



ADUR & WORTHING  
COUNCILS

Joint Strategic Committee  
6 October 2020  
Agenda Item 9

Key Decision : No

Ward(s) Affected: all Adur

## **Enabling Communities to Thrive in Their Homes - Draft Leasehold Management Policy**

### **Report by the Director for Communities**

#### **Executive Summary**

#### **1. Purpose**

- 1.1 To update members on the draft Leasehold Management Policy.
- 1.2 Seek approval to consult Adur Homes Leaseholders on the policy.

#### **2. Recommendations**

That members of the Joint Strategic Committee:

- 2.1 Approve the draft draft Leasehold Management Policy for consultation with Adur Homes Leaseholders and
- 2.2 Request that a further report on the outcome of that consultation and recommendations be presented at the meeting of the Committee in December 2020.

### **3. Context**

- 3.1. This report presents the draft Leasehold Management Policy which sets out how Adur District Council will manage its leasehold properties and its relationship with council leaseholders.
- 3.2. The draft policy sets out the principal obligations the council has towards its leaseholders , both under the lease and under the wider legislation governing leaseholders and leasehold properties. It also sets out the Council's key objectives in meeting these obligations.
- 3.3. This is a high-level policy which will sit over and inform a suite of policies and procedures which are in the process of being reviewed or developed that cover the operational and day to day aspects of leasehold management, for example, consultation for major works or leaseholder alterations.
- 3.4. This policies and procedures include (but are not limited to) Major Works charges and payment options, Service Charge payment and arrears, and Leaseholder Engagement

### **4. Issues for consideration**

- 4.1. The Council will carry out an Equality Impact Assessment on the draft policy before it is implemented. The outcome of the assessment will be included in the report presented after the consultation.
- 4.2. The Council is currently developing a Tenant and Leaseholder Engagement Strategy

### **5. Engagement and Communication**

- 5.1. The report seeks agreement to engage and consult with leaseholders on the draft policy.
- 5.2. The report also recommends that the policy document is brought back to Committee in December for sign-off with any changes to reflect the outcome of consultation with leaseholders.

## **6. Financial Implications**

- 6.1. There are no direct financial implications in the recommendations to this report.
- 6.2. The Council has a responsibility to ensure that the costs of administering leasehold properties, including any related repairs and services are recovered from leaseholders. This ensures that the ringfenced Adur Homes Housing Revenue Account neither subsidises leasehold costs nor benefits from excess charges.
- 6.3. Adopting a leasehold policy will help the Council in this aim and provide a clear basis for leaseholders with regard to their rights and responsibilities.

## **7. Legal Implications**

- 7.1 The Council is required to comply with various legislative requirements in relation to its housing management function and when dealing with leasehold properties and leaseholders as set out in the proposed Leasehold Management Policy. Adopting a Leasehold Management Policy will help the Council comply with its legal obligations and engage with leaseholders.
- 7.2 The Council has adopted policies in place for consultation and engagement with leaseholders. These policies should be followed when carrying out any consultation.

## **Background Papers**

- Leasehold Management Policy July 2020

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## **Sustainability & Risk Assessment**

### **1. Economic**

- As property owners, Leaseholders are key to building a thriving community. The viability of their asset is important either in providing homes or in the development of the community.

### **2. Social**

#### **2.1 Social Value**

- This policy provides leaseholders and household information on the Council's commitment to their property and community, which in turn allows them to create both social and communal assets within the community.

#### **2.2 Equality Issues**

- An Equality Impact Assessment will be carried out before the policy is implemented.

#### **2.3 Community Safety Issues (Section 17)**

- Matter considered and no issues identified.

#### **2.4 Human Rights Issues**

Matter considered and no issues identified.

### **3. Environmental**

- Matter considered and no issues identified.

### **4. Governance**

- Matter considered and no issues identified.

# Engaging with leaseholders : Leasehold Management Policy

## 1.0 Introduction and Purpose

1.1 This policy sets out the basic principles of how the Council will manage its leasehold properties and comply with its obligations under the lease and its wider statutory obligations towards leaseholders.

1.2 It also outlines the high-level policies for key areas of leasehold management.

1.3 The purpose of the policy is to provide clarity to Council staff and to residents of the Council's responsibilities towards leaseholders and to show leaseholders what they may expect from the Council.

## 2.0 Definitions

In this document the following key terms are used :

**Leaseholder** . The owner of a flat or maisonette, who either bought their home from the Council under the Right to Buy, or who bought it on the open market from the Right to Buy purchaser or from a subsequent owner.

**Lease**. A lease gives the right to the leaseholder to use and occupy a property for a fixed period of time . Leases granted under the Right to Buy are for a term of 125 years from the first sale in the block. The lease sets out the rights and responsibilities of both the leaseholder and the landlord.

**Freeholder**. Adur District Council owns outright the building of which a flat or maisonette forms a part, including any grounds or communal areas and has granted the leases to the leaseholder.

**Landlord** .Adur District Council is the landlord as it has granted the leases . Its legal obligations towards leaseholders and the rights it is able to exercise are set out in the lease and by the relevant legislation.

**Service Charges** . The charge paid by the leaseholder as their share of the landlord's costs including overheads for carrying out communal repairs or providing services such as grounds maintenance and building cleaning . These services are set out in the lease.

