



Freehold Recharge Policy

Date: December 2023

Author: Jasmine Ellicott - Head of Home
Ownership and Sales

for you – for your community – not for profit

Document owner:	Head of Home Ownership and Sales		
Reviewed by:	Jasmine Ellicott		
Approved by and date:	LF 9/1/2024		
Date Policy Created:	2011	Review Period:	3 years
Policy Review Date:	December 2023		
Version Number:	5		

Freehold Recharge Policy

1 Statement of intent

1.1 Two Rivers Housing is committed to providing a high quality, efficient and effective repairs and maintenance service. Which properly discharges its obligations to residents, is responsive to their needs and requirements and which achieves value for money. However, it also has a responsibility to all of its tenants to ensure that expenditure is managed effectively and consequently there is the requirement, in certain circumstances, to recharge residents for the cost of some repairs.

1.1.1 The organisation aims to recharge freeholders on their estates when

- They benefit from work that is carried out to the area or neighbouring property;
- They receive a service such as grounds maintenance on estates; and we are entitled to recharge under the terms of their conveyance.
- Their property is having an impact on the health and safety of our residents;
- Or under any other circumstance that would result in unreasonable expenditure to Two Rivers Housing.

2 Right to recharge

2.1 When properties are sold through the Right to Buy or Right to Acquire the conveyance contains covenants that ensures that Two Rivers Housing can recoup costs from the purchaser and their successors in title when they benefit from work carried out by Two Rivers Housing.

2.2 The conveyances may change depending on the legislation in force at the time and the solicitor drawing up the conveyance.

2.3 In general the conveyance allows the landlord and the neighbour to enter a property to inspect, repair, empty cleanse or renew channels, drains, sewers, pipes wires and cables and recharge a fair proportion of the cost.

2.4 In addition owners or occupiers must contribute a fair and proper proportion of the cost of cleansing, repairing and maintaining all things used in common.

2.5 Some conveyances give purchasers a right to use something (such as a parking area) subject to the payment of a share of the repair and maintenance of that service / area.

2.6 Any dispute arising from the amount that has to be paid can be referred to an arbitrator.

2.7 Any dispute relating to nonpayment on the grounds of the requirement to pay would have to be referred to the County Court.

3 Guiding principle

- Two Rivers Housing will inform residents of the estimated costs prior to the works being carried out
- Two Rivers Housing will raise the invoice on completion of the works to determine the final cost.
- Two Rivers Housing will encourage residents to carry out the work themselves, or pay a suitably qualified party, rather than carry out the rechargeable work as a matter of course.
- Court action will only be pursued where determined appropriate by the assistant director or member of leadership forum.
- If all other means of collection have been exhausted, then we will consider passing the debt to a debt recovery agent.
- If the debt is subject to a Court judgement, we reserve the right to ask the Court for compensation for late payment.
- If the matter is taken to Court we will attempt to recover all associated costs.
- The home ownership team will assist the assets team and neighbourhood teams in discussing plans with freeholders and their legal rights under the conveyance as and when required.
- Recharges for party wall works will be evaluated on a case by case, basis, see Item 7.

4 Recharges to vulnerable sectors of the community.

4.1 We will always consider vulnerable residents and, where possible work with them to implement recharges, in a manner to avoid severe financial hardship. We believe that the elderly and disabled are no less able to pay than others and feel that it would be discriminatory to exclude these specific groups.

4.2 Where a freeholder expresses an inability to pay they must submit evidence of their income and expenditure to the home ownership team and welfare benefits advisor to establish a mutually acceptable repayment plan.

5. Health and safety

5.1 Health and safety is our priority. In particular, issues in attached dwellings where acts of damage impacts not only on one household but also on other residents.

5.2 Where a householder is undertaking a repair or replacement, and there is a health and safety risk, a time-scale will be given by a Two Rivers Housing Surveyor for the work to be completed.

5.3 If the work is not finished to an acceptable standard (as decided by Two Rivers Housing), we will do the repair and recharge the resident immediately after the property is made safe.

