**Title:** Leasehold Service Charges

<table>
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<tr>
<th>Open Report</th>
<th>For Information</th>
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<tr>
<td>Wards Affected: None</td>
<td>Key Decision: No</td>
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**Summary**

The following report was presented to the Living and Working Select Committee (LWSC) on 2nd May 2017.

Following requests for additional information at the LWSC held on 30 October 2017, it is clear that Members have further questions on the subject of leaseholders and therefore this report is to be considered as a starting point for the discussion.

**Recommendation(s)**

The LWSC is asked to note the content of the report.

**Reasons**

The Living and Work Select Committee (LWSC) requested a report to explain how the annual Leasehold service charges are determined and set.

1. **Introduction and Background**

1.1 Currently there are 3,462 leasehold properties managed by LBBD. In total, the service charges levied against leaseholders in 2015/16 was £3,068,296.82

1.2 There are 13 individual elements that may be charged to leaseholders through the annual service charge process depending on what services are provided to the individual block.

1.3 In March of each year Estimated service charges for the financial year ahead are determined and leaseholders are notified. These charges are then adjusted through the ‘Actual Service Charge’ calculation which occurs in September in the following financial year i.e Estimated Charges for 2016/17 issued in March 2016, Actual Service Charges for 2015/16 issued in September 2016.
2. **Service Charges - Summary of tenants' rights and obligations**

2.1 This summary, briefly sets out Leaseholders rights and obligations in relation to variable service charges.

2.2 The lease sets out the Leaseholders’ obligations to pay service charges to the landlord in addition to their rent. Service charges are amounts payable for services, repairs, maintenance, improvements, insurance or the landlord's costs of management, to the extent that the costs have been reasonably incurred.

2.3 Leaseholders have the right to ask the First-tier Tribunal (Property Chamber), formally known as 'leasehold valuation tribunal', to determine whether they are liable to pay service charges for services, repairs, maintenance, improvements, insurance or management. They may make a request before or after they have paid the service charge. If the tribunal determines that the service charge is payable, the tribunal may also determine:

- who should pay the service charge and who it should be paid to;
- the amount;
- the date it should be paid by; and
- how it should be paid.

2.4 However, Leaseholders do not have these rights where:

- a matter has been agreed or admitted by themselves;
- a matter has already been, or is to be, referred to arbitration or has been determined by arbitration and the leaseholder agreed to go to arbitration after the disagreement about the service charge or costs arose; or
- a matter has been decided by a court.

2.5 When Leaseholders seek a determination from a First-tier Tribunal (Property Chamber), they will have to pay an application fee and, where the matter proceeds to a hearing, a hearing fee, unless they qualify for a waiver or reduction. The total fees payable will not exceed £500, but making an application may incur additional costs, such as professional fees, which they may also have to pay.

2.6 The First-tier Tribunal (Property Chamber) has the power to award costs, not exceeding £500, against a party to any proceedings where:

- it dismisses a matter because it is frivolous, vexatious or an abuse of process; or
- it considers a party has acted frivolously, vexatiously, abusively, disruptively or unreasonably.
- The Upper Chamber (Lands Tribunal) has similar powers when hearing an appeal against a decision of the First-tier Tribunal (Property Chamber).

If the landlord:

- proposes works on a building or any other premises that will cost the leaseholder or any other tenant more than £250, or;
proposes to enter into an agreement for works or services which will last for more than 12 months and will cost the leaseholder or any other tenant more than £100 in any 12 month accounting period;

the leaseholders’ contribution will be limited to these amounts unless the landlord has properly consulted on the proposed works or agreement or a leasehold valuation tribunal has agreed that consultation is not required.

2.7 Leaseholders have the right to apply to the First-tier Tribunal (Property Chamber) to ask it to determine whether their lease should be varied on the grounds that it does not make satisfactory provision in respect of the calculation of a service charge payable under the lease.

2.8 Leaseholders have the right to write to us as the landlord to request a written summary of the costs which make up the service charges. The summary must:

- cover the last 12 month period used for making up the accounts relating to the service charge ending no later than the date of your request, where the accounts are made up for 12 month periods; or
- cover the 12 month period ending with the date of your request, where the accounts are not made up for 12 month periods.
- The summary must be given to the leaseholder within 1 month of their request or 6 months of the end of the period to which the summary relates whichever is the later.

2.9 Leaseholders have the right, within 6 months of receiving a written summary of costs, to require us, the landlord to provide them with reasonable facilities to inspect the accounts, receipts and other documents supporting the summary and for taking copies or extracts from them.

2.10 Leaseholders have the right to ask an accountant or surveyor to carry out an audit of the financial management of the premises containing the dwelling, to establish the obligations of the landlord and the extent to which the service charges they pay are being used efficiently.

3. **Explanation of Service charge elements and rationale for charging:**

3.1 There are 13 separate service charge elements that may be charged by LBBD to leaseholders.

3.2 Leaseholders may only be charged for services provided to their block and must be charged the actual cost of the service (rather than an average of the pooled cost – as per Tenant service charges).

3.3 Below is a description of each service charge element and an explanation to the charging rationale:

3.4 **Responsive Communal Repairs**

3.4.1 This charge is for the cost of day-to-day repairs and maintenance works carried out to the structure and communal parts of the building and the estate.
3.4.2 This charge can vary greatly from year to year for individual leaseholders how many repairs are carried out to the block.

