



# Cabinet

5 SEPTEMBER 2011

**CABINET MEMBER  
FOR HOUSING**

*Councillor Andrew  
Johnson*

**SERVICE CHARGES FOR TENANTS**

Seeking approval to implement fixed service charges calculated at block level for Council tenants. The report sets out the reason for moving initially to fixed service charges and a timetable for implementation and communication.

**WardS:  
All**

**CONTRIBUTORS**

AD Finance &  
Resources (Housing &  
Regeneration)  
AD Housing Services  
DFCS  
ADLDS

**Recommendations:**

- 1. That authority be delegated to the Cabinet Member for Housing, in conjunction with the Director of Housing and Regeneration, to implement fixed service charges for all Council Tenants from 1 April 2012 for:**

**HAS A EIA BEEN  
COMPLETED?  
YES**

- caretaking
- CCTV
- communal lighting
- concierge
- door entry
- cleaning
- grounds maintenance
- heating
- TV aerials
- Fire alarms
- lift maintenance
- window cleaning

**HAS THE REPORT  
CONTENT BEEN  
RISK ASSESSED?  
YES**

- 2. That approval be given for funding of £50k to implement Fixed Service Charges.**

## **1. BACKGROUND**

- 1.1 Under the rent restructuring mechanism, local authorities were urged by government to separate the elements of the rent relating to the provision of communal services such as grounds maintenance, caretaking, door entry systems, concierge service etc. to make it more transparent to tenants which services they pay for. This process is known as depooling or unpooling.
- 1.2 Separate service charges mean that the charge paid by a tenant is more closely matched to the service received, similar to that already provided to lessees. It gives some scope for tenants to be able to choose to pay for enhanced services. It also ensures that the charges are more comparable with those made by Registered Providers (Housing Associations), encouraging equity in the charges paid by different groups of tenants.
- 1.3 The rents charged under current regulations only allow for charges relating to the occupation of the dwelling such as the maintenance of the building and general housing management services. They take no account of additional communal services such as caretaking, with a resultant impact on the Housing Revenue Account.
- 1.4 The main guidance issued in 2002 expects Local Authorities to use their discretion and judgement on charging for services in situations in which anomalies are created; the example given in the guidance is that of lifts in high rise flats which could result in a significantly more expensive service charge for this type of property. It should however be noted that some London boroughs and Registered Providers (Housing Associations) do charge for lifts.
- 1.4 Currently, only ourselves and Greenwich out of the 33 London Boroughs do not have unpooled service charges (London Councils 2009/10 Rent Survey). Currently only heating and water rates are charged separately by ourselves.

## **2.0 APPROACH TAKEN BY OTHER LONDON BOROUGHES**

- 2.1 The common services for which service charges have been introduced by the London boroughs are:
  - caretaking
  - CCTV
  - communal lighting
  - concierge

- door entry
- estate cleaning
- grounds maintenance
- heating
- TV aerials
- lift maintenance
- window cleaning.

2.2 In addition, individual boroughs have also specified a weekly charge for a number of other services ranging from mobile security, block cleaning and de-infestation to bulk refuse collection.

1.3 The method of service charge calculation depends on individual borough preference and varies between a charge based on:

- The gross property value
- A fixed rate for different property types
- A flat rate for each service
- A flat rate for each estate
- A fixed amount to all tenants
- Another method

### **3. OPTIONS AVAILABLE**

3.1 Officers believe that unpooling service charges is essential as it:

- Makes it transparent to tenants what services they should be receiving
- Allows tenants to input into the level of service they receive
- Enables the Council to maintain a viable Housing Revenue Account , safeguarding future investment in homes owned by the Council. It does this by ensuring that the rent only pays for the provision of accommodation rather than ancillary charges.

3.2 There are a number of choices regarding the calculation methodology, these are set out below:

#### **3.3 Apportioning Service Charges**

3.3.1 As noted above, there is a number of different ways to apportion service charges. The most widely used method is a flat rate for each service, i.e. a standard charge for each service charged to each tenant who receives that service. Other methods include a fixed amount to all tenants, a flat rate for each estate or block and a flat rate for each property type. Some Councils have used more than one method to apportion their service charge costs. Our Leaseholder Service Charges are currently apportioned at block level.

