



LEASEHOLDER ARREARS POLICY

This Leaseholder Arrears Policy sets out the Council's approach to preventing and managing leaseholder arrears.

2024

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1. INTRODUCTION

- 1.1. This Policy sets out how Dartford Borough Council ('the Council') will manage leaseholder arrears within its housing stock. This Policy applies to anyone who has purchased a lease where the Council is the owner of the property.
- 1.2. Leaseholders are required to make payments for service charges, ground rent and the cost of major works. All leaseholder charges are calculated in accordance with the terms of the lease agreement and the relevant legislation (as set out in Section 3). The definitions and more information on the charges to leaseholders is set out in Section 4 of this Policy.
- 1.3. The Council will offer support and advice to all leaseholders to help them to understand their responsibilities with making payments. The Council will signpost leaseholders to relevant agencies where appropriate to assist in areas such as money management and to provide benefits advice.
- 1.4. The Council will treat all leaseholders in arrears sensitively, although in circumstances where debts do arise, the Council will take prompt action to recover any arrears as set out in this Policy.

2. AIMS AND OBJECTIVES

- 2.1. The overall objective of this Policy is to minimise the level of leaseholder arrears. To achieve this, the Council aims to:
 - Ensure all leaseholders are aware of their responsibility to pay for ground rent, service charges and major works where required;
 - Ensure leaseholders have the information and support they need to prevent or minimise their debt;
 - Enable leaseholders to maximise their income;
 - Monitor levels of arrears and have early intervention mechanisms in place to prevent arrears accruing further;
 - Promote and offer a wide variety of payment options;
 - Ensure all communications are clear and encourage contact;
 - Take appropriate and proportionate action in accordance with the level of arrears accrued;
 - Ensure all leaseholders are treated in a fair, respectful, empathetic and consistent way.

3. STRATEGIC CONTEXT

- 3.1. This Policy and its delivery is intended to be compatible with the following Council policies and documents:

- Lease Agreement – a contract between a leaseholder and landlord setting out the legal terms and conditions of the lease.
- [Major Works and Service Charges Policy for Leaseholders](#) – sets out payment methods, advice and help available for leaseholders who receive invoices for their contribution to major works and service charges.
- [Corporate Plan](#) – sets out the strategic direction the Council will take in relation to its powers, functions and responsibilities.
- [Equality and Diversity Document Framework](#) – sets out how the Council will meet the Public Sector Equality Duty under the Equality Act 2010.

3.2. This Policy and its delivery is also intended to be compatible with the following legislation:

- Leasehold Reform Act 1967
- Housing Act 1985
- Landlord and Tenant Act 1985
- Landlord and Tenant Act 1987
- Leasehold Reform, Housing and Urban Development Act 1993
- Commonhold and Leasehold Reform Act 2002
- Leasehold Reform (Ground Rent) Act 2022

4. DEFINITIONS

4.1. There are 3 main charges the Council request which leaseholders are required to make payment for in accordance with the lease agreement. These are:

- **Service charge** – A payment for services the Council, as a landlord, incurs in maintaining and managing the building. This may include communal repair costs, gardening costs or the cleaning of shared areas. It also includes a premium for buildings insurance.
- **Ground rent** – A charge for renting out the land on which the leasehold property sits.

From 30 June 2022, any ground rent required as part of a new residential long lease cannot be charged at more than the cost of one peppercorn per year, meaning that the ground rent would be of nominal or low value. This change was introduced as part of the Leasehold Reform (Ground Rent) Act 2022.

- **Major works** – A charge for larger repairs and maintenance works to communal areas and the fabric of the building. This may include roof works/replacement, window replacement to the block, brick or concrete repairs or upgrades to door entry systems and security. Landlords are legally required to consult with leaseholders before carrying out any major works.

5. BILLING AND PAYMENT

5.1. Service Charge Billing

5.2. The Council issues leaseholders with an invoice every quarter setting out the amount due for service charges. Invoices are issued on the first day of each quarter (1 April, 1 July, 1 October and 1 January).

5.3. Leaseholders have 30 days to pay once the invoice has been issued. Payment to the Council must be made on time and by the date specified as set out within the invoice.

