



**LEASEHOLD
MANAGEMENT
POLICY**

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1.0 Scope

This Policy applies to services provided by Broxtowe Borough Council to leasehold owner occupiers and leasehold landlords. The Policy does not apply to Shared Ownership leases. For matters involving Shared Ownership there is a separate Shared Ownership Policy.

2.0 Purpose

The purpose of this Policy is to provide clarity and consistency by outlining clearly the responsibilities and obligations of leaseholders and the Council's approach to delivering our contractual obligations in line with the lease and in accordance with leasehold legislation and regulations.

Nothing in this Policy overrides, amends or replaces the terms of lease and it should be read as an interpretation of lease provisions.

3.0 Aims and Objectives

The aim of the Policy is to set out how Broxtowe Borough Council will:

- Meet its responsibilities to leaseholders under the terms of their lease
- Provide a good quality service to all leaseholders
- Ensure all leaseholders are given information about their rights and responsibilities
- Consult with leaseholders in accordance with legislative requirements, on any proposed changes to Policy or practice which affect the management of their homes
- Consult effectively with leaseholders on matters that affect their properties and the communal services provided to them under the terms of their lease
- Work with leaseholders to maintain high levels of satisfaction

4.0 Regulatory Code and Legal Framework

- Commonhold and Leasehold Reform Act 2002 – Including the Right to Manage and jurisdiction First Tier Tribunal (Property Chamber)
- Housing Act 1985 – Secure Tenancy Administration & Right of First Refusal
- Landlord and Tenant Act 1985 - Service Charges & Consultation
- Landlord and Tenant Act 1987 - Variation of leases
- Law of Property Act 1925 and the Housing Act 1996 - Forfeiture for breach of a covenant or condition of a lease
- Leasehold Reform Housing and Urban Development Act 1993 - Collective enfranchisement and lease renewals
- Leasehold Reform Act 1967 - Right to enfranchise
- Leasehold Reform (Ground Rent) Act 2022

5.0 Policy Outline

5.1 Leases

Leaseholders will be provided with a copy of their lease by the Solicitor acting on their behalf when they purchase their home, and are made fully aware of the covenants and service charge implications. If the leaseholder requires a copy of their lease, this can be obtained in various ways, for example from the Land Registry or from the Council subject to paying the relevant noted fee for this service.

The Council will make information available to all prospective leaseholders in relation to their rights and obligations, but will explain that they will need to obtain independent legal advice before committing themselves to signing a lease.

The Council will provide new leaseholders with a copy of the Leaseholder's Handbook which contains key information and advice regarding the services they can expect to receive.

5.2 Lease extensions or variations

The leaseholder has the right to extend the term of their lease and can apply for a new lease at any time as long as they meet certain conditions. To qualify, they must be the leaseholder and have held a lease for five years or more and satisfy the criteria that no proven breaches to the lease have taken place previously.

Where a leaseholder applies for a new lease during enfranchisement, their application will not go ahead until the enfranchisement process has ended.

The terms of a lease can be varied only by specific agreement between the parties to the lease and, where appropriate, their mortgagees or through an order by the First Tier Tribunal (Property Chamber).

Lease variations where required, will be by mutual consent of the parties to the lease or by an Order of the First Tier Tribunal (Property Chamber).

5.3 Enfranchisement

Subject to certain conditions, leaseholders of flats may have the right to collective enfranchisement, (see paragraph 6 for definition) if they and the building in which they live in qualifies. They are advised to seek independent advice.

Should leaseholders seek to acquire the freehold of a block of flats, the Council will comply as required by the Commonhold and Leasehold Reform Act 2002.

5.4 Service Charges

The Council will prepare accurate and timely information about the cost of services for which service charges are due from leaseholders. Leaseholders have a statutory right to seek a summary of the service charge account under section 21 of the Landlord and Tenant Act 1985. The request must be in writing. Leaseholders can also request a summary of the 'relevant costs in relation to the service charges payable' in respect of the last accounting year, or where accounts are not kept by accounting years, the past twelve months preceding the request.

Service charges will be set in accordance with the terms of the lease.

