### Title: Leasehold Service Charges

<table>
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<th>Open Report</th>
<th>For Information</th>
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<td>Wards Affected: None</td>
<td>Key Decision: No</td>
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### Summary

A report on leasehold service charges was presented to the Living and Working Select Committee (LWSC) on 05 December 2017.

The Living and Work Select Committee (LWSC) requested a further report to explain the current management arrangements of the leasehold service, the council's position of refunds, consultation requirements and additional service charge information.

### Recommendation(s)

The LWSC is asked to note the content of the report

1. **Current management arrangements**

1.1 The Leaseholder management service is currently provided by the **Sales & Leasing Team (within My Place)** who are made up of:

   1. Sales Leasing & Conveyancing Manager
   2. Senior Sales & Leasing Officers
   3. Sales & Leasing Officers
   4. Section 20 Officers
   5. Chartered Surveyors
   6. Service Charge Officer- located with the Finance Team

1.2 These colleagues during their work benefit from the services of IT, Legal Services, HR, Elevate, Home Services, Finance among others.

1.3 The activities provided by the team include,

   - Service Charge calculations & reviews
   - Conveyancing
   - Landlord & Leaseholders enquiries
   - Assignments
   - Change of use applications
   - Landlord consent enquiries
2. Consultation Requirements

2.1. The consultation requirements for planned major works and variable Service charges, differ as outlined below:

2.2. Major Works Consultation

2.2.1 We observe the statutory requirements for consultation under Section 20 of the Landlord and Tenant Act 1985 (as amended) by The Commonhold and Leasehold Reform Act 2002, Section 151. This requires us to consult our leaseholders on:

- **Qualifying works** - Proposed major repairs or improvements which cost over £250 for which they will be required to pay
- **Qualifying long-term agreements** - Proposed contracts for long term provision of services entered into by the landlord with a wholly independent organisation or contractor for a period of more than 12 months, where the amount payable by any one contributing leaseholder exceeds £100 in any one year

2.2.2 The consultation procedures provide for two separate 30-day periods for leaseholders to make observations

2.2.3 The Landlord may have to serve consultation notices on leaseholders at the following three stages in the process of awarding a contract:

- the pre-tender stage – notice of intention; - 30-day consultation period
- the tender stage – notification of landlord’s proposals (estimates); - 30-day consultation period
- in some cases, the award of contract stage – notification of the award of contract- 21 days notification

2.3. Consultation for variable Service charges

2.3.1 We have worked with the Barking and Dagenham Leaseholders Association to develop a way of charging which is clearer and ensures that leaseholders are charged fairly and consistently for the services they receive.

2.3.2 For instance, to review the way Management fees were charged, the Leaseholders’ Association was consulted in 2013/2014

2.3.3 With respect to the Safer Neighbourhood charge, we consulted the leaseholders and other borough residents as part of the consultation on the Cabinet report dated 19 January 2016, *Titled*: Housing Revenue Account Estimates and Review of Rents and Other Charges 2016/17, where this service and the charges were proposed and agreed.
2.4 Recommendations:

2.4.1 To consult leaseholders directly by sending letters to advise them of proposed changes to services provided

2.4.2 Continue to liaise with the Leaseholders’ association and ensure that it is truly representative of the leaseholders, by ascertaining that our leaseholders are fully aware of its existence and the role it plays

3 The Council’s position on Refunds

3.1 Refunds are usually authorised based on the circumstances of the case and the instructions given to the income section

3.2 We can only issue a refund where the service has not been provided and no cost has been incurred by the council.

3.3 Generally, refunds or changes in service charges which leaseholders are liable for, are processed through the Estimates / Actualisation process- The Actual costs of services are issued in September of the year.

3.4 If the leaseholder’s account is in arrears - Any credit will be used to offset the debt

3.5 If the leaseholder’s account is in credit – The Actual account credit will be used to offset the service charges for the next quarter or the next financial year.

3.6 If the leaseholder has a direct debit facility, their direct debit payments will be adjusted.

3.7 In exceptional circumstances, if the leaseholder insists on a refund and the income team are satisfied with the direct debit arrangement, the refund will be authorised.

