

# Calculating and De-Pooling Service Charges

## May 2020



**Bramble Court, an Impact Housing Association Extra Care Elderly scheme at Brampton in Cumbria**

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### Introduction

This briefing paper considers calculating and de-pooling service charges in social housing. We have also published briefing papers 'Introduction to service charges' and 'service charges, housing benefits and universal credit' that may be of interest to readers.

Revenue service charges are charged to leaseholders and tenants and charges must reflect actual costs and be reasonable. Capital service charges are charged to leaseholders only and must reflect actual costs and be reasonable.

### What should go into a Service Charge?

Leaseholder service charges must be provided for in the lease – including the capital and revenue items. Tenant service charges must be provided for in the tenancy agreement and include revenue items only. There is a need to decide what items to charge for. For example, many landlords charge for the maintenance and replacement of lifts in blocks of flats. However, in 2002 the then Office of the Deputy Prime Minister issued guidance to local authorities stating that service charges should not be introduced for lifts in flats because being able to use the lift is integral to the tenancy.

In determining what should be included in service charges a social landlord should consider the lease and tenancy agreements, legislation (especially the 1985 and 1987 acts) and case law. In considering the eligibility of services within a service charge for secure tenancies a rent officer would consider:

- Whether the item was approved by the tenants
- Whether the cost is reasonable when compared with similar services in similar properties

Service charges are commonly levied to cover the following costs:

- Staffing costs (including scheme managers, caretakers and cleaners)
- Heating and hot water fuel charges
- Light and power to communal areas
- Cleaning and refuse disposal
- Carpets and furnishings
- Laundry equipment, white goods and specialist equipment
- Building plant, equipment and installations
- Television systems
- Leisure facilities
- Gardens and grounds
- Roads and car parking
- Water supplies and sewerage charges
- Local taxation
- Management costs
- Audit fees

The calculation of service charges should include both the direct and indirect costs of the service including appropriate overhead and administration costs. Overhead and administration costs may need to be apportioned or allocated as described below.

It is necessary to decide the level at which costs will be collected. This can be done at block, estate, scheme or district level. Then there is a need to decide how to apportion costs to dwellings with units, bedrooms and bed spaces being common methods. There is sometimes an intermediate stage of apportionment, for example, using floor space to apportion costs between schemes.

### **Administration**

Administration fees can be based on actual costs or estimated costs. Actual costs can include the cost of the staff employed in administering service charges plus an appropriate on-cost. Estimated administration costs are calculated as an on-cost on the cost of the direct service charges. For example, Oldham Borough Council, where I recently provided advice on service charges, decided to use a rate of 10% to recover overheads and administration. This is consistent with the advice of the rent officer who has also said that the use of 15% would be acceptable for housing associations. In 1967 the London Rent Assessment Committee also decided that an appropriate appropriation to service charges would be 15%. Higher rates are sometimes used in sheltered accommodation.

There is a question about the future of management fees as there is often a hidden subsidy from tenants to leaseholders. Circle Housing Association was reported recently to be looking at this including whether a 15% on cost for administration would be eligible.

The courts have recognised that social landlords can have difficulty in identifying actual costs. For example, in *Mahase v the London Borough of Camden* it was stated that:

*“Payment of a management charge based on a percentage of costs is not intrinsically unreasonable, having regard both to the position of the purchaser and of the vendors.”*

Schedule 11(4) of the Commonhold & Leasehold Reform Act of 2002 covers the rights and obligations of service charge payers regarding administration charges.

However, it is reported that the Department for Work & Pensions has recently questioned landlords who have included a 15% administration charge where tenants have made claims for Universal Credit. It is possible that, in future, the Department for Work & Pensions may not accept administration charges at a rate above 10% and it may therefore be prudent for landlords to base the administrative element of service charges on 10% rather than 15%.

### **Staffing Costs**

Service charges for staffing costs (including wardens, managers, caretakers and concierges) are usually calculated to include the full salary plus an on-cost less a proportion for general housing management.

