

<b>Leasehold Policy</b>	<b>Policy Section:</b> <b>Sub-letting</b> <b>Postponements</b> <b>Insurance</b> <b>Leasebacks</b> <b>Prevention and Collection of Debt</b> <b>Administration Fee</b>	
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<b>Abbreviations used in the policy</b>		
<b>LBTH</b>	<b>London Borough of Tower Hamlets</b>	
<b>THH</b>	<b>Tower Hamlets Homes</b>	
<b>GRV</b>	<b>Gross Rateable Value</b>	
<b>CLARA</b>	<b>Commonhold and Leasehold Reform Act 2002</b>	
<b>RTA</b>	<b>Recognised tenants association</b>	

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### **Introduction to the policy**

The purpose of this Policy is to set out the policy framework for the following issues:

- Balancing improved accuracy and good value
- Sub-letting
- Postponements
- Insurance
- Leasebacks
- Prevention and Collection of Debt
- Administration Fees

### **Background to the Policy**

This policy applies to leaseholders on long lease agreements and freeholders with properties within LBTH/THH estates on whom service charges are levied.

### **Legislative references**

- Law of Property Act 1925
- Housing Act 1980
- Housing Act 1985
- Landlord and Tenant Act 1985 as amended by the Landlord & Tenant Act 1987
- Landlord & Tenant Act 1987
- Consumer Protection Act 1987
- Property Misdescriptions Act 1991
- Leasehold Reform, Housing and Urban Development Act 1993
- Housing Act 1996
- Arbitration Act 1996
- Commonhold and Leasehold Reform Act 2002
- Housing Act 2004

## Policy

### 1. Policy Context

- 1.1. LBTH recognises that it manages blocks and estates that contain a mixture of tenants, leaseholders and freeholders. LBTH also recognises the need to seek an appropriate balance between the needs of tenants, leaseholders and freeholders.
- 1.2. LBTH and THH are strongly committed to working continuously to improve the quality and value of the services it delivers to all customers. LBTH/THH will achieve this through:
  - Making sure our services reflect good practice
  - Minimising administration
  - Making services and costs as transparent as possible
  - Running the service in such a way that LBTH/THH employ, train and keep good staff

### 2. Policy Statement

#### 2.1. Finding the best balance between improving the accuracy of bills and the cost of administering improved accuracy

- 2.1.1. LBTH/THH will always seek to improve value, reduce cost and improve the accuracy of bills. LBTH/THH will always seek to improve the accuracy of bills in a ways that reduce the cost of administration. However this is not always possible.
- 2.1.2. In those situations where greater accuracy in billing is only possible by incurring additional administrative costs (which will mean higher management or administration fees) LBTH/THH will seek to find the appropriate balance between the cost of additional administrative complexity and the improvements to the accuracy of billing. The appropriate balance will be the method that delivers optimum value.

#### 2.2. Sub-letting

- 2.2.1. Each Leaseholder has the right to rent out their property. This is known as sub-letting.
- 2.2.2. The Leaseholder must tell LBTH/THH that they are planning to sub-let their property and must provide the following information:
  - A fully completed and signed copy of the tenancy agreement the leaseholder is going to use to sublet their home including the names and contact phone numbers for the tenants
  - The leaseholder's new postal address and contact details
  - Name and contact details for a letting or managing agent if one is being used

- It is a condition of the permission to sub-let that when any of the above details change the Leaseholder must inform LBTH/THH
- The leaseholder, tenant and LBTH/THH officer must sign a 3-way deed of covenant. The deed of covenant ensures that the sub-tenant is bound to abide by the lease conditions whether or not these are the same as the tenancy conditions.
- THH will charge an administration fee for processing consents to sublet.

**2.2.3.** When a property is sub-let the leaseholder remains responsible to make sure that all of the terms of the lease are not broken. This means:

- That the Leaseholder is responsible for the way that their tenant uses the flat, the block and the surrounding area
- The Leaseholder must make sure that the tenancy agreement covers all the conditions in the lease
- LBTH/THH can not get involved in any difficulties a Leaseholder may have with their tenant
- The leaseholder retains responsibility for paying all charges
- If any damage is caused to adjoining properties the Leaseholder may be liable to pay to put this right and the payment of compensation to adjoining residents if they have suffered damage or inconvenience. The Leaseholder would be responsible for recovering these costs from his tenant.

