Introduction to Service Charges

May 2020

Council Flats in Wigan, Greater Manchester

Introduction

This briefing paper contains an introduction and overview of service charges in social housing. We have also published briefing papers on calculating and de-pooling service charges and on service charges, housing benefits and universal credit that may be of interest to readers.

Service Charges can be made on tenants or leaseholders. Tenants and leaseholders often pay for services such as housing support and the provision of communal areas. Tenants do not pay for repairs & maintenance or capital costs as these are met by the landlord and paid for through rents. However, leaseholders do pay their share of these costs.

Service Charges for leaseholders are governed by the provisions of the lease while service charges for tenants are governed by the provisions of the tenancy agreement. Landlords cannot vary the terms of a lease without the consent of the individual leaseholder but can vary the terms of tenancy agreements if they remain within the statutory requirements of secure and assured tenancies and carry out an appropriate consultation with tenants.

The Landlord and Tenant Act 1985, defines a service charge as:

"An amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or the landlord's costs of management and the whole or part of which varies or may vary according to the relevant costs."

In this definition, the term 'tenant' also covers leaseholders.

The National Housing Federation defines a service charge in more layman's terms as:

"A service charge is a payment made by a tenant or leaseholder for services received in connection with occupation of their home. The payment is in addition to the rent."

And the Chartered Institute of Public Finance & Accountancy defines service charges as follows:

"Rent is generally taken to include all charges associated with the occupation of a dwelling, such as maintenance and general housing management services. Service charges usually reflect additional services, which may not be provided to every tenant, or which may be connected with communal facilities rather than being particular to occupation of a dwelling.

"Ministers have decided that (landlords) should retain discretion to decide what services to charge for separately, and what services should be included within rent, within a broad framework."

Housing Benefit and now Universal Credit usually covers these service charges where tenants are eligible. However, it does not cover charges for services to individual homes such as heating and hot water, lighting and water charges within a dwelling or TV licences. A tenant needs to pay for these separately through their own resources. Neither does housing benefit cover services of a personal nature such as cleaning nor services where the tenant can opt out of the service and therefore the charge.

Landlords usually review service charges once a year and tenants and leaseholders have the right to see a summary of the costs that make up the bill.

Service Charges are worth millions to local authorities and housing associations but are often not given enough importance. Housing Associations in England alone raised £1.4billion in service charges in 2018/19. However, this is not enough to recover all the costs of providing services with 12% of costs typically not being recovered. The situation is similar in local authorities.

Differences in approach between Local Authorities and Housing Associations

Housing Associations have traditionally levied service charges as a way of recovering the costs of services from tenants and leaseholders. Local authorities have traditionally not levied separate service charges on tenants but have recovered the costs of providing services from the general rent pool. An exception to this, however, has often been that service charges have been levied in sheltered housing where a significant level of service is usually provided. Stock transfer housing associations have often inherited the local authority approach.

With the introduction of the 'right to buy' in 1980, local authorities found themselves managing flats with an increasing number of leaseholders. They therefore introduced service charges for leaseholders and incorporated this requirement into leases. The terms of leases have often changed down the years resulting in some authorities having different conditions contained in different leases depending on when those leases were entered.

The introduction of social rent reform in 2002 led many authorities to review their policies regarding service charges. The social rent formula does not take account of the cost of services and was introduced in a way that constrained authorities from increasing rents to cover the cost of providing services. Consequently, local authorities began to realise that if they wished to continue to provide services, they would have to introduce service charges in addition to rents.

The first authorities to do this tended to be the more urban authorities with the largest number of flats and hence the largest levels of expenditure on services. However, as time went on more authorities introduced service charges including those in rural areas with comparatively low levels of expenditure on services.

The introduction of the self-financing settlement in 2012 was also based on the assumption that local authorities would cover their service costs through service charges and so the financial pressure to introduce service charges to cover service costs fully continued.

