

# Homeownership and Leasehold Management Policy

**Incorporation S20 consultation**

**Date: July 2022**

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<b>Reviewed by:</b>			
<b>Approved by and date:</b>			
<b>Date Policy Created:</b>	<b>Month year</b>	<b>Review Period:</b>	<b>3 years</b>
<b>Policy Review Date:</b>	<b>July 2025 (or on change in legislation)</b>		
<b>Version Number:</b>	<b>5</b>		

## **TWO RIVERS HOUSING**

### **Homeownership Management Policy**

#### **1. Statement of Intent**

- 1.1 The objective of this Policy is to set the general parameters for how TRH will interpret all its policies when applying them to home owners who receive some form of service from us.
- 1.2 This Policy is predominantly intended for shared owners and leaseholders, but where we provide some services to freeholders relevant parts will apply.
- 1.3 This Policy is an overview statement, supported by policies, either particular to home ownership customers, or general policies for TRH. Where there's any inconsistency between this Policy and any other Policy, the parameters of this Policy should be applied. The way forward must comply with:
  - Prevailing legislation, including binding tribunal cases or general case law
  - The lease or other contractual document
  - Regulatory guidance and good practice.
- 1.4 The Home Ownership Team's aim is to always provide a professional level of service which meets our customers' needs in the management of their homes.
- 1.5 TRH will always act in accordance with the lease or, in the case of freeholders, the transfer document/rent charge deed or other such legal arrangement as applicable.
- 1.6 Where the lease has any defects, we will seek to remedy these where possible in accordance with what the likely terms would have been if the defect was not present. Any rectification will be drafted to be as fair as possible to all and allow for the proper and sustainable management of the property/properties, block, estate and or area. Critically, wherever possible, this must include ensuring the services needed will cover the cost of their provision, oversight, and ongoing management.

## **2. Right to Buy / Right to Acquire Leaseholders**

2.1 TRH will be bound by the terms of the leases issued to leaseholders by the Forest of Dean District Council. All leases issued by TRH will include information about the following:

- the service charge to be paid, how it has been calculated and when payment is due
- the arrangements for collecting contributions towards additional costs and refunding overpayments for variable service charges
- the procedures for the leaseholder to assign the lease
- the grounds for TRH to end the lease by forfeiture or re-entry (taking account the requirements of the Landlord and Tenant Act 1985)
- the respective responsibilities of the leaseholder and TRH as landlord for repairs and maintenance of the property, the structure and common parts

2.2 TRH will consult leaseholders, procedures will be developed in line with Section 20 of The Tenant and Landlord Act 1985 and Statutory Instrument No. 1987 The Service Charges (Consultation Requirements) (England) Regulations 2003 and The Commonhold and Leasehold Reform Act 2002, on the following matters:

- repair work which will incur costs above the prescribed amount, currently £250, which will have to be recovered from the leaseholders.
- Long Term Contracts (12 months or longer) where an annual charge is £100 or above for each leaseholder.
- the extent and cost of services and works which are optional.
- any proposed changes to arrangements for maintenance, management or service provision which might have a substantial effect on them.

## **3. Leasehold Service charges**

3.1 TRH will prepare timely and accurate information about the cost of services for which charges are due. It will provide leaseholders with a copy of the annual accounts for management services, usually within six months of the end of the accounting period. Leaseholders will be provided with an estimate of the following year's charges once the budget for that year has been set.

3.2 TRH will set service charges to reflect actual costs as far as possible. Where there is a surplus, TRH will carry it forward to the following year's account. Where there is a deficit, then it will be invoiced for separately.

3.3 TRH will offer a variety of payment methods to leaseholders, these will include:

- by cash
- by standing order
- by cheque at one of TRH's offices

- by direct debit
- by telephone
- by BACS

- 3.4 TRH will send leaseholders a statement of their account at regular intervals during the year. Any leaseholder whose account goes into arrears will be contacted and action will be taken to recover the arrears if they are not paid. This will include seeking immediate payment or reaching an arrangement for the arrears to be paid in instalments.
- 3.5 TRH will review all service charge accounts at the end of each financial year. If arrears remain outstanding of less than £1,000 the leaseholder will be expected to clear them and pay the current year's charges by the end of the financial year. For arrears over £1,000 TRH will consider spreading the payment period over two years. Longer repayment periods will be considered in special circumstances such as cases of severe financial hardship.
- 3.6 TRH will offer advice to leaseholders about housing and other benefits which may help to maximise their income and meet their service charge liabilities.
- 3.7 TRH will consider contacting a leaseholder's lender if the following happens:
- the leaseholder fails to respond to letters telling them their rent or service charge is in arrears
  - the leaseholder breaks an arrears repayment agreement
  - the leaseholder refuses to make service charge payments
- 3.8 If the leaseholder is unable to make sufficient payments to meet the terms of a repayment agreement, then TRH will consider rescheduling the debt, with the agreement of the lender, or it will take another appropriate course of action.
- 3.9 TRH will consider taking legal action to recover rent or service charge arrears, if other courses of action have failed. This may include applying for money judgment orders or forfeiture action, taking into account the requirements of the Landlord and Tenant Act 1985 and The Housing Act 1996.

