

**Nuneaton
&
Bedworth**



United to Achieve

Leasehold Management Policy

Housing Communities and Economic Development

POLICY MANAGEMENT

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Leasehold Management Policy

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LEASEHOLD MANAGEMENT POLICY

1.0 Introduction

- 1.1 This policy statement outlines Nuneaton and Bedworth Borough Council's approach to meeting its obligations to leaseholders in accordance with the terms of their lease agreements and the relevant legislative requirements.

2.0 Purpose and Scope

- 2.1 This policy explains how the Council will meet its responsibilities to leaseholders under the terms of their lease and to provide a good standard of services in the management and maintenance of their homes. In addition, it explains the service charges that leaseholders are liable to pay as well as ensuring that all leaseholders understand their rights and responsibilities.

3.0 Definitions

Leasehold Management - Covers the range of services provided by the Council to those who own their property on a leasehold basis.

Leaseholder Is a person who has purchased a property on a lease basis from the Council.

Freeholder – this is the Council as we retain the full ownership of the piece of land or building

Annual Service charges - Are defined under section 18 of the Landlord and Tenant Act 1985 as “an amount payable as part of or in addition to the rent (a) which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or the landlord's costs of management (b) and the whole or part of which varies or may vary according to the relevant costs”.

Major qualifying works - These are works that are usually planned and necessary to maintain the structure/fabric of the building. In some circumstances these could be carried out as emergency works in the event of storm damage which may not be covered by the buildings insurance policy.

Enfranchisement - Is a group (block) 'a right' for leaseholders to buy the freehold of the building they live in subject to meeting certain conditions known as 'The Right to Manage'.

Lease agreement – This is the binding contract between Nuneaton and Bedworth Borough Council and the leaseholder, which outlines rights, responsibilities, liabilities and duties for both parties.

4.0 Leasehold Management

- 4.1 The Council will comply with legislation relating to its leasehold management and service charges calculation.
- 4.2 We expect that leaseholders will be provided with a copy of their lease by the Solicitor acting on their behalf, when they purchased their home and, are made fully aware of the covenants and service charge implications. If however, the leaseholder requires a copy of their lease, this can be obtained in various ways, for example from the Land Registry or from the Council subject to paying the relevant noted fee for this service.
- 4.3 We will collect from leaseholders all service charge monies due from them in accordance with the terms of their lease and in considering our Corporate Debt Policy
- 4.4 Where a leaseholder is experiencing financial hardship, we will signpost them to appropriate agencies who provide financial advice and guidance. The Council recognises financial hardship and therefore provides a variety of payment options for leaseholders.
- 4.5 We will provide new leaseholders with a copy of the Leaseholder's Handbook, which contains key information and advice regarding the services they can expect to receive.
- 4.6 We will issue relevant and appropriate Section 20 consultation notices, in compliance with relevant legislation, to leaseholders in relation to major qualifying works or when entering into long term service agreements.
- 4.7 If Pets/Animals are to be kept within the Property, the leaseholder should ensure they obtain written permission from the Council. Requests will be dealt with in accordance with the Pet Policy.
- 4.8 Where gas central heating or gas appliances are installed within a leasehold property, it is mandatory by law that these are serviced annually where the property is sub-let. The leaseholder in effect becomes a landlord and a duty under The Gas Safety (Installation and Use) Regulations 1998 Act, to carry out an annual service of all such appliances will apply. Leaseholders should consider the safety of themselves along with other residents in blocks of flats ensuring appliances are safe.

