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## 1. Purpose and scope

This policy sets out the approach used by Lewisham Council to set, review and administer Service Charges for residential properties owned by Lewisham Council. It is designed to provide clarity and transparency as to the approach and methods used to calculate and apply service charges.

This policy helps to deliver our corporate plan, which commits to a focus on transparency, fairness, and value for money, while delivering reliable, quality services in challenging times.

This policy applies to any residential building owned by Lewisham Council which is subject to a service charge. This includes different types of property and different types of tenure and includes fixed and variable charges. It applies to properties either directly managed by us or by a managing agent on behalf of the council. References to 'we' refer to Lewisham Council, and where applicable to a managing agent where they manage properties on our behalf. For example, Regenter B3 (RB3) manage the Brockley PFI properties on behalf of the Council.

While service charges for tenants are included within scope, the rent setting and rent collection is outside of the scope of this policy. Major works and non-statutory consultation is outside of the scope of this policy.

## 2. Key principles

In defining our Service Charge policy, we can confirm our approach is in line with the following key principles:

- a) Comply with all applicable legislative, regulatory and contractual requirements
- b) Work toward sector best practice and continual improvement
- c) Have a clear, reasonable and consistent approach across our managed stock in the apportionment, calculation and recovery of costs for charged services, so far as contractual obligations permit



- d) Provide cost effective services to sufficiently manage and maintain each scheme
- e) Build and develop new homes which have appropriate service charges to meet the needs of the development
- f) Use intelligent design to minimise ongoing charges where practical and reasonable
- g) Offer choice to residents wherever possible and practical to do so
- h) Aim to recover 100% of the costs of service charges for the provided services (See also note\* below)
- i) Set estimated charges to reasonably reflect estimated expenditure and aim for the estimates to remain as close to the actuals as possible
- j) Aim to avoid large changes in the service charge each year
- k) Provide a range of payment methods and terms
- l) Provide access or signposting to additional sources of advice and assistance

\* **Note:** Lewisham Council's Housing Revenue Account can only contain charges directly related to the management of the Council's housing stock. Therefore, leaseholders and shared owners must be charged the true cost of maintaining their properties where the provision of their lease allows, to ensure tenants do not subsidise costs due from leaseholders.

### 3. Legislation and regulation

3.1 Relevant legislation currently includes, but is not limited to, the following:

- Housing Act 1985
- Landlord and Tenant Act 1985, & 1987
- Commonhold and Leasehold Reform Act 2002
- Building Safety Bill 2020

3.2 This policy will be reviewed in line with new legislation and regulation.

3.3 The services provided will be clearly identifiable to residents, and set out in the relevant contract (Tenancy or Lease Agreement).

3.4 The method of apportionment, application and collection of the service charge is dependent on the type of the contract (tenancy or lease) and may be fixed or variable. Where there is any disparity between this policy and an individual contract, unless there is an overriding statutory requirement, the terms of the agreement will be given precedence over policy alone.

### 4. Terms and Definitions

**This is not an exhaustive list, but is intended to define what we mean when using these key terms in relation to service charges:**

**A service charge** is the charge payable by a tenant, leaseholder, shared owner or licensee, towards the costs of services, general maintenance or repairs. It covers other charges or costs, including administrative or management costs where the cost is not recovered through a rental charge.



**A fixed service charge** is where the cost of providing services to a property is set at the beginning of each financial year. The customer pays the service charge throughout the year and at no point will there be additional amounts to pay or refunds due back.

**A variable service charge** is where an estimated charge is set at the beginning of the financial year, and then a final account is produced once the year is complete. The final account compares our actual costs in delivering services to a property against the estimate that is set, and may result in a credit back or an additional amount due from the customer.

**Management and administration fees** cover costs associated with managing properties, administering service charge and rent accounts, income collection and providing customer services. (See 6.10 and footnote).

**Sinking fund or reserve fund** is a fund that saves money to pay for future long term maintenance and renewals required to maintained property. It provides a way to spread the cost of expensive repairs. A **depreciation charge** is a contribution to items that are purchased where the costs are depreciated over the useful life of the asset rather than being paid for from a sinking fund. **Note:** While the lease allows for it, sinking funds are not currently operated for leaseholders generally, but is currently in operation for shared owners.

**Apportionment of costs** between customers is in accord with what is set out in the legal agreement(s). Where the agreement does not specify any apportionment method, we will seek to achieve a fair and reasonable apportionment and divide costs between all residents in a block and/or estate. Charges for communal areas will be apportioned across those customers with access to these areas/services, regardless of how much an individual chooses to use them.

