



Leasehold Management Policy

1. Aim of policy

The principle aim of the policy is to ensure that leaseholders receive good quality, value for money services taking account of the terms of their leases. We will ensure that leaseholders receive timely and appropriate advice and information both generally and on request.

2. Scope of policy

The policy applies to customers with long leases (21 years or more at commencement) and who are leaseholders in the following circumstances:

- Customers who have exercised the Right to Buy or Right to Acquire their home
- Customers who have purchased a home that was previously acquired through the Right to Buy or Right to Acquire process
- Customers who have purchased a home on a shared ownership basis including those who have stair-cased out to full ownership where the Freehold has not been transferred on completion
- Customers who have purchased a leasehold property outright
- Freehold Owners who have an obligation to pay for services we provide

All staff delivering a Housing Management function to the above customers and all staff involved in providing repairs to the above stock whether reactive or planned should be aware of this Policy

3. Policy statement

This policy provides an overview about how we will meet our landlord obligations to our leaseholders and how we will ensure that our leaseholders meet their obligations, given that the long leases are legal contracts, where breaches by either party can result in considerable financial and reputational risk to us. It should also ensure that where services are delivered to Leaseholders, the costs can be recovered appropriately mitigating financial loss for us. In addition to this it will also help achieve greater leaseholder satisfaction levels.

We will use our discretion, with management approval, in the implementation of this policy and may at times make a decision outside but within the spirit of the policy.

4. Policy

The Lease

The rights and responsibilities of us as landlord and each leaseholder are determined primarily by the terms of the lease agreed and legislation, in particular the Commonhold and Leasehold Reform Act 2002.

The lease is a binding contract that sets out the terms on which we allow the leaseholder to occupy the property. The lease sets out the respective rights and obligations of ourselves and the leaseholder and is enforceable in law. The lease is the main determining factor in relation to the way a property is managed and maintained.

We will ensure that any lease that is used is current and meets standard legal requirements and any requirements of the Home and Communities Agency (HCA). The lease will be reviewed annually to



take account of any changes required by the HCA and other Case Law particularly First Tier Tribunal determinations.

We will ensure that staff have sufficient understanding of the provisions of all the leases in use by us. All staff involved in leasehold management will receive appropriate training, advice and information and will have ready access to leases which will be referred to regularly to ensure:

- That all our obligations to leaseholders are being met
- To ensure that there is a contractual basis for action taken by us, for example to charge for a certain item
- To determine who has responsibility for items of repair
- To check whether and what action can be taken against a leaseholder, for example in respect of breach of the terms of the lease.

Varying the Lease

We may consider varying a lease and also consider requests from lessees to vary the terms of the lease for specific reasons. Variations are likely to be agreed where they are considered necessary and in the interest of both parties, but only with current standard lease clause wording.

Extending the Lease

We will respond to requests from lessees that meet the qualifying criteria for a Lease Extension (Including shared owners) to extend a lease to avoid a reduction in the value of their property, and will follow the statutory route for these applications (except for Shared Owners, who will have to follow the voluntary route but using the Statutory timescales and qualification criteria). Lessees will be required to meet their own and our legal costs. We will endeavour to keep our legal costs reasonable.

Breaches of Lease Conditions

Where a lessee breaches a condition(s) of their lease, we will request the leaseholder to remedy the breach. If the breach is not remedied, we may take enforcement action to ensure the breach is remedied, in most cases firstly via informal action, and if not successful, through formal action including legal remedies such as injunctions, possession action or forfeiture proceedings.

Assigning the lease

We will respond promptly to requests to assign a lease and will ensure any costs incurred are appropriate and reasonable.

Staircasing Applications

We will respond promptly to staircasing applications from shared owners' i.e. applications to buy additional shares (tranches) in their homes.

Seeking landlord's permission

If the leaseholder requires our permission for something: typically to carry out an improvement,



take in a lodger or sublet the property, we will respond promptly and ensure that any costs recharged are appropriate and reasonable.

