

# Leasehold Forum

20 November 2019

Council Chamber, Civic Centre

## **Welcome**

The Chair, Frank Feldman, opened the Leasehold Forum by welcoming all attendees and introducing himself as a member of the Leasehold Standards Panel.

The Chair drew the audience's attention to the housekeeping rules; encouraged them to read the Code of Conduct leaflet in the front of the Forum packs and requested all mobile phones to be switched off. The Chair reminded the attendees that questions raised during the Forum must be general and all personal matters could be raised with officers during the Market Stalls, immediately after the presentations.

The Chair introduced panel members:-

Lynn Potter – Home Ownership Manager, Harlow Council  
Claire Hicks – Home Ownership Manager, Harlow Council  
Steve Ward – Operations Director, HTS (Property & Environment) Ltd

The Chair noted that 9 apologies had been received.

The attendance recorded at the end of the Forum was 36 in total.

## **Minutes of the last Forum**

The Chair advised a copy of the previous minutes were in the packs and asked the attendees if there were any corrections required, any matters outstanding and arising:-

None were raised or put forward.  
The minutes were taken as read.  
The Chair declared the minutes as agreed.

The Chair confirmed that 2 general questions were raised prior to the Forum and that the responses prepared were available in the Forum packs. For any specific questions, leaseholders were to receive the answers directly.

Lynn Potter (LP) drew the audience's attention to the Statement of Actual Expenditure 2018-19 information sheet in the Forum packs. LP advised that the charges for monthly testing of emergency lighting had been incorrectly charged and that revised statements would be sent to those affected in due course.

The Chair outlined the Market Stalls and officers around the Chamber:-

1. Harlow Council – Housing Property Services – future works
2. HTS (Property & Environment) Ltd – general repairs and any service issues
3. Harlow Council – Housing Officers – estate and housing related issues
4. Harlow Council – Home Ownership Officers – enquiries on lease extension, service charges and major works
5. Harlow Council – Contact Harlow Customer Advisors – general enquiries
6. Harlow Council – Fire Safety Advice & Guidance – fire safety in flat blocks

The Chair introduced the first presentation by, Lynn Potter, Home Ownership Manager.

## Service Charge Actuals 2018-19

### Lynn Potter – Home Ownership Manager – Harlow Council

Lynn Potter (LP) introduced herself and welcomed the attendees.

LP outlined the two types of service charges leaseholders are expected to contribute to:-

1. The annual service charge – the estimated charge is produced on 1 April for the commencing financial year, with the actual charge produced at the end of the financial year on 31 March. As per S18 Landlord and Tenant Act (1985), the landlord charges for the cost of the services provided to the block or estate the property is situated on
2. The major works service charge – the charge for works undertaken on the block on an ad-hoc basis that are over £250 per leaseholder

LP explained that the actual charges are calculated during the September of each year; the Accountancy section calculates the estimated cost of each service against the actual cost. Any under or overcharge is carried forward to the following years' service charge. For example; the 'Estimate Service Charge Invoice 2018-19' was sent out in March 2018, with the 'Statement of Actual Expenditure 2018-19' sent out in September 2019. Any under or overcharges are applied to the 2020-21 invoice which will be sent out in March 2020.

LP offered insight into the services provided by Harlow Council, particularly by HTS (Property & Environment) Ltd, noting that the annual contract increase in 2018-19 of 3.7% is prior to any service change; it is built into the contract and can fluctuate. The services provided, notably, cleaning, caretaking, grounds maintenance, gullies, door entry and bins, showed where any savings and increases were made, based on an average difference, per service.

The differentiation between the Landlords Lighting and District Heating services were clarified. LP referred to the Statement of Actual Expenditure 2018-19 information sheet in the Forum packs and advised that the monthly emergency lighting checks, which were recently wrongly charged, should come under the Landlords Lighting service charge.

LP also commented on the charges for lift maintenance, for blocks that include lifts, and noted that for refurbished lifts, a maintenance guarantee covers the following year, thus reducing the annual cost.

