

Introduction to service charge provisions

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What is a service charge?

- A charge levied against occupiers of multi-occupied property by way of contributions to repairs, maintenance, management and other services provided in respect of the property.
- Basic mechanism
 - LL agrees to undertake services (ie repairs)
 - T agreed to pay for those services
- Statute



Why do they fight?



“This case contains many of the typical elements which cause and exacerbate disputes of this kind: first, a managing agent who did not regard it as part of his job to read the lease or give any consideration to whether the items, a contribution to the cost of which he was invoicing, properly fell within the service charge; secondly, a landlord who, despite earlier misgivings, appears to have decided to include all the costs of his project in the claim for service charges irrespective of the propriety of doing so, placing on his tenants the onus of challenging his demands if they were able to discover and disentangle the calculations on which they had been based; thirdly, a situation where the tenant had been led to expect a certain level of charge and then found himself being charged four times as much with no explanation being offered as to how this state of affairs had come about; leading, fourthly, to the tenant becoming so frustrated and alarmed that he dug in his heels, refused to pay and resolved to take every point going, good or bad, with a view to resisting what he regarded as his landlord's patently unjustified behaviour. A more potent recipe for expensive and unproductive litigation it would be difficult to devise” (Princes House v Distinctive Clubs [2006] All ER 117).

Structure of service charges



- Structure of lease
 - Bipartite (landlord-tenant)
 - Tripartite (landlord-tenant-manager)
- Sum on account of anticipated expenditure
- Balancing payment / credit at end of service charge year
- Procedural provisions or pre-conditions?
- Time of the essence?
- Certification
 - “conclusive” or “binding”



Construction of service charge provisions



- Construction of service charge provisions
 - Is the cost of the service provided recoverable?
 - Maintenance and repairs
 - Heating and lighting
 - Cleaning and refuse collection
 - Cost of management and managing agents
 - Insurance
 - Legal costs

