

Section 20 Consultation Policy

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Responsible Officer	Executive Director of Customer Services
This policy is applicable to	Karbon Homes
Approved by	KMT
Date approved	December 2022
Frequency of review	Every 5 years
Date of next review	November 2026
Implementation date	December 2025
Key related documents (policy, procedure, customer literature)	Karbon Homes Tenants & Leaseholders Handbook Karbon Homes Repairs and Maintenance Policy Karbon Homes Service Charge Policy Karbon Homes Service Standards
Sources of best practice or guidance used in developing this policy	<ul style="list-style-type: none"> The Landlord and Tenant Acts of 1985 and 1987 The Commonhold and Leasehold Reform Act 2002 The Service Charges (consultation requirements) (England) Regulations 2003

Version control			
Version number	V2	Author of Policy	Rob Jeffreys, Head of Income
Equality Impact Analysis	Initial	Equality Analysis Date	March 2019

Document change history		
Version	Date	Changed sections
V2	June 2022	Various formatting changes throughout policy Updated sections 8-9 with new corporate sections
V2	November 2022	Updated section 4-6 to provide additional detail
V2.1	April 2024	Added new section 'Our Approach to Vulnerability'

Consultation	
Consultation Group (if applicable)	Date of Consultation (if applicable)
Staff	June 2020
Union(s)	Not applicable
Customers	Not applicable
Human Resources / Organisation Development	Not applicable
Health and Safety Working Group	Not applicable
Other stakeholder (please state)	Not applicable

Policy statement

Karbon Homes is committed to providing excellent standards of service to its customers. This policy is aimed at all service charge payers such as leaseholders, shared owners and variable service charge paying residents. The policy is to ensure that Karbon complies with its obligations under section 20 requirements so that a full and meaningful consultation with residents is undertaken prior to any major works to their building or long-term contracts are entered into.

Risk policy is designed to control

This policy is designed to ensure that Karbon Homes complies with all relevant legislation, regulatory guidance, Codes of Practice and the use of best practice when conducting Section 20 Consultations.

Definitions

Section 20 - the requirement for landlords to consult before engaging contractors for major works or on long term agreements under Section 20 of the Landlord & Tenant Act 1985 (as amended by the Commonhold & Leasehold Reform Act 2002)

Section 20ZA – s20ZA Landlord and Tenant Act 1985 which gives landlords the right to apply to the First Tier Tribunal for dispensation from the Consultation Requirements of Section 20 Landlord & Tenant Act 1985

Consultation Regulations – the Service Charge (Consultation Requirements) (England) Regulations 2003/1987

Service Charge - Costs and expenses incurred by Karbon Homes in maintaining and managing a range of activities and obligations relating to a property/building including its physical condition, environment and use of both the demise and common areas, where such costs are recoverable from the owner/resident by virtue of the lease/tenancy agreement.

Variable Service Charge - Service charges, which are based on the actual or estimated cost of the service which may vary year to year. Those paying a variable service charge are liable for any deficit or are refunded any surplus.

Fixed Service Charge - Service charges which are set at a particular period within a year and remain fixed for 12 months. Residents are not liable for any deficit nor are they refunded any surplus.

Residents - Leaseholders, shared owners and tenants who live in a property or building that is owned or managed by Karbon Homes

Recognised Tenant Associations - Formally recognised association by the landlord or a Rent Assessment Committee, under Section 29 of the Landlord & Tenant Act 1985.

First Tier Tribunal – The First Tier Tribunal – Property Chamber. A Tribunal that deals with applications, appeals and references relating to disputes over property and land. This includes over lease terms and the reasonableness of service charges.

Qualifying Long Term Contract (“QLTA”) – an agreement lasting more than 12 months for which the service charge cost per resident is over £100 per annum.

Qualifying Works – are repair, maintenance, improvement or other works to a building for which the cost per resident is over £250.

1.0 Purpose of policy

- 1.1 This policy sets out how and in what circumstances Karbon Homes will consult with residents over qualifying works and qualifying long-term agreements. Karbon is committed to maintaining its properties to high standards and in doing so will collect all contributions due in accordance with leases and tenancy agreements.
- 1.2 This policy does not apply to those residents paying a Fixed Service Charge and those residents who do not pay a service charge in addition to their rent.

- 1.3 This policy does not apply to any qualifying works for long terms agreements provided through our property services teams, a contract of employment, an agreement between Karbon Homes and any of our subsidiaries. This policy will not apply to agreements lasting less than five years, entered into at a point where there were no residents at the property (for example in a new housing development where the agreement was in place prior to the scheme being occupied).

