

Track changes document

HOMEOWNERSHIP MANAGEMENT POLICY

Date of policy	March 2024 <u>September 2023</u>
Date for review	March 2024 <u>2027</u>
Policy author	Richard Parker, Leasehold Management Senior Specialist
Policy owner	John Holman, Assistant Director Housing <u>Gill Butler, Chief Officer (Housing).</u>
Approved by	Cabinet 17.3.24 <u>(Due Cabinet October 2023)</u>

Revision history

Version	Date	Revision description	Policy author
0.1 <u>(draft)</u>	October 2020	Draft policy	Richard Parker
0.2 <u>(draft)</u>	December 2020	Editorial changes	Jonathan Hicks
<u>1.0 FINAL</u>	<u>March 2021</u>	<u>Approved by Cabinet</u>	<u>Richard Parker</u>
<u>2.0 (draft)</u>	<u>July 2023</u>	<u>Significant changes made in line with current legislation</u>	<u>Richard Parker</u>

NEW POLICY / POLICY REVIEW

New policy	Yes <u>No</u>
Early review – change in legislation	
Early review – significant changes in practice	
Review due – significant changes	<u>Yes</u>
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

~~To provide a high quality homeownership management service to the leaseholders and shared owners of Folkestone and Hythe District Council in line with legislative and best practise guidelines.~~

To ensure the Council continues to provide a high-quality homeownership management service to its leaseholders and shared owners in line with legislation and best practise guidelines.

Summary of changes:

- Minor changes to phrasing and grammar throughout
- Updated legislation.
- Section 5.1 Minor changes to format and additional content (major works service charges)
- Section 5.2 Update with new legislation (Leasehold Reform Act 2022)
- Section 5.4 New section (service charge limitations)
- Section 5.5 Minor changes to format and content.
- Section 5.6 Minor changes to format and content.
- Section 5.8 Minor changes to format and content.
- Section 5.9 New section (shared ownership rent and rent arrears)
- Section 5.11 New Section (Access)
- Section 7 Minor changes to format and content.

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CONSULTATION

List of people/roles who have been consulted	Date
<u>STLB</u> <u>Housing Operations</u> <u>Legal Team</u>	<u>October 2020</u>
<u>Leaseholder working group (on payment options)</u>	<u>Sep 2021</u>
<u>All resident and non-resident leaseholder (on payment options)</u>	<u>Sep 2021</u>
<u>Housing Income team</u>	<u>Jul 2023</u>
<u>FHDC Corporate debt (case) team</u>	<u>Jul 2023</u>
<u>Chief Officer (Housing)/Housing Leadership Team</u>	<u>Aug 2023</u>

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EQUALITY IMPACT ASSESSMENT	Completed	Date
	<u>Richard Parker</u>	<u>19/10/20</u>
	<u>Richard Parker/Jonathan Hicks</u>	<u>30/08/23</u>

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DISSEMINATION		
Role	Awareness	Essential
Leasehold services	High	Yes
Housing Operations	Yes	
Case <u>(Housing)</u> Team	Yes	
<u>Corporate debt team</u>	<u>Yes</u>	
<u>Housing income team</u>	<u>Yes</u>	

TRAINING		
Role	Trainer	Date completed
Housing Operations Case <u>(Housing)</u> Team	Rich Parker	

MONITORING AND COMPLIANCE		
Method	Responsibility	Frequency
Regulations specialist to review following Council procedure.	Regulations specialist	In line with Council procedure

1 Purpose of the Policy

- 1.1 ~~To ensure Folkestone and Hythe District Council (hereafter referred to as 'the Council') provides a high-quality homeownership management service to its leaseholders and shared owners in line with legislation and best practise guidelines. To provide a high-quality homeownership management service to the leaseholders and shared owners of Folkestone and Hythe District Council in line with legislative and best practise guidelines.~~

2 Policy objectives and scope

- 2.1 To ensure accuracy of service charges and ensure that income from tenants rent payments and other charges does not subsidise services provided to its leaseholders and shared owners.
- 2.2 ~~To k~~Keep the level of service charge arrears to a minimum. ~~To e~~Ensure that a consistent approach is taken to service charge arrears collection and that where necessary individual circumstances are considered.~~taken into account.~~
- 2.3 To set out how ~~the Council, Folkestone and Hythe District Council~~ consults with leaseholders and other shared owners with regards to Section 20 of the Landlord and Tenant Act 1985, as amended by Section 151 of the Commonhold and Leasehold Reform Act 2002.

