

Subject: Leasehold Management & Service Charge Arrears Policies

Report to: Management Team: 19<sup>th</sup> February 2018  
Housing & Neighbourhoods Committee: 1<sup>st</sup> March 2018

Report by: Amanda Nugent – Rent Manager

#### **SUBJECT MATTER/RECOMMENDATIONS**

This report introduces two policies covering leasehold management within our Housing Department and the collection of service charges from leaseholders.

Housing & Neighbourhoods Committee are requested to approve the new policies.

### **1. INTRODUCTION/BACKGROUND**

- 1.1 Great Yarmouth Borough Council (GYBC) are responsible for managing around 360 leasehold properties purchased under the Right to Buy from our Housing Revenue Account (HRA) housing stock. Following an audit recommendation, policies have been drafted to outline how we manage leasehold properties and also how we collect service charges and other fees from leaseholders.

### **2. SUMMARY OF POLICIES**

- 2.1 Two policies have been drafted, one to cover the general management of leasehold properties, explaining the rights and responsibilities for both parties, the legal basis for raising charges and the dispute resolution process.
- 2.2 The second policy provides further detail on how service charges are collected and details of further recovery action, if required.

### **3. FINANCIAL IMPLICATIONS**

- 3.1 The collection of leasehold charges amounts to approximately £115,000 per year plus around £200,000 in major works charges. The major works charges obviously vary depending on the number of such projects taking place, however could rise to around £500,000 in any year. Efficient collection of these charges ensures that the burden of repairing leasehold properties does not fall upon rent payers from the HRA housing stock.

4. **RISK IMPLICATIONS**

The major risk is regarding non-payment of leasehold charges. The policy defines how that risk is mitigated through the collection process.

5. **CONCLUSIONS**

N/A

6. **RECOMMENDATIONS**

Housing & Neighbourhoods Committee are requested to approve the leasehold policies.

7. **BACKGROUND PAPERS**

None

8. **APPENDICES**

Appendix 1: Leasehold Management Policy

Appendix 2: Leasehold Service Charge & Arrears Policy

*Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?*

<b>Area for consideration</b>	<b>Comment</b>
Monitoring Officer Consultation:	N/A
Section 151 Officer Consultation:	Via Management Team
Existing Council Policies:	N/A
Financial Implications:	Contained in the report
Legal Implications (including human rights):	Contained in the report
Risk Implications:	Contained in the report
Equality Issues/EQIA assessment:	Contained in the policy
Crime & Disorder:	N/A
Every Child Matters:	N/A

## **Great Yarmouth Borough Council Community Housing**

### **Leasehold Management Policy**

#### **1.0 POLICY STATEMENT**

Great Yarmouth Borough Council (GYBC), as the landlord is committed to meeting its responsibilities to its leaseholders under the terms of their leases and providing them with a cost effective service that meets their expectations

GYBC Community Housing is committed to:

- Providing an efficient and customer orientated service to all leaseholders, based on quality and value for money.
- Effective communications with all leaseholders.
- Offering the same standards of customer care and performance standards to leaseholders as its tenants.

This policy outlines our principles and approach to managing the Leasehold service.

#### **2.0 DEFINITIONS**

Leaseholders of GYBC Community Housing are: -

- Former tenants who have purchased their flats under the 'Right to Buy' scheme from GYBC Community Housing.
- Or who have purchased their lease or acquired through assignment from a previous leaseholder.

#### **3.0 OBJECTIVES**

- Clarify the services provided to leaseholders.
- Confirmation of the responsibilities of leaseholders and the landlord, GYBC.

#### **4.0 STRATEGY**

GYBC will be bound by the terms of the leases issued to leaseholders and by any regulatory or statutory body.

GYBC will provide factual information relating to prospective leaseholders regarding their rights and obligations and will emphasise the need to seek legal advice before making a commitment to buy.

Leases issued by GYBC will include information about the following:

- The fact that service charges will be due to be paid, how they are calculated and when payment will be due.

- Details of the responsibilities of the leaseholder and of GYBCas the Landlord for repairs and maintenance to the property, the structure and common parts.
- The procedures for the leaseholder to assign the lease.
- Details on how leaseholders can request permission before undertaking improvement works to their home. Full details of the proposed works must be submitted to GYBC, and the leaseholder must meet any other requirements for consent, such as planning permission.
- Administration fees are for particular services and are recoverable under the lease, e.g. a copy of the lease, where the leaseholder has mislaid their copy, assigning a lease where there is a new sale etc.

### **Management and Administration**

GYBC charges will reflect the proportion of works carried out for the management and delivery of the service to blocks and estates.

Administration fees are for particular services and are recoverable under the lease.

### **Major Works**

As a landlord GYBC has an obligation to repair, maintain and sometimes improve the main structure and common parts of the block and estate.