2.0 Objectives

- 2.1 This policy ensures that Karbon Homes:

- 2.1.1 Complies with its statutory obligations on consulting with residents as required in the Landlord and Tenant Act 1985 as amended by Commonhold and Leasehold Reform Act 2002 and as directed by The Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Consultation Regulations”).
- 2.1.2 Complies with all relevant legislation, regulatory guidance, and Codes of Practice, and to learn from examples of good practice.
- 2.1.3 Communicates clearly with residents by providing accurate, timely information and advice.
- 2.1.4 Provides residents the opportunity to influence and have their say on the services that they receive.

3.0 Background

- 3.1 The Commonhold and Leasehold Reform Act 2002, Section 151, amended the statutory consultation rules set out in Section 20 of the Landlord and Tenant Act 1985, The Consultation Regulations require consultation to take place in respect of any proposed Qualifying Works and any proposed Qualifying Long Term Agreement.

Note this Policy is not intended to replace the requirements in the Consultation Regulations, if there is any doubt the procedure as set out in the Consultation Regulations for either the Qualifying Works or QLTA should be consulted and followed.

4.0 Qualifying Works

- 4.1 Qualifying Works are any works to be carried out to a property or building which would require a resident to contribute over £250 per property as a service charge in accordance with their Lease.
- 4.2 In respect of Qualifying Works, Karbon Homes will follow the statutory requirements as set out in the Consultation Requirements for Qualifying Works. These steps are outlined below as follows:

- a) A Notice of Intention is sent to residents to inform them that Karbon Homes intends to undertake Qualifying Works. Karbon Homes is required to describe the relevant matters and give reasons as to why the work or entering the agreement is considered necessary and given a statement of the total amount of expenditure likely to be incurred in connection with the proposed works. The Notice of Intention should invite residents to provide observations in writing in relation to the proposed works or agreement and specify the contact details and deadline for those observations.

The period for this consultation will be a minimum of 30 days and affected residents have the opportunity to nominate a contractor of their choice, subject to relevant criteria. Karbon Homes is duty bound to include any nominated contractors in the tendering process provided they meet the minimum criteria. Karbon will obtain estimates in accordance with the Consultation Requirements.

If the consultation period involves an inspection then the Notice of Intention should specify a place and hours for inspection and the place and hours must be reasonable.

- b) Following the consultation period, a Notice of Proposals/Contract Notice is sent to residents to inform them of the contractors/service providers that have provided estimated costs for the qualifying works/QLTA. A minimum of two estimates will be included within the notice. Karbon will provide the reason(s) for the selecting the successful contractor/service provider.

The period for this consultation is at least thirty days and affected residents have the opportunity to comment on the estimates provided.

- c) Karbon Homes will then enter into a contract for the Qualifying Works with either the lowest estimate given or the nominated person.
- d) Subject to paragraph 3.4 below, within 21 days of entering that agreement, Karbon Homes will give Notice that the agreement for Qualifying Works has been entered into or if a public notice is required will respond to observations received about the Qualifying Works.

4.3 Where the value of Qualifying Works is such that a public notice is required in order to comply with procurement regulations, although Karbon Homes must ask for and consider tenants' opinions and view, tenants do not have the right to nominate a contractor for these contracts. In addition, the notice of proposals and estimates would only include the details of the contractor that had been awarded the contract, along with the estimated costs.

4.4 An award of contract notice is only required in where Karbon Homes has not awarded the contract to:

- A contractor nominated by a tenant or recognised tenant association; or
- The lowest priced tender

4.5 Where emergency works are required and it has not been possible for Karbon Homes to have consulted with those affected residents in the required timescales, Karbon Homes will seek dispensation from compliance with the consultation requirements by application to First Tier Tribunal under Section 20ZA Landlord & Tenant Act 1985. Karbon Homes will however ensure that every attempt is made to comply within the spirit of the Act so that residents are not prejudiced in any way.

5.0 Qualifying Long Term Agreements (“QLTA”)

5.1 A QLTA is an agreement entered into by Karbon Homes with a wholly independent organisation or contractor for a period of more than 12 months. These agreements may cover a range of services that are provided such as cleaning, grounds maintenance or insurance. They may also take the form of energy supply contracts or long terms contracts for repairs and maintenance.

5.2 Karbon Homes must consult with those affected residents where the amount payable exceeds £100 in any one year. This figure is calculated based on the total resident contribution resulting from the agreement, including VAT (and any associated management or administrative costs which come specifically from the proposed agreement), divided by the number of residents in the scheme.

