". As to the rehousing options to be offered, it advises that "positive consideration" should be given to enabling resident leaseholders to combine their market value and home loss compensation to buy a new property and Councils are "encouraged to consider" equity loans or shares. The Guide supports Councils offering resident leaseholders the right to a new home on a regenerated estate through at least:

- Shared equity - where the resident leaseholder owns a proportion of the new home, equivalent to the market value of the property that they gave up, with no rent payable on the remaining 'unsold' share (and with the resident leaseholder keeping any uplift in the value of their share of the new property, between the point of purchase and any eventual sale); or

- Shared ownership - where the resident leaseholder owns a share of a new affordable home, is able to increase the share owned over time, and may pay rent on the remaining share to the Council or housing association in the meantime.

4.8 The Council's offer includes the option to buy one of the new homes with an equity loan, on a shared equity basis and as a shared owner and meets the standards supported by the Guide. The London Housing Strategy 2018 also makes reference to the above Guide and emphasises that the Mayor supports for a fair deal for leaseholders in regeneration areas.

4.9 Policy 3.9 of the London Plan 2016 has also been considered as part of the review. The updated Policy is consistent with the Plan's aims of promoting mixed and balanced communities, by tenure and household income, on small and larger scale developments, by providing full options for leaseholders to remain in the community. The London Plan also supports developments which foster social diversity, redress social exclusion and strengthen communities' sense of responsibility for, and identity with, their neighbourhoods. Again, the rehousing offer in the updated Policy is consistent with these aims. It is noted that the London Plan is being updated and the new Plan will be considered when the Leaseholder Policy is next updated.

5. Equality Implications

5.1 A full equalities impact assessment (EIA) has been carried out on the updated Policy and it is attached in Appendix C. As actual data on the characteristics of leaseholders is not available, modelled data from the Council's City Survey has been used, supplemented with local population data from the Ebury and Church Street/Edgware Road areas, where the Policy will firstly be implemented.

5.2 The EIA found that overall, compared with the Westminster population, Council resident leaseholders (who are the focus of the Policy) may be more likely to be: White, older, to describe their health as fair (rather than poor) and working full time.

5.3 The EIA assessed the potential impact of the updated Policy on different groups with protected characteristics under equalities legislation in the following areas:

5.3.1 **General principles of the Policy**

These were assessed to be positive on all groups as the Policy includes a range of rehousing options, independent advice for leaseholders and an appeals procedure. Some potentially negative impacts were identified, for example, the updated Policy does not include detailed information about processes and this was raised as an issue through the consultation and it might have a greater impact on those that are vulnerable in some way. This will be mitigated by providing one to one advice for leaseholders, that

is tailored to their needs, and by providing detailed information on processes on a scheme by scheme basis.

5.3.2 *The option to buy one of the new homes with an equity loan or on a shared equity basis*

A number of positive impacts on all groups were identified, as the option enables leaseholders to remain in the community and maintain any support networks (which might be particularly important to those with children, older households and those with disabilities), by buying one of the new homes and having similar housing costs to now. There is provision to pass on this arrangement to family members, which will contribute towards maintaining a settled community. The offer should not disadvantage older people, without a mortgage, as there is no requirement to raise another one if the property is owned without one. Some potentially negative impacts were identified, which will impact on all groups, such as the products offered to buy one of the new homes, do not totally replicate the current outright ownership that leaseholders have now. This cannot be mitigated fully and the opportunity to buy a brand new home and have similar housing costs, to current ones, has to also be taken into account. It was also identified that older households and those with an illness or disability, might find it harder to raise another mortgage to the same value, but this has been partly mitigated by the updated Policy now including some flexibility to this criteria.

5.3.3 *Arrangements when the new homes are not ready to move into straight away*

Positive impacts identified include there being a reasonable offer of temporary accommodation which takes into the account the location of any support networks, which is of particular importance to those with children, older leaseholders and those with disabilities. The EIA however also identified that some very local support networks could be disrupted in the short term, which might have more of an impact on those with children, older people and those that are vulnerable in some way.

5.3.4 *Other rehousing options*

Positive impacts identified include there being a range of other rehousing options (in addition to the equity loan/share option) to enable leaseholders to remain in the local area, including becoming a social or intermediate tenant in some exceptional circumstances, if home ownership is no longer suitable due to age or disability for example. The potentially negative impacts identified include an intermediate tenancy not offering the same level of security as a social one, although this has been mitigated in part by the intention to only offer intermediate tenancies where there is a presumption to renew them.

