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Service Charge Policy

August 2022

Important

Policies and procedures must be coordinated through the Research and Policy Team for compliance, auditing and control purposes. Please send all new or reviewed policies to NH.Policy@networkhomes.org.uk

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Owner: Service Charge Manager	Last reviewed: August 2022	Date of next review: August 2025

Status (draft or final)	Final	
Approver	Director of Leasehold Services, Service Charges and Rent Accounting	
Date last approved	August 2022	
Policy owner	Service Charge Manager	
Policy author	Renée Clarke	
Review schedule (1, 2, or 3 years)	Every 3 years	
Date last reviewed	August 2022	
Date of next review	August 2025	
Equality Impact Assessment (EIA)	Date completed	07/09/22
	Short or long form	Short

Version Control – Change Record

Guidance: When a document has undergone **major changes** requiring approval, the version number must change – e.g. from V1.0 to V2.0. When a document has undergone **minor changes**, not requiring approval, only the number after the decimal point must change – e.g. from V1.1 to V1.2. When a document is reviewed but no changes are made, the number after the decimal point must still change.

Date	Reviewed by (name and title)	New version number	Summary of changes
March 2018	Gavin Fawcett – Service Charge Manager	V1.0	New policy
August 2022	Renée Clarke – Leasehold Project Manager	V1.1	Updated to include audit recommendations and new legislation (Building Safety Act 2022)

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1. Introduction

The following recommendation was made within the Final Internal Audit Report of Service Charges:

“A separate Service Charge policy should be produced that sets out Network’s commitment and approach to the provision of services subjected to charges”

Therefore the purpose of this policy is to provide a framework for the legal, regulatory and operational management of service charges. It also sets out the overarching values and ethos of Network with regards to Service Charges.

2 Aims and objectives

Aims and Objectives are as follows:

- Network to recover 100% of the costs of providing services through service charges and other charges paid by customers.
- Service charges will be in compliance with all relevant legislation (currently the Landlord & Tenant Act 1985, (L&T Act 1985) and Commonhold and Leasehold Reform Act 2002).
- Service charges will be set and managed in accordance with current best practice.
- The services provided will be clearly identified to customers and set out in agreements (which include licences, tenancy agreements, leases and any other relevant documentation).
- Estimated service charges are calculated with an understanding of previous expenditure incurred and a forecast methodology applied to account for any known increases or decreases.
- Estimated service charges are not altered as a result of temporary breakdown or failure to provide a service. The difference between estimated and actual costs will be identified in the financial year end service charge accounts. Any balances will be accounted for according to tenure type and as set out later in this policy.

3. Policy statement

3.1 Definitions

Service Charges - Section 18 (1) of the Landlord and Tenant Act 1985, defines a variable 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

Examples of service charges may include:

- Grounds maintenance
- Cleaning, lighting & repairs for communal areas
- Lift maintenance

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- Reserve funds for future major works
- Management fee

3.2 Standards

Network recognises that the determining factors in the administration of service charges are the terms of the tenancy or licence agreement for tenants of rented properties, the lease in the case of shared owners, leaseholders and commercial customers, or the transfer document in the case of freeholders.

Network is committed to collecting service charges in a timely and cost-effective manner in order to recover its incurred costs.

Network operates all its service charges in accordance with legislation and guidance issued by the Regulator. Network endeavours to maintain the highest of standards and reflect best practice within the industry.

Network recognises that customers may receive different types of services and as such have different liabilities for service charges.

Individual tenancy agreements, leases or transfer documents will give detail of services that are chargeable to each customer.

Network service charges will be based on actual costs of providing each service or, where these are not available, for example on new developments, Network will provide estimated costs based on evidence from comparable estates or properties. We will prepare estimates annually and reconcile the actual costs and accounts each year.

Service charges will be apportioned between individual properties in accordance with the terms of the tenancy agreement, lease or transfer document. Network recognises the need for reasonable and fair apportionment of charges to customers and where none is prescribed will adopt a fair and reasonable approach to apportionment.

Network is committed to ensuring that all its customers who pay service charges have the opportunity for on-going involvement in deciding the type and extent of services subject to constitutional and legal requirements.

Disputed items should be notified to Network for investigation.

