

Strengthening leaseholder protections over charges and services: consultation

to: Protectingleaseholders@communities.gov.uk

Thank you for the opportunity to respond to this consultation. Please see below our response on behalf of Wandsworth Council. As a stock holding Local Authority with over 33,000 tenanted and leasehold stock, with close to half the stock being leasehold, we look forward to the outcome of the consultation.

For any queries or follow up questions, please get in touch with Wandsworth's Housing and Regeneration department through michael.liu@richmondandwandsworth.gov.uk or 02088715314

Regards,
Wandsworth Council

2.1 New annual report

i) Proposed format and contents of the annual report

Question 17-18

Wandsworth agree that this information should be prescribed in order to provide clarity and consistency

2.2 New standardised service charge demand form

Questions 24 -30

Wandsworth agree with the proposed contents of the initial service charge demand form and the reconciliation demand forms. The annual budget should be included as part of the annual report. We also agree that building safety information should be included in the leasehold information, where this is already prepared.

We agree that there should be no exemptions from providing service charge demands using standardised forms and will continue to offer a range of format options for leaseholders in addition to the legally prescribed format

Questions 31-35

Wandsworth already collect the majority of this information but encourage a longer transition period to enable full compliance with the new regulations. This may include sourcing new management software if our current systems are not applicable. The full extent of which may not be determined before full scoping and requirements identification. Anticipation for technical resources cost, staff training and transition

2.3 A new notice of future service charge demands

Questions 36-38

We do not agree with the proposed measure that would require landlords issue a further future demand notice to cover additional costs incurred, before the expiry of the existing demand notice as this appears to be proposing. We already ensure additional demand notices are issued within 18 months of the costs being incurred, otherwise acknowledge it is not possible to recover additional funds.

However, it would not always be feasible for the additional demand be served before the expiry of the initial demand notice as this does not factor in potential delays that may be beyond our control, furthermore we may often not learn of increased costs until after the 12 months from the issue of the initial invoice.

To use an example, we issue major works invoices in October of each year, which expire the following October. We may become aware of increased costs (within the 18-month rule period) but only after the following October and initial 12-month period, however as we were not aware before the issued invoice expired, we would not be able to issue a further demand for recovery of funds.

2.4 Extended rights to obtain information on request

Question 39 -46

We agree with the proposed list of information that leaseholders can request from their landlords and the proposed exemptions in providing this information.

We agree with the proposed list of information that leaseholders can request from their landlords and the proposed exemptions in providing this information. We would note however, that information that Leaseholders would be able to request includes EWS1 details. As per the legal framework and existing guidance, we do not provide EWS1 forms for buildings that do not have cladding. The consultation suggests that it would be a right for leaseholders to have this information so it needs to be made clear that it should only apply in certain circumstances.

Where information is requested from other parties, 15 days is reasonable, but this must be supported with legal expectations

We agree that leaseholders should have a maximum of three months after making a request to inspect documents in person.

2.5 Application of proposals to those who rent

Questions 47-50

We agree social housing tenants should receive and access the same type of information as leaseholders. This may be specified through the regulations.

This may be of minimal burden to landlords if this information is already collected, however a 12 month transition period is recommended to plan and allocate this.

2.6 New duty to publish administration charge schedules

Questions 51-53

Wandsworth agree with the proposed structure and contents of the administration charge schedule to be published in the annual report and that this is made available on request

2.7 Better information about insurance

Question 54-69

We agree that managing agents and landlords should also have to declare conflicts of interests with the insurance broker and insurer. As a social landlord and local authority, conflicts of interests are declared under our transparency and governance obligations and a balance should be made between providing too much assumed information.

We would welcome a set template to provide consistency and clarity on the information that should be provided.

If sending insurance related documents by email to a confirmed address, within 30 days of the insurance coming into effect, there should be an expectation on delivery that it has reached its recipient.

The transition period of 3 months is reasonable for these changes to come into effect.

