



THE ROYAL BOROUGH OF
**KENSINGTON
AND CHELSEA**

Housing Management

Freehold Disposal Policy for Residential Buildings Let on Long Leases

2025

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2 Introduction

- 2.1 The Royal Borough of Kensington and Chelsea (“the Council”) have a number of properties (which are in the Housing Revenue Account) which are entirely occupied by residential leaseholders on long leases. These properties are unlikely to be sold and therefore bought back 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 statutory ‘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 Policy Statement

- 4.1 This Policy outlines the sale of Council owned freehold properties where all flats within the property have been sold on long leases i.e. 21 years or over.
- 4.2 The Council will offer to sell the freehold interest in a property where the flats within the property are all owned by leaseholders 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, or there is 50% or less who wish to proceed and the non-participating leaseholder(s) **do not** give their written

permission for the participating leaseholder(s) to continue, then to dispose of the freehold by way of sale in the open market or at auction.

- 4.3 If offered to the leaseholders and there is interest to acquire the freehold, the Council will only consider a sale where;
- a) at least 50% of the leaseholders participate where there are more than two flats in a property or
 - b) 100% of the leaseholders participate if the building consists of two flats only. or
 - c) If there are more than two flats in a building and less than 50% of leaseholders express an interest in the purchase, the non-participating leaseholder(s) must give their written permission for the participating leaseholder(s) to continue
- 4.4 If less than 50% of leaseholders express an interest in the purchase and the non-participating leaseholder(s) do not give their written permission in writing for the participating leaseholder(s) to continue or there is no interest by the leaseholders to purchase, then the Council will dispose of the property in the open market.
- 4.5 A specialist surveyor would be instructed on behalf of the Council to provide a valuation of the premium (amount to pay) for the disposal to the interested leaseholders, and the leaseholders would be advised to seek independent legal and valuation advice.
- 4.6 This Policy does not apply to commercial properties owned by the Council nor blocks which contain commercial, operational or community properties as part of the building.

5 Legal Context

- 5.1 Subject to qualification, leaseholders of flats in a building and sometimes part of a building have the statutory right under the Leasehold Reform Housing & Urban Development Act 1993 (as amended) to join together and buy the freehold of that building.
- 5.2 Freehold enfranchisement can progress either through the statutory route as in paragraph 5.1 above or through a voluntary route with the Council.
- 5.3 The Council can rely on its power under Section 123 of the Local Government Act 1971 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies), unless the Secretary of State consents to the disposal.

- 5.4 Where however the asset is within the HRA, which is what this policy relates to, then the Council will need to have due regards to section 32 of the Housing Act 1985 which states the Council cannot dispose of assets or land which is held for Part II of the Housing Act 1985, unless with Secretary of State consent. The Secretary of State however has issued general consents.
- 5.5 The General Housing Consents 2013 provides for 'D. Consent Disposal of Reversionary Interests in Houses and Flats 2013', which states for disposal of a house '*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.*
- 5.6 *With regards to disposal of a building divided into flat, then 'a local authority may dispose of its interest in a building containing flats for such consideration as the local authority consider appropriate.'* However, '*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.

6 Sale at auction and/or marketplace

- 6.1 In the event that there is no interest for leaseholders to acquire a property by any of the routes in 5.3 a) to c) above, then the freehold of property subject to the leasehold interests will be disposed of in the open market or at auction.
- 6.2 Existing leaseholders would then have further opportunity to buy the freehold in the open market or at auction.

7 Resident Involvement and Consultation

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

8 Equalities Statement

- 8.1 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.
- 8.2 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.

- 8.3 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.
- 8.4 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.HousingManagement.gov.uk).

9 GDPR and the Data Protection Act 2018

- 9.1 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.
- 9.2 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.

10 Monitoring, Review and Accountability

- 10.1 This policy will be reviewed every five years or sooner to incorporate legislative and/or regulatory amendments, best practice developments, or to address any operational issues identified with the process.
- 10.2 Leaseholders who participate to purchase the freehold of the building should instruct independent legal advice.

11 Version Control

Version	Purpose	Author	Date
1	Final – Agreed by the Service	Jana Du Preez	13/09/2019
2	Final – Agreed by the Service	Jana Du Preez	20/05/2025