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## 1. Purpose

- 1.1 Lewisham Council owns, lets, and manages residential properties for which it collects rent, service charges, and other housing related costs.
- 1.2 This policy sets out how we approach the collection and recovery of charges in a way that demonstrates good financial management, supports financial inclusion, and meets our contractual, legal, and regulatory responsibilities.
- 1.3 This policy supports Lewisham Council's wider debt recovery policy and practices. Our income recovery arrangements are consistent with standing orders and financial regulations.
- 1.4 When developing and reviewing this policy and our associated procedures we have done so in line with good practice in the housing sector. The process we follow for recovering rent arrears, for example, has been modelled against the Pre-action protocol for possession claims for Social Landlords.

## 2. Key principles and approach

- 2.1 There are some general principles we will apply throughout our whole approach to income collection and debt management, and which have shaped this policy and the procedures that support it. This includes well-managed income collection processes to prevent arrears as well as prompt action to manage the repayment of debt.
- 2.2 We will
  - Aim to keep charges as low as we can to deliver good quality services



- Provide support and advice to tenants, leaseholders, and shared owners to enable them to understand and meet their payment responsibilities and sustain their tenure
- Work in partnership with residents, partners, and support providers, to help residents to maximise their income, and prevent arrears occurring or continuing to grow
- Where appropriate, have in place arrangements to exchange information with other council departments; and consider where joint recovery action may be appropriate
- Ensure all action is completed to timescale and in line with agreed standards
- Be transparent, firm, and fair in the way we communicate and administer this policy. Where debts arise, we will take consistent action in line with this policy and our legal and contractual obligations.

### 2.3 Individual circumstances

We will:

- Engage proactively with residents, encouraging them to contact us promptly regarding any change in circumstances or difficulties meeting required payments
- Regularly check contact details are up-to-date and ensure a record of contact is captured
- Check for signs of vulnerability and refer or signpost to appropriate support and advice
- Ensure action to recover arrears takes into consideration any special circumstances unique to the resident's case, whilst following our agreed policies and procedures
- Contact residents who fall into arrears using a range of methods where appropriate, such as in writing, by telephone, text, email, or home visits.

### 2.4 Promoting a payment culture

- At the sign up of new tenants, during the Right to Buy process, and on the completion of a house purchase for shared owners and leaseholders, Lewisham Homes will promote a rent and service charge payment culture, clearly explaining the methods of payment available
- Lewisham Homes will provide all those liable for a charge with clear and prompt information on the amounts and due dates
- The cost of collection of sums due will be minimised by promoting automated payment methods like Direct Debit wherever possible
- Most monies owed to Lewisham Council (Housing Services) are priority debts, we expect repayment of these are given priority over most other debts
- Where we are making a payment to a resident, we will check for any outstanding debts owed to us by the resident. Where such debts exist, the resident will be advised where the payment will be used to offset the debt.

### 2.5 Rechargeable Costs & Sundry Debts

Some forms of expenditure are rechargeable to a tenant or leaseholder or shared owner. This may include a rechargeable repair or service or legal cost. We will ensure all charges are clearly identified in any recovery action taken. Where someone fails to respond to our contact regarding such debt, we will follow our agreed processes which may include legal action, and where applicable referral to a debt collection agency. For more information see the Rechargeable costs policy.



### 3. Tenants

#### Information in this section applies specifically to tenants

- 3.1 Timescales before and between action will be kept to a minimum, whilst adhering to the 'pre-action protocol' (see 1.5), ensuring action is taken promptly to prevent debt increasing.
- 3.2 If payments cease, or a tenant breaks an agreement, Lewisham Council will move on to the next approved course of action.
- 3.3 To ensure tenancies are not put at risk, we will advise tenants when making payments for multiple debt to us, to allocate these to current rent arrears first before paying other debts.
- 3.4 Eviction will be a last resort for residents who have been unable to rectify their arrears despite intervention and assistance. Lewisham Council will oppose applications to suspend an eviction unless there are mitigating circumstances.

**Note:** Eviction will not be pursued if the arrears on the account relate to former tenancies. Debts will continue to be pursued as Former tenant arrears following eviction.

#### 3.5 Former tenant arrears

- 3.5.1 We will ask for a forwarding address from a vacating tenant to ensure any debit, or credit, can be communicated and arrangements made to clear.
- 3.5.2 We will make efforts to trace residents who have left the tenancy with an outstanding debt. Such tracing will be undertaken by a Debt Collection Agency who will be expected to work to legislation and good practice.
- 3.5.3 Debt recovery will take the debtors personal financial circumstances into account, in order to make a realistic arrangement to pay off the arrears.
- 3.5.4 Former tenant debt write off will be a last resort after all mechanisms for recovery have been exhausted and the debt is irrecoverable or uneconomical to pursue.
- 3.5.5 In the case of the death of a tenant, the next of kin will be notified of any outstanding debt as a claim on the estate. Lewisham Council will ensure that correspondence will be sympathetic to the circumstances. If there is no next of kin, the debt will be prepared for write off. Lewisham Council will not charge rent for the two weeks immediately after a tenant's death, where there is no Successor.