#### **4. Consultation**

- 4.1 The law requires that the leaseholder must be consulted before Two Rivers Housing (TRH) carries out works above a certain value or enters into a long-term agreement for the provision of services. This is referred to as Section 20 Consultation. The Commonhold and Leasehold Reform Act 2002 (CLaRA) has introduced new requirements for this statutory consultation.
- 4.1.1 TRH will provide two separate 30-day consultation periods for leaseholders to make observations, and Two Rivers Housing will allow a minimum of three to four months for the whole consultation process.

- 4.1.2 TRH will provide facilities so that all Notices and estimates can be inspected, the place and hours for inspection will be reasonable, and facilities and copies will be available free of charge.
- 4.1.3 TRH will have regard to any observations sent in writing during the consultation periods.
- 4.1.4 TRH will seek a tender from the list of leaseholders' nominees, as long as they fulfil the fundamental criteria that they require from their contractors.
- 4.1.5 TRH will seek a minimum of two tenders for any contract, one of which will be wholly unconnected to the Company.
- 4.1.6 When a new Right to Buy lease is granted part way through the process, TRH will not start the process again, or send missed notices. However they will bring the new leaseholder into the next stage of the process. Prospective Purchasers will be advised through the S125 offer notice of any works
- 4.1.7 Estimates of the costs of any works will be sent to leaseholders to allow them to budget for any expenditure. If these estimates change during the works, then a revised estimate with reasons for the change will be served (Section 20 B Notice)
- 4.1.8 TRH reserve the right to charge for these works in stages: before during and after the contract has taken place.
- 4.1.9 TRH will recharge the administration costs of the Section 20 process through the annual service charge, as detailed in the lease.
- 4.1.10 TRH will send an invoice for major works within 18 months of the contract commencing. If the works have not been completed then a Section 20 B notice will be served advising what still needs to be done, and how much it is likely to cost, and when it is likely that the contract will finish.

#### **4.2. Contracts that are subject to consultation**

- 4.2.1 Previously, Section 20 only covered specific building works. Now, more areas of service charge expenditure are subject to consultation, divided into two categories: 'qualifying works' and 'qualifying long-term agreements'.

#### **4.3. Penalties for Non compliance**

- 4.3.1 If TRH fails to carry out the full consultation procedures in the correct manner, they are not able to collect or recover service charges above the level of the statutory minimum amounts - £100 per leaseholder per year in respect of a long-term contract, or £250 per leaseholder for works to the building. TRH may have to cover the loss themselves.
- 4.3.2 Deajan Vs Benson was a FFT case that changed the amount that Landlords could recovered if they failed to carry out correct S20 consultation. The ruling of the Upper Tribunal is that dispensation on S20 maybe granted if the Leaseholder has not been prejudiced by the landlord not following the correct

process. Further detail can be found <http://www.lease-advice.org/publications/documents/document.asp?item=105>

#### **4.4. Emergency Works**

- 4.4.1 The Act does not provide specifically for excusing consultation in emergency situations. However, Section 20(1) permits the First Tier Tribunal (FTT) to dispense with the consultation requirements in a particular case 'if satisfied that it is reasonable to dispense with the requirements'. It would be advisable to apply for dispensation as early as possible, although the inevitable delay may make this impractical.

An application may also be appropriate in a case where there is only one realistic provider for particular works or services.

### **5 Capital Works**

- 5.1 TRH will seek to limit the proportion of capital works costs that it passes on to leaseholders, whenever possible. Leaseholders will be able either to opt out of internal works or pay for them in full; they will also be able to apply to the District Council for renovation grants where these are available.
- 5.2 TRH aims to recover all monies due from leaseholders towards the cost of capital works. They will be encouraged to meet charges in full or to make a lump sum payment off the full amount, where this is possible. TRH will not insist on such payments in special circumstances, however, and may offer leaseholders a range of alternative repayment mechanisms. These could include:
- conversion to a shared ownership lease, subject to the agreement of the leaseholder's lender
  - the offer of a second mortgage, if it can be secured against the leaseholder's property
  - an arrangement to repay the charge over a number of years, including the interest on such a loan
  - taking out a charge against the property when the leaseholder is unable to make payments
- 5.3 TRH will consult leaseholders about the arrangements for helping them plan their long term financial liabilities, including the possibility of establishing a sinking fund.
- 5.4 TRH will expect any leaseholder that wants to carry out improvement works to their home to submit full details of the proposed works to TRH, including planning permissions where these are necessary.
- 5.5 TRH will decide whether or not to grant a leaseholder permission to carry out improvement works by taking into account the following factors:

- whether the improvement will make part or all of the property inherently unstable or dangerous
- whether it will encroach on to land not defined in the lease
- whether it will prevent light or air reaching other residents
- whether it will be aesthetically undesirable
- whether there are any other relevant considerations

If permission is refused, the reasons for refusal will be put in writing to the leaseholder.

