



NOCTON PARK MANAGEMENT LTD

Helping to make Nocton Park a better community!

61 Bridge Street, Kington, HR5 3DJ | Email: enquiries@noctonpark.co.uk | Company Number: 02335481

DEBT MANAGEMENT POLICY

The Board of Director's approach and procedure to managing the due and unpaid Estate Management Charges / Service Charge and other amounts owed by the property owners in Nocton Park under the covenant on their property

September 2022



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CONTENTS

| Chapter Number | Chapter | Page/s |
|-----------------------|---|---------------|
| 1 | Purpose | 3 |
| 2 | Objective | 3 |
| 3 | Expected policy outcomes | 3 |
| 4 | Roles and responsibilities | 4 |
| 5 | General principles | 4 |
| 6 | Estate Management Charges / Service Charge Notices or other Notices of amounts owed | 5 - 6 |
| 7 | Methods of payment | 6 |
| 8 | Debt recovery categories | 7 |
| 9 | Debt recovery - stages of action | 7 - 9 |
| 10 | Doubtful or bad debts - statement | 9 |



1. Purpose

Purpose of policy is to provide to clear guidance for the management of the Estate Management Charges / Service Charges (*hereby referred to in this policy as the 'EMC'*) by the Board of Directors and the procedure that the Board will use when the EMC or any other costs that are due by the property owner as part of their obligation under the signed covenant lodged on their property.

The Board of Directors do have to act in the best interests of the shareholders and the community in regard to their financial stability of Nocton Park Management Ltd and have a legal and fiduciary obligation to ensure that any monies owed to NPML is properly received and anything owed is formally managed.

The procedure is designed so that the property owners are fully aware of the process that the Board of Directors will follow when the EMC and any other debts that are due and owed by the property owner, is not paid and the consequences of not meeting their covenant obligations.

2. Objective

The NPML's debt recovery policy has the following objective:

"To ensure that the contracted and obligated amount due by the property owner, as was agreed by the property owner signing of the covenant when the property was bought, is properly managed, and for properties when no or insufficient amounts are paid, a process is followed that ultimately results in the appropriate payment being made or secured to satisfy the amount owed for the benefit of NPML and community."

3. Outcome

The outcomes expected from this policy are to:

- Set out the general principles of debt management for benefit and knowledge of the community of Nocton Park.
- To ensure that the Board of Directors have a framework to which to work within in regard to ensuring the amounts owed by the property owner are paid
- Ensure a consistent approach to the management of debts across the community
- To allow property owners who owe amounts of EMC or any other debts owed by the property or lease owner to NPML, are fully aware of the process the Board will follow
- Ensure individuals financial circumstances are considered on a case by case basis before court proceedings are commenced.



4. Roles and Responsibilities

i) Board of Directors of NPML

All decisions on the level of the EMC or any other amount owed by a property in Nocton Park (under any specific agreement) are made by the Board of Directors of NPML.

ii) Managing Agent of NPML

Any decision that is made by the Board of Directors in regard to debt management of any amount owed to NPML, is then carried under the authority of the Board by the Managing Agent. The Managing Agent will provide guidance and advice to the Board if requested and will seek external guidance from the relevant specialist or authority as needed.

The Managing Agent will follow the direction of the Board and will refer back to the Board any significant or complex query raised by the property owner in regard to the debt owed. The Managing Agent will provide the necessary detail to the property owner and the Board as required.

5. General Principles

The general principles adopted in this policy are as follows:

- To ensure a professional, consistent and timely approach to debt recovery by the Board of Directors and the Managing Agent
- To permit the Board of Directors to have some flexibility in regard to payment of the amount owed but the discretion is wholly under the auspice of the Board and is not a right of any property owner
- To promote a coordinated approach towards sharing debtor information internally and managing multiple debts owed to NPML
- To improve the speed of collection of the amounts owed by the property owners and the levels of income collected by NPML
- To ensure that debts are managed in accordance with legislative provisions and best practice as detailed under guidance from relevant authorities
- To differentiate between the debtor who has missed a deadline but wishes to pay, who won't pay and the debtor who can't pay - and then take appropriate action in each case.
- Where appropriate, to encourage the debtor to make contact with relevant organisations for debt management advice.



6. Estate Management Notices or other Notices of Amount Owed

i) Estate Management Charge

The Board of Directors will ensure that the community of Nocton Park is made aware of the likely EMC for the following year towards the end of the previous year. The property and lease owners will then receive a formal notice detailing the annual EMC for their property - this will usually be around mid January.

All properties in Nocton Park will at the discretion of the Board of Directors be permitted to pay the full annual cost in 12 monthly instalments - the full balance must be paid by the end of the calendar year.

