

# **Camden Leaseholders' Forum**

## **Guide: Service Charges: Tenants v. Leaseholders**

(last updated 8<sup>th</sup> February 2017)

### **Summary**

This document aims to explain what is included in the service charge and to explain how the service charge is calculated. These topics can be hugely complicated and there is a significant volume of law and tribunal hearings attributed to service charges. We hope to provide an insight into some of the logistics and concepts involved.

The simplest explanation for the service charge is that it covers all the costs that Camden Council incurs in looking after the building containing the leasehold property and its surroundings. For a fuller breakdown please see later in this document.

Service charges are calculated differently for leaseholders and tenants; sometimes leaseholders pay more than tenants and sometimes vice versa. The reason for this is explored in greater detail throughout this guide.

Regardless of the law, the calculation methodologies do not have impact on whether the service provided is value for money or of good quality. That is an entirely separate debate!

## Contents

Summary .....	1
What the Service Charge is .....	3
What isn't included in the Service Charge .....	3
How the Service Charges are calculated.....	4
Leaseholders .....	4
Tenants.....	5
Conclusions .....	5
Appendix: Camden Council briefing note .....	6
Tenant Service Charges.....	6
Leaseholder Service Charges .....	7
Appendix: More information about Leaseholder Service Charges.....	8
Appendix: More information about Camden Leaseholders' Forum .....	8

## What the Service Charge is

[LEASE](#) (the Leasehold Advisory Service) explains it very well: “Service charges are levied by landlords to recover the costs they incur in providing services to a dwelling. The way in which the service charge is organised is set out in the tenant's lease or tenancy agreement. The charge normally covers the cost of such matters as general maintenance and repairs, insurance of the building and, where the services are provided, central heating, lifts, porterage, lighting and cleaning of common areas etc. The charges may also include the costs of management by the landlord or by a professional managing agent.” (Local authorities are not allowed to maintain a reserve fund, unlike private landlords).

“Details of what can and cannot be charged by the landlord and the proportion of the charge to be paid by the individual leaseholder will be set out in the lease. The landlord, or, sometimes, a management company that is party to the lease, provides the services, while the leaseholders pay for them. The landlord will generally make no financial contribution for the services, but sometimes he has to pay for the services before he can recover their costs.”

## What isn't included in the Service Charge

For leaseholders, the service charge should only cover the specific items mentioned in the lease (all of which are related to the property). This means that the Service Charge does not cover planning, transport, highways, police, fire, libraries, leisure/recreation, environmental health or trading standards. These are paid for via a combination of council tax, central government monies and self-raised income (e.g. fees for licenses, parking fines, etc).

## How the Service Charges are calculated

Although both tenants and leaseholders pay service charges, each group's service charges are calculated very differently:

### Leaseholders

Most leases require that leaseholder can only be charged for works and services relating to the specific building and estate where the property is; the basic rule is that the terms of the lease set out what is to happen. But note that Camden are now in the process of pooling the management charge and accounting charge across all leaseholders and making individual leaseholders pay a share of the total, because its recent leases provide for this to be done.

Each March leaseholders are sent an estimated service charge for the forthcoming year (which runs April to March). This is based on the last known actual expenditure with an allowance for known changes in costs (e.g. inflation and changes in contract prices). Camden leases require that payments should be made against the estimated sum.

6 months after the end of the service charge "year" (i.e. September for Camden leaseholders), the actual costs are calculated and then an additional payment is required or a credit is given if the costs have not been as than expected.

## Tenants

Camden Council calculates the service charge by reviewing the last known actual expenditure and then making an allowance for known changes in costs (e.g. inflation and changes in contract prices). This is done in March of each year and is effective in April. Correction to previous years' estimated charges are also applied at this point, meaning that the calculation is never a simple straight forward percent increase.

There are three key differences in the calculation methodology:

1. The tenants' service charges are not property specific. The total cost across the whole borough is taken and then divided by the number of properties, although tenants are not charged if they do not receive the service in question at all. This means that some tenants end up paying for services that they do not receive (and some tenants benefit from this!). The notable exception is full time concierge costs which are only applied to the blocks that benefit from this service. **The elements that leaseholders' have to pay for are set out in their leases.**
2. Tenants have to pick up the cost for services included those that are provided to leaseholders but not covered in their lease, so not reclaimable from leaseholders. If tenants receive "additional" services, they will also pay for those services too in their service charge. **The allocation of standard and additional services is for Camden Council to decide.**
3. District Management Committees (DMCs) participate in the tenants' Service Charge setting exercise. Tenants are consulted on increasing their Service Charge to pay for specific improvements but this is non-binding. The core amount is set by the Cabinet of Camden Council in the early part of each year, to be implemented in April.