5.4 Overall the EIA concludes that any potentially negative impacts of the Policy have been mitigated as far as is possible. If the Council were to mitigate them in full, for example by offering leaseholders the same ownership rights in the new homes purchased as they have now, additional funds would be needed and this may result in the updated Policy not being affordable. This would then impact on the Council's ability to implement housing renewal schemes which would in turn have a detrimental impact overall, on other groups with protected characteristics (those on the Council's housing register for example).

6. Financial Implications

6.1 Under the existing Policy, the equity loan was assumed as a project cost, envisaged to be offset against the potential capital receipt the Council would receive from a developer. This was set out in the previous report dated 9th July 2014 when the estimated cost of the loans was £6.5m. The consequence of a reduced capital receipt being that the Housing Revenue Account (HRA) would then have to find alternative means of funding expenditure possibly through a higher level of borrowing or grant funding. This places pressure on the HRA borrowing cap, so each individual scheme will need to be assessed as it progresses to determine the most appropriate funding route. In certain circumstances, that may be via the General Fund.

6.2 Assessing how much the updated Policy may cost is driven by several factors, which will vary for each development location and project. It should be noted this Policy will apply to schemes which are currently either not in the Capital Programme, or are at a very early stage so cannot be included in any financial modelling at this stage. Consequently, any cost modelling should be seen as indicative. The actual costs can only be determined with any certainty once the number of leaseholders and aggregate of their loans are known for specific scheme/s.

6.3 The precise date when the Council's advance is returned cannot be forecast with any certainty and so cannot be depended on in any short or medium-term projections. This will be treated as a capital receipt, which is returned to the HRA.

6.4 Factors, which will influence the cost to the Council, include:

- The level of take-up – this has been minimal in the past in Westminster and other boroughs, so the numbers modelled below include an assumed figure of 25% take-up but this can only be an estimate
- The cost of acquiring homes from leaseholders which will vary in line with property prices
- The costs of the new homes bought by leaseholders which will vary in line with house prices
- Whether leaseholders pay off the loan incrementally rather than as a single payment at the point of sale

- The difference between house price inflation^[1] and the Council's cost of providing the funds for the loans
 - Future interest rate rises
 - The number of other housing renewal schemes in the future which involve leaseholders eligible for this policy.
- 6.5 We have two current schemes on which to assess the potential impact of this updated Policy in principle. However, Ebury Bridge and Church Street/Edgware Road are at very different stages of development and being in different parts of the city have very different property prices. Modelling for specific schemes would be on a property specific basis in order to provide greater accuracy. There are a small number of leaseholders at Ebury Bridge who have expressed an interest in an equity loan should they wish to return.
- 6.6 The individual agreements to acquire suitable properties for leaseholders may also vary between schemes. The Council part funding the acquisition of properties at open market value from the commercial developer of a scheme has the highest cashflow impact on the Council. However, it may be possible to agree acquisitions at an earlier stage of each housing renewal scheme depending on the quantity/type of properties required.
- 6.7 Financing costs could be mitigated by offering equity loan holders the ability to repay their loans, either in stages or in full before a sale of their interest. It also needs to be recognised that the equity held by the Council will increase by the rate of growth in the value of the property over time, so it is an asset.
- 6.8 Based on a modelled predicted take up of 10% to 25% of eligible leaseholders, for Ebury and Church Street/Edgare Road, the revenue cost would be between circa £0.5m to £1.4m/yr. The capital held by the Council is estimated at between £10m to £27m. As mentioned above, due to the variables involved, it is very difficult to project levels of take-up and hence project the ultimate cost to the Council. Individual schemes will need to be monitored to ensure overall affordability.
- 6.9 Depending on the level of take up, the Council may need to seek an alternative to funding through the HRA. The Council may be able to finance the acquisition of equity through the General Fund. Other options will be reviewed as schemes progress to ensure costs to the Council are mitigated where possible.

