# Leasehold Management Policy

| Date Reviewed | January 2024 | Next Review Date | January 2027 |
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| Consultation | Completed | Reviewed By | Trowers & Head of Housing |
| EIA | Completed | Responsible Officer | Head of Housing |
| DPIA | N/A | Approval By | Executive Team |

## 1. Purpose

Black Country Housing Group (BCHG) provides services for leaseholders of flats and apartments sold under the Right to Buy (RTB) scheme, Right to Acquire (RTA) and flats/apartments available for sale on the open market, including shared ownership and any other Government incentives available at the time. This policy outlines our commitment to providing leaseholders with a high quality, customer focused service which offers value for money.

## 2. Scope

The key objectives of the Leasehold Management Policy are:

- To make sure we communicate with leaseholders with accurate, timely and clear information and advice.
- To consult leaseholders over the provision of services and in advance of any improvement or major repairs programmes.
- To comply with all relevant legislation, regulatory guidance, and codes of practice, and to learn from good practice.
- To make sure that BCHG complies with its obligations for maintenance in accordance with each individual lease.
- To ensure staff are aware of our rights and responsibilities.

## 3. Definitions

Leasehold Management covers the range of services provided by us to those who occupy property on a leasehold basis, where we are the freeholder i.e., flats sold under the RTB, RTA and shared ownership dwellings.

## 4. Related Policy / Procedure and other Documents

This policy should be read in conjunction with the following:

- Estate Management Policy & Procedure
- Home Ownership Policy & Procedure
- Rent and Service Charge Policy
- Development Policy & Procedure
- Equality & Diversity Policy
- UK GDPR Policy

## 5. Roles and Responsibilities

The Head of Housing is responsible for the overall implementation of this Policy. Home Ownership Manager will be the main point of contact for leaseholders and will work in close co-operation with Customer Relations Managers and other teams to make sure we deliver a prompt and efficient service.

## 6. Policy Statement

BCHG manages a small portfolio of leasehold properties. Failure to manage and maintain BCHG's shared ownership and leasehold properties in accordance with relevant leases and legislative requirements may result in action being taken against us. BCHG is committed to fulfilling its obligations to leaseholders according to their leases while ensuring an outstanding quality of service. Our aim is to achieve customer satisfaction by being flexible and responsive to their needs.

## 7. Policy Details

<u>The Shared Ownership Leases – Affordable Homes Programme 2021 to 2026</u>

For any schemes funded by the Affordable Homes Programme (AHP) 2021 to 2026 and for shared ownership homes as required by new section 106 agreements, the updated model shared ownership leases will be used.

The key changes to the new lease will include: -

- The new minimum term of 990 years
- Minimum initial share reduced to 10%
- The introduction of 1% staircasing during the first 15 years of each ownership
- The landlord's responsibility for the cost of certain essential repairs during the first 10 years of the lease (subject to criterion being met).
- The leaseholder's ability to claim contributions towards certain general maintenance costs for internal repairs throughout the first 10 years of the lease (subject to criterion being met).

From 12th October 2023, following the revision of the rent review structure, Registered Providers will have the discretion to increase rents by less than CPI plus 1%.

<u>Consultation (for variable service charges)</u>

BCHG will fully comply with the consultation provisions in Section 20 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002. This requires us to consult leaseholders on:

- Works that will result in costs recovered through a variable service charge of over £250.00 for anyone leaseholder. We will provide details of the work and the reasons why we believe that work is required. We will also provide information on the estimated cost before entering into a contract for that work.

- Qualifying long-term agreements (more than 12 months) where costs exceed £100 for any one leaseholder in any accounting year. Examples of such agreements may be gardening and cleaning contracts. We will provide details of the contract and the reasons why it is being entered.

The consultation procedure is set out in the Service Charge (Consultation Requirements) England Regulations 2003 (the **Regulations**). We will comply fully with the Regulations and will give leaseholders the opportunity to comment on choices of contractor and the proposed works. In some circumstances we may allow leaseholders the opportunity to nominate contractors who we should contact to provide a quote for the work.

Service Charges

Our leaseholders pay a 'variable service charge', and the requirement of Section 18-30 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002 will apply. Therefore, we will comply with all relevant legislation and the terms of individual leases.

BCHG will make reasonable management and administration charges as allowed under the terms of the lease and will prepare timely and accurate information about the cost of services. We will provide leaseholders annual accounts in relation to the services provided as soon as practicable after the financial period set out in the lease has ended.

BCHG will be guided by individual leases which will state when service charges are due. We will provide a wide range of payment options which includes direct debit, standing order, debit card, credit card, on-line and where appropriate, the use of Allpay payment card.

If there is any disagreement with the charges, Leaseholders have the right to appeal using our complaints procedure. We will also tell them that they have the right to apply to the First-tier Tribunal (Property Chamber) if they wish to formally challenge the service charges.

Structural Insurance

Under the terms of individual lease, it is likely that BCHG will be responsible for insuring the structure of the building, for its full reinstatement value. BCHG will periodically review its building insurance to ensure adequate cover and value for money is provided in relation to any premium charged.

Ground Rent

Following the Leasehold Reform (Ground Rent) Act 2022, no ground rent can be charged in relation to a lease granted on or after 30 June 2022. This includes a RTB lease which is granted after this date. There are strict penalties for non-compliance with these provisions.