5.0 Leasehold Improvements

- 5.1 Leaseholders are responsible for maintaining and repairing the internal parts of their home including maintenance of fixtures and fittings.
- 5.2 We are supportive of leaseholders wishing to improve their homes. Leaseholders are required under the terms of their leases to obtain written consent from Nuneaton and Bedworth Borough Council to make any alterations or improvements. Where permission is refused, this will be confirmed in writing with the reasons for the decision. Requests for improvements will be considered in conjunction with the Tenant Alterations and Home Improvement Policy. Work should not commence until consent has been granted.
- 5.3 Leaseholders will not be given permission for any alterations or improvements that:-
- Make the property or part of the property dangerous or unstable;
 - Creates a risk to the health and safety of others;
 - Encroaches upon land which is not defined within the leaseholders lease agreement
 - Impacts on the structure or changes the appearance of the building or the shared or communal parts in any way;
 - Prevents light or air reaching other residents;
 - Affects the legal rights of other residents, for example a right of way;
 - Reduces access to other neighbouring properties;
 - Invalidates the Council's building insurance;
 - Makes maintaining neighbouring properties more difficult or expensive.
 - Result in the lease floor plan being changed either by removal of walls or change of use of rooms
- 5.4 Any written consent given will be on condition that the leaseholder has provided us with details of the proposed works and subject to meeting conditions, such as obtaining Planning Permission and/or Building Regulations.

- 5.5 In relation to a flat or a maisonette above ground floor, a suitable floor covering must be laid, with adequate underlay or insulation underneath it, to make sure that any noise, including normal day -to -day noise, could not and does not cause a nuisance to neighbours.
- 5.6 The future maintenance of any improvements or alterations to the property will be the responsibility of the leaseholder. Should there be any damage caused to adjacent properties due to any works carried out, the leaseholder will be responsible for making good and for any costs incurred for putting it right.
- 5.7 The loft space within a block of flats remains the property of the Freeholder/Council and should not be used or accessed by any tenant or leaseholder for any purpose including the storage of goods or conversion extensions.
- 5.8 Retrospective permission for alterations that affect the structure/fabric of the building or appearance should be requested to Nuneaton and Bedworth Borough Council. A charge will be payable for this, as advertised in the Fees and Charges Corporate document
- 5.9 Nuneaton and Bedworth Borough Council are responsible for all communal areas including shared cupboards within the building. Some cupboards may be available to utilise, however, this will be at the discretion of Nuneaton and Bedworth Borough Council. The leaseholder would need to obtain written permission from the Council prior to accessing and using.

6.0 Repairs and Maintenance

- 6.1 Nuneaton and Bedworth Council will maintain the external fabric/structure of the building and shared communal areas in accordance with lease responsibilities and obligations. This will include the upkeep of the building and under the terms of the lease, leaseholders will then be charged for their share of relevant costs incurred where appropriate.

7.0 Section 20 Consultation

- 7.1 The Council will ensure that leaseholders are fully consulted in compliance with Section 20 of the Landlord and Tenant Act 1985 (as amended). This requires consultation with leaseholders on proposed qualifying major works or improvements for which they are required to pay and proposed changes to contracts for long-term agreements.
- 7.2 We will issue any relevant information on a Section 125 notice relating to a Right to Buy and which considers the five-year timeframe.

8.0 Subletting

- 8.1 Leaseholders may be able to sublet their property, subject to written consent from Nuneaton and Bedworth Borough Council. They are advised to refer to their lease for clarification.
- 8.2 If a leaseholder is authorised to sublet their property, they will become a landlord and will be subject to the legislation and regulations imposed on landlords.
- 8.3 The leaseholder will remain ultimately be responsible for :
- Payment of service charges
 - Providing up to date contact details, details of their tenant and any management company (if applicable) in case of emergencies or problems caused by defects within the property;
 - Ensuring that the property does not become overcrowded by allowing other people to live or stay on a permanent/long stay basis if there is not adequate bedroom space;
 - Obtaining consent from their mortgage company to sublet, (where applicable);
 - Servicing the gas supply and appliances in the property annually and providing their tenant with a copy of the safety check certificate;
 - Installing carbon monoxide detectors and smoke detectors;
 - Providing their tenant with an Energy Performance Certificate;
 - Ensuring that the leaseholder's tenant does not breach the conditions of the lease. We will take legal action against any breach of conditions, which are not resolved.

It is noted that the above list is not exhaustive of all scenarios.

9.0 Neighbourhood Walkabouts and Garden Maintenance

(This section is applicable to leaseholders who have been allocated a garden space within the lease agreement, and not communal garden spaces)

- 9.1 Neighbourhood and communal walkabouts are held during the year. Residents and leaseholders can take part and inform officers of specific issues relating to their blocks and area.