^[1] For this we have used the Nationwide Building Society house price inflation series since 1952 – this gives a long term view of the housing market over several economic cycles

7. Legal Implications

- 7.1 The disposal of properties by local authorities is enabled by section 123 of the Local Government Act 1972.
- 7.2 Under the “Local Government Act 1972 General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained” (if the properties disposed of are vested in the General Fund at the time of disposal and if it is considered that the properties to be disposed of are being disposed of for less than the best consideration reasonably obtainable) and also generally under the competency power conferred by the Localism Act 2011, local authorities are able to offer the shared equity product and the shared ownership product contemplated by this report, if approved.
- 7.3 However, counsel has advised that the deferment of payment of part of the consideration does not prevent the sales from being considered to be at market value and it is therefore considered that the sales are for the best consideration reasonably obtainable where market value is achieved, irrespective of deferment of payment of a proportion of the consideration due on disposal of the properties
- 7.4 Wherever specific powers do not exist, the general competence referred to above can be relied upon so long as no applicable prohibiting legislative provisions are in force.
- 7.5 Specific statutory powers and regulatory provisions regulating the exercise of the statutory powers are set out below.
- 7.6 **Equity Loans**
Furthermore under section 24(1) Local Government Act 1988 local housing authorities have power to provide persons with financial assistance for the purposes of, or in connection with, the acquisition of any property which is, or is intended to be privately let as housing accommodation. Should this power be exercised, the requirement to obtain the Secretary of State’s consent is avoided by application of the exemption under article 3, Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, SI 2002/1860: s.25(2)(f)(iv) which applies to assistance provided for the purpose of enabling persons to acquire living accommodation when a housing authority has acquired, or proposes to acquire a person’s existing accommodation.
- 7.7 It should be noted that prior to providing assistance the authority must firstly give the recipient a written statement of the conditions to which the assistance is subject and, secondly, must be satisfied that the prospective recipient of the proposed assistance has received appropriate advice or information as to the nature and extent of the obligations to be imposed upon them in respect of the assistance provided.

7.8 Furthermore the authority must adopt policy for the provision of assistance and give the public notice of it, ensuring that copies are available for inspection at their principal office, free of charge, and that copies may be obtained by post for a reasonable charge

7.9 **Equity Shares**

Local authorities are specifically empowered to grant new leases of residential property vested in the local authority's Housing Revenue Account ("HRA") to the leaseholders under section 32 of the Housing Act 1985. Should it be the case that the properties concerned are vested in the HRA at the time of disposal, by virtue of section 32 (2) of the Housing Act 1985 the Secretary of State's consent would be required but for the relevant paragraphs of the General Consents 2013 which confer an exemption to the requirement where local authorities are disposing of property for market value. It has been advised that the proposed disposals are considered to be disposals at market value regardless of whether payment of part of the consideration is deferred. Counsel has advised that this is supported by section 32(2) of the Housing Act 1985, which confirms that a disposal may be effected in any manner.

7.10 An equity share charge is considered to be in the nature of an investment and under section 12 of the Local Government Act 2003 local authorities have a power to invest for any purpose relating to their functions.

7.11 It should be noted that although the proposed products are loans, local authorities are exempted from regulations that would otherwise apply pursuant to the Financial Services and Markets Act 2000 (referred to as "FSMA 2000) as the credit agreements arising from the loans are what are referred to as "restricted private loans" as a consequence of articles 60E(2) and 60HA(2)(c), FSMA 2000 (Regulated Activities) Order 2001, SI 2001/544.

7.12 **Equality legislation**

Furthermore, the Equality Act 2010 requires local authorities to have due regard to the need to eliminate discrimination and advance equal opportunities. Local authorities are also obliged to appropriately consider the Public Sector Equality Duty (referred to below as "PSED") imposed by s.149 of the Equality Act 2010 which must be integral to their decision making processes. The PSED compels local authorities, in their decision making processes, to have "due regard" to the need to eliminate unlawful discrimination, harassment and victimisation as well as all other conduct prohibited by the Act. It obliges local authorities to advance equality of opportunity between those who share a "protected characteristic" and those who do not share that protected characteristic and furthermore to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.13 **Compulsory purchase**

Although not the focus of this report, the main issues dealt with in this report may arise as a consequence of the purchase of property by agreement. The Council has the power pursuant to section 17 of the Housing Act 1985 to acquire land for use for housing purposes. Furthermore, again not the focus of this report, Compulsory Purchase Orders are mentioned in this report mainly in terms of the compensation that may be payable and therefore, for the sake of thoroughness, is commented upon here. Compulsory Purchase of land under Section 226 (1) (a) of the Town and Country Planning Act 1990 allows a local authority to acquire land compulsorily to facilitate development, redevelopment or improvement of the land, so long as this is likely to contribute to the achievement of one or more of the well-being objects in section 226(1A). The Guidance on Compulsory Purchase and the Crichel Down Rules sets out further requirements that must be met before a CPO will be confirmed. If the Council obtains a resolution to grant a CPO, then the Council shall offer a package of support for the purchases of property by agreement, demonstrating that it is complying with the requirements of the Guidance on Compulsory Purchase and the Crichel Down Rules.