3.2.2 Any apportionment method used to calculate the service charges must balance:

- The fairness of the charge allocated
- The cost of the additional administration required for a more complex system
- How easy it is to understand the calculation

### 3.4 **Fixed or Variable**

3.4.1 Authorities also have to choose between fixed and variable service charges. Both of these options have advantages and disadvantages.

### 3.5 **Fixed Service Charges**

3.5.1 A fixed service charge is to cover the cost of the service or contribute to the cost of the service at the point of introduction of the service charge.

3.5.2 This charge can be inflated at the time of the annual rent-setting decision. Inflation is not restricted to RPI although the guidance issued in 2002 is to restrict increases to RPI + ½% except on the rare occasions when costs increase due to factors outside the Council's control, e.g. fuel prices. The only exception would be when new charges are introduced; these would have to be consulted on before introduction.

3.5.3 No adjustments can be made to the charge after it has been set for the year if it turns out to have been insufficient to cover service costs. Similarly, the charge cannot be reduced retrospectively if service costs turn out to have been lower than the total service charge. Ongoing efficiency savings can still be passed on to the tenants by applying a lower or negative inflation rate.

3.5.4 Fixed service charges are relatively cheap to administer and implement, are easily explained to all stakeholders involved and generate fewer ongoing enquiries than variable service charges. Additionally, as fixed service charges do not result in any additional bills they make it easier for tenants to budget.

### 3.6 **Variable service charge**

3.6.1 A variable service charge ensures that all costs incurred by the landlord are recovered; costs are estimated at the beginning of the financial year and the tenant billed on this basis.

3.6.2 If the actual charge for the year is higher than the estimate an additional invoice is raised; if it is lower a credit is given,. However the guidance noted in paragraph 3.5.2 restricting increases would still apply.

3.6.3 Variable service charges are more expensive to administer as two sets of invoices are required - estimated and actual, which together with the associated queries results in increased non recoverable administrative costs. They also make it harder for tenants to budget as they may receive an additional bill. Variable service charges only slightly increase accountability.

#### **4. PROPOSAL**

4.1 Officers propose that fixed service charges are implemented from 1 April 2012. This has the advantage of giving tenants a high level of transparency regarding the service they can expect whilst minimising the administrative burden and resultant costs that would be generated by moving directly to a variable service charge. The adoption of fixed service charges rather than variable will also ensure the tenants will not receive any unexpected bills, making it easier for them to budget. It utilises our ability to calculate charges at this level whilst recognising that further work needs to be done to improve our ability to efficiently invoice and easily answer queries. It also enables us to pass on efficiencies made on service costs to the tenants on an annual basis.

4.2 Officers propose to apportion costs at a block level for the following items:

- caretaking
- CCTV
- communal lighting
- concierge
- door entry
- estate cleaning
- grounds maintenance
- heating<sup>1</sup>
- TV aerials
- lift maintenance
- window cleaning
- fire alarms

4.3 Three examples of indicative weekly service charges for example properties calculated on this basis are given below:

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<sup>1</sup> Charges for communal heating are already currently made to some tenants

	<b>Poynter House</b>	<b>Pelham House</b>	<b>Netherwood Road</b>
Assumed size <sup>2</sup>	2 Beds	2 Beds	2 Beds
Type of accommodation	High Rise (22 floors) flat	Medium Rise (5 floors)	Street property (3 floors)
Service charge per week <sup>3</sup>	£20.09	£12.98	£4.88

4.4 Appendix 1 sets out the range of service charges at 2009/10 rates across the London Councils by type of service. The actual total service charge varies widely depending on the types of services Councils have chosen to include. Kensington & Chelsea's average service charge for 2011/12 is £9.69 per property per week and Wandsworth's is £9 per property per week.

4.6 We will do further work to reduce the administrative cost of variable service charges and review if a move to variable service charges would be appropriate in three years time.

## **5. IMPLEMENTATION**

5.1 Service charges will be depooled from 1 April 2012 in accordance with the guidance issued by the relevant government departments between 2001 and 2003:

- The total amount payable per week by the tenants for 2012/13 will be calculated using the formula under the rent restructuring regime (X), i.e the rent they would have paid without service charge unpooling.
- Service charges will be calculated based on the cost of services supplied to each block (Y)
- The service charge (Y) will then be deducted from the total amount payable (X) to give the new rent for the property (Z)
- In 2013/14 the new rent (Z) will increase in line with the rent restructuring formula and the service charge will be increased to allow for predicted inflation at a rate reflecting the services provided to be agreed as part of the 2013/14 budget setting process.

