



## PLYMOUTH COMMUNITY HOMES LEASEHOLDER MANAGEMENT POLICY

<b>Version:</b>	Last amended – August 2022
<b>Lead Directorate:</b>	Homes and Neighbourhoods
<b>EIA completed:</b>	January 2015
<b>Approved by:</b>	Customer Focus Committee, January 2015 Revisions approved by Board, May 2019

### 1. Introduction

**1.1 Purpose** This policy explains Plymouth Community Homes' (PCH) commitment to the management of our leaseholder service in accordance with the Commonhold and Leasehold Reform Act 2002, other relevant legislation and the terms of individual leases.

**1.2 Definition** The term 'leasehold' refers to land or property held under a lease and the legal status of the tenure by which such property is held. Appendix 1: 'Information about Leaseholds' provides further details.

### 2. Policy aims

PCH is committed to best practice in leasehold management and to meeting its responsibilities towards leaseholders. PCH will:

- Act at all times as a reasonable landlord.
- Maintain the building in good condition and in accordance with the leases to protect both the leaseholders' and PCH assets.
- Respect and protect the leaseholder rights and expect leaseholders to respect PCH rights and responsibilities as their landlord.
- Do our best to address any nuisance problems caused in the neighbourhood and block and expect leaseholders, or their tenants, not to cause nuisance.

### **3. Lease agreement**

3.1 All leaseholders have a lease; this is a formal agreement (or legal contract) between PCH and the leaseholder. The lease sets out the rights and obligations of both PCH and the leaseholder.

3.2 Leases which existed between leaseholders and Plymouth City Council remain unaltered by the transfer of the stock to PCH.

3.3 PCH leases created after the transfer of the stock take the form of a standard lease, but each lease may be tailored to the individual facilities of the property. Not all leases have exactly the same terms as these have evolved over time and have taken into account relevant changes in the law.

3.4 All leaseholders are expected to abide by the terms and conditions of their lease agreement and any subsequent terms of variation to that lease.

3.5 PCH will respect the rights of the leaseholder to enjoy peaceable occupation of their property for the term of the lease.

3.6 The primary topics addressed in the lease are:

- A description of the property and any gardens, stores, garage or parking space which have been sold.
- The basis of service charges and the leaseholders' contribution.
- An explanation of the legal responsibilities for both parties.

### **4. Statutory rights**

PCH recognises leaseholders' legal rights, including:

#### **4.1 Leaseholder enfranchisement**

Some leaseholders with long leases have a statutory right collectively to buy the freehold, subject to certain conditions, in accordance with the Leasehold Reform and Urban Development Act 1993.

PCH will consider any requests to purchase the freehold where the building in question has at least two thirds of the flats owned by leaseholders with qualifying leases and the number of leaseholders participating is equal or more than half the flats in the block.

#### **4.2 Lease extension**

Leases are granted for a fixed period of a maximum of 125 years. They decrease in length year by year. PCH will consider extending the term of the lease as and when requested to do so.

Most leaseholders who satisfy an ownership test will be able to buy a new lease expiring 90 years after the expiry of their present lease. In order to qualify, a leaseholder must have owned their flat for two years. The leaseholder must pay all PCH's costs and legal fees.

### **4.3 The Right to Manage**

The Right to Manage is the right of leaseholders to take over the management of the building.

### **4.4 Consultation**

Statutory consultation currently falls within the provisions of the Commonhold and Leasehold Reform Act 2002 and the Landlord and Tenant Act 1985. These mean that:

- Leaseholders are entitled to be formally consulted where PCH proposes to carry out work which will result in the relevant contributions of any leaseholder being above a certain value (currently £250). This would depend on the terms of each lease but would typically be for specific repairs, maintenance, cyclical decoration or improvement works on the block or other relevant premises such as outside stores, sheds etc.
- The right to be consulted also applies where PCH intends entering into a long term agreement above a certain value for delivery of works and services. (This is currently defined as an agreement in excess of 12 months duration where any leaseholder will have to pay more than £100 per year). This would depend on the terms of the lease, but typically includes maintenance contracts for fittings such as lifts and door entry systems as well as contracts for grounds maintenance and cleaning.
- The purpose of the consultation is to seek the leaseholders' views on PCH's proposals. PCH must have regard to written observations made in response to statutory consultation. As part of the process, leaseholders will be given:
  - Details of the work proposed and the likely cost.
  - The opportunity to nominate contractors who may be included in the tender process provided contract not being let under an existing long term agreement or OJEU procurement rules.
  - The name and contact details of the officer supervising the contract.

## **5. Ground rent**

5.1 The ground rent is detailed in the lease, but is generally payable on an annual basis in advance. The ground rent is usually fixed at £10 per annum throughout the lease term. A notice is issued each year to advise of the sum payable, at least 30 days before the rent is due.