7.14 The implications that arise from the Human Rights Act 1998 and the Convention for the Protection of Human Rights and Fundamental Freedoms, more commonly known as the European Convention on Human Rights are set out below in this report

8. **Risk Management Implications**

8.1 A table of possible risks and mitigations is below.

Table 1: Potential risks associated with the updated Policy and mitigations

	Risk	Mitigation	Residual Risk
1.	There are insufficient options for leaseholders to meet their needs, and the updated Policy is unattractive to them, which could result in a housing renewal scheme being delayed, if leaseholders do not want to sell by agreement. This could result in the Council exercising its powers of compulsory purchase, which can again delay housing renewal	The updated Policy has responded to issues raised by consultees, as far as is possible, and it has been benchmarked with other Councils' policies and compares favourably with them It includes provision to deal with exceptional circumstances	The offer may not fully meet all leaseholders' expectations, as it needs to be balanced with delivering a viable renewal scheme

	Risk	Mitigation	Residual Risk
2.	There are legal challenges to the updated Policy, which would delay regeneration and would have significant impact if successful. These could take a number of forms, such as around processes followed, on the grounds that the updated Policy is not in line with equalities or human rights legislation or on the grounds that the Council does not have the relevant powers to implement it	The updated Policy has been developed with the Council's legal services team and has been viewed by Counsel. Officers will consider the implications and outcomes of any case law, rulings, Compulsory Purchase Order enquiries, Judicial Reviews etc. on an ongoing basis and review the updated Policy accordingly in light of them	Any Policy can be challenged and this is an area which is under ongoing scrutiny
3.	Leaseholders selecting the equity loan/shared equity or shared ownership options are unable to get a mortgage on the Council's "products". The mortgage market is often subject to change and responds to a range of external factors beyond the Council's control	Leaseholders will have access to independent financial advice and the Council's products will be market tested near to the point when leaseholders will be seeking new mortgages	There is always a risk that the mortgage market may change
4.	Changes in the external environment could result in parts of the updated Policy having to be amended or reviewed, such as new Guidance from the Mayor for example. Legal changes could result in the Council no longer having the powers to deliver parts of the Policy, for example to the financial regulations or general consents could be changed	The updated Policy will be reviewed as and when it is needed and officers will follow carefully the legal and policy environment	There is always a risk that the external policy, legal and financial environment can change
5.	The updated Policy may become unaffordable within the HRA due to higher levels of demand or external factors changing	See 6.9 in the Financial Implications Section, if this were the case, costs would be transferred to the General Fund	See 6.9 in the Financial Implications Section, if this were the case, costs would be transferred to the General Fund

9. Consultation

- 9.1 The updated draft Policy was consulted on between November 2017 and January 2018. Sixteen responses were received to the consultation and the updated draft Policy was discussed at three meetings (see table 2).

Table 2: Responses received to the updated Leaseholder Policy consultation

Response type	No
Individual responses	13
Group responses	2
Organisational	1
Total	16
Discussion at meetings	
CityWest Homes Leaseholder meeting	1
Ebury Resident Leaseholder meeting	1
Church Street Futures Group meeting	1
Total	3

- 9.2 The main issues raised by consultees and the response to them are summarised in table 3.

Table 3: Summary of main issues raised through the consultation and the response

Issue	Response
General financial compensation/processes	
<ul style="list-style-type: none"> Disturbance payments – the policy should be more explicit about what is covered 	<ul style="list-style-type: none"> More examples are now included in the updated Policy One to one advice to be given to explain disturbance payments in more detail
<ul style="list-style-type: none"> Valuations – general concern that leaseholders will be disadvantaged 	<ul style="list-style-type: none"> The valuation process has been made clearer in the updated Policy i.e. that leaseholders will be offered the market value of their property which will be assessed as if there were no plans to redevelop (i.e. in a “no scheme world”)
General information	
<ul style="list-style-type: none"> Concern about lack of information on who to contact etc. Leaseholders would welcome contact/information/one to one meetings 	<ul style="list-style-type: none"> Not covered in the updated Policy but queries will continue to be answered on a one to one basis and leaseholders will be advised when more detailed advice will be available