Seeking landlord's permission to sublet

Leases may prohibit subletting of a property without our permission. All Shared ownership leases prohibit sub-letting by the Shared Owner to protect public funds and ensure applicants are not entering shared ownership for commercial gain. However, it is accepted that, in exceptional circumstances, it may be reasonable to grant permission in the short term, as directed by the HCA. Circumstances and conditions when we may agree to the subletting of a property with a shared ownership lease are included in Appendix 1, Subletting Policy Statement.

Legislation and Guidance

Leasehold Management is guided by a legal framework including case law, regulations and sources of good practice. The primary legislation is still the Commonhold and Leasehold Reform Act 2002 but in January 2021, the Secretary of State, said leasehold reform would be tackled through two pieces of legislation and The Leasehold Reform (Ground Rent) Bill was introduced to the House of Lords in May 2021.

Management Services

We will provide management services to leaseholders in accordance with the terms of their lease. The provision of enhanced or additional management services will only be considered where:

1. The lease allows; or
2. We consider it to be reasonable and proportionate; and
3. Only following consultation with leaseholders and having regard to any impact on the management fee and/or service charge.
4. Services may also vary to reflect local circumstances. A summary of the usual management services is confirmed below:
5. To ensure that all tenants purchasing their property through the Right to Buy or Right to Acquire scheme are fully informed of their rights and responsibilities prior to sale.
6. To ensure that all applicants purchasing their property on a shared ownership basis are fully informed of their rights and responsibilities prior to sale.
7. To monitor leaseholder accounts to ensure early intervention and to support leaseholders experiencing difficulties in paying their accounts, including making them aware of payment options and sources of advice available including welfare benefits and debt counselling.
8. To encourage involvement in order that leaseholders can influence decisions taken by us particularly those that affect the services they receive.
9. To provide information and advice on all aspects of covenants within the lease.
10. To liaise with solicitors and other interested parties, to provide information in relation to service charges and breaches of lease in order to protect the interest of customers and ourselves.
11. To provide advice and guidance regarding safety in the home and to promote the importance of gas servicing by including a reminder on the annual statement.



12. To make regular estate inspections to ensure that estate services and maintenance are being carried out and service standards met.
13. To not unreasonably withhold permission for leaseholders to carry out improvements to their homes where the terms of the lease permit, providing the leaseholder can satisfy us that any works are not contrary to any existing planning permissions or property guarantees and will be carried out to an appropriate standard. We may specify reasonable conditions to granting permission for an improvement.
14. To provide advice and support to leaseholders who experience Anti-Social Behaviour where they live. (VIVID ASB Policy refers)
15. To work with other agencies to encourage healthy and safe living environments for leaseholders.

Management Fee

Where the lease agreement allows, we will charge a management fee for the services described above. We will review our management charges from time to time to ensure and demonstrate that value for money is being achieved for leaseholders.

Service Charges

The lease sets out the leaseholder's obligations to pay service charges in addition to any other charges e.g., management fee, rent (shared ownership purchases and/or where ground rent is charged). Service charges will be calculated as variable charges accompanied by statements of actual expenditure.

Service charges will include amounts payable for services, repairs, maintenance, improvements, insurance and audit fees in accordance with the terms of the lease and to the extent that the costs have been reasonably incurred. An administrative charge of 15% of the total cost of the services delivered will be added.

Service Charges for Major Works

Where we propose works that will require the leaseholder to contribute more than £250 or propose to enter into an agreement for works or services which will last for more than 12 months and will cost the leaseholder more than £100 in any 12-month accounting period, we will consult on the proposed works in accordance with provisions of the Commonhold and Leasehold Reform Act 2002 unless the First Tier Tribunal (Property Chamber) has agreed that consultation is not required.

Sinking Funds

We support the use of sinking funds (reserve funds), where confirmed in the lease, to enable provision to be made for high cost items of anticipated future expenditure. Sinking Funds will be reviewed every 5 years and contributions adjusted accordingly.