5.4. Ground Rent Billing

5.5. Ground rent is charged annually in arrears and is payable immediately once it is received in January each year.

5.6. Additional Invoicing

5.7. The Council also send a number of additional statements to leaseholders with specific information about payments and estimated costs to the leaseholder.

This includes:

- **A yearly estimate statement** – this will be sent to leaseholders in March.
- **An actuals invoice** - this sets out the cost of any works completed by the Council that are allocated to a leaseholders block. This is sent each year in September.

5.8. The Council may also send out special one-off invoices to leaseholders, for instance, where repair or improvement work has been carried out specifically to a leaseholders property or where leaseholders are being recharged for damage they are responsible for.

5.9. The Council aims to ensure that leaseholders are able to make payments as easily as possible. All invoices or statements which are sent out provide information on the different payment options available so leaseholders are able to choose an option that best suits them.

5.10. All invoices and statements the Council sends to leaseholders will encourage the leaseholder to contact the Council if they are in difficulty of paying.

6. ARREARS RECOVERY PROCEDURE

6.1. Where debts accrue, leaseholders will be contacted by the Council to request payment. The arrears recovery procedure is based on a staged escalation process.

6.2. The process for recovering arrears is as follows:

Stage One

- First reminder letter sent out 30 days after issuing of invoice requesting payment to be made within 14 days.

Stage Two

- Second reminder letter to be sent out after the 14 day period has ended requesting payment to be made within 7 days.
- Leaseholders will be advised that they will be referred to an external debt agency should they still not make payment.
- If the leaseholder has a mortgage, the mortgage company/lender will be notified at this stage.
- The leaseholder will also be offered an appointment with the Council to discuss the debt. The Council will offer any assistance and signpost leaseholders to agencies who can offer support and advice where required during the appointment. The appointment will take place at the Civic Centre.

Stage Three

- A third letter will be issued provided payment has still not been made. The letter will either be posted to the leaseholder via recorded delivery or hand delivered to the leaseholders address and will state that their case has been referred to an external debt agency.

Stage Four

- The Council will apply for a money judgement via a small claims court if the external debt agency are unable to recover the debt.

If all the above steps have been exhausted and the leaseholder still remains in arrears with no valid reasons for non-payment, the case will be referred to the Council's legal team for enforcement and recovery. The legal team will review the case and may apply for forfeiture. Independent cases may also be referred to an external legal team depending on the circumstances.

7. COMPLAINTS

- 7.1. If leaseholders are not satisfied with the service they have received, the Council's [Corporate Complaints Procedure](#) can be followed. Complaints leaflets are also available from the Council offices.
- 7.2. The [Housing Ombudsman](#) can be contacted if further advice and support is needed on making a complaint to the Council.

8. DATA PROTECTION

- 8.1. The UK GDPR and the Data Protection Act 2018 regulate the processing of information relating to individuals, which includes the obtaining, holding, using or disclosing of such information.
- 8.2. The Council needs to collect and use certain types of information about its leaseholders in order to carry out its everyday business and to fulfil its objectives and its statutory functions.
- 8.3. The Council's:
 - [Data Protection Policy](#) sets out how it will protect special category and criminal convictions personal data;
 - [Housing Services \(Landlord and Tenant\) Privacy Notice](#) explains that the Council collects personal information to administer its housing (landlord and tenant) services.

9. EQUALITY AND DIVERSITY

- 9.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this Policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.
- 9.2. The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated to a contractor/service provider and is a continuing duty.
- 9.3. This Leaseholder Arrears Policy has been subject to a Customer Access Review, to assess the impact it will have on equality. The review found that there are no known circumstances where the Policy will have a disproportionate impact on the protected characteristic groups.

10. MONITORING AND REVIEW

- 10.1. The Council monitor leaseholder arrears on a quarterly basis to ensure payments are being made on time through the agreed payment method.
- 10.2. This Policy will be reviewed every three years or earlier to address legislative, regulatory, best practice or operational issues.

If you or anybody you know requires this or any other council information in another language, please contact us and we will do our best to provide this for you. Braille, Audio tape and large print versions of this document are available upon request.



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