## 5. Changes to services, new services, and new developments

5.1 Where we build and develop new schemes, we aim to have reasonable and affordable service charges that meet the needs of the scheme. We will prepare an initial estimate of service charges for proposed schemes as early as possible in the design/acquisition process.

5.2 We will take the following into consideration when creating service charges for new properties:

- The cost of service charges, gross and net rents compared to those for similar properties.
- Whether the services provided are necessary for the enjoyment of the tenancy or lease
- Whether costs may be avoided or minimise through modified design
- The eligibility of services provided for Housing Benefit or Universal Credit<sup>1</sup>
- Assessment of lifecycle costs of components to be maintained via the service charge

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<sup>1</sup> We may still provide a service that is ineligible for UC/HB if it can be otherwise justified



- Impact on existing estates service charge where we are developing within. In some cases where estate improvement are planned this may lead to a difference in services and charges for existing residents
- 5.3 We will notify residents of a new service charge in accordance with individual leases, covenants, deed of transfers and tenancy agreements, or at least one month prior to the commencement of the new charge where this is not prescribed.
- 5.4 We will consider requests made by residents for additional services to be provided, or to discontinue a service. We will consult with residents potentially affected by the change prior to making a decision, and provide an explanation of the decision making process.

## 6. Calculation and timetable

- 6.1 We calculate service charges on an annual basis to recover our costs in providing services to blocks, buildings and estates, and these are charged only for the services and work specific to that block and estate. What we can and cannot charge for, and how the charge is apportioned is set out in general terms of the lease/tenancy. Lewisham Council, and RB3, as a managing agent we use, have a duty to collect these costs. No profit is made from service charges.
- 6.2 Each year a review of the actual costs is undertaken as part of the annual budget setting process and recommendations made in respect of proposed charges.
- 6.3 Where required by their Tenancy Agreement, tenants will pay service charges for services provided, as explained in the tenancy agreement. For Tenants we operate on a fixed service charge basis which is charged weekly with their rent.
- 6.4 We operate a variable service charge for leaseholders and shared owners. In accordance with the lease, estimated bills are sent on the 1 April each year based on the estimated cost of the services for the coming year, (1 April to the following 31 March). When preparing the bills, we look at amounts spent in previous years and the budget for the coming year. The most difficult charge to estimate is the charge for day-to-day repairs. To calculate the repairs charge we take an average of the previous 3 years actual costs. Changes in communal heating are more closely linked to the prevailing energy costs.
- 6.5 Each year leaseholders and shared owners will receive a statement setting out the actual costs incurred for each service for the previous financial year, and any adjustment from the estimated charge (see 6.4). The adjustment will be included and shown in the next bill.
- 6.6 Leaseholders  
After receiving the annual service charge bill, leaseholders are required to make payment in full within 21 days of the invoice date. On request, we can arrange for interest free instalments. Where a leaseholder has failed to pay within 21 days of the invoice date or has not come to an arrangement, this is in breach of the lease and we will take recovery action, which could lead to legal proceedings. (For Shared owners see next point 6.7)



### 6.7 Shared owners

The Shared Owner leaseholder covenants with the landlord to pay the Service Charge during the term by equal monthly payments in advance on the first day of each month by direct debit or such other method as the Landlord shall require during the term the first payment to be made on the date of this Lease.

6.8 A charge for building insurance is included in the service charges. This insurance covers any shared and exterior areas and the building structure. Under the terms of their lease, leaseholders must purchase additional buildings insurance for their demised premises.

6.9 There is a rent fee to use the ground on which the building stands which is known as ground rent, and it is a specific condition of the lease that this is paid. The charge for ground rent is included in the invoice for the service charge and is shown as a separate charge. It can be paid with the service charge. (This will often be a peppercorn rent – Shared owners pay a peppercorn ground rent set at £0).

**Note:** The Leasehold Reform (Ground Rent) Act 2022 came into force on 30th June 2022. The Act puts an end to ground rents for most new long residential leasehold properties in England and Wales. In essence from 30th June 2022, landlords of regulated leases must not require a leaseholder to make a payment of prohibited rent [ground rent]. The measures do not apply to leases that were granted before the commencement of the Act.

6.10 In addition to the actual cost of the services, we can recover an amount for managing and administering<sup>2</sup> the services and include overheads. This does not include any costs we pay just to manage rented properties. The management charge may be different for purpose build blocks and for flats in converted houses.