Leaseholders are responsible for paying a reasonable share of the Council's costs for repairing and maintaining the exterior and communal areas relating to their home in accordance to their lease agreement obligations. Service charges that leaseholders are responsible for include:

- Ground rent
- Buildings insurance
- Management and administration fees
- Grounds maintenance
- Electric to supply communal services (communal lighting)
- Day to day maintenance and repairs

This list is not exhaustive as each block may differ in design and service requirement.

During the Right to Buy process, the Council will provide service charge estimate costs within the section 125 Notice to the current tenant /prospective leaseholder.

As the service charges are calculated on actual figures, demands (invoices) are raised within six-months of the financial year end (31st March), so no later than the 30th September each year.

Payment arrangement is required within 21 days of the date of all service charge invoices.

Major Works and Long Term Service Agreements invoices are raised separately to the annual service charge invoices, as the Council are willing to offer a longer repayment term for these invoices, if they are of a considerable value.

Leaseholders will be offered a variety of different ways to pay their service charges.

Where a leaseholder is experiencing financial hardship, the Council will signpost them to appropriate agencies who provide financial advice and guidance.

5.5 Service Charge Arrears

Leaseholders will be provided with information about their service charges at regular intervals.

Any leaseholder who falls into arrears with repayments will be notified of this, and will be encouraged to either make immediate payment to clear the full amount, or to make an arrangement with the Council to clear the debt by defined instalments. This will be a written repayment agreement.

If a leaseholder refuses to pay for service charges or where other options of recovery action have failed, legal proceedings may be considered to include:

- Obtaining a County Court Judgement, which will affect a leaseholder's credit rating
- An Attachment of Earnings
- A Charging Order on the property, which will affect the leaseholders credit rating
- Contact to their mortgage company to request payment of the outstanding charges, which could then be added onto the active mortgage account.
- Escalate for forfeiture of the lease.

5.6 Management and Administration Fees

The Council are legally entitled to charge for management fees. A management fee is for managing the services funded and provided. This charge is intended to cover the cost of staff time in providing and managing services, for example, managing reactive and major works to the communal areas, preparing service charge accounts, consultant fees and administration. The total cost for providing the leasehold management service is calculated each year, this cost is then divided by the number of leaseholders and is then charged to the leaseholder as part of their annual service charge.

Administration charges will be made when a leaseholder requests a particular service or when we have to carry out special work because a lease has been breached, for example, non-payment of service charges which may have incurred additional court costs.

5.7 Ground Rent

Ground rent may be payable and if it is, it is payable in accordance with the terms of the lease.

5.8 Buildings Insurance

The Council will insure the property to their full reinstatement value and will provide leaseholders with details of the insurer, sums insured, perils covered and premiums.

Leaseholders must advise the Council of any changes in circumstances that may impact insurance, e.g. subletting.

It will be the responsibility of the leaseholder to complete and submit claim forms to the insurer where damage is the leaseholder's responsibility to repair.

In the case of damage to a block or structure, where liability is that of the Council's under the lease, the Council will complete and submit an insurance claim.

Leaseholders will be expected to provide any supporting facts and information to support the claim.

5.9 Cost of Major Works

The Council will ensure that costs relating to major works represent value for money and comply with relevant legislation.

All monies due as a result of major works will be collected by the Council in accordance with the lease terms and legislation. If leaseholders require support to pay, the Council will discuss their individual circumstances and explore alternative payment arrangements.

The Council will endeavour to assist leaseholders in planning ahead for future major works projects.

5.10 Repairs

The Council will maintain the external fabric/structure of the building and shared communal areas in accordance with lease responsibilities and obligations. This will include the upkeep of the building and under the terms of the lease, leaseholders will then be charged for their share of relevant costs incurred where appropriate.

Leaseholders may report repairs requests through a variety of customer contact channels, e.g. online form, email or via telephone. Out of hours' arrangements are in place for emergencies.

Periodic maintenance and major works shall be programmed to maintain the condition of properties and, where required and appropriate, leaseholders will be consulted.