Works that are more large-scale are carried out on a planned basis, such as roof replacement, repairs and decorations, replacing a lift, repairing or replacing windows are also referred to as 'Major Works'.

The Commonhold and Leasehold Reform Act 2002 introduced new requirements in which the landlord is to consult with leaseholders regarding major or long term works through a process under Section 20 of the Act. A notice under Section 20 must be issued where a leaseholders financial contribution to the works amounts to £250 or more. Also where long-term contracts for goods or services which will result in a leaseholder paying more than £100 a year.

GYBC will aim to limit the proportion of the costs of Major Works, which passes on to Leaseholders wherever possible, and as required by legislation.

### **Factors Affecting Major Works Charges**

There are a number of factors that may affect a major works charge. This section details the main factors and the reason for them.

Prospective leaseholders will receive an 'Offer Notice Section 125 of the Housing Act 1985' from GYBC. This notice will set out an estimate of annual service charges and details of any major works that are intended to carry out during the first initial period of 5 years of the lease. The 'initial period' is a period of 5 full financial years following the date of the Right to Buy sale. The leaseholder will be liable to pay for repairs carried out within the initial period of the lease, plus inflation.

A leaseholder is also liable for contributing towards the costs of works carried out between the date of the Right to Buy Offer Notice and completion, where such works have been detailed in the offer.

Once the initial 5 year period of the lease has passed, GYBC will no longer be restricted by the S125 Offer Notice in its ability to recharge for major works. The leaseholder will become liable for their full contribution to any qualifying major works.

It must be noted that a subsequent private sale of the leasehold property does not create a new initial period.

### **Leaseholder Observations and Nominations**

GYBC is obliged to have regard to written observations submitted during the consultation period set out in notices served.

Leaseholders and Recognised Tenants' Associations (RTA's) are served with a notice describing the works, detailing the reason for the works and the estimated cost. Leaseholders and RTAs are invited to make written observations on the proposals set out in the notice.

### **Invoicing you for Major Works**

The Landlord and Tenant Act 1985 requires that within 18 months of GYBC making a payment to a contractor for major works, GYBC must send leaseholders either:

A bill for their share of the costs; or

A notice under Section 20B, setting out the costs incurred to date and stating that a bill will be sent once the final costs of the work is known.

### **The Decent Homes Standard**

GYBC has to comply with the Government's Decent Homes Standard 2010. For leaseholders, the Decent Homes' Standard includes works undertaken to the external fabric of the building.

Leaseholders are responsible - under the terms of the lease - for the upkeep of the internal parts of their property and as such do not have kitchens and bathrooms replaced by the Council's contractors.

As Decent Homes works involve large scale capital works, this will involve scaffolding, or another form of access, being used to enable contractors to inspect, survey and access the block. If on inspection, GYBC find a need to carry out associated works GYBC will do this while the scaffold is in place to facilitate access and keep costs down.

### **Service Charges**

An annual service charge will be levied on leaseholders to cover the proportion of costs for day to day repairs and routine maintenance to the building and estate. These are repairs and maintenance that cannot be planned for, and need to be put right as and when they occur. They are classed as responsive repairs and are charged as part of annual service charges.

Great Yarmouth Borough Council Community Housing will:

- Prepare timely and accurate information about the cost of the services for which service charges are due.
- Send information to leaseholders about their service charge accounts.
- Offer home visits to leaseholders in the Borough of Great Yarmouth who are unable to visit the office and may hold leasehold surgeries/ meetings/ forums to explain Service Charges etc.

### **Guarantees for Works**

Great Yarmouth Norse (GYN) as the councils repairs and maintenance partner, may provide you with information about guarantees on work to your block/estate including the duration of guarantees and what is covered by each guarantee.

If there are problems with works under guarantee contractors are required to return to put things right at no charge to leaseholders.

## **5.0 SERVICE CHARGES**

GYBC as the Landlord will prepare timely and accurate information about the cost of services for which service charges are due.

### **Ground Rent**

All Leaseholders are required to pay ground rent on demand. In the case of properties bought under the Right to Buy this is fixed under the terms of the lease at £10 per year.

### **Management Fees**

GYBC reserves the right to recover the costs for managing its leasehold properties. Management Fees may vary from time to time and will cover the

costs of providing management and general administration on behalf of Leaseholders.

## **Insurance**

GYBC will insure the premises to their full reinstatement value and provide to leaseholder's details of the sums insured, perils covered and premiums.

Leaseholders must inform GYBC of any changes in circumstances that may impact on the insurance, for example, sub-letting.

Leaseholders are responsible for providing their own contents insurance.

## **Gas Safety**

Leaseholders who are landlords are required by law to have yearly gas safety inspection carried out and provide their tenant with a copy of the certificate.

It is good practice and strongly recommended for resident leaseholders to have a gas safety inspection yearly for their own safety and others within the block.