The costs of national insurance, superannuation, life assurance and permanent health insurance can also be included in the calculation of the service charge. The cost of sick leave can be included in service charges up to a period of three months.

Certain expenses of staff (if reimbursed by the employer) can be included in the calculation of the service charge, including travel costs and council tax on staff accommodation. The costs of telephones, mobile telephones, broadband connections can also be included.

Warden costs can be pooled between schemes to protect tenants in smaller schemes from relatively high service charges if it can be demonstrated that all tenants receive the same standard of service regardless of which scheme, they are in. However, it is not always possible to do this in the case of leaseholders because of the conditions that are usually found in the leases.

Caretakers' costs are typically apportioned between estates and then apportioned between services that are funded by rent and those that are funded by service charges. Examples of activities that are funded by rent include rent collection and accounting and routine repairs. Examples of activities that are funded by service charges include cleaning and gardening. Costs including the running costs of caretakers' vans can also be recovered through service charges including fuel, tax, insurance, maintenance and depreciation.

It is important to consider whether there are any staff that provide services to residents as opposed to being engaged in general management activities. If their roles relate entirely to providing housing-related services, their costs should be wholly recovered through service charges. However, there are often staff whose roles include core management activities that should be recovered through rent; housing-related support services that should be recovered through service charges that would be eligible for housing benefit or universal credit; and personal-related support services that can be recovered through service charges but would not be eligible for housing benefit or universal credit.

### **Supporting People**

Supporting People Grant was introduced in 2003 to fund housing support services. Under this funding system, a distinction was made between staff who provide housing management services and those who provide housing support services. The former was funded through service charges while the latter were funded from Supporting People Grant. Supporting People Grant could fund services including:

- An element of the cost of the warden / scheme manager
- Warden call system alarm costs
- Internal window cleaning to flats
- Cleaning of tenants' rooms

Pressure on local government revenue budgets following the Comprehensive Spending Review of 2010 and the subsequent reduction in Revenue Support Grant and Council Tax 'freezes' coupled with the end to ring-fencing of Supporting People Grant has led many local authorities to reduce their Supporting People budgets. This has reduced the income of local authority housing revenue accounts and housing associations. Some local authorities have also restructured their Supporting People Grant to focus on supporting housing associations while making up the shortfall in funding in the housing revenue account by increasing service charges. Where landlords have lost Supporting People Grant, they have often introduced new service charges for Intensive Housing Management (see below).

## **Water**

Where the tenancy agreement stipulates that the landlord pays the communal water charges, then the landlord can be reimbursed through the service charge. Water rates levied on individual properties are ineligible for housing benefit, whilst water charges that relate to the communal areas are eligible. Some landlords pay domestic water rates collectively and collect the individual charge from the resident. The water suppliers may pay the landlord a commission to cover their expenses. The landlord should ensure transparency in such transactions.

In March 2016, the High Court ruled that Southwark Borough Council was in breach of the Water Resale Order 2006 in that in buying water and sewerage services from Thames Water and re-selling to their tenants at an increased price, the Council had levied an excessive charge because it had not passed on the savings that it had made because of the bulk-buying arrangement. The Council refunded £21million of the excessive charges to 41,000 tenants.

In December 2019, the High Court ruled that Kingston Borough Council was liable to tenants for water over charging dating back to April 2002. The ruling has implications for other local authorities and housing associations that have made surpluses on water re-selling schemes as they may also have to make refunds to tenants potentially totalling millions.

## **Heating, Lighting, Energy and Refuse Disposal**

Where the landlord provides heating or hot water to individual dwellings this can be recovered through a service charge, but such service charges are not eligible for housing benefit. Where the landlord pays the electricity or other utility bill for a building and then recharges the residents this is regarded as a private payment that is outside of the service charges system.