6. Cost of recharge

6.1 Where possible will provide a quote for any remedial works. In items of large expenditure, we will always adhere to Two Rivers Housing contract standing orders and financial regulations,

6.2 All costs are based on

- The schedule of rate item cost, or
- A direct proportion of any contract cost e.g. if a project cost £600 and benefits 6 properties each house will pay £100.
- Two Rivers Housing administration cost of 15% of the value of invoice with a minimum charge of £7.50 per invoice.
- VAT.

The administration cost levied by the organisation will cover the costs of raising the invoice, administering the debt and a contribution towards the cost of Surveyors time.

7. Party Wall Act

7.1 The Party Wall Act comes into effect when we need to do carry out works to a Two Rivers owned property that may affect a private adjoining private properties, an example of this would be repairs to chimneys, roofs over party walls etc.

7.2 Under the Party Wall Act the process is:

1. Step 1 – Two Rivers Housing issues Party Wall Notice on the adjoining private owner. If the owner does not respond or does not agree with the work there is deemed to be in dispute.
2. Step 2 - when in dispute the Party Wall Act require an independent surveyor to be appointed to act on the issue. This can cause £1,000 to £2,000 per case. The full cost of this borne by Two Rivers as the owner wishing to undertake the works.

7.3 Party wall issues: Many private owners may agree with the need for these works, but dispute the Party Wall Notice because they are unable to pay their contribution towards the cost of the works. This situation therefore forces the organisation in to Step 2 and the party wall fees.

7.4 The party wall fees of £1,000 to £2,000 are often greater than the actual cost of the works. Examples of this are rebuilding a chimney at a cost of £500, private owners share would be £250. Two Rivers could well have spent £1,000 in fees to establish this and still have to recover the £250 which the owner can't afford to pay.

7.5 During the time the party wall award is secured extra expenditure may be incurred such as surveyor time and costs and potential further maintenance works as well as customer dissatisfaction with the delay.

7.6 Therefore, we will use reasonable endeavours to secure agreement with private owner to enter into a repayment plan.

8. Garages and parking rights

8.1 Many of the properties that were sold under the Right to Buy allow a right to park or use a parking space subject to space being available. This right has both financial advantages and disadvantages to the householder.

8.2 As these areas are still communal spaces we are unclear of how many private residents are aware they can use these areas or if they must contribute towards their upkeep IF they use the area.

8.3 Therefore recharging of maintenance to these areas will vary on each scheme.

8.4 As conveyances have been drawn up at different times there are inconsistencies over who has to pay and how charges should be apportioned. Very often the rate of recovery will not equal 100%

8.5 Additionally, there are mistakes on conveyance plans and the areas home owners have the right to park in may not reflect the layout of what is on the ground, as well as giving implied rights to use garages without charge.

8.6 Therefore if we plan to carry out maintenance or redevelopment to these areas careful consideration needs to be given to the rights that have already been granted, and each scheme needs to be appraised individually.

8.7 If we plan to redevelop/carry out maintenance to an area we will write to the households that we are aware have a right to use the space, and ask if they wish to continue to have the right subject to a contribution towards the cost of maintenance.

8.7.1 If they wish to use the parking area we will follow the process as described above. This may include providing parking provision as part of a new development on the site, and they will be recharged their share of the costs.

8.7.2 If they do not wish to pay towards the works we will seek to enter into a deed of variation to the conveyance. – This may be costly as solicitors would have to be paid for both Two Rivers Housing and the householder, and any such costs should be factored into any redevelopment appraisal.

8.7.3 If the resident refuses to engage or contribute towards these works then maintenance / parking provision will be provided and they will be recharged as per this policy.

- 8.8 If there is an error on the conveyance plan (which could result in the householder gaining additional rights – such as use of a garage) specific legal advice will have to be sought on each case.