- 9.2 Where a garden is allocated to a leaseholder within their lease agreement, the leaseholder is required to ensure the area is maintained to a reasonable standard (even if they sublet the property). Should the garden area become overgrown and neglected, the Council will notify the leaseholder and provide them with a reasonable timeframe to undertake the relevant maintenance. In the event that the leaseholder fails to take action the Council will appoint a contractor to undertake the relevant maintenance and the costs associated for their works will be recharged to the leaseholder.
- 9.3 It is reasonable to expect a leaseholder to maintain their allocated garden themselves or to appoint someone else if they are not keen or physically able to undertake gardening themselves. The minimum to expect from any leaseholder or their tenant living in the property, is that the garden should be kept litter free, reasonably tidy and not overgrown. If there are hedges/trees, they should be kept trimmed to a reasonable height and not allowed to encroach onto a neighbour's property or public area and the grass should be cut regularly to prevent it from becoming overgrown.
- 9.4 Boundaries are allocated and noted within either the lease agreement or title deeds. Boundaries which are assigned to the leaseholder are also expected to be maintained and renewed when necessary by the leaseholder.
- 9.5 Communal Gardens will be maintained by the Council utilising their appointed Grounds Maintenance Contractors. Any issues surrounding this maintenance should be reported to the Council in the first instance for the relevant progression.

10.0 Anti-Social Behaviour

- 10.1 Should a leaseholder be subject to incidents of anti-social behaviour with neighbouring residents or their tenants, they are advised to report these concerns directly to Nuneaton and Bedworth Borough Council. These incidents will then be dealt with in accordance with our Anti-Social Behaviour policies, procedures and Lease agreement.
- 10.2 The Council does have access to mediation services and can offer these services to assist in the resolution of such matters.

11.0 Breaches of the Lease

- 11.1 Nuneaton and Bedworth Borough Council will take appropriate action, which may include escalation to legal action, whenever we become aware that a leaseholder is in breach of the terms of their lease. This will also apply if the property is sub-let.

Such breaches could include but are not limited to:

- Unapproved alteration or improvement works which have a detrimental effect on the structures integrity;
- Improper use of property including illegal activities including substance dealing/use or any other illicit activities;
- Failure to pay service charges;
- Incidents of anti-social behaviour associated from either the occupiers residing in the property and their family or visitors or the leaseholder themselves. Where the Council has suitable evidence to support the anti-social behaviour incidents then a breach will be escalated.
- Failure to maintain the property or cause damage, neglect or health and safety concerns which has an impact to their individual leasehold property as well as neighbouring properties or the block as a whole.
- Failure to allow Council employees, contractors or agents to access the property following suitable notice to undertake essential maintenance or repair works.
- Failure to notify the Council within one month following a notice of transfer, assignment or other devolution, or under lease or charge of or upon the property to give notice thereof in writing and provide the Council with such assignment paying the relevant noted fee.

11.2 If the leaseholder does not remedy the breach of their lease, we may consider applying for forfeiture of the lease.

11.3 Where legal action is sought the leaseholder may be responsible for charges incurred.

12.0 Further Advances and Postponement of Charges

12.1 The Council have no influence over whether a leaseholder re-finances to release equity from their lease, however when a charge against a property in respect of the repayment of Right to Buy discount is in place, the Council will not agree to postpone its charge in favour of any other additional borrowing.

13.0 Lease extensions or variations

- 13.1 The leaseholder has the Right to Buy an extension to the term of their lease and can apply for a new lease at any time as long as they meet certain conditions. To qualify, they must be the leaseholder and have held a lease for five years or more and no proven breaches to the lease have taken place previously.
- 13.2 Where a leaseholder applies for a new lease during enfranchisement, their application will not go ahead until the enfranchisement process has ended.
- 13.3 The terms of a lease can be varied only by specific agreement between the parties to the lease and, where appropriate, their mortgagees or through an order by a Leasehold Valuation Tribunal (LVT).
- 13.4 Lease variations where required, will be by mutual consent and compensation may be awarded in the cases whereby sheds require demolition or encroachment to garden plots, or allocation has been proven to be wrongly allocated on site in accordance with the legal documents.

