



REPORT TO:	Cllr T Carter, Deputy Leader (Cabinet), Portfolio Holder for Communities and Operational Housing
REPORT OF:	Matthew Hogan, Assistant Director - Strategic Growth and Development
REPORT AUTHOR:	Caroline Hannon, Head of Delivery
SUBJECT:	Shared Ownership Sales - Reservation Fees
PURPOSE:	To provide an update on the arrangements for charging reservation fees to prospective shared ownership property purchasers and to request that the fee is included within SHDC's Table of Fees and Charges
KEY DECISION:	N
WARD(S) AFFECTED:	All Wards
EXEMPT REPORT?	N

SUMMARY

South Holland District Council has a delivery programme for shared ownership housing in addition to the delivery of rented housing. SHDC has an appointed sales agent who facilitates property viewings and assesses applicants' eligibility for shared ownership.

When a prospective purchaser is identified, the purchaser pays a fee to reserve the property, thus preventing the property from being sold to someone else.

Historically, SHDC's sales agent has collected reservation fees on behalf of SHDC. However, it is usual for landlords to collect reservation fees directly and SHDC's current appointed sales agent is unable to collect the fees on SHDC's behalf. Accordingly, it is appropriate to seek an updated decision in relation to charging shared ownership fees.

RECOMMENDATIONS

1. That SHDC should charge a one-off fixed rate reservation fee of £250 to prospective purchasers of shared ownership properties
2. That this fee should be included within SHDC's Table of Fees and Charges
3. That authority be delegated to Head of Delivery to refund the fees

REASONS FOR RECOMMENDATIONS

1. To establish the appropriate reservation fee to charge
2. To clarify arrangements for approving individual applications to purchase shared ownership housing, and the collection of reservations fees
3. To confirm arrangements for considering refunding reservations fees

OTHER OPTIONS CONSIDERED

Do nothing. In this event, SHDC will not charge a reservation fee and would enable prospective purchasers to reserve SHDC's shared ownership properties without making any financial commitment to the purchase

1. BACKGROUND

- 1.1 Since 2019, SHDC has acquired and built 24 homes for the purposes of shared ownership sale, in addition to the programme of rented housing delivery.
- 1.2 Shared Ownership housing allows purchasers to acquire part-ownership of a property. It is suitable for households who meet a prescribed criteria set by Homes England (generally because they cannot afford to access market housing). The purchaser will acquire as much of the home as they can afford (such as from savings and/or a mortgage) and the landlord (SHDC) will own the remaining stake in the property. It is appealing to households who aspire to home ownership but are unable to meet their needs on the open market, often due to low incomes or insufficient deposit.
- 1.3 SHDC's Local Plan requires the provision of shared ownership housing on suitable development sites and accordingly, this product is regularly provided across the district as a requirement of a site's planning permission.
- 1.4 SHDC has an approved programme of ten additional shared ownership homes and is considering the feasibility of delivering additional shared ownership homes on schemes which are subject to detailed approval.

2. REPORT

- 2.1 Historically, SHDC's sales agent has collected reservation fees on behalf of SHDC. However, it is usual for landlords to collect reservation fees directly and SHDC's current appointed sales agent is unable to collect the fees on SHDC's behalf. A decision is being sought now on the appropriate level of reservation fee to charge as SHDC is acquiring/selling shared ownership homes during 2023 and more are expected in future years.
- 2.2 The process for reserving a shared ownership home is:
 - SHDC's appointed sales agent will check a prospective shared ownership property purchaser's eligibility as per the criteria in the Homes England Capital Funding Guide.
 - Once the prospective purchaser is assessed as being eligible, they will consult an Independent Financial Advisor (IFA) who will undertake an affordability assessment.
 - The IFA will confirm that the prospective purchaser meets the eligibility and affordability criteria for the property. The IFA will prepare a property application on behalf of the prospective purchaser.

- The property application will be sent to SHDC, alongside confirmation that the purchaser is eligible and able to afford the property.
- Head of Delivery will consider the application, alongside the eligibility criteria, and will decide whether the application is approved. If the application is approved, the purchaser will be asked to sign the reservation agreement (Appendix A) and pay a one-off, fixed rate reservation fee of £250 for the property. If there are joint purchasers, the total fee will still be £250.