Service charges can be made for heating and lighting of communal areas including staircases, corridors and any communal rooms. This includes communal bathrooms, kitchens, laundries, areas for storing and recharging mobility scooters, guest rooms and the warden's office in a sheltered housing scheme. Replacement of light bulbs and tubes can be included in service charges but not the repair of fittings. The cost of heating communal areas can include setting heating time clocks; running, maintaining and insuring heating plant and equipment; and the future cost of replacement or major repairs. The cost of communal lighting can include providing lighting, emergency lighting and power to hallways, corridors, stairs, lifts and communal rooms; and providing light bulbs, tubes and setting time clocks. However, repairs to light fittings are work on the structure that should be funded through the rent. Such service charges are eligible for housing benefit.

It is usual for the landlord to pay for energy with the annual costs being apportioned between the landlord, dwellings and communal areas. One option for service charges for the heating and lighting of communal areas is to apportion the total electricity bill between flats and communal areas based on floorspace and to recover the communal element as a service charge.

In the case of *Magna v Findlay* 2014, a housing association introduced smart meters and changed its apportionment basis to actual energy consumed. However, the tenancy agreement stated that an equal sharing of the energy bills would take place. The Tribunal therefore found that the bills should have been shared equally. The case underlines the need to act in accordance with the tenancy agreement, although it is open for landlords to change tenancy agreements if they go through a proper consultation.

## **Cleaning**

The cleaning of the outside of a property and the cleaning of common areas inside can be covered by service charges if the tenancy agreement or lease does not make it the responsibility of the resident. Cleaning of windows can also be the subject of an eligible service charge where it is window cleaning that the resident could not be expected to do themselves either because of their circumstances (such as being a resident in a sheltered scheme) or because of the nature of the building (such as external window cleaning in a high-rise flat). However, this is changing with universal credit where external window cleaning is only eligible if it is not on the first floor. Where the local authority charges for refuse collection, the cost is recoverable through the service charge.

The cleaning of communal areas may be done by a caretaker, warden, cleaner or contractor. In calculating service charges there is a need to apportion the cleaners' wages between communal areas and other work and to add appropriate on-costs.

## **Pest Control**

The National Housing Federation advises that:

*"Any costs incurred in clearing vermin, including pesticides and pest control contracts should be shared between the residents."*

A typical policy would include:

- Where the treatment is required in the common parts, recover the cost through the service charge.
- Where the treatment is required in a dwelling adjoining common parts, recover the cost through the service charge on the assumption that such treatment will prevent vermin reaching the common parts.
- Where treatment is required in a dwelling on more than one occasion, re-charge the tenant if the incident is related to the tenant's lifestyle / is a breach of tenancy and the tenancy permits re-charging.

I know of one landlord that has decided to control pests in a supported housing scheme by keeping a cat. The cost of keeping the cat is recovered from the residents through a service charge.

## **Lifts**

The cost of maintaining, insuring and depreciating lifts can be contentious. It is common for housing associations to include these costs in the service charge for all residents in a building, even those on the lower floors who may not make use of them. In 2002, the government issued guidance to local authorities to say that they should not charge tenants for lifts because the use of the lift is integral to the tenancy and should therefore be funded from the rents. The government also argued that it would be unfair for councils to charge service charges for lifts as this would make it more expensive to live in a high-rise flat than a street property. Consequently, many local authorities initially avoided introducing service charges for lifts, although some have now done so. Leaseholders are usually issued with service charges for lifts.

In the Paddington North case of 1955, Lord Goddard held that the maintenance of a lift is part of the service costs because the lift must be working. In 1988, the Housing Corporation issued circular 41/88 that advised housing associations that they should recover the costs of lift maintenance through the service element of the tenancy agreement. The National Housing Federation advises that the generally accepted rule is that the costs should be apportioned among all those living in the building in which the lift is located regardless of whether they need to use the lift to reach their own homes. However, where a development consists of a number of buildings of which some have lifts, and some do not, it may be fairer to include the costs of the lift in the service charge only for those residents who live in blocks that have lifts. However, this is not legally necessary.

## **Furniture and Appliances**

If a landlord provides furniture within a dwelling the cost is usually recovered through the rent. The cost of furniture in communal areas would be included in the service charge. Furniture items are eligible for both Housing Benefit and Universal Credit if the tenant does not become the owner of the furniture.

