

Appendix A

Housing Services Shared Ownership Policy

September 2021

FINAL

1. Summary

- 1.1 A shared owner is someone who has met the financial eligibility, and in some cases local connection criteria, to be able to purchase a share of a property under a shared ownership lease and pay rent on the remaining share for a fixed number of years. Although the term is fixed at the start of the lease, it decreases every year until it expires at which time the property reverts to CCC, ('the landlord').
- 1.2 The Shared Ownership Leaseholder can buy further shares in the property at the market value of those shares at the time of purchase. Buying further shares is referred to as staircasing, and Cambridge City Council supports its Shared Ownership leaseholders to staircase to 100% ownership, where financially feasible.
- 1.3 This Policy has been developed to define how Cambridge City Council will manage the 96 shared ownership properties held in the HRA at the time of publication.
- 1.4 The policy provides an overview, supported by management procedures, across all areas of current shared ownership stock management. This Policy refers to the current HRA owned and managed units of Shared Ownership stock only; any future HRA or General Fund shared ownership properties will be dealt with under a separate Policy due to the potential for a different management arrangement and maintenance liabilities.

2. Responsibilities

- 2.1 Shared Ownership leaseholders are responsible for:

- a. Paying a weekly rent and/or service charges as agreed in the annual rent and service charge statement.
- b. Keeping the property substantially repaired and internally maintained.
- c. Seeking Council permission to carry out any alterations to the property.
- d. *Insuring the building (Buildings Insurance is in place where the Landlord is the freeholder; see 'Insurance Section' for further details)
- e. Not assigning the property, without notice in writing to the Landlord to surrender the Lease.
- f. Not subletting the property; the property must be lived in as a main and principal home.
- g. Allowing the Landlord at reasonable times to enter the property and examine the condition and to take a schedule of fixtures and fittings.
- h. Ensuring gas appliances are tested every 12 months, and the certificate made available upon request.

The full list of responsibilities of the Leaseholder is outlined in the lease.

2.2 Cambridge City Council are responsible for:

- a. Issuing service charge estimates & actuals for CCC managed and Management Company units.
- b. Rent and service charge collection.
- c. Collect fees and charges owed to the Council and carry out arrears processes.
- d. Managing and administering the service and providing general advice on rights and responsibilities.
- e. *Insuring the building against loss or damage to its full reinstatement value, where the landlord is the freeholder.
- f. Administration of staircasing.
- g. Administration of requests for adaptations.
- h. Re-purchasing of existing HRA shared ownership units or providing advice for the selling on of shares.
- i. Undertaking valuations for purchasing of further shares and/or staircasing to 100%.
- j. Liaison with external agencies, e.g., repossession, debt collection, fraud

- k. Holding a database of Shared Ownership property that details lease arrangements.
- l. Undertaking a regular audit of shared ownership property to ensure there are no breaches of the lease.
- m. Undertaking a systematic review of policies and procedures to ensure the service complies with current Legislation.
- n. Managing the agreement between the Council and outside Managing Agents, where Shared Ownership stock is sited on externally managed housing developments.
- o. Undertaking consultation and providing information on changes affecting shared owners.

* Varies between leases – leaseholders will need to refer to their lease.

The full list of responsibilities of the council is outlined in the lease.

3. Policy Objectives

- 3.1 The objective of this policy is to ensure that shared ownership units are dealt with in a consistent and fair way that reflects legislative and regulatory requirements, and leaseholders understand their rights and responsibilities under their lease. The Policy will also outline the Council's position regarding:
 - i. The responsibilities of both the Council and the leaseholder (for the purpose of this policy 'leaseholders' refers to shared ownership leaseholders), under the terms of their lease,
 - ii. What monies are due under the terms of their lease, and what support, advice and information is available to anyone having difficulty in making a payment,
 - iii. Upholding the covenants in their leases, particularly with regard to harassment, neighbourhood nuisance and other actions taken by them that are likely to affect other residents,
 - iv. Purchasing additional shares
 - v. the Council's position on repurchases and resales.

4. Scope

- 4.1 This policy covers all aspects of shared ownership leasehold management post initial sale and subsequent sales.

5. Shared Ownership Leaseholder's Rights & Obligations

- 5.1 The lease is a contract between the landlord, Cambridge City Council and the shared ownership leaseholder. It sets out the respective rights and responsibilities of each party. The lease is a legally binding contract and enforceable by law. Current legislation may override the lease if there have been legislative updates since the lease commenced.