5.11 Health and Safety Compliance

Where gas central heating or other gas appliances are installed within a leasehold property, it is mandatory by law that these are serviced annually where the property is sub-let. A leaseholder who sub-lets their leasehold property is a landlord and has a duty under The Gas Safety (Installation and Use) Regulations 1998 Act to carry out an annual servicing of all such appliances. In addition, all leaseholders, whether an owner occupier or absent landlord, are under a 'Positive Obligation (known as a Covenant)' to maintain in a good state of repair, the gas and electrical systems in your property.

As the freeholder, the Council has a duty of care to all the occupiers in the building to ensure we reduce the risk of a fire or other adverse event occurring in the building.

In line with the Freehold Inspection Procedure, approximately every three years the Council will make arrangements with leaseholders to visit the leasehold property and carry out an inspection. The Council will look to identify any potential leak or electrical defect which, if not repaired in a reasonable time, could result in damage to your property and others in the block.

During the inspection the following items/services will be visually inspected and/or tested:

- Plumbing (water supply & waste systems and boilers/emersions);
- Electrical systems such as fuse boards, light switches/plug sockets and fuse spurs in the property
- Smoke/Heat Alarms
- Carbon Monoxide Detectors for each gas appliance except a cooker/hob
- Fire stopping and compartmentalisation
- Fire doors, smoke seals and intumescent strips (where fitted)
- Window restrictors if not a ground floor property
- General Fire Safety

If a defect is found, the leaseholder is responsible for any repairs as per the terms of their lease. The leaseholder will receive a '*Repairs Notice*' advising them what defect has been found and to undertake the repair(s) within a reasonable period of time.

5.12 Leasehold Improvements

Leaseholders are responsible for maintaining and repairing the internal parts of their home including maintenance of fixtures and fittings.

The Council are supportive of leaseholders wishing to improve their homes. Leaseholders are required under the terms of their leases to obtain written consent to make any alterations or improvements from Broxtowe Borough Council by completing the 'Application to Make Alterations to a Leasehold Property' form.

Where permission is refused, this will be confirmed in writing with the reasons for the decision. Requests for improvements will be considered in conjunction with the Alterations and Improvements Policy and the procedure contained within this Policy will be followed. Work should not commence until consent has been granted.

Leaseholders will not be given permission for any alterations or improvements that:

- Make the property or part of the property dangerous or unstable;
- Creates a risk to the health and safety of others;
- Encroaches upon land which is not defined within the leaseholders lease agreement;
- Impacts on the structure or changes the appearance of the building or the shared or communal parts in any way;
- Prevents light or air reaching other residents;
- Affects the legal rights of other residents, for example a right of way;
- Reduces access to other neighbouring properties;

- Invalidates the Council's building insurance;
- Makes maintaining neighbouring properties more difficult or expensive;
- Result in the lease floor plan being changed either by removal of walls or change of use of rooms; or
- If there is an absolute covenant within the lease

Any written consent given will be on condition that the leaseholder has provided us with details of the proposed works and subject to meeting conditions, such as obtaining Planning Permission and/or Building Regulations.

In relation to a flat or a maisonette above ground floor, a suitable floor covering must be laid, with adequate underlay or insulation underneath it, to make sure that any noise, including normal day-to-day noise, could not and does not cause a nuisance to neighbours.

The future maintenance of any improvements or alterations to the property will be the responsibility of the leaseholder. Should there be any damage caused to adjacent properties due to any works carried out, the leaseholder will be responsible for making good and for any costs incurred for putting it right.

The loft space within a block of flats remains the property of the Council and should not be used or accessed by any tenant or leaseholder for any purpose including the storage of goods or conversion extensions.

Retrospective permission for alterations that affect the structure/fabric of the building or appearance should be requested to the Council. A charge may be payable for this, as stated in the Fees at the end of this Policy.

The Council are responsible for all communal areas including shared cupboards within the building. Some cupboards may be available to utilise, however, this will be at the discretion of the Council. The leaseholder would need to obtain written permission from the Council prior to accessing and using.

5.13 Consultation

The Council is accountable to its leaseholders and is committed to promoting their involvement with the services that it provides. The Council will consult leaseholders on the services it provides both individually and using wider forums as necessary, and in accordance with legislation.