## **6. Breaches of lease**

6.1 TRH will take appropriate action whenever it becomes aware that a leaseholder has breached the terms of their lease. Breaches can include the following:

- unapproved works to premises
- improper use of premises
- failure to maintain premises
- damage to premises
- refusal of access to TRH's employees
- harassment or neighbour nuisance

6.2 TRH will serve a notice on all leaseholders in breach of their lease requiring them to remedy the breach. If this is not done then TRH may seek an injunction or may take forfeiture action.

## **7. Enfranchisement**

7.1 Where leaseholders occupy properties comprising not less than two thirds of the total number of flats in a block or, in certain circumstances, part of a block then TRH will allow them to acquire the freehold of the block if they choose to do so, as required by the Commonhold and Leasehold Reform Act 2002.

7.2 TRH will make information relating to the collective enfranchisement provisions available to any leaseholder that requests it.

## 8. Shared Ownership

- 8.1 Two Rivers Housing continues to offer affordable home ownership via shared ownership.
- 8.2 Shared ownership is when you buy a percentage of a property (10% to 75%) and pay rent (normally 2.75%) on the remaining percentage TRH own, plus service charges.
- 8.3 Shared owners can purchase additional shares of their home, known as staircasing, and in most cases eventually own 100% outright. At this point, rent is no longer payable. For those in a flat, or a house with communal areas, they continue to pay service charges.
- 8.4 Two Rivers Housing will sell, allocate and manage Shared ownership properties in line with the Homes England Capital Funding Guide, each individual lease and any planning restrictions on a site.
- 8.4.1 In the event of two potential purchasers being the same position to purchase a shared ownership plot, the Head of Homeownership and Sales will decide on who the property is sold to based on;
- Share of property to be purchased (maximised share)
  - Connection to the locality / meeting any S106 restrictions
  - Proceedability of applicant
  - Make up of household
- In no particular order.
- 8.5 Any property sold under the Affordable Homes Programme 2021 – 2026 will be available from 10% share, and all applicants will be provided with the Key Information about Shared Ownership document, that sets out the terms of the New Model shared ownership programme **Appendix A**
- 8.6 Each New Build Shared ownership property will be marketed with *Key information about the Home* and a *Summary of costs*. This will allow applicants to make an informed decision about the suitability and sustainability of purchasing a shared ownership home. **Appendix B & C**
- 8.7 Although there is no longer a requirement to use the Homes England Affordability Calculator, Two Rivers Housing will continue to use this tool to ascertain the initial affordability of any purchaser and to maximise the share sold. [Capital Funding Guide - 1. Shared Ownership - Guidance - GOV.UK \(www.gov.uk\)](#)
- 8.8 All New Build shared ownership properties will be marketed through [www.twocan.estate](http://www.twocan.estate).

## 9 Right to Shared Ownership (RTSO)



9.1 The Government published its policy on Right to Shared Ownership on 8 September 2020. It applies to rented homes funded through the Affordable Homes Programme 2021 to 2026. See the [RtSO initial guidance for registered providers](#) for guidance on property and applicant eligibility.

9.2 Once further information has been provided by Government this homeownership option will be managed by the Homeownership and Sales Team.

## 10 Shared Ownership resales

10.1 All shared ownership properties need to be offered back to Two Rivers Housing in the first instance, as defined in each lease.

10.2 If no purchaser can be found then the property can be sold on the open market via an estate agent. All resales are signposted to TwoCan.

10.3 Information for shared owners is available on the Two Rivers Housing website [Selling your Shared Ownership home - Two Rivers Housing](#)

10.3 If the property is not sold through TwoCan, then TRH will charge the fees set out in any individual shared ownership lease. This will vary depending on each scheme.

## 11. Monitoring and Review

11.1 A number of SOPS (standard operating procedures) are in place for the Homeownership and Sales service. These are periodically audited as part of the Quality Management System and Two Rivers Housings ISO accreditation.

11.2 It is the responsibility of the relevant TRH employees to ensure that this policy and the procedures related to it are correctly applied and are in line with the standards and objectives of Two Rivers Housing.

11.3.1 This policy will be reviewed every three years; however it may also be reviewed to ensure compliance with legislation and to amend in line with best practice and or to reflect changes within the company.

Version	Date	Author	Change description	Approved by	Date approved
5	13/7/22	JDE	Added section on new shared ownership programme and updated statement of intent		