- 5.2 The lease includes information about:

- i. The Parties to the lease
- ii. The market value of the whole property at the time of purchase, the amount the shared owner is paying, and the percentage bought.
- iii. The rent to be paid, how this is determined, when payment is due and how it will be reviewed.
- iv. The arrangement for collecting contributions to additional charges, (service charges and any estate management/maintenance costs)
- v. The procedures to purchase additional shares in the property (staircasing) and incentives to do so.
- vi. The process to assign or transfer the lease.
- vii. Insurance arrangements
- viii. The restrictions on 'sub-letting' the property
- ix. The responsibilities of the leaseholder, in respect of repair, decoration, servicing and alterations to the property
- x. The grounds for the landlord ending the lease by forfeiture or re-entry.
- xi. Details of the responsibilities of both the leaseholder and Cambridge City Council, (the Landlord)
- xii. Mutual covenants

- 5.3 Cambridge City Council and the Shared Ownership Leaseholder are bound by the terms of the shared ownership lease.

6. Legal and Regulatory Framework

6.1 As at July 2021, the Legal & Regulatory Framework for existing shared ownership (low-cost home ownership) units was contained in Section 68 of the Housing and Regeneration 2008 Act. Where Home England grant-funding for shared ownership took place, the Homes England, the Council of Mortgage Lenders and the National Housing Federation guidance applies.

7. Insurance

7.1 Depending on the terms of the individual lease (there are 7 variations of lease in use at the Council), either the Council or the Leaseholder is responsible for buildings insurance. Leaseholders will need to refer to their lease to identify where the responsibility for building insurance lies.

7.2 Where the Council is responsible for insuring the building, the policy covers the cost of rebuilding a property if it is damaged or destroyed. Where the Council is responsible for Buildings Insurance, a service charge is applicable.

7.3 To keep the building insurance premium as low as possible:

- fences and boundaries are excluded from the policy.
- If as part of the lease there is a private garden that contains trees, the trees are required to be maintained by the leaseholder. If a tree in the garden falls and causes injury or damage, the leaseholder will be liable. Leaseholders should ensure any trees on their property are checked periodically and maintained appropriately.
- If the property is left empty for more than 30 days, parts of the building insurance will be invalidated. Malicious damage will not be covered, nor will damage caused by water escaping from any tank apparatus or pipe.
- If the property becomes uninhabitable, the building insurance does not cover the cost of making alternative living arrangements whilst any repairs are carried out.

7.4 The Council strongly recommends that leaseholders, where responsibility for building insurance lies with the Council, take out an additional policy to ensure all eventualities are covered.

7.5 Leaseholders will be provided with copies of the Council's General Building Insurance Policy.

7.6 Contents insurance is the responsibility of the leaseholder.

8. Rents

8.1 Leaseholders will pay rent to Cambridge City Council on the remaining share they do not own.

8.2 Any rent payable will be calculated in line with the lease and any relevant Government / Regulator of Social Housing rent setting guidance.

9. Service Charges

9.1 Where services are provided to shared ownership properties, these will be referenced in the lease, and charges will be set and administered in accordance with current legislation.

9.2 Individual computerised accounts are held for each leaseholder. Each account will be credited with the rental income, and debited with rent, service charges, and management fee charges (if applicable).

9.3 In line with legislation when a demand for payment is issued a summary document explaining Leaseholder Rights and Obligations (Service Charges) will also be issued.

10. Arrears

10.1 Any leaseholder who falls behind with payments will be contacted promptly by the council and appropriate action will be taken.

- 10.2 Cambridge City Council will make sure that in the first instance, anyone experiencing difficulties in making rent or mortgage payments is referred to the council's Financial Inclusion Team, who will be able to provide advice on welfare benefits and debt.
- 10.3 Cambridge City Council will act reasonably and only take possession action where there is no other reasonable alternative, and all other avenues to maintain the shared owner in their home have been exhausted.
- 10.4 Arrears procedures will consider the best practice published by the Council of Mortgage lenders.
- 10.5 Interest is payable and may be applied to the account once a period of 14 days from the due date has passed.
- 10.6 Where Cambridge City Council is satisfied that an appropriate course of recovery action has been taken by staff and rent and charges remain unpaid, legal proceedings will be considered for persistent failure to pay rent, including forfeiture (possession) in accordance with the lease. Other escalation will follow pre court action protocol introduced in October 2017.
- 10.7 NB: A Lease containing a Mortgagee protection clause allows the Landlord to disclose to any Mortgagee of the Leaseholder from time-to-time personal information relating to the Leaseholder or to the provisions of this Lease (including details of any rent or service charge arrears); and any Mortgagee from time to time of the Leaseholder to disclose to the Landlord such information as the Landlord may request regarding the Leaseholder and the Loan (including details of any arrears).

11. Disputed Charges

- 11.1 Cambridge City Council will take a proactive approach to the resolution of disputes, by ensuring queries are dealt with as quickly as possible, to minimise customer dissatisfaction.

11.2 To ensure the same standards of customer care are provided as to council tenants and Right to Buy Leaseholders, the council's corporate complaints policy will be followed.