3 Legal/Regulatory Framework

3.1 Internal:

- The property leases and title plans.

3.2 External:

- Landlord and Tenant Acts 1985 (as amended)
- Housing and Urban Development Act 1993
- The Commonhold and Leasehold Reform Act 2002
- RICS Service charge residential management code
- The Service Charges (Consultation Requirements) (England) Regulations 2003.
- ~~LEASE (The leasehold advisory service).~~
- The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014
- The Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014
- The Housing (Service Charge Loans) (Amendment) (England) Regulations 2009
- ~~Leasehold Reform (Ground Rent) Act 2022~~

4 Responsibility

- 4.1 The Leasehold Management Senior Specialist retains the overall responsibility for the implementation of this policy.
- 4.2 The Leasehold Management Senior Specialist is responsible for the operational delivery of this policy and the associated procedures. This includes responsibility for monitoring and review, staff awareness and training, policy development and communication to customers.

5 The Policy

5.1 Service Charges

- 5.1.1 ~~FHDC-The Council~~ will provide accurate information to the homeowners about the services they receive, the costs of those services and any amounts due in payment. Information provided will be clear and transparent and conform to legislation and current best practises.
- 5.1.2 The day to day service charges are raised to cover a proportion of the expenditure in connection with maintaining and managing the properties and/or estates ~~accordingly~~.
- 5.1.3 The service charges paid by the leaseholders and shared owners are variable and cover all elements of expenditure incurred by ~~FHDC-the Council~~ in maintaining and managing the properties and/or estates. Elements of expenditure can include (but not limited to):
- costs for repairs to reserved parts of the building and/or estate
 - lighting, and electricity
 - grounds maintenance and cleaning
 - ~~major works, insurance and ground rent; or~~
 - Management by ~~FHDC-the Council~~ or ~~their-its~~ appointed agent/s.

The service charges are variable and will differ from year to year.

- 5.1.4 Major works service charges are raised to cover a proportion of large scale works to the building and/or estate. Major works are defined as works which cost more than £250 to any one leaseholder or shared owner within the building and/or estate. Major works cover such items of expenditure as (but not limited to):

- Roofing
- External fabric
- Decorations
- Estate footpaths and roads
- Doors and windows

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5.1.5 In all cases, service charges must be reasonably incurred and any works or services that incur a cost must be to a reasonable standard.

5.2 **Ground rent**

5.2.1 Ground rent is a fixed £10 charge that is payable annually and is separate from general service charges. Ground rent is a condition of the lease. ~~FHDC~~ The Council must issue a separate formal written demand for payment. This demand will be included within the service charge invoicing pack.

5.2.2 Accordingly with the Leasehold Reform Act 2022 (Ground rent), all long leases after June 2022 will have ground rent set at one peppercorn (£nil).

5.2.3 The formal demand for ground rent will be made no less than 30 days, and no greater than 60 days before the ground rent is due for payment.

5.2.4 The due date for ground rent is set accordingly with the date noted within the lease and must be paid in accordance with the terms contained within the formal written demand.

5.3 **Service charge invoicing ~~and payments~~**

5.3.1 The service charge year runs from April to March. Leaseholders and shared owners will receive 2 service charge demands in any given service charge year. An invoice for the estimated cost for the forthcoming year in March and a subsequent invoice in September for the previous year's final account.~~Homeowners will receive 2 service charge demands in any given service charge year.~~

5.3.2 An invoice will be issued to leaseholders and shared owners~~homeowners~~ within 30 days before the start of the service charge year. The invoice will be issued providing a clear breakdown of the charges estimated to be incurred during the coming service charge year (April to March) for which the estimate is issued.

5.3.3 In September of each year the leaseholders and shared owners~~homeowners~~ will receive a reconciliation of balances to reflect the actual charges from the previous leasehold financial year (April to March). This will be the actual service charge invoice for the period.

5.3.4 Terms of payment for both estimated and actual service charges require them to be paid in full within 21 days of the due date of the invoice. Payment in full may also mean that a payment agreement is to be made within the 21 day period.