5.2 Where a leaseholder has exercised his right to extend the term of his lease, the new lease does not require the payment of any ground rent.

## 6. Service charges

6.1 All leases allow for service charges to be collected, but there are variations within the leases that particularly affect how PCH charges for major repairs and improvements.

6.2 Service charges are calculated to cover costs, not to make a surplus. The proportion of the service charge that leaseholders must pay is set out in their lease. Generally, the charge is proportionate to the number of flats in the block.

6.3 An annual service charge account will be sent to leaseholders on 1<sup>st</sup> April covering the estimated cost of services provided to their property for the next 12 months.

6.4 Service charges will be set giving due consideration to the previous year's utilities, etc, consumption and the cost of the provision of other relevant services for the coming year. A statement of actual expenditure will be provided for the previous look back period which runs from 1<sup>st</sup> October – 30<sup>th</sup> September and an adjustment will be included on the annual service charge account to ensure that the amount leaseholders have been asked to pay is equal to the actual cost of providing each service.

(This arrangement may vary should PCH acquire property with leases already in place, such as transfer from another housing association. In these cases, PCH will meet the terms set out in the lease).

6.5 Annual service charge accounts usually consist of five separate elements:

- Ground rent.
- A charge for services.
- Buildings insurance premium.
- Administration / management charge.
- Adjustments for the previous period.

6.6 Under the terms of individual leases the estimated annual charge +/- any overspend or underspend is payable in advance within 21 days. However, payment is permitted by regular instalments (see 6.14 below).

6.7 PCH will issue a statement of account each year, which will:

- Give details of the actual costs for the previous (look back) period.
- Show the adjustment due to reconcile the estimated charge paid for the previous period.
- Give an estimate of the service charge for the current financial year. The estimate is based on actual costs, inflation and any other pricing factors from contractors.

6.8 Service charges typically (but not exclusively) cover the following items, where present:

- Garden / estate maintenance.
- Ranger service.
- Buildings insurance.
- Maintenance of door entry systems, CCTV and lifts.
- Electricity for communal areas.
- Gas / electricity safety checks to common parts.
- Servicing of emergency lighting, lifts, fire alarms and door entry systems.
- Fees and costs in providing landlord services.
- Management costs.

6.9 Leaseholders will be charged annually for all minor works and responsive repairs undertaken in the previous financial year. A fully itemised account for this will be sent for payment at the end of September.

6.10 PCH will write to inform all leaseholders of major works to be undertaken and the cost implications.

6.11 All services, but particularly those which are subject to service charges, will be monitored to ensure that they provide value for money and are delivered in accordance with agreed service standards for the specific policy area.

6.12 New leaseholders who acquire their property part way through a year, under either the Preserved Right to Buy or Right to Acquire schemes, will be charged immediately for a pro-rata proportion of the annual service charge for that financial year.

#### 6.13 Buildings insurance

PCH will, as freeholder, insure the property as part of the block of flats, covering all structurally related items and common parts of the block. PCH will charge a premium within the annual service charge for the buildings insurance. The leaseholder is not able to opt out of PCH's insurance.

Leaseholders are expected to take out their own contents insurance. This can be arranged through PCH's Home Contents Insurance scheme if required.

#### 6.14 Payment methods

Leaseholders can pay their annual accounts either in full or by regular instalments, which can be:

- Weekly.
- Fortnightly.
- Monthly.
- Quarterly.
- Half-yearly.

Leaseholders can pay their accounts by:

- Direct debit.
- Debit or credit cards.
- By telephone.
- On line.
- Text.
- Cheques.

### 6.15 Arrears

PCH recognises that there are times when individuals struggle to make payments. If a leaseholder is experiencing difficulty they should contact the leasehold team. However, arrears of leaseholder charges will be pursued as a sundry debt unless a payment schedule is agreed and kept to.

Where a leaseholder is in breach of their lease and previous recovery action has been unsuccessful, PCH will take steps to seek forfeiture of the lease and repossession of the property.

If a leaseholder is experiencing difficulty paying their service charges they may be experiencing problems paying their mortgage also. PCH will liaise with the mortgagee where appropriate. PCH will explain that independent advice and assistance should be sought via independent agencies such as the Citizens Advice Bureau. PCH will support leaseholders in accordance with our approach to social inclusion.

### 6.16 Disputes

If a leaseholder is unhappy with the level of their service charges or the quality of the underlying service, they should discuss this with the leasehold team who will endeavour to resolve any issues. If the issue cannot be resolved leaseholders have the right to apply to the First Tier Tribunal for a declaration of the 'reasonableness' of the service charges.

## 7. Major Works

7.1 Major works to maintain the structure and fabric of the building will be undertaken and recharged to the leaseholder in accordance with the terms of each lease.

