TOWER HAMLETS

A guide for non-resident leaseholders of Harriott, Apsley and Pattison House

Selling your property to the Council

Contents

Introduction 03

Selling your property to the Council 04
Valuing your property
Your tenants
Buying another property

Your entitlement to compensation 06
Basic Loss Payment
Repaying arrears
Reimbursement of your fees
Stamp Duty Land Tax

Compulsory Purchase Order (CPO) 10
What is a CPO?
Objections
Public Local Inquiry
Glossary

Useful contacts and links 12

Introduction

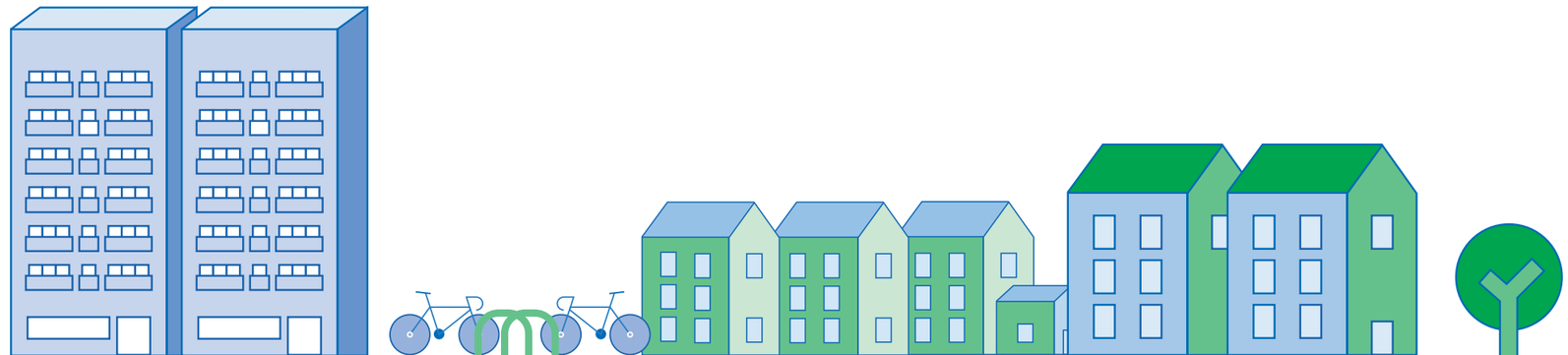
You have been sent this guide as the London Borough of Tower Hamlets ('the Council') believes you are a non-resident leaseholder (someone who does not live in the property they own). It explains the Council's approach to buying your property when demolition/redevelopment is proposed.

The Council will inform you about any proposals for your area which may affect your property. The Council will write to you at the contact address you have provided to us and will organise drop-ins and other events to discuss possible options and raise any concerns.

The key commitment by the Council to you as a non-resident owner is that you will be offered the market value to purchase your property. You will also be paid a 7.5 percent 'basic loss' compensation payment as well as reimbursements. These include reasonable fees and taxes incurred for both the sale of your property and for the purchase of a replacement property for a limited period, including independent valuation and legal support.

Non-resident leaseholders
A non-resident leaseholder is defined by the Council as a property owner who does not live permanently in the property they own, i.e. it is not their only or main home. When deciding whether a leaseholder is resident or non-resident, the Council will take the following into account:

- Whether the leaseholder has notified the Council/Tower Hamlets Homes ('THH') that they are letting the whole property to tenants.
- Whether the leaseholder advised the Council/THH of an alternative address for correspondence/billing.
- If there are records to show that the leaseholder has not been living at the property on a permanent basis, or that it has been rented out, during the 12 months before the redevelopment proposals.
- Please note that the Council will liaise with THH and other Council departments to corroborate details in each case.



