

Cabinet **22nd January 2018**

Report title: Homes for Lambeth Leases

Wards: All

Portfolio: Councillor Paul McGlone, Deputy Leader of the Council (Investment and Partnerships)

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Report summary

This report sets out the proposed template leases that Homes for Lambeth will use to enable implementation of the Key Guarantees to homeowners for those homeowners living on estates undergoing regeneration, who wish to take up an offer to remain living on their estate, moving into a new home built by Homes for Lambeth. There are three types of lease, relating to different options available to homeowners under the Key Guarantees: (1) outright purchase of a new home, (2) zero rent shared ownership and (3) with rent shared ownership. This report follows a detailed consultation exercise that took place during the autumn of 2017. The leases appended in this report only relate to implementation of the Key Guarantees; HfL will, in due course, need to make use of other types of leases, which are not dealt with in this Cabinet Report.

Lambeth has embarked on an ambitious programme to build better quality homes for thousands of existing residents and thousands more homes to help tackle London's housing crisis. To help build these homes the council is establishing Homes for Lambeth (HfL), a wholly council-owned company, so there is no loss of control to a private developer or external housing association.

A major part of HfL's delivery programme includes an estate regeneration programme, replacing existing poor quality homes on several estates with good quality new homes. In progressing the estate regeneration programme, the council is keen to enable local communities to stay together and for existing residents to remain living on their estate. To support this, the council adopted a set of Key Guarantees for those tenants and homeowners, which set out commitments from the council to provide new homes on estates for those tenants and homeowners who wish to stay.

Under the Key Guarantees, homeowners who wish to remain living on their existing estate will be offered various choices in terms of homeownership of newly built homes, including (1) outright purchase of a new home, (2) zero rent shared ownership and (3) with rent shared ownership. The type of homeownership that any individual homeowner will be able or will wish to take up will depend on their personal financial circumstances. The Key Guarantees have been designed to seek to ensure that the vast majority of homeowners will be able to take up one of these options. Each of the three options identified above will give rise to a slightly different type of lease; these are appended.

The HfL group of companies will include HfL Homes, which will become a housing association registered with the Homes and Communities Agency. HfL Homes will become the landlord for homeowners taking up one of these Key Guarantee options.

In producing the HfL Homes leases, the council has taken as a starting template the existing RTB lease used by the council together with the standard Homes and Communities Agency (HCA) shared ownership leases and sought to bring these together to create leases that would be appropriate for the types of modern properties that HfL will be building.

After the initial drafting, the leases were subject to an independent legal review, which identified a number of helpful changes that were adopted. The draft leases were then sent to all homeowners on regeneration estates, together with a 20 question survey that identified key aspects and asked for views. Drop in sessions were also held on the estates allowing residents to ask questions and put forward their perspectives.

The consultation documentation was distributed to 454 households (all freehold and leasehold properties sited on the council's six estates undergoing regeneration). Of this total number, 84 people took part in the consultation. In total we received 64 completed questionnaires, either online, by post / handed in or via attendance at a workshop. A smaller number of other comments were received by phone and email. The full consultation report, written for the benefit of homeowners, is attached to this report. The consultation report, which includes all the comments received, allows us to share feedback with residents transparently.

Generally, homeowners were unhappy with clauses that were viewed as a reduction in their current rights. In particular the move from 100% ownership to shared ownership, and implications that has for freeholders or homeowners was not viewed favourably.

We have been able to respond positively to some of these concerns and a number of proposed rules have been relaxed. Legal and financial constraints do limit our ability to meet all the requests for change, and where we feel clauses are important for effective housing management, these have been left in.

It will still be at least two years before any homeowner can move into an HfL home with one of these leases. There is therefore a possibility that statute or mortgage requirements will change between now and then and that some minor changes will be necessary to these template leases before formal implementation.

The Board of HfL Homes has agreed to adopt these template leases for existing homeowners moving into HfL homes.

Finance summary

Generally the recommendations within this report will have a limited financial impact, particularly since these leases will apply only to those homeowners transferring from existing freehold or leasehold properties to new HfL homes.

Recommendations

- 1) To approve the three template leases (100% lease, zero rent shared ownership lease and with rent shared ownership lease) as appended to this Cabinet Report for use by HfL Homes for those owner occupiers who wish to carry on living on their estates following estate regeneration.
- 2) To delegate to the Cabinet Member leading on estate regeneration and the Strategic Director for Neighbourhoods and Growth the authority to adapt the leases where required to do so by changes to government legislation, regulation, mortgage funding criteria. Any substantive changes to these leases, or where changes may have any implications for implementation of the Key Guarantees, will require a further Cabinet decision, subject to consultation.