Insurance

We will ensure that the insurance responsibilities, as determined by the lease, are clear to both parties. Where we are responsible for insuring the structure of the property a written summary of



the insurance cover will be provided to the leaseholder on request.

Right to Manage

We recognise that the Right to Manage, as contained in the Commonhold and Leasehold Reform Act 2002, may apply to some leaseholders of flats but not to those leaseholders who occupy houses or bungalows. Qualifying leaseholders are required to form a Right to Manage Company limited by guarantee whose objects must include the acquisition and exercise of the Right to Manage. Once a company has been registered for a block no further registration may be made. All residential leaseholders in a block are required to be invited to join the company on the basis of one member per flat.

Collective Enfranchisement

We recognise that in some instances leaseholders of flats may exercise their right to buy the freehold of their building as confirmed by the Commonhold and Leasehold Reform Act 2002. The right can be exercised in any building of two or more flats where at least two thirds of the flats are on long residential leases.

Leaseholder Information and Advice

We aim to provide timely written information to all customers, including leaseholders, which is clear, concise and jargon free.

5. Statutory requirements

Appendix 2 refers.

6. Related policies

- Anti-Social Behaviour Policy
- Rent and Service Charge Policy
- Complaints Policy
- VIVID Procurement Regulations
- Income Management Policy
- Rent Strategy

7. Monitor and review process

This policy will be approved by the Executive and reviewed every year or earlier if required, for example, in the event of legislative or regulative changes or changes in the needs of the organisation. Compliance with the policy will be monitored by the Head of Neighbourhoods.

Author	Owner	Date approved	Review date
Derek Streek	Head of Neighbourhoods	September 2021	September 2022 or when new Act introduced



Appendix 1

SUB-LETTING POLICY – SHARED OWNERSHIP

This statement covers sub-letting within our shared ownership stock only. It does not relate to fully owned properties e.g. purchased through the Right to Buy.

Affordable housing is provided in order to provide a home to people who would otherwise be unable to afford to purchase or rent a property privately. The following extract is taken from the Homes and Communities Agency (HCA) Capital Funding Guide:

“Shared ownership leases must prohibit sub-letting by the leaseholder to protect public funds and ensure applicants are not entering shared ownership for commercial gain.”

It is therefore a condition of the shared ownership lease that subletting is prohibited and in normal circumstances consent will not be granted for sub-letting.

It is clear, however, that a complete restriction on sub-letting, prevents a Registered Provider (RP) like us from operating in a flexible manner, especially with the increased focus on sustainability homes and communities. The Guide, therefore, goes on to say:

“This stops the leaseholder having the right to sub-let, but allows the RP to agree to sub-letting arrangements if they choose to do so in exceptional circumstances.”

Criteria when responding to request for subletting

The Capital Funding Guide sets out criteria to be considered when responding to requests:

- Do the reasons for sub-letting genuinely stem from unavoidable need, and are not primarily for speculation or gain?
- Does the person(s) to whom the leaseholder sub-lets also satisfy the RP's criteria for shared ownership?
- Are the terms of the sub-let for a fixed period during which the shared owner will retain ownership of the lease?
- Does the leaseholder have the permission of the mortgage lender (if required)?

Reasonable circumstances may include the following:

- Work away from home on a temporary basis;
- Attending education/training away from home on a temporary basis;
- Caring for a sick relative;
- Prison term;
- Financial circumstances that prevent the sale of the home.

If the lessee is in negative equity the following circumstances may be added:

- New employment not within reasonable commuting distance;
- Overcrowding;
- Medical needs;
- Change in family circumstances (such as relationship breakdown).