Selling your property to the Council

Now that the redevelopment of the estate is going ahead, Council officers will contact you regarding the purchase of your property. The Council encourages owners to come forward and talk to us so that we can arrange an initial valuation of your property, discuss any concerns you may have and start to negotiate a satisfactory settlement for all parties. Our Council valuer will arrange an appointment to make an initial valuation of your property, at your convenience.

Valuing your property

The market value of your property is based upon what it would be expected to be sold for, on the open market, by a willing seller. In assessing the market value of your home it is assumed that you would only be willing to sell at the best price which you could reasonably achieve in the open market.

Valuations are based on the principle of equivalence, which means that you should not be better or worse off financially than before the regeneration proposals were published. Valuations are carried out on the basis of open market value without any increase or decrease because of a proposed scheme.

The assessment is undertaken by the valuer who will inspect your property. The inspection involves taking measurements of the floor space and noting the property's construction, age, accommodation, condition (including any obvious defects), services and amenities.

The valuer will undertake research to identify similar properties in the area, known as 'comparables' and the prices they have been sold at in recent years. An adjusted market valuation is then prepared to reflect any differences between the comparables and your property, such as accommodation size, condition, age, type of construction and date sold.

The valuer will send you a written market valuation of your property and confirm how much Basic Loss Payment (please refer to page 6 for more information) you are entitled to. This will usually be 7.5 percent of the sum the Council pays you for the property, minus any arrears or other sums owed to the Council, such as service charges and council tax.

The Council recommends leaseholders to obtain their own valuation carried out by a RICS (Royal Institution of Chartered Surveyors) qualified valuer. Relevant contact details are provided on the last page.

Later in this document, we explain how you can appoint a valuer to represent you and claim back from the Council, reasonable fees for the services you need.

This includes your own valuation report and representation in negotiations with the Council's valuer. You will also be able to claim back the reasonable costs to appoint a valuer when buying a replacement property, for a limited period. (see page 7 for details)

What if my valuer disagrees with the Council's offer of market value?

The Council's valuer and your appointed valuer will normally negotiate and try to reach an agreement on the market value for your property. If the Council's valuer and your valuer cannot ultimately agree on a market value, non-resident leaseholders can propose the use of Alternative Dispute Resolution (ADR), which is a service offered by the Royal Institution of Chartered Surveyors for compulsory purchase disputes. Any application for ADR would need to be agreed by the Council and each party would be responsible for meeting their own costs, with the costs for the appointed Independent determiner being apportioned at the point a decision is reached. An ADR guide can be downloaded from the RICS website using the link, **https://www.rics.org/dispute-resolution-service/drs-services/adr-for-compulsory-purchase-disputes**.

The final option for contesting the value of your property is at the Upper Tribunal, which is an independent judicial body set up by the government to resolve disputes concerning land issues.

Leaseholders should be aware that the Upper Tribunal also determines who should pay the costs for its assessment. This cost may be charged to the leaseholder personally in some cases. Leaseholders are therefore advised to seek legal advice before taking this course of action. You will be entitled to claim the reasonable costs of a solicitor for the sale of your property to the Council and for the onward purchase of another property within a limited period.

Your private tenants

The Council will **not** acquire properties with tenants in occupation as we will be buying your property in the open market with vacant possession.

If you rent your property, it will be your responsibility as the landlord to ensure that you give appropriate and timely notice to your tenants or other occupiers, in line with good practice and legal requirements, to secure vacant possession before completion of the sale to the Council. The Council cannot assist you in this process. The Council does not have an automatic responsibility to rehouse people who may be occupying your property.

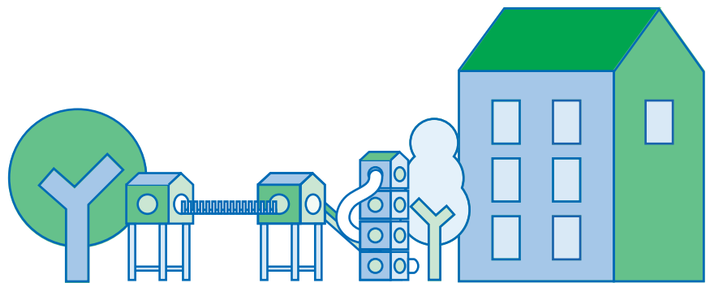
If your tenants or other occupiers require housing advice, they can contact the Council to obtain this, but that does not imply they will have any entitlement to relocation support.

