



Service Charge Policy

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| Regulation & Legislation | <p>This policy links to:</p> <ul style="list-style-type: none">• Landlord & Tenant Acts 1985 & 1987• Commonhold and Leasehold Reform Act 2002• Housing Act 1988• Localism Act 2013, Value for Money Standard• RSH Consumer Standards:<ul style="list-style-type: none">○ Tenancy: 1.1.1○ Tenant Involvement & Empowerment: 1.2.1; 1.3.1• National Housing Federation <i>Service Charges; a guide for housing associations</i> 5th ed, 2015• Royal Institution of Chartered Surveyors (RICS) <i>Code of Practice</i>• <i>Universal Credit: service charges – guidance for Landlords</i> |
| Approved by | Martin Chuter, Director of Property Management – 22 November 2020 |
| Supporting documents | <p>This policy links to:</p> <p>Property Management Strategy; Property Management Policy; Procurement Policy; Rent Policy, Tenancy Policy; Asset Management Strategy; Service Charge Procedure; Debt, Service Charge and other Arrears Policy</p> |
| Scope | <p>This Policy sets out Orbit’s approach to the setting and management of service charges payable by tenants, leaseholders, shared owners, freeholders and licensees across Orbit. This policy sits under the Property Management strategy and will be delivered through the Service Charge procedure.</p> <p>This policy does not cover commercial properties.</p> |
| <p>Reference to “Orbit” means Orbit Group which consists of Orbit Group Limited, Heart of England Housing Association Limited, Orbit South Housing Association Limited, Orbit Homes (2020) Limited, Orbit Treasury Limited and Orbit Capital Limited.</p> | |

1.0 Introduction

- 1.1 As a responsible business, Orbit wants to deliver quality, affordable value for money services to all its customers (residents, leaseholders, shared owners, freeholders and licensees). Operational costs of providing services must be covered, but we acknowledge that service charges need to be reasonable, self-financing and represent value for money.

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1.2 Policy objectives:

- 1.2.1 Ensure we meet our legislative and regulatory requirements along with the terms included in the tenancy, lease, or licence agreement that apply to the setting and management of service charges.
- 1.2.2 Develop a consistent approach to setting fair and reasonable service charges that provide value for money and that comply with current legislation and leasehold or tenancy terms and conditions
- 1.2.3 Ensure that service charges are reasonable
- 1.2.4 Deliver quality services that are cost efficient, clear and transparent and take account of affordability
- 1.2.5 Deliver services that our customers want, allowing them to input on frequency/ level of service when applicable
- 1.2.6 Engage with our customers wherever practical and in accordance with legislation in setting service charges and provide them with clear information about service charges

1.3 Key outcomes

- 1.3.1 Service charges are judged to be reasonable
- 1.3.2 Recorded level of customer satisfaction with the services provided by Orbit is consistently high
- 1.3.3 Service charge is clear, transparent and easy for customers to understand
- 1.3.4 Service charge reconciliations and budgets are completed in an accurate and timely manner
- 1.3.5 The management of/ any variation to services is compliant with all legal and regulatory requirements
- 1.3.6 Collection of service charges due from customers is maximised

2.0 What is a service charge?¹

- 2.1 The Statutory definition of a Service Charge, under S.18 of the Landlord & Tenant Act 1985, states: *Service Charge means an amount payable by a tenant of a dwelling as part of, or in addition to the rent, which is payable*
 - ... for services, repairs, improvements, maintenance, insurance or the landlord's costs of management **and**
 - The whole or part of which varies or may vary according to the relevant costs
- 2.2 Orbit therefore levies a service charge towards the costs of services, insurance, general maintenance, repairs or reserve and sinking funds. A management fee will also be included to cover Orbit's cost of providing the services. The management fee is based on a tiered structure, based on the services provided to each development.
- 2.3 Service charges can apply to any property that shares common areas.

¹ **See also** Glossary for key terms and definitions

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2.4 Service charges are either **variable** or **fixed**, and this is specified in individual tenancy agreements and leases. (Please refer to Glossary for further details)

2.5 Planned maintenance & cyclical repairs

2.5.1 We will identify within future stock condition surveys any repairs, servicing, testing and renewals, which are chargeable under a service charge. This information will be used for subsequent planned maintenance and cyclical maintenance repairs programmes and we will budget for these works accordingly. A renewals/sinking fund forecast will be developed from this information which will be shared with customers as and when required.

3.0 Affordability, Quality & Value for Money (VFM)

3.1 Orbit will continuously improve, challenge, manage and monitor the efficiency and effectiveness of the services we provide. We will treat each scheme on an individual basis to ensure that services provided are of good quality, offer good value for money, demonstrate good housing management practice and meet the needs of the specific scheme.

