

# Leaseholder's Handbook

## Useful Information and Guidance



ASHFORD  
BOROUGH COUNCIL



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# 1.0 Introduction

This handbook provides useful information and guidance about your lease and how Ashford Borough Council, as your Landlord, manages the building that you live in.

Independent advice is also available from various sources listed on page 26 of this handbook.

## 1.1 Who the handbook is for:

- leaseholders for whom Ashford Borough Council is the Landlord/Freeholder
- anyone who is intending to buy an existing Ashford Borough Council lease
- Council tenants who are thinking of buying a leasehold on the flat which they currently rent

## 1.2 What the handbook is for:

- to explain the rights and responsibilities of a leaseholder, and the Council's rights and responsibilities as a Landlord
- to provide help and advice about being a leaseholder in a shared block of flats
- to explain about service charges

This handbook is a broad summary of the terms of a lease. The terms of individual leases vary slightly, and this handbook does not override specific terms in a lease or any other legal agreements (such as a mortgage deed). Readers should not rely on it if any difficulty or dispute arises in connection with their lease. In this instance, readers should seek independent advice as appropriate from someone such as a solicitor or the Citizen's Advice Bureau. Housing Law and our policies and procedures will inevitably change over time, and where possible the handbook will be updated to reflect these changes.

## 1.3 About your lease

The lease is a contract granting occupation of a property during a specified period in exchange for a specified ground rent. The lease is a binding contract, enforceable in law, which contains both your rights as a leaseholder and the Council's rights as the freeholder. As a leaseholder you have bought the right to occupy the flat for a fixed number of years – initially, up to 125 years.

The Council as the Freeholder still owns the building in which you live, and is responsible for looking after the structure, exterior and common areas of the block.

The lease document sets out the terms and conditions specific to your property. You should get a solicitor to look at it when you buy the lease.

## **1.4 The Law**

There are several laws and Acts of Parliament protecting your rights as a leaseholder. The main Acts of Parliament covering leasehold tenancies are:

- Housing Act 1985
- Landlord and Tenant Acts 1985 and 1987
- Housing and Planning Act 1986
- Leasehold Reform, Housing and Urban Development Act 1993
- Housing Act 1996
- Commonhold and Leasehold Reform Act 2002

These documents are available at the main public library.

If you are not sure of your rights, a solicitor can advise you, or you can contact your local Citizen's Advice Bureau.

This handbook was compiled with reference to the documents listed on page 27.

Legislation in this area is often revised and updated.

## **1.5 Service Standards**

Ashford Borough Council's aim is to deliver an effective and highly efficient service to all our customers. We achieve this by meeting the following service standards:

- Raising leaseholder awareness of, and involvement in leasehold services through written information and consultation
- Providing easily understood information to all prospective leaseholders at the time of purchasing their property, with regard to likely charges
- Ensuring that leaseholders receive clear and timely information concerning the cost of services as well as their rights and responsibilities as a leaseholder throughout their period of ownership
- Consulting fully with leaseholders before we carry out work above a certain value or enter into a long-term agreement with other service providers

## 2.0 Rights and Responsibilities

### 2.1 The Leaseholder's rights and responsibilities

This depends on the lease, but generally you have the following rights and responsibilities

#### 2.1.1 Repairs and maintenance

- You have the right to ask the Freeholder/Council to keep the 'common parts' of your block in a fit state of repair
- You have the right to be consulted about major repairs for which you will have to pay a proportion of this cost.
- You have a responsibility to pay a proportion of the Council's reasonable costs of managing and maintaining the block or house and estate and of the Council fulfilling the lease requirements. The Council has a legal duty to charge you your share of the costs, and you have a legal duty to pay them

**Your repairing responsibilities**, i.e. things you have to look after/repair at your own expense. These mainly concern the inside of your flat and include:

- Plaster, paint, paper and other decorative finishes applied to the interior of the external walls of the flat or other surface material on interior walls and ceilings
- Floor and ceiling finishes including floorboards (but not any other part of the floor or ceiling slabs or joists that bound the flat)
- Internal non load bearing walls wholly within the flat
- Inner half severed medially of the internal non load bearing walls dividing the flat from any other part of the building
- All additions and improvements to the flat
- Fittings such as kitchen units and sinks
- Internal doors and door frames
- Toilets, baths and showers
- Radiators, cisterns, tanks, boilers and pipes within the flat
- Gas, water and electricity installations in the flat
- All internal fixtures and fittings
- Footpaths, gardens, ancillary buildings as demised specifically in your lease.
- leaks or burst pipes, including damage caused to other properties as a consequence

#### 2.1.2 Gas Appliances

As a Leaseholder you own the gas appliances in your home, it is your responsibility to make sure they are safe. We strongly recommend that you have the gas appliances in your home inspected and serviced annually for your own safety and that of your fellow residents. This work should be undertaken by a Gas Safe Registered Engineer, and you should, if requested, provide the Council with a copy of a valid inspection certificate.

You must not have liquefied petroleum gas or any other explosive material, e.g. petrol or calorgas, in your flat or maisonette or anywhere in the block.

### **2.1.3 Lodgers and sub-letting**

You are able to take in lodgers or rent your flat (sub-let) to someone else. You must let us know within 30 days of sub-letting. You must inform us of your correspondence address and contact number, in case the council needs to contact you for any reason. Your mortgage lender may have restrictions on sub-letting, so you should get their permission. You must also inform your Insurance Company.

If you sub-let your home, you are responsible for your tenant's conduct. It is therefore important that you have a formal tenancy agreement between you and your tenant, and that your tenancy agreement includes the same rules and regulations that apply to you as a lessee.

If you do sub-let your flat and are receiving income, this may affect any benefits or Council tax relief that you are currently claiming.

If you sub-let your home, you are responsible for the landlord's duties arising under the Gas Safety (Installation and Use) Regulations 1998. This means that you are legally responsible for making sure your gas appliances, pipework and flues are safe and well maintained. You must also arrange for an annual gas safety check to be carried out by a Gas Safe Registered Engineer. You must keep a record of the safety check for 2 years and ensure that your sub-tenant is issued with a copy within 28 days of the check being completed. Any new tenants should be issued with a copy before they move in.

Failure to meet these requirements can lead to criminal prosecution, resulting in a large fine or possibly imprisonment.

For more information of the Gas Safety Regulations you can contact the Health and Safety Executive, the number listed at the back of this handbook, and ask for their free leaflets on gas safety and the responsibilities of landlords.

