

SERVICE CHARGES – QUICK GUIDE

This quick guide raises the issues you may need to consider depending on your residents and refers you to existing service charges guidance or relevant legislation in England.

The legal framework

Be clear on time limits which may affect you: either set in legislation regarding delivering accounts within 18 months of charge incurred or set in an agreement.

Tenancies or leaseholds

- **Beware: an agreement can narrow your legal power**
- Identify each type of agreement
- Are there any restrictions?

Are your charges fixed or variable?

- **Legislation only covers variable charges and fixed charges are outside of legislation**
- Fixed charges contractual if in the tenancy or leasehold agreement
- **But** value for money and fairness apply to both types of charges

Are you a stock transfer organisation (LSVT)?

- **Any constraints or timeframe such as 5 year promises**
- beware some terms are ad infinitum

Location and rent structure - which country?

- England - rent setting mostly based on rent restructuring so any service charges are recovered separately or subsidised, either deliberately or by default
- Wales - government directive is for organisations to “de-pool” (disaggregate) which means that service charges should be identified separately from rents.
- Scotland - accounting directive state service charges have to be identified separately from rents.
- Northern Ireland Housing Executive - service charges should be set out in the tenancy/ leasehold agreement

Local Housing Allowance

- **LHA benefit cap for rent + service charges applies to private sector landlords only**
- LHA are locally based on the lower 30 percentile of market rents

Affordable rents - England Intermediate rents - Wales

- **Normally set below 80% of market rent (<65% London)**
- **Usually includes rent + service charges**

Useful Links:

[Service charges: a guide for housing associations \(6th edition NHF\)](#)

[Residential property tribunal](#), [Housing ombudsman](#) and [Lease advisory service charges guide](#)

[RICS Service charge residential management code 3rd edition](#)

[Northern Ireland - Housing Advice](#)

[The Registered Social Landlords Accounting Requirements \(Scotland\) Order 2007](#)

[Scottish Housing Charter](#) [Housing \(Scotland\) Act 2010](#)

[Model Scottish Secure Tenancy Agreement](#) and [Model English tenancy agreements](#)

Disputes – arbitration, tribunal and decisions

Be prepared as things may go wrong. Good advice is available online, think before you make changes and check your agreements.

[Residential Property Tribunal decisions](#) and [Residential Property Tribunal for Wales](#)

Housing Benefit and Universal Credit

[Universal Credit: service charges guidance for landlords](#)

Fixed charges

- currently eligible for HB/UC on the whole – some local authority differences

Variable charges

- traditionally split between
 - welfare eligible (mainly communal) and
 - non welfare eligible (charges to the individual)
- but local differences on eligibility depending on definition

Universal credit

- Department for Work and Pensions issued guidance in April 2013 - regular UC updates on <https://www.gov.uk/universal-credit>
- Claimants need to know £ eligible service charges to make their claim
- UC exclude more eligible charges from previously grey HB areas; may lead to the splitting of fixed charges or charges depooling or disaggregating
- UC applies to new claimants, migration from HB to UC for existing claimants to 2024
- Claimants apply for HB if:
 - entitled to severe disability premium or
 - has reached State Pension age
 - is in supported, sheltered or temporary housing

Accounting and Reporting: Sinking funds, audit fees and [Annual accounts technical guide](#)

Making changes and communication:

- Watch out: consultation timetable –v- EU legislation impact.
- The law requires consultation with residents if costs exceed £100 pa or £250 one off per service charged, including VAT (section 20) [Lease advisory Service guide on section 20](#)
- If the lease of tenancy says so
- Use existing networks and residents' associations
- Good practice to agree changes
- Need for consensus

Value for Money

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|--------------------------|-----------------------|---------------------|
| ✓ Choices | ✓ Fairness | ✓ Quality standards |
| ✓ Clarity of information | ✓ benchmark | ✓ Level of services |
| ✓ Costs | ✓ Apportionment basis | ✓ Consultation |