Arrears Recovery

The arrears recovery process will follow fixed stages up to legal action in appropriate cases in accordance with our Arrears Policy and Procedure. Legal action will be taken through the Court after an initial financial risk assessment and Court costs will usually be

recharged to the Leaseholder, depending on the terms of the lease and/or the order made by the Court.

Right to Manage

Under the Commonhold and Leasehold Reform Act 2022, leaseholders have the right to assume management of the practical day to day responsibilities of the building their flats are in. This will only apply where the following legal requirements are met:

- The building (or part of it) must be self-contained.
- The building must include at least two flats held by qualifying tenants.
- At least 2/3rd of the flats in the building are sold on long term leases (over 21 years) – this would include shared ownership leases, RTB leases and RTA leases.
- At least 50% of the leaseholders of the flats in the building must take part.
- Non-residential use must not exceed 25% of the floor space (common parts are ignored for the purpose of this criteria)

Requests for the right to manage will be dealt by the Deputy Chief Executive

Breach of lease

BCHG will take appropriate action when the leaseholder in acting breach of the terms of their lease. In the first instances BCHG will write to the leaseholder asking them to remedy the breach. Failure to do so may result in BCHG seeking an injunction or, as a last resort, taking action to terminate the lease.

Lease Extension and Enfranchisement (purchasing freehold)

If a leaseholder owns a long lease (including a RTB or RTA lease), there may be the right in law to make a claim to either extend the lease (house and flat) or purchase the freehold (house). In the case of flats, leaseholders may also be able to come together to collectively purchase the freehold of the building within which the flats are situated. A claim to extend a lease or to purchase the freehold is brought under the Leasehold Reform Act 1967 for houses and the Leasehold Reform Housing and Urban Development Act 1993 for flats. A premium would be payable for the lease extension or freehold purchase and the leaseholders who claim would also be liable for BCHG's reasonable legal and other statutory costs, such as surveyor's fees, of dealing with the claim.

Historically shared owners who have not yet staircased to 100% ownership were unable to bring a claim under legislation (as above). However, we would always consider granting a lease extension (of a flat or a house) on a voluntary basis if appropriate terms can be agreed. The position on whether a shared owner has the right to make a statutory claim has been thrown into question by recent case law and the position is not clear. We will continue to agree to voluntary lease extensions for shared owners but if a claim notice is received under the statutory regime, legal advice may be required. In either case, in addition to the premium, the shared owner would also be required to cover BCHG's reasonable legal and other costs.

Repurchase of sold properties

An individual request to buy back a property previously sold under Right to Buy or where leaseholders are finding it difficult to sell on the open market, will be dealt with on a case-

by-case basis and will depend on funds available for this purpose. The final decision on this will be made by the Executive Development Team and consent will be required from Homes England.

**7.1 Data Processing**

*Personal Data:* Any personal data will be stored on the Housing Management system or securely on SharePoint. Data will be deleted in accordance with the Asset Data Retention and Disposal Policy.

*Data Protection:* BCHG recognised that cases can be particularly sensitive and will take extra measures to maintain confidence of information. Where required we will seek to establish information sharing agreements with relevant external agencies to help manage the cases.

*Data Integrity:* genuine documentation and evidence for consideration will be obtained as proof.

**7.2 Legal and Regulatory Considerations**

The legislation relevant to the Leasehold Management Policy includes:

- The Landlord and Tenant Acts of 1985 and 1987
- The Housing Acts 1988 and 1996
- The Commonhold and Leasehold Reform Act 2002
- Leasehold Reform Housing and Urban Development Act 1993
- The Law of Property Act 1925
- The Service Charges (Consultation Requirements) (England) Regulations 2003
- The Leasehold Reform Act 1967
- The Leasehold Reform (Ground Rent) Act 2022

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**7.3 Equality Diversity & Inclusion**

BCHG recognises that different people and communities may have specific needs which may require flexible approaches. We also appreciate that some groups or individuals may experience discrimination and disadvantage. This may be due to their protected characteristics under the Equality Act 2010. We believe that everyone should be treated with dignity, respect, and fairness, regardless of their characteristics.

An Equality Impact Assessment has been carried out on this policy which will be updated in line with policy reviews to ensure there is no discrimination and opportunities to improve equality and access are maximised.

8. Customer voice

A focus Group of leaseholders were consulted on this policy and feedback has been considered either within the policy or the procedure.

## 9. Compliance, Monitoring & Reporting

*Personal Data:* Any personal data will be stored on the Housing Management system or securely on SharePoint. Data will be deleted in accordance with the Asset Data Retention and Disposal Policy.

*Data Protection:* BCHG will take extra measures to maintain confidence of information.

*Data Integrity:* genuine documentation and evidence for consideration will be obtained as proof.

The accountability for this policy lies with Deputy Chief Executive and responsibility with Head of Housing.

Leasehold services may be subject to an audit with interna any audit plan. Services will be measured using feedback on satisfaction with service delivery.

The number of property sales, staircasing transactions are reported via Regulator.

## 10.Review

This policy will be reviewed in 2026 or earlier when the legislation is reformed.