Alternatively, you can find helpful information about gas safety by visiting the Health and Safety Executive's website:  
[www.hse.gov.uk/gas/domestic/faqlandlord.htm](http://www.hse.gov.uk/gas/domestic/faqlandlord.htm)

### **2.1.4 DIY – Making Alterations**

If you want to carry out improvements or alterations to the inside of your flat you have the right to do so, as long as they are strictly limited to the interior of the flat.

You are allowed to:

- redecorate the inside of the flat
- replace fixtures and fittings within the property

You are not allowed to:

- remove structural walls
- do anything that might damage or impair the structure of the building
- cause damage or impair shared services
- fit new windows, entrance doors or remove walls without the Council's formal written consent



This is not a comprehensive list – if you are in any doubt, please contact the Council for advice.

To obtain the Council's permission, you will need to write to the Housing Manager giving as many details as possible about the work you want to carry out. In most cases, the Council is unlikely to refuse permission, unless the work is likely to affect the safety of the building, cause a nuisance to neighbours, or is in conflict with the terms and conditions of your lease.

You will also need to check if you require Planning Permission or Building Regulation approval before you begin. Initial advice may be obtained from the Council's Planning Department and Building Control Department. You need to consider when undertaking any works that you may be required to pay professional fees, etc., and employ a competent contractor.

### **2.1.5 Management of the block**

You have the right to expect your landlord to deal with problems in your block, such as neighbour nuisance, dirt and rubbish, and so on. It is your responsibility to prevent nuisance within your home which may annoy or cause inconvenience to your neighbours. We will try to deal with people who cause a nuisance to you, but equally you must not cause a nuisance to them.

Tenants and Leaseholders who cause serious harassment to their neighbours can lose their home.

### **2.1.6 Service Charges**

Your Service Charge is the money you pay towards the day-to day running costs of your block of flats, and surrounding estate, refurbishment and improvements.

You do not pay anything towards the cost of services and repairs that are provided solely for internal works to other flats. You only pay for those services and works that are provided for in your lease, which in the main, concern all residents.

When we carry out major repairs these will normally be to a whole block or all the blocks on a particular estate. The cost of services and works will be calculated in accordance with the terms of the lease, and would typically be a simple division of the costs by the number of flats in a block, plus an administration charge and VAT.

The value of the block of flats is affected by condition, likewise the value of your lease is also affected.

If you have access to a facility you will generally be required to pay towards maintaining it (e.g. a ground floor flat will pay towards the maintenance of a lift/repairing the roof).

You must pay your share of the costs of managing and maintaining your block. If you do not pay your share, you are in breach of your lease agreement and the Council could apply to the courts to have your lease 'forfeited'. In these circumstances you could lose your home.

The Council will explain how service charges have been calculated, and you can challenge any charges that you do not agree with. If you have financial difficulties with paying the charge the Council may be able to offer you a loan, or make other arrangements to help you pay your service charge. The Council is unable to waive charges that are lawfully due.

### **2.1.7 Ground Rent**

Ground rent is simply a form of rent paid by a leaseholder to the freeholder, which is necessary as the leaseholder is a tenant. It is often a nominal amount. Currently the Ground Rent is set at £10 a year under the Housing Act 1985. You will receive a Ground Rent Notice in April of each year. You are required to pay the ground rent within a defined period.

### **2.1.8 Selling your flat**

You have the right to sell your lease. You can also leave it to someone in your will or give it as a gift. This arrangement needs to be formally documented and you should seek advice from a Solicitor. You must tell the Council if you sell, transfer or assign your lease within one month of the change of ownership. If you bought your lease through the Right to Buy Scheme and wish to sell during the first 5 years of the lease term you may have to repay any discount you received at the time of the purchase. If you wish to sell during the first 10 years of the lease term, you must first ask the council if it wishes to buy the flat from you at the open market price. If the council does not take up this offer you can sell the flat on the open market.

### **2.1.9 Repaying of discount**

If you have bought your home under the Right to Buy, you can sell it whenever you like. But if you wish to sell within the discount repayment period specified below you will usually have to repay some or all of the discount.

If you sell within the:

1 <sup>st</sup> year of purchase	–	full discount to be repaid
2 <sup>nd</sup> year of purchase	–	80% of discount to be repaid
3 <sup>rd</sup> year of purchase	–	60% of discount to be repaid
4 <sup>th</sup> year of purchase	–	40% of discount to be repaid
5 <sup>th</sup> year of purchase	–	20% of discount to be repaid

After 5 years, you can sell without repaying any discount.

In addition, the amount of discount to be repaid if you sell within 5 years of purchase will be a percentage of the resale value of the property, disregarding the value of any improvements. For example, if your home was valued at £100,000 at the time you bought it from your landlord, and you received a discount of £38,000, that means that your discount was 38%.

If your home is valued at £150,000 when you wish to sell it, and you want to sell within the 2<sup>nd</sup> year of purchase, you will have to repay £150,000 x 38% discount x 4/5 i.e. £45,600.

## **2.1.10 Losing your home by forfeiture or repossession**

There are some circumstances when the council or your mortgage lender could apply for possession of your home.

### **Forfeiture**

Forfeiture is where the council applies to the court to end your lease because you have broken the lease conditions. This could happen if you do not pay your service charges, or you cause nuisance and harassment to your neighbours.

If the court decides that you have seriously broken the terms of your lease it may end the lease and give us possession of your flat. You would lose your home and would not usually get any payment or compensation.

Forfeiture is a drastic action. As a responsible landlord, we only use it when we have to, to protect the interest of the council, its tenants and other leaseholders. With overdue service charges, we will always try to help people who have genuine financial problems. Before we apply for forfeiture for unpaid service charges we would have to satisfy a Leasehold Valuation Tribunal that the charges were reasonable and the leaseholder had made no attempt to pay them

### **Repossession by a mortgage lender**

If you have taken out a mortgage to buy your lease, your mortgage lender has a 'legal charge' on your home. This means they can apply to the courts for repossession if you do not pay your mortgage. If the court grants them possession, they have the right to evict you, sell your lease and take what you owe them out of the proceeds. They must give you anything which is left over, unless someone else (such as the council as your landlord) also has a legal charge on the property for money which is owed to them. If you get into difficulty with your payments, you should seek help straightaway. The earlier you ask for help, the greater the chance of getting it sorted out and coming to an arrangement with your lender.