Please inform your tenants to contact the council's Private Housing Advice Team by emailing **housing.advice@towerhamlets.gov.uk**

If you already have other properties elsewhere, you may be able to offer alternative accommodation to your tenants. The Council would encourage this.

Buying another property

If you have agreed a valuation with the Council for your existing property you may decide to buy another investment property elsewhere. Whilst the Council can give general advice on how to go about doing this, we cannot provide direct support other than the financial compensation items highlighted already in this guide.



Your entitlement to compensation

Basic Loss Payment

As a non-resident leaseholder, you are not entitled to receive a statutory home-loss payment. However, you are likely to be entitled to a Basic Loss Payment in addition to any other compensation due. This is designed to reflect and recognise the inconvenience and disruption caused by the acquisition. To qualify for a Basic Loss Payment:

- You must have an interest in the property which you have held for 12 months or more ending on either the date the Council takes possession or the date compensation is agreed, depending which is earlier.
- The basic loss payment is 7.5 percent of the market value of your property, subject to a ceiling of £75,000.

Repaying arrears

Outstanding service charge or council tax arrears will be deducted from the amount you are due on completion of your sale to the Council, but you are strongly advised to seek a resolution with the relevant Council department before that date.

You are also asked to disclose to the Council if you have had a court judgement made against you, for example to recover arrears in service charge, council tax or some other debt, as this could prevent you obtaining a mortgage to purchase another property.

Reimbursement of your fees by the Council

The sums set out below are a guidance on how much the Council can reimburse for the items listed. The Council can only reimburse you if you use accredited professionals. You are advised to seek full quotations in advance from any company or individual that you intend to appoint to carry out legal, surveying or other services for you, such as removals.

You should also make clear to those you appoint that you will need fully itemised fee quotations including 'disbursements'. These are any sums paid directly by the provider in the course of delivering their service to you that they may ask you to repay later. They are also known as 'out-of-pocket' expenses.

Before deciding to use a service, you should check with the Council that the expenses expected will be covered.

Fees for your independent valuer

The Council recommends that you appoint an independent valuer. It will be your responsibility to agree the terms of their appointment. It is advisable to appoint a valuer who has the relevant local market experience. Details of valuers registered with the Royal Institution of Chartered Surveyors are available at **www.rics.org**

You can appoint an independent valuer to act on your behalf to negotiate the sale of your existing property to the Council. The Council will reimburse you for this advice, subject to a maximum payment of £1400 plus VAT, comprising the following services:

- Valuation advice – up to £850 plus VAT – for the valuation of your existing property.
- Negotiation of the sale of your existing property to the council – up to £550 plus VAT.

Please note reimbursement of your valuer fees will be subject to conditions, which are explained below. You should check in advance that your valuer's fees will fall within the guided sums which the Council will reimburse. If they do not, you will be expected to pay the difference yourself.

In addition to the fees above, the Council will also reimburse you up to £850 plus VAT for the valuation of one onward purchase of a replacement property.

In total you may claim for surveying fees up to £2,250 for both the sale and onward purchase subject to meeting the conditions. This is explained in more detail in the next sections.

Valuation fees (valuer) for your property

The Council will pay a maximum of £850 plus VAT for your valuer to provide you with a valuation report for your existing property. The report should be prepared by a RICS registered valuer, i.e. a member of the Royal Institution of Chartered Surveyors (RICS). As explained above, you may also claim up to a maximum of £850 plus VAT for the valuation for a completed onward purchase of another property, provided this is done within 12 months of the sale of your existing property to the Council.