Most social housing tenancies are let unfurnished, but there will be occasions when properties will be let fully or partially furnished. An assured tenancy agreement should state that furniture is included and the rent set by the landlord should therefore include the additional value of furniture being provided. For secure tenancies, the rent officer will consider not only the cost of providing the furniture but also the value of its provision to the tenant (see section 71 of the 1977 Act). When the rent officer registers a higher rent for a furnished property, the landlord would expect to be able to keep the element of the rent that relates to furniture in a sinking fund to allow for its future replacement.

Maintaining, cleaning and renewing floor coverings in communal areas can be covered by a service charge. The correct treatment of floorings to corridors is less clear as the landlord has an obligation to provide safe access to all dwellings. A basic floor covering should therefore be funded from the rent while a better-quality carpet could be funded from service charges.

The cost of maintaining cookers and refrigerators and other white goods in individual dwellings can be included in the service charge provided there is a covenant by the landlord to repair and renew them in the lease or tenancy agreement. If such a covenant does not exist, a new development may offer the first provision of the white goods with subsequent replacement becoming the responsibility of the resident.

For leaseholders, cookers, fridges and washing machines may be sold with the dwelling and become the resident's responsibility.

Where specialist equipment is installed in an individual dwelling – for example for disabled people – it would be usual to amend the tenancy agreement to make it explicit that the cost would be recovered through a service charge.

Other costs that can be met from service charges include electrical inspections, ventilation systems in common areas, emergency lighting in communal areas, firefighting equipment, fire detection and smoke dispersal systems, fire risk assessments, sewage pumps, door entry telephones and CCTV.

## **Laundries**

Maintenance and repair of communal laundry equipment (such as washing machines, tumble dryers and spin dryers): includes water rates if applicable and opening / closing the facilities.

In some schemes, the electricity costs for the laundry are metered separately; they can either be included here or under light and power of communal areas.

Where residents have to pay each time they use the equipment, then the landlord should keep a separate note of the amount collected so that the income can be deducted from the operating costs before the service charge is calculated.

### **Mobility Scooters**

Landlords will often install, maintain and run facilities for re-charging mobility scooters. If the landlord has provided a storage area in a communal area where mobility scooters can be recharged, the electricity costs will be included in the landlord's supply and can be recovered through a service charge. Landlords need to ensure that there are enough power outlets so that the facility is always available to all residents.

### **Grounds Maintenance**

According to the National Housing Federation, service charges for grounds maintenance can include:

*"Maintenance of the landscape and communal areas around blocks or communal gardens includes grass and tree cutting, and flower beds, hedges and shrubs maintenance. This service may include dealing with abandoned vehicles and car parking, unless identified separately; litter picking, and path clearance may be included there or in cleaning."*

Costs of managing and maintaining open spaces can vary greatly and work can be carried out by contractors, staff or residents. Sometimes there is a need to include the maintenance and / or depreciation of plant. There can also be non-recurring costs such as tree surgery.

There is often a lack of information on which to base the calculation of apportionments. One local authority recently resolved this question by dividing the borough into three zones and calculating a service charge for grounds maintenance in each zone per bed space. This is probably not an ideal approach and a more specific method would probably have been better if one could have been devised.

Tree surgery programmes are usually spread over several years with an annual charge or a charge for each job. Service Charges for tree surgery can also be spread over several years but must be within the legal time limits if they are variable charges.

A service charge can include the reasonable cost of removing abandoned vehicles when the tenancy agreement or lease refers to the management of the estate. This will usually be included in the ground maintenance charge.

### **Health and Safety**

Service Charges can be made for health and safety issues including:

- Legionella Testing
- Ventilation systems
- Electrical inspections
- Pest control
- Fire detection & smoke dispersal systems
- Fire risk assessments
- Fire-fighting equipment
- Alarm service / warden call service
- Secure building access door entry
- Closed circuit TV

## **Door Entry**

Service Charges can be made for door entry, including doors & windows that do not form part of the demise, and servicing, repairing & replacement of door entry systems or appliances, including keys, key cards, keypad door locking mechanism and door entry telephone.