5.2 The existing tenancy agreement does allow for a service charge. As the services charge shall simply itemise those charges for services and

<sup>2</sup> Note the service charge will vary depending on the size of the property, an £8 per week average service charge has been used for modelling as over half of the Council's flats are in blocks of 3 storeys or less.

<sup>3</sup> Service charge excludes any existing heating charge and water rates which would continue in addition to the service charge and rent

facilities provided by the authority, there is no statutory requirement for formal consultation. It is therefore proposed to run an intensive communications exercise in parallel with implementation

- 5.3 The timetable for communication and implementation is set out in Appendix 2. The results of this will be fed into the service charges implemented in consultation with the Cabinet Member for Housing and this will be reported to Cabinet as part of the budget report in February 2012. This will include full financial details of the extent and value of the charges
- 5.4 Only those services to which Housing Benefit will contribute in addition to rent will be levied The Housing benefits department will review all our proposed charges and confirm their eligibility before implementation
- 5.5 In order to ensure this project is adequately resourced we propose to employ temporary resource for 6 months at an estimated cost of £50k to identify and calculate the initial service charges.

## **6. FINANCIAL BENEFIT**

- 6.1 An average service charge of £8 per week has been used for the modelling as over half of the Council's flats are in blocks of 3 storeys or less. It should however be noted that as per the example above if we choose to charge for all elements some properties will have considerably higher charges.
- 6.2 The potential impact on the Housing Revenue Account, assuming an average £8 per week service charge per flat service for all tenanted flats, assuming RPI at 4.6%, is additional net income of:

2012/13	£Nil
2013/14	£116k
2014/15	£436k
2015/16	£748k

- 6.2 Tenants receive no increase in their charge in 2012/13, hence there is no additional income in the HRA in that year. In future years tenants slowly move to paying formula rent plus service charge as rent restructuring occurs. Not all tenants reach formula rent at the same time, hence the benefit to the HRA occurs over a number of years.

## **7. RISK MANAGEMENT**

- 7.1. Although this proposal is not included in the risk registers, income recovery from tenants is. This proposal will in the longer term mean that the total charge to tenants increases to a higher rate than it would without the implementation of service charges, i.e. it will ultimately be formula rent plus service charge instead of just formula rent.
- 9.2 This may increase the likelihood of low income recovery. This will be minimised by continuing the measures we currently have in place to mitigate this risk, including using our in house Welfare Benefits Advisor who provides advice to tenants struggling to pay their rent. The Welfare Benefits Advisor provides a joined up service acting as a bridge to other departments to enable tenants to claim their benefit entitlements.
- 9.3 Additionally, the adoption of fixed service charges rather than variable will ensure the tenants will not receive any unexpected bills, making it easier for them to budget.

## **8. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

- 8.1. Tenants receive no increase in their charge in 2012/13 as the rent element of the charge is adjusted down to ensure the overall total payment made by each tenant remains the same in 2012/13 as it would have been without implementing service charges. Therefore there is no additional income in the HRA in that year. Ultimately under rent restructuring, instead of paying formula rent tenants move to paying formula rent plus service charge. This results in a net benefit to the HRA which increases over a number of years as not all tenants move to formula rent at the same time.
- 6.2 The potential additional net income in the Housing Revenue Account assuming an average £8 per flat service charge for all tenanted flats on estates, assuming RPI at 4.6%, is:

2012/13	£Nil
2013/14	£116k
2014/15	£436k
2015/16	£748k
2016/17	£1,052k

- 6.3 The ongoing financial benefit is significant and will help the Council maintain a viable HRA.

- 6.4 Under self financing, the modelling used to calculate the debt settlement received by the Council assumes that rental income only covers costs relating to the occupation of the dwelling such as the maintenance of the building and general housing management services. It makes no allowance for service costs; supporting these from rental income would make it difficult to support the level of debt being allocated to the Council.