- 3) To note the Council's response to the consultation and how homeowners' views have been addressed in section 5.

1 Context

- 1.1 Housing represents one of the greatest challenges facing Lambeth. It is an issue that links all three major themes of the Lambeth Borough Plan (2016-2021) – Inclusive Growth, Reducing Inequality and Strong and Sustainable Neighbourhoods.
- 1.2 Over the past few years house prices have risen by 47% in Lambeth, putting home ownership in the open market out of the reach of an increasing number of local people. Private rents have risen by 27%, with an average two bed flat in the borough costing nearly £1600pcm; combined with reductions in benefits many families find themselves priced out of the community they know and love. Despite being one of the most effective boroughs in London in preventing homelessness we have seen the number of homeless families needing temporary accommodation rise to over 1800, including almost 5000 homeless children, a scandal in a prosperous city like London.
- 1.3 While Lambeth has exceeded its targets in the London Plan with an additional 5,700 homes in the three years to April 2016, changes in government policy have seen too few social and affordable homes built across London. In Lambeth that has meant the waiting list for housing has grown to over 23000 people with fewer homes becoming available each year and overcrowding for families getting worse with over 1300 families severely overcrowded in their current home.
- 1.4 The council wants to make sure that the residents of Lambeth can continue to live in the Borough in which they grew up, to enable communities to stay together. At the same time, the council's planning policy seeks to make sure that urban regeneration and new developments give rise to socially mixed communities in the Borough.
- 1.5 Lambeth is committed to tackling the housing crisis in the borough by maximising the number of new affordable homes to make sure residents aren't priced out of the housing market. Providing more and better homes for Lambeth residents is one of the council's key priorities.
- 1.6 The lack of affordable housing is one of the biggest issues facing our residents; across London as a whole, there is a growing housing crisis. According to the Land Registry Lambeth's average house price in 2016 was £518,088 – 15 times London's average annual wage.
- 1.7 As a landlord, Lambeth Council has a number of legal obligations to its tenants and homeowners that must be adhered to within any regeneration process. It is good practice in estate regeneration to make available options for existing homeowners to enable them to remain living in their existing neighbourhood.
- 1.8 The council's adopted Key Guarantees set out commitments to existing homeowners, identifying what they can expect if they need to move home as a consequence of estate regeneration. In doing so we have gone beyond the legal requirements required under Compulsory Purchase. These Key Guarantees include a commitment to resident homeowners to make available a suitable new home on their estate, should they wish to remain living on their estate.
- 1.9 Under the Key Guarantees, homeowners who wish to remain living on their existing estate will be offered various choices in terms of homeownership of newly built homes, including (1) outright purchase of a new home, (2) zero rent shared ownership and (3) with rent shared ownership. The type of homeownership that any individual homeowner will be able or will wish to take up will depend on their personal financial circumstances. The Key Guarantees have been designed to seek to ensure that the vast majority of homeowners will be able to take up one of these options. Each of the three options identified above will give rise to a slightly different type of lease, where the principle differences between the leases relate to the different financial arrangements. The three template leases appended (see Appendices A to C).

- 1.10 In preparing the new leases, the council used the existing RTB leases already used by the council and sought to combine these with the standard HCA shared ownership leases. The purpose of drawing on the best practice within the standard HCA shared ownership lease is to ensure that the adopted lease is readily accepted by mortgage companies. Changes have also been made to the clauses contained in the existing RTB lease to ensure that the new adopted leases are appropriate for the types of new homes that will be built by Homes for Lambeth.
- 1.11 A consultation process has been carried out (see Section 5 for details) to ensure that those homeowners directly affected by estate regeneration have an opportunity to influence the preparation of the final adopted leases. A detailed consultation report is attached as Appendix D.
- 1.12 Prior to the start of the formal consultation, there was considerable early engagement with residents on regeneration estates. Issues relating to future leases has represented an on-going discussion with existing resident homeowners over the last few years and in particular in relation to engagement and consultation on the Key Guarantees. As part of this early engagement, the council committed to secure independent legal advisers to input into and then review drafts of the leases.
- 1.13 From six months before any formal consultation took place, a process was therefore developed and published on the estate regeneration website (http://estateregeneration.lambeth.gov.uk/independent_advice) – as set out below. This process was then followed through the period of preparation of the draft leases and in the lead up to commencement of formal consultation.