5.4 Service charge limitations

5.4.1 The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014, dictate that local authorities and other private registered social housing providers (PRPs) cannot recover through service charges the cost of repairs, maintenance, and improvement work in excess of £10,000 (outside of London) if the following apply:

- If the works are funded either in full or in part by Government or Homes England funding for the repair, maintenance, or improvement of social housing.**
- The leaseholder occupies the property as their only or principal home.**
- The leaseholder was the leaseholder at the time of the works.**

5.4.2 The Social Landlords Discretionary Reduction of Service Charge (England) Directions 2014, permits the Council to reduce or waive service charges payable in the respect of repairs, maintenance, or improvement works undertaken to the building and/or estate, where the property is situated.

The Council will administer any discretionary reduction on a case-by-case basis. Basic eligibility criteria can be found within the service charge payment options procedure.

5.4.3 There are limits on the amount (and type of works) that can be charged to new leaseholders and freeholders with service charges who have bought under the Right to Buy. Section 125 of the Right to Buy lists potential works to be undertaken and the associated cost with an initial five-year period. The Council cannot charge any additional sums above the limitations except for any increases to the estimated costs due to inflation.

5.5 Service charge over payment/credits

5.5.1 In some instances, the actual service charge invoice may be less than the estimated charges for the service charge year. Where this happens Folkestone and Hythe District Council leasehold services will keep the credit/account adjustment on the leaseholders service charges account.

5.5.2 If the leaseholder requests a refund to be paid to them then FHDC leasehold services will refund the money within 30 days. If however a debt is owed by the leaseholder for service charges or other charges, then any credit will offset the debt before any credit note is issued.

5.6 **Payment Methods**

5.6.1 FHDC currently accepts payments for leasehold and shared ownership service charges by the following methods:

- One off payment by debit / credit card/ cheque
- Direct Debit
- Standing Order

The preference for payment of service charges is by Direct Debit.

5.6.2 Leaseholders may be eligible for a loan to pay for service charges that have been undertaken and invoiced for.

5.7 Section 20b

5.7.1 Where the actual expenditure for a given service charge year is not known within 6 months of the end of the financial year. A notice as stipulated within the Landlord and Tenant Act 1985, Section 20b A Landlord and Tenant Act Section 20b notice will be sent to all leaseholders who are affected.

5.7.2 The Section 20b notice will inform the leaseholders of the costs incurred to date and all anticipated expenditure yet to be accounted for. This will allow the Council's leasehold services to recover the full costs for the specific period at a later date. This will allow FHDC leasehold services to send the leaseholders an invoice for the actual costs for a specific year at a later date.

5.8 Service charge arrears

5.8.1 The service charge arrears collection process is based on 5 stages. The service charge arrears procedure sets out in greater detail the stages mentioned within this policy. Service charge arrears collection process will be in the form of four staged letters, County Court claim and/or First Tier Tribunal property chamber. The Folkestone and Hythe District Council leasehold service charges arrears procedure will set out in greater detail the stages mentioned within this policy.

5.8.2 The Council FHDC will aim to collect 100% of the service charges demanded.

5.8.3 Failure of the leaseholder or shared owner to pay service charges will result in arrears action being taken and may eventually lead to forfeiture of their lease.

5.9 Shared ownership rent and rent arrears.

5.9.1 Shared owners are required to pay the Council rent on the proportion of the shared ownership property which the Council retains. The initial amount of rent the shared owner is required to pay is set at the time when the property is bought. The rent is subsequently adjusted annually with inflation or when the property is subject to staircasing.

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5.9.2 The shared ownership rent arrears procedure sets out the process to be followed when a shared owner fails to pay their rent in accordance with their lease.

5.9.3 The failure of a shared owner to pay their rent may eventually lead to their eviction.

5.10 **Section 20 consultation**

5.10.1 It is the intention of the Council to ensure all leaseholders and shared owners
~~The policy is to ensure that the leaseholders~~ are consulted with accurately and fairly accordingly with the current legislation (Section 20 Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002) and ~~current~~ best practice.

5.10.2 It will also allow FHDC to reclaim the full cost of works through the service charges as all parties must adhere to the terms set out within the lease and relevant legal provisions.