## **9. EQUALITY IMPLICATIONS**

- 9.1 The implementation of tenant service charges will impact on all Council tenants. It will in the longer term mean that the total charge to tenants increases to a higher rate than it would without the implementation of service charges, i.e. it will ultimately be formula rent plus service charge instead of just formula rent.
- 9.2 This may impact disproportionately on groups who have a lower income level, especially those who may be disproportionately represented in Council stock. This disadvantage will be minimised by using our in house Welfare Benefits Advisor who provides advice to tenants struggling to pay their rent. The Welfare Benefits Advisor provides a joined up service acting as a bridge to other departments to enable tenants to claim their benefit entitlements. Implementing fixed service charges rather than variable will also help tenants to budget as they will know what they need to pay and will not receive any unexpected bills.
- 9.3 Additionally, separate service charges will mean that the charge paid by a tenant is more closely matched to the service received, similar to that already provided for lessees. It increases transparency as tenants know what services they should receive. It also gives some scope for tenants to be able to choose to pay for enhanced services.
- 9.4 The additional income generated within the Housing Revenue Account also ultimately enables more investment in Housing and Regeneration which will benefit tenants.
- 9.5 Residents in sheltered housing already receive an enhanced housing management charge covering the extract costs of scheme managers etc and so will not be adversely impacted in this respect.
- 9.6 Implementing service charges also ensures that the charges for properties are more comparable with those made by Registered Providers (Housing Associations), encouraging equity in the charges paid by different groups of tenants.

## 10. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 10.1 The principal statutory provision governing the fixing of rent for Council property is contained in Section 24 of the Housing Act 1985.
- 10.2 Sub-section (1) provides that authorities may “...*make such reasonable charges.... as they may determine*”. However, this section has to be considered in the light of Section 76 of the Local Government and Housing Act 1989 which imposed a duty on local housing authorities to prevent a debit balance arising in their Housing Revenue Account (“HRA”) and which also imposes “ring-fencing” arrangements in respect of such account. It is now no longer possible for a local housing authority to subsidise rents from its General Fund.
- 10.3 However, the Council still has discretion to determine its rents within the Government's standard methodology and in doing so it should consider all relevant matters and exclude irrelevant ones.
- 10.4 Relevant considerations include:
- the cost to the Council of providing accommodation and the cost of its management;
  - the effect of inflation;
  - any subsidy the Council will receive; and
  - the extent and numbers of tenants qualifying for Housing Benefit.
- 10.5 Having taken all the relevant considerations into account, the Council must ensure that the relevant income generated will be sufficient, when taken together with other income and items which may be credited to the HRA, to meet the expenditure for the year in respect of the repair, maintenance, supervision, management and other items which may be debited to that account.
- 10.6 Further to the aforementioned, the Council may depool a separate service charge to identify those services which it provides to its tenants further to guidance provided by, at the time, the Department for Environment, Transport and the Regions, “Quality and Choice: A Decent Home for All – The Housing Green Paper”
- 10.7 Clause 2.1 of the Council's current tenancy agreement, in use since 6 December 2004, states the tenant :

*“To pay the weekly rent and other charges as heating, water rates and so forth the by way of additional rent ...”*

10.8 In addition, Clause 1.3 deals with variations in rent:

*“The council shall give the tenant four weeks notice in writing of any change in weekly rent. Other charges may be increased from time to time.”*

10.9 It is therefore the Council’s view that unpooling those services provided to its secure tenants in the manner set out in this report is consistent with its current tenancy conditions. This is believed to be a reasonable position to take.

10.10 Section 105 of the Housing Act 1985 deals with Consultation on matters of housing management. Subsection 2 defines matters of housing management

*For the purposes of this section, a matter is one of housing management if, in the opinion of the landlord authority it relates to*

*(a) the management, maintenance, improvement or demolition of the dwelling-house let by the authority under secure tenancies, or*

*(b) the provision of services or amenities in connection with such dwellings- houses;*

*but not so far as it relates to the rent payable under a secure tenancy or to charges for services or facilities provided by the authority.*

10.11 The Council has expressed in this report that it takes the view that the unpooling of services into an itemised service charge for secure tenants does not fall within any of the defined scenario where the Council would have a statutory obligation to consult on the proposed change.

