

STATES OF JERSEY



LES QUENNEVAIS PARK FLATS LOAN SCHEME – REVISED TERMS

Lodged au Greffe on 28th June 2021
by the Minister for Housing and Communities
Earliest date for debate: 14th September 2021

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

To refer to their Act of 22nd April 2021, in which they varied the purpose and terms of the 99-Year Leaseholders Fund to enable monies to be lent from the fund to individual property owners for the repair of balconies in blocks A to H, Les Quennevais Flats, and to vary the terms of such loans to allow for an extension of the loan period to up to 15 years.

MINISTER FOR HOUSING AND COMMUNITIES

REPORT

Further to the Assembly's approval of P.19/2021 and the subsequent rescindment proposition put forward by Deputy Tadier (P.54/2021) this proposition reflects the additional negotiations that have taken place since the original debate.

The proposals put forward previously remain the same with one exception. Under P.19/2021 the terms and repayment details were set out as:

"Term and repayment

The maximum term of the loans is 10 years. Loans will bear interest; the interest due will be fixed at a rate of 2% p.a. This interest rate has been determined with reference to other recent loans provided by the States and current market conditions.

Property owners will have the option to repay the loan on an interest only basis (capital to be repaid at the end of the loan term), or on a capital and interest (mortgage style) basis but cannot voluntarily switch between the two loan types. Lump sum reductions will be permitted at any time without penalty, similarly early repayment of the full loan will not give rise to a penalty payment."

The further negotiations have led to an extension of the maximum term of the loans from 10 years to 15 years. For simplicity of administration, this now provides residents with an option to choose either a 10-year loan or a 15-year loan.

As amended, the terms and repayment details proposed are as follows:

"Term and repayment

The maximum term of the loans is 15 years. Loans will bear interest; the interest due will be fixed at a rate of 2% p.a. This interest rate has been determined with reference to other recent loans provided by the States and current market conditions.

Property owners will have the option to repay the loan on an interest only basis (capital to be repaid at the end of the loan term), or on a capital and interest (mortgage style) basis but cannot voluntarily switch between the two loan types. Lump sum reductions will be permitted at any time without penalty, similarly early repayment of the full loan will not give rise to a penalty payment."

Impact on cost of loans

For interest only loans, there will be no impact on the monthly repayment as the interest rate and loan amount remain the same. For capital and interest loans, the extension of the loan term will reduce the monthly repayments for loan holders by approximately £40 per month for the largest loans and by approximately £18 per month for the smallest loans. It should be noted that the total interest paid by borrowers will be higher for 15-year loans, irrespective of which type of loan is chosen, but the option to repay the loan early will still exist.

Financial and manpower implications

With the exception of the maximum length of the loans, these are unchanged from those set out in P.19. the amended details are set out below.

Up to £600,000 will be made available within the 99-Year Leaseholders Fund to provide the funding for the operation of the loan scheme. This figure includes a contingency to account for any unexpected costs. The amount of loans to individual property owners will depend on the size of the property. It is estimated that the loan amounts will range from a minimum of £6,726 for a one-bedroom flat through to £14,164 for a three-bedroom flat.

It is not anticipated that the full amount of funding allocated within the 99-Year Leaseholders Fund will be used as some owners will have access to their own sources of funding to enable the repairs to be carried out or will not meet the qualifying criteria for the loan scheme.

The loans will be managed by the Treasury and Exchequer Investment Management Team as part of their day-to-day activity. **On the basis that all loans are repaid in full, the 99-Year Leaseholders Fund will be fully repaid at the end of the 15-year period.**

The full text of the P.19 report is set out in the Appendix.

Appendix: P.19 report

Introduction

The Les Quennevais Park Flats were constructed on behalf of the former Housing Committee in c1964 and sold on a 99-year leasehold basis. They comprise 96 flats across eight blocks, A to H. Following a recent maintenance inspection of the flats, it was found that their balconies require certain repairs arising from a problem with the original construction method.

The Minister for Housing and Communities, with the support of the Minister for Treasury and Resources, has agreed to provide financial assistance to the residents – many of whom are not able to raise the funds commercially – to complete the works. It is proposed that a loan scheme will be established from which the Minister will lend money under the terms set out in the Report. The Minister is grateful for the support provided by Senator Ferguson and Brunel Management Ltd. in assisting the residents and in helping put together the proposed loan scheme.