## **2.1.11 Enfranchisement – Buying the Freehold**

Enfranchisement is a collective right for a group of leaseholders of flats to buy the freehold of the building they live in. Leaseholders have this right if they and the building they live in qualify. After buying the freehold, the leaseholders can decide how to manage the property – either doing it themselves or appointing a manager to do it for them. If you and your neighbours qualify under the enfranchisement rules we cannot refuse to sell you the freehold.

### **How do leaseholders qualify?**

To have the right to enfranchise, you must be what is called a "qualifying tenant". This means you must be a long leaseholder with a lease of more than 21 years.

## **How does the building qualify?**

There must be at least two flats in the building. At least two thirds of all the flats must be sold to long leaseholders. The number of leaseholders participating must be at least half the number of flats in the block. For example, in a block of 12 flats at least 8 must be sold and at least 6 long leaseholders would need to take part in the enfranchisement process. When you enfranchise you buy the freehold of your building. The freehold is owned by a “nominee purchaser” who you must name when you start the enfranchisement process, so it is important to decide how you want your building to be owned and run in the future. No more than four people can be the joint owners of one freehold, so in a building with more than four long leaseholders it may be better to set up a company to own the freehold, or choose a third party with no financial interest in the building. This can be complicated and expensive, so you should seek expert advice from a solicitor, surveyor, or similar who understands this process.

## **What happens to people who have not exercised their Right to Buy?**

If flats have not been purchased under the Right to Buy but are instead let by the Council to secure tenants, you cannot buy the freehold of these flats. In this instance the Council would take a ‘leaseback’ of any flat it owns from the new freeholder. A leaseback is a lease of 999 years. The Freeholder (your company) will then be the Council’s landlord for those dwellings and will be responsible for the management of the Building. It will have to comply with the terms of the lease granted to the Council (similar to yours), all statutory requirements and accountability. If the block still had at least one rented council flat, we would be represented on your management committee. You would charge us for our share of management and maintenance costs.

There are certain things you should consider if you want to pursue enfranchisement:

- As the council would no longer be your landlord, you would all be jointly responsible for the maintenance and management cost for your block
- You would no longer be able to call on the council’s housing service if you had problems with your neighbours
- If you get on well with your neighbours, you would have more say in the way your block is managed and the money that is spent on it

Further information can be found on the Department for Communities and Local Government (DCLG) website <http://www.communities.gov.uk>.

## **2.2 The Council's rights and responsibilities**

This depends on the lease but in general the following apply;

### **2.2.1 Management and Maintenance**

We have the right to make decisions about:

- the management of your block
- repairs to, and maintenance of the structure and shared areas of the block, eg. communal lighting, controlled door entry system, stairs and landings
- improvements to the block
- running and maintaining services such as, electricity cables or water or gas pipes from any other part of the estate or block through your flat or maisonette (generally concerns existing services, but may include new or replacement services)
- extending or carry out alterations or improvements to the block or estate, but excluding internal works to your flat or maisonette, e.g. kitchen refurbishment
- consulting with leaseholders
- the right (and legal duty) to charge you for works and services carried out

We are responsible for

- the structure, including the foundations, the roof and the external walls
- the rainwater gutters and pipes
- the mains water plumbing and drainage within the communal areas
- the communal staircase and lifts
- the maintenance and decoration of the communal areas
- doors, windows and frames
- maintenance of door entry systems
- communal electrics/lighting
- communal TV aerial

### **2.2.2 Right of Entry**

The Council has the right, in certain circumstances, to gain entry into your property to carry out repairs, carry out improvements, or inspect your home. We may also have to gain access in an emergency, for example if a problem occurred in your flat that may be a danger to other residents or to the structure of the building eg. if a leak in your plumbing was flooding the flats below, or if you had removed a structural wall.

### **2.2.3 Consultation**

- Under Section 20 of the Landlord & Tenant Act 1985, the Council is obliged to consult leaseholders where the Council proposes to carry out works above a certain value to your block or estate. You will be informed of any proposals, and it is therefore important for you to inform the Council of any change of correspondence address
- The Council intends to enter into a 'qualifying' long-term agreement above a certain value for the delivery of works and/or the provision of services, eg. responsive repairs, building insurance, etc.

If the Council does not comply fully with the consultation requirements then a limit is applied to the total of service charge, or costs of works chargeable – please turn to pages 18-20 Statutory Consultation.

## 3.0 Service Charges

### 3.1 Why do I have to pay service charges:

When you bought your lease, in effect you became a 'shareholder' in the building your flat is in. This means that you have a responsibility to pay your share of the costs of maintaining and managing the building.

As your landlord the Council has a legal duty to maintain the building and charge you your share of the cost. General costs are shared equally among all the flats in the block. For example, if there are 10 flats in the block and 7 of them are rented to Council tenants and the other 3 are leaseholders, each leaseholder will pay a tenth of the cost. The rent that Council tenants pay covers the cost of repairs to the 7 Council owned properties.

### 3.2 How your charges are calculated

Your service charges are made up mainly of the following costs:

Service Charge Item	Description of Service
<b>Ground Rent</b> (billed in April – charged in advance)	Ground Rent for all leasehold properties is £10 per annum. The first bill new leaseholders receive from us will show a proportion of the ground rent from the date of completion of the lease until 31 <sup>st</sup> March the following year. Thereafter all invoices will show the £10 charge for the whole year commencing 1 <sup>st</sup> April.
<b>Buildings insurance</b> (billed in April – charged in advance)	This reflects the actual charges that Ashford Borough Council has paid for the Building's Insurance for the year. As the Freeholder we are responsible for insuring the building, to cover the cost of rebuilding the block. This insurance does not cover the contents of your flat and you should arrange your own home contents insurance.
<b>Cleaning</b> (billed in September - charged in arrears)	This covers the cost of keeping your block and estate clean. It includes the internal cleaning of communal areas.
<b>Communal Electricity</b> (billed in September - charged in arrears)	This covers the cost of electricity for communal estate facilities. This is mainly for lighting shared corridors, estate footways, paths and grounds. This charge also includes the cost of running the lift, door-entry system and television amplifier, where applicable.
<b>Grounds Maintenance</b> (billed in September - charged in arrears)	This covers the cost of maintaining the grounds on your estate and to the block. It includes cutting the grass and looking after the shrubs, plants, hedges and trees to improve the overall environment of your estate. It also includes the cost of keeping areas free from weeds.