Legal Advice on Future Tenancies and Leases

The following process has been put in place to enable tenants and leaseholders to have an input into the future Homes for Lambeth tenancies and leases.

The following process has been put in place to enable tenants and leaseholders to have an input into the future Homes for Lambeth tenancies and leases.

1. *The Independent Advisers across the six estates have committed to holding workshops with tenants and leaseholders to find out from them what their concerns and questions are around the future Homes for Lambeth tenancies and leases.*
 2. *An independent lawyer will be identified by the Independent Advisers (in consultation with the council to ensure no conflicts of interest).*
 3. *The Independent Advisers will collate the output of the workshops with residents from all six estates and hold a workshop with the selected independent lawyer with a view to putting all the issues and questions into a position paper to be presented to the council.*
 4. *When this position paper has been received, the council will take it into consideration during the drafting of Homes for Lambeth tenancies and leases.*
 5. *When the council has completed the draft tenancies and leases, it will commence a formal consultation process. Included with this consultation will be a response to the Position Paper that has been prepared by the Independent Advisers and their selected legal advisers.*
 6. *The council and Independent Advisers will engage with residents for a defined period of time on the proposed new tenancies and leases.*
 7. *Further to such engagement, further amendments may be made to the tenancies and leases*
 8. *The tenancies and leases will be adopted. Once a resident has signed a lease or an assured lifetime tenancy, then they become a contract between parties and cannot be amended without the agreement of the tenant or leaseholder.*
- 1.14 The pack of material made available at the beginning of the consultation included the council's response to the commentary and advice that had been received from the independent legal advisers; this included a summary of the comments made by the legal advisers. There have subsequently

been some requests for the original document issued to the council by the independent legal advisers and this has been made available to those who have requested it.

- 1.15 The three leases that are appended to this Cabinet Report represent the final template documents that have emerged from this process. The leases appended in this report only relate to implementation of the Key Guarantees; HfL will, in due course, need to make use of other types of leases, which are not dealt with in this Cabinet Report.
- 1.16 It will still be at least two years before any homeowner can move into an HfL home with one of these leases. There is therefore a possibility that statute or mortgage requirements will change between now and then and that some minor changes will be necessary to these template leases before formal implementation.

2 Proposal and Reasons

- 2.1 It is proposed that the council adopt the three template leases, as appended to this Cabinet Report (see Appendices A to C) for use by HfL Homes as a means to implement the Key Guarantees to resident homeowners.
- 2.2 Our fundamental commitment to resident homeowners under the Key Guarantees is that those who wish to continue living on their estates will be given the opportunity to do so. The newly built homes will have a higher market value than the existing homes. The council has identified three principal ways in which resident homeowners can obtain full or partial ownership of these new homes – designed to address a variety of different financial circumstances. Each of these options requires a different lease:
 - A:** Leasehold – buying a new home outright (100% lease)
 - B:** Zero Rent Shared Ownership - buying a shared ownership new home – where your existing mortgage can continue or a new mortgage can be obtained (zero rent shared ownership lease)
 - C:** With Rent Shared Ownership - buying a shared ownership new home – where your existing mortgage cannot continue nor can a sufficient new mortgage be obtained (with rent shared ownership lease)
- 2.3 Lambeth is not legally required to offer these options. All the council is actually required to do is buy out homeowners, prior to or through a CPO process, making statutory homelessness and disturbance payments. However, we've taken the decision to go beyond the minimum requirements. There is however a balance to be had; the further we go beyond our legal obligations so that resident homeowners can continue living on their estates, the fewer homes can be built for council rent, disadvantaging those on the housing waiting list.
- 2.4 It is not possible at this stage to predict what proportion of resident homeowners will take up the different options, it will depend on an individual's financial circumstances. Lenders do have to follow stricter lending criteria than in past, and it may not be as easy to get a mortgage as it was a few years ago. If leaseholders are able to afford the payments but unable to get a mortgage then the "With Rent Shared Ownership" option would allow them to carry on living on the estate, with the council effectively acting as lender of last resort.
- 2.5 There may be some people, particularly those currently in financial difficulties, for whom none of the options above are affordable. We will work with those affected to identify what choices would be affordable with a view to enable them to remain living on their estate; this could be renting a new home at a level set that would be affordable; in which case they would not be offered any of the above leases, but would take up an assured tenancy.