The Board does reserve the right to withdraw the discretion of a property paying by monthly instalments should a monthly payment be missed by a property owner and require the property or lease owner to pay the full amount owed.

Shareholders' properties - freehold

The EMC Notice will be sent to shareholder properties as detailed above which will detail the annual cost as well as the monthly instalment should they wish to take up the discretion of the Board.

As per the covenant on their property they will be required to pay 50% of the full annual EMC by the 01 April and the remaining 50% by the 01 September (unless they wish to take up the option of the discretion of the Board and pay in monthly instalments).

Shareholders' properties - leased flats

The EMC Notice will be sent to shareholder leased flats as detailed above which will detail the annual cost as well as the monthly instalment should they wish to take up the discretion of the Board. The EMC will include the amount the Board feel is appropriate for the flats sink fund used for regular building maintenance.

As per the covenant on their property they will be required to pay 50% of the full annual EMC by the 01 April and the remaining 50% by the 01 September (unless they wish to take up the option of the discretion of the Board and pay in monthly instalments).

Properties built by Peter Sowerby Developments

The EMC Notice will be sent to Peter Sowerby Development Properties as detailed above which will detail the annual cost as well as the monthly instalment should they wish to take up the discretion of the Board.

Unless they wish to take up the option of the discretion of the Board and pay in monthly instalments the annual EMC is due in full within 14 days of the date of the Notice. The Board will give a discretionary two extra days to allow for postage.

Please note: The properties built by Peter Sowerby Developments do not have an automatic right to pay in two separate instalments as detailed for the Shareholders' property obligations.



ii) Leased flats - building capital maintenance costs incurred

The Board of Directors, as per the details specified in the lease agreement with the lease owners, do have the right to request that each individual lease owner contributes a share of any building capital maintenance costs either when a section 20 consultation is needed (when the individual flat cost is in excess of £250) or when the estimated individual flat lease cost is below £250. This is primarily when the flats sink fund, which is accumulated through the paid annual EMC, is exhausted or insufficient to pay for the building capital maintenance cost.

When an amount of building or maintenance cost is required the following process will be followed:

- a) The formal demand for payment detailing the total cost incurred and the individual lease owner's required contribution will be sent within 14 days after the project is completed - the Board do reserve the right to extend this timeframe in exceptional circumstances.
- b) The lease owner will then have 28 days to pay the full amount requested for their contribution on their leased flat. If they fail to make the full payment as required, then the Board will consider if the debt recovery stage one should be enacted.

7. Methods of Payment

The Board will accept the following forms of payment for the EMC or any Leased Flat Capital Maintenance cost:

- Standing Order
- Single Bank Transfer
- Cheque payment

Please note: Unfortunately NPML is not able to accept any credit or debit card payments nor cash.

8. Debt recovery categories

The Board state that the collection of EMC and any other recoverable costs in respect of formal notices raised must follow a standard course as detailed below. The Board do recognise that there may be unique circumstances for each case of a property owner that has not paid the requested amount due by the date required.

For each case the Board will need to ascertain which of the following categories the unpaid debt falls into:

- i) It was an oversight by the property owner and they wish to make the relevant payment due*

The Board will consider an extension of the timeframe to which the amount is due (and will be as flexible as they deem appropriate) but will make the property owner aware that if any agreed timeframe is not met then the Board will immediately start the formal debt recovery process and will fall back on the timeframe as detailed in the covenant on the their property.



ii) They cannot afford to pay the full or partial amount

The Board will consider all the relevant details in regard to property owners who have claimed they cannot afford to make the full or partial payment for the EMC or any other relevant debt. The Board have the discretion to extend the timeframe when the payment is due but will need to consider the long term situation for the property or lease owner as well as the effect on the ability of the Board to undertake the necessary on the community area, but crucially on the financial solvency of NPML.

iii) They are refusing to pay the full or partial amount

If there is clear evidence that that property or lease owner either has either wilfully acted (or communicated) in a way that demonstrates they are refusing to pay, or has not provided any detail that they meet points 8 (i) or 8 (ii) the Board will endeavour to commence debt management processes as soon as the amount is due and is not paid.

9. Debt recovery - stages of action

The following are the stages to which the Board will follow in regard to any unpaid debts when due:

i) Stage one - Reminder letter

The first stage is that the Board will send a REMINDER letter to the property owner by email (if the Board hold the email address) or by post. The Board will give the property owner 21 days to make the requested payment in full. They will be requested to contact the Managing Agent at their first opportunity to discuss if there are any issues which may have affected their ability to pay to which they wish the Board to consider.

