

<b>Committee(s):</b> Resident Consultation Committee (for information) Barbican Resident Committee (for decision)	<b>Dated:</b> 25/03/2024 08/04/2024
<b>Subject: Lease Enforcement</b>	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	4
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>Report of: Director of Community &amp; Children's Services</b>	<b>For Decision</b>
<b>Report author: Helen Davinson Resident Services Manager, Barbican Estate Office</b>	

### Summary

The purpose of this report is to highlight to members the issues encountered with the previously approved procedure for dealing with breaches of lease on the Barbican Estate, and to offer amendments to that procedure.

### Recommendation(s)

The Committee is asked to:

1. Approve the amended Barbican Estate Office protocol for dealing with breaches of lease as laid out in Appendix 1.

### Main Report

#### Background

1. When signing their lease, leaseholders on the Barbican Estate, as with any other leaseholders, are naturally bound by the specific clauses and conditions contained in the lease. A failure to comply with the conditions of the lease is considered a 'breach' of lease and gives rise to appropriate enforcement action.
2. Whilst the conditions of the lease for residents on the Barbican Estate are explicit, historically, with regard to a number of covenants in the lease, the City has adopted a 'soft' approach to enforcement. The particular covenants relate to the following:
  - Installation of wooden floors;
  - Animals;
3. Following lengthy consultation with residents and Committees, officers presented a report concerning Lease Enforcements to Committee in December 2017.

4. Various options were considered as the approach officers should take regarding breaches of lease (specifically the installation of wooden/non-carpeted floors and animals).
5. It was resolved at the Barbican Residential Committee that:
  - a. Formal adoption of the current practice for all future cases be adopted as follows:
    - i. The Corporation will effectively decide to use its discretion in enforcing the various restrictive clauses within the lease, endorsing the current “soft” approach of only taking enforcement action against residents who have breached a particular covenant in the lease and such a breach is causing a “nuisance” and/or “annoyance” to adjacent residents.
    - ii. Under this option, there will not be a requirement for the “affected” party to have to demonstrate, to the City Corporation, that the “breach” is causing a nuisance. In the case of wooden floors, for example, there would be no requirement for the affected party to complete and submit “noise monitoring sheets” as has been the case previously.
6. In March 2018 the formal procedure (see Appendix 2) for dealing with Breaches of Lease was approved by the Barbican Residential Committee.

### **Current Position**

7. Two cases in 2022 and 2023 have led to a review of the formal procedure by Officers from the Barbican Estate Office and Comptrollers & City Solicitors.
8. In both cases, the approved protocol was challenged.
9. If the City is to take enforcement action against a leaseholder who has breached a covenant in the lease and such a breach is causing a “nuisance” and/or “annoyance” to adjacent residents, then that nuisance has to be demonstrated. To not demonstrate that “nuisance” and/or “annoyance” is considered unfair to the other party.
10. The demonstration of the “nuisance” can include (but is not limited to) requesting noise monitoring sheets be completed and permission granted to conduct acoustic testing.
11. The protocol as laid out in Appendix 1 reflects this change.

### **Conclusion**

12. For the avoidance of doubt, if a new Leaseholder moves in and complains of a breach that has been in place for many years and has not caused a nuisance and/or

annoyance to the previous Leaseholder, this will still be subject to the same enforcements.

13. The Barbican Estate will continue to remind Leaseholders of lease compliance via the regular email bulletins.

### **Appendices**

- Appendix 1 – amended Breach of Lease Protocol
- Appendix 2 – current Breach of Lease Protocol (dated 2018)

### **Background Papers**

Lease Enforcement. March 2018

Lease Enforcements. December 2017

Lease Enforcement Issues – short term holiday lets. September 2015

### **Helen Davinson**

Resident Services Manager, Barbican Estate Office

T: 020 7029 3963

E: [helen.davinson@cityoflondon.gov.uk](mailto:helen.davinson@cityoflondon.gov.uk)