

## Service Charge Policy

<b>Reference:</b>	HS_POL_FIN_SCH_2.0	<b>Author:</b>	
<b>Scope:</b>	Housing Solutions: Leaseholder Properties Shared Ownership Properties Tenant Properties	<b>Approved by:</b>	ET
<b>Legislation:</b>	Housing Act 1985 Commercial and Leasehold Reform Act 2002 Leasehold Reform, Housing and Urban Development Act 1993 Landlord and Tenant Act 1985 & 1987 (as amended)	<b>Date of approval:</b>	23 <sup>rd</sup> July 2019
<b>Regulatory/ Governance:</b>	NHF Service charges – A guide for housing associations 5 <sup>th</sup> edition	<b>Date of next review:</b>	July 2022
<b>Related Policies:</b>	Leasehold Forfeiture & Possession Policy Leasehold Management Policy Sales, Stair-casing & Re-sales Policy Section 20 consultation policy Rent Setting Policy Procurement Policy Current Tenant Arrears Policy		

### 1. Policy Statement

- 1.1 To ensure that our policy for the management of service charges is in-line with legal and statutory regulation and best practice.

### 2. Scope

- 2.1 To set out our approach in providing fair and value for money service charges across all tenancy types.
- 2.2 To provide clear information about how service charges are applied, calculated, communicated and consulted on.

### **3. Roles and Responsibilities**

- 3.1 The overall responsibility for home owner service charges is with the Lettings & Home Ownership Manager. All other service charges are the responsibility of the Financial Analyst who is supported by the Assistant Financial Analyst both of whom are part of the Finance Team.
- 3.2 The calculation of service costs are the responsibility of the Financial Analyst which will ensure a consistent allocation of costs across all tenures including home owners. Finance are responsible for sending out the annual service charge letters as well as the mid year estimated cost to actual cost comparison.
- 3.3 The recovery of weekly and monthly service charges is to follow the same policy as rent recovery and Lettings & Home Ownership are responsible for the recovery of home ownership charges.
- 3.4 Any queries about the calculation of costs will be answered by the Financial Analyst except for section 20 queries which will be responded to by the Lettings & Home Ownership Manager.
- 3.5 Queries about the quality of services provided will be passed to the department supplying that service.
- 3.5 To ensure services provided are value for money all operational staff are to follow the Procurement Policy and Procedure and must consult with customers where appropriate
- 3.6 The Lettings & Home Ownership Manager is to be fully up to date with the relevant legislation for leaseholders to ensure that all processes are compliant. The Financial Analyst must do the same for the other tenures.

### **4. Definitions**

- 4.1 Properties that incur a service charge
  - Sheltered accommodation
  - Supported Housing
  - Properties post transfer with communal areas
  - Pre transfer properties that have been re-let since 1 March 2014 (including transfers)
  - Leaseholders
  - Shared ownership
- 4.2 Service charges are charges for services that landlords, or Managing Agents, provide to maintain the communal areas of residential properties.
- 4.3 Some Service charges will only apply to homeowners, examples of which are repairs and improvements to communal areas and the fabric of the relevant building.
- 4.4 Any reference in this policy to homeowner includes leaseholders and shared

owners.

- 4.5 Service charges can apply to houses, flats, maisonettes, sheltered housing and supported housing schemes which share common areas.
- 4.6 As a responsible landlord, and in line with relevant legislation, we are required to maintain all properties to a good standard. This includes the maintenance and upkeep of any communal areas. This will usually include (but is not limited to):
- Caretaking
  - Communal utilities i.e. heating, lighting, water
  - Maintenance of fire safety equipment, lifts, door entry systems, CCTV
  - Grounds maintenance i.e. grass cutting, hedge trimming
  - Insurance (leaseholders and shared owners)
  - Communal repairs (leaseholders and shared owners)
  - Planned and cyclical works (leaseholders and shared owners)
  - Management and administration fees
- 4.7 Some service charges will only apply to home owners such as leaseholders and shared owners. This can include the following (but is not limited to):
- Insurance
  - Improvements
  - Repairs and maintenance
- 4.8 Costs may be charged to Housing Solutions via a Management Company; these costs are passed onto the tenant or homeowner together with an administration fee.
- 4.9 The Landlord and Tenant Act 1985 & 1987 states that landlords are entitled to recover costs associated with the maintenance of communal areas, as long as they are fair and reasonable.
- 4.10 Service charges will vary from development to development, depending on the size of development, the amount of properties there and what communal facilities are provided.
- 4.11 Service charges are either 'variable' or 'fixed' and this is specified in individual tenancy agreements and leases.
- 4.12 Variable service charges are as defined in section 18 (1) of the Landlord and Tenant Act 1985 as amended.
- 4.13 Sinking funds will be established where there is a requirement to build up funds over a longer period than a single service charge year. Examples of sinking funds are as follows (but is not limited to):
- Large maintenance costs such as roof replacements (leaseholders and shared owners)

