

## Residential Service Charges

This newsletter provides an overview of the law governing residential service charges, including the consultation requirements landlords must comply with.

### What is a service charge?

A service charge is an amount payable by a tenant as part of, or in addition to, rent. Service charges may vary according to the costs or estimated costs incurred in connection with the matters for which the service charge is payable. **Legislation protects residential tenants from excessive service charges.**

### Service charges must be reasonable

Landlords can request that tenants pay a service charge for costs the landlord incurs for:

- Services;
- Repairs;
- Maintenance;
- Insurance; and
- Management.

The costs must be **reasonably incurred** and the work or services must be of a **reasonable standard**.

There is no restriction on the factors that can be taken into account when determining if service charge costs have been reasonably incurred. This means that the financial impact on tenants, and whether the works should be phased to spread the costs, can be taken into account alongside other relevant considerations. However, tenants **cannot insist** that service charges are phased in to spread the costs of major works.

### Tenants can challenge service charge costs

A tenant can **challenge service charge costs** by asking the Property Chamber of the First-Tier Tribunal (FTT) to determine whether:

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*The information in this newsletter is not meant as a substitute for advice on particular issues and is written in general terms. You should seek specific advice before taking any action based on the information in this newsletter.*

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*This newsletter outlines the law as it stands at the date of writing in  
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- The service charge costs were reasonably incurred;
- The services or works are of a reasonable standard; and
- An estimated service charge, payable before costs are incurred, is reasonable.

Tenants **cannot avoid liability to pay service charges on the grounds of hardship**. If repair work is reasonably required at a particular time and is carried out at a reasonable cost and to a reasonable standard, the tenant must pay the corresponding service charge in accordance with the terms of the lease.

### **When is a consultation required?**

Before entering into contracts to provide services or carry out works relating to residential properties, landlords should consider whether they need to consult with their tenants. If a landlord fails to consult when required, they will only be able to recoup the statutory maximum, unless they receive dispensation from the FTT.

If either or both of the following apply, a landlord must consult with tenants:

1. The amount payable by any one tenant for services to be provided under a qualifying long-term agreement (QLTA) will **exceed £100 in any one year**. A QLTA is an agreement entered into by the landlord or a superior landlord for a term of more than 12 months; and/or
2. The total contribution towards qualifying works will **exceed £250 for any one tenant**.

### **What are the consultation requirements?**

A landlord must:

- Give **notice** to tenants and to any recognised tenants' association (RTA), explaining why the proposed works are necessary. The landlord must invite written observations on the proposals and take note of any responses.
- **Obtain estimates**. Tenants and the RTA have a right to nominate alternative contractors and the landlord is obliged to ask for an estimate from the nominated **alternative contractors**.
- Issue a statement setting out the estimated costs from **at least two of the estimates**, with a summary of the written observations received and the landlord's responses to them.
- Provide a notice:
  - Setting out **when and where all the estimates can be inspected**; and
  - Inviting **written observations** on the estimates within 30 days of the date of the notice. Landlords must take

note of any written observations provided.

- Give **reasons** for selecting the successful contractor.

### **Dispensing with the consultation requirements?**

The FTT has the power to **dispense with the consultation requirements**, if it is satisfied it is reasonable to do so. It will consider whether the tenants **suffered any relevant prejudice** due to the landlord's failure to comply with the requirements and can decide to grant a dispensation subject to conditions.

### **Time limits for making service charge demands?**

When service charge demands are issued after completion of the works or provision of the service, **a landlord must issue the demand within 18 months**.

If the demand is provided after the 18 month deadline the landlord will be unable to recover the costs, unless they have served a notice during the 18 months stating that:

- Costs have been incurred; and
- The tenant will be required to contribute to them by payment of a service charge.

If the landlord does not know the exact amount of the costs incurred, **they should specify a figure for costs that they would be happy to accept as the limit on the costs ultimately recoverable** (the notification will be valid even if the service charge ultimately claimed is less than that stated in the notice).

### **What are the penalties for failure to comply with the consultation requirements?**

If a landlord does not comply with the consultation requirements, and the FTT does not decide to dispense with the requirements, **the landlord's ability to pass on costs to tenants will be limited**. The maximum the landlord will be able to recover is:

- £100 for each tenant for each year for QLTA's.
- £250 for each tenant for qualifying works.