## **Breach of Lease**

GYBC will take appropriate action if leaseholders breach the terms of their lease. Breaches can include:

- Works to premises without permission.
- Improper use of premises.
- Failure to maintain premises.
- Damage to premises.
- Non-payment of ground rent, service charge or major works contribution.
- Refusal to allow access to Great Yarmouth Borough Council's Community Housing representatives or contractors.
- Harassment, anti-social behaviour or neighbour nuisance.

Breach of lease could result in legal action in the form of an injunction or forfeiture of the lease and leaseholders will be served with a Section 146 Notice of Breach of Covenant.

## **Transfer of Leasehold interests**

GYBC will respect Leaseholders' entitlement to sell their Leasehold interests to third parties and will deal with enquiries relating to such transfers in a prompt and efficient manner.

Leaseholders should notify GYBC of transfers and sub-letting, providing the managing agent with current correspondence addresses.

GYBC reserves the right to charge a fee for services, including the assignment of a lease, and documentation provided.

## **6.0 MONITORING AND PERFORMANCE**

GYBC will introduce new performance measures regarding their leasehold service. These will include;

- Rent and service charge arrears for current leaseholders
- Rent and service charge arrears for former leaseholders
- Amount and % of debt written off for leaseholders
- Service charges collected as a % of Service charges due
- Number of consultations carried out under Section 20
- Level of arrears of leaseholder contributions to major works.
- Number of Properties Sublet.
- Number of cases where a breach of lease has occurred.

GYBC will undertake customer satisfaction surveys amongst leaseholders and report findings in the tenants newsletter.

GYBC will ensure that our staff are trained to deliver the service effectively, and develop links with other agencies to organise joint training.

## **7.0 EQUALITY AND DIVERSITY**

The policy will take into consideration the Equality Act 2010, Public Sector Equality Duty and protect from discrimination and will be regularly reviewed. GYBC will assess each case on its own merits to minimise any loss of public funds.

## **8.0 DISPUTES & COMPLAINTS**

Leaseholders and GYBC have the right to formally refer disputes to the Leasehold Valuation Tribunal/ First Tier Property Tribunal.

A leaseholder must meet the criteria below to make an effective dispute

- Provide good grounds for claiming that some kind of error in management of the building, calculation of the service charge, consultation or invoicing has occurred.
- Include a credible statement of how this error has had a detrimental effect on them as leaseholder.

The tribunal will charge a fee for hearing a case and GYBC reserve the right to recover all legal costs reasonably incurred in either taking a case or defending a dispute.

Leaseholders who are not satisfied with the way in which their service has been delivered may use the GYBC Complaints Procedure as detailed in the Complaints Policy. This can be found at;



<https://www.great-yarmouth.gov.uk/commentscomplimentsandcomplaints>

## **9.0 REVIEW OF POLICY**

This policy shall be reviewed in 2020.

**Great Yarmouth Borough Council**

**Leasehold Service Charge Arrears Policy**

**1.0 POLICY STATEMENT**

The purpose of this policy is to set out the way in which Great Yarmouth Borough Council (GYBC) will manage leaseholder debts in a firm but fair way to maximise its income. It will ensure that a consistent approach is taken whilst taking into account individual circumstances. GYBC recognise that at times our leaseholders may suffer from financial hardship that makes it difficult for them to meet their commitments.

**2.0 DEFINITIONS**

Leaseholders of GYBC are:-

- Former tenants who have purchased their flats under the 'Right to Buy' scheme.
- Those who have purchased their lease from a previous leaseholder of Great Yarmouth Borough Council.

**3.0 AIMS & OBJECTIVES**

**Aims:**

**GYBC will;**

- Ensure that leaseholders pay their rent, service charge and any other charges in accordance with their lease.
- Ensure early intervention and to contact leaseholders quickly where they fall into arrears.
- Work with our partners to develop a joined up response to issues of financial exclusion affecting our leaseholders.
- Act in accordance with best practice in arrears recovery.
- Ensure leaseholders have the information and support they need to maximise their income and prevent or minimise their debt.
- In exceptional cases, offer service charge loans, under the relevant legislation.
- Ensure that all service charges are calculated correctly in accordance with the management policy, leases and legislation.
- Make it easy for leaseholders to pay their charges by having a wide variety of payment methods.

- Offer leaseholders affordable payment plans to enable them to pay any arrears (in addition to their service charge payable) in stages over a period of time.
- Encourage leaseholders to inform landlords of any change in their personal circumstances and any likelihood of them missing a repayment.
- Make leaseholders aware of the range of local debt and advice agencies, including the provision of contact information, and encourage leaseholders to use these services.
- Promote a service charge and major works payment culture. This should involve highlighting the connection between these payments and the landlord's ability to deliver high quality repairs, maintenance and services to the leaseholders, as well as publicising the potentially serious personal consequences of accumulating arrears.