Consent Conditions

Where the above criteria are met, we may also impose a number of other conditions. Examples may include:

- Maximum 12 month let – this will allow for review of the position at the end of this period – and may allow longer periods to coincide with the length of employment contracts or educational courses.
- Written approval from any mortgage lender.
- Lessee must demonstrate that no profit is to be gained from the rent charged i.e. must not charge more than the combined cost of their rent/service charge/mortgage (including any endowment premium) and letting fee – note that the lessee is likely to pay tax on the rental income and this may need to be considered when introducing such a calculation.
- Forwarding address and emergency contact numbers must be provided.
- The letting is managed through an approved lettings agency and contact details for the agent provided.
- Use of an approved assured shorthold tenancy agreement that contains relevant covenants from the shared ownership lease.
- Withdrawal of consent if lease conditions breached.
- Rent to be paid by lessee via direct debit.
- No breaches of lease terms and rent account is clear.

Appeal against decision

There is a right of appeal against any decision in line with our complaints procedure.

Management issues

We will consider the impact of giving consent on other leaseholders, particularly in high density housing or housing designed for specific client groups such as the elderly or disabled.

Relationship with the sub-tenant

We have no direct relationship with any sub-tenant and no right to deal or interfere between the leaseholder and his tenant.

Any action for a breach of lease conditions must be taken against the lessee for allowing the breach to occur.

If action is taken to regain possession of the property, the sub-tenancy will end with the termination of the head tenancy, in this case the shared ownership lease. If vacant possession is not achieved action may need to be taken in-line with procedures on squatters.

Enforcement

If we discover sub-letting without consent there are a number of options available to remedy the situation. These will depend on each individual circumstance and may be:

- Giving the Lessee a reasonable period to bring the sub-letting to any end;
- Allowing the Lessee to seek retrospective consent;
- Asking the Lessee to purchase the remaining shares in their property (where applicable);



- Taking legal action under the terms of the lease.

If the lease contains an absolute prohibition against sub-letting and you subsequently discover that a lessee has sub-let without authority, then the Lessee is in breach of covenant.

There are two legal remedies that the landlord can pursue:

- Forfeiture
- Possession under Housing Act 1988

We may take legal advice before deciding on the most appropriate course of action.

Appendix 2

Leasehold Management – The Main Legislative Provisions

Legislation	Principal matters covered
Landlord and Tenant Act 1985	Definition of a variable service charge. <ul style="list-style-type: none"> ➤ Definition of a tenant covered by the legislation. ➤ Reasonableness of service charges. ➤ Leaseholders' rights to consultation on repairs over a prescribed limit. ➤ The 18-month limit on charging for costs relating to service charges. ➤ Leaseholders' rights to inspect supporting accounts. ➤ Requesting information from a superior landlord. ➤ Failure to comply with these requests. ➤ Leaseholders' rights in relation to insurance matters. ➤ Recognising residents' associations. ➤ Rights of residents' associations to be consulted about the employment of managing agents. ➤ Right of First Refusal.
Landlord and Tenant Act 1987	Variation of leases. <ul style="list-style-type: none"> ➤ Obligation for private landlords to set up trust funds for service charge monies. ➤ Demands for rent and service charges must include landlord's name and address.
Leasehold Reform, Housing and Urban Development Act 1993	Leaseholders' rights to carry out a management audit. <ul style="list-style-type: none"> ➤ Leaseholders' rights to collective enfranchisement. ➤ Power of the Secretary of State for the Environment to approve Codes of Practice. ➤ Increased role for Leasehold Valuation Tribunals.
Commonhold and Leasehold Reform Act	Right to Manage

