

## **REPORT TO EXECUTIVE**

**Date of Meeting: 23 June 2015**

**Report of: Assistant Director Housing**

**Title: Repayment of outstanding capital grant upon the termination of a private rental agreement with an individual landlord**

### **Is this a Key Decision?**

Yes

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### **Is this an Executive or Council Function?**

Council

#### **1. What is the report about?**

This report recommends that delegated authority be granted to create a landlord repayment plan for properties on the Council's EXtraLet or Private Sector Leasing Scheme where the Council no longer considers the property to be successful and wishes to end the rental agreement early and there is an outstanding debt owed to the Council.

#### **2. Recommendations:**

That Council be RECOMMENDED to grant delegated authority to the Assistant Director Housing and the Portfolio Holder for Customer Access in conjunction with the Assistant Director Finance and the Corporate Manager Legal to approve a repayment plan with a landlord where a property is handed back early from the rental agreement with outstanding funds owed to the Council. Approval would only be granted where a legal charge is created and registered in the Council's favour against the property.

#### **3. Reasons for the recommendation:**

The rental agreements allow for the property to be handed back early to the owner provided any outstanding debt is repaid to the Council first. Currently there is no provision within the Council's constitution which allows for a repayment plan to be entered into with a landlord outside of the Council's rental schemes agreements.

#### **4. What are the resource implications including non financial resources.**

There will be some Legal and Finance Officer time spent to formalise and monitor the repayment arrangement as well as the arranging of the legal charge against the property. The owner will be expected to pay the Council's costs including searches and Land Registry fees.

#### **5. Section 151 Officer comments:**

A formal agreement by way of a repayment plan is considered an acceptable approach where the debt cannot be repaid in full. A legal charge secured against the property will protect the Council and can be enforced if required to repay the outstanding amount.

## **6. What are the legal aspects?**

There is no provision within the Council's constitution to approve loans or repayment plans outside of the formal legal rental agreement for the EXtraLet or PSL scheme. The repayment of funds to the Council is contained within the rental agreements between the Council and the owner for the funds to be recovered from the rental income and secured to the property through a local land charge.

A legal agreement to formalise the repayment plan and a Land Charge registered with the Land Registry is considered the most appropriate and effective way to secure the debt owed to the Council in the event that the owner defaults on the repayment plan.

## **7. Monitoring Officer's comments:**

A legal agreement to formalise the repayment plan and a Land Charge registered with the Land Registry is considered the most appropriate and effective way to secure the debt owed to the Council in the event that the owner defaults on the repayment plan.

## **8. Report details:**

- 8.1 On occasions, it may be appropriate to end a rental agreement before the end of the fixed period particularly where the property is no longer considered to be suitable in size or location to continue on the Council's rental schemes.
- 8.2 Historically, landlords were able to claim some financial assistance from the Council towards the cost of repairs to bring the property up to the required standards prior to the start of the rental agreement on the Council's rental schemes. Some of this assistance was in the form of a non-repayable grant and the remainder as a loan repaid from the ongoing rental payments over the length of the rental agreement with the Council. The repayment of this loan formed part of the rental agreement between the owner and the Council.
- 8.3 Should the Council wish to terminate the agreement ahead of the term of the rental agreement this could leave the owner with a large lump sum to repay. If the owner is not able to clear the debt, there is currently no provision within the Council's constitution to allow a repayment agreement to be entered into.
- 8.4 It is not expected that this would affect many properties as it is almost always the case that the owner has sufficient funds to repay any outstanding debt but recently this has been highlighted as an issue that seeks a suitable resolution. It should be noted that following Executive approval in July 2014 that the EXtraLet scheme has now ended and properties are being handed back at the end of the agreements or in some cases where the tenant has found alternative accommodation and it is practical and appropriate to end the agreements at this point. An alternative and appropriate way forward is required to deal with owners who do not have the funds available to repay the debt before the rental agreement is ended.
- 8.5 Retaining properties that are considered unsuccessful on the scheme due to management or repairs issues is resource intensive. The cost of void times, significant repairs and staff management time is sufficient justification to hand back properties that are no longer working for the Council and would have a positive impact on the Council's resources.

- 8.6 Delegated authority is therefore sought to approve on an individual basis for a formal repayment plan to be entered into with the owner prior to the ending of the rental agreement. A legal charge would also be registered which would secure the funds and would allow the Council to take recovery action should the owner default on the repayment plan.

**9. How does the decision contribute to the Council's Corporate Plan?**

The decision contributes to the Council's Corporate Plan:

- Run the Council Well – Recovery of funds, disposing of unsuccessful properties and appropriate management of both PSL and EXtraLet schemes
- Maintain our Property Assets – disposing of properties where they no longer meet the Council needs and recovery of outstanding debt
- Provide Suitable Housing – Both EXtraLet and PSL schemes are designed to provide suitable affordable housing within the City, and the successful functioning and management of these schemes is integral to continue these housing options ongoing
- Help me with my financial and housing problem – providing an effective solution to owners where the Council wishes to hand back the property early and who are unable to make a lump sum repayment.

**10. What risks are there and how can they be reduced?**

There is a financial risk to the Council in retaining properties that are no longer considered suitable on the rental schemes due to extended void times and management costs of unsuitable properties remaining on the scheme.

Any risk of losing monies owed to the Council can be mitigated through a formal repayment arrangement and a Land Charge registered with the Land Registry against the property. Where there is not sufficient equity, a charge can be considered on the owner's main residence or other rental properties as a means of securing the debt.

The risk to the landlord of financial hardship is reduced by creating a suitable repayment plan that allows a reasonable timescale for the costs to the Council to be recouped. Legal advice will be sought in terms of reaching a fair repayment agreement that allows for changes in circumstances for the owner, but also secures the Council's debt.

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

The successful running of the PSL and EXtraLet scheme provides a positive contribution towards to the health, wellbeing and safeguarding of vulnerable adults, children and young people accepted onto the schemes. Properties which are no longer suitable for the Council's letting schemes due to changes in demand or management issues are detrimental to the Council. The impact of allowing properties to be handed back earlier than expected will improve the suitability of accommodation

available and remove the ongoing costs involved with retaining the properties on the schemes to the Council.

**12. Are there any other options?**

The only other alternative option is to remain under the current arrangements:

1. To only return a property back to the owner once all debt has been repaid to the Council. This could have a detrimental impact to the working relationships fostered with local landlords' through the Council's letting schemes, and could result in negative perception of the Council and the schemes. This could hinder future attempts to engage with private landlords.
2. To retain properties that may no longer be considered suitable or meeting the Council's needs on the rental schemes. This may result in the properties sitting empty for significant periods of time, incurring void costs to the Council.

**Assistant Director: Roger Coombes**

Originating Officer: Caroline Massey

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

Contact for enquires:

Democratic Services (Committees)

Room 2.3

01392 265275