

Leasehold Management Policy

1.0 SCOPE

Purpose

- 1.1. This Policy outlines the way whg deals with day to day management of leasehold homes, including the collection of ground rent, service charges and other associated charges.
- 1.2 This Policy, together with the on-line Leaseholder Handbook, ensures that all leaseholders understand their obligations and what they can expect from whg.
- 1.3 This Policy applies to leaseholders who own a flat or apartment where whg is the freeholder or managing agent, either where they have purchased the flat or apartment through the Right to Buy or Acquire, or on the open market. It does not apply to leaseholders who are shared owners; they are dealt with under the Shared Ownership Policy.

Legal and regulatory framework

- 1.4 The lease is a contract which details covenants made by each party and includes the provision of and payment for services. Leases usually include a provision for variable service charges, and all of whg's leases have variable charges. The lease should include a clear basis for varying the charges, the frequency, method and how they are apportioned. whg's leasehold service charges are apportioned equally between each leaseholder in a block as per the terms of the lease.
- 1.5 Leaseholders of flats or apartments cannot individually own the freehold, and nor do they have the statutory right to collective enfranchisement (the collective purchase of the freehold with other leaseholders) or to extend the lease. This is due to whg's charitable status. However, whg has chosen to give these rights through the Leaseholder Extension of Lease and Collective Purchase of Freehold Policy.
- 1.6 Sections 18-30 of the Landlord and Tenant Act 1985 set out the main framework for variable service charges. A variable service charge is one where the provisions of the lease allow the landlord to change the service charge each

year according to actual costs incurred or estimated, making an adjustment the following year for any under or over payment. Details of sections 19 – 22 of the 1985 Act are set out at Appendix 1 to the Policy.

- 1.7 Sections 35-37 of the Landlord and Tenant Act 1987 deal with the variation of leases. whg and a leaseholder are able to mutually agree variations to the terms of a lease, but sections 35-37 set out the procedure for varying a lease through an application to the First Tier Tribunal. The tribunal in making a decision to vary a lease can also order compensation to be paid if the variation causes a loss or disadvantage.
- 1.8 The keeping and handling of leaseholder data will be in accordance with the Data Protection Act 2018 and the General Data Protection Regulations.
- 1.9 The Regulatory Standards do not specifically apply to leaseholders. However the Governance and Viability Standard states that Governance arrangements shall ensure registered providers adhere to all relevant law.
- 1.10 There is also a requirement in the Value for Money standard for housing association boards to have a clear strategy to drive Value for Money improvements. There is no definition of Value for Money in the legislation, but service charges must be reasonable as per section 19 of the Landlord and Tenant Act. There are also numerous references to Value for Money in service charge tribunal cases.

2.0 POLICY STATEMENT

Annual Service Charges

- 2.1. Leaseholder service charges will be raised in accordance with the terms of the lease and will be charged on a variable service charge basis.
- 2.2. Appropriate notice will be given to leaseholders in the prescribed form. Where there are changes to services provided, or to how they are charged, leaseholders will be consulted prior to their introduction.

Ground Rent

- 2.3. Ground Rent is set in line with the lease and collected annually alongside the service charge.

Insurance

- 2.4. whg is required under the terms of its leases to provide a buildings insurance policy for its leasehold properties, the cost of which is recovered through the service charge

- 2.5. whg will ensure value for money when obtaining buildings insurance so that leaseholders benefit from any cost savings.
- 2.6. Where leaseholders choose to sublet the property they must provide a copy of a formal tenancy agreement for their tenant. Failure to do so will result in a 30% increase in the premium to reflect the increased risk.

Improvements & Repairs

- 2.7. whg is committed to maintaining its stock and has a cyclical programme of repairs and improvements. When scoping works, decisions are based upon the long term value for money in block maintenance regardless of the proportion of tenanted or leasehold properties.
- 2.8. All works undertaken will be in accordance with the terms of the lease and works which necessitate Section 20 consultation will be dealt with in line with legislation.

Consultation

- 2.9. In addition to the statutory requirement to consult with leaseholders under section 20 of the Landlord and Tenant Act 1985, where possible, whg will actively consult and work with leaseholders to understand their needs and preferences, and to provide services that reflect this.

