

LEASEHOLD MANAGEMENT POLICY

1. Introduction

- 1.1 On the 21st January 2008, all leasehold properties sold by Monmouthshire County Council under the Right to Buy legislation, were transferred to MHA.
- 1.2 MHA views all of its leaseholders as important customers. We fully recognise that we share a common goal with leaseholders in aiming to maintain properties to a high standard and create a surrounding environment that is safe and comfortable.
- 1.3 In order to provide the best possible service to our leaseholders MHA will provide a comprehensive and responsive leasehold management service in line with the lease, legislation, best practice and value for money.

2. Purpose of the policy

- 2.1 This Policy outlines the principles MHA will use to manage our leasehold properties and develop, operate and monitor the Leasehold procedures and associated guidance.
- 2.2 The Policy seeks to ensure that:
 - a) Leaseholders are provided with a cost effective and efficient management service.
 - b) MHA provides clear and accurate information to leaseholders and consults them about matters likely to affect them, where appropriate, before formal engagement begins.
 - c) MHA complies with the requirement to consult with leaseholders in relation to qualifying works.
 - d) Our leasehold management service is provided in accordance with both the legislation and standards of good practice.
 - e) Our responsibilities to leaseholders under the terms of their lease are met.
 - f) Leaseholders uphold the covenants in their lease.
 - g) Complaints from leaseholders are dealt with promptly via our Concerns, Complaints and Compliments Policy.

3. Scope

- 3.1 The Leasehold Policy and accompanying procedures apply to any blocks of flats where MHA owns the freehold of the block (i.e. the building and the ground beneath) and where we lease any flat within the block to individual leaseholders.

4. Policy Principles

- 4.1 **Breach of Lease:** MHA will work to ensure that leaseholders uphold the covenants in their lease, in particular with regard to non-payment of service charges.
- 4.2 **Leaseholder Service Charges:** Service charges will be levied by MHA to recover the costs incurred in providing services. Our power to levy a service charge and a leaseholder's obligation to pay will be governed by the provisions of the individual lease. MHA will provide leaseholders with accurate and timely information about the cost of the services they receive and the amount to be paid in service charges. These will be calculated and apportioned in arrears on an annual basis and requests for payment will be sent to the leaseholder in June/July each year. Leaseholders will be encouraged to pay their service charges by direct debit.
- 4.3 **Recovering Service Charge Arrears:** MHA will collect all arrears due to MHA under the terms of the lease. Any leaseholder falling behind with their payments will be advised accordingly. Where a leaseholder's mortgage company can be identified, where MHA cannot secure payment, we will notify the mortgage company of the outstanding arrears and request payment from the mortgage company. Where leaseholders have persistently failed to pay, MHA will instigate legal action as necessary, to recover the debt through the County Court. Though unlikely, MHA may also apply to the county court to end the lease (following a determination by the Leasehold Valuation Tribunal).
- 4.4 **Forfeiture of the Lease:** MHA considers forfeiture to be an extreme measure. As a responsible landlord, we will only use it where there is considered to be no reasonable alternative, when we have to protect the interest of the Association and the covenants of the lease have been seriously breached.
- 4.5 **Service Charges and the Leasehold Valuation Tribunal:** Where a charge is disputed MHA will investigate and if warranted remove a charge. Alternatively, if a leaseholder feels that charges are not reasonable they can apply to the Leasehold Valuation Tribunal to seek a determination of the fairness of the charges. MHA will adhere to the decision and any recommendation made by the Leasehold Valuation Tribunal.
- 4.6 **Leaseholder Responsibilities:** The leaseholder is responsible for keeping the interior of the flat in a good state of repair. MHA is responsible for the maintenance and repair of communal areas such as entrance halls, stairways and landings. If there are structural defects in the building MHA is responsible for rectifying these. Leaseholders are required to contribute to these costs based on the number of flats in the block.