- Replacement of lifts (leaseholders and shared owners)
- Replacement of furniture (typically supported properties)

## **5. Variable Service Charges**

5.1 Variable service charges are estimated prior to the start of each financial year based on the previous financial year's actual expenditure, for example 2019-20 estimate is based on 2018-19 extrapolated cost. At the end of each financial year the actual cost of providing the services is calculated and compared to the estimated charge that was made in that year. The amount that is over or under the estimate is adjusted accordingly for the following year's rent charges for tenancies that are charged weekly the adjustment is done weekly over the year. For leaseholders who are invoiced twice a year the adjustment is applied to the October invoice. Depending upon the terms of the shared ownership lease, then an overpayment may be made in a reasonable time after the final accounts are published. For any underpayment, payment is expected within a reasonable time. Each year all underpayments are reviewed to ensure that rent and service charged remain affordable for all tenants.

5.2 The adjustment is not applied to new tenants that were not in the property at the time that the costs were incurred.

## **6. Fixed Service Charges**

6.1 Fixed service charges are set at the beginning of each financial year. Fixed service charges are not adjusted if the cost is more or less than charged. Service charges in respect of affordable rent units are treated as fixed and are included in the rent which is set at a maximum of 80% of the equivalent open market rent. The open market rent is reviewed when an affordable rent property is re-let. This has no impact on the service charge as they are included in the rent.

## **7. New developments**

7.1 Service charges for new properties will be set by the Financial Analyst or the Lettings & Home Ownership Manager who will meet with the Development Manager responsible for the new units prior to handover of the site. Services that are rechargeable and size of the site must be identified so that an initial estimate of costs for the provision of communal services can be prepared. The estimated costs will be based on a combination of initial quotation for the provision of services and comparable costs from similar developments.

## **8. Calculation of Service Charges**

8.1 There are a limited number of older tenancies that are excluded from the requirement to pay a service charge and under current legislation we have no power to enforce this. However, it is our intention that eventually all relevant tenancies will be subject to a service charge, and tenancy agreements have been updated to ensure that service charges can be collected, where eligible. As these properties become void, service charges are being introduced in the new tenancy.

## **8.2 Service Charge Timetable**

8.2.1 Service charge year is 1 April to 31 March

8.2.2 Tenants and Shared Owners are issued with service charge estimates with an over or under adjustment before the end of February each year.

8.2.3 Leaseholders are informed of the difference between the estimate and the actual by 30 September each year and the service charge account is adjusted immediately

8.2.4 Actual service charges must be published within 6 months of the close of accounts. These are sent to tenants and shared owners by 30 September after the year end.

### **8.3 Allocation of Costs**

#### **8.3.1 Tenants**

Costs are allocated according to the size of each property using the number of bedrooms to provide a factor. The factors to be used are as follows:

▪ Bedsit	2.5
▪ One bedroom	2.5
▪ Two bedrooms	3.0
▪ Three bedrooms	3.5
▪ Four bedrooms	4.0
▪ Five bedrooms	4.5

With each additional bedroom adding 0.5 to the factor

#### **8.3.2 Leaseholders**

Service charges for leaseholders are calculated using the method specified in the terms and conditions set out in their lease. All leases relating to properties built pre 1995 are calculated in the same way as tenants service charges detailed in paragraph 8.3.1

#### **8.3.3 Shared Ownership**

Service charges for shared owners are calculated using the method specified in the terms and conditions set out in their lease. They may be calculated by either dividing the amount equally between the number of properties within the block or in the same way as tenant service charges as detailed in paragraph 8.3.1. The decision for which calculation to use is specified in the lease.