Payment Terms

- 2.10. Payment of leaseholder charges is due annually in advance under the terms of the lease. However, whg recognises that there are occasions when customers find it difficult to make payment and we will consider instalment plans for annual service charges over 12 months where appropriate.
- 2.11. Where substantial charges are due for repairs or improvements, whg will consider accepting payments over a longer period. All instalment arrangements will be based upon the customer's individual circumstances and will be subject to disclosure of income, expenditure and savings.
- 2.12. whg will take legal action to secure arrears where appropriate and in line with the Income Collection Policy and Leaseholder Arrears Procedure.

Lease extension & Enfranchisement / Right to manage

- 2.13 Any requests to extend the lease or for collective enfranchisement will be dealt with in line with the Leaseholder Extension of Lease and Collective Purchase of Freehold Policy.

Disputed Service Charges

- 2.14. In the event that a leaseholder disputes a service charge, they can raise a complaint which will be dealt with in line with whg's Complaints Policy so that the dispute can be reviewed in order to try and avoid any legal recourse.
- 2.15. Where a matter cannot be resolved, either party may consider referring the dispute to the First Tier Tribunal for their guidance. Details are available in the Leaseholders Handbook.

3.0 PERFORMANCE MEASURES

- 3.1. whg is a member of the Housing Quality Network Leasehold Excellence Network. The group meets bi-annually to share best practice and benchmark services and customer satisfaction.
- 3.2. Levels of debt and trends will be monitored by the Income Collection Team and performance will be reported to the Group Executive.

4.0 MONITOR AND REVIEW

- 4.1. This Policy will be monitored by the Director of Housing and reviewed every three years by the Policy Group.

5.0 ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES

- 5.1. Documents, policies and procedures associated with this policy are:
 - Landlord and Tenant Act 1985 & 1987
 - Leasehold Reform, Urban Development Act 1993
 - Housing Act 1996
 - Common hold and Leasehold Reform Act 2002
 - Leaseholder Handbook
 - Leaseholder Extension of Lease and Collective Purchase of Freehold Policy
 - Rent and Service Charge Policy
 - Right to Buy and Right to Acquire Policy
 - Shared Ownership Policy
 - Income Collection Policy
 - Leaseholder Arrears Procedure

Version control

Version	1.3
Document author	Sarah Johnson
Document owner	Director of Housing
Legal advice	Referred to 'NHF Service Charges – A Guide for Housing Associations' (written by solicitors)
Consultation	None
Approved by	20 June 2018
Review Date	January 2022
Corporate Plan aim	<ul style="list-style-type: none"> • Deliver high quality homes and services for our customers • Deliver a strong business, fit for today and prepared for tomorrow
Equality analysis	Not required
Key changes made	Legislation and regulation section added and procedure removed from the Policy Statement

Appendix 1

Landlord and Tenant Act 1985 sections 19 - 22

- s.19 Requires service charges to be reasonable:
- The charges must be reasonable;
 - The provision of services and/or works must be reasonable; and
 - The services and/or works must be of a reasonable standard.
- Either the landlord or the leaseholder can apply to the First Tier Tribunal (FTT) for a determination that the services, works and/or costs are reasonable. If legal action is taken against a leaseholder for service charge arrears, the court will refer the case to the FTT for a determination regarding reasonableness.
- s.20 Requires landlords to consult leaseholders with variable service charges before carrying out 'qualified works' or entering into 'qualifying long term agreements' with contractors and suppliers, where the cost of such services or works are to be recovered through the service charge. If the appropriate consultation is not completed, the maximum that can be recovered is £250 for qualified works, or £100 per year for qualifying long term agreements. Section 20B stipulates that if a demand for payment is not requested within 18 months of the costs being incurred then they will not be recoverable
- s.21 Requires the provision of a written summary of costs for any accounting period if requested by a leaseholder. Where the service charge relates to more than four homes, the summary has to be certified by a qualified accountant (which cannot

be an internal accountant) as being a fair summary and be sufficiently supported by accounts, receipts and other relevant documents. The summary must be provided within one month of the request or within six months of the relevant accounting period, whichever is later. Failure to comply with this provision is a criminal offence.

- s.21B Requires that every service charge demand includes a document entitled 'Service charges – summary of tenants' rights and obligations'. The document sets out the rights and obligations of both the leaseholder and whg. The document format is prescribed by Regulations.

- s.22 Stipulates that if a leaseholder requests a statement of account, within six months of doing so they may also request to inspect the supporting accounts and documentation. If such a request is received, whg must make the documentation and facilities for inspecting them available for two months, within one month of the request.