You should instruct your valuer that the Council will expect valuation reports to meet the current RICS valuation standards and as a minimum must include the following content:

- background, basis of instruction and valuation basis
- description/location of property
- accommodation, including measurements
- construction/condition
- services
- charges/taxes
- planning/use
- details of comparable evidence
- opinion of property value.

Your valuer should submit an invoice to you personally, which the Council will reimburse. The Council will not accept or pay invoices received directly from your valuer.. It will be your responsibility as the client to ensure payment has been made to your valuer for valuation and negotiation. Any issues or disputes you may have with your appointed valuer will need to be resolved by yourself and the Council cannot intervene as you are the client.

You will be reimbursed after:

- You have confirmed to the Council you have received a copy of the valuation report.
- The Council's valuer has received a copy of the report, and is satisfied it contains the information mentioned above.
- You provide the invoice sent to you by your valuer.

Negotiation fees (valuer)

The Council will pay a maximum of £550 plus VAT for your valuer to negotiate the sale of your existing property to the Council.

This payment will be made only upon completion of the purchase of your property by the Council. Your valuer should submit an invoice to you which the Council will reimburse. The Council will not accept or pay invoices received directly from your valuer.

Claiming your legal fees for the sale of your existing property

The Council will reimburse your reasonable legal conveyancing costs, up to a maximum of £1250 plus VAT, including disbursements, in respect of the sale of your property.

Disbursements include items such as charges for local searches, CHAPS and BACS payments and Land Registry charges. These legal fees will only be reimbursed upon completion of the sale of your property to the Council, not at any time before this. You will need to present fully itemised receipts from your solicitor.

Please note that under a Compulsory Purchase Order process, the value of your present property may be determined by an Upper Tribunal and you are entitled to have professional representation, the reasonable costs of which would form part of a final compensation agreement. In this situation, the professional fees will be paid upon legal completion of the purchase of your property.

Claiming your legal fees for buying another property

If you re-invest the proceeds of your sale into buying another property, the Council will reimburse your legal fees for the purchase up to a maximum of £1250 plus VAT for legal fees, and a maximum of £250 plus VAT for reasonable disbursements. Therefore, the Council will pay a maximum total of £1,500 plus VAT for all your legal expenses incurred. Any legal fees, disbursements or otherwise beyond this amount will need to be paid by you.

It is important to note, you are only eligible for this payment for 12 months from the completion of the sale of your original property to the Council. The Council will not pay your fees for the purchase of another property beyond this period. This payment will be made on completion of the purchase of your replacement property as follows:

- your solicitor will confirm when completion has taken place
- you provide the Council with the invoice sent to you by your solicitor
- the Council will arrange for payment into your bank account and then you arrange the payment to your solicitor.

Stamp Duty Land Tax

SDLT claims must be made within 12 months of the sale of your property to the Council.

If you decide to purchase another property which is higher value than your existing property, please note that the amount of SDLT which the Council will pay will reflect the value of your property (being sold to the Council). In this situation you may not be reimbursed the full amount of SDLT.

For your guidance, please follow the steps set out below in order for the Council to process your SDLT. If you complete on the purchase of a replacement property (within the 12 month qualifying period for reimbursement) the Council will require you to provide a copy of the signed contract and confirmation of the sale directly from your solicitor. Please inform your solicitor to contact the Housing Regeneration Team by emailing **ClichyEstate@towerhamlets.gov.uk**

Once the purchase has been completed, you have a statutory obligation to pay Her Majesty's Revenue and Customs (HMRC) your SDLT payment within 14 days.

Your solicitor will need to present as much information as possible to the Council prior to the completion of the purchase of a new property. If you contact the Council at the earliest point (not less than 15 working days) prior to completion and tell us about your planned purchase, we can process your application as swiftly as possible. However, payments will only be made once your solicitors have satisfied the Council's requirements fully and the purchase has been completed. Once your solicitor has contacted the Council and provided the relevant documents and we are satisfied with all the evidence, we will require 10 working days to make the payment to you following completion. We will of course, wherever possible, try to make payments earlier.