2.3 The reservation agreement sets out the details of the reservation. It confirms the following key information:

- The reservation is not a legally binding contract for sale/purchase of the property.
- Details of the property/plot which has been reserved.
- The reservation is valid for 3 months. If the purchase has not completed within this time, and the purchaser has not taken reasonable steps to complete the purchase, the reservation will be deemed to be cancelled.
- The home will not be marketed to other prospective purchasers during the reservation period.
- The purchaser must instruct a solicitor.
- The reservation fee forms part of the overall price of the property and on completion, £250 will be deducted from the final price, as it has already been paid.
- If the reservation is cancelled, or if the purchaser withdraws from the purchase, the reservation fee will not be refunded.
- There is a 7-day cooling off period from payment of the reservation fee and during this time the purchaser can cancel the reservation, and their reservation fee will be refunded.

2.4 Fees will be charged for all reservations from the date of this decision.

2.5 In accordance with Consumer Code, prospective purchasers are entitled to a refund if they change their mind within 7 days of paying the reservation fee and in those circumstances the fee will always be refunded.

2.6 In the event that a reservation is cancelled, or a purchaser withdraws from a sale, the reservation fee will not ordinarily be refunded. This is due to the potential abortive legal costs, administrative costs, and additional void property costs which the authority will incur.

2.7 In the event that a prospective purchaser requests, in writing, that a reservation fee is refunded, this will be considered by the Head of Delivery. The reservation agreement is clear that the reservation fee will not be refunded (after the 7-day cooling off period), and therefore there should be no expectation from prospective purchasers that they will receive a refund.

2.8 Reservation fees will only be refunded in exceptional circumstances where there is evidence that failure to do so will result in hardship, to be determined by the Head of Delivery, at the authority's absolute discretion.

2.9 The authority could decide that it is not appropriate to charge a reservation fee at all. However, this creates a risk that properties will be reserved by applicants who are not seriously considering purchasing the property. Paying a non-refundable reservation fee demonstrates a commitment, from the prospective purchaser, to purchasing the property.

- 2.10 Some Registered Providers charge reservation fees of up to £500. The authority could consider charging a higher or lower reservation fee. However, a £250 fee is considered to be an appropriate amount and is in line with fees being charged by other landlords for shared ownership properties in the district.
- 2.11 As part of the usual shared ownership sales monitoring process, officers will consider the effectiveness of the reservation fee including monitoring the number of abortive sales, abortive costs incurred, fees refunded and comparable reservation fees across the district. This information will be shared with Portfolio Holder for Communities and Operational Housing on an annual basis to enable the fee to be reviewed.

3. CONCLUSION

- 3.1 SHDC is no longer able to collect reservation fees via its appointed shared ownership sales agent. A £250 reservation fee has been charged for other properties sold by SHDC, however, those fees were collected by the sales agent. SHDC should charge and collect a £250 one off, fixed rate reservation fee for all shared ownership property reservations. The fee should be included within SHDC's Table of Fees and Charges.

4. EXPECTED BENEFITS TO THE PARTNERSHIP

- 4.1 The recommendations will support the aims and ambitions of the South and East Lincolnshire Council's Partnership which include to deliver ambitious growth and regeneration plans. The partnership's Annual Delivery Plan 2022/23 includes the delivery of Council-owned new properties in South Holland.

5. IMPLICATIONS

5.1 SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

- 5.1.1 None

5.2 CORPORATE PRIORITIES

- 5.2.1 The SHDC Corporate Plan 2019-23 sets out the Council's vision for the district and its priorities for this period.

- 5.2.2 This project will support the agreed vision and priorities of the Plan, including:

- Providing good-quality housing that everyone in our community can call their home.
- Enable effective planning and delivery of housing solutions to meet local needs and aspirations to ensure that our residents have access to a range of housing options in the district.
- Ensure that our residents are enabled to live in high quality housing no matter the tenure.
- Deliver substantial and continued growth as proposed through our Local Plan.

5.3 STAFFING

- 5.3.1 None

5.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS

- 5.4.1 Cabinet Members have a delegated power to amend the scale of fees and charges for functions within their Portfolio, subject to statutory requirements. Any decision to charge

reservation fees will be included within SHDC's Table of Fees and Charges when it is next updated.