6.11 Estimated service charges are not altered as a result of temporary breakdown or failure to provide a service. The difference between estimated and actual costs will be identified in the year end service charge accounts, and any balance treated in line with the approach as outlined above (See 6.5).

## 7. Queries, complaints, and appeals

7.1 Where a leaseholder is unable to pay for their service charges, we strongly advise them to immediately contact their housing management provider (Lewisham Council or RB3). After discussing the circumstances, we will try to identify financial assistance that may be available in order to reach an arrangement to pay.

7.2 Where anyone is unhappy with their service charge, they are encouraged to contact their relevant housing management provider as soon as possible after they identify the issue in order to provide an opportunity to look into the matter, and where necessary put it right. Queries about service charges will be answered within 20 working days, although complex cases may need longer to resolve. The housing management provider will advise if a time extension needs to be applied, on a case by case basis.

7.3 Complaints regarding the application or handling of this policy will be managed in accord with the respective complaints policy, which currently aims to respond within ten working days.

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<sup>2</sup> In some circumstances we may be the leaseholder of another landlord and will be passing on these charges plus a fee for our management/administration



- 7.4 Leaseholders (and shared owners) can use their right to dispute a service charge through the First Tier Tribunal. The tribunal is an independent organisation that has powers to sort out disputes between leaseholders and their landlords. Either a landlord or leaseholder can apply to the FTT for help in dealing with an issue. For example, if the leaseholder is unhappy with a charge that we ask to be paid under their lease they can take to the FTT. The tribunal will decide if it is a case on which they have the power to make a decision. There is a fee to pay to the tribunal when you apply, so where possible we will try to resolve disputes without the need to go to the FTT.

## 8. Communication and consultation

- 8.1 This policy will be made available on our website. Future consultation on changes to policy will be reviewed in line with agreed resident engagement arrangements.
- 8.2 We will keep our tenants, leaseholders and shared owners up to date with changes to the way services are carried out and administered. We will keep residents informed through our websites, newsletters, and through resident consultation groups.
- 8.3 We will provide information to ensure new tenants, shared owners, and leaseholders are made aware of the services provided and the service standards they can expect. Information will be provided in line with data protection requirements.
- 8.4 Absentee leaseholders or shared owners<sup>3</sup> must provide up-to-date contact details including a correspondence address, telephone number and emergency contact information.
- 8.5 This policy and associated processes will be made available to staff through relevant training, briefings and our intranet, to ensure effective and consistent application.

## 9. Monitoring and controls

- 9.1 We will maintain a comprehensive monitoring system to ensure that only costs reasonably incurred as a direct result of providing and managing services are attributed to services and recharged to residents.
- 9.2 We will monitor to measure the effectiveness, efficiency and economy of services provided. We will keep residents informed about our performance against standards set.
- 9.3 We report key performance information on a monthly basis in line with our business plan and agreed KPI's such as collection rates. Service charges are reported as part of monthly finance reports.
- 9.4 An external audit on actual costs is carried out on an annual basis by an appointed auditor. Additional internal or external audits may be carried out, as required, to confirm compliance with legislation, as well as checks against good practice, agreed standards and policy. Lewisham Council have the right to audit arrangements under the terms of the relevant management agreements.
- 9.5 This policy will be reviewed in line with changes to legislation and regulation.

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<sup>3</sup> Whereas many leaseholders live away from their property and sublet it, this is not permitted under the shared ownership lease. A shared owner needs to request permission for an absence.



## 10. Equality, diversity, and inclusion

10.1 An Equality impact assessment was conducted in the review of this policy. No material changes have been made to the policy which would impact any protected characteristic on this occasion. The assessment did recommend using the opportunity of a future fuller review of service charges to revisit and explore decisions which could potentially benefit residents more widely.

## 11. Related documents

Related Lewisham Council Housing Services documents include but are not limited to:

- Breach of lease policy
- Debt Management policy
- Leasehold Guide

For more information about service charges and the rights and obligations of landlords and leaseholders, please see the Leasehold Advisory Service (LEASE) – This is an independent organisation that provides advice and is funded by central Government. It offers free advice on the law affecting residential leasehold properties.

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| <b>Replaces:</b> Service Charge policy 2022 - Updates to reflect properties formerly managed by Lewisham Homes transferred back to the management of the council, and to now include Shared Ownership tenure |                                 |
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| <b>Policy owner:</b> Director of Housing Resident Engagement and Services  |                                 |