- 2.6 It will be several years before existing homeowners will be required to sign these leases. The council is aware that there are live debates currently taking place in the industry around leasehold management (for example, with regard to ground rents, approaches to service charges, etc). Mortgage lending requirements have also changed over recent years. There is therefore every expectation that there will, in the near future, be further changes that may require changes to the precise wording embedded in these leases. To address this, it is proposed that authority is delegated to the Cabinet Member leading on estate regeneration and the Strategic Director of Neighbourhoods and Growth to adapt the leases where required to do so by changes to government legislation, regulation or mortgage funding criteria. Any substantive changes to these leases or where changes may have any implications for implementation of the Key Guarantees will require a further Cabinet decision, subject to consultation.
- 2.7 The council is aware that many resident homeowners would prefer that estate regeneration was not planned, and that their homes were not to be knocked down. For understandable reasons many do not wish to go from being a 100% homeowner to shared ownership. We can't change this and still meet the Council's commitment to deliver more and better homes, but this consultation was an opportunity to amend the terms of the leases in line with resident homeowners' wishes where possible. Full details of the changes made further to the consultation are explained in paragraph 5.7. The attached draft leases also show the changes made on 'track-changes' to clearly demonstrate where clauses have been altered. Changes in response to homeowners' comments include:
- fewer rules affecting 100% homeowner's sub-letting
 - removing the suggested prohibition on laminate flooring
 - firming up the rules around pets (but not as far as was initially proposed)
 - removing the requirement that alterations only take place during working hours
 - further excluding grounds under which HfL can obtain possession of the shared ownership leases
 - removing the restriction on improvements
 - we've committed to develop a policy that will allow shared owners to sub-let in exceptional circumstances
 - changing the approach to arbitration between residents
 - extending the circumstances a property can be passed on to children.
 - allowing the running of a business from home (with permission)
- 2.8 On other areas, for financial, legal or reasons of effective housing management we are keeping the clauses as initially proposed:-
- keeping the ban on short term sub-lets (such as AirBnB)
 - keeping the ability to operate a sinking fund to cover major works
 - keeping HfL to be responsible for windows and external doors
 - keeping the rent on the with rent lease to be the cost of borrowing, as experienced by the council/HfL
 - keeping shared owners responsible for 100% of service charges
- 2.9 While it is an aspiration that HfL Homes adopt standardised leases for all its new homes, adoption of these leases is specifically for the purpose of re-housing existing resident homeowners. It will not be considered a binding commitment on HfL Homes to use these exact leases for those purchasing new homes sold by HfL. A separate lease will also be required for HfL tenants if they are able to exercise a contractual right to buy; this would necessarily cover aspects such as repayment of the right to buy discount if homes are sold on within a five year period from purchase.

- 2.10 The purpose of adopting these template leases at this time is to provide greater certainty to existing resident homeowners affected by estate regeneration, so that they can better understand the nature of the leases that they will be offered in an HfL Homes property. This will better enable existing resident homeowners on estates undergoing regeneration to decide whether they wish to remain living on their estate or take up the alternate offer in the Key Guarantees to sell their existing home to the council and move elsewhere.
- 2.11 The council is committed to enabling communities to stay living together and for existing homeowners to seek to remain living on their existing estate through and after estate regeneration takes place. In producing these leases, combining elements of existing council RTB leases with HCA shared ownership leases, the council hopes that the change in lease will not represent any barrier to this happening.
- 2.12 The Board of HfL Homes has agreed to adopt these template leases for existing homeowners moving into HfL homes.

3 Finance

- 3.1 The recommendations within this report generally have no direct financial implications on the viability or otherwise of HfL. The leases will apply to those resident homeowners currently living on regeneration estates and choosing to move to a new HfL Homes home.