#### 3.6 Write offs

- 3.6.1 Write off of debt is carried out as a last resort and is in line with Lewisham Council's Standing Orders and financial regulations and procedures.
- 3.6.2 Recommendations for the write off of debt are made when all avenues for recovery have been exhausted and will be considered for the following reasons (this list is not exhaustive):



- The debt is statute barred.
- The debt is not upheld in a Court as due.
- The debt is uneconomical to pursue.
- The individual cannot be traced.

3.6.3 When a debt is written off it does not necessarily mean this debt cannot be collected at a future date. In all cases should the former tenant contact the Council in the future, payment will be requested.

## 4. Shared owners

4.1 Lewisham Council own and manage a number of shared ownership properties. Shared owners pay rent\* on the share of the property LBL owns, as well as service charges and ground rent depending on the term of the lease. Shared owners occupy the property for the term of the lease - 99, 125 or 999 years. They have the option to purchase additional share in the property through a process called staircasing until they own 100% of the equity. At this point, the property is no longer a shared ownership property, and will usually become a leasehold or freehold property.

**\*Rent:** For Lewisham Council's shared ownership there is no tenancy. The leasehold interest granted qualifies as a long lease. The monthly payment under a shared ownership lease is set to reflect the fact that the leaseholder has not paid the full 100% premium to purchase the lease. The monthly payment is referred to as 'rent' in the lease, but is not the same as a more traditional rent where the landlord retains the main legal interest in the property. Correspondingly some of the tools used to manage and recover debt are different for this type of tenure.

- 4.2 Rent and Service charge is taken as one payment on each calendar month.
- 4.3 Shared owners pay a full service charge, and not one that is in proportion to the share they own.
- 4.4 For more information, please see section 5 below, which applies to shared owners and leaseholders. Where a point is specific to shared owners we state this, such as the payment of rent, and possession proceedings for rent arrears.

## 5. Leaseholders and shared owners

**Information in this section applies to leaseholders and shared owners – see also the Breach of Lease policy**

- 5.1 Lewisham Council manage leasehold properties resulting from sales including under the Right to Buy, or from the leasehold interest being re-assigned. We also manage shared ownership properties (see section 4). Non-payment of charges and costs may be pursued as a breach of covenant or a breach of the conditions of the lease.
- 5.2 We aim to prevent leaseholders and shared owners from accruing serious debts, which could require action from a mortgage lender, and lead to a charge being placed on the property or result in repossession. We are committed to working with the leaseholder, the relevant mortgage lender and in accordance with best practice, and will act reasonably, taking into account the individual circumstances of the leaseholder, in any consideration of enforcement proceedings.



- 5.3 We will provide clear details of charges due within the appropriate timescales. This will help leaseholders and shared owners to understand and plan for their responsibilities under the terms of the lease to pay service charges, rent (in the case of Shared owners), and any associated costs including the costs of the provision of works and services to their building and estate.
- 5.4 We will regularly provide information to remind shared owners and leaseholders of payment options and the availability of assistance. Non-payment of charges will be dealt with in line with approved processes including our procedure for Major work and Service Charge collection.
- 5.5 We will contact leaseholders or shared owners by a range of methods (see 2.3) to explore options for repayment, including a voluntary agreement to recover the debt, before taking legal action.
- 5.6 We will not take legal action without giving a clear explanation of the reasons for the action and adequate warning of the proposed course of action and the consequences. This will include a recommendation the leaseholder/shared owner seeks advice. The means of debt recovery are legal action by:
- Application to the small claims court via Money Claims On-Line (MCOL)
  - Application to the First Tier Tribunal (FTT)
- 5.7 All Councils are required to grant loans under the Right to a Loan Regulations. Service charge loans will be offered in line with the current regulations to those who are within ten years of the lease being granted. All service charge payers will be provided with information on eligibility and the terms and conditions of any loan granted and will be made aware of the consequences of defaulting on loan payments.
- 5.8 All arrears in respect of leasehold and shared ownership debt must be paid on sale or transfer of the property. In the event of former leaseholders or shared owner's arrears, the balance will be transferred to the new owner's account and the new owner will be pursued for payment of the debt.
- 5.9 This policy allows for a degree of flexibility in individual cases. We encourage shared owners and leaseholders to make early contact, to help us investigate what appropriate action and assistance is possible on a case-by-case basis, including where there is extreme hardship. (For example, to provide relief and to help a resident leaseholder sustain their home, one option may be to take a charge out on the property, with the debt and interest incurred on the debt being repaid when the property is subsequently sold).
- 5.10 Forfeiture of lease will only be considered as a last resort where there is no alternative action for us to take. Action to forfeit the lease will not be taken if a leaseholder or shared owner is withholding charges while a reasonable challenge or dispute is being resolved. We will notify any known mortgagor of intended action to forfeit a lease.

