

## 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?

- **Rent 1% reductions for 4 years to 2020 - exclude service charges if depooled**
- 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**
- LHA are locally based on the lower 30 percentile of market rents

#### Affordable rents - England Intermediate rents - Wales

- **Normally set at 80% of market rent – the ceiling usually includes rent + service charges**

#### Useful Links:

[Service charges: a guide for housing associations \(5th edition NHF\)](#)

[Residential property tribunal](#) 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](#)(subscribers only)

## 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 and rented housing – Social Landlord support pack + service charges guidance for Landlords](#) and [NHF latest information on Universal Credit](#)

### Fixed charges

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

### Variable charges

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

### Universal credit

- DWP 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; likely to force the splitting of fixed charges or charges depooling

## Accounting and Reporting

- Sinking funds
- [Annual accounts technical guide from ICAEW](#)
- Audit fees

## 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
- Good practice to agree changes
- Need for consensus
- Use existing networks and residents' associations

## Value for Money

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