<b>Service Charge Item</b>	<b>Description of Service</b>
<b>Repairs &amp; Maintenance</b> (billed in September - charged in arrears)	This covers the costs of responsive repairs and maintenance to communal parts of the block and estate. This includes the lobby, stairwells, entrance areas, the outside of the block, roof, lift, door entry system, etc. Charges will also apply for servicing and maintenance of lifts, fire alarms, emergency lighting, water testing of communal storage tanks, and door entry systems.
<b>Major Works</b> (billed at any time during the year - charged in arrears)	This covers the costs of planned maintenance, refurbishment or improvement work. The main difference to responsive repairs is that this is planned work and the Council will write to you in advance of works being undertaken – see pages 18-20 Statutory Consultation  Major works apply to communal areas and the structure of the block. They may include the following: <ul style="list-style-type: none"> <li>• Roof Refurbishment</li> <li>• Lift Replacement/Refurbishment</li> <li>• Renewing Windows and main entrance doors</li> <li>• Painting or re-pointing the outside of the block</li> <li>• Internal Decoration of communal areas</li> </ul>
<b>Management Charge</b> (billed in September - charged in arrears)	This charge covers the cost of managing all the leasehold properties owned by Ashford Borough Council. This includes the cost of advising and communicating with leaseholders, maintaining leasehold records, including publications, administration and dealing with day to day queries and billing for annual service charges.
<b>Administration Charge</b> (billed in September - charged in arrears)	This charge covers the administration costs of carrying out work to the property and covers such things as; production of contract and tender documents and site supervision.
<b>VAT</b>	VAT is chargeable for all works and services undertaken. The Council pays these costs initially, and such costs are passed onto the leaseholder.

### 3.3 Shared Costs

Examples of shared costs are as follows:

- Costs that apply to the whole block (such as repairs, improvements and grounds maintenance) are shared equally between all Council and leasehold flats in the block.
- Management costs are shared between all the Council's leasehold flats (around 260 of them at present) which takes account of the amount of work the Council undertakes to manage the blocks of flats.
- Insurance costs are shared proportionally between all Council and leasehold flats.

### **3.4 The first ‘five years’ of a Lease – The Accounting Period**

If your flat was bought from the Council through the Right To Buy scheme, you will have received a Section 125 Notice informing you of the purchase price. This document states the major works that are expected to be carried out within the first five years of the lease, along with an estimate of how much the works may cost. This document is a pre-estimate of the cost of the works and will affect the value of the lease. Within this 5 year period (the ‘accounting period’), the Council is not able to charge you for works not listed, and where they are listed no more than the amount shown, except an allowance for inflation. The figures on this Notice do not allow for the Administration charge.

This accounting period applies to repairs and improvements from the date the first buyer buys the lease. If you sell the lease within this time the next buyer is entitled to what is left of the accounting period. There is not a new accounting period each time the lease is sold on.

### **3.5 How you get your bill**

Currently we issue bills in April and September of each year (as detailed above).

### **3.6 Paying your bill**

We recognise that some of our leaseholders may have difficulty in paying for major works. However, for the benefit of all, we have to consider the maintenance of our buildings. When buildings are allowed to deteriorate, putting things right will result in a higher immediate cost. We endeavour to carry out regular maintenance programmes, so that the cost to you is kept to a reasonable level. If we do not undertake major works when they are needed, we are failing in our duty to you and failing to meet the standards set by our regulators.

You are required to pay your bill within 28 days of date of issue. You can also make payments in advance.

You have a choice of ways to pay:

- By online banking
- By logging on to the Council’s website
- By sending a cheque to the Council
- By using the cash receipting machines at the Civic Centre
- Over the telephone using a credit card or debit card

### **3.7 If you have problems paying your Service Charges**

If you are having difficulties making a payment for service charges, please talk to us about this as soon as possible. We take arrears of service charges very seriously and we expect all leaseholders to pay the charges promptly. This is a condition of your lease. However, we recognise that there may be times when you have financial problems and cannot pay the amounts you owe. We will give you basic money advice and discuss affordable repayment plans. You may be entitled to claim certain benefits and you should contact the Department of Work and Pensions (DWP) for advice. You will be breaking one of the conditions of your lease agreement if you pay your service charge late. If you continue to pay it late, we will take legal action. You may have to pay court costs, and you could



even lose your home. We don't want it to get to this stage so please talk to us or contact your local Citizens' Advice Bureau (CAB) who may be able to give you advice or debt counselling.

We will settle any disputes about service charges or major work before we act on our arrears procedure. If you have sublet your property, you are still responsible for paying the service charges. Every year, we will send a detailed account statement to each leaseholder. We will also send you statements or balances if you ask. In all arrears cases, we will:

- take action as soon as we know there is a problem;
- give you up-to-date account balances;
- keep a record of all our conversations with you and what action we take;
- agree realistic payment arrangements with you

### **3.8 What if I don't agree with my charges?**

The Council will always try to work out your charges properly and fairly. If you disagree with any charges on your bill you can write to the Housing Manager, with details why you disagree, and your account will be reviewed.

### **3.9 Non payment of charges**

You are breaking the terms of your lease if you do not pay your service charge bill. We can issue debt-recovery proceedings through the county court, and also apply to the courts to have your lease forfeited. If the court decides that you have broken the terms of your lease, it may take action to end the lease and grant the Council possession of your home. We would only commence forfeiture proceedings in extreme cases, and we would have to satisfy the Leasehold Valuation Tribunal that our charges are reasonable and that you have made no attempt to pay.

## 4.0 Service Charge Loans You Can Get from the Council

### 4.1 Right To Buy Service Charge Loans under the Ministry of Housing, Communities & Local Government

If you own a flat which was originally sold under the Right To Buy scheme in England, you will be the leaseholder of that flat and will have to pay a share of the costs of any repairs and improvements which the freeholder/landlord carries out. You may have the right to a loan to help you meet these costs.

You do not have to be the person who originally purchased the flat under the Right To Buy, but your landlord must be the local authority which sold the flat.

If your landlord is a local authority, you apply to them for the loan. The loan takes the form of a right to leave the service charge outstanding for a specific period. This means that you will make monthly payments to your landlord over the specified period. The payments will include interest.

### 4.2 What service charges may qualify for a loan?

You only have the right to a loan in respect of charges for repairs and improvements carried out by the landlord to the flat, the building of which it forms part, or any other building land, where the charges are payable in the 10 years beginning either:

- on the day the property was sold under the Right To Buy, or
- on a date specified by the landlord (this is a date not later than 6 months after the landlord has sent the Right To Buy offer notice).