7.2 PCH will consult with leaseholders in accordance with its legal duties before carrying out works above the specified value in law or before entering into a long term agreement for the provision of services.

7.3 PCH will serve Section 20 Notices (as set out in the Landlord and Tenant Act 1985) where it is required to consult leaseholders about certain works to which they will be required to contribute through their service charge.

7.4 Where rechargeable costs for qualifying works are anticipated to be greater than £250 but less than £400 per leaseholder, PCH will normally forgo the statutory consultation and cap the rechargeable costs at £250, due to the cost of consultation. However, PCH may consider consulting in exceptional circumstances, such as where economies of scale make this the more cost effective option.

7.5 Leaseholders are required to pay a contribution towards the cost of external works in accordance with their lease. The contribution required for major external work is detailed in each lease.

Repairs cover the renewal or repair of building components when they reach the end of their useful lives, such as roofs.

#### 7.6 Assistance with paying major works costs

PCH recognises that some leaseholders may find it difficult to make their financial contributions and that some leaseholders may experience financial difficulty. PCH will seek to help in those cases, but the amount of help is limited because PCH is a charity.

For those people that have bought their property and have an unexpired Section 125 Notice, the cap will be whatever is stipulated on the s.125 Notice. This cap is binding on PCH by statute. The s.125 Notice is the notice that is served when the property is initially purchased. The notice sets out what works the leaseholder would have to pay for and how much they might cost. In all cases the cap will be increased by building cost inflation from the year in which the notice was given. This provision for increase is included in the s.125 Notice.

The cap cannot be reduced because when the property was sold, the price under the Right to Buy or Right to Acquire reflected the potential works that may need to be carried out. If this statutory figure were reduced again then it would amount to double-counting.

PCH offers various payment methods for leaseholders to help them meet the cost of major capital work. These are set out below.

No.	Payment Options	Leaseholders, or their families, who exercised the Right to Buy or Right to Acquire and continue to use the property as their principal home	Leaseholders who bought the property from others, but who continue to use the property as their principal home	Leaseholders who do not live in the property as their principal home
1.	Payment in full within 21 days, as per the terms of the lease.	Yes	Yes	Yes

	(PCH offers a discount for full payment within 30 days – see 2 below).			
2.	A prompt payment discount of 2.5% - available for those who pay major works invoices in full within 30 days. (This will not apply to: <ul style="list-style-type: none"> <li>• part payments</li> <li>• payments for specialised already discounted programmes of work).</li> </ul>	Yes	Yes	Yes
3.	A deferred payment plan over a maximum period of 12 months.	Yes	Yes	Yes
4.	An arrangement to pay by instalments over a longer period as follows: Invoice amount Payment period ≤£5,000 3 years £5,001 - £10,000 4 years £10,001 - £15,000 5 years ≥£15,001 6 years  Agreement to a payment plan over 12 months is subject to completion of an affordability assessment, as required by the Financial Conduct Authority.	Yes	Yes	No
5.	If the affordability assessment carried out in relation to option 4 above shows that the leaseholder is not able to make the repayment required within the terms of this provision, PCH may agree to cap the monthly payment at £250, and accept that there will be a longer payment terms as a result.  In these circumstances, PCH reserves the right to place a charge on the property as part of agreeing a longer payment plan.	Yes	Yes	No
6.	If the affordability assessment shows that the residential leaseholder is in genuine hardship and is not able to make the £250 per month payment as set out in option 5 above, a means tested hardship scheme may be available, where	Yes	Yes	No



	<p>qualifying customers pay an agreed monthly amount. There will be an annual review of the customer's financial situation and the level of the monthly payment. Full payment of any outstanding balance must be made when the property is sold or ownership transferred to another party.</p> <p>If a non-residential leaseholder is unable to make the payments due under their lease, they should contact the leasehold team to discuss options available to them.</p>			
7.	<p>Once the Section 20 notice of intention has been issued, leaseholders may pay or start to pay in advance, at any rate they choose, and the money will be held on their account and allocated once the final bill has been issued.</p>	Yes	Yes	Yes

PCH is regulated by the Financial Conduct Authority. In order to agree to any payment plan over 12 months, PCH is required to carry out an affordability assessment with the leaseholder before agreeing to the payment plan. The leaseholder must supply all the documentation required for completion of the assessment within the timescales required, and certify that the information supplied is complete and correct.

PCH reserves the right to carry out a credit check before agreeing to a payment plan – whether set up through any of the options offering payment plans above.

If a leaseholder wishes to take up the option of a payment plan - whether through any of the options offering payment plans above - PCH reserves the right to request that the leaseholder agrees to us placing a voluntary charge on their property as security. Requests will be made at PCH's discretion. PCH reserves the right not to agree to a payment plan if we have requested a voluntary charge and the leaseholder has not agreed to this.

