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## 1. Purpose and scope

- 1.1 Lewisham Council's Housing Service provides a housing management service for tenanted, leasehold and shared ownership properties, and is responsible for ensuring compliance with lease covenants. Enforcing the terms of the lease includes taking action where there are breaches of those terms, including but not limited to:
- the recovery of money owed by leaseholders or shared owners for services and works
  - where anti-social behaviour has been perpetrated
  - where alterations are carried out without landlord consent
  - where a leaseholder or shared owner has failed to keep the demised premises in a good state of repair
- 1.2 The primary aim of this policy is to ensure that any breach of lease is remedied, and that we recover rent, service charge debt and any associated costs. Our preference will be to work with leaseholders and shared owners to accomplish this in a way that sustains the lease.
- 1.3 This policy relates to Lewisham Council's leaseholders and shared owners. It outlines the circumstances in which we may seek to enforce the terms of a lease, including actions requiring the authority of the Court.

## 2. Context

- 2.1 Lewisham Council's Housing Service directly manages approximately 5,300 leasehold properties, of which around a third are currently known to be sub-let. We have also recently developed properties which have been sold with a shared ownership lease. While this policy broadly applies to both tenure, there are specific areas where the shared ownership lease differs to the other lease that is in wider use. (For further information see section 4).



- 2.2 Our Housing strategy reminds that our vision is 'for everyone to have a safe, secure and genuinely affordable home'. It commits to 'working to make the delivery of housing services in Lewisham a more transparent and open process'. This includes the way we manage services for leaseholders and communicate with them.
- 2.3 Funding for the works and services we provide assumes that contributions due from leaseholders are fully recovered. Any leasehold or shared ownership debt decreases the amount of funds available to carry out works and deliver services.
- 2.4 Lewisham Council have a policy of full cost recovery from leaseholders for their proportion of the cost of services and works as applicable to their building and estate, where these are properly due. This is subject to any decisions made under the Social Landlords Discretionary Reduction of Service Charges 1997 & Florrie's Law (The Social landlord's reduction of service charges: mandatory and discretionary directions - 2014).
- 2.5 **Lease Provisions**
- 2.5.1 Leases granted by the Council under Part V Housing Act 1985 (the Right to Buy) contain provisions for leaseholders to contribute towards repair, maintenance and services provided to their building and estate by way of a service charge.
- 2.5.2 The leaseholder covenants (under the terms of the lease) to pay service charges, keep the demised premises in repair and not to permit anything that may be a nuisance to the lessor and or other residents in the building.
- 2.5.3 The lease further provides for service charges to be paid within 21 days of the demand being served. The Council recognises that this is not practical for some leaseholders and has made more generous payment provisions.
- 2.5.4 The lease contains a forfeiture clause. Forfeiture effectively brings the lease to an end. The Lessor (the Council) may forfeit the lease in the event of the leaseholder failing to comply with terms of the lease (i.e. failing to pay service charge, other breach of lease).
- 2.6 This policy has been developed and reviewed in line with legislation and good practice including 'Practice direction – pre-action conduct and protocols'.

### 3. Policy statement

- 3.1 Lewisham Council will always work with a leaseholder or shared owner, and where appropriate a lender, to find ways to sustain the lease. Our main aim is to remedy the breach, including recovering debt, rather than recovering the property.
- 3.2 In addition to complying with all legal requirements to notify a leaseholder or shared owner of any obligation or breach of terms, we will seek to communicate with them at an early stage and throughout any period that their lease is in breach. The aim of this is to achieve an early and effective resolution, without resorting to proceedings, where this is still possible.
- 3.3 We will offer solutions using tools that are available to us, based on our knowledge of a leaseholder's circumstances. We will encourage the leaseholder to supply us with any



information of circumstances that they wish to be taken into account when action is being taken for a breach, including vulnerability and extreme hardship.