Failure to provide documents and sufficient notice to the Council may result in a delay to SDLT payments. The Council will not be held liable for any charges. It is the leaseholder's responsibility to make the SDLT payment to HMRC.

Capital Gains Tax

If you sell a property in the UK, you may need to pay capital gains tax (CGT) on the profits you make. We suggest that you obtain the independent advice from a tax expert who may be able to help you with any calculations regarding CGT. The Council may be able to assist you with CGT up to a certain amount, but we will require you to demonstrate and document your official position. Once you submit the relevant evidence the Council will look into how much financial assistance we may be able to offer. Please note we may not be able to cover the full CGT that you may be liable to pay, but we will write to you to confirm.

It will be your responsibility to ensure all correct taxes which are due are paid as a result of you selling your property back to the Council. As suggested above we strongly recommend you get professional financial assistance.

Claims summary

In summary, a schedule of potential claims a leaseholder can made is below.

Claimable Fees	Amount	Notes
Independent survey/ valuation fee on sale	£850 plus VAT	A RICS certified valuer to complete a valuation report on your existing property.
Surveyor negotiation fee on sale	£550 plus VAT	To appoint a valuer to negotiate of the sale of your property to the Council.
Legal/conveyancing fees on sale	£1,250 plus VAT	To complete the sale of the property to the Council. This fee is inclusive of disbursements.
Legal fees for purchasing another property	£1,500 plus VAT for legal fees and disbursements	Should you acquire another property within 12 months of completion of your sale to the Council, the Council will reimburse your legal fees up to a maximum of £1,250 plus VAT for legal fees and £250 including VAT for reasonable disbursements.
Removal fees	£950	To assist with any removal fees and items such as gas/fridge re-connection, postal re-direction fees etc.
Independent survey/ valuation fee for new property being purchased	£850 plus VAT	A RICS certified valuer to complete a survey/ valuation report on the property you are purchasing.
Stamp Duty Land Tax	Up to the amount due on your existing property	The Council will pay the Stamp Duty for the purchase of your next property.

Compulsory Purchase Order (CPO)

When the Council decides to improve an area for local people through redevelopment, it is likely to serve a Demolition Notice to inform residents of its plans.

Any potential development site may comprise multiple land interests, including leaseholders, freeholders, commercial interests, access rights etc. Before it can start a development, the Council has to acquire these interests from their legal owners.

Whilst the Council aims to purchase properties through negotiated settlements, it is normal practice to consider making a CPO to ensure the Council can obtain vacant possession of the buildings and land needed commence with the redevelopment . The decision to request permission from the Secretary of State to make a CPO is taken by the Mayor for the Council, after weighing up the need for the regeneration proposals and the impact these

A CPO is only made after community engagement setting out the proposals. The making of the CPO is actually the start of a further engagement process where you can have your say. It starts a process which is outlined below for your information.

Please be assured, it is the Council's intention is to seek voluntarily negotiated settlements with owners wherever possible. Negotiations would also continue alongside any future CPO process.

A CPO process has a number of stages:

- Information gathering
- Making of the order
- Objections
- Public local inquiry
- Secretary of State decision to confirm, reject, or modify.
- Further challenge
- Taking possession of the property

Further information on the CPO process can be found on the RICS website via the link on the back page of this document.

Information gathering and preparing the CPO

If the Council intends to make a CPO relevant information required to support the CPO will be collected and the Council will also define the boundaries of the scheme area for compulsory purchase.

The Council will seek to identify everyone who has an interest (those who own or have rights over property or land) in the property or land to be acquired, including those with freehold or leasehold interests, as well as any occupiers or tenants.

This may include serving what is known as a Requisition for Information Notice.