### 4.3 How much am I entitled to borrow?

You do not have the right to a loan until your service charges in one accounting period total £1,500 or more. The total can include charges for repairs, improvements, maintenance, management etc. although the loan itself can only cover charges for repairs and improvements (separate service charges bills may be added together for this purpose).

The accounting period is the annual period for which charges are payable under the lease.

If no period is specified, it will be the period of twelve months beginning on the date you bought the property and the subsequent twelve month periods beginning after that.

You may borrow the amount by which the service charges for the accounting period exceed £1,500, but you may only borrow in respect of charges for repairs and improvements. For example, if your charges total £7,000 made up of £2,500

for repairs, £4,000 for improvements and £500 for maintenance, the maximum loan you are eligible for is £5,500 (i.e. £7,000 minus £1,500).

The loan must be for more than £500. You may not borrow more than £20,000 (taking earlier outstanding loans into account).

All the figures mentioned above will be adjusted for inflation by reference to the retail prices index for January 1993 and each subsequent January.

#### **4.4 What will be the terms of the loan?**

You will have to repay the loan by equal instalments of principal and interest:

- 3 years for loans of less than £1,500.00;
- 5 years for loans of £1,500.00 to £4,499.99; and
- 10 years for loans of £5,000 or more.

You can choose to pay over a shorter period if you wish.

If your landlord is a local authority, you will have to pay interest at the local authority mortgage interest rate. Otherwise interest will be charged at a rate which is decided by the landlord. This rate must be reasonable. The landlord can also charge up to £100 to cover its administrative expenses.

The landlord will take a charge on the flat to protect the loan; this is in effect a mortgage.

#### **4.5 How do I apply?**

Your landlord must tell you whether or not you will be eligible for a loan when it sends you a demand for service charges. You must let your landlord know in writing within six weeks if you want to take up a loan.

#### **4.6 What if I intend to dispute the charges with my landlord?**

You can claim a loan while making it clear to your landlord that you do not accept that the charges are right.

#### **4.7 Help and advice**

If you have any queries you should approach the Housing Department for advice first. The Ministry of Housing, Communities and Local Government may also be able to help.

## 5.0 Statutory Consultation

The Commonhold and Leasehold Reform Act 2002 changed the way landlords should consult with leaseholders.

The Council must consult with you before it begins any planned major repairs, maintenance or improvements for which you have to pay a share, and which will cost any leaseholder in the building more than £250 including fees and VAT per financial year. You must also be consulted on certain long-term agreements, or contracts lasting more than 12 months which the Council intends to enter into, and will cost you more than £100 a year including fees and VAT. This is called Section 20 consultation. The work will not begin before the end of the consultation period, unless the works are urgent and/or a Leasehold Valuation Tribunal (LVT) dispenses with the consultation requirements. Urgent work may have to be undertaken to avoid danger or serious damage to the building, or to ensure the health and safety of residents.

### 5.1 How you will be consulted

You will be consulted as an individual leaseholder. There are different ways to consult for different kinds of work. Each leaseholder will be consulted individually in accordance with the terms of their lease.

The consultation requirements differ depending on the form of contract under which the scope of the works are to be carried out. There are three possible circumstances:

- Works that are not carried out under a long term agreement (i.e. individually tendered contracts)
- Works that are carried out under a long term agreement
- Works that are not carried out under a long term agreement, but where public notice of the work is required to be published in the Official Journal of the European Communities (OJEC)

### 5.2 Consultation on major works needing estimates

If the Council proposes to award a contract by competitive tendering, the leaseholder must first be sent a 'notice of intention'.

The 'notice of intention' will describe the proposed works, or say where a description of them is available. It will set down the reasons why the works are needed, and allow 30 days for written comments. If you wish, you can nominate a contractor who you think should be asked to provide an estimate.

The Council must have regard to any comments you make, and must try to get an estimate from one or, in some cases, two contractors suggested by leaseholders. Any Contractor suggested by a Leaseholder will undergo evaluation by the Council, prior to obtaining an estimate.

A second written notice, called a 'Notice of Landlord's Proposals (Statement of estimates in relation to proposed works)', will then be sent to you listing at least two of the estimated costs returned/received. This letter will include a summary

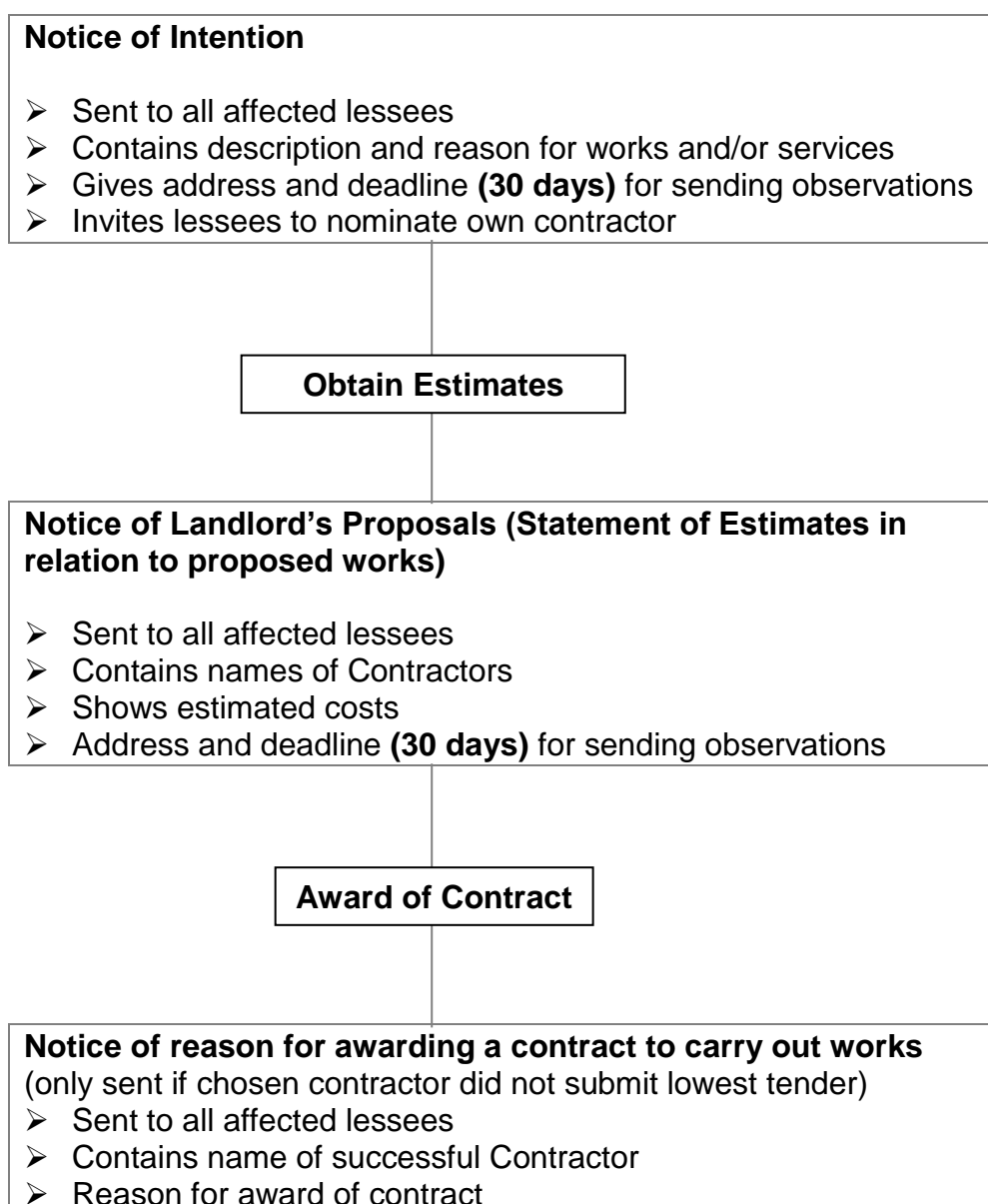
of comments received (if any), and the Council's responses to them. All the estimates will be available for inspection. These documents are confidential, and you may be asked to sign a 'Declaration of Interest'. You will be invited to send in written observations on the estimates within 30 days.