12. Overpayments

12.1 All overpayments of rental charges will automatically be carried forward to the next financial year. Any repayment of overpaid charges will be considered on an individual basis.

12.2 If a leaseholder sells their home during the year, then a refund of any credit balance will be provided.

13. Purchase of additional shares ('Staircasing')

13.1 Leaseholders can purchase additional shares at any time following the initial purchase. The lease outlines the terms and process for staircasing. As Leaseholders buy further shares, the rent will be reduced proportionately to reflect the fact that the council's interest in the property has reduced.

13.2 The council encourages all leaseholders to staircase to 100% where financially achievable; the benefits of doing this include:

- Paying no rent - just a service charge will be due where a service is provided.
- Having more control – when a leaseholder is ready to sell, they may do so via any channel.
- Access to a variety of mortgage options –staircasing to 100% allows the ability to 'shop around' for a much better mortgage rate, as shared ownership mortgages tend to be more expensive.
- Having more security – as a freeholder who can sell when they wish will mean they'll benefit more from rising house prices.

13.3 If the property is a house, and the leaseholder has purchased 100% of the shares, they will have the right to acquire the freehold of the property for no further charge.

14. Flexible Tenure (Reverse Staircasing)

- 14.1 Flexible tenure is designed to enable a shared owner to remain in their home either by selling some of their shares back to their landlord, in order to reduce their mortgage to a more affordable and sustainable level, or by selling all of their shares back to the landlord and becoming a tenant renting the whole property.
- 14.2 Cambridge City Council does not offer a flexible tenure alternative. Leaseholders will be provided with financial advice and guidance when considering the options available to them.

15. Sale of Share – Assignment or Transfer

- 15.1 A Leaseholder can sell their share at any time but must follow the procedures within the lease. Depending on the type of lease held, Leaseholders may be required to assign the property to a nominated purchaser, offer the Council Right of First Refusal on the purchase, or sell the share on the open market. In a small number of cases, the Council will offer to repurchase the share.
- 15.2 Where the leaseholder is asked to sell the share on the open market, the buyer will be bound by the terms of the seller's lease at the time of purchase.

16. Additional borrowing and change in lender

- 16.1 The lease doesn't prevent a leaseholder from obtaining additional borrowing; any further borrowing is subject to the council's approval in liaison with advice from Cambridge City Council's Legal Department and the terms of the Mortgage Protection Clause (MPC) (is applicable), which protects the mortgage company and is a fundamental clause in the HCA's standard shared ownership lease. Where a lease differs from the HCA standard lease, the council will grant a S442 Agreement to offer lenders security on any mortgage offered, if this is required.

- 16.2 There is no specific procedure in the case of additional borrowing or change of lender, only principals that should be adhered to as each case will be different.
- 16.3 The council will approve, in writing, all requests to change a lender as long as the leaseholder's legal representative confirms that the sum being borrowed has not increased from the sum owed to the previous lender, (i.e. no additional lending) and that the terms of the mortgage are in the council's opinion reasonable, given current market conditions and that the original shared owners are still on the new mortgage. The council will seek legal advice from the Legal Department prior to any approvals.

17. Subletting and lodging

- 17.1 The shared ownership lease prohibits sub-letting. This stops the leaseholder from having the right to sub-let. However, the council may agree to sub-letting or lodging arrangements if they choose to do so in exceptional circumstances. Exceptional circumstances may include the prevention of homelessness or financial hardship. This may require a deed of variation to the lease, and the council will seek legal advice prior to any approvals. This is to protect public funds from misuse and to ensure that applicants are not entering into shared ownership for financial gain, apart from the creation of equity.
- 17.2 In all cases of sub-letting or lodgers must be approved by the Home Ownership Team in liaison with Legal Services. The principles detailed in the Council's subletting and lodging procedure will be referred to in all cases.

18. Breaches of Lease

- 18.1 The council will take appropriate action whenever it becomes aware that a leaseholder is acting in breach of the terms of their lease, which may include:
- Non-payment of rental income for 21 days after becoming payable
 - Unapproved works to the home or building

- Improper use of the home or building
- Failure to maintain or damage to the premises
- Refusal of access to council staff
- Antisocial behaviour including harassment or neighbour nuisance.

18.2 In all cases the council will follow the breach of lease procedure and work with the leaseholder to resolve the issue. However, if the breach continues legal action could be taken which may include seeking an injunction, or action for the forfeiture of their lease.

19. Fraud/Criminal activity

19.1 Staff will comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the Regulations) where suspicion of such criminal activity is identified.

19.2 Tenancy Audits and Stock Condition Surveys will be undertaken on a cyclical basis to ensure the terms of the lease are being adhered to. Breaches of the lease will be dealt with via the Council's breach of lease procedure.