The legal definition of a service charge is given by the Section 18 of Landlord & Tenant Act 1985 (as amended).

**Major Works**. Cyclical,periodic or capital works, such as external repairs and decorations, roof repair or renewal , or the installation of replacement windows. A legal consultation

process under the Landlord & Tenant Act 1985 is undertaken ahead of the works where the cost of the works to any leaseholder affected will be £250.00 or more

**Long-term agreement** . This is an agreement with a contractor that lasts more than 12 months to carry out repairs or provide services . Where any leaseholder may be charged more than £100/ year under such an agreement, a legal consultation process has to take place with leaseholders before entering into the agreement.

Examples of services which might be provided under a long term agreement include grounds maintenance , communal TV aerial service/maintenance , building cleaning etc

### **3.0 Context and background**

3.1 Adur District Council manages approximately 520 leasehold properties. This is approximately 20 % of its housing stock.

3.2 The Council considers its leaseholders as important customers and recognises that it shares a common goal with leaseholders in aiming to maintain properties to a high standard To provide the best possible service to leaseholders the Council aims to provide a comprehensive and responsive leasehold management service in line with the lease, legislation, best practice and value for money.

3.3 The principal legislation governing the Council's relationship with leaseholders and which informs this policy includes :

#### Housing Act 1985 (as amended)

Gives secure tenants the Right to Buy

Prescribes the provisions that can be included in a Right to Buy lease

Gives the landlord powers to offer loans for the payment of service charges

Requires tenants who have bought their home under the Right to Buy and want to sell it within the first 10 years to give the Council first refusal to buy it back.

#### Landlord & Tenant Act 1985

Defines meaning of service charge

Gives leaseholders rights in relation to service charges and consultation about major works and qualifying long term agreements for work or services

Requires demands for payment of ground rent to be in a prescribed form

Requires a demand for payment of a service charge to be accompanied by a summary of leaseholder rights and obligations in a prescribed form

#### Landlord & Tenant Act 1987

Gives qualifying leaseholders the right of first refusal to buy the freehold

## Leasehold Reform, Housing and Urban Development Act 1993

Gives qualifying leaseholders the right collectively to purchase the freehold of their building (enfranchisement)

Gives qualifying leaseholders the individual right to extend their lease

### **4.0 Policy Principles**

4.1 The Council will carry out its obligations as landlord under the lease and will comply with all relevant legislation relating to leaseholders and will follow best practice in leasehold management.

4.1 Leaseholders have a clear obligation under the terms of their lease to pay their share of the Council's costs in carrying out repairs and providing services to their building so that the burden of those costs do not fall on tenants.

4.2 The Council has limited powers to waive service charges from leaseholders and these are in specific circumstances; additionally the Council has a general fiduciary duty to recover charges due to it. The Council's policy aim is therefore to provide leaseholders with a range of payment options and to signpost them towards sources of advice and support to assist them in paying their share of the costs of services, repairs and improvements.

4.3 The Council aims to provide the same standard of service and customer care to both tenants and leaseholders.

### **5.0 Primary policy approaches**

#### **5.1 Service Charges**

5.1.1 Service charges will reflect the actual cost of delivering repairs and services, including overheads, and the Council will ensure these costs are supported by appropriate records and documentation.

5.1.2 Service charge schedules showing the actual costs for the previous financial year will be produced annually in a timely manner.

5.1.3 The management charge will regularly be reviewed to ensure it accurately reflects the Council's costs of calculating and collecting service charges and the management of leasehold properties and services to leaseholders.

5.1.4 The Council will offer a range of payment options to assist leaseholders. For major works charges the maximum repayment period will be based on the size of the charge. There will be an interest free period, but interest will apply where the repayment period exceeds this.

## **5.2 Major Works consultation**

5.2.1 The Council will ensure it carries out statutory consultation where it is required under the Landlord & Tenant Act 1985 (as amended) in advance of carrying out major works. It will also carry out consultation where required in respect of any long-term agreements.

5.2.3 The Council will consider applying to the First-Tier Tribunal for a dispensation from some/all of the consultation requirements where it is appropriate, for example, for emergency repairs.

## **5.3 Leasehold Management**

5.3.1 The Council will have procedures to deal with routine leasehold management processes, including subletting, alterations, the Right of First refusal for the Council to buy-back a property, applications to purchase the freehold ( enfranchisement) or to extend the lease etc.

5.3.2 The Council will apply its housing management policies to leasehold properties where appropriate , for example, in relation to antisocial behaviour , or to access to carry out repairs or inspections.

## **6.0 Leaseholder engagement and communication**

6.1 The Council is committed to involving its leaseholders in developing and improving the service , and listening to leaseholders' views and feedback and will promote engagement opportunities for leaseholders

6.2 The Council will provide information for leaseholders , including a leaseholders' handbook or set of factsheets. This and additional information will be available on the Council's website.

## **7.0 Performance measures and standards**

7.1 The Council will monitor its performance in relation to the services it provides to leaseholders to help drive improvements in service charge collection rates and in customer satisfaction rates.

7.2 The Council will have a rolling programme of reviewing its leasehold policies and procedures reflecting customer feedback and changes in legislation or best practice.