The Council must have regard to these written comments.

The Council will then award the contract to the Contractor whose tender was considered the 'best value' in accordance with the evaluation criteria. Within 21 days the Council will write to you again to let you know which contractor was awarded the contract work, and why. The Council will also let you know about any comments received, and what the Council's reply to them is. However, the Council does not have to write to you again if the chosen contractor has been suggested by a leaseholder, or the chosen Contractor has sent in the lowest estimate.

Therefore, the consultation is potentially a three-stage process:

### 5.3 Works and/or Services estimated over £250



## **5.4 Consultation of a Long-Term Agreement**

A long-term agreement means:

- Any agreement entered into by, or on behalf of the Council for a term of more than 12 months, and where
- The costs incurred under the agreement will result in any lessee paying more than £100 per annum in service charges

Examples of potential long-term agreements; day to day repairs, cleaning, lift maintenance, insurance. Some of these services may only have one possible supplier

Where we are proposing to enter into a long-term agreement, consultation with lessees follows the same process as described immediately above. Where public notice is required the lessee will not be consulted about the choice of contractor.

## **5.5 Exempt Agreements**

Some agreements are exempt from the above consultation requirements. These include:

- Employment contract (i.e. where we employ staff to manage the service)
- Agreements for a term of more than 12 months that were entered into before the 31<sup>st</sup> October 2003.

## **5.6 Responding to Lessee observations**

In most cases there is an obligation on the landlord to respond within 21 days to any lessee observation received. In certain circumstances there is a requirement to issue a notice to each lessee with a summary of all the observations received and the landlord's response to them.

## **5.7 New Right-to-Buy Leaseholders**

Where a new right-to-buy lease is granted part of the way through any of the new consultation procedures the landlord need not start again or send any missed notices. The Council need only bring the new leaseholder into the next stage of the consultation process that applies 31 days after the new lease commenced. In cases where the ownership of the flat changes hands during the procedure, by assignment of the lease, it may be assumed that the new leaseholder has received copies of the previous documentation from the vendor; it is not necessary to re-start the process.

## **6.0 Building Insurance**

### **6.1 What is covered?**

As the Freeholder the Council insures your building. This is a blanket policy that covers all leasehold properties. Your service charge includes a small amount for insuring the building, including the structure and common parts of the house or block which are the Council's responsibility to maintain. The Council's insurance covers damage to the structure of the building caused by fire, flood and so on. It does not cover the inside walls and fixtures and fittings in your flat. To cover these you need to arrange your own insurance cover.

The contents of your home such as your furniture, decorations and other personal possessions are not covered by the Council's policy. For these items you need to take out your own contents insurance policy.

### **6.2 Making an insurance claim**

If we are responsible for a repair, we will make the claim and organise the repair. If the repair is your responsibility, you should claim from your insurers. We will send you a claim form if you need to claim from your insurers. You should keep photographs of the damage and, if possible, keep the damaged item because this will help you with your claim. You may need to get estimates for any work that needs to be done and send these estimates to the insurance company. You can help your insurers to make a decision by making your claim as soon as possible and providing as much information as you can. If you make a start on any repairs before the insurance company makes a decision, this could affect your claim. As with all insurance policies, if you make a false claim you will face legal action.

### **6.3 What is the excess on the policy?**

In the majority of cases the insurance cover does not meet all the costs of repairing the damage. The Insurers will only meet costs above a certain amount, known as the excess. The amount of the excess depends on who is making the claim, and what the claim is for. The Policy document details the current excess limits.

### **6.4 Empty Properties**

If you are leaving your flat empty for more than 30 days you must inform the Finance Section as this will have a bearing on your insurance cover.

### **6.5 Consultation**

The Council will consult leaseholders when the Insurance Policy is due for renewal. We will inform you in writing that we need to renew our policy, and ask you if you wish to propose a Company that we should consider obtaining a quotation from (refer to pages 18-20 Statutory Consultation).

## **6.6 Access to Policy Information**

As the lessee you have a right to request in writing from the Council a written summary of the insurance cover. We must provide you with a summary including;

- The insured amount(s) in respect of the building
- The name of the insurer
- The risks in respect of which the building is insured

You are able to inspect any relevant insurance policies and evidence of premiums paid, and request copies or extracts of these documents. We may charge an administration fee for this service.

## **6.7 Further advice ....**

If you need further advice on Building Insurance contact Ashford Borough Council's Finance Section on (01233) 330552



## 7.0 Service Charge Dispute Procedure

### 7.1 Disputing your Service Charge

If you think your Service Charge is wrong, the cost to be unreasonable, or the service unsatisfactory, you should set out your query in writing and send to the Leasehold Services Officer, Housing Department, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL with your complaint in the first instance.

