



Mayor and Cabinet

Response to the comments of the Housing Select Committee on the service charge policy

Date: 2 November 2022

Key decision: Yes

Class: Part 1

Ward(s) affected: All (none specific)

Contributor: Executive Director for Housing, Regeneration and Public Realm, Executive Director of Corporate Resources, Chief Executive of Lewisham Homes, Senior General Manager of RB3

Outline and recommendations

This report details the approach to be used to set, review and administer Service Charges for council owned properties managed by Lewisham Homes and by Regenter B3 for the Brockley PFI.

Housing Select Committee considered this policy at its meeting held on 12 October 2022 and supported the approval of this policy by Mayor and Cabinet.

It is recommended that Mayor and Cabinet approve the policy.

Timeline of engagement and decision-making

July / August 2022	Engagement with Lewisham Homes and Regenter B3
12 October 2022	Report presented to Housing Select Committee
2 November 2022	Report to be presented to Mayor and Cabinet

1. Summary

- 1.1. This policy sets out the approach to be used to set, review and administer Service Charges for properties managed by Lewisham Homes and Regenter B3. It is designed to provide clarity and transparency as to the approach and method we will use to

calculate and apply service charges.

- 1.2. This policy will help to deliver the Corporate Plan, which include commitments to focus on embedding a culture of affordability, efficiency and value for money, and to deliver consistent and reliable landlord services.
- 1.3. The policy will apply to any property managed by Lewisham Homes and Regenter B3 which is subject to a service charge. This will include different property and tenure types and includes fixed and variable charges.
- 1.4. While service charges for tenants are included within scope, the rent setting and rent collection is outside of the scope of this policy. Major works and non-statutory consultation are also outside of the scope of this policy.
- 1.5. At the time of writing Lewisham Homes or Regenter B3 do not manage any Shared Ownership tenure. Arrangements specific to future Lewisham Homes shared ownership properties are therefore excluded from the scope of this policy.
- 1.6. A copy of the proposed Service Charge Policy is attached as an appendix to this report.
- 1.7. On Wednesday 12 October, the Housing Select Committee discussed the draft Service Charges Policy and made comments that have been incorporated into the final draft policy.

2. Recommendation

- 2.1. That Mayor and Cabinet approve the Service Charge Policy.

3. Policy Context

- 3.1. The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Corporate Strategy objectives:
- 3.2. The proposed Service Charge Policy will also support the delivery of the Lewisham Homes Corporate Plan, 2019-2023, which was developed in collaboration with Lewisham Council and will further support the management of the Brockley PFI properties in line with the contract.

4. Background

- 4.1. A service charge is the charge payable by a tenant, leaseholder, shared owner or licensee, towards the costs of services, general maintenance or repairs. It covers other charges or costs, including administrative or management costs where the cost is not recovered through a rental charge.
- 4.2. This policy has been drafted to ensure that Lewisham Homes and Regenter B3 set, review and administer Service Charges for properties they manage in accordance with current legislative, regulatory and contractual requirements.

5. Current Situation

- 5.1. The Department for Levelling Up, Housing & Communities (DLUHC) have issued a consultation on rent increases to be applied from April 2023.
- 5.2. The consultation closed on 12th October 2022, had 5 questions to be answered one of which is whether the regulations on increases should be applied for one or two years.
- 5.3. The consultation proposes a cap/ceiling to be applied for rent increase at 5% or CPI+1%, whichever is the lower.
- 5.4. However, DLUHC are also, within the consultation, seeking alternative views on 3%, 5% and 7% as cap/ceiling options or other alternatives put forward by registered providers.

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5.5. The Council is waiting for the outcome of the DLUHC consultation to be published before finalising our approach to rent and service charge setting for 2023/24.

6. Service Charge Policy

6.1. The Service Charge policy sets out the approach used to set, review and administer Service Charges for managed properties. It is designed to provide clarity and transparency as to the approach and methods used to calculate and apply service charges.

6.2. The policy sets out the legislation and regulatory requirements around setting of service charges and provides a number of definitions of key terms.

6.3. The key principles for the policy are:

- To comply with all applicable legislative, regulatory and contractual requirements
- To work towards sector best practise and continual improvement.
- Have a clear, reasonable and consistent approach across our stock in the apportionment, calculation and recovery of costs for charged services, so far as contractual obligations permit.
- Provide cost effective services to sufficiently manage and maintain each scheme.
- To build and develop new homes which have appropriate service charges to meet the needs of the development.
- Utilise intelligent design to minimise ongoing charges where practical and reasonable.
- To offer choice to residents wherever possible and practical to do so.
- Aim to recover 100% of the costs of service charges for the provided services
- Set estimated charges to reasonably reflect estimated expenditure and aim for the estimates to remain as close to the actuals as possible.
- Seek to avoid large changes in the service charge each year.
- To provide a range of payment methods and terms.
- To provide access or signposting to additional sources of advice and assistance.