5.4.2 A delegation already exists to allow officers to fulfil all necessary activities relating to initial shared ownership sales. This includes enabling a prospective purchase to reserve a property, and charging/collecting a reservation fees. The delegation arises from the decision of the Portfolio Holder for HRA and Private Sector Housing regarding Shared Ownership sales, which became effective from 3rd September 2019, and included the following delegation

- That authority be delegated to officers to fulfil all necessary activities concerning initial sales, purchase of additional shares and resales of individual shared ownership properties to leaseholders.

5.4.3 Legal support for the onward sale of shared ownership properties will be provided by an external firm.

5.4.4 Head of Delivery will maintain a log of all requests for reservation fees to be refunded and the outcome, including the rationale for refunding any fees.

5.5 DATA PROTECTION

5.5.1 All personal information collected in relation to prospective shared ownership purchasers will be treated in accordance with GDPR requirements.

5.6 FINANCIAL

5.6.1 The reservation fee forms part of the overall purchase price of the property and will be deducted from the final purchase price, at the point of completion. Accordingly, charging reservation fees will not generate additional income for the authority, it will just be part of the overall sale price of the property. The provision of new shared ownership properties does provide a return on investment, for the authority.

5.6.2 In the event that a purchaser withdraws from a purchase, or the reservation is cancelled, the £250 reservation fee may be insufficient to meet all of the authority's costs in relation to legal fees, administrative costs and additional void property costs. However, officers will ensure that SHDC's appointed sales agent remains in regular contact with prospective purchasers and their solicitors to ensure sales progress and to identify any issues as quickly as possible, to minimise SHDC's costs.

5.7 RISK MANAGEMENT

5.7.1 The sale of property comes with inherent risk and it is likely that not all reservations will result in a sales completion, as unexpected events do occur during the period of conveyancing. This risk cannot be entirely eliminated. However, the eligibility and affordability checks will ensure that reservations are only taken from applicants with a realistic chance of completing on the purchase. Additionally, the payment of a reservation fee will demonstrate the prospective purchasers' commitment to purchasing the home at the point of reservation.

5.8 STAKEHOLDER / CONSULTATION / TIMESCALES

- 5.8.1 Analysis has been undertaken regarding the reservation fees charged by other RPs for shared ownership properties, and the fees charged by local developers for newbuild market homes, in the district. The £250 fee is considered to be appropriate in the local market.
- 5.8.2 A one-off fixed rate fee of £250 will be charged for each shared ownership reservation from the date of this decision.

5.9 REPUTATION

- 5.9.1 SHDC is proposing to charge £250 reservation fee which is lower than is being charged by some Registered Providers. Additionally, the fee forms part of the overall purchase price and in essence is not an additional fee for those who complete on the purchase. The reservation fee will not be refunded in the event the purchase does not complete but this will be made clear to everyone who reserves a property and pays the fee. It is appropriate that the fee will not be refunded in the event the reservation is cancelled, due to the council’s potential abortive costs in relation to progressing the reservation.

5.10 CONTRACTS

- 5.10.1 Colleagues at Lincolnshire County Council have reviewed the reservation agreement and confirmed that it is suitable for requirements.

5.11 CRIME AND DISORDER

- 5.11.1 None

5.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

- 5.12.1 The provision of additional shared ownership housing will enhance equality within the district and support the Corporate Plan ambition to ensure that residents are enabled to live in high quality housing no matter the tenure.

5.13 HEALTH AND WELL BEING

- 5.13.1 Reservation fees will be refunded where there is evidence that failure to do so will result in significant hardship.

5.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

- 5.14.1 None

5.15 LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

MISSIONS	
This paper contributes to the follow Missions outlined in the Government’s Levelling Up White paper.	
Housing	By 2030, renters will have a secure path to ownership with the number of first-time buyers increasing in all areas; and the government’s ambition is for the number of non-decent rented homes to have fallen by 50%, with the biggest improvements in the lowest performing areas.

6. ACRONYMS

- 6.1 GDPR – General Data Protection Regulation

APPENDICES

Appendices are listed below and attached to the back of the report: -

APPENDIX A	SHDC Reservation Agreement
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BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:	Caroline Hannon, Head of Delivery Caroline.Hannon@sholland.gov.uk
Signed off by:	Matthew Hogan, Assistant Director - Strategic Growth and Development Matthew.Hogan@sholland.gov.uk
Approved for publication:	

Appendix A – SHDC Reservation Agreement