9. Anti-poverty

- 9.1 We recognise that we may be dealing with disadvantaged groups, vulnerable sectors of society and residents facing financial hardship. Therefore, we will endeavour to agree sustainable affordable repayment plans for rechargeable works.
- 9.2 We will not use legal redress unless all other forms of recovery action have been exhausted and ensure that rechargeable works are recovered in a consistent manner.
- 9.3 If a resident claims that they are unable to settle the recharge in full the matter will be passed to the income team to arrange a mutually acceptable and affordable payment plan.
- 9.4 If a payment plan is entered into, the resident will be required to sign a payment agreement form. This will be a legally binding agreement.
- 9.5 Where contributions from freeholders are over £2500 Two Rivers Housing will offer the same payment options offered to leaseholders.

10.0 Payment options for charges over £2500

10.1 Prompt payment discount

Two Rivers Housing will offer a payment discount of 5% to freeholders who settle their debt within 28 days of the invoice. This will maximise receipts and reduce the management costs of other options.

10.2 Buy back shares (equity release) / reverse staircasing / buy back

Two Rivers Housing will consider the buyback of all or part of a dwelling, or reverse staircase shared ownership shares where the costs of works would cause severe hardship to the freeholder. The purchase of such shares would have to be in the long-term interest of the company.

10.3 Extended payment facilities

Two Rivers Housing will offer an interest free extended payment period of up to 2 years where lessees can prove that paying the invoice in full would leave them in hardship. Such an agreement will require a formal written arrangement and monthly payments will be required using a standing order mandate or direct debit. If the arrangement is not adhered to the rest of the debt will become immediately payable in full.

10.4 Voluntary charge on the property

Two Rivers Housing may agree to a voluntary charge on the property when all other recovery options have been exhausted. We cannot suggest to a debtor that they should offer to have a charge placed on their property. The initiative must always come from the debtor. A voluntary legal charge **may** be appropriate where **all** of the following criteria apply:

- the debtor's ability to earn is severely impaired (for example, by illness or old age).
- there is sufficient equity in the property to secure the full amount of the debt with accruing interest to the eventual date of payment.
- the debtor cannot pay in any other way;
- further arrears are not likely to accrue;
- the debtor holds a clear title to an interest in the property, that is there are no occupants in the property with tenancy rights which would undermine our right to enforce the legal charge.
- the debtor resides in the property.

11. Equality diversity and inclusion

11.1 Two Rivers is committed to the principle of equality of opportunity in the delivery of its services. The organisation aims to ensure that all of its customers are dealt with fairly and equitably and where possible that it takes into account the diverse nature of their cultures and backgrounds.

11.2 Two Rivers Housing will actively work towards promoting good relations, eliminating discrimination and addressing existing disadvantage in relation to different groups on the basis of race, colour, ethnic and national origin, nationality, gender, disability either mental or physical, religion, sexual orientation, marital status, HIV/AIDS, responsibility for dependants, trade union activity and age.

12 Implementation

12.1 The Director of Property and the Head of Home Ownership and Sales are responsible for ensuring this policy is communicated and implemented.

12.2 It is the responsibility of the relevant employees to ensure that this policy and the procedures related to it are correctly applied.

12.3 The organisation will provide training to ensure that this policy is implemented by suitably experienced and qualified staff.

12.4 Two Rivers Housing will ensure that this policy and the procedures attached to it are implemented in accordance with its Customer care policy.

13 Monitoring and review

- 13.1 The Director of Property is responsible for monitoring this policy to ensure that it is being correctly applied.
- 13.2 Two Rivers Housing will monitor and review the success of this policy on tri annual basis. This is to ensure that the policy operates in line with best practice developments and also that any subsequent service improvements are made and implemented.

Version	Date	Author	Change Description	Approved by	Date approved
3	Dec 2017	JDE	Added Section 8 on garage sites	EXEC	
4	Nov 2020	JDE	No Changes other than to format	SMT	Dec 20
5	December 23	JDE	Changes to job titles and updates to terminology and policies, as well as raising recharge amount in section 10.0 to match leasehold policy	LF	