



Section 20 Major Works and Service Contracts

Responsible Director: Director of Homes and Wellbeing

Responsible Manager: Head of Specialist Housing

Last updated: November 2018

Next update: November 2021

G06 Section 20 Major Works and Service Contracts

1. Purpose

- 1.1 This policy and procedure outlines the procedures for consulting leaseholders about cyclical maintenance and major works contracts and agreements for services contained in Section 20 of the Landlord and Tenant Act 1985.
- 1.2 The policy intends to ensure that NCHA meets its legal obligations and is able to recover the full cost of major works contracts or service agreements from its leaseholders.

2. Policy Statement

- 2.1 It is the policy of NCHA to ensure its assets are properly maintained, including leasehold properties where it has a maintenance liability.
- 2.2 The Association will maintain sinking funds for cyclical maintenance and major repairs, where the lease permits, to ensure adequate provision for future maintenance liabilities, and to avoid significant fluctuations in service charges or the need to issue large repair bills to leaseholders.
- 2.3 NCHA will meet the requirements of Section 20 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002, and any subsequent legislation, in respect of the consultation of leaseholders about contracts for services and major works.
- 2.4 These procedures may not apply where there is a partnering relationship with a contractor but if the contract to be tendered is subject to EU procurement rules Section 20 will apply.
- 2.5 In exceptional circumstances, very urgent works over the prescribed limits may have to be carried out before Section 20 consultation has been completed. This may require application for a retrospective dispensation from the First Tier Tribunal.

3. Risks

- 3.1 The risk that the Association may be unable to recover the full cost of works or the provision of services through its failure to follow the Section 20 procedures correctly.
- 3.2 The risk that properties could be inadequately maintained due to a lack of funding.
- 3.3 The risk that leaseholders could be dissatisfied with the Association's management of major works or service contracts.
- 3.4 The risk that the Association could be challenged by leaseholders at the First Tier Tribunal.

4. References

- 4.1 Landlord and Tenant Acts 1985 and 1987
- 4.2 Commonhold and Leasehold Reform Act 2002.
- 4.3 NCHA Asset Management Strategy

5. Procedure: Major Works Contracts

- 5.1 The following procedure applies to all the NCHA Group's leasehold housing, and must be followed to ensure the recovery of the full cost of qualifying works.
- 5.2 Qualifying works include general maintenance, major repairs, improvements and cyclical maintenance, including redecorations.
- 5.3 The prescribed limit for these qualifying works is currently **£250** per year. This includes VAT. If the cost of the works will result in one or more leaseholders contributing over £250, these procedures must be followed. It is possible that the apportionment of charges may vary between leaseholders, therefore it is important to check the amount payable by each leaseholder. Only one has to be above the prescribed limit to trigger the consultation process.
- 5.4 The Specialist Housing Manager will check the lease to ensure the proposed works are the responsibility of the Association.
- 5.5 If the work is NCHA's responsibility, the Technical Inspector will prepare a specification of the work required and estimate the likely cost.
- 5.6 If the estimated cost of the work is above the prescribed limit for at least one leaseholder, the Specialist Housing Manager will serve a Notice of Intention to Enter into a Contract on the leaseholders. Although there is a requirement to also serve this on any recognised Residents Association, NCHA no longer has Residents Associations instead having a system of Customer Advisory Panels. The Notice will describe the proposed works and the reasons for undertaking them. The leaseholders will be invited to nominate contractors, from whom NCHA will obtain quotations apart from procurement subject to EU regulations. The Notice will detail the requirements for contractors to be admitted to the Association's approved contractor list.
- 5.7 Leaseholders will be given 30 days to respond to the Notice and will be told where and to whom to respond to.
- 5.8 At the end of the 30 days consultation period, the Specialist Housing Manager will review the observations in the leaseholders' responses, and any nominated contractors. If nominations exist, quotations must be sought by the Technical Officer from at least one nominee proposed by the leaseholders. If there is more than one nominated contractor from the leaseholders, the one with the most nominations will be chosen to tender.