2.8. New standardised service charge accounts

Questions 70 -74

Wandsworth agree that accounts must include the following minimum information prescribed by the Secretary of State. Where this information is available, for are multiple service schedules, a balance sheet may be provided with each schedule.

A default reporting standard would be appropriate, to provide consistency across the sector.

Question 75

Wandsworth agree on the qualifications necessary of those who can prepare the written report

Questions 76-83

Wandsworth already provide information of the balance sheet, income and expenditure and reserve funds. We provide a short summary of service charge accounts and more detail, e.g. repairs breakdown and cleaning costs, available on request.

Our service charge statements are issued in October, allowing a 6-month preparation period. This is approximately £96 per leaseholder in overall administration and accountancy costs.

Accounts and financials signed off through democratic structures including at committee.

Questions 84-88

For implementation of the new proposals, the expectation is that there may be higher administration costs throughout the process. Potentially, in-house systems will have to reviewed to ensure that they are fit for purpose, costs of which will require scoping once the requirements are finalised.

Wandsworth agree with the potential set up and transition period of 12 months.

2.9 Rebalancing the litigation costs regime

Questions 89-94

We generally accept the new litigation regime and the exemptions put in place. This should be accompanied by appropriate safeguards to avoid high volumes of unsuccessful and vexatious claims, potentially delaying services and collection rates.

Questions 95- 100

Wandsworth agree with the proposed exemptions as to when administration charges may be applied, including partially defended debt claims and unsuccessful defences to default judgments.

However, under this new regime, it is anticipated there will be increased challenges and higher recoverable and unrecoverable costs

Questions 101-109

These apply to Resident Management Companies and Right to Manage Companies and are not in scope of our response.

Questions 110 -115

Wandsworth agree with the right for leaseholders right to claim their litigation costs from in the same relevant circumstances as landlords, and in the examples set out in the consultation.

We would encourage that appropriate thresholds and clear guidance should be put in place to avoid vexatious and unreasonable claims, including the circumstances in which administration and legal costs may be reclaimed.

Question 115

A transition period of more than 6 months would be appropriate, to allow for internal training and preparation, resident communications and confidence in the courts system.

Part 2: New additional service charge reforms

3.1 Mandating reserve funds and planning for major works

Questions 116-127

NA as LA will be exempt from these regulations

3.2 Reforming the major works consultation process

Question 128

We agree that the threshold should change to £600 for major works and £300 for Qualifying Long Term Agreements.

Question 129

We agree energy and other utility contracts, as well as single energy providers, be taken out of the Section 20 consultation process

Question 130

We would like to see high risk emergency situations remain excluded from the Section 20 consultation process, as long as transparent decision-making processes and governance is in place

Question 131

We agree that where existing activities are taken out of the Section 20 process, a mechanism where leaseholders are notified of these costs is in place

Question 132-134

Wandsworth's experience is that QLTAs are valuable to ensure continuity and consistency of services over longer periods of time, including lift maintenance and garden maintenance agreements, as well as the boroughs energy supply contracts for gas and electricity.

QTLA's may be monitored and reviewed through established resident engagement structures, communications and scrutiny panels. Wandsworth also agree that potentially, some contracts be subject to market testing at least every 5 years, due to the volatility of the sector and the demand and supply.

Questions 135-136

The options suggested to speed up the consultation process; standardised form, shorter consultation period and setting a deadline for works to begin, are all reasonable suggestions and this will provide clarity and consistency in processes.

It is important to factor in reasonable potential delays to works commencing on site when deciding the timescale for the deadline, for example making applications to the building safety regulator when applicable should be factored in.

As such, we have strong concerns about setting a 12-month deadline for works to begin from contract award and if missed, a repeat consultation would be required. There are factors such as essential building safety works, which require Building Safety Regulator approval, that extend the commencement date, and in our experience, over 6 months. An additional consultation would extend the delay to the detriment of leaseholders, especially where works are of a high priority nature. Other factors such as the stability and shortage of contractors would also create delays in commencement of works and would need to be considered.

Question 137

We agree that where intermediate landlords are in place, both the resident leaseholder and intermediate landlord should be consulted.