The Welfare Reform & Work Act 2016 included provision for a 1% annual reduction in social and affordable rents in England for four years starting in 2016/17. As originally drafted, it would have applied the 1% annual rent reduction to service charges as well as to net rent. However, the Bill was amended by the government in committee stage in October 2015 to remove all service charges from the requirement for a 1% rent reduction.

This prompted some local authority and housing association landlords in England to revisit their rent and service charges policies with a view to protecting their income by further de-pooling service charges.

It is also increasingly considered to be inequitable to fund the cost of services from the general rent pool, and fairer to charge the cost of services to those tenants that benefit directly from the expenditure.

Local Authorities and Service Charges

In 2002, the government decided that local authorities in England should have discretion in whether to implement service charges based on local circumstances. There was a broad definition of what could be classed as a service charge. The service charge could be based on actual costs per property or on a fixed charge to all affected properties. Following this decision, most English councils decided to introduce service charges for tenants. The Welsh Government also encourages landlords to introduce service charges (see below).

The introduction of service charges is a potentially complex matter. There is a need to consider:

- The services for which it would be appropriate to make a service charge. Some areas are controversial. Should tenants be charged for lifts? Leaseholders are charged for lifts, but the government advised in 2002 that tenants should not be as a lift is integral to the tenancy.
- The basis on which service charges should be calculated – including whether there should be fixed or variable service charges (see below); and whether there should be advance and interim payments

In 2012, the Chartered Institute of Public Finance & Accountancy published 'The Guide to Housing Self-Financing'. With reference to service charges for tenants it stated that:

"Over the years of the current housing revenue account, services have evolved and alongside this, charges have been introduced, for services such as heating, laundries, wardens and alarms. 'A Guide to Social Rent Reform in the Local Authority Sector', published by the then office of the deputy prime minister in February 2003, gives details of the types of services for which charges can be levied separate from pooled rent.

"In authorities, service charges have progressively been un-pooled from rent as the disincentives have diminished within the housing subsidy system. The housing benefit subsidy limitation system will however remain in place, but all other disincentives will be removed, and all income will now be kept by the authority.

"The proportion and types of charges vary between authorities based on previous decisions made under the housing subsidy system. The introduction of a self-financing housing revenue account means that policies in this area should be revisited to ensure they are still appropriate in the new financial environment.

- *For existing service charges, the level must be sufficient to cover the cost of services, so as not to be a call on other income streams. This may include the costs of investment available under self-financing, e.g. in laundries or communal facilities.*
- *New charges should be considered now that all income will be retained locally and can be used to increase the investment potential within the stock or create a sustainable business plan.*
- *As with all these charges the collectability has to be taken into account.*
- *Services should be tailored appropriately in consultation with tenants.*

"The current guidance from the Tenant Services Authority and government are that service charges should only be increased by retail price index plus 0.5%. Government guidance is that increases above this would be on 'rare occasions.

"The government is proposing that authorities provide the same level of information to tenants as is currently provided to leaseholders on service charges. For some authorities with few if any leaseholders this could represent a substantial task at a time of considerable call on financial functions."

The Rent Standard

The Homes & Communities Agency (now Homes England) issued a 'rent standard' in 2015 that contains its guidance and requirements on setting rents and service charges. It provides that:

"Registered providers shall provide clear information to tenants that explains how their rent and any service charge are set, and how they are changed."

Regarding affordable housing, it states that:

"Rent for accommodation (inclusive of service charges) is set at a level which is no more than 80% of the estimated market rent for the accommodation (inclusive of service charges), based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors."

Service Charges for Revenue and Capital Costs

Service Charges can cover revenue or capital costs.

Revenue costs include items such as heating, lighting and cleaning communal areas; door entry systems and CCTV; grounds maintenance; footway lights; and communal heating systems. These are commonly charged to leaseholders and tenants.

Capital costs are for maintaining the fabric of buildings and include major repairs and improvements such as repairs to roofs, lifts and stairways. These are commonly charged to leaseholders but not to tenants.

Service Charges for Tenants

What is rent and what is a service is not clearly or fully defined in law. Fixed service charges have sometimes treated as part of the rent while variable service charges because they can be changed between rent reviews, are not. Traditionally, a service charge is viewed as something over and above what a tenant normally pays for occupying a home.