The 99-Year Leaseholders Fund (“the Fund”) is considered the most appropriate means for providing support, but the terms of that Fund need to be amended to enable loans to be made. Article 6 of the Public Finances (Jersey) Law 2019 requires that any variation to the terms of a Fund are approved by the States Assembly. The requirements of the loan scheme are set out in this report.

Background

In the early 1960s, the then States of Jersey Housing Committee procured the construction of eight blocks of flats at the Les Quennevais Park estate. Whilst houses on the estate were sold as freehold, the 96 flats were conveyed by way of 99-year leases. The leaseholders were responsible for the repair of their flats and the landlord, the Housing Committee of the day, was responsible for external and structural repairs, which were fully rechargeable to the leaseholders.

The eight blocks (Blocks A to H) each contain 12 flats ranging from one-bed to three-bed units, with the eight flats on the two upper floors each benefitting from a recessed balcony off the lounge.

Until the 1990s, individual leaseholders were able to “sell” their flats by assigning the remainder of the lease terms to new leaseholders. However, the leaseholders began to have difficulty selling their flats as lenders became reluctant to offer mortgages on a leasehold ownership of less than 60 years.

In 2006, when Jersey Property Holdings (“JPH”) was established, the management of the flats transferred from the former Housing Department to JPH. JPH took-up the matter of what to do with the leases of the flats and decided to convert the blocks to flying-freehold ownership. This was offered to the leaseholders, with the conversion taking place in 2012/2013. No leaseholder was obliged to convert to flying-freehold and, in cases where leaseholders wished to retain the status quo, the Public became the flying-freehold co-owner of the respective flat with the existing 99-year leases remaining in place.

Four flying-freehold Associations were established: Blocks A, B and C, Blocks D, E and F, Block G and Block H. Brunel Management Ltd. has been appointed as the Association Representative as required by the Associations’ Declarations.

Current situation

During recent maintenance of the Blocks, it was noticed that certain defects were showing on a number of balconies. Further investigations were undertaken, and it was found that the problems stemmed from the use of precast concrete beams for the balcony structures. These beams were not well suited for this use due to the thinness of the concrete and associated problems of fixing the balcony hand railings, and durability problems with the outer beams, which tend to be more exposed to the elements. As such, the proper course of action at this stage in the life of the Blocks is to renew the outer concrete beams.

It is not known exactly what took place in c1964 during the build contract that led to the balconies being built with precast beams. It may have been an approved design or it may have been the contractor's decision. It is considered that even in the 1960s, the expertise of the architect, engineer and contractor should have highlighted the risks and swayed the decision away from using such beams on the balconies.

Meetings have been held with the four Associations to explain the problem and the likely cost of repair. Understandably, the various property owners are concerned at the discovery of the latent defect and the cost of repair. Many of the owners have indicated that they are not able to raise the required funds in a short timescale.

Accordingly, the Minister for Housing and Communities believes that the States should assist the residents with the cost of the repairs because the flats were built with a fundamental defect that ought to have been reasonably avoided. In line with all other works on the properties, the programme of repairs will be managed by Brunel Management as the Association Representative.

Proposed loan scheme

Funds will be lent from the 99-Year Leaseholders Fund with the following conditions.

Purpose

The loans will be made to individual property owners for the repair of the balconies on individual flats in Blocks A to H, Les Quennevais Park Flats. The loans can only be made for the purpose of reconstructing and repairing the defective balconies at Les Quennevais Park flats. All owners shall be responsible of the payment of their repair works in line with the terms of the Association.

Amount

The total amount to be made available for loans to property owners will be up to £600,000. As of January 2021, there was £762,000 held in the Fund. The amount of loans to individual owners will depend on the size of the property. It is estimated that the loan amounts will range from a minimum of £6,726 for a one-bedroom flat through to £14,164 for a three-bedroom flat.