5.10.3 The major works/S20 procedure will establish:

- When consultation is required.
- How consultation will be sent to leaseholders
- How to address emergency works

5.11 Access

5.11.1 The Leaseholder has an obligation to allow access to the freeholder and/or the Council for inspection, or works purposes, as generally defined within the Leasehold Agreement. The following timescales will apply:

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- For general access to undertaken inspections and works, a minimum of 3 days notification is required.
- For emergency access, all reasonable attempts to contact the leaseholder must be made before gaining access to the property. Timescales will differ depending upon the urgency.

5.11.2 Forced entry may be necessary if access has not been granted by the resident. This may be for emergency purposes or when statutory and non-

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statutory works are required. However, forced entry to a property must be used as the last resort only.

5.11.3 The Council will follow its published 'Controlled Access' procedure for gaining entry to a property, which ensures all necessary and reasonable steps are taken to gain access before undertaking any forced entry.

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5.11.4 Authorisation for a forced entry must include confirmation either by a surveyor (neighbourhood surveyor/planned works surveyor) or by a compliance specialist, senior specialist, lead specialist/head of service, and/or service director.

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5.5 — *Ground Rent Billing and Payments*

~~5.5.1 The formal demand for ground rent will be made no less than 30 days, and no greater than 60 days before the ground rent is due for payment.~~

~~5.5.2 The due date for ground rent is from the 1st April every year and must be paid in accordance with the terms contained within the demand. If ground rent is not paid under these terms we will take legal action to recover the monies owing.~~

5.6 — *Payment Methods*

~~5.6.1 Folkestone and Hythe District Council leasehold services currently accepts payments for service charges by the following methods:~~

- ~~• Cheque~~
- ~~• Direct Debit~~
- ~~• Standing Order~~
- ~~• Cash at a handy till in one of the councils contact points~~
- ~~• Debit / Credit card~~
- ~~• Service charge loans~~

~~5.6.2 Leaseholders may be eligible for a loan to pay for service charges or repairs that have been carried out. This loan will be at the discretion of FHDC with all the necessary conditions and criteria needing to be met before the loan is granted.~~

6 Key controls and reporting

- 6.1 This policy applies to the Council's Leasehold Services team, and other associated teams in Assets & Development, Compliance, Income and Corporate Debt, all Folkestone and Hythe District Council leasehold services employees, affiliated employees and services.
- 6.2 The policy also applies to all the Councils' leaseholders, shared owners, and Recognised tenants' associations (RTAs). The policy also applies to all Folkestone and Hythe District Councils' leaseholders and RTAs.
- 6.3 The Leasehold Management Senior Specialist retains the overall responsibility for the implementation of this policy and is responsible for the operational delivery of this policy and the associated procedures. Responsibilities include:
- Monitoring and review of this policy including changes in legislation
 - Staff awareness and training
 - Policy development and communication to customers.

7 Associated Documents

- 7.1 The associated internal documents relating to this policy include:

(Internal):

- Service charge arrears procedure
- Leasehold, Shared Ownership and Commercial Property Service Charge Invoicing procedure
- Major works/S20 Consultation procedure
- Shared ownership arrears procedure
- Service charge payment options procedure
- Right to Buy Policy
- Shared Ownership Policy
- ~~Major works procedure~~
- ~~Service charge calculation procedure~~
- ~~S20 Consultation procedure~~

8 Equality and Diversity

- 8.1 FHDC recognise that different people and communities may have specific needs which may require flexible approaches. We also appreciate that some groups or individuals may experience discrimination and disadvantage. This may be due to their protected characteristics under the Equality Act 2010. We

believe that everyone should be treated with dignity, respect and fairness, regardless of their characteristics.

- 8.2 An Equality Impact Assessment has been carried out on this policy which will be updated in line with policy reviews (see below,) to ensure there is no discrimination and opportunities to improve equality and access are maximised.

9 Review

- 9.1 This Policy will be reviewed every 3 years by- the Leasehold Management Senior Specialist and/or the author of the policy ~~the person who is in the job role of the author.~~ If necessary, this policy will be reviewed sooner to incorporate legislative, regulatory, best practice developments, council decisions or address operational issues.