Tenants do not pay service charges for capital costs as these are the costs of the landlord and are recovered through the rent, but often pay service charges for revenue costs that could include: Boiler Maintenance, Lift Maintenance, Heating, Lighting, Cleaning and Grounds Maintenance.

Landlords can only make service charges to tenants if this is provided for in the tenancy agreement. All tenancy agreements should provide the following:

- An obligation by the landlord to provide the services.
- A list of the services provided and ideally a mechanism to vary the service provision throughout the tenancy.
- The identified cost of the services provided at the commencement of the tenancy.
- The mechanism for changing the service charge – a fixed or variable service charge.

However, it is possible for a landlord to vary tenancy agreements if a proper consultation process is followed.

Service Charges for Residents with Licenses

Under a license, the occupant has a right to use the property but does not have the rights of a tenant. They therefore do not have an interest in the property and do not have exclusive possession. The occupant has less security of tenure than a tenant and can be evicted with shorter notice. The landlord can enter the property at any time.

Licenses are usually used in hostels. Residents are often transient and there is a high turnover. Multiple services are provided, often including meals, and consequently service charges are often high.

The National Housing Federation advises that:

"It is good practice to show clearly how much services are to help residents budget for the costs of their accommodation. As a minimum, support charges. Housing benefit or universal credit eligible and non-eligible services should be clearly identified to enable residents to make claims if they are entitled to do so."

Almshouses also offer their accommodation under licence and charge residents a weekly maintenance contribution that includes charges for management and maintenance (equivalent to rent) and eligible and ineligible service charges. Those that are registered providers are required to be transparent about how rents and service charges are calculated and to base their rent calculations on the government's social rent formula.

Landlord and Tenant Act 1985

The Landlord and Tenant Act 1985 as amended in sections 18-30 sets out the basic ground rules for service charges. It:

- Defines what is considered a service charge
- Sets out requirements for reasonableness and for prior consultation of leaseholders

- Defines a service charge as 'an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or the landlord's costs of management and the whole or part of which varies or may vary according to the relevant costs'
- Provides that the items included are those required to be reasonable and on which a Tribunal may decide of reasonableness.

Section eighteen of the Landlord & Tenant Act 1985, amended by the Commonhold & Leasehold Reform Act 2002, defines service charges and relevant costs. It also explains the meaning of service charge and relevant costs that relate to the First Tier Tribunal (Property Chamber)'s jurisdiction under sections 27A of the same Act. It also establishes the circumstances where landlords, leaseholders and tenants can appeal to the Tribunal (see below).

Section nineteen provides that Service Charges must be reasonable, meaning that the charges are reasonable, the provision of the services and / or works is reasonable, the services and / or works are of a reasonable standard and payments in advance must be reasonable; and that either the Landlord or the Occupant can apply to the Tribunal for a determination.

Section 20(B) provides that:

- If any of the relevant costs considered in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection 2) the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.
- Subsection 1 shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Landlords must consult with tenants where this is required by the terms of the tenancy agreement, in accordance with regulatory requirements (especially the tenant involvement and empowerment standard) and in accordance with section 20 of the Landlord and Tenant Act 1985. The section 20 consultation requirements apply to assured tenants if their tenancy agreement sets out a variable service charge. Consequently, landlords should consult tenants on qualifying long-term agreements.

Under section 21, a landlord must provide a written summary of costs for any accounting period if requested by an occupant or a recognised tenants' association. Where the service charge costs relate to occupants of more than four dwellings, the summary must be certified by a qualified accountant (which cannot include an internal accountant) as being a fair summary and being sufficiently supported by accounts, receipts and other vouchers. The summary must be provided within one month of the request or within six months of the relevant accounting period, whichever is the later.

Section 21B of the Act (as amended) sets out the rights and obligations of service charge payers. This includes a requirement that every demand for service charges should be accompanied by a document entitled 'Service Charges – Summary of Tenants' Rights and Obligations' that sets out the rights and obligations of the landlord and the leaseholder or tenant. The content is prescribed in regulations.

