



## Leaseholders:

### **Service Charges: Your Rights and Obligations**

The following does not give a full explanation of your rights and obligations. You should seek professional advice if in any doubt.

#### **Your Obligations – What you must do**

Your obligations regarding service charges are set out in your lease. This will set out the services that your landlord is able to charge for. It also sets out your obligation to pay service charges.

#### **Your Rights**

Service charges must be reasonable. Reasonableness will depend upon the service, works or goods supplied and cost.

If you pay a service charge that is paid as part of or in addition to the rent that varies according to the costs, you have the following rights:

1. To apply to a Leasehold Valuation Tribunal (LVT) to determine your liability to pay service charges including, by whom it is payable, to whom, how much, and the date and the way in which it is payable. Applications can be made either before or after service charge costs have been paid. However, you do not have this right if:
  - the matter has been agreed or admitted by you;
  - the matter has been or is to be referred to arbitration pursuant to a post-dispute arbitration agreement;
  - the matter has been the subject of a determination by a court, or by an arbitral tribunal pursuant to a post-dispute arbitration agreement;
  - the rent is registered under Part IV of the Rent Act 1977, unless the amount registered is entered as a variable amount.

2. To apply to a LVT to determine whether the landlord's costs arising from proceedings at a LVT can be recovered through the service charges. However, you do not have this right if:
  - You are a tenant of a local authority, National Park authority and New town corporation, unless your tenancy is a long tenancy (i.e. normally a tenancy first granted for more than 21 years).
  - The rent is registered under Part IV of the Rent Act 1977, unless the amount registered is entered as a variable amount.
  
3. To be consulted when your landlord intends to enter into a long-term contract or intends to carry out work that cost any tenant more than the amount prescribed by regulation. However, you do not have this right if:
  - You are a tenant of a local authority, National Park authority and New town corporation, unless your tenancy is a long tenancy (i.e. normally a tenancy first granted for more than 21 years).
  - The rent is registered under Part IV of the Rent Act 1977, unless the amount registered is entered as a variable amount.

Note: Where a grant has been or is to be paid towards the work the service charges shall be reduced accordingly.

4. To withhold payment of a service charge until the landlord's name and address (in England and Wales) is contained in any demand for service charges, or until the landlord has provided name and address details (in England and Wales) at which notices can be served on him. However, you do not have this right if:
  - The landlord subsequently complies with the requirement to provide the name and address details.
  - By order of any court a receiver or manager has been appointed whose functions include the receiving of service charges.

5. To withhold payment of a service charge where a regular statement of account under s.21 of the Landlord & Tenant Act 1985, together with a section 21 certificate (if applicable) and a summary of rights and obligations in respect of the service charges is not provided. In addition, payment of a service charge may be withheld where a summary of tenants rights and obligations does not accompany a demand for service charges. However, you do not have this right if:
  - You are a tenant of a local authority, National Park authority and New town corporation, unless your tenancy is a long tenancy (i.e. normally a tenancy first granted for more than 21 years).
  - the landlord subsequently complies with requirements of section 21, or a LVT has made a determination.
  - the rent is registered under Part IV of the Rent Act 1977, unless the amount registered is entered as a variable amount.
  
6. To make a written request to the landlord to inspect (and take copies of) accounts, receipts and other documents relevant to the service charges covered by the section 21 regular statement. However, you do not have this right if:
  - You are a tenant of a local authority, National Park authority and New town corporation, unless your tenancy is a long tenancy (i.e. normally a tenancy first granted for more than 21 years).
  - The rent is registered under Part IV of the Rent Act 1977, unless the amount registered is entered as a variable amount.
  
7. To have service charge payments held in trust and in a designated account, and make a written request to your landlord to inspect (and take copies of) documents evidencing this. However, you do not have this right if your landlord is:
  - A local authority; Commission for New Towns or a development corporation established by an order made under the New Towns Act 1981; Housing Action Trusts; The Broads Authority; a National Park authority; The Housing Corporation; a housing trust; a housing trust which is a charity; a registered social landlord or fully mutual housing association which is not a

registered social landlord; an authority established under section 10 of the Local Government Act 1985. These landlords do not have to hold service charge monies in separate designated accounts.

8. To withhold payment of a service charge where there are reasonable grounds for believing that the landlord has failed to hold service charge payments in trust in a separate account for each group of service charge payers. However, you do not have this right if:
  - Your landlord is a local authority; Commission for New Towns or a development corporation established by an order made under the New Towns Act 1981; Housing Action Trusts; The Broads Authority; a National Park authority; The Housing Corporation; a housing trust; a housing trust which is a charity; a registered social landlord or fully mutual housing association which is not a registered social landlord; an authority established under section 10 of the Local Government Act 1985. These landlords do not have to hold service charge monies in separate designated accounts.
  - The landlord subsequently complies with the requirements to hold service charge payments in trust in a designated account.
9. To apply to a LVT to vary a lease where it does not make satisfactory provision with regard to the insurance of the property, the recovery of expenditure, or the computation of a service charge payable under the lease. However, you do not have this right if:
  - You do not have a long lease (i.e. generally one that is first granted for more than 21 years).
10. To apply to a LVT to appoint a new manager where the landlord has demanded, or is likely to demand, unreasonable service charges. However, you do not have this right if:
  - Your landlord is a local authority; Commission for New Towns or a development corporation established by an order made under the New Towns Act 1981; Housing Action Trusts; The Broads Authority; a National Park authority; The Housing Corporation; a housing trust; a housing trust which is a charity; a registered

social landlord or fully mutual housing association which is not a registered social landlord; an authority established under section 10 of the Local Government Act 1985.

- The property is not purpose built, the landlord is resident and less than one half of the flats are held on long leases.
  - The property is included within the functional land of any charity.
11. To arrange for a management audit to establish whether service charges are being spent in a cost-effective way. However, you do not have this right if:
- You have a business lease.
  - There is no long residential lease.
12. For leasehold houses, to apply to a LVT to determine whether insurance cover in respect of a nominated insurer clause in the lease is satisfactory, or the premiums excessive. However, you do not have this right if:
- The matter has been agreed or admitted by you.
  - The matter has been or is to be referred to arbitration pursuant to a post-dispute arbitration agreement.
  - The matter has been the subject of a determination by a court or arbitral tribunal.

## **Forfeiture**

If you breach any of the terms of the lease your landlord may have a right to forfeit the lease and recover possession of the property. However, legislation provides a range of measures to protect leaseholders. Where property is lawfully occupied as dwelling, the landlord cannot re-enter the premises without a court order. A landlord is also required to serve a notice before exercising the right to forfeit the lease. This must specify the breach and give the leaseholder the opportunity to remedy the breach or to

compensate the landlord for the effects of the breach. In addition, the landlord is prevented from taking forfeiture action in respect of the non-payment of service charges unless the charge has been either agreed or admitted by the leaseholder or determined by the court, or arbitral tribunal. There are also a number of opportunities during the legal proceedings for the leaseholder to put matters right and avoid forfeiture of the lease.