- 4.7 **Harassment and Neighbour Nuisance:** MHA will contact the leaseholder in the first instance to address any issues. MHA's Anti-social Behaviour Policy (ASB) and Procedures should be referred to where a persistent ASB issue occurs.
- 4.8 **Informing and Consulting Leaseholders:** Mechanisms for consultation may include letters, opinion surveys, forums, public meetings and articles in our tenant magazine.
- 4.8.1 To improve transparency, MHA will support early engagement with leaseholders regarding charges for major works.
- 4.8.2 All leaseholders will be regularly invited to discuss any issues or concerns they have to help us improve the service we provide.
- 4.8.3 Service Standards: MHA will make clear what leaseholders can expect from our services and in turn use feedback from leaseholders to continually improve.
- 4.8.4 Leaseholders will be invited to participate in estate walkabouts and will be consulted over environmental and estate improvements.
- 4.8.5 Leaseholders will be provided with information on MHA's Planned Maintenance Programme.
- 4.8.6 MHA will supply a handbook to leaseholders, giving practical advice and information concerning their obligations under the lease and details of MHA's responsibilities as landlord.
- 4.8.7 MHA will also undertake a home visit to all new leaseholders (including assignments of the lease) to explain their responsibilities under the terms of the lease and raise awareness about leaseholder services.
- 4.9 **Self-Management:** Leaseholders have the right to manage the block they live in under right to manage or purchase the freehold under collective enfranchisement. MHA will provide general information relating to the right to manage and collective enfranchisement to any leaseholder requiring it. Beyond this though, individuals will be advised to obtain specialist independent legal advice to begin and carry out the process themselves.
- 4.10 **Legislation:** The leasehold management service will adhere to both the law and good practice – key areas are:
- 4.10.1 Purchasing a leasehold property (also see MHA's Right to Buy and Right to Acquire Policy and Procedure) and change of ownership (on receipt

of notice of assignment): These follow a set process, in line with legislation.

4.10.2 Consultation on qualifying works: MHA will ensure that leaseholders are fully consulted in compliance with Section 20 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002.

4.10.3 Mandatory Loans: MHA will not pay leaseholders repair costs but legislation (Housing (Service Charge Loans) Regulations 1992) requires that under limited conditions the Association must offer a leaseholder a loan in order to repay a large repair invoice. This loan is mandatory where leases are not over 10 years old.

4.10.4 Qualifying long term agreements: Where MHA enters into an agreement for a term of more than 12 months – e.g. for goods or services. If the cost to individual leaseholders exceeds an amount specified in the procedures (per annum) then a consultation process will be followed, as outlined in the Leaseholder procedures.

4.11 **Sinking Fund:** Many leases provide for a landlord to collect sums in advance to create a reserve or 'sinking' fund to ensure that sufficient money is available for future scheduled major works. Following consultation with leaseholders MHA has decided not to operate a sinking or reserve fund.

4.12 **Assignment of the Lease:** A leaseholder may assign the lease at any time but if the leaseholder sells the property within the first 5 years of buying the flat (via the Right to Buy/Right to Acquire schemes), then a proportion of the discount the leaseholder receives will have to be repaid to MHA. Our Right to Buy Policy and associated procedure and guidance should be referred to for further details of repayment of the discount.

4.13 **Changes to the Lease (Variation of the Lease):** There may be situations where MHA is required to change the terms of the lease for existing leaseholders. This will be achieved by agreement with leaseholders or in certain circumstances via a court order or a determination made by the Leasehold Valuation Tribunal. MHA will aim to work closely with leaseholders to achieve their agreement and support them during any proposed changes. Costs for variation will be charged to the leaseholder.

4.14 **Lease Extension:** MHA will assist a leaseholder to extend their lease either via the formal process laid down in the Leasehold Reform, Housing and Urban Development Act 1993 or alternatively through an informal method explained in our procedures.

- 4.15 **Use of a Leasehold Property:** A leasehold property should only be used for private residential purposes and leaseholders will not be permitted to use the property for any trade, profession or business. However, MHA reserves the right to use discretion to allow leaseholders to run a business (or to work) from home provided that: we (in our absolute discretion) deem it reasonable, we have provided our prior written consent and there is no adverse impact on the community or MHA. We may give consent subject to conditions, and we may later withdraw consent if the use of the premises does result in any nuisance or annoyance being caused to any person.
- 4.16 **Leaseholders Carrying out Improvements or Alterations:** Under the terms of the lease, leaseholders are usually required to obtain consent from the Association before carrying out alterations or improvements to their home. Consent for alterations or improvements will not be unreasonably withheld by MHA and any requests to this effect must be made in writing to MHA. NB: Any works carried out by a leaseholder will not negate the need for MHA to carry out works in accordance with the lease and charge the leaseholder for such works.
- 4.17 **Sub-letting:** MHA has no objection to leaseholders sub-letting their flat and becoming a landlord, providing MHA is informed of any sub-let and the leaseholder provides details of where they can be contacted. Also, they must ensure their tenant keeps to the terms of the lease; as the leaseholder they are responsible for the actions of their tenant. Where subletting takes place, a leaseholder will be advised to inform their mortgage provider where applicable (as their mortgage could be affected).
- 4.18 **Gardens:** Leaseholders may have exclusive use of a shed and an area of the garden. This piece of garden is for the sole use of that leaseholder and must be maintained by them. There may also be communal areas or open spaces, the maintenance of which leaseholders are required to make a contribution towards via their annual service charge account.