It is not anticipated that the full amount of funding being made available will be used as some owners will have access to their own sources of funding to enable the repairs to be carried out or will not meet the qualifying criteria for the loan scheme. Initial expressions of interest from the owners indicate that up to £450,000 of loans will be required. The amount of monies to be lent from the Fund therefore contains a contingency in case there is additional demand from owners, and to account for any unexpected costs, which might be discovered during the repair process.

Eligibility

To be eligible for a loan, gross household income cannot exceed £60,000 p.a. It is considered above this amount that individual property owners with annual income above this amount will be able to access commercial borrowing. The owners will also be required to use their own savings in excess of an agreed amount. The amount of savings that may be retained reflect the Income Support capital limits:

Single adult under pensionable age	£9,137
Couple under pensionable age	£15,145
Single adult over pensionable age	£13,706
Couple over pensionable age	£22,718

Term and repayment

The maximum term of the loans is 10 years. Loans will bear interest; the interest due will be fixed at a rate of 2% p.a. This interest rate has been determined with reference to other recent loans provided by the States and current market conditions.

Property owners will have the option to repay the loan on an interest only basis (capital to be repaid at the end of the loan term), or on a capital and interest (mortgage style) basis but cannot voluntarily switch between the two loan types. Lump sum reductions will be permitted at any time without penalty, similarly early repayment of the full loan will not give rise to a penalty payment.

Security

Each loan will be subject to a loan agreement between the Minister and the property owner, which will set out the repayment terms, interest and other terms and conditions. Whilst loans will be in the name of individual property owners, the proceeds will be paid directly to the Association Representative who is completing the project for each property upon production of a formal works programme.

Proceeding on a personal loan basis is considered to be the most pragmatic approach. Consideration was given to taking security on the loans through a conventional hypothec charged on the property, but the legal and conveyancing costs are considered disproportionate to the amounts being lent. The risk of unsecured lending is considered to be low but were a property owner to default on the terms of the loans, then repayment would be pursued through the Petty Debts Court in line with the normal debt recovery processes followed by the Government.

Use of the 99-Year Leaseholders Fund

The 99-Year Leaseholders Fund is considered the most appropriate means through which to provide funding for the loan scheme. The Fund was established by the former Housing Committee and enabled the Committee to lend to owners of leasehold properties. As of January 2021, there was £762,000 held in the Fund.

The Assembly is being asked to agree a variation to the purpose and terms of the 99-Year Leaseholders Fund to enable loans to be made for the repair of defective balconies at Blocks A to H, Les Quennevais Park flats. The flats were originally sold on a 99-year leasehold basis but, since the introduction of flying-freehold legislation, the 96 flats now

comprise 27 no. 99-year leasehold properties and 69 no. properties that have converted to flying-freehold.

The Minister is, therefore, seeking to vary the purpose and terms of the 99-Years Leaseholders Fund so that it may be used to provide loans to residents who own 99-year leasehold and flying-freehold flats. This ability to make this change is provided for under Article 6 (4) of the Public Finances (Jersey) Law 2019 which enables the States, on a proposition lodged by or with the consent of the Minister for Treasury and Resources, to vary the purpose or terms of a fund. The Minister for Treasury and Resources concurs with this approach. The terms of the Fund are set out in the Appendix.

Risks

Any loan scheme is not without its risks, the table below details the main risks that have been considered and mitigations in place to address these risks

Risk	Detail	Mitigation
Fraud	The risk that applications are made by individuals who do not meet the criteria of the scheme	Evidence of identity and of income and assets are required as part of the loan application process
Fraud	The loan proceeds are not utilised for the purpose of repairing the balconies	Loan monies will be released directly to Brunel Management on production of relevant contracts and invoices. Authority to do so will be included within the loan application form
Repayment during loan term	Loan holders are unable to meet their monthly repayments	Repayment plans will be established by direct debit automatically deducting payments from loan holders bank accounts. In the event of arrears there are well-established procedures within Treasury & Exchequer for recovery.
Death of a loan holder	A loan holder dies before the loan is fully repaid	<p>Either the Petty Debts Court procedures will be pursued similar to the Maison d'Azette scheme in the late 1990s or recovery of the outstanding balance undertaken as part of the probate process.</p> <p>Quarterly monitoring through PRIDE system and ongoing dialogue with Brunel Management will ensure appropriate monitoring of property sales.</p>

Increase in costs of works	During the work programme additional issues are identified and costs increase	<p>The Proposition includes a 33% 'buffer' to address this issue and also the event that other residents who initially did not express interest in the loan scheme decide to apply.</p> <p>Current surveys indicate that any additional work is unlikely, but this will only become clear once the work repairs commence</p>
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Financial and manpower implications

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It is not anticipated that the full amount of funding allocated within the 99-Year Leaseholders Fund will be used as some owners will have access to their own sources of funding to enable the repairs to be carried out or will not meet the qualifying criteria for the loan scheme.