**Objectives:**

- To ensure essential income collection for GYBC.
- To keep the level of service charge arrears to a minimum in order to maximise income in the interest of both the Council and its tenants and leaseholders.
- To avoid leaseholders getting in difficulty financially therefore protecting their homes.
- To use legal action against leaseholders who fail to take reasonable steps to clear their arrears.
- For leaseholders who have sublet their homes, we will seek full repayment of any debt in one payment as they are regarded as commercial landlords.
- GYBC will create a supportive environment where leaseholders feel able to report difficulties rather than avoiding them.

#### **4.0 LEGISLATION REGULATION & GUIDANCE**

Legislation has an impact on how GYBC can implement its Leasehold Arrears policy and we must follow a pre action protocol.

Listed below are the key Acts that will be acknowledged.

- Landlord and Tenant Act 1985
- Housing Act 1988 • Housing Act 1996
- Commonhold and Leasehold Reform Act 2002

All leaseholders are subject to service charges and ground rent for their property. These charges are for services provided by GYBC.

These include costs for:-

- Repairs to communal areas, communal lighting, major works to the building and an buildings insurance premium .These can vary from year to year.
- Ground rent is fixed £10 charge that is payable annually; is separate from general service charges and is a condition of the lease. It is invoiced at the same time as service charges.

Debt recovery possession action will be taken only after checking to make sure that there is no Service Charge Loan in operation.

Leaseholders will be billed once a year in arrears by September showing the actual charges for the previous financial year.

Leaseholders will be expected to make payment on these bills within 28 days of their receipt.

A full breakdown of the charges by type will be made available for leaseholders on the statement of account and a further breakdown can be provided upon on request by Great Yarmouth Norse.

### **Payment Methods:**

Provide a choice of and continue to develop the payment options available, reviewing these methods regularly to ensure value for money, accessibility and customer satisfaction.

## **5.0 LOANS**

Leaseholders may be eligible for a loan to pay for service charges for repairs under exceptional circumstances. Please contact the GYBC Leasehold Officer for further details.

## **6.0 EQUALITY AND DIVERSITY:**

The policy will take into consideration the Equality Act 2010, Public Sector Equality Duty and protect from discrimination and will be regularly reviewed. GYBC will assess each case on its own merits to minimise any loss of public funds.

## **7.0 COLLECTION OF SERVICE CHARGE ARREARS**

GYBC will seek to collect all charges due under a lease. To carry this out in an efficient manner GYBC will;

- Aim to identify “vulnerability” at the start of and throughout the term of the lease and work with other agencies to provide a supportive and holistic service.
- Encourage leaseholders to contact us as soon as debt problems arise so that we can give clear advice and make referrals to appropriate advice agencies.
- Pro-actively signpost service users to other agencies that can maximise their income, whether in arrears or not.

- Make referrals to financial and benefit advice agencies.
- Send letters which are clear, customer friendly and designed to encourage leaseholders to talk to us so that GYBC can provide assistance.
- Give the option and arrange for home visits within the Borough of Great Yarmouth for vulnerable residents.
- Contact leaseholders using a variety of different methods, including letter, home visit, telephone contact, e-mail and texting.
- Work closely with any advice agency or authorised person acting on their behalf of the debtor.
- Treat all leaseholders in arrears with respect and with consideration of their individual circumstances.
- Provide facilities to enable people to discuss their debts in a confidential setting and will listen and endeavour to offer assistance wherever possible.
- Confirm any payment arrangements and record on our accounting system.

## **8.0 THE LEGAL FRAMEWORK FOR RECOVERY:**

### **GYBC will;**

- Effectively manage every leaseholder account, and take legal action only where all other methods have been exhausted.
- Place emphasis on prevention of arrears and GYBC may take court action to recover debt when a leaseholder is not engaging to reduce the balance.
- Continue to attempt various methods of contact to our leaseholders to make agreements to pay throughout legal proceedings.
- Keep the leaseholder informed of the action being taken at each stage of recovery.
- GYBC will write and inform if arrears accrue. If payments are not maintained or arrears reduce if no resolution.
- Work with all of our partners to find alternatives to forfeiture
- Refer cases at risk of forfeiture to Children or Adult Services.
- Inform Ward Members where forfeiture is imminent.
- A flowchart of the service charge recovery process can be found at Appendix 1

## **9.0 COMPLAINTS**

Leaseholders who are not satisfied with the way in which their service has been delivered may use the GYBC Complaints Procedure as detailed in the Complaints Policy. This can be found at;

<https://www.great-yarmouth.gov.uk/commentscomplimentsandcomplaints>

## **9.0 REVIEW OF POLICY**

This policy shall be reviewed in 2020.

**Appendix 1**

**Leaseholder Service Charge  
Recovery Procedure**