5.3 Karbon Homes will follow the procedure set out in the Consultation Requirements which is outlined below:

- a) Prior to entering an QLTA Karbon Homes will serve a Notice of Intention advising residents that it intends to enter into an agreement whilst providing a description of the works or services to be provided and stating the reasons why it is deemed necessary.
- b) The Notice shall be served on all those affected Leaseholders and recognised Tenants Associations. They both have the right to nominate a contractor to tender for the work or services unless the contract must be advertised by public notice (published on the UK e-notification service called Find a Tender Service) when this right will not be available.
- c) Those affected residents will have a minimum of 30 days in which to make any comments on the proposals and Karbon Homes will give due regard to any observations made by residents.
- d) Once Karbon Homes has tendered for the QLTA then it will prepare a Notification of Landlords Proposals giving an estimate of the works or the services provided. Residents will be given the opportunity to review all the documents relating to the tender.
- e) Residents will also be provided with a summary of all observations received after the first Notice and given a minimum of 30 days to make further comments after the Notification of Landlords Proposals have been served before entering the proposed agreement.

- f) Karbon Homes will notify all those affected residents within 21 days on entering the agreement stating the reasons for awarding the contract or give the opportunity for residents to inspect these. Karbon Homes will give a summary of observations received on the proposals and respond to them. This notice will not be required where the contract has been awarded to:
- A nominated contractor; or
 - The lowest tender.

6.0 Other Key Points

- 6.1 Where Karbon Homes have failed to consult properly or have failed to obtain dispensation from a First Tier Tribunal, then the maximum sum of monies that Karbon Homes can collect from each resident will be a £100 per annum per resident for any QLTA agreement and £250 per resident for any Qualifying Works.
- 6.2 Karbon Homes will endeavour to provide services that represent both value for money and to an excellent standard. To ensure that this is achieved Karbon Homes will have in place an efficient procurement strategy.
- 6.3 Where works are likely to result in large costs for residents, then Karbon Homes will endeavour to provide information on payment options or refer residents to organisations that can advise and support leaseholders. In certain circumstances Karbon Homes will advise residents where Sinking Funds, Reserves or other Provisions that may be used to cover the costs of the works.

7.0 Monitoring and Review

- 7.1 The Executive Director of Customer Services is responsible for delegating the monitoring, review and implementation of this policy.
- 7.2 This policy will be reviewed at least every 3 years, with the next expected review date being December 2025. The review will be brought forward if there are significant changes to good practice, regulatory or legislative requirements.

8.0 Our Approach to Vulnerability

- 8.1 This policy is applied in line with Our Approach To Vulnerability Policy. Everyone matters. We want people to be treated fairly, have equality of opportunities, freedom, respect, and access to our services. We will offer support, reasonable adjustments, and adaptations to remove barriers. We will discuss with our customers what is reasonable and appropriate. In delivering this service we may need to escalate a particular case – if we do then customer vulnerabilities will be considered as part of the decision-making process.
- 8.2 We will support people with vulnerabilities to deliver this service. We will work alongside external agencies such as social services, the police and fire services and other appropriate agencies to help and support people with vulnerabilities in the delivery of our services but also to ensure we meet our statutory and regulatory requirements as a social landlord.

8.3 Details are provided in the appropriate areas in this policy.

8.4 All our customer policies are available on the website.

9.0 Equality and Diversity

9.1 This policy is applied in line with Karbon's Equality and Diversity Policy and the associated legislation including the Public Sector Equality Duty and Equality Act 2010. At Karbon we aim to eliminate discrimination, promote equality of opportunity, foster good relations and define the nine protected characteristics of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.

9.2 However, we like to go even further. Beyond these protected characteristics we also take into consideration additional factors such as socio-economic status and language barriers which may also play a part. Our vision is for everyone to be treated fairly, have equality of opportunities, freedom, respect and access to our services.

9.3 To help us achieve this, we will work to improve accessibility for all, offering reasonable adjustments, adaptations and discussing ways that we can work to remove any barriers. A reasonable adjustment involves making a change to the way that we usually do things.

9.4 All of our customer policies and key information are made available on the Karbon Homes website. Reasonable adjustments that can help for example to make our information and services more accessible are sign language and language interpreters. We will work to improve accessibility for everybody that we deal with offering reasonable adjustments, adaptations and discussing ways that we can work to remove barriers that you may experience. A reasonable adjustment involves making a change to the way that we usually do things.

9.5 We work together to look at options and agree what adjustments would be reasonable in your individual circumstances. If you would like to find out more please get in touch with the team.

10.0 Data Protection and Privacy

10.1 We have a clear policy on data protection and sharing data with other partners/third parties under the requirements of the General Data Protection Regulation. This is clearly set out in the Data Protection Policy for the Karbon Homes Group which in association with the Data Protection Procedures must be followed throughout the operation of this policy.