The loans will be managed by the Treasury and Exchequer Investment Management Team as part of their day-to-day activity. On the basis that all loans are repaid in full, the 99-Year Leaseholders Fund will be fully repaid at the end of the 10-year period.

99-Year Leaseholders Fund

The 99-Year Leaseholders Fund is a “States Fund” in accordance with Article 6 of the Public Finances (Jersey) Law 2019 (“the Law”). The States, on a proposition lodged by, or with the concurrence of the Minister for Treasury and Resources, may vary the purpose or terms of the Fund.

1. Purpose of the 99-Year Leaseholders Fund

1.1. The 99-Year Leaseholders Fund (the “Fund”) is established to enable the Minister for Housing and Communities to lend to individuals offering leasehold property as security, and for the repair of balconies on properties, whether held on a flying-freehold or 99-leasehold basis, in Block A to H, Les Quennevais Park Flats, loans for which do not need to be secured, but will be subject to normal States of Jersey debt recovery processes.

2. The powers and limitations of the Fund

2.1. As a States Fund, the purpose of the Fund can only be varied by the States on a proposition lodged by, or with the consent of, the Minister for Treasury and Resources.

2.2. Only those costs associated with the purpose of the Fund can be met out of the Fund.

2.3. All monies received in respect of the repayment of monies lent from the Fund and of the interest thereon, shall be paid into the Fund.

2.4. The 99-Year Leaseholders Fund will be maintained until such a time as the Minister for Housing and Communities makes a Ministerial Decision to wind up the States Fund. In deciding to wind up the Fund, the Minister must seek the agreement of the Minister for Treasury and Resources.

2.5. The operation of the Fund must be in line with the Public Finances (Jersey) Law 2019 and the requirements of the Public Finances Manual.

2.6. On the winding up of the Fund any balance in the Fund will be paid into the Consolidated Fund.

3. Those empowered to carry out actions on behalf of the States Fund

3.1. The Minister for Housing and Communities has overall policy responsibility within the executive, on behalf of the Council of Ministers, for the Fund; this will include being answerable to the States Assembly and responding to questions relating to the use of the Fund.

3.2. The Principal Accountable Officer has responsibility under the Public Finances Law (Jersey) 2019 for the appointment of the Accountable Officer(s) for the Fund. The States Treasurer has been appointed as Accountable Officer for the Fund.

3.3. The Accountable Officer is accountable for the proper financial management of the Fund, which includes ensuring that payments from the Fund are progressed in line with the purpose of the Fund and that it is administered in an efficient and prudent manner; responsibility for ensuring that proper control and assurance frameworks exist; and responsibility for ensuring that systems are in place to manage risks related to the Fund.

3.4. The Accountable Officer for the Fund is answerable to the States' Public Accounts Committee for the performance of their functions.

3.5. The Accountable Officer can delegate functions in respect of the Fund to others but will remain accountable. In order to ensure that good governance and control is achieved, any delegation must be documented in a Scheme of Delegation.

3.6. The Comptroller and Auditor General has a duty under Article 11 of the Comptroller and Auditor General (Jersey) Law 2014 to provide the States with independent assurance that the public finances of Jersey are being regulated, controlled, supervised and accounted for in accordance with the Law. This duty extends to this Fund.

4. Control of Expenditure and Income

4.1. The Accountable Officer has responsibility for the expenditure and income relating to the Fund.

4.2. The costs of administering any monies lent from the Fund will be borne by the Fund.

5. Reporting arrangements

5.1. Details of the Fund will be included in the published States of Jersey Annual Financial Statement, and financial updates provided to the States Assembly by the Minister for Treasury and Resources.