### **5.11 Payment write-off**

Each leaseholder or shared owner's debt position will be considered carefully before any decision to write off debt. The main reasons for write off of such debt would be:

- For legal reasons (e.g., First Tier Tribunal or court ruling)
- The debt could not be collected as it was not raised according to legislation



- The debt becomes statute barred
- The quality of works undertaken was found not to be to an acceptable standard
- Where the debt is from a former leaseholder who is untraceable, and the debt cannot be recovered from the current leaseholder.

### 5.12 Refunds

Where a credit is on an account:

- A leaseholder or shared owner may request a refund where appropriate
- We will consider all requests for refund of surplus credit on accounts on a case-by-case basis
- We will offset recoverable debt from a credit balance before issuing a refund, such as a former tenant arrears, court costs, rechargeable repairs or returning credit balances

## 6. Garages

- 6.1 At the commencement of the licence for a garage, we will inform the licence holder of their responsibility to make regular payments in advance. We will take steps to terminate the licence where arrears have built up on a garage account.
- 6.2 No-one is permitted to join the garage waiting list or let a garage if they are in breach of a tenancy/lease condition including rent or service charge arrears. Where we are taking legal action to recover payments on a rent or service charge account, we will check if they also have a garage account with us, and if so, will arrange for the garage licence to be terminated.
- 6.3 For more information see Lewisham Council's Housing Services Garage policy.

## 7. Legislation and regulation

- 7.1 Relevant legislation and regulation includes but is not limited to:
- Pre-Action Protocol for Possession Claims by Social Landlord
  - Housing Act 1985
  - Landlord and Tenant Act 1987
  - Housing Act 2004
  - Equality Act 2010
  - Data Protection Act 2018
  - Coronavirus Act 2020
  - Debt Respite Scheme (Breathing Space) guidance for creditors

## 8. Equality, diversity, and inclusion

- 8.1 We conducted an Equality Impact Assessment in the preparation of this document. The policy takes into account our legal obligations, and is not expected to have an adverse impact on any protected characteristic for an individual or group, and does not change policy or practice, but is designed to explain current practice and provision clearly.



8.2 As part of the assessment, we considered that:

- We are able to offer information in large print
- We offer interviews where we can use interpreting
- We flag where particular circumstances and vulnerabilities are known, and an agreed solution is in place. For example, communication with a person who has been given authorisation to act in a resident's behalf, such as Power of Attorney.

## 9. Monitoring and controls

- 9.1 This policy is implemented by approved and monitored internal processes and procedures. Staff will receive regular training to work to these procedures consistently and will be monitored on the basis of this.
- 9.2 Annual targets for the recovery of current tenant rent arrears are set and agreed by Lewisham Council. Performance against targets is monitored on a monthly basis to our Executive Team. Targets for the collection of garage arrears are set and monitored by the Head of Income & Support.
- 9.3 Annual targets are set for the collection of leaseholder service charges and the collection of the costs of major works to leaseholder properties. These targets are also monitored monthly, and are likewise monitored for shared owners.

## 10. Communication and consultation

10.1 We will communicate this policy in the following ways:

- On Lewisham Council's website
- New tenants, leaseholders, and shared owners will be signposted to it as part of our sign-up processes
- To new and existing staff through training and team briefings, and through agreed procedures made available to staff

10.2 We aim to resolve any disputes in relation to payments and debt recovery at the earliest possible opportunity and will ensure debtors are fully aware of the ways in which they can contact us in order to discuss such disputes. Where part of a debt is disputed, we will endeavour to collect the undisputed amount while dealing with the disputed debt.

10.3 Complaints regarding the way we apply this policy, will be considered in line with our Housing Services complaints policy and processes.

## 11. Related documents

11.1 Related documents which support and complement this policy include but are not limited to:

- Rechargeable costs policy
- Breach of lease policy
- Garage policy
- Staircasing Policy



# Housing Services

## Debt Management Policy

<b>Replaces:</b> Debt Management Policy 2022 (Lewisham Homes) Minor updates to reflect the return of landlord services previously managed by Lewisham Homes to Lewisham Council	
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