The management fee bar chart illustrated a 2.59% average increase from 2017-18 to 2018-19. The pie charts that followed clarified the areas that are entailed within the management fee; notably, this was mostly direct employees, such as the Home Ownership section.

LP explained that the charges were divided into different services, which were calculated based on the following:-

- Cleaning and caretaking – by the hour total charge for block divided by number of properties in the block
- Grounds maintenance – by the number of properties on the estate
- Gullies – by the number of gullies on the estate
- Paladin bins – by the number of bins on the estate
- Door entry management – by the number of properties in the block
- Landlords Lighting – by the number of properties in the block (this includes the monthly emergency lighting checks)

- District Heating – by the actual fuel and maintenance cost, insurance and administrative cost, for the relevant block
- Lift maintenance – by the electricity and servicing cost for the relevant block
- Management fee – the cost of Home Ownership and other staff which support leaseholders, divided by the number of leaseholders

LP outlined the capital works programmes in 2018-19 and how leasehold properties benefitted from these, giving three examples:-

1. External works – total spend £4m
2. Fire safety works to tower blocks – total spend £1.76m
3. Lift refurbishment works – total spend £926,000

LP highlighted that fire safety in tower blocks continues to be a priority all over the country and that certain works, funded by revenue balances, have already been carried out:-

- Improved signage
- Changed bin store locations
- Door replacement and emergency lighting

In order to demonstrate current issues, LP concluded by exploring the pilot scheme carried out at Willowfield Tower in 2018-19, which consisted of the removal of warm air heating systems, whereby individual systems were inputted to reduce fire risk. The scheme will be carried out at further blocks in the future.

LP finished and invited the audience to ask questions.

### **Service Charge Actuals 2018-19 Presentation – Questions and Answers**

Q. When will you be replacing the heating system in Moor Tower?

A. If you would like to enquire about individual schemes, the Housing Property Services team are available this evening and can provide you with information. Please visit them during the market stalls.

Q. Who is expected to pay for the proposed fire safety works in the tower blocks?

A. Harlow Council will be paying for some of it however leaseholders will be recharged according to their lease.

Q. I paid my landscaping fee when I bought my flat, so why do I still pay for the grounds maintenance?

A. If you did pay the landscaping fee upfront, then you would not be paying for the annual grounds maintenance now. The upfront landscaping payment is held in perpetuity for an 80 year period. If you are unsure and need to query whether you are still paying or not, please visit Home Ownership during the market stalls and they can take your details and check it for you.

Q. You said you have taken the lift maintenance away from HTS and that it is now back with the Council. Can you please explain if we are paying once or twice?

A. You are only paying once any budget that was for HTS was taken back into the Council. You are not being charged twice.

Q. The paving outside my block is dangerous and has been this way for a number of years. What are you going to do about it?

A. If you have reported this repair issue it should have been logged and put on a future works programme. Please visit Housing Property Services during the market stalls and they can take your details to ensure that it has been logged.

Q. If you live on the ground floor in a block do you have to pay for the lift maintenance?

A. Yes. Lift maintenance is a block cost and it is equally divided by the number of properties within the block. The same principle is applied to a tower block roof repair. The repair cost would be equally divided by the number of properties within the block, even if you are on the ground floor.

No further questions were asked. LP thanked the audience for their attention and passed back to the Chair to continue.

The Chair introduced the next presentation.

## **Tort Notices**

### **Matthew Wood – Housing Officer for Fire Safety (FRA & Procedures)**

Mathew Wood (MW) introduced himself and outlined some contextual information regarding Tort Notices:-