Issue	Response
Equity loan/share offer	
<ul style="list-style-type: none"> The full home loss payment should not have to be contributed 	<ul style="list-style-type: none"> The updated Policy continues to require 100% of the home loss payment to be contributed, as this has been communicated since 2010 and a lower contribution would have significant financial impact, which might impact the scheme viability overall
<ul style="list-style-type: none"> Concern that it may be hard for leaseholders to raise another mortgage to the same value/transport a mortgage 	<ul style="list-style-type: none"> The updated Policy now sets out that some flexibility to the eligibility criteria might be applied and decisions about this will be on case by case basis
<ul style="list-style-type: none"> Leaseholders losing out in interim on ability to make payments to reduce mortgage, if new homes are not ready to move into straight away/they should be able to buy in the interim 	<ul style="list-style-type: none"> The updated Policy now reflects the Council's aspiration of simultaneous exchange and that it is likely that leaseholders will be buying one of the new homes "off plan"
<ul style="list-style-type: none"> Concern around the timing of valuations for the equity loan/share offer and assurance needed that they would be in the same time frame 	<ul style="list-style-type: none"> The updated Policy now sets out that valuations will be in the same time frame
<ul style="list-style-type: none"> Questions/issues raised about selecting the new properties. View that leaseholders shouldn't be disadvantaged in terms of size/service charges/costs 	<ul style="list-style-type: none"> The updated Policy continues to confirm that Local Lettings Plans will be developed on how the new properties will be allocated and that they will be consulted on, but it continues also to make it clear that the option to return means to the wider housing renewal area
<ul style="list-style-type: none"> Passing on the arrangement (inheritance) – there should be no restrictions 	<ul style="list-style-type: none"> The provision in the Policy is considered to provide a reasonable balance, enabling the arrangement to be passed on once to resident family members, but not tying up the Council's resources indefinitely
Other rehousing options	
<ul style="list-style-type: none"> More help should be available to buy another property from the Council's own stock or to buy outside the housing renewal area 	<ul style="list-style-type: none"> The updated Policy continues to set out that there are other options available for leaseholders that don't want to purchase one of the new homes, but wish to remain in the housing renewal area

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

Cecily Herdman – Principal Policy Officer
 cherdman@westminster.gov.uk

BACKGROUND PAPERS

Cabinet Member Decision Report and Policy for Leaseholders in Housing Renewal Areas 2014

<https://committees.westminster.gov.uk/ieDecisionDetails.aspx?Id=151>

Decant Policy for Renewal Areas March 2015

www.westminster.gov.uk/housing-strategies

The London Plan 2016

www.london.gov.uk/what-we-do/planning/london-plan/current-london-plan/london-plan-2016-pdf

Policy for Leaseholders in Housing Renewal Areas - Updated January 2017

www.westminster.gov.uk/housing-strategies

Updated Policy for Leaseholders in Housing Renewal Areas - Draft for Consultation November 2017

www.westminster.gov.uk/housing-strategies

Better homes for local people The Mayors Good Practice Guide to Estate Regeneration February 2018

www.london.gov.uk/sites/default/files/better-homes-for-local-people-the-mayors-good-practice-guide-to-estate-regeneration.pdf

New Draft London Plan 2018

www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/draft-new-london-plan/

The London Housing Strategy May 2018

www.london.gov.uk/sites/default/files/2018_lhs_london_housing_strategy.pdf

For completion by the **Cabinet Member for Finance, Property and Regeneration**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: **Councillor Rachael Robathan, Cabinet Member for Finance, Property and Regeneration**

State nature of interest if any

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendations in the report entitled **Leaseholder Policy for Housing Renewal Areas August 2018** and reject any alternative options which are referred to but not recommended.

Signed

Councillor Rachael Robathan, Cabinet Member for Finance, Property and Regeneration

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, the City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant

considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Appendix A

Other Implications

1. Resources Implication

1.1 See the Financial Implications in Section 6 of the main report.

2. Business Plan Implications

2.1 Delivering housing renewal is a key objective of the Growth, Planning and Housing Business Plan 2017/18 and the draft Business Plan for 2018/19.

3. Health and Wellbeing Impact Assessment including Health and Safety Implications

3.1 Housing renewal, which involves the acquisition of properties and decisions about future rehousing, is likely to be stressful for leaseholders and it has the potential to have a detrimental impact on health and wellbeing. The updated Policy seeks to mitigate this impact by ensuring that leaseholders will be supported through the process of moving, there will be a named officer to discuss issues with and there will be access to one to one independent advice.