Questions 138-139

Wandsworth agree with the plans for reforming the existing dispensation arrangements. Defining clear grounds for dispensation and requiring tribunals to consider landlords' efforts to consult will be useful, as well as the 'majority dispensation' proposal which appears to be a common-sense approach. The council understands why dispensation applications must be made where appropriate, although there are cases where processes could be more straightforward, for example with boroughwide energy contracts where consulting is not feasible and dispensation always near certain to be approved.

Question 140

To reiterate our answer to 135-136, we strongly disagree with setting a deadline for works to begin would be a mistake. For high-risk buildings, the experience is it takes many months to secure Building Safety Regulator approval to do any works, and we are likely to be badly affected. If the whole process had to start again, including going out to tender and potentially a new contractor, we would have to submit a new Building Safety Application, and it would be a vicious circle.

3.3 Protecting leaseholders' money

Questions 141-145

N/A – Wandsworth is not responding as leaseholder.

3.4 Protections for leaseholders paying fixed service charges

Questions 146-148

Wandsworth operates variable service charges for its leaseholders, although agrees that tenants and leaseholders should be able to challenge the reasonableness of fixed service charges with the appropriate body. The same provisions as those challenging variable charges may apply.

3.5 Powers to appoint a manager or replace a managing agent

Questions 149-154

N/A to Wandsworth as the landlord

3.6 Providing information and services digitally

Questions 155-157

Wandsworth agree that more documents or exchange of correspondence should be via electronic means. Re: safeguards, this would require confirmation of receipt to confirmed address. Regarding safeguards, this would require confirmation of receipt from the confirmed address.

4. Qualifications of managing agents

Questions 158-160

Wandsworth agree with these proposals and aligning with the proposed professionalisation standards for social rented sector.

Question 161-164

Wandsworth agree that level 4 should be the proposed minimum level of qualifications for managing agents, where an agent undertakes basic functions, a lower level would apply. In the same way, a higher level may be required for a Head of service, Company Director or agent with building safety responsibilities

Questions 165-167

The equivalent housing related qualification (e.g. CIH) is already offered by providers. Wandsworth agrees that qualifications should be Ofqual-regulated or equivalent.

Questions 168-169

N/A – No response

Questions 170-176

Yes, Wandsworth agrees that the UK government should require managing agents become members of a designated professional body through achieving professional qualifications, if aligned with the expectation for social rented properties and building safety requirements.

Questions 177-179

Government regulations are essential for maintaining consistency in the sector, as such government-approved redress schemes could play a role, and enforcement should be at a nationwide level. We could not comment on the potential costs at this stage.

Question 180

We do not think that local authorities should be responsible for enforcement of Managing Agent standards as this does not allow for national consistency in application.

Questions 181-182

N/A

4.6 Transition Arrangements

Questions 183-185

Wandsworth agrees with the proposed and recommended transition period for qualifications and that for joining a designated professional body

4.7 Grandparenting

Questions 186-188

Yes, Wandsworth agrees that agents with existing relevant qualifications to required level will count, furthermore that agents can top up qualifications where required.

4.8 Costs and Impacts

Questions 189-192

N/A – local authority landlord.

5. Other information

Differences between England and Wales

Questions 193-202

n/a

Impact on environment and protected characteristics

Question 203

We would not anticipate any additional environmental impacts of this policy, either positive or negative, however if any negative impacts are found these must be mitigated, with any positive impacts maximised in line with national and local green strategies.

Question 204

We believe this policy will have a significant impact to the judicial system, unless sufficiently resourced and clear guidance is available

For the proposals on professionalisation, there will be in an uprate in staffing costs due to fewer qualified staff and higher qualification requirements is not addressed, e.g. higher salaries, increased turnover and smaller pool. This will also impact operational continuity. Looking ahead, this could be challenging as there is likely to be fewer readily qualified and available staff which could potentially make recruitment more costly.

Question 205

It is reasonable to suggest that this policy will have a significant impact of local authorities, the majority of whom will manage a wide-ranging housing stock and leasehold property.