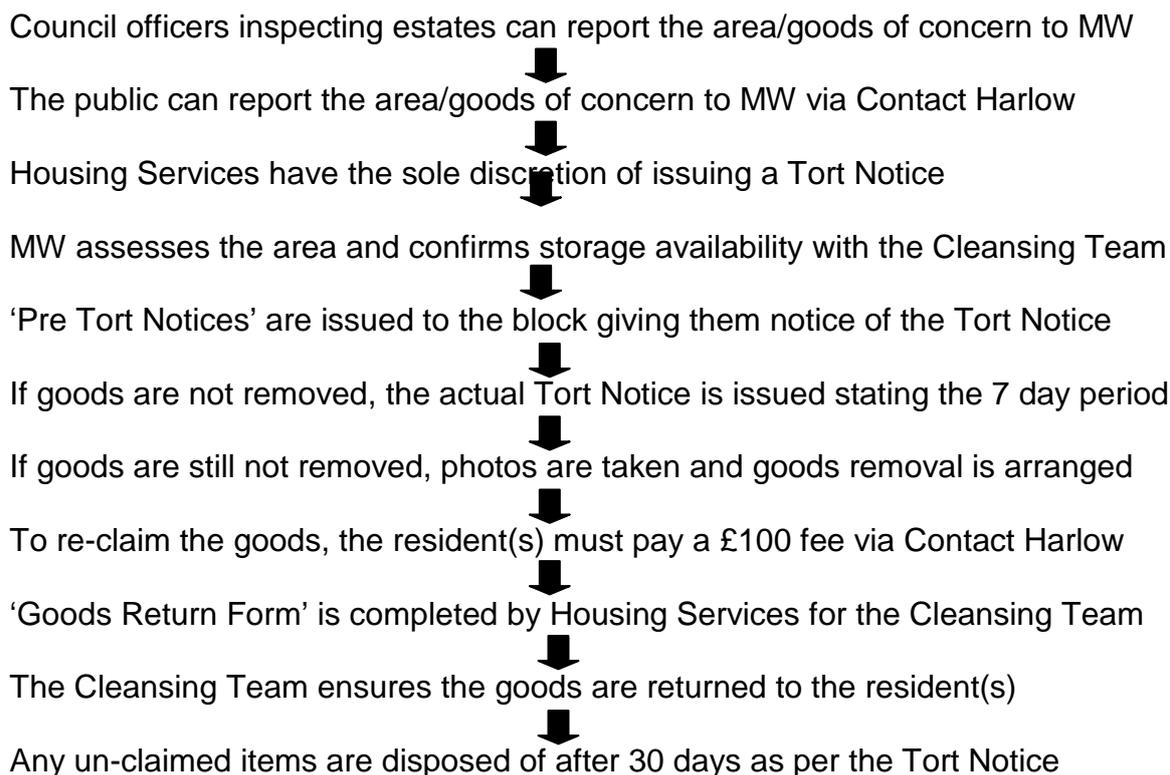
- Inference With Goods Act 1977 – Tort Notices legally allow the Council to remove and store goods (personal items) from communal block areas after a 7 day period
- The Council legally disposes of the goods after 30 days if the resident has not re-claimed them by paying the £100 fee
- The £100 fee covers the removal, storage and return cost – no profit is made
- This is reviewed periodically and the fee can fluctuate based on costs

MW justified why Tort Notices are needed, which is mostly to prevent fire risks in communal areas. Fire Risk Assessments are conducted periodically; they reveal that items in communal areas are a major concern, as they can prevent residents from escaping during a fire. Storing goods in the communal areas is also a breach of a leasehold or tenancy agreement; issuing a Tort Notice is an effective and legally legitimate way of removing the goods and maintaining the communal areas, for safety reasons, and to maintain the building's appearance.

MW offered insight on how Tort Notices have been effectively achieved, specifically in Harlow:-

1. There is a safe and secure storage location for the goods in Harlow
2. The procedure is fully tested – issuing the notice, removing and returning goods
3. The process is considered a real benefit and has full Councilor support – in particular from Cllr Mark Wilkinson, Portfolio Holder for Housing

The impartial process of issuing a Tort Notice in Harlow was then explored in detail:-



MW clarified that an Individual Tort Notice can be issued in urgent circumstances; for example, if a block exit is partially blocked. They can also be issued when it is clear who the goods belong to. In these cases, a 'Pre Tort Notice' is not required.