<p>2002</p>	<p>New Right to Manage, which will enable leaseholders to take over the management of their building without proving fault on the part of their landlord or needing to pay compensation.</p> <p>Collective Enfranchisement by leaseholders of flats Collective enfranchisement made easier for leaseholders of flats – (amends Chap. 1 Part 1 Leasehold Reform, Housing and Urban Development Act 1993).</p> <p>New Leases for tenants of flats Lease extensions and new longer leases made easier for leaseholders of flats (amends Chap. 2 Part 1 Leasehold Reform, Housing and Urban development Act 1993). Removes residence requirement & simplifies rules on qualifying leases, marriage value & Crown leaseholders.</p> <p>Enfranchisement of leasehold houses Eases the ability of leaseholders to buy the freehold and obtain lease extensions – similar rights to those for flat leaseholders. Special rules apply to leases of houses bought under the Right to Buy. Some other exclusions including in rural locations (amends Leasehold Reform Act 1967 c.88). Removes residence requirement & simplifies rules on qualifying leases, marriage value & Crown leaseholders. Abolishes low rent test. Excludes some business tenancies and some rural properties.</p> <p>Service charges and administration charges Definition of service charge extended to include improvements and allow it to be extended further by regulation.</p>
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	<p>Service charge consultation requirements widened and revised.</p> <p>Major works prescribed amount to be increased and extended to long-term contracts.</p> <p>Revised arrangements for accounting for leaseholders monies:</p> <p>Leaseholders given right to an audited statement of account within 6 months of the end of the accounting period without need to request it.</p> <p>In certain circumstances leaseholder can withhold payment of service charge.</p> <p>s152 Notice to accompany demands for service charges.</p> <p>Timescale to inspect receipts invoices reduced from 2 months to 21 days. Leaseholders can ask for copies of receipts/invoices to be sent to them for a fee.</p> <p>Individual scheme bank accounts required.</p> <p>Notice of leaseholders' rights to accompany demands for service charges.</p> <p>Administration charges (e.g. charges for granting approvals) specifically made challengeable on grounds of reasonableness.</p> <p>Requirement that charges levied under estate management schemes are subject to a test of reasonableness determined by the LVT.</p>
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	<p>Variation of leases Extended and clarified grounds for seeking lease variations.</p> <p>Insurance Changes to provisions relating to requests for insurance information.</p> <p>New rights for leaseholders of houses with regard to insurers.</p> <p>Ground rent Requirement on landlords to give prescribed notice when demanding ground rent.</p> <p>Forfeiture of leases of dwellings Protection against forfeiture increased.</p> <p>Crown application Extension of new and existing rights to Crown leaseholders.</p> <p>Leasehold Valuation Tribunals Extended jurisdiction of LVTs to hear any dispute over liability to pay service charges and the reasonableness of the works or charge.</p> <p>Provisions in relation to constitution and procedures of LVTs.</p> <p>Permissions for appeals against LVT determinations to the Lands Tribunal.</p> <p>Implementation of recommendations of Financial and Policy Management Review in respect of LVTs.</p>
<p>Housing Act 1980</p>	<p>Limitation of RTB leaseholders' liability to pay for structural defects to the first 10 years.</p>
<p>Housing Act 1985</p>	<p>Right to Buy for local authority and non-charitable housing association tenants.</p> <ul style="list-style-type: none"> ➤ Requirements of the sales process.

	<ul style="list-style-type: none"> ➤ Limitations of leaseholders' liability to pay service charges in the first 5 years. ➤ The right to a loan for leaseholders under Housing (Service Charge Loans) Regulations 1992.
Housing Act 1996	<p>Right to Acquire for tenants of Registered Providers.</p> <ul style="list-style-type: none"> ➤ Limitation on when forfeiture for non-payment of service charges can be sought. ➤ Increased role for Leasehold Valuation Tribunals. ➤ Increased scope for collective enfranchisement. ➤ Powers for Secretary of State to require reduction or waiver of service charges in certain circumstances.
Property Misdescriptions Act 1991	Creates offence of providing misleading advice or information to purchasers.
Legislation	Principal matters covered.
Consumer Protection Act 1987	Landlord's obligations not to give artificially low estimates of service charges.
Housing and Planning Act 1986	Obligation for valuers to take into account 5 year estimates for service charges.
Financial Services and Markets Act 2000	Rules governing the provision of investment advice.
Law of Property Act 1925	Forfeiture provisions and notices to mortgagees regarding relief from forfeiture.
Arbitration Act 1996	Sets out powers of Arbitration Tribunals.