

Everything you need to know about Service Charges for Leaseholders



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Welcome

As the purchaser or owner of a leasehold flat, it is important that you understand the legal nature of the ownership. What exactly do you own and what are the associated rights and liabilities? This guide aims to help you understand this better. However, it is not a substitute for legal advice.

What is Leasehold?

Leasehold ownership of a flat is simply a long tenancy, which has been granted for either 99 or 125 years. Spire Homes still owns the freehold of the building that your property is situated in and the land it is built on.

Spire Homes, as the landlord and freeholder is therefore responsible for the maintenance and repair of the building, and the costs of such maintenance and repair will be recoverable through a service charge payable by leaseholders.

What is a Lease?

A lease is a contract between the leaseholder and the landlord giving conditional ownership for a fixed period of time. It is an important document and leaseholders must ensure that they have a copy and that they understand it. The wording within leases is usually in legal language and can vary from property to property. It is important to note that it is difficult to vary the conditions of the lease after you buy.

The lease will set out the contractual obligations of the leaseholder and the landlord:

- The landlord will be required to manage and maintain the structure, exterior and common areas of the property. To collect maintenance/service charge contributions from all leaseholders/tenants within the block and to keep the accounts.
- The leaseholder's obligations will include payment of the ground rent and contributions towards the costs of maintaining and managing the building, which is usually described as a service charge.

What are the Leaseholders rights?

Firstly, the right of peaceful occupation of the flat for the term of the lease, usually referred to as 'quiet enjoyment'. In addition, the leaseholder has the right to expect the landlord to maintain and repair the building and manage the common parts – that is, the parts of the building or grounds that are not specifically granted to the leaseholder in the lease but to which there are rights of access, for example, the entrance hall and communal staircases.

What is a ground rent?

Ground rent is a contractual rental payment to the freeholder of the land on which your property is situated. Unlike a service charge, ground rent is not related to the provision of any services and must be paid on the due date specified in the lease, subject to the issue of a formal and specific ground rent notice by the landlord.

What are service charges?

Service charges are payments by the leaseholders to the landlord for all services provided. Service charges cover a wide range of items which will depend on where you live. Some examples are:

- Repair and maintenance to the structure of the property (i.e. block)
- Repair and maintenance to common parts, such as the car park, footpaths, roads (when unadopted)
- Cleaning of common areas
- Gardening and grounds maintenance of common areas
- Electricity and lighting for common areas
- Security – door entry systems, CCTV, electric gates/barriers
- Fire safety equipment – including fire alarm panels, fire extinguishers
- Block Buildings insurance – including all common areas and other liabilities
- Lift maintenance
- Management costs (which may include audit/accountancy costs)

Older leases may describe the above as a maintenance charge or an estate charge.

How is the service charge calculated?

Each year during February, all leaseholders who pay service charges will receive an estimate of how much their service charge will be for the next financial year (usually for the period: 1st April to 31st March). This is a forecast of how much it will cost to provide the services

during the year. For some services the cost may already be known because it has been based on tenders or quotations provided by contractors.

To make sure these charges are fair for everyone a 'variable service charge' is applied. This is a legal term and makes sure a strict set of rules are followed. It is also important to recognise that service charges will vary from year to year, they can go up or down without any limit other than that they are reasonable.

How do I pay the service charge?

You have to pay the estimated service charge as stated in your lease. Your lease may say you have to pay the charge monthly, quarterly or annually. We have a variety of payment options and there will certainly be one available to suit you.

What happens at the year end?

After the end of the financial year the estimated service charge is compared to the actual costs and a statement of account is prepared which will show any difference. If too much has been charged, you may be refunded this back or the surplus will be rolled forward to the next accounting period. If not enough has been charged, you may receive an invoice to pay an additional amount or the shortfall will be rolled forward to the next accounting period. Whichever method is used will be dependent on what your lease says, or what has become standard practice over the years and is acceptable to leaseholders.

You will receive your annual statement of account by 30th September each year, which is our legal deadline to send this out to you, being 6 months after the year end.

What happens when major works to the block I live in are required?

As identified under the heading “what is leasehold?” Spire Homes are responsible for maintaining the structure of the block of flats that you live in. When these works take place, there is a legal requirement on us to consult with leaseholders about works when the cost will be more than £250 (including VAT) per property.

