



Service Charge Policy

1.0 Purpose and scope

This policy sets out Notting Hill Genesis's (NHG) approach to managing and setting service charges. NHG recognises that transparency and engaging with residents is the most effective way to optimise an efficient management of service charge. We recognise the importance of value for money and fair treatment of all our residents; and we take a proactive and supportive approach when dealing with service charge setting.

We will:

- Provide a framework for the legal, regulatory and operational management of service charges
- Ensure the service charge schedules are provided in a format accessible to all residents

Promote the good management of service charge accounts through effective budget setting and compliant expenditure of services. This policy applies to all service charges, variable and fixed where NHG set and manage the service charge accounts.

2.0 Definitions

Service Charge- Section 18 (1) of the Landlord and Tenant Act 1985, as amended, defines a service charge as an amount payable by a tenant of a dwelling as part of or in addition to the rent. It 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
- Building funds for future major works
- Management fee.

Management Fees- is a fee to recover the reasonable business costs incurred by NHG in providing service chargeable services to the building and/or estate as set out in the tenancy agreement, lease or transfer agreement.

Reserve/Cyclical/Sinking fund / usage charges - 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.

Local officer – the NHG officer that manages the property, also known as Housing Officer, Supported Housing Officer and Property Management Officer.

3.0 Service Charge Standards

NHG operates all its service charge setting and management in accordance with legislation and guidance issued by the Regulator. NHG abides by all sections in the Commonhold and Leasehold Reform Act 2002 (The 2002 Act), the Landlord and Tenant Act 1985 sections 18-30 (The 1985 Act), The Landlord and Tenant Act 1987, section 11 (The 1987 Act). NHG has signed up to the Shared Ownership Service Charge Charter, which promotes transparency and affordability. We will maintain the highest of standards and reflect best practice.

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

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

NHG will aim to:

- Ensure that for all properties for which we provide a service, that the recoverable cost of that service is charged for in addition to the rent (where applicable).
- Set budgets for estimated service charge costs each year, with a consideration of the prior year's spend, to ensure estimated service charges are calculated with an understanding of previous costs incurred and a methodology applied to account for any known charge increases or decreases in expected expenditure.
- Not alter estimated service charges 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 for residents on a Variable service charge regime. Any balances will be accounted for according to tenure type and as set out later in this policy.
- Base service charges on actual costs of providing each service, apportioned to each unit in the scheme via a fair and reasonable methodology. Where actual costs are not available, for example in the first 12 months after a new development is handed over, we will provide estimated costs based on evidence from comparable estates or properties. This will include for reserve funds.

3.1 Resident Involvement and information

NHG will consult with residents and will provide them with information in accordance with our policy and best practice. We are committed to consulting with residents on the proposed service charge budgets prior to them coming into effect. This will provide residents with the opportunity to discuss the proposed budget. We will also provide commentary alongside the final accounts and costs incurred.

Where residents or stakeholders require information about service charge details, we will be transparent in providing these details and addressing any queries in accordance with the 1985 Act.

For schemes where NHG do not set the service charge budget and it is set by an external party, we may not always be able to consult ahead of time on proposed service charge budgets. NHG endeavours to work with the relevant external party so that any queries that queries relating to the budget or final accounts are responded to.

3.2 Service Charge Statements and Payment Requests

A payment request (demand) is a legal term which refers to the service charges that must be paid to NHG. It must include NHG's name and the address on the demand of payment. We will use the term demand for legal purposes only.

Properties where service charge is payable and where the resident is on a Variable service charge regime will receive an annual statement of account (unless the contractual agreement states that statement of accounts should be provided in a different way). Where service charges are fixed, accounts will not be provided.

NHG will:

- Provide residents with various options for making their service charge payments i.e. direct debit
- Provide residents with statements of major works or sinking fund charges, as well as day to day expenditure
- Sign-post residents to organisations who can provide debt advice where applicable.
- Independently certify our service charge accounts in accordance with statutory requirements.

3.3 Service Charge Arrangements

NHG manages various types of properties and they are subject to different charging arrangements:

- Estate - if the property forms part of an estate, then certain services that are provided across the estate will be captured under this heading
- Block - if the property forms part of a block, then certain services that are provided across the block will be captured under this heading
- Core - communal area/s within a block, such as a lobby or staircase leading to property entrances
- 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/sinking funds & usage/depreciation - dependent on any specifics in lease or tenancy agreement, this will form charges for longer term replacement of major assets to the block or estate.
- Management Fees - this covers the overhead costs incurred in managing the services we provide. Legislation requires that this charge is reasonable.

