

Housing Management

# Freehold disposal for residential buildings let on long leases

2024



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

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## **2 Introduction**

- 2.1 The Royal Borough of Kensington and Chelsea (“the Council”) have a number of properties which are entirely occupied by leaseholders on long leases. These properties are unlikely to be acquired by the Council to house tenants for social rent.
- 2.2 The costs incurred in managing these properties do not represent an efficient use of our resources.
- 2.3 In some instances, the leaseholders can compel us to sell the freehold of these properties under their ‘right to enfranchise’.
- 2.4 Leaseholders who do exercise their right to purchase their freehold will benefit from having:
- Complete communal ownership of their block
  - Complete communal management rights of their flats
  - Complete management rights to their flats
  - Ability to establish a planned maintenance programme
  - Ability to establish sinking funds if they wish
  - Control over insurance arrangements
  - The ability to manage their own block service charges
  - The ability to jointly decide to abolish ground rents

## **3 Related Documents**

- Freehold Disposal for Residential buildings Let on Long Leases Procedure
- Voluntary Lease Extension Policy

## **4 Legal Context**

- 4.1 Subject to qualification, leaseholders of flats in a building and sometimes part of a building have the right under the Leasehold Reform Housing & Urban Development Act 1993 (as amended) to join together and buy the freehold of that building.
- 4.2 Freehold enfranchisement can progress either through the statutory route as in paragraph 4.1 above or through a voluntary route with the Council.
- 4.3 The Council has the power to dispose of its freehold interests as per The General Housing Consents 2013 for the Disposal of Reversionary Interests in Houses and Flats 2013, which states ‘*Where a local authority is the landlord of a house, which is let as housing accommodation under a long lease, the authority may dispose of its*

*interest for such consideration that the local authority considers appropriate, providing that at least 50% of all the flats have been let to tenants who have been qualifying tenants for the purposes of section 5 of the Leasehold Reform, Housing and Development Act 1993'. NB: Qualifying tenants is defined as a long lease i.e. a lease term of over 21 years or more.*

4.4 By virtue of the fact we will appoint a valuer, we would be looking to ensure we sold freeholds at the market value fulfilling the Section 123 'Best Value Rule' of the Local Government Act 1972.

4.5 The 2013 Consent mentioned above allows the Council to dispose of these types of properties in the marketplace which may include a sale via an agent or auction.

## **5 Policy Statement**

5.1 This Policy outlines the sale of the freehold of Council owned properties where all flats have been sold on long leases.

5.2 The Council will offer to sell the freehold interest in 100% leasehold owned properties through a voluntary freehold disposal scheme as follows:

- Firstly, offer the existing leaseholders the opportunity to acquire the freehold,
- Secondly, if the leaseholders do not wish to proceed, to dispose of the freehold by way of sale at auction or other such appropriate market disposal.

5.3 If offered to leaseholders, at least 50% of the leaseholders must participate or 100% if the building consists of two flats only, unless the nonparticipating leaseholder(s) will give written permission for the participating leaseholder(s) to continue.

5.4 There may be occasions when all leaseholders living in a property with more than 2 flats, may not wish to purchase the freehold, in these instances we will sell the freehold to those interested parties as long as 50% of leaseholders express an interest in purchasing the freehold.

5.5 Alternatively, if less than 50% of qualifying leaseholders express an interest in the purchase or there is no interest by the leaseholders to purchase, then the Council will dispose of the property in the marketplace.

5.6 A specialist surveyor would be instructed on behalf of the RBKC to provide a valuation of the premium (amount to pay) for the disposal and leaseholders would be advised to seek independent legal and valuation advice.

5.7 This Policy does not apply to commercial properties owned by the RBKC nor blocks which contain commercial, operational or community properties as part of the building.

## **6 Resident Involvement and Consultation**

- 6.1 RBKC is committed to engagement with leaseholders regarding policies and procedures.
- 6.2 In developing this policy, the views of leaseholders were sought via the Homeowner Panel.

## **7 Equalities Statement**

- 7.1 The Council is committed to promoting fair and equal access to services and equal opportunities in employment, the procurement of goods and as a community leader. The Council's policies, procedures and day to day practices have been established to promote an environment which is free from unlawful and unfair discrimination while valuing the diversity of all people.
- 7.2 Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable: the Council will take action to ensure no person using the Council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users.
- 7.3 The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminate discrimination, harassment, and victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics.
- 7.4 Further detail on the Duty, and the Council's approach to fulfilling its requirements, can be found at [www.Housing Management.gov.uk](http://www.Housing Management.gov.uk).

## **8 GDPR and the Data Protection Act 2018**

- 8.1 As a directorate of the Council, Housing Management shares the commitment to ensure that all data is:
- Processed lawfully, fairly and in a transparent manner
  - Collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices
  - Relevant and limited to whatever the requirements are for which the data is processed
  - Accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay

- Stored for as long as required, as specified within RBKC’s Records Retention policy
- Secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction or damage.

8.2 For further information about the Council’s commitment to General Data Protection Regulations (GDPR), please see the Council’s website at [www.rbkc.gov.uk](http://www.rbkc.gov.uk).

**9. Monitoring, Review and Accountability**

9.1. This policy will be reviewed every three years or sooner to incorporate legislative and/or regulatory amendments, best practice developments, or to address any operational issues identified with the process.

**10. Version Control**

<b>Version</b>	<b>Purpose</b>	<b>Author</b>	<b>Date</b>
1	Final – Agreed by the Service	Jana Du Preez	13/09/2019
2	Final – Agreed by the Service	Jana Du Preez	23/09/2024