10.12 Other than the issues raised above, there are no further legal implications beyond those raised in the body of the report.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>1.1.1 Description of 1.1.2 Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Social rent reforms in the Local Authority Sector	Kathleen Corbett x3031	Housing and Regeneration
2.			
<b>CONTACT OFFICER:</b>		<b>NAME: EXT.</b>	

Appendix 1

**Service charges made for type of services by other London Boroughs compared to our three indicative examples**

	Lowest charge per London Councils 2009/10 Rent Survey	Highest charge per London Councils 2009/10 Rent Survey	<b>Poynter House: 2 bed</b>	<b>Pelham House: 2 bed</b>	<b>Netherwood Road: 2 bed</b>
Caretaking	£0.92	£7.45	£4.91	£5.66	£4.44
CCTV	£0.83	£4.2	£0.21		
Communal Lighting	£0.4	£3.63	£1.96	£0.53	
Concierge	£0.47	£22.69	£9.51		
Door Entry Systems	£0.2	£6.65	£1.42	£0.32	£0.36
Estate Cleaning	£0.66	£7.88			
Grounds Maintenance	£0.3	£3.62	£0.47	£2.05	£0.08
TV Aerials	£0.2	£0.87		£0.24	
Lift Maintenance	£0.39	£0.39	£1.61	£4.18	
Window Cleaning	£0.09	£0.14			

Note examples exclude any existing heating charges, these would remain in force.

Note that in some cases Councils are likely not to be fully recovering their costs, it appears as if only one London Council is charging for lifts

## Appendix 2

### **Example of explanatory letter to tenants:**

Dear

#### **Important information about the way your rent is charged.**

I am writing to let you know that we are proposing to change the way your rent will be charged from April 2012.

All local authorities are encouraged to separate the rent charged from the charges for services such as gardening or cleaning. We want tenants, just like leaseholders, to know what services they receive and how much the service costs.

Most local authorities have already introduced service charges for tenants.

Among the 33 London Councils, only two including Hammersmith and Fulham have not done so, although some tenants already pay a service charge for heating and hot water.

We are proposing that from April 2012, the costs for the following services will be separated out from the rent and shown as a separate service charge.

- caretaking
- CCTV
- communal lighting
- concierge
- door entry
- estate cleaning
- grounds maintenance
- heating
- TV aerials
- lift maintenance
- window cleaning
- fire alarms

Please note that you will only be charged for the services you receive where you live. If you do not have a caretaking service you will not pay for that service. Your rent will still be calculated in the same way but the service charge will be calculated separately based on the costs of the service you receive.

To help you get used to these changes, there will be no extra charge for services in April 2012, even though the charges will be shown as a separate item on your rent letter.

We will deduct the service charge from your rent once the rent for 2012/12 has been calculated. There may be a total increase, because your rent has to be calculated every year, based on the government formula.

The enclosed leaflet explains the rent restructuring formula and how rents are calculated. If you are currently eligible for housing benefit for your rent, you will be entitled to housing benefit for your service charge as well.

In future, we hope you will find this new way of separating out service charges helpful. From April 2012, like leaseholders you will know exactly your share of the costs of services to run your building or estate.

If anything is not clear or you would like further information on the proposed separating of rents and service charges, please do not hesitate to use the telephone freephone which has been set up on 0800 xxx xxx that will be operational from Monday xxxxx to Friday xxxxx

Our intention is always to provide the best service we can.

Appendix 3  
Indicative Project Plan

Action	Date
1. Internal Stakeholder workshop	Early September 2012
2. Prepare i world for tenants service charges	September 2012 to December 2012
3. Calculate tenants service charges	September 2012 to December 2012
4. HRA budget report to Cabinet including tenant service charges	30 <sup>th</sup> Jan 2012
5. Rent increase letters sent including service charges	Late Feb 2012
6. Tenant communication re service charge implementation starts	September 2012
7. Information to HAFFTRA Executive and Workers	September 2012
8. Presentation to Equality Champions Group	October 2012
9. Information leaflet / FAQ's etc.	September 2012, update FAQ's monthly on internet and as leaflet at area offices
10. Letter to all T&RA's	September 2012
11. Establish a telephone Enquiry Line	12 <sup>th</sup> September 2012
12. Presentation at Area Forums and Borough Forum	September 2012 – December 2012
13. Press release / Magazine	September 2012
14. Focus groups / community information workshops	September 2012 – December 2012