5. Definitions

- 5.1 **Leaseholders:** These include tenants who have purchased their flat or maisonette under the Right to Buy/Preserved Right to Buy/Right to Acquire schemes and also leaseholders who have purchased their lease from a previous owner.
- 5.2 **The Lease:** When tenants purchase a (MHA) flat they are granted a lease of the flat. A lease is a legal document between a landlord and tenant in which the leaseholder buys rights over his/her home for a certain period of time. MHA

leases are normally for a period of 125 years, during which time MHA remains the landlord. The lease sets out the rights, duties and obligations of both the landlord and the leaseholder. It also sets out the rules governing the use of the building.

- 5.3 **Service charge:** The service charge normally covers the cost of such matters as general maintenance and repairs, ground rent, insurance of the building and grass cutting. The charges shall also include the costs of management by the Association. Additional charges may be added by MHA in the future.

6. Links to Legislation

- 6.1 The Leaseholder Policy and Procedure is framed by relevant legislation, which includes:
- a) The Landlord and Tenant Act 1985 (as amended by Housing Act 1996)
 - b) Common hold and Leasehold Reform Act 2002
 - c) Housing (Service Charge Loans) Regulations 1992 as amended by the Housing (Service Charge Loans) Wales Regulations 2011)

7. Links to Internal Policies and Procedures

- 7.1 The Policy and Procedure should be used in conjunction with other relevant MHA policies, procedures and documentation, which include:
- a) The Lease (the terms of the individual lease will vary slightly depending on when the property was sold by the Local Authority or by MHA).
 - b) The Right to Buy and Right to Acquire Policy and Procedures.
 - c) Value for Money Policy
 - d) Procurement Policy
 - e) Anti-Social Behaviour Policy and Procedures
 - f) Unacceptable Behaviour Policy and Procedure
 - g) Lone Worker Policy

8. Roles and Responsibilities

- 8.1 The Head of Neighbourhoods has overall responsibility for MHA's Leaseholder Service. The management of the Service is delivered by the Neighbourhood and Income Team, supported by MHA's Finance Department and where appropriate the Asset Management Team or Building Services.

9. Record Keeping and IT

- 9.1 MHA will use internal IT systems to maintain accurate and comprehensive records. This will include records of all our leaseholders, payments,

communications and action taken in relation to leaseholders including copies of letters and legal notices sent.

- 9.2 It is the responsibility of all staff to comply with the rules of the Data Protection Act 1998, MHA's Information Security Policy and also our Data Retention Policy.

10. Complaints

- 10.1 MHA will deal promptly with all complaints or disputes from leaseholders. If an applicant is dissatisfied with a decision or any aspect of our leaseholder service this will need to be dealt with via MHA's Concerns, Complaints and Compliments Policy.

11. Equality and Diversity

- 11.1 MHA will ensure that all leaseholders receive a fair and consistent service. No person should be discriminated against because of their race, skin colour, religious or cultural beliefs, or because of their gender, sexual orientation, age, disability or health. For further information see MHA's Equality and Diversity Policy.
- 11.2 MHA will continue to gather profiling data regarding leaseholders in order to improve, tailor and target services more effectively.

12. Monitoring, Review and Performance Monitoring

- 12.1 The Leaseholder Policy will be reviewed every 3 years. A review will be undertaken earlier should there be any legislative changes affecting leasehold management. The accompanying procedures will be reviewed, amended and updated as is necessary in order that they remain relevant and fit-for-purpose.
- 12.2 MHA will encourage leaseholders to become involved in service improvement. Leaseholders will be offered the opportunity to be involved during any major review of this Policy and Procedure. Performance Indicators will be used and a survey will be carried out to monitor and improve performance. We will investigate comments made by dissatisfied leaseholders to ascertain what action can be taken to resolve issues and improve relationships. Feedback from staff will also be used to improve service delivery.
- 12.3 MHA will incorporate good practice and improve Leasehold Management through our involvement with the Housemark Benchmarking Group.