The statutory basis for charging service charges is enshrined within each lease. It is also important to ensure that service charges could be levied under the terms of the lease.

Other Legislative Provisions

The Leasehold Reform, Housing and Urban Development Act of 1993 gives leaseholders the right to a management audit and the Secretary of State power to approve codes of good practice relating to the management of residential property. There is one code of practice that relates to leasehold management in housing associations being the 'Code of Practice on Retirement Housing' published by the Association of Retirement Housing Managers.

The Housing Act 1996 made it easier for leaseholders to challenge unreasonable service charges and restricts the landlord's right to forfeit where an item or items of service charges are disputed. It also gave jurisdiction for Leasehold Valuation Tribunals to determine leaseholder service charge disputes.

The Commonhold & Leasehold Reform Act of 2002 includes:

- A new definition of variable service charges.
- A widening of the jurisdiction of the Leasehold Valuation Tribunal to determine the liability to pay service charges, the reasonableness of administration charges and variations of leases.
- Improvements in the rights of leaseholders and tenants paying variable service charges to be consulted about 'qualifying works' and 'qualifying long-term agreements'.

The 2002 Commonhold and Leasehold Reform Act expects the landlord to behave in a 'reasonable' manner about his expenditure on the building. The landlord has a long-term interest in maintaining the condition and the value of his investment. The leaseholder may have a much shorter-term view, only intending to remain in the property for a few years. These different viewpoints need to be reconciled. A landlord is not usually bound to minimise the costs, but his costs must be reasonable.

The Commonhold and Leasehold Reform Act 2002 defines the following principles that should be adopted in levying service charges:

- Charges must be based on actual costs incurred, and such costs must have been incurred reasonably;
- Charges may only be made if the services provided or works undertaken are of a reasonable standard; and
- Leaseholders must be billed or informed of the costs incurred and the intention to bill, within 18 months of costs being incurred.

The Service Charges (Consultation Requirements) (England) Regulations 2003 set out what consultation must be made so that a landlord can lawfully charge for 'qualifying works' or services under 'qualifying long-term agreements' over the minimum amounts of £250 per contract or £100 a year, per contract, respectively.

The Service Charges (Summary of Rights and Obligations, and Transitional Provision) (England) Regulations 2007 set out the requirements for the content and format of service charge demands. This requires that where a demand for payment of a variable service charge is made, the demand must be accompanied by a summary of the rights and obligations of leaseholders in relation to service charges. Failure to comply with this requirement can result in leaseholders having the right to withhold payment of service charges.

Ombudsman, Leasehold Valuation Tribunal and First-Tier Tribunal (Property Chamber)

The Housing Ombudsman Service can provide leaseholders, shared owners and periodic tenants with an independent assessment of complaints about the calculation or administration of service charge cases, if these are not resolved locally through the landlord's complaints procedure.

Both the Rent Assessment Committee and the Leasehold Valuation Tribunal were independent decision-making bodies to which leaseholders and sometimes tenants could appeal, completely unconnected to the parties involved in a case. However, they were abolished under The Transfer of Tribunal Functions Order 2013 and their functions were transferred to the newly created First-Tier Tribunal (Property Chamber) with effect from July 2013.

The Property Chamber deals with a wide range of applications, appeals and references relating to disputes over property and land. It brings together Rent Assessment Committees, Leasehold Valuation Tribunals, Residential Property Tribunals, Rent Tribunals, Agricultural Land Tribunals and the jurisdiction of the Adjudicator to HM Land Registry. The types of case dealt with by the Property Chamber regarding residential property include some disputes about residential leasehold management, including the payability of service charges.

Tenants may appeal to the Tribunal if they have variable service charges. However, the Tribunal can only look at fixed service charges within an application from a tenant made under Section thirteen of the Housing Act 1988, where a notice proposing a new rent has been served by their landlord and the Tribunal is referred this notice to decide under Section fourteen of the same Act. Therefore, where the service charge is a fixed service charge and charged in accordance with section thirteen of the Housing Act 1988, tenants have the right to apply to the First Tier Tribunal under section 13(4) of the Housing Act 1988 for a determination of the rent including the fixed service charge.

