

HALTON HOUSING TRUST
LEASEHOLD CONSULTATION POLICY

Date due for Review :

Introduction

Halton Housing Trust (the Trust) has obligations towards all leaseholders as contained in their lease and as set down by legislation, the most recent being the Commonhold and Leasehold Reform Act 2002.

Under this legislation the Trust is expected to ensure that leaseholders are made aware of and are consulted on the likely financial impact on them of the Trust entering into certain contracts for works or services; i.e. the costs as service charges which the Trust intends to recover from the affected leaseholders.

The purpose of this policy is to inform leaseholders of their rights to be consulted and the protection given to them by the law where the Trust has failed to comply with the law. The Trust appreciates that if it fails to carry out the consultation procedures properly, it will not be able to collect or recover services charges from leaseholders above certain statutory minimum amounts.

The Trust has developed this separate policy to comply with the Housing Corporation's Regulatory Code and guidance, and the expectations set out within the Audit Commission's Housing Key Lines of Enquiries (KLOEs) in this service area. It is intended to compliment the Trust's main Leasehold Management Policy.

Policy Statement

The Trust will consult with all its leaseholders before it carries out "Qualifying Works" above a certain value or enters into a "Qualifying Long Term Agreement" for the provision of works/services where it is required to by law.

Statutory Consultation Requirements

"Qualifying Works" are works to the building where the leaseholder lives where the contribution from any one leaseholder is anticipated to be more than £250.00. At the preliminary planning stages of developing any major works programmes

Trust officers will identify those schemes that will affect leaseholders and necessitates the formal consultation process being followed. A consultation timetable will be agreed and built into the overall timetable for the scheme.

“Qualifying Long Term Agreements” relate to the provision of works or services for more than 12 months and where the contribution of any leaseholder is anticipated to be more than £100.00 in any accounting period. For example, this could include contracts for services such as the maintenance of lifts, door entry systems, gardens; window or other cleaning; or simply for the supplies of materials; i.e. any agreement/contract which could produce a charge upon the leaseholder.

Before starting any work or entering into any agreement, the Trust will make sure that it formally consults with leaseholders who are expected to contribute to the cost of the works/agreement. The Trust will therefore ensure that prescribed statutory notices are issued at the necessary stages in the tendering process as required by legislation. The type of information that the Trust needs to set out in such notices is regulated by law.

Any statutory consultation is intended to give the leaseholders notice of the Trust’s intentions and to seek their views on the proposed works and the Trust will ensure that it complies with current legislation, in particular the Service Charges (Consultation Requirements)(England) Regulations 2003.

The Trust appreciates that failure to consult properly with leaseholders on “Qualifying Works” and/or “Qualifying Long Term Agreements” can result in the Trust not being able to recover services charges for these works/services beyond the relevant statutory limit of either £100.00 or £250.00 depending on the nature of the contract.

European Union (EU) Implications for Consultation

The Trust may enter into some large contracts ‘for which public notice is required’; i.e. where the sum involved is at a level that falls within the rules for tendering within the European Union – the EU procurement rules. This requires public advertisement in the Official Journal of the European Communities. Slightly different procedures are required and affect the statutory consultation processes mentioned above. The Trust will ensure that the correct procedures are followed in such cases.

The Role of the Leasehold Valuation Tribunal (LVT)

The Trust acknowledges that the LVT has powers to resolve residential leasehold disputes. This can include determining whether the service of a statutory consultation notice is required. In certain circumstances the Trust may ask the LVT to waive the statutory consultation requirements. For example, where urgent works are required on the grounds of safety, or the nature of the work is such that

it would be difficult to obtain more than one estimate. However, the Trust recognises that the LVT will only do so 'if satisfied that it is reasonable to dispense with the requirements.'

Other Types of Consultation

In addition to the statutory requirements mentioned above, the Trust will also ensure that it consults with its leaseholders on any significant changes that are proposed to the management, features or running of the premises which includes their leasehold property.

Information

The Trust will produce a Leaseholders Handbook and ensure that each leaseholder is provided with a copy. This will provide general information to leaseholders as well as information concerning consultation arrangements.

Implementation

In order to comply with the various consultation requirements mentioned above, the Trust will produce comprehensive Leasehold Management and Consultation Procedures which will include all aspects of statutory and non-statutory consultation.

Responsibility

The Deputy Chief Executive will be responsible for the effective implementation of this policy.

The Deputy Chief Executive will also be responsible for ensuring that all staff involved in the Leasehold Management Service are fully trained in the Trust's policies and procedures in this area.

Consultation

The Trust will consult on this policy every 3 years in accordance with its Review Schedule.

In particular the Trust will consult with :-

- individual leaseholders and leaseholder groups, if there are any;
- Halton Housing Community Voice;
- the Tenants and Residents Panel.

Any consultation will be carried out in accordance with the Trust's Tenants and Residents Involvement Policy.

Review

The Trust will undertake regular reviews of this policy, associated procedures and staff training needs relating to it, to ensure that it continues to operate in line with current good practice.

The policy will be reviewed automatically whenever there is a change in Government or Housing Corporation policy, or any other change in legislation.

Associated Documents

Leasehold Management and Consultation Procedures
Leasehold Management Policy
Leaseholders Handbook
Equality & Diversity in Service Delivery Policy
Tenant & Resident Involvement Policy