



Leaseholders Service Charges Arrears Policy

1. Introduction

- 1.1. This policy sets out Medway Council Landlord Services (the Council's) approach to managing Leaseholder Service Charge Arrears amongst its own housing stock in a firm but fair way.

2. Purpose

- 2.1. The purpose of this policy is to:
- Keep the level of service charge arrears to a minimum in order to maximise income in the interest of both the Council and its tenants and leaseholders.
 - Ensure leaseholders have the information and support they need to maximise their income and prevent or minimise their debt.
 - Where applicable and in accordance with relevant legislation, offer service charge loans.
 - Ensure that a consistent approach is taken to Service Charge Arrears collection and that where necessary individual circumstances are taken into account.

3. Scope

- 3.1. This policy applies to all Medway Council Leaseholders and Landlord Services employees.

4. Legislation and Regulation

4.1. External:

- The Law and property Act 1925
- Landlord and Tenant Acts 1985 and 1987,
- the Leasehold Reform,
- Housing and Urban Development Act 1993
- The Commonhold and Leasehold Reform Act 2002,
- Audit Commission

4.2 Internal

- HRA Business Plan
- Leasehold Agreements

- Leaseholder Handbook

5. Policy

5.1. Historic Service Charge Debts

5.2. On 1 April 2018 leaseholder service charges were migrated to an electronic management system to streamline and improve the collection of leaseholder service charges.

5.3. At that time all historic debt, whether for the day to day service charges elements or for previous major works had been consolidated.

5.4. Leaseholders with any historic debt liability will be invited to clear this debt within a reasonable period of time.

5.5. Ground Rent Arrears

5.6. A leaseholder will be deemed to be in arrears if they fail to pay their ground rent by 1 April in any given year.

5.7. If ground rent is not paid procedures to recover any outstanding balances will commence.

5.8. A “Stage One” warning letter will be sent to the leaseholder for outstanding ground rent requiring the leaseholder to pay the outstanding ground rent balance within 7 days.

5.9. A “Stage Two” warning letter will be sent if any balance remains outstanding 7 days after the date of the first letter. The letter will be issued to require payment within 14 days of the date of the letter 2.

5.10. If ground rent is not paid on expiry of the deadline set in letter 2, the matter will immediately be passed to Medway Council Legal Department for enforcement and recovery. The leaseholder will be directly responsible for any further costs accrued as a result of this action.

5.11. Service Charge Arrears

5.12. A leaseholder will be deemed to be in arrears if they fail to pay their service charge bill within 30 calendar days of the date of issue.

5.13. Once the 30 day payment period has expired, procedures to recover any outstanding balances will commence.

- 5.14. A “Stage One” warning letter will be sent to the leaseholder for any “day to day estimated” or “actual service charge” balances outstanding 30 days after the date of invoice. The letter will invite the leaseholder to contact Medway Council to arrange clearance of the outstanding balance/s.
- 5.15. A “Stage Two” warning letter will be sent if any balance remains outstanding two weeks after the due date as prescribed in the original invoice. The letter will be issued to inform the leaseholder that should payment or contact not be made within 14 days of the letter issue date, the mortgage lender will be contacted regarding the arrears.
- 5.16. The letter will also advise leaseholders that this matter will be referred to an external solicitor employed by the council to recover the debt should an arrangement not be made to clear any outstanding service charges.
- 5.17. Where a leaseholder does not have any mortgage or loan secured against the leasehold property, action will be initiated to recover the outstanding debt. The leaseholder will be liable for any charges incurred in this process. Medway Council may approach the First-tier Tribunal (Property Chamber) (FFT) and / or the small claims court, depending on the level of debt.
- 5.18. The leaseholder will be kept informed of any recovery action being considered and the probable level of costs that will be incurred at every stage of the debt recovery process.
- 5.19. Advice and dealing with debt**
- 5.20. Leaseholders suffering financial hardship will be signposted to partners offering free financial advice for example the Citizen’s Advice Bureau, national debt helpline, etc.
- 5.21. Loans**
- 5.22. Leaseholders may be eligible for a loan to pay for service charges for major works repairs that have been carried out to their block. Please see the Service Charge Loans policy for more details
- 5.23. Special considerations for service charge debt**
- 5.24. It is very important that leaseholder insurance premiums are kept up to date in order that full cover is available should it be needed. To ensure that this happens, the first portion of any monies recovered from the leaseholder will go towards paying the insurance premium part of their service charges.

5.25. Once the insurance premium has been paid, all other monies collected will go towards the clearance of the day to day service charges applicable in that year.

5.26. Complaints

5.27. Leaseholders who are not satisfied with the way in which their queries have been dealt with are free to use Medway Council's Complaints Procedure as detailed on the Medway Council website.

6. Role, Responsibilities and Authority

6.1. The Assistant Director Physical and Cultural Regeneration retains the overall responsibility for the implementation of this policy.

6.2. The Head of Housing Management is responsible for the operational delivery of this policy, the associated procedures and has the responsibility for ensuring that this policy complies with Regulatory and Legislative requirements.

7. Monitoring, Review and Evaluation

7.1. This policy will be reviewed every two years or in line with legislative or regulatory changes.

Policy Version Control Sheet

Policy Title: Leaseholder Service Charge Arrears Policy V2

Policy Author(s): Home Ownership Officer, HRA Income Manager, Policy and Partnership officer

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Cross References: Right to Buy policy, Leaseholder (Section 20) Policy