Where leaseholders win their cases. the main themes are:

- Inadequate / non-compliant section twenty consultation
- Unnecessary repairs
- Unacceptable standards

Service Charges for Commercial Properties

Many local authorities and housing associations let commercial properties such as shops as well as residential properties. Commercial properties are outside the legislation on residential properties and the basis of apportionment, agreements and leases are likely to differ.

The Royal Institution of Chartered Surveyors has published a Code of Practice for commercial properties (the third edition was published in February 2014). This shares the same ethos as the legislation for residential properties in terms of fairness, reasonableness, sharing clear information, providing value for money, accounting for the charges, standard and quality of the services and consulting with tenants and leaseholders.

Leaseholder Service Charges

Landlords can only recover costs from leaseholders that have been reasonably incurred and are in accordance with the lease and relevant legislation. Lessees have a right to be given information about service charges and may inspect the accounts on which the charges are based. They can challenge service charges if they believe these are unreasonable.

It is the central principle of service charges that it is the landlord who takes the decisions as to how to commit the expenditure of the leaseholders' money. This applies in all situations where flats are centrally managed and applies equally where the leaseholders themselves manage their building. However, legislation provides protection to the service charge payer and imposes rigorous obligations upon the provider. Charges must be reasonable and may be challenged at the First-tier Tribunal (property chamber).

The statutory basis for charging service charges is enshrined within each lease. Usually the lease simply provides for the landlord to recover their outlay for maintenance, repair and upkeep of the building, including management costs, from the leaseholders. The landlord is reimbursed for their expenditure but is not given the opportunity to make a profit from the management. Landlords may also collect charges for administration, insurance, ground rent or estate management.

Landlords have options for making service charges that include:

- Fixed or Variable Service Charges – Fixed charges are set at the start of the year whereas variable charges are based on actual costs.
- Advance, Interim and Final Charges – Landlords can collect charges in advance, through interim payments, as a final charge or through a combination of these.

Legal and Accounting Position

Usually the lease simply provides for the landlord to recover their outlay for maintenance, repair and upkeep of the building, including management costs, from the leaseholders.

When a tenant exercises the right to buy and becomes a leaseholder, the local authority must give the tenant an estimate of all service charges for the following five years. Any charges in addition to this (apart from inflation) are irrecoverable. After five years the local authority must follow prescribed procedures to notify and consult on service charges, but the full cost is recoverable from the leaseholder. The same applies when a housing association sells a flat to a tenant under the preserved right to buy.

Landlords and leaseholders both have a right to ask a Tribunal whether a charge, or a proposed charge, is reasonable; however, there is no statutory definition of what is 'reasonable'. The Tribunal will consider the evidence presented and then decide on the matter. The questions the First-tier Tribunal (property chamber) would be likely to ask are:

- Was it, or would it be, in the circumstances, reasonable for the costs to be incurred and, if so:
- Were or will the works or services provided be to a reasonable standard?
- What are the landlord's procedures for assessing and controlling the costs, including supervision?

Any service charge demand and reminder letter after 1st October 2007 must be accompanied by a formal summary of rights and obligations, the content and form of which is prescribed by Parliament. Where the landlord proposes to let a contract for the provision of services for a period of more than twelve months and the apportioned cost to any individual leaseholder is more than £100 a year, he must also consult the service charge payers before proceeding.

Lessees have a right to be given information about variable service charges and may inspect the accounts on which the charges are based. They can challenge service charges at a Tribunal if they believe these are unreasonable.

There is therefore a need for landlords to ensure that they have financial systems that can identify costs and calculate service charges accurately. However, the Chartered Institute of Public Finance & Accountancy has said that:

“Accounting reliably for routine services and demonstrating they provide value for money can be a difficulty. In the case of flats, the type of services in question would be cleaning the common parts on an estate or perhaps window cleaning.