3.3 Information, consultation and engagement

Network will consult and inform customers in line with statutory requirements as and when required in the specified processes. A notable process where consultation is required is when issuing a Section 20 for work to be completed. Section 20 of the Landlord & Tenant Act 1985 will be adhered to.

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Wherever possible, Network will involve customers in assessing value for money and will assist them in making informed judgements.

In the case of a request to inspect documentation (Section 22 of the Landlord and Tenant Act 1985), Network will make such information available for inspection or in the case of another provider holding such information Network will supply the name and address of the freeholder or superior landlord.

3.4 New developments

Network aims to control new development services and charges to create the best value for money by selecting facilities appropriate to the type of development. This will include some items requiring regular maintenance and those benefiting from a longer life cycle.

In the planning phase of new developments, those in Network responsible for new development will liaise with internal colleagues to provide the highest possible degree of accuracy in estimating service charges in order to assist potential homeowners with planning their own domestic budgets.

Contributions to reserve funds or usage charges for new developments will be set by estimating or calculating specific lifecycles and costs for applicable components.

In cases where Network is not the freeholder, Network will take all reasonable action to comply efficiently with requests for information from customers or secretaries of recognised Residents' Associations.

Network will make a charge to cover our own reasonable costs of managing services as long as we are permitted to do so.

Reserve funds or depreciation / usage charges may be in place to cover the replacement or renewal of key facilities such as roofs, lifts or door entry systems.

3.5 Statements and demands

An annual statement of account will be produced for each property where service charges are payable, unless the lease, tenancy agreement, licence or other tenancy / title document provides for more frequent accounts. Where service charges are fixed then accounts will not be provided.

Network may seek agreement to standardise the frequency of accounts statements in order to control administrative costs.

Demands for service charges will be made in writing and will contain the landlord's name and address and a summary of rights and obligations as per Section 47 & 48 of the Landlord & Tenant Act 1987.

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In addition to rights under the lease or transfer document, Network will, where appropriate and applicable:

- Provide customers with an estimate of their service charge bill with a minimum one month notification period prior to the start date of the charges. This will include statements of anticipated expenditure for services to which the customer contributes.
- A cut-off date will be decided upon prior to each financial year for new residents moving just prior to the new financial year. These new residents will have the future charges applied to their accounts from the start date of their tenancy/lease.
- Provide customers with a statement of actual service charge expenditure within six months of the year end or as the agreement states.
- Offer payment options for service charges for the year – including direct debit.
- Provide customers with a statement of major works / reserve funds charges upon request.
- Provide in house debt advice or provide information on/ signpost customers to an organisation that can provide debt advice for those finding payments difficult.

3.6 Surplus (credits) and Deficits (debits)

Any surplus or deficit on a customer's account for the financial year will be determined by the calculation of actual costs in comparison to estimated costs. These will be calculated by the end of September of the next financial year, i.e. costs incurred between April 2021 to March 2022, will be calculated by the end of September 2022.

If there is a matter that prevents Network from completing account calculations and finalising surplus and deficit balances, in accordance with best practice and legislation, Network will ensure customers are informed of potential costs as yet unaccounted for, through provision of a formal notice (Section 20b notice).

The treatment of surplus / deficits will depend on the requirements of the lease, tenancy agreement, licence or other tenancy / title document, which are contractually binding.

In the case of tenancies the standard form of agreement allows the balance to be carried forward to the next service charge year.

All customers have rights allowing them to inspect and check accounts and supporting documents. These rights are subject to time limits set down by law under Sections 21 and 22 of the Landlord & Tenant Act 1985.

3.7 Charging arrangements

Network operates six separate schedules of charges: these are:

- Estate – if the property forms part of an estate, then certain services that are provided across the estate will be captured under this heading.

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- Block - if the property forms part of a block, then certain services that are provided across the block will be captured under this heading.
- Unit – if the property receives services that are unique to the property and not directly connected to any other properties the charges will be captured under this heading
- Insurance – this heading covers charges for buildings insurance
- Reserve funds & Usage – dependent on any specifics in Lease or Tenancy Agreement, this will form charges for longer term replacement of major assets to the property, block or estate.
- Management Fees – this heading covers the operating costs incurred in managing the services we provide.