3.2 Procurement

3.2.1 Services paid for by service charge will be procured in compliance with Orbit's Procurement Policy. Orbit regularly re-procures contracts to ensure that our customers are receiving good value for money. We will continue to deploy our procurement process to ensure that new contracts provide maximum benefit for customers. Added emphasis will in future be placed on ensuring that the contract is suitable for each scheme.

3.2.2 We will ensure that customers paying service charges are aware of the procurement arrangements for their scheme or development, and the standards to which the contractor or service provider should be working.

3.3 Housing Benefit or Universal Credit

3.3.1 When considering which services to provide, we will consider if the charges will be eligible for payment under Housing Benefit or Universal Credit criteria to ensure they remain affordable and our properties remain desirable.

3.3.2 There are four categories of eligible service charges, those being;

- *Category A: Maintaining the general standard of the accommodation*
- *Category B: Areas of communal use*
- *Category C: Basic communal services*
- *Category D: Tenant accommodation specific charges*

3.3.3 The below are examples of service charges that are ineligible for Housing Benefit or Universal Credit;

- Individual living expenses, such as utilities provision for tenant's accommodation
- Personal services, such as meals, laundry or cleaning service
- Any personal care, medical, counselling and support services

3.3.4 Further information regarding Housing benefit and Universal credit can be found in the *Universal Credit: service charges – guidance for Landlords* guidance note issued by the Department for Work and Pensions.

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4.0 Service Charge Setting and Statements

4.1 Orbit will manage service charges in a transparent way, compliant with all statutory obligations to provide annual service charge statements and accounts in the prescribed format and in accordance with the relevant lease, tenancy or licence agreement.

4.2 We will provide our customers with clear up to date information ie:

- Standardised budgeting and accounts information
- Bespoke information relevant to each scheme and, if applicable, each customer

4.3 The accounting period will be in accordance with the lease, licence or tenancy agreement or other legal requirement. Where any discrepancies are identified, we will seek to vary the agreement or agree with customers a plan for moving over to the accounting period within their agreement.

4.4 Apportionment of charges

4.4.1 For our **existing developments**, costs will be apportioned on an equal basis between customers at Estate, Block and Core, unless stated otherwise within the lease, licence or tenancy agreement.

4.4.2 **New developments** - unless stated otherwise within the lease, licence or tenancy agreement, costs will be apportioned on an equal basis between customers at Estate and Block. At Core level, the costs will be apportioned based on the gross internal floor area.

5.0 Recovery

5.1 We will collect service charges in a flexible and effective way, promoting a choice of payment methods, where the agreement allows, and signpost to debt advice if required.

5.2 All directly linked costs, together with administration or management costs, will be recovered in accordance with the terms of any lease, tenancy, licence or legal transfer agreement.

5.3 Any service charge demand will be accompanied by a summary of the customer's rights and obligations.

6.0 Customer involvement

6.1 Customer Consultation

6.1.1 In accordance with current legislation and with our customer-focussed approach, we will consult with and listen to our customers' views about service provision and the charges for any works completed.

6.1.2 Consultation over works or contracts will be made in accordance with legislation, in particular the Landlord and Tenant Acts 1985 and 1987 (as amended by the Commonhold and Leasehold Reform Act 2002), case law, and the content of tenancy and leasehold agreements.

6.1.3 Where applicable, we will consider our customers' views regarding the level/ frequency of service we are providing and either increase/ decrease that level/ frequency of service where possible to do so

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- 6.1.4 We will ensure that our customers have a minimum of 4 weeks notification/consultation period in regard to any charges.
- 6.1.5 Where practical, we will provide opportunities for our customers to be involved in the decision making and monitoring process, providing the appropriate responses and feedback.

6.2 Customer Complaints and Queries

- 6.2.1 Customer queries and complaints will be dealt with in accordance with Orbit's published policy.

7.0 Roles and Responsibilities

- 7.1 Those responsible for delivery of this policy are as follows:

| Role | Responsibility |
|---|--|
| Head of Service Charge | Delivery of Policy |
| Finance Manager | Management of Service Charge Finance officers to ensure carrying out responsibilities |
| Service Charge Accountant and Finance Service Charge Officers | Ensures all Finance ledgers are up to date |
| Service Charge Operations Manager | Leads and co-ordinates the Service Charge Team Leaders, ensuring effective delivery of Service Charges to customers |
| Service Charge Financial Officer | Reconciliation and preparing customer service charge statements |
| Service Charge Team Leader | Management of Service Charge Operations Officers to ensure they are carrying out responsibilities effectively |
| Contract Managers | Effective management of our contractors to ensure we provide good quality services for our customers and demonstrate value for money |
| Property Managers | Management of Estate/Block to ensure delivery/quality of services |
| Head of Customer Safety | Calculation of the sinking charge funds for asset servicing, testing, maintenance and renewal. |
| Head of Strategic Asset Management | Calculation of the sinking charge funds for asset maintenance and renewal |
| Head of New Homes into Management | Assessment plans or building schemes and working out the appropriate service charge, 'designing out' unnecessary chargeable services |

