

Agenda Item No:

Report No:

Report Title: Right to Buy Sales and Lease Extensions - Delegated Powers

Report To: Council

Date: 3 December 2014

Cabinet Member: Councillor Howson

Ward(s) Affected: All

Report By: Catherine Knight - Assistant Director of Corporate Services

Contact Officer(s)-

Name(s): Mark Reynard
Post Title(s): Head of Legal Services
E-mail(s): Mark.reynard@lewes.gov.uk
Tel No(s): 01273 7106280

Purpose of Report:

To request an extension to and rationalisation of the Scheme of Delegations to Officers.

Officers Recommendation(s):

To amend the Scheme of Delegations to Officers (Part 9 of the Council's Constitution) as proposed in paragraphs 2.8 and 2.9 of this report.

Reasons for Recommendations

- 1 To provide new delegated power to deal with new (extended) leases and the collective enfranchisement provisions in the Leasehold Reform, Housing and Urban Development Act 1993 (LRHUDA 1993); and to rationalise the delegations so that RTB and LRHUDA 1993 delegations fall within the remit of the Director of Service Delivery.

Information

2

- 2.1 Flats sold under the right to buy scheme (RTB) are let to tenants and their successors in title under long leases.
- 2.2 A number of RTB leases are reaching the point where the remaining length of the lease may not be long enough to provide security for a mortgage. RTB tenants are also interested in acquiring the freehold on a collective basis.

- 2.3** LRHUDA 1993 entitles a qualifying tenant of long lease to a new lease for a term of 90 years plus the remainder of the term of the existing lease at a peppercorn rent. A premium is paid for the lease extension, to compensate the landlord for the loss of rent for the remainder of the term of the existing lease and for being kept out of its reversion for the additional 90 years. LRHUDA 1993 contains a statutory code setting out the procedure for dealing with new leases. The right entitles the tenant to an entirely new lease replacing the existing lease, but is commonly referred to as a lease extension.
- 2.4** LRHUDA 1993 also gives qualifying tenants of long leases of flats the collective right to acquire the freehold. This is known as the collective right to enfranchise. LRHUDA 1993 contains a statutory code setting out the procedure for dealing with the collective right to acquire the freehold.
- 2.5** The statutory codes deal with issues such as the valuation of the lease premium and the purchase price for the freehold. The Council has no discretion to refuse valid claims.
- 2.6** The tenants of RTB long leases are qualifying tenants for the purposes of lease extensions and the collective right to enfranchise under LRHUDA 1993.
- 2.7** Part 9 of the Council's Constitution sets out a Scheme of Delegations to Officers. Delegated powers to administer the right to buy scheme (Part 5 Housing Act 1985 as amended) are given to the Assistant Director of Corporate Services. At present there are no delegated powers in respect of the right to a new lease (lease extension) and the collective right to enfranchise contained in LRHUDA 1993. The statutory codes in LRHUDA 1993 contain prescribed steps and strict timescales for compliance. It is therefore important to give officers delegated power to administer the new lease and collective enfranchisement provisions in LRHUDA 1993.
- 2.8** The delegated power could be extended to include the power to administer lease extensions and the collective right to enfranchise under the Leasehold Reform, Housing and Urban Development Act 1993 as amended. This would result in an amended Housing Services Function delegation reading as follows:

“Housing Services Function

(a) To administer the Council's scheme under the Right to Buy legislation and other approved sales policies (Executive).

(b) To administer new leases (lease extensions) and the collective right to enfranchise under the Leasehold Reform, Housing and Urban Development Act 1993 as amended (Executive).”

- 2.9** The existing RTB delegation in Part 9 gives delegated powers to the Assistant Director of Corporate Services. It is recommended that the

RTB and LRHUDA 1993 delegations be moved so that they fall within the remit of the Director of Service Delivery.

Financial Appraisal

- 3 LRHUDA 1993 makes the tenant liable for certain elements of the landlord's costs in dealing with the claim. These include the reasonable investigation of the tenant's right to make the application, the landlord's valuation of the lease premium or purchase price for the freehold and producing the legal documentation.
- 4 The statutory codes provide the mechanism for the valuation of the lease premium and the purchase price for the freehold.
- 5 At present the administration of the new lease and collective enfranchisement provisions in LRHUDA 1993 can be met within existing staff resources. However, this may not remain the position if claims are submitted on a significant scale.

Legal Implications

- 6 There are no additional legal implications

Sustainability Implications

- 7 I have completed the Sustainability Implications Questionnaire and there are no impacts, either positive or negative.

Risk Management Implications

- 8 I have completed a Risk Management Implications Questionnaire and there is no need to undertake a risk assessment.

Equality Screening

- 9 An equality analysis is not needed for the purposes of this report.

Background Papers

- 10 None.

Appendices

- 11 None.