3.2 The updated Policy includes a range of options for leaseholders to remain in the local area, which will help to keep communities together, and to maintain any care and support networks for those with physical disabilities and mental health issues.

4. Crime and Disorder Implications

4.1 There are no crime and disorder implications.

5. Impact on the Environment

5.1 There are no environmental implications.

6. Staffing Implications

6.1 The delivery of housing renewal in each area is supported by a staff team funded via the Housing Revenue Account. Dedicated officer/s will be appointed in each housing renewal area to communicate and implement the updated Policy.

6.2 The budget for the delivery of the programme covers the acquisition of properties from leaseholders, currently through Westminster Community Homes who provide

advice support and assistance to leaseholders to understand their options, make choices on their options and then exercise their preferred option.

- 6.3 The Council also funds an independent advisor for residents to provide assurance that the options and solutions put forward are equitable. Leaseholders can also seek their own advice from valuation surveyors, financial advisors and lawyers which are also funded by the Council.
- 6.4 Resources have also been identified to carry out further work relating to the updated Policy, such as developing the necessary legal documents and market testing the equity loan/equity share product. Once the policy is approved an implementation plan will be developed.

7. Human Rights Implications

- 7.1 Section 6 Human Rights 1998 Act prohibits public authorities from acting in a manner incompatible with the European Convention on Human Rights (referred to below as “The Convention.”). There are two main articles of The Convention, which are applicable to the recommendations in this report.

7.2 ARTICLE 8

- 1. “Everyone has the right to respect for private and family life, his home and his correspondence.”
- 2. “There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

7.3 ARTICLE 1 of the FIRST PROTOCOL

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

- 7.4 In the context of this report, Article 8 applies where local authorities are considering disturbing residents’ private and family lives and removing them from their homes. It may also be relevant where residents who, although not directly

affected by removal or dispossession, suffer significant disruption to their lives as a consequence of the authority's actions.

- 7.5 Although not the focus of this report CPO has been mentioned in the report and is therefore commented upon here. The application of Article 1 of the First Protocol may be triggered where a local authority is considering the use of CPO powers to acquire private interests, and where it is proposing to dispossess residents of their homes. The approach to be taken to give effect to rights under The Convention is also reflected in paragraph 12 of the General Overview of The Guidance on Compulsory Purchase and the Crichel Down Rules:-
- 7.6 “An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.”
- 7.7 With regard to Article 1 of the First Protocol, it has been affirmed by the European Court of Human Rights that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”. In short therefore the use of compulsory purchase powers must be proportionate. Furthermore the proposed interference with Article 8 rights must be necessary. When exercising CPO powers therefore, local authorities are under an obligation to properly contemplate the balance between individual rights and the wider public interest together with the availability of compensation for compulsory purchase. As the rights Convention rights will undoubtedly be triggered the interference must be justifiable by being in accordance with the law, in pursuance of a legitimate aim and necessary in a democratic society
- 7.8 In conclusion, a decision should be made only after proper consideration of whether it is in the general public interest and of benefit to the community to make a CPO over and above the interest of the individuals affected. As regards any proposed interference with the rights conferred by The Convention, when concluding whether interference with Convention rights is necessary and proportionate, it is important that the Council has proper regard to meeting the alternative housing needs of the affected households, and the rights of individuals to compensation in accordance with the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017 and the Land Compensation Act 1973 as amended.

8. Energy Measure Implications

8.1 There are no energy measure implications.

9 Communications Implications

9.1 It is important that resident leaseholders are aware of the updated Policy so that they understand their rehousing options and that these are communicated to them in an accessible way. The full updated Policy and an easy to read summary will be available on line and hard copies will be available and distributed to leaseholders in the current housing renewal areas as they are needed. Question and answer leaflets about the updated Policy and associated processes will be developed, and regularly updated, to respond to issues that are raised as the updated Policy is implemented.

9.2 In housing renewal areas, a wide range of communication methods will be used to advise residents that the updated Policy has been finalised, such as through newsletters, public meetings and steering group meetings. Everyone responding to the consultation will also be advised that it has been finalised. Ward councillors in housing renewal areas will also be briefed on it. A dedicated officer will be appointed by the Council to explain the updated Policy and to discuss rehousing options with leaseholders on a one to one basis and in ways suited to their needs. They will also have access to independent advice.