This consultation process is known as “Section 20 Consultation” and is a legal requirement under the Commonhold & Leasehold Reform Act 2002. When we consult with leaseholders, we allow you to make observations on the intended works, nominate a contractor, view tender documentation. We will also advise you of all the estimates we receive and again allow you to make observations.

As we do not collect monies from leaseholders in advance for major works, however, we will also advise you at the time of this consultation, what you will be expected to pay towards the works and how we will invoice you on the completion of the works. It is therefore important that when you receive such documentation from us, you consider its contents carefully.

Why do you charge a management fee?

Your lease states that it is reasonable for the landlord to recover overheads in relation to delivering services to you and undertaking works to your building. This is known as a management fee and is usually calculated on either a fixed sum each financial year or as a percentage (usually 15%) of the cost of direct expenditure. However,

your lease might determine a specific method of calculation, and in these cases this will be adhered to.

Overheads which are recovered through the management fee include:

- Issuing service charge estimates and ground rent demands
- Preparing and issuing the year end statement of accounts
- Complying with statutory legislation and issuing necessary notices to leaseholders
- Dealing with leaseholder enquires
- Administering and managing the buildings insurance policy
- Preparing specifications and tender documentation for service contracts
- Undertaking our legal obligations in respect of health & safety, involving necessary checks to the building
- Rent/service charge collection costs – including arrears management
- Monitoring and supervising service contracts.

Can I take out my own buildings insurance?

The lease will normally require the landlord to take out adequate insurance for the building and common parts and this will give us the right to recover the cost of the premium through the service charge. Leaseholders who decide to take out their own buildings insurance will only be paying for this twice and we would advise that you check your lease or contact us if you are unsure. We do recommend however that you take out your own contents insurance.

Details of the extent of cover of our insurance policy are available to you upon request.

Do Leaseholders subsidise tenants?

No. Where a block of flats contains both leaseholders and tenants, we ensure that shared services are equally apportioned across the number of flats within the block.

Tenants will however pay a lower service charge than leaseholders, and this is usually paid on a weekly basis along with their rent. The reason for the difference is because items such as property repairs and buildings insurance are included within their rent and not their service charge.

What if I am not happy with my service charge estimate?

If you think that the service charge estimate is unreasonable or incorrect, you have the right to challenge us. Once we have received your concerns, we will investigate and provide you with a full written response.

We will always try to sort out any disputes, but if you are unhappy with our reply you can seek further independent help from the Leasehold Valuation Tribunal (LVT). The LVT is an independent decision making body who provide an impartial view on disputes relating to service charges and leasehold matters.

A fee would be payable to make an application to the LVT.

What other rights do leaseholders have?

Probably more than you think. There is a wide range of legislation to protect leaseholders from being treated unfairly. These rights include:

- **The provision of information** – Spire Homes as your landlord must provide you with our full contact details, and this must be shown on all demands for ground rents and service charges. Leaseholders have the right to request a copy of the buildings insurance cover, to inspect invoices for services and other documents following the completion of the year end statement. We must also ensure that with every demand for a service charge, we send you a copy of a document entitled “The Service Charges – Summary of Rights and Obligations (England) Regulations 2007”.
- **Consultation on major works** – where works to the building will cost more than £250 (including VAT) per property, we must consult with you on the works and invite your observations on tenders received.
- **Consultation on long-term agreements** – where we wish to enter into a long-term agreement, of more than 12 months, and the cost will exceed £100 (including VAT) per property per year, we must consult with you on the agreement.
- **Reasonableness of Service Charges** – as a leaseholder you are able to challenge the reasonableness of the service charge at an LVT.
- **Right to vary the terms of the lease or extend** – with the agreement of all parties a lease can be varied or extended. If an agreement cannot be reached the LVT may make a determination on this.

Where can I get further advice on leasehold?

There are a number of organisations who specialise in providing advice to leaseholders about their rights and the legislation. We would recommend the following:

LEASE (Leasehold Advisory Service) – LEASE provides free advice and guidance to leaseholders and landlords on all aspects of leasehold law.

Contact – telephone: 0207 383 9800

Citizens Advice Bureau – there are local offices of the CAB and they may also be able to answer questions about leasehold law and in particular concerns you may have with regard to your lease.

We are, of course, also happy to answer your queries ourselves, subject to us being able to do so. We aim to do our best to provide you with a good service at all times.

This leaflet is available in various formats, i.e. different languages, braille, audio formats etc. Please contact us for further information.



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