Consultation must be carried out on works which fall within the relevant sections of the Landlord and Tenant Act 1985 as amended by the Commonhold and Leasehold Reform Act 2002, such as:

- Carrying out work which will cost any one leaseholder more than £250. This includes repairs, maintenance and improvements to the building and estate.
- Entering into a long-term agreement (for more than 12 months) with outside contractors for work, supplies or services which will cost any one leaseholder more than £100 a year. For example, cleaning, grounds maintenance and surveying.

- Carrying out work under a long-term agreement where the work will cost any one leaseholder more than £250.

Consultation on proposed changes to arrangements for maintenance, management or service provision which could have a substantial effect on leaseholders will also be carried out.

5.14 Subletting

Leaseholders may be able to sublet their property, subject to written consent from the Council. Leaseholders will be required to complete the Sublet Consent Application and Leaseholder Contact Details Form (if applicable). Leaseholders are advised to refer to their lease for clarification. A fee will be payable as per the lease.

If a leaseholder is authorised to sublet their property, they will become a landlord and will be subject to the legislation and regulations imposed on landlords.

Leaseholders are expected to obtain relevant legal advice on their responsibilities as a landlord.

5.15 Garden Maintenance

This section is applicable to leaseholders who have been allocated a garden space within the lease agreement, and not communal garden spaces.

Neighbourhood and communal inspections are held during the year. Residents and leaseholders can take part and inform officers of specific issues relating to their blocks and area.

Where a garden is allocated to a leaseholder within their lease agreement, the leaseholder is required to ensure the area is maintained to a reasonable standard (even if they sublet the property). Should the garden area become overgrown and neglected, the Council will notify the leaseholder and provide them with a reasonable timeframe to undertake the relevant maintenance. In the event that the leaseholder fails to take action, the Council will look to take further action against the leaseholder.

It is reasonable to expect a leaseholder to maintain their allocated garden themselves or to appoint someone else if they are not keen or physically able to undertake gardening themselves. The minimum to expect from any leaseholder or their tenant living in the property, is that the garden should be kept litter free, reasonably tidy and not overgrown. If there are hedges or trees, they should be kept trimmed to a reasonable height and not allowed to encroach onto a neighbour's property or public area and the grass should be cut regularly to prevent it from becoming overgrown.

Boundaries are allocated and noted within either the lease agreement or title deeds. Boundaries which are assigned to the leaseholder are also expected to be maintained and renewed when necessary by the leaseholder.

Communal Gardens will be maintained by the Council utilising their appointed Grounds Maintenance team. Any issues surrounding this maintenance should be reported to the Council in the first instance for the relevant progression.

5.16 Anti-Social Behaviour

Should a leaseholder be subject to incidents of anti-social behaviour with neighbouring residents or their tenants, they are advised to report these concerns directly to the Council. These incidents will then be dealt with in accordance with our Anti-Social Behaviour policies, procedures and lease agreement.

5.17 Pets

Should a leaseholder wish to seek permission for a pet this should be submitted in writing to the Council. Requests will be dealt with in accordance with our Pets Policy and associated procedures.

5.18 Breaches of the Lease

The Council will take appropriate action, which may include escalation to legal action, whenever we become aware that a leaseholder is in breach of the terms of their lease. This will also apply if the property is sub-let.

If the leaseholder does not remedy the breach of their lease, we may consider applying for forfeiture of the lease.

Where legal action is sought the leaseholder may be responsible for charges incurred.

5.19 Right to Buy Discount Rules

The Council will enforce repayment of discount for any Right to Buy purchaser who chooses to dispose of their home within the discount repayment period. Refer to the Right to Buy Policy for further details.

5.20 Selling the property

Leaseholders are not required to seek permission from the Council if they wish to sell their home.

When a leasehold property is being sold, the Council will provide on request to the current and prospective leaseholder and their legal advisors, all the necessary information regarding service charges and any planned major works. A fee for this service will be charged in accordance to the current noted Fees and Charges and referred to as the 'Leasehold Management Pack LPE1' response.