3.4.3 In 2015/16 a total of £380,850.73 was charged to leaseholders.

3.5 Caretaking/ Estate Cleaning

3.5.1 This service is supplied internally to the communal areas of a building and to the communal areas of an estate.

3.5.2 This charge is made up of staff costs, vehicle costs, equipment and material costs.

3.5.3 In 2015/16 a total of £751,028.56 was charged to leaseholders.

3.6 CCTV/Concierge Service

3.6.1 This service is important in improving security to buildings; reducing anti-social behaviour, and other types of nuisance such as graffiti, and vandalism. The service also allows us to build on our close partnership with the police and help reduce burglaries and other crimes.

3.6.2 A total of £32,722.61 was charged to leaseholders in 2015/16.

3.7 Estates Police / Safer Neighbourhood Team

3.7.1 This service charge element relates to the costs incurred by the Housing department in the provision of the Metropolitan Police’s Estates Policing Team which provides additional policing across the borough through estate patrols and dedicated support for Tenants & Leaseholders seven days a week from 7am until midnight. The team responds directly to referrals from Housing and Neighbourhoods service. The dedicated team consists of 2 Sergeants and 20 Police Constables and is jointly funded by the Housing Service and the Metropolitan Police.

3.7.2 The cost to leaseholders for this service is £26 per year (50p per week).

3.8 Grounds Maintenance

3.8.1 This charge is calculated on an estate by estate basis. The charge is the proportional share of horticultural works within the estate, such as cutting the grass, trimming hedges, caring for shrubs and flower beds, and pruning trees.

3.8.2 In 2015/16 a total of £248,635.80 was charged to Leaseholders.

3.9 Provision of Landlord Controlled Central Heating

3.9.1 This is the proportional share of the annual cost of energy used by the heating system in a property. The charge is calculated by sharing the cost of Electricity or Gas supplied to the block for the landlord controlled heating in a specific property. Actual bills received from the energy company for each building are used to calculate the charges.
3.9.2 In 2015/16 a total of £138,653.16 was charged to leaseholders.

3.10 Communal TV Aerial

3.10.1 This is the cost of providing communal television (TV) reception equipment emergency breakdown services, regular service inspections and repairs.

3.10.2 The total charged to leaseholders in 2015/16 was £93,268.36

3.11 Landlords Communal Electricity

3.11.1 This is the proportional share of the cost of electricity to provide lighting to entrances, staircases, lifts, door entry systems and communal areas of your block. It does not include the cost of any repairs. Actual bills received from the energy company for the specific building are used to calculate the charges, in 2015/16 £56,692.29 was charged to leaseholders for this service.

3.12 Buildings Insurance

3.12.1 Under the terms of the lease we as the freeholder (owner of the building) must arrange appropriate insurance cover. This is to ensure that all properties within the block have enough insurance and to protect the interest of other people living in the building. The building insurance policy is with Zurich Municipal and the charges are set by the insurance company.

3.12.2 In total, in 2015/16 £707,209.29 was charged to leaseholders.

3.13 Graffiti removal & Estate Maintenance

3.13.1 This charge comprises all expenditure relating to a range of estate based tasks that are essential to maintain the common external areas of the estate. Each estate is unique and the tasks undertaken to each estate are appropriate to its particular needs. Charges are only made to estates where works have been undertaken, in 2015/16 the total cost charged to leaseholders was £20,063.36.

3.14 Lift Maintenance and Door Entry system servicing

3.14.1 This charge is the proportional share of the costs incurred for the provision of a lift servicing contract and door entry service contract during the year.

3.15 Management Fee

3.15.1 This is the leaseholders share of the actual costs incurred by the Council in running the leasehold management service and is made up of among other things such as cloolcetiuon of service chare, tenancy management.

3.15.2 Currently the Management fee is charged in two bands. Band A is charged properties within an Estate (essentially any property that benefits from a caretaking service) and Band B is charged to the remaining properties (normally corner conversion properties / street properties that are not part of an estate).
3.15.3 The total charged to Leaseholders in 2015/16 was £638,912.00.

3.15.4 The Management fee was last reviewed 3 years ago and a review of the management fee structure is currently underway to be implemented in the issue of the Actual Service Charges for financial year 2016/17 (i.e September 2017).

3.15.5 The management fee review will take into consideration the current costs of providing the leasehold management service following the recent service restructure and will also take into consideration the efficiencies achieved through the provision of a service to Thurrock.

3.15.6 Discussions regarding the management fee review have started with the Leasehold Association chair and the outline rationale is proposed to be presented to a future Leasehold association committee meeting for consultation.

3.15.7 Essentially, the main change to the leasehold management fee, will be that we will move to a three tier charging system to reflect the different types of property e.g street property, estate property.

The proposal is that:

- Band 1 – for properties in a tower block or larger estate that benefit from the majority of the service charge elements.
- Band 2 – for properties that would previously have fallen into band A but do not benefit from as many service charge elements as Band 1 properties. A typical example of this would be a tunnel block, street property which may receive 5-7 service charge elements.
- Band 3 – for corner-conversion properties that typically only receive 2-3 service charge elements.

3.15.8 Costs of the current and future management fee will be determined following the calculation of the Estimated service charge in March and further consultation will take place with the Leasehold Association and wider leasehold population once the financial bandings have been determined.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None