14.0 Enfranchisement

- 14.1 Subject to certain conditions, leaseholders of flats may have the right to collective enfranchisement, if they and the building in which they live in qualifies. They are advised to seek independent advice.
- 14.2 Should leaseholders seek to acquire the freehold of a block of flats, Nuneaton and Bedworth Borough Council will comply as required by the Commonhold and Leasehold Reform Act 2002.

15.0 Right to buy discount rules

- 15.1 The Council will enforce repayment of discount for any Right to Buy purchaser who chooses to dispose of their home within the discount repayment period. Refer to the Right to Buy Policy for further details.

16.0 Selling the property

- 16.1 When a leasehold property is being sold, the Council will provide on request to the current and/or prospective leaseholder and their legal advisors, all the necessary information regarding service charges and any planned major works. A fee for this service will be charged in accordance to the current noted Fees and Charges and referred to as the leasehold management pack LPE1 response.

- 16.2 A leaseholder who is selling their property is legally obliged to notify the prospective purchaser of any section 20 notices or other notices that have been served on them or the property. The Council will provide copies of such notices to the legal representative upon request as part of the LPE1 response.
- 16.3 Leaseholders are not required to seek permission from us if they wish to sell their home. They are required however, to offer to sell their home back to Nuneaton and Bedworth Borough Council, if they purchased it under the Right to Buy scheme, within 10 years of the original conveyance, or if they are selling within 5 years from original conveyance purchase where an amount of discount would be repayable.
- 16.4 It is a requirement of the new leaseholder's legal representative to notify the Council of the sale/purchase within one month following completion. This should be done by way of a serving formal Notice of Transfer by the purchaser's Solicitors to the Council. There is a fee for serving this Notice and it is charged in accordance to the value noted within the lease agreement. If a Notice is not received, the last recorded leaseholder will still be liable for any charges made against the property.
- 16.5 It is in the interest of both parties of any prospective sale and their Solicitors, to ensure that all the outstanding debts relevant to the property are paid in full prior to completion. This could include district heating charges, service charges and any council tax payments if they are moving out of the Borough.
- 16.6 When a leasehold property is sold mid-year, the service charge account must be settled in full by the current leaseholder prior to completion. The relevant years estimate is then apportioned between the parties' solicitors as part of the conveyance process. Nuneaton and Bedworth Borough Council do not apportion the service charge. Provision by both parties' solicitors should also be made for ground rent as this is invoiced in arrears and will appear on the following years estimate invoice for the new leaseholder.

17.0 Right to Manage

- 17.1 The Common-hold and Leasehold Reform Act 2002 provides a right to leaseholders (of flats, not houses) to force the transfer of the Landlord's management function to a management company set up by them. The right empowers leaseholders to take responsibility for the management of their block as long as they meet certain conditions to qualify. Nuneaton and Bedworth Borough Council will provide a management service that is to a good standard and value for money to encourage leaseholders to continue to be provided with this service from the Council.

18.0 Service Charges

18.1 Leaseholders are responsible for paying a reasonable share of the Council's costs for repairing and maintaining the exterior and communal areas relating to their home in accordance to their lease agreement obligations.

Service charges that leaseholders are responsible for include:

- Ground rent
- Buildings insurance
- District heating consumption charges (if applicable)
- Qualifying Major Works and Long Term Service Agreements
- Communal Area internal painting (five year planned programme)
- Management and administration fees
- Annual Service charges to include services and maintenance contracts to works and services to communal areas for such services as;
 - building cleaning/caretaking service
 - grounds maintenance
 - communal area window cleaning
 - electric to supply communal services
 - landlords lighting maintenance and repairs

This list is not exhaustive as each block may differ in design and service requirement.

18.2 The Council will provide service charge estimate costs within the section 125 Notice (the right to buy offer notice detailing the sale) to the current tenant /prospective leaseholder.

18.3 Estimate Charges for Annual Service charge invoices are raised during April each year. A copy of this estimate breakdown is sent to leaseholders at that time. The final account summary invoice will then be raised during September/October following the financial year end. This considers the adjustment from the estimate to the actual costs for works and services to the block/sub block.