3.4 Documents for Residents

We are committed to providing clear and accurate service charge budgets for residents, with commentary where applicable. We will provide details on how the charges were calculated and what services they represent. In order to provide information in an effective manner NHG may use automation when setting service charge budgets.

It is our legal obligation, which is required under Section 153, Commonhold and Leasehold Reform Act 2002, to provide residents with summary of their rights and obligations alongside a demand for service charge, i.e. estimated budget or summary of expenditure. If at any point we do not enclose a 'summary of rights and obligations', the resident may withhold the payment for service charges until this summary is provided.

3.5 Surplus (credits) and Deficits (debits)

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

In accordance with The 1985 Act, NHG will ensure residents who pay a variable service charge are sent a summary of accounts showing expenditure for the previous financial year (final/year-end account) reconciled with the estimated budget that shows where there is a surplus or deficit balance.

If we are unable to send the summary within the legislative timeframe, then we will issue the resident with a formal Section 20B notice in accordance with the 1985 Act.

3.6 Section 22 requests

All residents have rights allowing them to inspect and check our accounting for service charges and supporting documents whether accounts have been published or not. These rights are subject to time limits set out in the 1985 Landlord and Tenant Act 1985, Sections 21-23.

When a resident makes a formal request under these provisions we will comply in accordance with the Landlord and Tenant Act 1985 and provide all the required documents to the resident. When a resident is unspecific with their request or the request is ambiguous, signpost the resident to Leasehold Advisory Service's Section 22 guidance page.

Our Section 20B notices are drafted in such a way that they meet the requirements of a Section 21 request so that if one has been served those requirements have already been met. However, the requirements of Section 22 would still need to be met on request.

3.7 Reserve Funds

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

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

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

3.8 Consultation

NHG is required to formally consult with leaseholders and/or freeholder under Section 20 of the 1985 Act and 2002 Act. In instances where service charge expenditure falls under Qualifying Works (QW) or a Qualifying Long-Term Agreements (QLTA), consultation with residents will take place appropriate to the act.

3.9 New Developments

NHG will do our best to control new development services and charges to create 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.

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, where applicable.

3.10 Section 106 agreements where NHG does not set or manage the service charge accounts

NHG cannot stipulate what the agreement for service charge can include. In Section 106 agreements where NHG is not the freeholder we can only guide and negotiate the content of the service charge provision agreement.

NHG's role is to advocate for residents and liaise between the resident and superior landlord who is responsible for setting and paying for service charge costs. Where our influence may be limited, we will be clear with residents about what we can influence. We will inform residents on how to get more information or challenge cost in relation to service charges.

4.0 Service Charge Disputes

4.1 Estimated service charges

In the first instance we will aim to resolve all queries about estimated service charges via the local officer. We will provide residents with clear and concise records throughout this process.

4.2 Service charge actuals

Queries and disputes about service charge actuals and final accounts will be dealt with following NHG's [Service Charge Disputes Procedure](#). All matters related to the costs and reasonableness of the service charge should be handled via this procedure.

4.3 Complaints

However, the prior two points do not prohibit residents from raising a complaint in the first instance should they wish to, or should they be dissatisfied with the outcome of their initial query. Where a resident would like to make a complaint, this can be done in accordance with the NHG [Complaints Policy](#).

Additionally, any issues with customer service, service quality or delivery, or timescales should be dealt with in accordance with the Complaints Policy.

4.4 First-tier Tribunal

Residents can make an application to the First Tier Tribunal at any stage in accordance with our [Complaints Policy](#).

5.0 Our approach

In writing this policy we have carried out assessments to ensure that we are considering:

- Equality, Diversity & Inclusion
- Privacy & Data Protection

We also carry out consultation with our staff, customers and the wider community. If you'd like more information about this work, please get in touch as policy@nhg.org.uk

6.0 References

- Commonhold and Leasehold Reform Act 2002 (The 2002 Act)
- Landlord and Tenant Act 1985 (The 1985 Act)
- Landlord and Tenant Act 1987 (The 1987 Act)

Document control

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Version Control

Date	Amendment	Version
07.10.2020	Created	v1.0
01.07.2022	Amendments: <ul style="list-style-type: none"> • Move away from housing-focus to business-wide terminology • Further information on disputes 	v1.1
30.08.2022	Amendments: <ul style="list-style-type: none"> • Section 3.6 details section 22 requests • Section 3.5 removed last paragraph 	V1.2