MW shed light on the goods that can be removed with a Tort Notice:-

- Anything combustible (e.g. boxes and luggage)
- Furniture (e.g. tables and chairs)
- Electrical appliances (e.g. fridges and washing machines)
- Machinery that uses petrol or batteries
- Liquid fuels (e.g. petrol and paraffin)
- Bicycles, mopeds or motorcycles
- Building materials and any DIY
- Cleaning chemicals, acids or pesticides
- Children's toys
- Barbecues

Through the use of images, MW illustrated the types of communal areas a Tort Notice can be issued on. The areas that affect leaseholders and tenants consisted of:-

- Communal lobby areas, entrances and exits
- Communal balconies and walkways (internal and external)
- Communal stairways and underneath the stairs (internal and external)
- Communal gardens, drying areas and bin storage areas
- Electrical cupboards and other Council owned storage areas

MW clarified the items that Tort Notices are not ideal for, notably, obvious household waste and items without value. If the removal is very urgently required, such as for hazardous chemicals, leaking items/machinery, sharp or highly combustible materials, a 48 hour notice or immediate non-notice removal is actioned.

Legal Services and Home Ownership are currently developing a process to directly recharge leaseholders and tenants who refuse to remove their waste items from the communal areas after a notification period of either 48 hours (urgent items) or 7 days (the standard notice period).

MW identified the areas that a Tort Notice should not be issued on, notably, household gardens, non-Council owned land or property (this is dealt with by Environmental Health), and communal areas that are outside a known hoarder's home (due to sensitivity, this is dealt with in a different way).

Tort Notices are not the only tool available in dealing with unwanted items or waste left in communal areas. MW suggested some alternative methods used by Housing Services:-

- Write to the resident (if known) or the block, requesting removal
- Remove the waste and enforce a recharged on the tenant(s)
- Take legal action
- Utilise the Environmental Protection Act 1990 via Community Safety and Environmental Health

In relation to the issues discussed, MW concluded by evidencing a few extracts from most leasehold agreements, which support the issuing of Tort Notices:-

Schedule F Section 4 – *“Not to permit or suffer to be done in the flat anything which shall be or shall cause nuisance or a danger to the Council or the land owners or occupiers of any adjoining or neighbouring land (and in particular the other occupiers in the property).”*

Schedule F Section 12 – *“Not to obstruct or cause or suffer or permit to be obstructed, any passageway, hall or other common part of the property and, in particular, not to cause, suffer or permit, any passageway, hall or other common part of the property.”*

MW identified that Schedule B Section 3 had previously been quoted by a leaseholder as proof that they were entitled to store goods in the communal areas. MW confirmed that this is not correct and this section only states *“entitlement to pass”*, with no reference to store goods.

MW finished and invited the audience to ask questions.

### **Tort Notices – Questions and Answers**

Q. How do you know who it is that is leaving the goods in the communal areas?

A. If we are not clear on who has done it, then the Tort Notice cannot be enforced individually.

Q. Can the Tort Notice be enforced on those dumping rubbish?

A. No, the Tort Notice is for personal items only. No one would pay £100 to retrieve their dumped rubbish. The personal items are often items they can't fit into their flat or have no room for.

Q. Can you clarify who actually inspects these areas?

A. Mostly it is the Caretaking Team who are a part of HTS (Property & Environment) Ltd. Any Council officers that are doing estate inspections. You can also report the residents yourself via Contact Harlow, by emailing [contact@harlow.gov.uk](mailto:contact@harlow.gov.uk) or calling 01279 44 6655.

Q. On slide 10, page 5 of the handout, can you please clarify what and where this is?

A. This is an external balcony at Pennymead Tower.

Q. Why bother with the Tort Notice? If someone has breached the terms of their lease, just remove and dispose of the items.

A. Some of the items we remove are really valuable, for example prams. Also, some residents have genuine reasons as to why they have stored something in the communal areas. We need to be reasonable and offer a fair process, giving residents the opportunity put it right and to initially remove their personal items, or failing that, pay the £100 fee to retrieve them.