For example, the Vale of Glamorgan Council currently passes on combined costs for call out, repairs and replacements as a service charge.

In June 2017, the First-Tier Tribunal (Property Chamber) considered the case of Powell v London Borough of Haringey. This concerned whether the applicant (who was a leaseholder of a ground floor dwelling in a block of flats that was accessed directly from the street) should pay service charges for the door entry system and internal cleaning when they did not have a door fob for the entry system and had no access to the lobby area.

Whilst the Tribunal had sympathy for the position in which the applicant found herself, it accepted the argument of the Council that the lease entitled it to charge for the internal communal cleaning and the maintenance of the door entry system and that there was no requirement for the lessee to benefit from the services provided.

The Tribunal therefore determined that the amount payable in respect of maintenance of the door entry system and the internal cleaning was payable by the Applicant.

## **Warden Call Systems and Alarm services**

Service charges can be made for servicing, repairing and replacing alarm systems and / or appliances. This may be part of assisted technology in sheltered and supported schemes.

Charges for the provision of an emergency alarm system are not eligible for housing benefit or universal credit although alarm systems are often linked to door entry or security systems that are eligible for housing benefit and universal credit.

## **External Access Lighting and Maintenance**

External lighting, including bollards, security lighting, car parks and streetlamps on private roads should be included in the service charge.

## **Fire Precautions**

Service charges can be made for maintenance and provision for renewal of the fire alarm system, smoke dispersal system or other plant and specialist equipment, including servicing, testing, repairing and replacing the equipment. Service charges can also be made for periodic fire risk assessments.

Service charges can also be made for firefighting equipment such as servicing, periodic testing, repairing and replacing firefighting equipment. The equipment may include buckets of sand and / or water, fire blankets, hose reels, fire extinguishers and sprinkler systems.

## **Property and Property Management**

A landlord can charge for property and property management related services. The services provided depend on the type of accommodation and tenure. A landlord does not have to provide all the services itself; is not obliged to provide any service that is not covered by a lease or tenancy; and leaseholders or tenants do not have to pay where there is no specific obligation set out in the lease or tenancy.



Leaseholders will typically pay additional amounts for buildings insurance, day-to-day repairs, major repairs and a sinking fund contribution (where this is set up).

## Depreciation

Depreciation is commonly used in accounting and is a method of covering the costs of an asset by writing off its costs over its estimated life. Its potential use in calculating service charges was confirmed in the Regis property case (1958).

Landlords are therefore able to collect depreciation as part of the service charge to recoup what they have already spent on a capital asset or to make provision for its replacement where the initial cost has been met by grant. In the latter case housing associations, will often credit depreciation to a provision to which interest can also be added. This is distinct from establishing a sinking fund.

The former Institute of Rent Officers published guidance on the life of various assets and pieces of equipment. The recommended lives are as shown below:

- Central heating boiler – 10-20 years
- Lift – 25-30 years
- Paladins – 10 years
- Lawn mowers – 8 years
- Communal carpets – 10-12 years
- Laundry equipment – 8 years
- Cookers and refrigerators – 8 years
- Emergency lighting – 20 years
- Fire detection alarms – 15-25 years
- Firefighting equipment – 10-12 years
- Warden call – 10-15 years
- Door entry telephone – 15-20 years
- Television aerial – 20 years

The National Housing Federation suggests that ventilation systems should be depreciated over ten years and that satellite dishes should be depreciated over twenty years.

Housing Benefit should pay eligible depreciation charges. However, the Department for Work & Pensions have decided that depreciation will be excluded from eligible charges for universal credit. Housing Benefit and Universal Credit are considered further below.

For new schemes, it is advisable to obtain a list of all components and their lifecycle costs from the developer; or an estimate based on similar schemes if there is an in-house development team. For existing schemes, it is advisable to use independent stock condition surveys or staff knowledge.