The Council will investigate your complaint, and advise you of its decision. If you are not satisfied with the outcome, you will be advised to apply to the Leasehold Valuation Tribunal (LVT) to determine the matter, or seek your own legal advice.

### 7.2 Applying to a Leasehold Valuation Tribunal (LVT)

LVTs can now decide on all aspects of the duty to pay a service charge for repairs, improvements and services. This includes decisions on whether the costs are reasonable, the standard of work is reasonable and whether leaseholders have been properly consulted.

LVTs have been given greater powers by the Government to look at service charge disputes. They are independent and impartial. Hearings are semi-formal, and normally consist of three members – a lawyer, a valuer and a layperson.

If your dispute is not upheld you will be expected to pay your Service Charge.

### 7.3 Do I have to pay a fee to make an application?

For some applications, yes, the Department for Communities and Local Government has decided that for service charge, dispensation of service charge consultation requirements, administration charge, appointment of a manager, landlord's choice of insurer and lease variation applications, fees are payable. No fees are payable for right to manage applications, forfeiture applications under section 168(4) of the Commonhold and Leasehold Reform Act 2002 and estate management charge applications. In all other cases there are two fees, the application fee and a hearing fee.

### 7.4 How much is the Application fee and Hearing fee?

An application fee varies either according to how much money is in dispute (for service charges, administration charges) or according to the number of dwellings to which the application relates (dispensation of service charge consultation requirements, appointment of managers and variation of leases). The tables below set out how the fee is calculated;

#### Service charges, administration charges

Amount not more than £500 .....	Fee .....	£50
Amount more than £500 but not more than £1,000 .....	Fee .....	£70
Amount more than £1,000 but not more than £5,000 .....	Fee ...	£100
Amount more than £5,000 but not more than £15,000 .....	Fee ...	£200
Amount more than £15,000 .....	Fee ...	£350

## **Dispensation on consultation – requirements, appointment of managers and variation of leases**

5 or fewer dwellings.....	Fee....	£150
Between 6 and 10 dwellings.....	Fee ...	£250
More than 10 dwellings.....	Fee....	£350

If you or your partner are in receipt of certain benefits, you can apply for a waiver of the fees. However, you may have to pay a Surveyor, Property Manager and/or Solicitor. You cannot usually claim these costs back. You should advise Ashford Borough Council that you have made an application.

The Leasehold Advisory Service (LEASE) publishes a large number of detailed booklets about your rights – including applying to the LVT – which can be downloaded from their website, or ordered as pamphlets. Contact details for LEASE are at the back of this handbook.

You can also contact the Citizens' Advice Bureau for advice.

## 8.0 How to Contact Us

You are welcome to contact us:

- By letter
- By telephone
- By e-mail
- Online via our comprehensive 'Feedback' system [www.ashford.gov.uk](http://www.ashford.gov.uk)
- Comment/Complaint Forms – these are available from our Customer Contact Centre and by post from the Civic Centre.

If you would like someone to help you to fill in the form or write a letter, then please feel free to contact us. We will be pleased to help.

Ashford Borough Council want to provide a quality service to all its tenant and leaseholders. However, we realise that there may be times when you feel dissatisfied with our service, or you may wish to make a suggestion to improve it. Both your complaints and compliments are important to us as they help us improve our services.

**Ashford Borough Council**  
Civic Centre, Tannery Lane,  
Ashford, Kent, TN23 1PI

Tel:.....(01233) 331111  
Website: [www.ashford.gov.uk](http://www.ashford.gov.uk)

**24 Hour Payment Line**

Tel:.....(01233) 330625

**Customer Services Opening Times**

8.30am to 5.00pm Monday to Friday

**Housing Department:**  
Leasehold Services Officer

Tel:.....(01233) 330823

Housing Repairs Team

Tel:.....(01233) 330366  
Email: [repairs.housing@ashford.gov.uk](mailto:repairs.housing@ashford.gov.uk)

**Finance Department:**  
Insurance Officer

Tel:.....(01233) 330552

## 9.0 Other Useful Contacts:

### **Ashford Library**

Church Road, Ashford, Kent  
TN23 1QX

Tel: ..... (01233) 620649  
Fax: ..... (01233) 620295 /  
..... (01233) 646580  
(Reference Library)

### **Citizen's Advice Bureau**

Seabrook House, 10 Norwood  
Street, Ashford, Kent. TN23 1QT

Tel: ..... (01233) 626185  
Fax: ..... (01233) 610653

### **Local Government Ombudsman**

PO Box 4771, Coventry CV4 0EH

Tel: ..... (0300) 0610614 or  
(0845) 6021983  
Fax: ..... (024) 76820001

### **Department for Communities and Local Government (DCLG)**

Eland House, Bressenden Place,  
London SW1E 5DU

Tel: ..... 0303 444 0000 Enquiry  
Helpdesk  
Website: ..... [www.communities.gov.uk](http://www.communities.gov.uk)  
Email: [Contactus@communities.gsi.gov.uk](mailto:Contactus@communities.gsi.gov.uk)

### **The Leasehold Advisory Services (LEASE)**

2<sup>nd</sup> Floor, 31 Worship Street,  
London, EC2A 2DX

Tel: ..... (020) 7374 5380  
..... (0845 345 1993 local  
rates:)  
Fax: ..... (020) 7374 5373  
Email: ..... [info@lease-advice.org](mailto:info@lease-advice.org)  
Website: ..... [www.lease-advice.org](http://www.lease-advice.org)

### **Residential Property Tribunal Service**

10 Alfred Place, London WC1E 7LR

Contact RPTS for information  
regarding Leasehold Valuation  
Tribunal (LVT)

Tel : ..... (0845) 600 3178  
Fax: ..... (020) 7637 1250  
Email:  
[london.rap@communities.gsi.gov.uk](mailto:london.rap@communities.gsi.gov.uk)  
Website: ..... [www.rpts.gov.uk](http://www.rpts.gov.uk)

### **Health and Safety Executive (HSE)**

Tel: ..... (0845) 345 0055  
Website: ..... [www.hse.gov.uk](http://www.hse.gov.uk)

### **Department for Work and Pensions for information (DWP)**

Website: ..... [www.dwp.gov.uk](http://www.dwp.gov.uk)