18.4 Payment arrangement is required within 30 days of the date of all service charge invoices.

18.5 Major Works invoices are raised separately to the annual service charge invoices, as the Council are willing to offer a longer repayment term for these invoices (usually up to 5 years), as typically they are of a considerable value. See Appendix A, loan

calculation spreadsheet which provides interest and repayment terms that consider up to a 5 year period.

18.4 Leaseholders will be offered a variety of different ways to pay their service charges. Methods of payment include: monthly or annual direct debit, telephone services, bank transfer, cheque, Post Office, standing order, internet payment, or by debit or credit card at our offices or over the phone.

18.5 It is not the Council's intention to place any leaseholder into hardship to repay their major works service charges. We seek to identify leaseholders who may be on low incomes or certain qualifying government benefits, to obtain funding from Central Government to assist them to repay their annual and major works invoices.

19.0 Service charge arrears

19.1 Any leaseholder who falls into arrears with repayments will be notified of this in accordance to the Corporate Debt Policy.

19.2 If a leaseholder refuses to pay for service charges or where other options of recovery action have failed, legal proceedings may be considered to include:

- obtaining a County Court Judgement, which will affect a leaseholder's credit rating,
- an Attachment of Earnings,
- a Charging Order on the property, which will affect the leaseholders credit rating
- Contact to their mortgage company to request payment of the outstanding charges, which could then be added onto the active mortgage account.
- Escalate for forfeiture of the lease.

20.0 Summary of service charge accounts

20.1 Leaseholders have a statutory right to seek a summary of the service charge account under section 21 of the Landlord and Tenant Act 1985. The request must be in writing and, can request a summary of the 'relevant costs in relation to the service charges payable' in respect of the last accounting year, or where accounts are not kept by accounting years, the past twelve months preceding the request.

20.2 The Council will provide the summary within one month to six months of the end of the twelve-month accounting period, whichever is the later.

21.0 Management & Administration Fees

- 21.1 Nuneaton and Bedworth Borough Council are legally entitled to charge for management fees. A management fee is for managing the services funded and provided. This charge is intended to cover the cost of staff time in providing and managing services, for example managing the grounds maintenance contract, cleaning contract, managing reactive and major works to the communal areas, preparing service charge accounts, consultant fees and administration.
- 21.2 Administration charges will be made when a leaseholder requests a particular service or when we have to carry out special work because a lease has been breached, for example, non-payment of service charges which may have incurred additional court costs.

22.0 Complaints

- 22.1 The Council will deal with any complaints about its service in accordance with this Leasehold Management Policy and in conjunction with the Council Corporate Customer Feedback Policy

23.0 Leasehold Valuation Tribunal (LVT)

- 23.1 If a leaseholder is dissatisfied with a service or the charge levied for that service and, they cannot resolve the matter, they can seek a determination on works or services. However, there are certain restrictions where a leaseholder cannot make an application to the Leasehold Advisory Service. Leaseholders are advised to seek further guidance from the government website, www.gov.uk. or Leasehold Advisory Service at www.lease-advice.org

24.0 Legislation & References

- Common hold and Leasehold Reform Act 2002
- Housing Act 1985
- Housing (Service Charge Loans) Regulations 1992
- Landlord and Tenant Act 1985.
- Lease Agreements
- Leaseholder's Handbook
- Housing Tenancy Management policies and procedures
- The Leasehold Advisory Service. www.lease-advice.org

25.0 Equality & Diversity

- 25.1 This policy and associated procedures will apply to all. Nuneaton and Bedworth Borough Council is committed to promoting equality of opportunity and to eliminating unlawful discrimination on the grounds of race, age, disability, gender, sexual orientation, religion, belief, class, financial status and any other difference that can lead to discrimination or unfair treatment fully considering the principles of the Equality Act 2010.

26.0 Review

- 26.1 This Policy has been written in line with current relevant Legislation and in consideration to other Council policies. This policy will be reviewed and revised to reflect any legislation requirements and/or other guidance of Good Practice. This policy will be reviewed every 3 years.