There is a need to identify the estate and block of the property and its tenure and whether there should be a contribution to depreciation. There is a need to think about contributions from commercial units.

Tenant depreciation items can include:

- Fire detection equipment
- Door & gate entry systems
- CCTV
- Laundry equipment
- Television

Leaseholders can also be charged for:

- Roof structures & coverings
- Structural works

Modern flats contain more plant and equipment than older flats, for example, sprinkler systems and alarms. This results in a greater need for maintenance and replacement of equipment and a greater need to consider how to recover service charges for plant and equipment.

## Usage Charge

The 'usage charge' is commonly used in calculating service charges in sheltered schemes for smaller items of equipment that are provided to tenants. The principle is that the charge is based on 'fit for purpose' rather than a precise depreciation calculation. The landlord guarantees that the equipment will always work and will be replaced when required rather than in accordance with the estimated life used in calculating depreciation. The usage charge is based on depreciation but is also increased annually in line with inflation with the intention that it will generate enough resources to replace the equipment when required.

## Charging for Voids

Voids do not occur in leasehold properties because the owner of a leasehold property is liable to pay the service charges whether they are resident or not. If there are empty tenanted properties in a block, then the landlord must meet the costs relevant to those empty properties.

So, in tenanted properties:

- With fixed service charges they are usually (though not always) treated as a management expense.
- With variable service charges, they are often calculated based on an assumed level of voids – but are treated as a management expense if they arise because of management policy (such as redevelopment) or management issues.

## What should not be included in Service Charges?

The former Institute of Rent Officers Educational Trust published a list of items of expenditure that should not be funded from service charges in 1994. This is still considered to be a definitive list and is as follows:

- Repair, maintenance and insurance of the dwelling structure, fixtures and fittings and of the installations within the dwelling as specified in section eleven of the Landlord and Tenant Act 1985.
- Provision, repair and maintenance of communal halls, stairways and passages.
- Provision of fixtures and fittings, including radiators and pipes within the dwelling.
- Refrigerators, cookers and washing machines within the dwelling, if only provided by the landlord with no covenant to keep in repair or to maintain, would usually be treated as furniture. Cookers in communal facilities should be treated as a service.
- Voids.
- Decoration of common parts, other than communal rooms.
- Interior decoration of dwellings, including provision of decorating materials.
- Management costs for other than service items.
- Staff training levies.
- Deficits and surpluses arising from previous years' costs.

## Designing-out Service Charges

Service charges should be considered at the inception of the development process rather than being treated as an afterthought. At the scheme approval stage, it should be clear what the service charges would be.

High service charges can deter prospective tenants and owners especially when they are on low incomes and can create problems with affordability and income collection once the homes are occupied. The size, type, design and future management of the development all need to be considered.

The National Housing Federation advises that:

*“When designing new developments, landlords should be mindful of the grounds maintenance charges resulting from landscaping and encourage architects to minimise costs. The initial landscaping costs are part of capital development costs and should include tree and shrub planting. Tree, shrub and plant replacement and maintenance would be part of a grounds maintenance service charge.”*

If a scheme is being funded by Homes England or the Greater London Authority, there is a need to comply with the funder’s procedures. There is a need to ensure that the calculation of service charges is accurate since rents and service charges at the practical completion of the development must be equal to or less than those agreed at the grant confirmation stage.

### **Leaseholder Administration Charges**

The Commonhold & Leasehold Reform Act of 2002 defines an administration charge as an amount payable by a leaseholder, under their lease, directly or indirectly for:

- The grant of approvals under the lease or applications for approvals.
- The provision of information or documents (to the leaseholder or someone acting on their behalf).
- Costs arising from non-payment or arrears.
- Costs arising in connection with a breach (or alleged breach) of the lease.

In the event of a dispute; the leaseholder can make an application to the First-Tier Tribunal (Property Chamber) for a determination of reasonableness in the case of a variable service charge; or apply to the First-Tier Tribunal (Property Chamber) to vary the lease in the case of a fixed service charge.

