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# Forfeiture & Possession Policy: Leasehold

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**Department: Leasehold Management**

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**Date Issued: Jan 09**

**To be reviewed: Jan 2011**

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**Version Number: 3**

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## 1. INTRODUCTION

This policy document relates to HomeBuy (shared ownership) owners only. It outlines the circumstances when One Housing Group (OHG) may seek possession either by possession action through the courts, or by forfeiture. OHG has prepared this policy after consultation with residents. This policy should be considered in conjunction with the OHG **Forfeiture & Possession Policy Procedure**

### 1.1. Definition

Leases will generally provide for forfeiture in the event of non payment of rent or service charges, for failure to undertake repairing obligations, or any other breach of the terms of the lease. Individual leases will need to be examined for the provisions of the case in hand. In addition to any restrictions that may be explicit within the lease, before the landlord may take possession through forfeiture in respect of the lessee failing to make payment of rent or service charges, the debt must be:

- at least three years old, and/or
- more than £350, and
- agreed or admitted by the lessee, or
- determined by a court or tribunal.

For breaches other than financial, only the final two bullet points above apply.

## 2. AIMS & OBJECTIVES

### Aims:

- to communicate effectively with residents on matters of possession and forfeiture
- to provide a level of service that meets if not exceeds the Audit Commissions excellence standard.

### Objectives:

- to provide clear guidance for officers in respect of issues around forfeiture
- to provide residents with clear guidance in respect of the attitude of OHG towards instances of it taking actions leading to forfeiture
- to seek possession action as a last resort after full support has been offered or given.

## 3. POLICY STATEMENT

Although there may be few occasions, OHG will use forfeiture as a means of possession when assessed as necessary. Where it is considered appropriate to pursue possession through forfeiture, the action will be specifically authorised by the Group Leasehold Manager. Where OHG do decide to pursue forfeiture, it will advise any lender.

OHG would always work with the shared owner and the lender to find ways to sustain the tenancy. In extreme cases this may result in considering a buy back or reverse staircasing



in part, or in total with the resident being offered a standard 'Assured tenancy not related to the lease. Where OHG decide to pursue possession through the courts, it will always advise any lender in advance of the action, and will continue to keep them advised of any progress. Once OHG achieve possession, it will have an obligation to:

- secure the property
- maintain insurance
- secure water supplies, and
- make regular monthly visits.

Where a lender has taken possession, OHG are still responsible for the issues listed above (under the terms of its insurance policy), but the lender is obliged to make payments to OHG for rent and service charges.

#### **4. LEGISLATION REGULATION & GUIDANCE**

The use of forfeiture for disrepair is governed by the Leasehold Property (Repairs) Act 1938. Forfeiture by 'peaceable re-entry' is not lawful for residential premises, unless the landlord believes, on reasonable grounds, that the residential occupier has ceased to reside in the property (a mere temporary absence, e.g. on holiday, would not constitute ceasing to reside). In view of this, generally forfeiture will therefore be undertaken following successful court proceedings.

#### **5. CONFIDENTIALITY**

Under the Data Protection Act 1998 and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential. This includes:

- anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or committee member
- sensitive organisational information

Officers will ensure that they only involve other agencies and share information with the consent of the resident concerned, unless:

- OHG is required to by law
- the information is necessary for the protection of children

#### **6. EQUALITY & DIVERSITY**

OHG recognises the needs of a diverse population and always acts within the scope of its own **Equality and Diversity Policy**, the Human Rights Act 1998, The Disability Discrimination Act, and Race Relations Act.

OHG works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. The Performance Information



Team is responsible for recording, analysing and monitoring information on ethnicity, vulnerability and disability.

## **7. MONITORING & REPORTING**

OHG regularly monitor all cases of forfeiture and other possessions and provide a report to the OHG Board and subsidiary companies Boards. Residents are offered the opportunity to review performance and make recommendations for improvement.