"Traditionally, local authorities have not had the systems and procedures to account for and attribute costs property by property. This was not needed when all properties are rented. But since right to buy has now been in force for flats for fifteen years, it might reasonably be expected that such systems had been developed for the benefit of leaseholders (and of course to make service charges for tenants where service charges are unbundled)."

Payment Methods for Large Schemes

Many leases provide for the landlord to collect sums in advance to create one or more reserve or 'sinking' funds. The purpose of such funds is to build up a sum of money to cover the cost of irregular and expensive works such as external decorations, structural repairs or lift replacement. If a landlord wishes to introduce a sinking fund it is important to ensure that this is provided for in the lease or that leaseholders are willing to accept a variation to their lease to include a sinking fund.

There are usually two reasons for maintaining such funds. The first is to ensure that all occupiers contribute to major works, not just those who are in occupation at the time they are carried out. The second is to even out the annual charges, avoiding large one-off bills, and to assist with leaseholders' budgeting.

Under 'right to buy' legislation, leaseholders are entitled to a service charge loan for works carried out within ten years of the right to buy if the charges exceed a certain value. This can be done by deferring the charges for a statutory period. Landlords also have discretion to make other loans if they wish.

A Sinking fund is a replacement fund where the owner builds up a fund to pay for repair and replacement of major items of plant and equipment. A sinking fund – also called a replacement provision – is usually set up for a longer period than a reserve fund. For example, a roof will only be replaced once or twice during a lengthy lease term. A sinking fund refers to the collection of sums in advance to avoid large claims being made on tenants or leaseholders in any one year when equipment or the fabric of the building is replaced.

Typical major repairs and replacements for which the sinking fund would be used are:

- Roofs, guttering, pointing
- External drainage
- Footpaths, parking areas, access roads (where not adopted)
- Communal lighting and power
- TV aerial systems
- Door entry systems and warden call systems (where fitted)

Balances in sinking funds cannot be pooled with general funds. It must be clear how much money has been collected for each scheme. Policies should state clearly how the sinking fund is managed.

A Reserve fund is a fund built up to equalise expenditure with regularly recurring service items to avoid fluctuations in the amount of service charge payable each year. There are usually two reasons for maintaining such funds. The first is to ensure that all occupiers contribute to major works, not just those who are in occupation at the time they are carried out. The second is to even out the annual charges, avoiding large one-off bills, and to assist with leaseholders' budgeting.

Leases sometimes say how much is to be contributed each year, but usually they do not and it is left to the landlord to determine the contributions. However, they must be reasonable. Because these are just like any other service charges, leaseholders have the same rights to challenge these charges at the Leasehold Valuation Tribunal if they believe they are unreasonable.

A reserve fund is set up to cover expenditure with a cycle exceeding one year to even out annual service charges. Cyclical expenditure would include the decoration of the exterior and common parts of a building, say, every five years. The purpose of a reserve account is to even out costs for leaseholders and ensure that all occupiers pay for works, not just those who are there when works occur

In collecting service charges or in holding sinking funds or reserve accounts the landlord holds the leaseholders' money for purposes of future expenditure to their benefit – in other words acting as trustee for the funds. Section 42 of the Landlord and Tenant Act 1987 requires that, where leaseholders are required under the terms of their leases to contribute towards the same costs the monies must be held in one or more accounts and be held in a trust. Leaseholders have a statutory right to seek a summary of the service charge account from the landlord under section 21 of the Landlord and Tenant Act 1985. The summary should contain 'relevant costs in relating to the service charges payable'.

Reserve accounts and sinking funds usually earn interest because they are generally held for a longer period than day-to-day service charges, which goes some way to meet increasing budget costs. Contributions to the reserve account or sinking fund are generally not repayable when a flat is sold but may be if the lease so provides. Unless the existing leases provide for the use of sinking funds or reserve accounts, it may prove difficult to introduce them without considering alterations to the lease.