### **Fixed and Variable Service Charges**

A fixed service charge is where the landlord estimates the cost of providing services to a property at the beginning of each financial year. The tenant pays the service charge throughout the year and at no point will there be additional amounts to pay or refunds due back. This is the usual approach when making service charges to tenants.

Variable service charges occur where the landlord sets an estimated charge at the beginning of the financial year, and then produces a final account once the year is complete. The final account compares the actual costs in delivering services to a property against the estimate that was set and may result in a credit back or an additional amount due from the resident. This is the usual approach when making service charges to leaseholders.

The legal definitions are:

- Variable regime – Old leases often have fixed charges with an inflationary uplift. By the 1960s this led to significant under-recoveries especially where in older buildings there were significant costs of repair and renewal. However, it is unusual to have a contract where it is not specified exactly what residents would have to pay. This resulted in legislation to protect the interests of variable service charge payers.
- Fixed service charges – there is no definition in law. The only reference is in section 27 of the 1985 Act that exempts people paying fixed service charges from some of the rights that are held by variable service charge payers. This is because payers of fixed service charges are not deemed to be in as much need of legal protection as payers of variable service charges.

Section eighteen of the Landlord & Tenant Act 1985 defines a variable service charge as follows:

*“Service charge means an amount payable by a tenant of a dwelling as part of or in addition to the rent-*

*(a) Which is payable... for services, repairs, improvements, maintenance, insurance or the landlord’s costs of management and*

*(b) The whole part of which varies or may vary according to the relevant costs.*

*“The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord... in connection with matters for which the service charge is payable.*

*“For this purpose, costs include overheads and costs are relevant costs in relation to a service charge for which they are incurred, or to be incurred in the period for which the service charge is payable, or in an earlier or later period.”*

In defining best practice, the National Housing Federation states that:

*“The decision between a fixed and variable service charge regime is one for each housing association to make, and often will be finely balanced. A variable regime means much more stringent procedures but in exchange it guarantees that the landlord... can recover every penny spent on services. Generally, the larger the service charge in relation to the net rent, and the likelier it is to vary unpredictably from year to year, the stronger the case for a variable charge. However, in general needs housing, where service charges are relatively low and reasonably stable, a regime of fixed charges may well be adequate.”*

### **De-Pooling Service Charges**

Where a landlord has not traditionally levied service charges but has recovered the costs of services through the general rent pool, but then decides to introduce service charges this is often called ‘de-pooling’. De-Pooling has been defined by the Chartered Institute of Housing as follows:

*“Service charge de-pooling is a process whereby the landlord stops sharing the costs of these services amongst all its tenants and introduces a separate service charge payable only by those tenants who receive these additional services.”*

In 2013 the Chartered Institute of Housing estimated that there were sixty local authorities and over 150 housing associations in England that had yet to de-pool their service charges. The institute identified the service benefits of de-pooling as follows:

*“By de-pooling rents, a landlord can ensure that its tenants receive services at a fair price. In addition, there is the potential to increase the quality of the service provided. This could lead to improvements in resident satisfaction and... provide an additional opportunity to engage with tenants about other issues, when consulting on service standards.*

*“When staff understand the services that are being charged for and the agreed standards for them, they can more easily ensure those services are provided and that customers are kept satisfied.”*

Since the introduction of the government’s reforms to social rents in 2002, many local authorities have de-pooled their service charges. Housing associations that had previously not made service charges followed the same process.

## Conclusions

In calculating service charges, social landlords should:

- Decide what to charge for based on statute, case law and the provisions of leases and tenancy agreements
- Decide between fixed and variable charges
- Identify all appropriate costs
- Apportion costs between schemes and tenants based on the best available information
- Ensure charges represent Value for Money
- Keep it Simple
- Consult and provide complete information

If carrying out a service charges 'health check', landlords should ask the following questions:

- Is income maximised?
- Does the service offer value for money?
- How good is the property data?
- How good are the charging mechanisms?
- How good is the input and monitoring from residents?
- Could further charges be de-pooled?

**Adrian Waite**  
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