6.4. The policy goes on to set out how and when the service charges are calculated and reiterates that the charges must reflect the costs incurred and no profit can be made from the service charges.

6.5. Charges for tenants are included with their weekly rent, whereas leaseholders are charged a variable service charge and will receive an estimated service charge bill in April of each year. Leaseholders then receive a statement in the autumn setting out the actual costs incurred.

6.6. Leaseholders may be required to pay a ground rent and also buildings insurance charge which covers any shared and external areas, as well as the building structure.

6.7. The policy sets out the payment terms and the ways in which leaseholders can access help if they are struggling to pay their service charges.

6.8. Complaints relating to the application or management of the service charge policy are managed in line with the Complaints policy.

6.9. Residents are invited to engage in consultation around the budget setting process in the autumn of each year, with comments fed back to Housing Select Committee and Mayor and Cabinet annually.

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- 6.10. The Service Charge consultation process is and will be undertaken at the same time as the rents and garage rents consultation. Lewisham Homes will set up a number of meetings with the Chairs of Tenants and Residents Associations as well as having a general meeting for residents who wish to attend. Regenter B3 will consult by means of Residents Panel meeting, TRA meetings, quarterly in house magazine and emails to those residents whose contact details are held on the database.
- 6.11. The outcome of the engagement with tenants and leaseholders will feed into the paper that will go to Housing Select and M&C for the rents and service charge increase.

7. Financial implications

- 7.1. A service charge is a charge for services and facilities provided by the authority to tenants and leaseholders accounted for within the HRA which are not covered by rents. They are payable by a tenant, leaseholder, shared owner or licensee, towards the costs of services they consume such as caretaking, general maintenance or repairs. Applicable charges for Tenants and Leaseholders are separated out from rental charges and may include administrative or management costs, where allowable, which are not charged or recovered through rents.
- 7.2. The charges are calculated on an annual basis to recover the costs in providing services supplied to relevant blocks, buildings and estates. The Council's managing agents, Lewisham Homes and Regenter B3, have a duty to advise on and collect these costs. The annual increase in charges is usually based on the previous September's inflation rate, which is similar to rent increases.
- 7.3. Tenant's service charges operate on a fixed service basis which is charged weekly in addition to their rent. Leasehold service charges operate on a variable charge basis. Leaseholders receive annual service charge bills at the beginning of each financial year, which is based on the estimated cost of the services for the coming year, covering the 12 month period from 1 April to the following 31 March.
- 7.4. An annual audit of service charge costs is undertaken and charges to leaseholders adjusted as necessary the following year to ensure that costs are based on actual amounts incurred.
- 7.5. No surplus is made from service charges as the income from these charges are credited to the HRA and off-sets the cost incurred by the HRA for the service provided.

8. Legal implications

- 8.1. The Landlord and Tenant Act 1985 sets out the basic ground rules for variable service charges, defining what is considered a service charge, setting out requirements for reasonableness and for prior consultation of leaseholders [See ss18 – 30 LTA 1985].
- 8.2. Various other pieces of legislation are relevant including: Housing Act 1980 (introduced the Right to Buy); Housing Act 1996 (powers for local authorities to reduce service charges for major works); Commonhold and Leasehold Reform Act 2002 (changes in the procedures concerning the notification of major works); Housing Act 2004 (changes in the calculation of discounts for service charges); and more recently the Building Safety Act 2022 and the Leasehold Reform (Ground Rent) Act 2022.

9. Equalities implications

- 9.1. An Equality impact assessment has been conducted as part of the review of this policy. No material changes have been made to the policy which would impact any protected characteristic on this occasion. The assessment did recommend using the opportunity of a future fuller review of service charges to revisit and explore decisions which could potentially benefit residents more widely.

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10. Climate change and environmental implications

10.1. None specific to this report

11. Crime and disorder implications

11.1. There are no crime and disorder implications arising from this report.

12. Health and wellbeing implications

12.1. There are no health and wellbeing implications arising from this report.

13. Appendices

13.1. Proposed Service Charge Policy

14. Report author and contact

14.1. Fenella Beckman, Director of Housing, 020 8314 8632;
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14.2. Comments for and on behalf of the Executive Director for Corporate Resources, Tony Riordan, Principle Accountant, 020 8314 6854, Tony.Riordan@lewisham.gov.uk

14.3. Comments for and on behalf of the Director of Law, Governance & Elections, Leonard Tribe, Leonard.Tribe@lewisham.gov.uk

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