#### **8.3.4 Managing Agents**

Managing agents charge the services by individual property. Charges that are to be passed on as service charge will be based on invoices received from the managing agents where applicable.

#### **8.3.5 Administration Fee**

A fee is added to all service charges to cover the cost of administering the services provided and the charging thereof.

- The fee for the year 1 April 2019 to 31 March 2020 is:
- General needs 12%
- General needs with 3<sup>rd</sup> party managing agent 6%
- Sheltered schemes 15%
- Shared Owners and leaseholders £216pa + RPI

- ongoing \*
- Shared Owners and leaseholders with 3<sup>rd</sup> party managing agent  
50% of above \*
- Shared Owners and leaseholders – insurance only  
25% of above \*

These fees will be reviewed by 30<sup>th</sup> September 2019 for the 2020 -21 financial year.

## **9. Legislation**

Legislation to be followed is covered by the following Acts:

- Housing Act 1985
- Commercial and Leasehold Reform Act 2002
- Leasehold Reform, Housing and Urban Development Act 1993
- Landlord and Tenant Act 1985 & 1987

## **10. Service standards**

- 10.1 Service standards for the services that are eligible for service charges have been set. The standards detail the tasks that are to be carried out and the frequency that they will be delivered. Where possible we will provide allocated days for the relevant work to be undertaken. It should be noted that the timing of services may be subject to change, due to inclement weather and/or bank holidays.
- 10.2 Service charges will not be discounted or refunded due to a temporary disruption to service during the accounting year. Any services not provided will be reflected in the actual costs and any refund will issued following the publishing of the actual service charges for that year in September or applied to the service charge account the following April.

## **11. Consultation**

- 11.1 In accordance with the Section 20 (Landlord & Tenant Act 1985 as amended) requirements, consultation will take place with leaseholders and shared owners where planned or major works are required to be undertaken. In addition, consultation regarding charges and/or contracts for the provision of services will also be undertaken.
- 11.2 Regular consultation with residents on their satisfaction with the services they are being charged for and the way in which charges are communicated will take place. All contracts will be reviewed regularly to ensure that their standard of service and value for money is being maintained.
- 11.3 Where possible, contracts will be agreed for service provision across large groups of properties managed by Housing Solutions in order to gain value for money through discounts using economies of scale.
- 11.4 Consultation should be carried out in line with statutory requirements as and

when changes are made to services provided. This is in addition to the requirements of Section 20 consultation with home owners.

## **12. Sinking Funds**

- 12.1 A sinking fund is a collection of funds from leaseholders and shared owners over a period that will be used to pay for a one off cost in the future.
- 12.2 If the sinking fund needs to be utilised formal consultation may be required with the relevant homeowner or in the case of supported units the relevant local authority.
- 12.3 All legal requirements are to be followed when setting up, maintaining and using a sinking fund.

## **13. Equality & Diversity**

HS recognizes the needs of a diverse population and always acts within the scope of its own Equality and Diversity Policy, the Human Rights Act 1998, and Equalities Act 2010. HS works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. HS will record, analyse and monitor information on ethnicity, vulnerability and disability.

## **14. Confidentiality**

Under the Data Protection Act 2018, General Data Protection Regulation (GDPR) and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential. This includes:

- anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or board member
- sensitive organisational information.

HS employees will ensure that they only involve other agencies and share information where there is a legal basis for processing the information.

## **15. Review**

This policy will be reviewed on a 3 yearly basis or more frequently in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solutions' policy.

Our performance in relation to the delivery of the services and activities set out in this policy will be monitored on an ongoing basis through our established reporting mechanisms to our Senior Management Team, Executive Team, Board and associated committees.