4 Estate Boundaries

4.1 The lease includes a plan that shows the leasehold property (edged in red) and any garden, storeroom or parking space. The building in which leasehold flats are situated are part of an estate shown edged in blue on the plan

4.2 The boundary has not changed. It is defined at the point the property is sold and is clearly marked in the lease documents

4.3 As described on the Council website under ‘Your Lease’, The building in which a flat is situated is part of an estate. This may be as small as a single block containing two flats or a larger area containing several blocks in a common area

4.4 The 4th schedule of the lease sets out the definition of service charges and how the Council can determine “a reasonable and proper method to ascertain charges”.

4.5 The lease enables the Council as freeholder, to define and apportion charges, in many respects as it sees fit and reasonable.
4.6 The method of charging for services is dependent on the service. For instance,

4.6.1 Grounds maintenance is charged on an estate to estate basis. The estate plan/drawings attached to the lease determines the estate boundary

4.6.2 The costs of Responsive communal repairs are shared equally amongst the dwellings in the block. A block is defined as a building or group of dwellings forming a continuous structure.

4.6.3 Insurance premium is calculated based on the number of bedrooms

4.6.4 **The Graffiti/Estate Maintenance charge** - This charge comprises all expenditure relating to a range of estate-based tasks that are essential to maintain the common external areas of the estate. Each estate is unique and the tasks undertaken to each estate are appropriate to its particular needs.

4.6.5 On the Actual account 2015/2016, there was an error in the method of calculating this charge. The total cost of the service was divided equally amongst all Housing Revenue Account (HRA) dwellings.

4.6.6 The error was rectified and the charge was divided equally among the dwellings on the estates that benefited from the service

5 **Proposals / Implementation plan for the Management fee**

5.1 In accordance with the terms of the lease, the management fee is the sum equal to the reasonable and proper costs and charges of the corporation in effecting the administration and management of the estate and /or the building of which a property forms part including, without prejudice to any other similar provisions of the Lease, the preparation of the service charge and the collection of the same.

5.2 **Current Position:**

5.2.1 There are currently 2 Bands - Band A and Band B

- **Band A** applies to leasehold properties which receive the full range of services provided by the council, such as caretaking, grounds maintenance and estate maintenance services.

- **Band B** applies to corner conversions and street properties which receive minimal services, such as insurance premium and reserve fund contribution.

5.2.2 Until the review has been concluded, and resources identified, the service has opted to freeze the Management Fee.

5.3 **Issues raised by leaseholders:**

5.3.1 The problem has stemmed from a misunderstanding of the definition of ‘estate’ mentioned above. The argument is that they live on a street not an estate

5.3.2 Also, the fact that **Band A** properties are stated to have **the full range of services** such as caretaking, grounds maintenance and estate maintenance
5.3.3 Leaseholders who are provided minimal services and caretaking believe that they should not pay the same fee as leaseholders who are provided all the services, which include estate maintenance and/or grounds maintenance.

5.4 Proposals/ Recommendations for the Review:

5.4.1 **Identification of resources**: LBBD will adopt a more commercial approach to the management fee structure. A revised management fee will reflect costs where there is no loss to the authority.

5.4.2 **The service cost review**: will need to consider direct and indirect costs such as IT support, HR, Housing, Finance and General Income. All of which are impacted by leasehold services. The timeline to complete the review & then consult with Leaseholders is 5 months. We will aim to consult with leaseholders in June 2018 and adopt the new management fee approach in 2019/20.

5.4.3 **Benchmarking** data to enable a comparison with peer authorities.

5.4.4 We may be amenable to having 3 **Bands**, which some leaseholders have requested: Thus, the banding may be as follows;

- **Band A** - Corner conversion and end of tunnel block properties which receive minimal services.

- **Band B** - Properties which receive minimal services and the caretaking service.

- **Band C** - Properties which receive the full range of services, including estate maintenance and/or grounds maintenance.

**Public Background Papers Used in the Preparation of the Report**: None

**List of appendices**: None