#### **2.2.4. Landlords Safety obligations**

2.2.4.1. There are a number of statutory safety obligations that apply to landlords of rented property. For example residential landlords must carry out an annual safety inspection of their gas installation (which results in a CP12 Certificate).

2.2.4.2. It is the responsibility of all leaseholders who sub-let their property to make sure that they comply fully with all appropriate regulations relating to rented property.

### **2.3. Postponements**

**2.3.1.** When a Leaseholder buys their home with a mortgage the mortgage company will register a legal charge against the property. The legal charge secures (protects) the money the mortgage company lends to the Leaseholder. If the property was bought through the Right to Buy, and a discount was given, LBTH/THH will also secure the repayment of this by a legal charge. However, the legal charge for the mortgage will have priority over the LBTH/THH legal charge.

**2.3.2.** If the Leaseholder wants to remortgage the property or get another secured loan during the discount repayment period, the mortgage company will probably insist on a 'postponement of charge'. A postponement of charge makes sure that the new loan takes priority over the repayment of discount under the Right to Buy if your property is repossessed.

**2.3.3.** Requests for Postponement of charge will only be approved if the loan is for one of the following reasons:

- To carry out work to the leased property or to make improvements
- To pay your service charge (including major works and buildings insurance)
- The remortgage is to change mortgage companies
- The leaseholder is taking out a loan to repay loans secured against the property
- To pay any interest you owe on a mortgage or remortgage

**2.3.4.** Leaseholders must contact LBTH/THH Leasehold Services to arrange a postponement of charge. LBTH/THH will give advice on whether the Leaseholder will qualify and let the Leaseholder know what documents will be needed to as evidence. An administration fee will be charged which may include legal costs if a deed of postponement is required.

## **2.4. Insurance**

### **2.4.1. Buildings insurance**

**2.4.1.1.** Under the terms of the lease LBTH arranges comprehensive building insurance for all sold flats and maisonettes under a blanket policy.

**2.4.1.2.** Maintenance of the building is the landlord's responsibility and the leaseholder will not be allowed to opt out and arrange their building insurance.

**2.4.1.3.** LBTH/THH will determine the frequency and method of re-procurement for the policy in order to maximise the value for money while delivering the required level of insurance cover.

**2.4.1.4.** Under Schedule 10 of the Commonhold and Leasehold Reform Act 2002 (CLARA) we will respect the rights of leaseholders or a recognised tenants association (RTA) to provide them with a written summary of insurance cover within 21 days of a request.

**2.4.1.5.** Leaseholders or recognised tenants associations (RTAs) have the right to request to inspect the policy without having first requested a summary of it. LBTH/THH will recognise that both may request an opportunity to inspect the policy and any associated documents or require that copies are made available for collection or sent to them.

**2.4.1.6.** LBTH/THH will make facilities available within 21 days

### **2.4.2. Contents Insurance**

**2.4.2.1.** The responsibility for contents (and contents insurance) lies with the Leaseholder. For this reason LBTH/THH do not provide any cover for the contents of leasehold properties.

**2.4.2.2.** LBTH/THH will promote to leaseholders the importance of Leaseholders buying contents insurance. LBTH/THH will, where possible, enter into a partnership arrangement with insurers who can offer low-cost contents insurance cover to leaseholders.

## **2.5. Leasebacks**

**2.5.1.** A Leasehold Leaseback will come into existence when a resident of a property in a block that has been let on a long lease to a managing company (for example Estmanco) exercises their Right to Buy.

**2.5.2.** The contractual relationships between LBTH/THH (the freeholder), the managing company and the leaseholder are complex.

**2.5.3.** LBTH/THH will take care to ensure that they fulfil all of their legal obligations in respect of leasehold customers living in leaseback properties.

**2.5.4.** THH will pay service charges to the freeholder or management company as long as the service charges are demanded in accordance with the legislation and are properly accounted for (under sections 18 and 20 of the Landlord and Tenant Act 1985 and other legislation). THH may request supporting information from the freeholder/managing agent as is necessary to comply with the law and ensure the charges are justifiable and transparent.