19.3 Requests for permission to sub-let will require a home visit as part of determining whether to grant the request. If permission is given, a follow up at the end of the permission period will be done to ensure that the shared owner is back in occupation.

19.4 Where it appears that a fraud has been or is being perpetrated, the Council's Fraud Team will be asked to gather evidence to support further action.

19.5 The terms of the individual lease will apply in relation to fraud and repossession.

20. Repossession

20.1 It is a condition of a shared owner's lease to pay the shared ownership rent and maintain mortgage payments. Failure to pay the shared

ownership rent, service charges or mortgage payments and other breaches of the lease agreement could lead to repossession.

- 20.2 As a general principle the Shared Ownership: Joint Guidance For England, issued by Homes England, Council of Mortgage Lenders, and National Housing Federation will be used as guidance. The council will only seek to commence possession proceedings as a last resort and when all alternative debt management actions have been exhausted.
- 20.3 The council will provide the shared owner's mortgage lender 28 days' notice of any intentions to commence possession proceedings. This will include details of the level of arrears. The council will also notify the shared owner of its intention to share information regarding the arrears with the lender.
- 20.4 The council will always seek legal advice if considering commencing possession proceedings.

21. Repairs

- 21.1 The leaseholder is solely responsible for the maintenance of the property. This includes the maintenance of gardens, any fences, walls or hedges.
- 21.2 In addition to the repairs the leaseholder is also responsible for arranging for all gas installations within the property to be serviced annually.
- 21.3 Shared owners in flats will be required to contribute to any estate maintenance and repairs and improvements, dependant on the requirements detailed in their lease. If qualifying works will result in that contribution being more than £250 (including VAT), the Landlord will be required to carry out a consultation under section 20 Landlord and Tenant Act 1985. Failure to do so will result in any contribution required from the Leaseholder being 'capped' at £250.

22. Alterations and Improvements

- 22.1 Under the terms of the CCC shared ownership lease, structural alterations and improvements are prohibited without the prior written consent of the landlord. The council will consider the request to carry out alterations or improvements on a case-by-case basis.
- 22.2 Leaseholders must not make any alterations or additions to the property without written approval from Cambridge City Council.
- 22.3 Any leaseholder wishing to carry out alterations or additions to their home must first submit full details of the proposed work to Cambridge City Council.
- 22.4 Each request will be looked at on its own merits and will be formally responded to the council and in accordance with Housing's Alterations and Improvements procedure. Alterations and improvements that relate to welfare adaptation or an evidenced household need will be amongst the factors considered.
- 22.5 Any refusal of the proposed alteration or improvements will be accompanied by a full written explanation.
- 22.6 There is no appeals process. The terms of the lease will be referred to on all occasions.

23. Death/default process

- 23.1 The lease terminates immediately on the death of the leaseholder. The council can purchase the remainder of the property at this time or agree to enter with the Executors in a joint sale of the property or allow them to sell their share on the open market. The council must serve a notice on the Executor within 42 days if it wishes to purchase, failing which it will be deemed they have agreed to join with the leaseholder in the sale of the Property. The lease charges, arrears outstanding and any other costs incurred during the period in between the leaseholder's death and the sale of the share will be met from their estate at the conclusion of the sale.

23.2 Should the leaseholder default on payments due, the council may have its solicitors serve a Notice giving 28 days' notice that it intends to terminate the lease, whereupon all rights of the leaseholder to exclusive occupation of the property shall cease. Should they continue to occupy the property after termination of the lease, they will be liable to pay the council an equivalent sum to the rent payment which was due prior to the default or termination until the leaseholder moves from the property. In this scenario the council has the option to either purchase the leaseholders share of the Property or require the leaseholder sell the property with vacant possession on the open market for the best price that can be reasonably obtained.

24. Leaseholder involvement

24.1 The council will work with shared owners, via a number of communication channels, to provide the opportunity for feedback and suggestions, to influence services provided to them and to provide the opportunity to discuss issues that are important to them.

25. Performance monitoring and reporting

25.1 The council will regularly monitor service provision, associated costs and performance in collecting shared ownership income.

26. Feedback

26.1 Any dissatisfaction or complaints received in any format will be responded to within the council's agreed timeframes (currently 10 days). If the leaseholder is unhappy with any area of service provided, the issue will be progressed through the council's complaints process, if the issue cannot be dealt resolved to the leaseholder's satisfaction at that stage.

27. Auditing

27.1 Shared-ownership income and expenditure are reconciled on an annual basis as part of the general year end accounting processes.

28. Policy evaluation and review

28.1 This policy will be reviewed within 6-12 months of its implementation and be reviewed at least every 3 years or sooner if there is a change in legislation, regulation or best practice guidance affecting shared ownership leaseholders' or the council's rights and responsibilities in relation to shared ownership management.