4 Legal and Democracy

- 4.1 Article 1 of The First Protocol of the Human Rights Act 1998 provides that every person is entitled to the peaceful enjoyment of their possessions and that no one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. These provisions do not impair the rights of the 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.
- 4.2 Article 8 of the Human Rights Act gives everyone the right to respect for their private and family life, their home and their correspondence. A public authority is not permitted to interfere 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.
- 4.3 In the case of *Moseley –v- Haringey*, the Supreme Court endorsed the ‘Sedley criteria’ as to what is fair consultation. These are:
- Consultation must be at a time when proposals are still at a formative stage
 - The proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response
 - Adequate time must be given for consideration and response
 - The product of consultation must be conscientiously taken into account.
- 4.4 Section 149 of the Equality Act 2010 sets out the public sector equality duty replacing the previous duties in relation to race, sex and disability and extending the duty to all the protected characteristics i.e. race, sex, disability, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership and gender reassignment. The public sector equality duty requires public authorities to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under that act
 - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and
 - Foster good relations between those who share a protected characteristic and those who do not share it, which involves having due regard, in particular, to the need to-
 - (a) tackle prejudice, and
 - (b) promote understanding.
- 4.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it, including, in particular, steps to take account of disabled persons' disabilities;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4.6 Compliance with the duties in section 149 of the Act may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Act.
- 4.7 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken - that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 4.8 When considering whether to adopt the recommendations of this report, the decision maker will be exercising discretion within the constraints of the duties referred to above and should therefore have in mind the following principles of administrative law:
- the decision must be within the council's powers;
 - all relevant information and consideration, including the council's fiduciary duty to the Council Tax payer, must be taken into account; and
 - all irrelevant considerations, including unauthorised purposes, must be ignored.

5 Consultation and co-production

- 5.1 Consultation on the new leases was the final step in the process to ensure that those resident homeowners directly affected by estate regeneration had an opportunity to influence the preparation of the final adopted leases. This final step was preceded by a review of the Key Guarantees and a consultation on how they could be improved in 2016 and work undertaken by the IAs in 2017 as outlined in this report.
- 5.2 After the initial drafting, the leases were subject to a legal review, commissioned by the Independent Resident Advisors, which identified a number of helpful changes which were adopted. The draft leases were then sent to all affected homeowners, together with a 20 question survey, which identified key aspects and asked for views. Drop in sessions were also held on the estates allowing residents to ask questions and put forward their perspectives.

- 5.3 84 people took part in the consultation. In total we received 60 completed questionnaires, either online, by post / handed in or via attendance at a workshop. A smaller number of other comments were received by phone and email. The full consultation report, written for the benefit of homeowners is attached to this report. We have published all the responses to the consultation. The full consultation report aims to:
- share feedback with homeowners transparently;
 - explain what our response is to the feedback received, and why;
 - clearly answer other questions arising from the consultation; and
 - increase the overall understanding of terms within the lease.
- 5.4 There were a small number of complaints about the length of time for homeowners to respond, although this was not a feature of the feedback generally, and there were a number of areas where some homeowners felt they needed more information to be able to provide answers. Leases are by their nature complex documents, there is a balance between sending out pages and pages of information, and the risk that the most important points then get lost and it's too overwhelming to digest.
- 5.5 We also carried out drop in sessions on each estate for people to have an opportunity to talk to their independent advisors and officers. We have been able to provide answers to common queries in the consultation report.
- 5.6 Homeowners have mixed views; some of the respondents recognise the benefits that some of the proposed changes to the leases would provide in terms of better estate management. With this kind of survey, it is arguable that residents who are happy with the proposals are less likely to provide comments. However, from the feedback it is clear that a number of homeowners feel that the drafts represent an undesirable reduction in their rights.
- 5.7 The shared ownership options provided through the Key Guarantees are more generous than required in law, but many homeowners do not view them positively.
- 5.8 As shared owners they will have a number of restrictions that they do not currently face as homeowners, such as the ability to sub-let their homes, restrictions in an ability to borrow additional money and who they can pass their home to. We are offering these shared ownership options to allow existing residents to continue to live on their estates and there are limits to how far we could reasonably meet all the requests arising from the feedback. However, we have been able to respond positively to a number of these concerns as summarised in the table below. The appended full consultation report goes into more detail. The attached draft leases also show the track changes to clearly demonstrate where areas have changed further to the consultation.

We asked	You said	Our response:
Q1 – subletting for 100% owners		
About restricting subletting and prohibiting 'holiday' lets such as AirBnB	In general terms, a majority of leaseholders are opposed to constraints in their rights to sublet. Specifically on AirBnB there were mixed views, some for, some against. The majority are against.	On balance we still think that this is a reasonable restriction that will benefit the community as a whole. The long lease will include a comparable ban on lettings for less than 30 days