**2.5.5.** THH will charge a service charge to the leaseholder of the leaseback property under the terms of the lease. The leaseholder will be billed in the same billing cycle and be offered the same payment methods and options (including deferred payments) that are offered to other leaseholders within THH managed properties.

## **2.6. Prevention and collection of Service Charge Debts**

**2.6.1.** It is the responsibility of staff dealing with service charge arrears to follow a consistent approach detailed in this policy to maximise service charge debt recovery and to minimise the amount owed to the Council.

**2.6.2.** LBTH/THH will aim to prevent arrears and recover all relevant costs owed to LBTH/THH by:

- By inviting prospective leaseholders for individual discussion and giving clear information prior to the leasehold purchase about leaseholder responsibilities
- By ensuring that leaseholders receive adequate notice of charges due and are fully and promptly informed of charges to be levied on them
- By ensuring there is a wide range of payment methods available and that customers are fully aware of the methods available to them

- By cost effectively pursuing debts owed to LBTH/THH, ensuring that where customers have the means they do pay their debts and are not allowed to avoid their obligations
  - By pro-actively signposting customers to independent providers of advice including money advice and debt counselling
  - Advising leaseholders that LBTH/THH monitors its accounts regularly and has an expectation that leaseholders will communicate any difficulties that they may have in meeting their obligations at the earliest opportunity
- 2.6.3.** Where arrears do build up, these should be kept to a minimum and effectively reduced through a fair, responsive and, where necessary, firm approach.
- 2.6.4.** LBTH/THH's aim is that leaseholders clear debts as soon as possible whilst taking into account the specific circumstances of the individual leaseholder. If leaseholders experience difficulties in making payments they should contact THH Leasehold Services who may be able to arrange tailored repayment plans for leaseholders.
- 2.6.5.** If leaseholders do not pay within the specified time; miss payments despite a number of reminders; make no effort to make payments, or have come to no agreement with LBTH/THH, then LBTH/THH will use the most appropriate and effective method of debt recovery in order to maximise income. This could result in a County Court judgement being obtained against the Leaseholder which could affect their credit status.
- 2.6.6.** LBTH/THH will ensure that its more severe powers for debt recovery will only be used when all other reasonable methods have failed and where statutory processes have been properly followed. Appropriate levels of authorisation will be maintained within the LBTH/THH Leasehold Arrears Procedure.
- 2.7. Administration Fees for additional service requests**
- 2.7.1.** LBTH/THH will charge a separate fee for any extra services a leaseholder asks us to provide, just as most managing agents in the private sector would do.
- 2.7.2.** The following are examples of the types of request that will incur an Administration Fee
- Request for a Postponement of Charge
  - Request for permission for an Alteration
  - Request for a Resale Pack
  - Request for permission to sublet a leasehold property
  - Assignment of a lease on resale
- 2.7.3.** Fulfilling requests for extra services from Leaseholders will involve administrative cost and may involve professional costs in a number of teams including (but not limited to):
- THH Leasehold Services
  - THH Technical Services
  - THH Legal
  - LBTH Legal
  - LBTH Commercial Property Services

**2.7.4.** Within their Procedures THH will maintain a scale of appropriate fees which seek to recover all of the costs incurred in servicing additional service requests from leaseholders. If LBTH/THH did not seek full recovery of these costs for an extra service requested by a leaseholder then these extra costs would be shared between all leaseholders which would not be fair. The fee structure will include a number of fixed fees for certain types of transactions as well as specifying hourly rates for relevant types of staff (for example surveyors and solicitors).

**2.7.5.** Administration fees refer to the costs that are individual to the leaseholder or property. The Commonhold and Leasehold Reform Act 2002 define an administration fee as follows:

'In relation to service charges, an administration charge is defined as being an amount which is payable directly or indirectly for:

- The grant of approval under the lease or application for such approvals
- The provision of information or documents by or on behalf of the landlord
- Costs arising from non-payment of or a sum owing to the landlord by the required date.
- Costs arising in connection with a breach (or alleged breach) of the lease