If the property or lease owner does contact the Managing Agent with a specific request for flexibility, this will be passed to the Board to consider any flexibility in regard to payment periods with a recommendation from the Managing Agent. **The final decision will rest with the Board of Directors.**

The Board will ensure that the property or lease owner is made aware that should the Board be required to progress to *Stage Two* of the *Debt Recovery* progress, then the Board will have the discretion to charge an administration fee of £25. This is to cover the administration time that the Managing Agent incurs.

ii) Stage two - Final Reminder letter

Should no or insufficient payment be made for the requested amount (which may include the administration fee of £25) by the 21 days as stated in *Stage One*, the second stage will be that a FINAL REMINDER is sent by recorded delivery (irrespective if the Board hold the email address of the property or lease owner). This will detail that unless the requested amount is paid within 21 days the Board will consider submitting a formal claim in the County Court which will incur both Court Submission Fees but also statutory interest from the date to which the debt was due.



The Board will ensure that the property or lease owner is made aware that once the Court Submission has been made, the extra costs incurred (Court Submission Fees and Statutory Interest) will remain and only in exceptional cases will the Board agree for these to be excluded from the amount owed. In most cases, the Board will insist that for the Court Claim to be withdrawn, all costs incurred as well as the original debt is paid.

iii) Stage three - Court submission

If the all the amounts requested have not been paid (or have received formal permission from the Board for the exclusion of some or all of the extra costs incurred) the third stage will be the formal submission of the Claim for all funds owed (including costs) to the County Court. This submission will detail the various documents that have been sent (including the formal notices) as well as the detail of the covenant that the property or lease owner signed when they purchased their property or lease which is the foundation of the debt that is owed.

Once the Court Submission is made, the Court will then make the property or lease owner aware (they will then be formally known in the court papers as the *DEFENDANT*) that a claim has been made giving them a timeframe to which they must formally respond - either the full payment or giving details of why they feel the amount is not owed.

If the full amount claimed has not been paid or the claim has not been withdrawn by NPML, then the Court will then consider if mediation is appropriate, but if either party do not agree (and they are not legally required to agree) then a formal court hearing will be scheduled.

The CLAIMANT (who are the Board of Directors of NPML) and the defendant may then also be asked to submit any further evidence or statement in support of the claim or defence as appropriate. The Board will reiterate to Court that the basis of the claim will be the signed covenant the purchaser of the property or lease signed when they purchased the property or lease - thus the defendant will have to prove to the Court's satisfaction that the signed covenant is not persuasive for the claim defence to be successful.

iv) Stage Four - Court Hearing

The fifth stage of the debt collection process is the court hearing which may be either in person or via an online video hearing (in court it is referred to as CVP). The District Judge will then, having read the submitted documents from both the Board and the defendant, will then go through the evidence with the attending parties and will make decision on the claim submitted by NPML.

The Board do wish to note that it will, unless considered inappropriate, make an application for any extra costs incurred (over and above the EMC / flat maintenance capital cost, the court cost and the admin cost) and while this is not automatically awarded the Board will show the Court that the claim is based on a signed covenant which may convince the Court that the defence was without merit. The Court will then decide on the application for any costs incurred to be awarded against the defendant.



v) Stage Five - Post Court Hearing debt recovery

The final stage of the debt recovery is dependant if the Court awards the claim against the defendant for NPML. The Board does wish to note that if the claim is unsuccessful, then this stage is immaterial.

If the claim is successful and the formal County Court Judgement is made against the defendant, the Board will ask that the full amount awarded (including any extra gratis costs incurred) is paid within 30 days. The usual course of affairs is that if the amount awarded by the Court in the formal judgement is not paid within 30 days, then the County Court Judgement will remain on the credit files of the defendant for a period of six years - this will severely affect the ability of the defendant to apply for credit for this time period as the judgement is recorded by all credit reference agencies.

The Board, if the amount awarded against the defendant is not paid within 30 days, may employ the services of a debt collection agency who will be entitled to charge debt collection fees which will be added to the overall debt owed by the defendant. The debt collection agency, should they be initially unsuccessful, may recommend that an application is made to Court to have a secure charge placed on the property or lease which will then be redeemed should the property or lease be sold.

10. Doubtful or bad debts

The Board will not excuse any debt owed to NPML unless it considers that by pursuing the debt will be significantly detrimental to the interests of NPML and the interests of the shareholders it represents. This will be extremely rare and will require a full board approval after receiving any formal and professional recommendation it deems necessary.

Should the defendant be made subject to any bankruptcy or debt relief order, the Board will retain its financial interest through the covenant signed on the property or lease and thus any insolvency proceedings will not affect the debt owed.