### 3.4 Forfeiture and Charging Orders

3.4.1 Lewisham Council will use forfeiture or enforcement of a charging order by way of an order for sale when this has been assessed as necessary. However, we will only ever look to do this as a last resort after other support has been given or offered.

3.4.2 A forfeiture order or an order for sale are both subject to legislative requirements and require the authority of the Court. When such decisions are made, any lenders will be notified. Such action will also be specifically authorised by Lewisham Council's Head of Home Ownership, or equivalent level.

3.4.3 We require the approval of the Housing Director of Resident Engagement and Services on any case where enforcement of a charging order or forfeiture action is being proposed. The Director will be provided with a summary of the case, which details all actions taken to avert the need to foreclose or forfeit the lease as well as the personal details and circumstances of the leaseholder.

## 4. Shared owners – differences and exceptions

**The information in this document applies to both leaseholders and shared owners. However, for shared owners, note the following differences or exceptions:**

**Section 2.1** - Lewisham Council also manages shared ownership properties, of which the shared owners are prohibited from subletting.

**Section 2.4** - Lewisham Council have a policy of full cost recovery from shared owners for their proportion of the specified rent, ground rent (if demanded), cost of services and works as applicable to their building and estate, where these are properly due according to their lease.

**Section 2.5** - The shared ownership lease has, for the most part, different but similar provisions to our standard lease – including repair provision, permission for alterations etc. In all instances, the lease should be checked and followed in terms of identifying and responding to a breach.

## 5. Monitoring and review

- 5.1 The policy will be reviewed on a regular basis and in response to changes in legislation, regulatory guidance, good practice or any other relevant changes.
- 5.2 This policy will be implemented through internal procedures which require decisions to be reviewed, authorised and recorded at key points, to ensure that the policy is being implemented consistently and fairly.
- 5.3 The Council will monitor this work through its Housing Executive team.



## 6. Legislation and regulation

Relevant legislation and regulation includes but is not limited to:

- Law of Property Act 1925
- Landlord and Tenant Act 1985
- Housing Act 1985
- The Social Landlords Discretionary Reduction of Service Charges (England) 1997
- Commonhold and Leasehold Reform Act 2002
- Housing and Regeneration Act 2008
- The Social landlord's reduction of service charges: mandatory and discretionary directions – 2014
- RICS code

## 7. Equality, diversity, and inclusion

- 7.1 The development of this policy has taken into account all protected characteristics as outlined in the Equality Act 2010. While it is sometimes necessary to provide information in a prescribed way to meet a legal requirement, we will always aim to communicate information in an accessible and understandable way to assist the leaseholder or shared owner to understand what is required to rectify any breach.
- 7.2 Lewisham Council will not enforce charging orders or forfeiture proceedings if an affected leaseholder or shared owner is elderly and/or has known vulnerabilities. This includes where a leaseholder is reliant on any income from the property to fund residential care, home care paid to an external provider, or for alternative accommodation where the property is not physically suitable for their needs.
- 7.3 The Council provide a variety of options to enable leaseholders or shared owners to pay their annual and major work service charges, and to provide advice to them on the options available. This includes information and advice on equity release and assistance with applications to the DWP for housing costs.

## 8. Communication

- 8.1 Lewisham Council will communicate with a leaseholder or shared owner wherever action is to be taken, and we will provide information regarding the circumstances in which action will be undertaken.
- 8.2 This policy will be published on the Lewisham Council's website. Key information is included in associated policies and the leasehold handbook.

## 9. Related documents

Related documents include but are not limited to:

- Alterations and improvements policy
- ASB policy
- Required access policy
- Pets policy



# Housing Services

## Breach of Lease Policy

- Repairs policy
- Pest control policy
- Fire Safety policy
- Debt Management policy
- Leasehold guide

<b>Replaces:</b> Breach of Lease policy 2020 (Lewisham Homes) Minor updates to reflect the return of landlord services previously managed by Lewisham Homes to Lewisham Council and include reference to Shared ownership tenure	
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<b>Policy owner:</b> Head of Home Ownership Services	