- 5.9 The Technical Inspector will invite tenders from the contractors following the Association's normal tendering rules.
- 5.10 Once the quotations have been received, a Statement will be prepared which sets out the costs of at least two of the quotations, as well as giving a summary of all the observations received during the consultation period and NCHA's response to each observation. A Notice will be sent to leaseholders detailing where and when the Statement, copies of the quotations for the work and the leaseholders' observations can be viewed. The Notice will allow leaseholders a further 30 days to comment on the proposals.
- 5.11 After a further 30 days, the Technical Inspector will enter into a contract for the works.
- 5.12 A further Notice will be sent to the leaseholders which details the selected contractor, the reasons for the works being undertaken, and the written observations and NCHA's response to the proposals. An estimate of the cost per leaseholder will also be included along with timescales for completion of the work.

6. Procedure: Long-Term Agreements

- 6.1 The following procedure covers any Qualifying Long Term Agreement lasting longer than 12 months for the provision of services.
- 6.2 Qualifying services include maintenance contracts for lifts, entry phone systems, fire equipment, and also agreements for cleaning and gardening.
- 6.3 The prescribed limit for these qualifying works is currently **£100** per year. This includes VAT. If the cost of the works will result in one or more leaseholders contributing over £100, these procedures must be followed. It is possible that the apportionment of charges may vary between leaseholders, therefore it is important to check the amount payable by each leaseholder. Only one has to be above the prescribed limit to trigger the consultation process.
- 6.4 If the cost of the work is above the prescribed limit for at least one leaseholder, the Specialist Housing Manager will serve a Notice of Intention to Enter into a Long Term Agreement on the leaseholders. The Notice will describe the services to be provided under the Agreement and the reasons for undertaking them. The leaseholders will be invited to nominate suppliers/contractors, from whom NCHA will obtain quotations. The Notice will detail the requirements for contractors to be admitted to the Association's approved contractor list.
- 6.5 Leaseholders will be given 30 days to respond to the Notice and will be told where and to whom to respond.
- 6.6 At the end of the 30 days consultation period, the Specialist Housing Manager will review the observations in the leaseholders' responses, and any nominated contractors. If nominations exist, quotations must be sought

from at least of the contractors proposed by the leaseholders. If there is more than one nominated contractor from the leaseholders, the one with the most nominations will be chosen to tender.

- 6.7 Once the quotations have been received, a Statement will be prepared which sets out a statement of the goods or services to be provided, the name and address of each contractor, the total costs and cost per leaseholder of at least two of the quotations, the duration of the contract, and a summary of all the observations received during the consultation period and NCHA's response to each observation. A Notice will be sent to leaseholders detailing where and when the Statement, copies of the quotations for the work and the leaseholders' observations can be viewed. The Notice will allow leaseholders a further 30 days to comment on the proposals.
- 6.8 After a further 30 days, the Specialist Housing Manager will enter into a contract for the works.
- 6.9 A further Notice will be sent to the leaseholders which details the selected contractor, the reasons for the works being undertaken, and includes the written observations and NCHA's responses to the proposals.
- 7. Procedure: Qualifying Contracts or Long-Term Agreements for Which Public Notice is Required under EU Procurement Rules**
- 7.1 There is a simplified procedure for contracts or long-term agreements that require public notice under EU Regulations, which only allows comments and observations to be made on the proposed works, not on the selection of a contractor.
- 7.2 The Specialist Housing Manager will serve a Notice of Intention to carry out work on all leaseholders. The Notice must describe the proposed works and must detail the reasons for undertaking them. However **the Notice will state that NCHA is not inviting nominations** of contractors as public notice of the works is to be given.
- 7.3 Leaseholders will be invited to make written observations and must be given 30 days in which to respond. The Notice must give clear detail of where and to whom to respond.
- 7.4 The Specialist Housing Manager must carefully consider the observations before proceeding.
- 7.5 On the assumption that NCHA is to seek tenders, the Specialist Housing Manager will draft a notification that details a proposed contract statement which should be sent to all leaseholders and the residents association (if one exists). The statement should include the proposed contractor, an estimate of the leaseholder's contribution to the works, and a summary of the observations made by leaseholders and NCHA's response to them, and should be accompanied by a notice.

- 7.6 Leaseholders should be invited to make written observations on the statement and will be given 30 days in which to submit them.
- 7.7 If any observations are received the Specialist Housing Manager will reply to any individual leaseholder within 21 days of receipt. It is not necessary to respond to all residents.
- 7.8 After the 30 days consultation period has elapsed, the Specialist Housing Manager or Technical Officer can enter into the long-term agreement or contract, following the Association's normal financial procedures.

LONG-TERM AGREEMENT

CONTRACT