## Conclusions

Leaseholders and tenants' service charges are calculated very differently, so there are areas of similarity and areas of divergence. Some services are specific to tenants and not leaseholders, and fewer to leaseholders and not tenants. Then, there are areas where some leases do not allow Camden to recover its costs, and others where the costs cannot be calculated easily.

The practical upshot of all of this is that leaseholder and tenants pay different amounts, but in the current financial climate Camden Council are trying reclaim more costs from leaseholders than they have done historically (c.f. the 2013/2014 Leasehold Valuation Tribunal on management charges). Camden Council's aim is to get back all they spend on leasehold properties, given that a third of their housing portfolio is now leasehold, and that proportion is continually rising.

## Appendix: Camden Council briefing note

*The following briefing note was supplied by Camden Council in response to the Forum's request clarifying the difference between leaseholders' and tenants' service charges.*

### Tenant Service Charges

The service charges to tenants are mainly at a standard rate. This means that for those tenants that receive a service the cost of that service is divided equally between them regardless of where their property is located. An exception to this is the charge for concierge services, which are specific to particular blocks.

Each year the proposed service charges are discussed at District Management Committee (DMC) meetings before being set. Each spring tenants are informed of their service charges for the forthcoming year.

Generally Camden calculates the total estimated cost of providing the services by reviewing the last known actual expenditure and adjusting for known and anticipated changes such as new contract prices. The expenditure that isn't recoverable from leaseholders is then averaged across all those tenants who receive the service.

The actual income received from tenants and the actual costs of the service are reviewed each year. If the service charge income is enough to pay for all the services then this is taken into account when setting charges the following year.

If all the costs of a service are being recovered from service charges then we do not increase charges the following year. We do ask tenants (at the DMC meetings) for their views on increasing charges to pay for specific improvements.

If the actual expenditure incurred on a service was more than the estimated costs, then this would also be taken into account when calculating the following year's charges.

## Leaseholder Service Charges

The lease requires that leaseholders can only be charged for works or services relating specifically to the building and estate where their property is located

Each spring leaseholders are sent an estimated service charge invoice for the forthcoming financial year. Generally Camden calculates the estimated charges by reviewing the last known actual expenditure and adding percentage uplift for the forthcoming year.

For example, the estimated caretaking costs for 2013/14 were calculated by adding 5.6% to the actual costs for 2011/12.

In September each year leaseholders are sent the actual adjustment for the previous year. So in September 2013 leaseholders will receive the actual adjustment for 2013/13.

Camden calculates the adjustment by determining the actual expenditure incurred for each service charge element and dividing the cost between all the residents who receive the service.

For example, the 2011/12 adjustment for caretaking costs was calculated by determining the hourly cost of the service. The hourly cost was then applied to each block/estate based on the number of hours service provided. *[Camden Leaseholder Forum write: This is estimated; no actual measurements are made.]*

Once the adjustments have been calculated for all the services provided, Camden compares this with the estimated amount billed at the beginning of the financial year. If the estimate was lower than the actual adjustment you are required to pay the additional amount. If the estimate was higher a credit is applied to your service charge account.

## **Appendix: More information about Leaseholder Service Charges**

For more information about Leaseholder Service Charges please see the [relevant section](#) on the LEASE website.

## **Appendix: More information about Camden Leaseholders' Forum**

We are a volunteer group representing all the leaseholders in Camden Council properties and freeholders paying service charges to Camden Council. We scrutinise Camden Council proposals, examine working practices and lobby on behalf of leaseholders to Camden Council.

More information is available at <http://www.leaseholdersforum.org.uk>

If you know of anyone who would like to receive regular updates from us, please direct them to <http://www.leaseholdersforum.org.uk/mailling-list> where they can sign up. Subscribers can also adjust preferences by clicking on the link at the bottom of any email we send.