Making of the CPO

When a CPO is made all known persons with an interest (those who own or have a stake in property or land) are informed by a notice. The Council also makes a public announcement in the local press, inviting representations or objections to be made within 28 days. This gives everyone who is affected by the CPO an opportunity to express their views. Representations or objections are sent to the Secretary of State for Levelling Up, Housing and Communities. At the same time, all interested parties will receive a statement showing the Council's reasons for making the CPO.

Objections

If no valid objections are received and the Secretary of State is satisfied that the procedures have been followed properly, the CPO will be confirmed, modified or rejected without the need for a formal hearing.

However, if objections are received which the Secretary of State considers to be valid, a public local inquiry will be held.

Public inquiry

The Secretary of State will write to the Council and the objectors informing them that an inquiry will be held. The inquiry will be heard by a government appointed inspector.

Sometimes, the inspector may choose to receive written representations as an alternative to an inquiry. Under this procedure, objections would be considered by an inspector in writing.

Regardless of which procedure is used; the inspector will produce a report for the Secretary of State clearly setting out their conclusions and recommendations. The inspector will recommend a course of action to the Secretary of State, who will take the final decision.

Decision and confirmation

After considering the inspector's report, the Secretary of State may confirm, modify or reject the CPO. The Council must then advertise the decision in one or more local newspapers (by means of a statutory notice in the classified advertising section of the local newspaper) and notify all those affected by the CPO.

Further challenge

If objectors consider that there are legal grounds on which to call into question the decision-making process of the Secretary of State their decision may be open to challenge by way of judicial review in the High Court.

Taking possession of property and land

If the CPO is confirmed, the Council will continue to negotiate with the owners of the property or land to be acquired. The Council will only use the powers granted by the CPO as a last resort to enable works to start. If the powers of the CPO are used, ownership of the land or property is transferred to the Council within an agreed timescale and compensation is paid to the owner. The Council will keep residents informed throughout all the stages of a CPO and it will continue to negotiate with residents even if there is an ongoing public inquiry.

Glossary

Alternative Dispute Resolution (ADR)
Method of settling a dispute without going to court or tribunal for a decision.

Basic Loss Payment
Basic Loss Payments are payable to non-residential owners to reflect and recognise the inconvenience and disruptions caused by the acquisition.

Open Market Purchase
-Straightforward buy-back of the leaseholder, or freehold property, for the agreed market value.

Market Value
s the price that a good or service is offered at, or will fetch on the open market, with a free and willing buyer and willing buyer and seller.

Non-Resident Leaseholder
A non-resident leaseholder is defined by the Council as a property owner who does not live permanently in the property they own, i.e. it is not their only or main home
.

Upper Tribunal
-The tribunal has the statutory power to deal with some disputes involving land or property.

Valuer
A property valuer is a type of surveyor who is qualified to make an assessment of the market value of properties. They must be accredited members of the Royal Institute of Chartered Surveyors (RICS).

Notes

Notes

Notes

Contacts

Tower Hamlets Council
housing.regeneration@towerhamlets.gov.uk
0207 364 7799
www.towerhamlets.gov.uk

PPCR (Your Independent Tenant & Leaseholder Advisor) – PPCR
Mo Ali 020 7407 7452
MAli@ppcr.org.uk

Tower Hamlets Homes
0207 364 3236
www.towerhamletshomes.org.uk

Department for Levelling Up, Housing & Communities
030 3444 0000
www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities

Citizens Advice Bureau
0207 247 1050
www.eastendcab.org.uk

The Leasehold Advisory Service (LEASE)
020 7383 9800
www.lease-advice.org

Leasehold Advice Centre
Help@LeaseholdAdviceCentre.co.uk
01483 890672
www.leaseholdadvicecentre.co.uk

DirectGov (information on getting legal advice and legal aid)
www.direct.gov.uk

The Royal Institution of Chartered Surveyors (RICS)
020 7222 7000
www.rics.org

The Upper Tribunal (Lands Chamber)
020 7612 9710
www.justice.gov.uk/tribunals/lands