

Housing Management Leasehold Services

Debt Recovery Policy



Wiltshire Council
Where everybody matters

Introduction:

Service charges are calculated annually (in arrears) at the end of the financial year, based on the actual costs incurred in the year to which they relate. All leaseholders are required to pay a contribution to the cost of maintaining the fabric and any common parts of the building as described in the Landlord and Tenant Act 1985 paragraphs 16a, 16b, 16c, 16d, and 18 of Schedule 6 to the Housing Act 1985.

The charge includes buildings insurance, ground rent, the management fee, costs of communal gas/electricity usage, the contribution towards communal repairs, and major works if applicable. Charges are calculated in accordance with the terms of the lease agreement and relevant leasehold legislation.

Housing Management aims to keep arrears of Leaseholder Service Charges (LSC) at the lowest possible level, in order to maximise income to the Housing Revenue Account (HRA) and to demonstrate good financial management.

Our policy on the recovery of LSC debt will balance recovery with the provision of information, offer all relevant support and advice to leaseholders enabling them to understand their responsibilities, sources of information and support and possible entitlement to benefits. However, where debts do arise, we will take prompt recovery action in line with this policy.

Key Principles of the Service Charges Income Collection and Recovery Policy:

- To keep LSC arrears at the lowest possible levels and below target levels (to be set annually), in order to maximise income to the HRA.
- To place emphasis on effective prevention and firm fair action to tackle LSC arrears, in order to minimise debt.
- To assist with and signpost leaseholders to sources of assistance (i.e. Benefits, debt advice).
- To take every opportunity to support and assist residents to manage their account effectively, to minimise the chances of debt occurring and the need to take formal action for recovery.
- To comply with all statutory and regulatory requirements regarding the debt and arrears and recovery.
- To consider all aspects of the council's ***Corporate Debt Recovery Policy***
- To treat leaseholders in a fair and non-discriminatory way, in accordance with council policy.

Service Charge Billing:

Leaseholder Service Charge Accounts will be issued as soon as possible after the closure of the council annual accounts and within the maximum 6 months permitted by legislation following the close of the service charge account year (year ends 31st March).

Accounts will be issued with the following information:

- Account Statement detailing the amount due
- Account Certificate detailing the costs incurred by the council and breakdown to individual leaseholder level
- Summary of Communal Repairs
- Summary of Rights and Obligations
- Details of payment options available
- Details of sources of assistance if there are difficulties in paying

Non-payment of Service Charges:

Non-payment will be pursued as breach of covenant (terms of the Lease Agreement). We aim to prevent leasehold owners from accruing serious debt, which may lead to involvement of mortgage lenders in capitalising arrears, which could in turn lead to repossession. We will deal with non-payment of service charges with the same principles as applied by the corporate debt policy. However as leasehold is a specialist area there are a few further remedies available to the council when recovering debt.

Payment Options:

Were payment cannot be made in one single payment leaseholders will be offered standard payment terms as follows:

Invoice Amount	Payment Terms
Invoices less than £250	Immediate Payment (Within 28 Days of invoice)
Invoices between £250 and £750	By following March 31 st (end of Service Charge year)
Invoices between £750 and £1500	Up to 12 Monthly payments
more than £1500	Up to 18 Monthly payments

If payment is not able to be made under these standard terms the council may, in cases of financial hardship, agree to discretionary arrangements for payment of debts owed. In these instances the matter should be referred to the Housing Income Manager for consideration of the case and leaseholder circumstances.

Please note that evidence of financial position i.e. income and expenditure will be requested and assessed prior to any discretionary payment terms being agreed.

Example terms that may be agreed:

<p>Discretionary Payment Terms</p>	<ul style="list-style-type: none"> • Extension of the standard payment terms depending on the amount due and circumstances of the leaseholder. • Voluntary Property Charge on the leasehold property which delays payment of the charges due until the property is sold or transferred at a future date. <p>N.B. A property charge will attract interest charges and legal fees</p>
<p>Service Charge Loans</p>	<p>Invoices of more than £1500 may qualify for a Service Charge loan. This is available during the initial ten years of the original lease being granted. Interest will be payable on any loan granted at the local authority lending rate set by central government.</p> <p>Please refer to Leasehold & Sales Team for further information.</p>
<p>Optional Works</p>	<p>If the council has agreed to include optional works for leaseholders, for example new windows (where the responsibility for windows sits with the leaseholder and not the council).</p> <p>Payment terms will be up to a maximum of 18 months from the date of billing (billing occurs upon completion of the works).</p>

Arrears Recovery Procedure:

Where debts accrue the debt recovery procedure for LSC arrears is as follows:

- First reminder to be sent out 30 days after the issuing of service charge invoices.
- Second reminder to be sent after a further 14 days requesting payment and warning of potential court action and further costs being added to the account if payment not received in 7 days.
- If no contact from leaseholder attempts will be made to contact by telephone to discuss debt and sign post to sources of assistance and advice.
- Mortgage Company / lender written to – informed interests in property at risk, as insurance claims may be declined due to non payment of premiums, and asked to consider capitalising debt.
- If no contact can be made, lender refuses to capitalise debt and there are no valid reasons for non-payment debt will be referred to solicitors to begin recovery proceeding through the county court.
- If judgement awarded Mortgage Company / lender written to requesting they reconsider capitalising debt.

NB: All reminders will include signposting information to sources of assistance (i.e. CAB, National Debt Line) or the Financial Inclusion / Tenancy Sustainment Services within Housing Management Services.

Payment Plans / Arrangements:

Where a payment plan has been put into place between leaseholder and council this will be monitored.

Failure to adhere to the agreed plan will instigate a differing recovery process, from that detailed above, as follows:

- Reminder sent stating that payment has not been made asking that the account be brought back in line with the agreed payment plan within 7 days.
- If payment not made further letter sent stating that full amount is due and must be paid in full within 14 days. This will include a warning of potential formal recovery action and further costs.
- If no payment made, or contact from leaseholder, and there is no valid reason for non-payment debt will be passed to solicitors for formal recovery through the county court.

NB: All reminders will include signposting information to sources of assistance (i.e. CAB, National Debt Line) or the Financial Inclusion Officer with in Housing Management.

Enforcement of Debt:

Should leaseholder still not make payment on the debt, after a county court judgment, there are various options available to the council which should be considered on a case by case basis.

- Attachment to earnings
- Deduction from benefits
- Bailiff services
- Debt collection agencies
- Bankruptcy
- Liquidation
- Forfeiture of lease (possession proceedings)
- Legal Charge on Property

Enforcement action will be considered and agreed by the Housing Income Manager in consultation with Head of Service and Legal Services Team.

Costs:

It is unreasonable to expect all leaseholders to pay for the costs if formal debt recovery. Therefore, the costs involved in the formal recovery of debts will be added to the service charge account. However these costs should be kept to a minimum and to only those reasonably incurred in collecting the debt.

Bad Debts / Write Offs:

As service charges are a recurring debt that forms part of the lease agreement there will be very few circumstances where debts will be written off. If write off is to be considered reference should be made to the Housing Write Off Policy which sets out the criteria and conditions for the writing off of debt.

Review

This Leasehold Debt Recovery Policy was approved, in consultation with leaseholders, by the Associate Director of Housing & Commercial Development on 25th March 2019.

This policy will be formally reviewed at least every two years or more frequently if required.