A leaseholder who is selling their property is legally obliged to notify the prospective purchaser of any section 20 notices or other notices that have been served on them

or the property. The Council will provide copies of such notices to the legal representative upon request as part of the LPE1 response.

If the property was purchased under the Right to Buy scheme within the last 10 years, the leaseholder is legally obliged to offer the property back to the Council first. If the property is sold within 5 years from the original conveyance, part of the original discount received would be repayable.

It is a requirement of the new leaseholder's legal representative to notify the Council of the sale/purchase within one month following completion. This should be done by way of a serving formal 'Notice of Transfer' by the purchaser's Solicitors to the Council. The Council reserves the right to charge a fee for services and documentation required. There is a fee for serving this Notice.

If a Notice is not received, the last recorded leaseholder will still be liable for any charges made against the property, such as Service Charge or Ground Rent.

It is in the interest of both parties of any prospective sale and their Solicitors, to ensure that all the outstanding debts relevant to the property are paid in full prior to completion.

When a leasehold property is sold mid-year, the service charge account must be settled in full by the current leaseholder prior to completion. The relevant years' estimate is then apportioned between the parties' solicitors as part of the conveyance process.

5.21 Right to Manage

The Commonhold and Leasehold Reform Act 2002 provides a right to leaseholders (of flats, not houses) to force the transfer of the Landlord's management function to a management company set up by them. The right empowers leaseholders to take responsibility for the management of their block as long as they meet certain conditions to qualify. The Council provide a management service that is to a good standard and value for money to encourage leaseholders to continue to be provided with this service from the Council.

5.22 Complaints

Issues will be dealt with at service level in the first instance. If the issue is not resolved to the leaseholders' satisfaction, the matter can be escalated through the Council's formal complaints procedure. If the leaseholder remains dissatisfied they can escalate their complaint to the Housing Ombudsman. This does not take away either party's right to take any further legal action.

5.23 First Tier Tribunal (Property Chamber)

If a leaseholder is dissatisfied with a service or the charge levied for that service and, they cannot resolve the matter, they can seek a determination on works or services. However, there are certain restrictions where a leaseholder cannot make an

application to the First Tier Tribunal (Property Chamber). The Council will provide information on how to make an application to the First Tier Tribunal on request.

6.0 Definitions

Annual Service charges - Are defined under section 18 of the Landlord and Tenant Act 1985 as “an amount payable as part of or in addition to the rent (a) which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or the landlord’s costs of management (b) and the whole or part of which varies or may vary according to the relevant costs”.

Enfranchisement - Enfranchisement - Is a group (block) ‘right’ for leaseholders to buy the freehold of the building they live in subject to meeting certain conditions known as ‘The Right to Enfranchisement’.

Freeholder – this is the Council as we retain the full ownership of the piece of land or building.

Lease agreement – This is the binding contract between Broxtowe Borough Council and the leaseholder, which outlines rights, responsibilities, liabilities and duties for both parties.

Leaseholder - Is a person who has purchased a property on a lease basis from the Council.

Leasehold Management - Covers the range of services provided by the Council to those who own their property on a leasehold basis.

Market Value – the value of a property on the open market, usually established by an independent valuer.

Major qualifying works - These are works that are usually planned and necessary to maintain the structure/fabric of the building. In some circumstances these could be carried out as emergency works in the event of storm damage which may not be covered by the buildings insurance Policy.

7.0 Related Policies, Procedures and Guidelines

This Policy should be read in conjunction with the:

- Acquisitions Policy
- Anti-Social Behaviour Policy
- Freehold Inspections Procedure
- Housing Repairs Policy
- Leasehold Arrears Procedure
- Leasehold Extensions Procedure
- Leaseholder Handbook
- Leasehold Pet Procedure
- Pets Policy
- Right of First Refusal and Discount Repayable Policy

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- Section 20 Consultation Procedure
 - Shared Ownership Policy
 - Shared Ownership Procedure

8.0 Review

The Policy will be reviewed every 3 years, unless there is a change to legislation.

9.0 Document History and Approval

Date	Version	Committee Name
14/3/18	1	Housing Committee
28/7/24	2	Cabinet