3.8 Documents for customers

Network is committed to keeping its administrative costs as low as possible through efficiency and appropriate administration. As such, service charge statements and demands will only be sent to customers who pay variable service charges by separate demand.

Where customers pay one all-inclusive charge (e.g. affordable rents) Network will not provide a separate service charge statement.

Network is committed to providing clear statements for all charges with commentary on how the charges are calculated and what services they represent. Customers will receive a covering letter determining the charge period and confirming content of:

- A demand for payment (demand is a legal term and we wish to confirm that we use this term for legal purposes only)
- A statement of expenditure; this will determine the overall sums spent on each service and the contribution for the unit in question. (It is proposed that the statement will also reflect this contribution as a percentage in-line with any apportionment/weighting set-out in the tenancy agreement, lease or transfer document).

3.9 Reserve Funds & Depreciation/Usage Charge

A reserve fund is a collection of funds taken from leaseholders and freeholders over a set time period in order to replace/ redecorate/ improve a major asset when required.

A usage charge is an amount of money paid by a tenant on set time periods e.g. monthly, weekly etc. that covers the eventual replacement of the major assets contained in the block. These payments ensure that Network is able to replace, redecorate, or improve the asset when required.

Customers renting a Network property (e.g. general needs) may pay a usage charge for these purposes where the monies are not automatically taken from rent revenues.

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Setting up a reserve fund/usage charge ensures that all customers, irrespective of when they live in the block/property, share the financial cost of major works and replacements.

The reserve fund/usage charge maintains the value of the assets and circumvents or offsets the need to pay large one-off sums when major works are required.

Network will abide by all legal requirements when setting up, maintaining and using a reserve fund/usage charge.

If Network intends to use a reserve fund for any purpose we may be required to formally consult with the relevant leaseholders or freeholders about this. This is covered in Section 20 in the Landlord and Tenant Act 1985 and in the Commonhold and Leasehold Reform Act 2002.

3.10 Building Safety Act 2022

The Building Safety Act 2022 ('BSA') which introduced the Building Safety (Leaseholder Protections) (England) Regulations 2022 ('LPRs') has created a new legal regime of Landlords' Certificates by which leaseholders are entitled to ask for clarification as to whether building safety works (as identified by the BSA) are to be charged to leaseholders via the service charge. There is also a maximum limit on what Landlords can recharge as a service charge. This is complex area of law and clarification should be sought from the Building Safety Team before the cost is included in the service charges.

4. Performance monitoring and responsibilities

The Service Charge Team (SCT) is responsible for the accurate setting and validation of service charges for all tenure types and to ensure that the charges are correctly applied to the service charge accounts on NEC (aka Northgate). The SCT is supported by the operational teams, i.e. Leasehold Services team; Neighbourhood Team and Older Persons team.

The Management Accountant monitors the estimated income v the budget income on a monthly basis, and alerts the Service Charge Manager if there is an issue on scheme level. The Service Charge Manager investigates the variances and these are reported and discussed at the monthly meeting between the Management Accountant and Director of Leasehold, Service Charges and Rent Accounting.

The Service Charge performance is reported to the Executive Director for Finance on a weekly basis and monthly to the Debt panel.

5. Related documents

Service Charge Control Manual

6. Legislation and regulation

The legislation listed in this policy is not intended to cover all legislation applicable to this policy. To comply with clause 1.1 of the Regulator of Social Housing's Governance and

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Financial Viability Standard, which requires adherence to all relevant law Network will take reasonable measures to ensure compliance with any and all applicable legislation by reviewing policies and procedures and amending them as appropriate.

The legislation listed within this policy was considered at the time of the development of this policy, but subsequent primary and secondary legislation, case law and regulatory or other requirements will be considered and the policy reviewed and adopted in accordance with the requirements set out therein, even should such subsequent legislation not be explicitly listed within this policy. Any queries relating to the applicable legislation should be directed to the policy author.

7. Equality and diversity

We will apply this policy consistently and fairly, and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equality Act 2010.

8. Review

All policies should be reviewed every 3 years as a minimum, or sooner if there is a specific legislative, regulatory or service requirement or change in guidance, law or practice.

This document will be reviewed every 3 years

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