Q. One of the alternatives to Tort Notices was directly recharging tenants and leaseholders; will this increase the charges that come under service charges?

A. No, this will be a specific recharge to the individual, whether they are a Council tenant, sublet tenant or leaseholder.

Q. My block is full of prams and nothing has been done about it. When the Council visit, they send out block letters first, about removing personal items from the communal areas, so when the officers visit, the residents just temporarily move the prams inside their flats.

A. A representative from Housing Services is available this evening, please provide them with your details, they will then liaise with me and we will get the Tort Notice into action.

Q. Who is responsible for checking the fire doors in the block and ensuring they are working correctly?

A. I check all of the tower block fire doors once a month, but it is the responsibility of all residents in that block. You can report any issues with fire doors to HTS (Property & Environment) Ltd directly on 01279 44 6666. Due to the nature of the repair it will be prioritised and an operative will visit and repair, if needed, within 7 days. From experience though, the operative usually visits within 2 days. If you are aware of any specific fire doors that have problems then please inform us this evening, as we take fire safety very seriously.

Q. What does Tort stand for?

A. Tort is not an acronym is the actual word.

Q. Can you issue a Tort Notice on vehicles?

A. No, not right now. At the moment Tort Notices are just for personal goods stored in communal areas in flat blocks.

Q. If I leave my washing machine in the communal areas because I no longer want it, will you take it away for free with the Tort Notice?

A. In theory, yes. But there is a separate free removal service for unwanted electrical items anyway.

Q. In my block a resident constantly leaves their electrical mobility scooter in the communal areas and this blocks certain areas.

A. I think I know which block you are referring to and we are currently working on this case. The issue of mobility scooters in the communal areas will be a major project for 2020. It is something that needs working on due to the sensitivity and a lack of legislation.

No further questions were raised. MW thanked the audience and passed back to the Chair.

The Chair thanked the leaseholders for attending and taking part, advising that the presentations were complete.

The Chair invited the attendees to visit the various Market Stalls situated around the Chamber, reminding them to complete and hand in their feedback forms before the close of the evening.

The Forum closed at 9.00pm.

## Appendix A

### Questions asked prior to the Forum

#### Question:

Around 18 months ago a Council officer presented to the Forum on the subject of the Council making it easier for leaseholders to extend their leases, as most Harlow leases are nearing the time to do this. The subject was subsequently deferred as the Government was going to make some changes to the procedure. I am unaware of any progress on this matter and time marches on. Please could we have an update from the Council?

#### Response:

After due consideration, Harlow Council made the decision not to implement a voluntary lease extension process (i.e. an informal process where the leaseholder and the landlord attempt to negotiate a lease extension). This decision was taken pending significant changes to the lease extension process, which seem inevitable, following the Government's proposed reforms to leasehold home ownership.

The Law Commission was asked to review the current enfranchisement process to make it simpler, quicker and more cost effective. The consultation closed on 7 January 2019 and the Law Commission's final report is now awaited. Included in the proposals were:

1. Removing requirement for leaseholders to pay landlord's non-litigation costs or controlling those costs by way of a fixed costs regime;
2. Options for reducing premiums payable by leaseholders;
3. No minimum qualifying period of ownership thereby reducing delay and costs;
4. Limiting challenges to notices and removing deemed withdrawal to prevent unnecessary costs and ensuring leaseholders do not face consequences for mistakes.

Whilst Harlow Council will not be offering voluntary lease extensions, a qualifying leaseholder may nevertheless apply to extend their lease under current legislation and will continue to be afforded statutory protection.

#### Question:

Can HTS gas engineers be trained on the Evinox HIU System currently used in the flats at Tanys Dell?

#### Response:

HTS gas engineers have now received their initial training on the system. Also some of the repairs can be resolved remotely via computer, therefore HTS have had the diagnostic software installed on one of the computers. This allows HTS to better understand and deal with some of the issues with the Evinox HIU System.