## 10.0 Further Reference Documents

- The Housing Act 1985
- The Commonhold and Leasehold Reform Act 2002
- ‘Right to Buy Could Open The Door’ produced by the Department for Communities and Local Government (DCLG)
- ‘Thinking of Buying Your Council flat?’ produced by the DCLG as above
- ‘Residential long leaseholders – a guide to your rights and responsibilities’ Produced by the Department for Communities and Local Government (DCLG)
- The legislation, commencement orders and regulations in respect of residential leasehold and in particular the Commonhold and Leasehold Reform Act 2002 can be found on the OPSI website [www.opsi.gov.uk](http://www.opsi.gov.uk)
- Information produced by the Health and Safety Executive relating to Landlord’s responsibility for gas safety – [www.hse.gov.uk/gas/domestic/faqlandlord.htm](http://www.hse.gov.uk/gas/domestic/faqlandlord.htm)

# 11.0 Definitions

A definition of some unusual words, phrases and terms you will find in your Lease and in this Handbook:

<b>Accounting Period</b>	The accounting period is approx. 5 years from the date the first buyer buys the lease, and details what works are likely to be undertaken and estimated costs. Your individual lease will detail when the 5 year period begins
<b>Administration Charge</b>	The cost of producing/tendering and supervising major work
<b>Assignment</b>	The transfer of the lease from one lessee to another
<b>Block</b>	Your 'block' is the building described in your lease for which you are responsible for paying your share of our costs
<b>Breach of covenant</b>	When a duty set out in the lease is broken
<b>Covenants</b>	Covenants are things you agree to do when you buy your lease, such as paying your charges, not causing nuisance to neighbours, giving access for repairs, and so on. They are legally binding and if you don't keep to them you have broken the terms of the agreement
<b>Commonhold &amp; Leasehold Reform Act 2002</b>	The new law which gives leaseholders more rights to buy the freehold, to be consulted on works and contracts and be given information about money that is spent on the building
<b>Date of Valuation</b>	The date on which the tenant made application to the Landlord to purchase a leasehold interest in the demised premises
<b>Department for Communities and Local Government (DCLG)</b>	The Department for Communities and Local Government is the UK Government department for communities and local government in England, since May 2006. The department originated in 2001 as the Office of the Deputy Prime Minister
<b>Decent Homes Standard</b>	A Government housing standard for tenanted flats and buildings, which all dwellings must comply with by 2010
<b>Demised premises</b>	This is your flat, and any gardens and outbuildings for your own exclusive use which are specified in the lease
<b>Enfranchisement</b>	Enfranchisement is a collective right for a group of leaseholders of flats to buy the freehold of the building they live in
<b>Forfeiture</b>	Ending of the lease and repossession by the landlord because the lease conditions have not been met

<b>Freeholder</b>	The Freeholder in this case is Ashford Borough Council who owns the building in which you live
<b>Inspections of accounts</b>	Your right to see the documents and receipts used to work out your service charge
<b>Insurance Excess</b>	The first part of each and every insurance claim for which you are required to pay
<b>Landlord &amp; Tenant Act 1985</b>	The original Act of Parliament, now superseded in parts by other more recent Acts, governs all leasehold and tenancy agreements, and sets out what a service charge is, that it must be 'reasonably incurred', how you should be consulted, and your right to inspect accounts
<b>Leasehold Valuation Tribunal (LVT)</b>	A body funded by Government to give free initial advice on a wide range of residential leasehold issues and is staffed with officers with legal training. The LVT is given powers by the Government to settle a Service Charge dispute instead of going to Court
<b>Lease</b>	A binding contract, enforceable in law that contains both your rights as leaseholder and the Council's rights as freeholder. You do not own the property, just the right to occupy the flat
<b>Leasehold Advisory Service (LEASE)</b>	An independent advisory service that provides free advice to leaseholders.
<b>Leaseholder</b>	The owner of the flat or maisonette
<b>Lessee</b>	This means the same as leaseholder
<b>Lessor</b>	Means the same as the Freeholder which in this case is Ashford Borough Council. The Lessor's financial year is normally 1 <sup>st</sup> April to 31 <sup>st</sup> March
<b>Long Term Agreement</b>	A contract for more than 12 months to provide works or services, for example, the responsive repair contract. Landlords must consult where the amount payable by one contributing leaseholder exceeds £100 in any one year
<b>Management Charge</b>	The part of the Service Charge that covers the Council's Leasehold Management costs
<b>Notice of Intention</b>	(Previously the Section 20 Notice) A Notice sent to a Leaseholder who must pay towards work or services. The Notice contains information about the work/service that is planned, the opportunity to take part in a process of consultation and the timescales involved.
<b>Notice of Proposals</b>	A Notice sent to a Leaseholder containing information about estimates received for the work/service that is planned.

<b>Official Journal of the European Communities (OJEC)</b>	Large contracts over a certain value require public notice to be given in the OJEC under the European Community rules. While we ask for, and consider the opinions and views of leaseholders, you will not have the right to nominate a contractor for these works
<b>Office of Public Sector Information (OPSI)</b>	The Office of Public Sector Information (OPSI) is the body responsible for the operation of Her Majesty's Stationery Office, and of other public information services of the UK. OPSI provide a wide range of services to the public relating to finding, using, sharing and trading information
<b>Ombudsman</b>	The Local Government Ombudsman in England investigates complaints about local authorities
<b>Premises</b>	This is the block name, or if you live in a house within a street, the address of the house. This part of the lease identifies the block or house within which the demised premises are located
<b>Qualifying Works</b>	These are the same works previously included within the old Section 20 requirements (that is 'works on a building or any premises') with the addition of works of improvements. Landlords must consult if these works will cost over £250 for any one leaseholder.
<b>Responsive Repairs</b>	Repairs undertaken by the Council's contractors as and when required
<b>Section 20 Notice</b>	A Notice sent to a Leaseholder who must pay towards work or services. The Notice contains information about the work/service that is planned, the opportunity to take part in a process of consultation and the timescales involved.
<b>Section 125 Notice</b>	The Right to Buy Notice which sets out the purchase price and major works costs for the first five years of the lease, and the most the Council can charge during this period
<b>Service Charge</b>	Charges applied to leasehold properties for works and services
<b>Sub Letting</b>	When a leaseholder moves out of the demised premises and rents the flat to someone else



**Ashford Borough Council**  
Civic Centre, Tannery Lane  
Ashford, Kent TN23 1PL

**Housing Services Team**

Tel: 01233 330688

Email: [housing@ashford.gov.uk](mailto:housing@ashford.gov.uk)

Repairs Hotline: 0300 003 0711



**Ashford**  
best placed in Britain