We asked	You said	Our response:
About subletting and whether you should consider offering to HfL first to let on your behalf	Other than the general opposition to constraints on subletting, there were few specific comments. Those that did comment specifically rejected the proposal.	We understand these concerns. There will no longer be a requirement to offer to HfL. If we are able to make a desirable offer for letting through HfL, leaseholders would want to use it as an option in any event, without being required to consider it.
When subletting, telling us who lives in the flats, names, dates of birth, gender etc.	Where this point was specifically responded to, it was felt to be heavy handed.	We will require you to provide us with the names of who is living there – post-Grenfell it has shown us how important it is that we know who is living in our properties, but we will not be asking for detailed household information.
When sub-letting you should provide a copy of the tenancy agreement and obtain appropriate insurance	There were few specific comments about this. Those that did comment generally felt it was overly onerous.	There is no longer a requirement to provide HfL with a copy of the tenancy agreement. We think it is in everyone's interest that there is appropriate insurance in place in case of accidents so we will still ask that people subletting obtain landlord insurance.
Q2 – Banning laminate flooring		
Whether we should ban laminate flooring	Some mixed views, but a majority were opposed to this ban	The ban on laminate flooring will be removed from the leases
Q3 – Permission to have pets		
About whether there should be stricter restrictions on pets, including requiring written permission for dogs. This would reflect the terms in the tenancy agreement.	Mixed views, some leaseholders in favour, some against. Those against were very opposed to stricter restrictions	We're not going to go as far as the tenancy agreement, but will expand the lease clause slightly – "domestic pets should be kept under control so as to prevent the Leaseholder from causing any nuisance to the Landlord or its tenants or any of them or to any neighbouring adjoining or adjacent property or the owner or occupiers thereof"
Q5 – ground rent will be £10 / year		
This was more for information than a specific question.	Residents wanted assurances that this would not increase or what would happen if it's sold on. Can this go up when the lease is extended?	We can confirm that the £10 is fixed. We've added in a contractual right to be able to extend the shared ownership leases following the same statutory process as the 100% owned leases
Q6 – on the reserve fund		
We wanted to know your views about HfL implementing a reserve fund	You were concerned about this, with funds not being properly protected / managed / with appropriate oversight.	We think this is a positive approach both from the perspective of leaseholders and HfL. We will include the clause that allows us to operate a reserve fund. Clearly there are concerns so if we do decide to implement this clause we will need to be clear about how it will work and communicate effectively with leaseholders. We have extended Schedule 4 to include other parts of the building and making it clear that these

We asked	You said	Our response:
		costs can be recovered by way of sinking fund.
Q7 – Repair Obligations		
About HfL being responsible for windows and the front door	Mixed view – some supportive others concerned and prefer to be responsible themselves	Due to the technical nature of modern windows and fire safety concerns we're keeping as proposed. HfL will be responsible for windows and doors, we can confirm that this includes all external doors
Q8 – Alterations		
We've strengthened the lease with regards to alterations and asked for views	A third supported the proposals, others wanted more details about what was meant by alterations. A number criticised the proposed time restrictions.	The strengthened provisions around alterations remain, apart from the requirement that they are carried out between 9-5 which has been removed.
Q11 – Arbitration for disputes between residents		
Should HfL be the arbiter in disputes between residents?	Mixed views, but a majority thought there should be independent arbitration	We've removed the clause. HfL will act reasonably to try and help to resolve disputes but matters can then be referred for alternative resolution depending on the circumstances
Q14 Rent on the un-owned share (shared owners)		
This was more for information, to make leaseholders aware of the clauses that covered this part of the key guarantees	Some leaseholders think that the % should be reduced from 2.75%. Others found this question confusing and requested additional information	We have explained more fully what this means, with a worked example in the detailed answers which follow this table.
Q15 Service Charges (shared owners)		
This was more for information so leaseholders are aware of the requirement.	Leaseholders are generally unhappy with the clause and think that charges for major works should be proportionate to the % owned.	This is a standard approach to shared ownership leases and we are not changing it.
Q16 – Protection from losing your home (shared owners)		
We wanted to give assurances to shared owners about their security, under the 1988 Housing Act with grounds 8 and 11 removed.	Some leaseholders wanted further details about the other grounds for possession under the 1988 Housing Act. Some were happy with the proposal, others concerned that shared owners should have the same protections as leaseholders	We've further limited the grounds under which we could seek possession of a shared owner. However, we cannot completely remove our discretion to, for instance take possession in the case of serious anti social behaviour. The courts would need to think it is reasonable to award possession. The courts would only award possession in the most extreme of circumstances.
Q17 Improvements (shared owners)		
The draft lease said improvements could not be carried out until you own 100%	A large majority of leaseholders opposed this.	We have removed this restriction.
Q18 Subletting (shared owners)		