If the affordability assessment process identifies that there are exceptional circumstances, PCH may wish to offer a payment plan outside the provisions set out in section 4 of the table above, for example, agreeing to repayment of a £5,000 bill over four years rather than three. In these circumstances, the exception must be approved by the Head of Incomes, Commercial and Home Ownership and either another Head of Service from the Homes and Neighbourhoods Directorate or the

Commercial Premises and Leasehold Manager. Any approvals for exceptions must also comply with PCH's financial delegations.

Where a fire risk assessment has identified that a leaseholder is required to replace a fire door, and the door is demised to the leaseholder, the replacement is the leaseholder's responsibility, and the door must be replaced at their expense. However, in exceptional circumstances, PCH may agree to come to a contractual arrangement with the leaseholder under which PCH carries out the work to replace the door and agrees a payment plan to repay the cost. The repayment plan will normally fall within the provisions and options set out above for payment plans.

If there is a problem about which is the leaseholder's principal home, PCH will adopt whatever choice has been made with HM Revenue and Customs.

In certain circumstances and where allowed under the terms of the lease, PCH may hold a reserve / sinking fund to accommodate future major works or improvements.

## **8. General management issues**

### **8.1 Renting out the property**

Leaseholders can rent out their properties to another person, but the leaseholder remains responsible for ensuring that their tenant complies with the covenants of the lease and that service charges are paid. Leaseholders must advise PCH of their current correspondence address and where possible provide a contact telephone number in case of emergency.

### **8.2 Pets**

A leaseholder may be permitted to keep pets in their home, in accordance with PCH's pets policy and procedures.

## **9. Leasehold management enquiries**

9.1 When selling a leasehold property, enquiries are usually made on behalf of prospective purchasers wanting further details about the lease. These enquiries relate to legal matters, the services provided, service charges levied, any major work planned for the property and whether the sums due have been paid.

9.2 PCH will endeavour to reply to such enquiries within a reasonable timescale.

9.3 PCH will make a charge for providing this information.

9.4 PCH expects the existing leaseholder to retain relevant documents relating to their ownership e.g. demands for service charges, statements of account, notices about proposed works or long term contracts and a copy of their lease. An appropriate fee will be charged if PCH is requested to provide copies.

9.5 PCH will charge appropriate fees for any Notice of Assignments and Mortgage Notices when a property is resold or re-mortgaged.

## **10. Relevant legislation**

- Housing act 1985.
- Landlord and Tenant Acts 1985 & 1987.
- Housing and Planning Act 1986.
- Leasehold Reform, Housing and Urban Development Act 1993.
- Housing Act 1996.
- Commonhold and Leasehold Reform Act 2002.

## **11. Data protection**

In applying this policy, all members of staff must comply with PCH's Data Protection Policy and ensure that the personal information supplied by customers is protected at all times.

## **12. Equality and diversity**

PCH will apply this policy consistently and fairly, and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equalities Act 2010.

PCH will make this policy available in other languages and formats on request. We will carry out an equality impact assessment on this policy, in line with our corporate procedure.

## **13. Monitoring and review**

PCH will monitor this policy to ensure it meets good practice and current legislation and will review it in accordance with our review timetable for all policies.

## **Appendix 1: Information about leaseholds**

Leasehold ownership of a property (usually a flat) is simply a long tenancy, the right of occupation and use of the property for a long period – the ‘term’ of the lease. The lease is granted for a fixed period of usually 125 years and so decreases in length year by year.

The property can be bought and sold during that term, subject to Right to Buy conditions. The term is fixed at the beginning.

Subsequent owners take over the number of years remaining on the lease at the time of their purchase. When the lease term expires or earlier at the leaseholder’s discretion, the leaseholder can apply for an extension of the lease. At the end of the term the current rules would allow the leaseholder the right to remain in certain circumstances.

The ownership of the property as described in the lease usually relates to everything within the four walls of the property including floorboards and plaster to walls and ceiling but does not usually include the external or structural walls. The structure of the building and the land it stands on is owned by the landlord, who is responsible for the maintenance and repair of the building.

A lease is a private contract between the leaseholder and the landlord. When a property changes hands the seller assigns all the rights and responsibilities of the lease to the purchaser, including any future service charges that have not yet been identified. The leaseholder retains no responsibilities for the property upon assignment of the lease. The lease sets out the contractual arrangements of the two parties, what the leaseholder has contracted to do and what the landlord is bound to do.

As leasehold is a tenancy it is subject to the payment of a rent, usually nominal, to the landlord. Ground rent is a specific requirement of the lease and must be paid on the due date.

Service charges are the payment by the leaseholder to the landlord for all the services the landlord provides. These will be described in each lease, but generally include general maintenance and repairs, buildings insurance and, in some cases, provision of central heating, lifts, lighting and cleaning of communal areas.