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8.0 Performance Controls and Business Risk

- 8.1 Compliance with this policy will be monitored by Head of Service Charge. The policy will be delivered through the Service Charge procedure.
- 8.2 We will provide services in accordance with the terms in each individual lease and tenancy agreement.
- 8.3 Customer statements will be prepared in accordance with relevant legislation.
- 8.4 We will use information obtained from future stock condition surveys for planned maintenance and cyclical maintenance repairs programmes to assist in setting budgets
- 8.5 The Service Charge procedure sets out the criteria to be followed to ensure that costs are accurately allocated to each scheme. The procedure contains several safeguards to eliminate errors.
- 8.6 Service Charge team leaders will carry out regular audits/ reviews of the work carried out by officers to ensure the procedure is being followed
- 8.7 Contract managers and Property managers will monitor and carry out regular reviews of contractor and service provider performance and their compliance with agreed specifications. We will take prompt action where a contractor or service provider fails to perform to the contract standards and specifications. Where we can, we will impose financial penalties, including refusal of payment for noncompliance, unless there are extenuating circumstances. In instances of repeated and proven under-performance, we may seek to terminate contracts. We will engage with our customers to ensure that we can capture and examine real time and other relevant feedback, to ensure that our customers concerns are being heard and acted upon.
- 8.8 We will benchmark our costs against other registered providers and other organisations at least on an annual basis.
- 8.9 We will regularly seek all opportunities to directly consult with customers regarding the quality and frequency of services being provided at their scheme before issuing budgets and statements and where possible, we will look to amend services and/ or charges to maintain affordability.
- 8.10 Orbit will carry out a fundamental review of this procedure, in line with any supporting policy, every three years, or sooner, subject to legal, regulatory changes, or if internal changes require it.

9.0 Essential information

- 9.1 All Orbit policies and procedures are developed in line with our approach to the following: Data Protection statement; Equality Diversity and Inclusion approach; Complaints Policy; our regulatory and legal obligations, to ensure we deliver services in a lawful manner and treat people equally and fairly. Details of these are found on the declaration document for Strategy Policy and Procedure summary and have been an integral part of the formulation of this document. Orbit's privacy policy can be accessed on our website. www.orbit.org.uk/privacy-policy/.

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| EA | Equality Analysis was completed April 2020 and is available to view |
| DPIA | This policy has a DPIA completed. This is with Information Governance and will be approved shortly, after which it will be available on request |
| Consultation | Internal: Property Management; New Homes into Management; Property Services; Independent Living; Customer Services; Procurement; Finance; Strategic Asset Management, Homeownership |
| | External: The policy has been consulted on with customers |
| Applies to | Business wide. Especially the internally consulted teams. |

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Glossary of key terms

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| Apportioned or Apportionment | the basis on which the costs are charged to customers |
| Block | the External Parts of a building where there is more than one customer |
| Core | the internal parts of a building where there is more than one customer |
| Estate | all customers on the scheme/development |
| Management and administration fees | cover our costs associated with managing properties, administering service charge and rent accounts, income collection and providing customer services. These are charged in accordance with legal transfers, leases and tenancy agreements. |
| Rentcharge - Variable | a service charge payable by a customer who is not subject to lease or tenancy such as a freeholder. The freehold transfer document will set out the obligations of the freeholder to contribute towards charges and subsequent owners will enter into a deed of covenant agreeing to continue making the contribution. These have been included in our definition of a service charge policy and are treated the same as variable service charges |
| Service Charge | the charge payable by a tenant, leaseholder, freeholder or licensee towards the costs of services, general maintenance repairs or reserve and sinking funds. It also covers other charges or costs, including any administrative or management costs, incurred now and in the future, where the cost is not recovered through a rental charge |
| Service Charge - Fixed | we set the cost of providing services to a property at the beginning of each financial year. The customer pays the service charge throughout the year and at no point will there be additional amounts to pay or refunds due back. |
| Service Charge - Variable | we set an estimated charge at the beginning of the financial year, and then produce a final account once the year is complete. The final account compares our actual costs in delivering services to a property against the estimate that we set and may result in a credit back or an additional amount due from the customer. |
| Sinking fund or reserve fund | a fund that saves money to pay for future long-term maintenance and renewals required to maintained property, such as repairs to the roof or a lift. It provides a way to spread the cost of expensive repairs. Customers subject to a tenancy agreement or license do not pay into sinking funds |

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