We asked	You said	Our response:
We wanted to make leaseholders aware that shared owners are not allowed to sub-let	A very small number agreed with this, but the majority were very opposed, some cited specific situations, such as needing to go and care for elderly relatives, as examples where it might be necessary to sub-let.	The rationale behind the shared ownership leases is to enable leaseholders to carry on living on their estates. Shared ownership is not an option for absentee landlords. This will still be prohibited under the lease but, we will develop a policy which allows sub-letting in exceptional circumstances (such as looking after an unwell relative).
Q19 – selling / passing on your home (shared ownership)		
We wanted to make leaseholders aware of the process of selling their home, and in what circumstances they can pass the lease on to someone else	Leaseholders are concerned about HfL's role when they come to sell their home. Several were unhappy about the restrictions on who could inherit the shared ownership leases	The lease allows partners and children (who live at the property) to inherit the lease. We've made a minor change to allow a child to inherit after the lease has passed once to another partner / parent in response to a comment raised in the consultation, but will not be going further than that. As with sub-letting, we have created shared ownership options to enable existing leaseholders to remain living on estates. The terms reflect the rules for succession to secure tenancies.

Other important points came out through consultation:-

Comment	Our response:
Does the new lease allow me to run a business from my home?	In response to this question we will update the terms, bringing them in line with the tenancy agreement, allowing this to happen with written permission
Under the terms of the shared ownership lease can I borrow additional money?	No – you need HfL permission to re-mortgage and following HCA guidance this wouldn't normally be granted for purposes other than staircasing, buying out another leaseholder or to pay for repairs. This doesn't prohibit re-mortgaging to a better rate.
Why isn't there a leaseholder on the 'ownership and Stewardship panel'?	There is a tenant representative on the committee and an annual business plan update to Cabinet which will be published in addition to ongoing communication with residents

5.9 Further to a final internal review, to prevent difficulties in the future which we are currently experiencing from a lack of flexibility in the current lease we have added an additional clause. Should it not be possible to adopt the previously defined method of calculation for all or part of the Service Charge the Landlord may adopt any reasonable method of ascertaining the amount of Service Charge payable by the Leaseholder and may adopt different methods in relation to different items of costs or expenses.

5.10 Also further to our final review, and to provide greater assurances to leaseholders on costs, we have amended the clauses on management costs from being "not less than 10% of the total Service Charge" to "10% of the Service Charge".

5.11 Comments which were clearly not relevant to the consultation have not been addressed by this report, but have been passed on to the relevant teams to follow up on.

6 Risk management

- 6.1 The proposed lease is very similar to the tried and tested RTB lease as already used by the council, combined with the HCA shared ownership leases, which is accepted by mortgage providers.
- 6.2 In preparing the leases, the council has obtained both legal and surveyor advice to input into the drafting of the leases to ensure that it is up-to-date with latest best practice and is appropriate for homeowners owning modern new built properties.
- 6.3 In addition to the above, intermediated by the Independent Advisers working across the six estates in the regeneration programme, advice was sought from independent specialist housing lawyers to advise on the new leases.
- 6.4 There are, therefore, no obvious risks associated with adoption of these leases.
- 6.5 By offering leases in support of the Key Guarantees to homeowners affected by estate regeneration, risks associated with delivery of the estate regeneration programme will be minimised prior to and at the time of seeking to compulsorily acquire properties (where this is necessary).

7 Equalities impact assessment

- 7.1 The impact of estate regeneration and the implementation of the Key Guarantees will be different for each project at different times and therefore EqIAs are required on a project basis and reviewed at regular intervals. No specific equalities impact assessment has been carried out to inform this Cabinet Report as they are being carried out at a project level. The Key Guarantees are, however, drafted in such a way that they enable the council to meet its public sector equalities duties.
- 7.2 We do not have full equality information on all homeowners. Using data from the council's database, Northgate, of the equality information that we do have we had a broadly proportionate response back to this consultation according to gender and age. It should, however, be noted that proportionately fewer BME homeowners responded to the consultation than white homeowners.
- 7.3 At a programme level, in order to ensure that equalities matters are addressed, the following approach is taken.
- 7.4 In progressing estate regeneration projects, the Housing Regeneration team will abide by the council's approach to equalities, which are embedded in the Future Lambeth Borough Plan. The principles that will be followed by the Housing Regeneration team will be:
 - **Information.** Any equalities strategy for an estate regeneration project is only as good as the information it is based on. It is therefore essential to collect adequate information concerning those affected by estate regeneration and to maintain such information up-to-date. This is undertaken through the course of estate regeneration projects by means of activities such as housing needs assessments, which are carried out for all affected households.
 - **Training.** Equalities principles must be embedded in all minor decision-making throughout an estate regeneration project. This requires that those working on estates projects are continually mindful of equalities issues and have access to adequate training to ensure that they embrace such principles in their day-to-day work.
 - **Assessment.** Formal equalities impacts need to be carried out to inform any major decisions or commitments on the future of an estate. For a typical estate regeneration project, equalities impact assessments are required at the following stages:

- Feasibility Stage – to help inform whether or what part of an estate will be redeveloped – an Equalities Impact Assessment accompanies the Cabinet Decision on the scale of redevelopment for an estate;
- Masterplanning and Local Lettings Plan Stage – to help inform the design work and to ensure that the replacement homes adequately cater for the existing community of residents, whose homes are being demolished – an Equalities Impact Assessment then accompanies any Cabinet Report that seeks authorisation for a compulsory purchase order; and
- Allocations – to help inform the allocations process to ensure that homes are allocated in a way that conforms with equalities principles – once construction and decanting has commenced, equalities reviews will be undertaken at pre-defined intervals specific to each estate.

7.5 Recognising the over-representation in the consultation responses of white people, further consideration needs to be given as schemes are progressed to ensure that all parts of communities on regeneration estates are fully represented and involved in the redevelopment activity. This will be looked at further in the equalities strategies that are formulated for each estate on the back of equalities impact assessments.

8 Community safety

8.1 Not relevant. Community safety is a factor for consideration on individual estate regeneration projects.

9 Organisational implications

9.1 Environmental: Not applicable.

9.2 Staffing and accommodation: Delivery of the Key Guarantees will take place through the estate regeneration programme and will be implemented by the Housing Regeneration team.

9.3 Procurement: There is a commitment to keep Independent Advisers engaged on each estate regeneration project for the full life of the project. This will require re-procuring the current Independent Advisers, as it will mean for most projects that such fees will go above OJEU thresholds.

9.4 Health: The Key Guarantees help to reduce uncertainty around estate regeneration projects and should therefore reduce any stress experienced by those residents on estates experiencing estate regeneration. The Key Guarantees embed within them commitments to ensuring that those with disabilities and special needs are given the extra help that they require to enable them to move home.

10 Timetable for implementation

10.1 The Board of HfL Homes has agreed to adopt these leases for use by HfL Homes for resident homeowners on regeneration estates choosing to take up the offer in the Key Guarantees to move into new HfL built homes.

10.2 Thereafter use of these new leases by HfL Homes will depend upon the delivery programme of regeneration on each estate.

10.3 Prior to using any of these leases, a review will be undertaken to check whether any changes in statute or mortgage lending criteria have taken place that would require changes to these template leases. Where it is felt that changes are needed, then these will be authorised by the Director of Legal Services.

Audit Trail				
Consultation				
Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
Cllr Paul McGlone	Deputy Leader of the Council (Investment and Partnerships)	05.01.18	12.01.18	All
Sue Foster	Strategic Director for Neighbourhoods and Growth	21.12.17	11.01.18	All
Rachel Sharpe	Director Strategic Housing, Regeneration and Communities	21.12.17	02.01.18	All
Matthew Gaynor, Finance	Corporate Resources	21.12.17	04.01.18	Section 3
Greg Carson, Legal Services	Corporate Resources	21.12.17	22.12.17	Section 4
Henry Langford, Democratic Services	Corporate Resources	21.12.17	05.01.18	All

Report History	
Original discussion with Cabinet Member	8.11.17
Report deadline	10.01.18
Date final report sent	12.01.18
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	10.11.17
Key decision reasons	Community Impact
Background information	<p>Improving the Key Guarantees https://modern.gov.lambeth.gov.uk/documents/s87381/02b%20Cabinet%20report%20-%20Key%20Guarantees%20-%20March%202017%20-%20final%20clean.pdf</p> <p>Incorporating and Mobilising Homes for Lambeth https://modern.gov.lambeth.gov.uk/documents/s88683/Cabinet%20Report%20-%20Incorporating%20and%20Mobilising%20Homes%20for%20Lambeth%20-%20May%202017.pdf</p>
Appendices	<p>Appendix A – HFL Long Lease</p> <p>Appendix B – HFL Shared ownership lease (with rent)</p> <p>Appendix C – HFL Shared ownership lease (zero rent)</p> <p>Appendix D – HFL Lease Consultation Report</p>