Sinking Funds and reserve accounts avoid the situation where leaseholders do not feel in control of their costs because they receive unexpected service charges. However, there is a need to explain to leaseholders why they need to pay into a sinking fund if they occupy a new property and why they need to pay into a sinking fund to fund works that may be carried out after they cease to be a resident – the answer is that the home is a long-term investment and that the sinking fund is part of the asset that they own along with their home.

When a dwelling is sold any money in the sinking fund is 'sold' along with it to the new owner and the balance is not returned to the original owner. This ensures that funds are still available to meet future capital works and the price agreed for the sale should reflect the existence of those funds.

Babergh and Mid Suffolk District Councils offer loans to leaseholders to cover service large charges. To qualify for a loan, the following conditions must be met:

- The lease must not be more than ten years old
- The total service charge bill must be more than £1,900 in any one year
- The leaseholder may borrow the amount by which the service charges for the accounting period exceed £1,500, but they may only borrow in respect of charges for repairs. The amount of the loan must be between £640 and £25,250 (although these figures are subject to change)
- The loan must be for repair or maintenance charges – loans are not available for improvement work, ground rent, management charges or other regular annual charges
- The annual service charge bill tells leaseholders if they have the right to a loan. They then have six weeks to apply for a loan.
- If a leaseholder is entitled to a loan, they will have to repay this over a period of three to ten years (depending on the amount borrowed) and the council will charge interest at the local authority mortgage rate

In the case of leaseholders and as a last resort the landlord will take an equity charge on the property. It is considered that tenants should not be called on to fund a shortfall in the recovery of costs related to leasehold dwellings.

Retrofit of Sprinklers and Removal of Cladding

Following the fire at Grenfell Tower in Kensington in June 2017, many local authorities and housing associations have decided to fit sprinklers in their high-rise flats. Where some of the residents are leaseholders this raised the question of whether the cost of installing the sprinklers should fall on the leaseholder through service charges or on the landlord. As usual with leaseholder service charges much depends on the wording of the leases. Different landlords therefore took different positions with some making service charges to leaseholders and some meeting the costs themselves.

Wandsworth Borough Council announced plans to install sprinkler systems in all 6,400 flats in its tower blocks of ten storeys and above the week after the Grenfell Tower fire in June 2017. Each block would have an independent pressurised water supply, requiring the installation of additional pumps and tanks. Pipework would be run through the communal areas at high level and into each property, and sprinklers would be installed in every room except bathrooms. In September 2017, the cabinet approved proposals to recover some of the £24million cost of the works through leaseholder service charges. The Council took legal advice that was that as these works are necessary and chargeable under the terms of the lease then the Council is under a duty to recharge.

The Council, however, was uncertain of its ground following the raising of objections by five residents' associations, and therefore made a pro-active application to the First Tier Property Tribunal to ask them for a judgment in advance of works starting. Around 200 leaseholders attended the hearing in October 2018.

The application affected 2,358 flats in the borough, and the residents affected would have had to pay between £3,000 and £4,000 for the sprinklers over two years. However, in January 2020 the tribunal found that Wandsworth Council was not entitled to ask for a 'blanket determination' of leaseholder rights. It said that if the council wish to fit the sprinkler systems then it must consider each block of flats individually and could make an application to the tribunal on a block-by-block basis later. A council spokesperson said it was:

"Disappointing that the tribunal felt unable to provide clarification on behalf of the council and its residents regarding the installation of sprinklers in all of its high-rise towers… Sprinklers are required by law in all new blocks over thirty metres due to their proven record on improving fire safety… It is perhaps surprising that a tribunal felt unable to consider an application aimed at ensuring that all residents of council tower blocks were entitled to similar levels of fire safety to residents of newly constructed blocks. Until primary legislation clarifies these urgent matters a two-tier fire safety regime will remain… The council is considering the merits of an appeal."

So, unless there is a successful appeal, Wandsworth Borough Council, and other councils in a similar position, will either have to take separate pro-active applications to the Tribunal for each block, or make service charges and defend them at the Tribunal if leaseholders make applications, or abandon the idea of recovering costs through service charges at all.

Adrian Waite
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