

# Definitions of Rent and Service Charges

## Milton Keynes City Council agreed definition

MKCC definition of rent and service charge was approved by Service Charge Meeting Group on 12<sup>th</sup> July 2023 (Meeting 6)

### RENT

We charge rents for our properties which are either Social Formula rents using the governments rents formula, or Social Affordable Rents which are calculated at 80% of the open market rents for each property.

Social Formula rents and Affordable rents are both governed by regulations set by the Regulator of Social Housing as directed by government rents policy.

Your rent covers the landlords cost of providing housing management, such as tenancy management and rent collection and the repairs and maintenance of the structure of the building, including but not limited to roofs, doors and windows and heating systems. Generally, repairs completed to non-communal areas are covered by rent.

### SERVICE CHARGES

We will charge a service charge to cover the costs of providing services to you as a tenant or leaseholder. Services charges relate to specific services which may be provided to you as an individual, or to a premise to group of premises.

Examples of service charges that we will levy are utility costs, cleaning and caretaking and grounds / garden maintenance.

Items of equipment that can be present or not present in a building are likely to attract a service charge for the servicing and maintenance of the equipment. We may also collect contributions to a sinking fund to collect funds for the future renewal of equipment.

## Supporting Documents

Here are definitions of rent and service charges from other agencies.

### RENTS

#### **Shelter UK**

##### **Definition of rent**

Although rent is not defined in any of the Rent or Housing Acts, rent has been held in the courts to be a regular, contractual payment, which a landlord is entitled to receive from a tenant in return for the tenant's use and occupation of premises.

Rent can be defined as the total amount paid to a landlord by an occupier in return for use and occupation of accommodation. Although it is not essential for rent to be paid in order to create a valid tenancy, most landlords ask for rent.

Tenants and licensees who do not pay rent have very limited security of tenure.

It is the tenant's obligation to make sure that the landlord receives the rent. If the landlord refuses to accept rent, then it is advisable for the tenant to keep the rent in an interest accruing account marked 'rent'. The tenant should then make regular attempts to pay the rent to the landlord.

##### **Other charges**

Rent can be inclusive of other charges, such as maintenance. If a tenancy agreement defines the rent as inclusive of items like service charges, then the charges and the 'net rent' are defined as the rent.

If there is a distinct, separate obligation in the tenancy agreement for charges such as water rates to be paid, then it is likely that arrears of these rates could not be considered arrears of rent.

By 31 December 2016, all final customers of district heating, district cooling, and communal heating and hot water systems must be provided with individual meters and actual consumption bills by their heat suppliers.

## DETR – Quality and Choice a decent home for all 1999

### Influencing the level of social rents

- 10.2 In 1998-99, the typical assured private rent in England was about £75. By contrast, in April 1999 the average local authority rent of £44 per week was about 40% lower and the average registered social landlord rent (excluding service charges) of £52 was about 30% lower. We are committed to keeping social rents at an affordable level, well below private sector rents.

## DCLP – Guidance on rents for Social Housing – March 2014

### Policy to 2014-15

- 1.4 Since 2001, most rents for social housing (“social rents”) have been set based on a formula set by Government. The formula creates a “formula” rent for each property, which is calculated based on the relative value of the property, relative local income levels, and the size of the property, and landlords are expected to move the actual rent of a property to this formula rent, over time. An aim of this formula-based approach is to ensure that similar rents are paid for similar social rent properties.
- 1.5 Annual changes in social rent levels have also been based on a policy set by Government. Weekly rents are expected to increase by up to RPI + 0.5 percentage points annually, plus up to an additional £2 where the rent is below the formula level for the property. At the 2010 Spending Review, the Government extended this policy for social rent increases to 2014-15.

### Service Charges

- 2.33 In addition to their rent, tenants may also pay service charges. Rents are generally taken to include all charges associated with the occupation of a property, such as maintenance and general housing management services. Service charges usually reflect additional services which may not be provided to every tenant, or which may be connected with communal facilities rather than being particular to the occupation of a dwelling. Service charges are subject to separate legal requirements and are limited to covering the cost of providing the services.
- 2.34 Authorities are expected to set reasonable and transparent service charges which reflect the service being provided to tenants. For social rent, they are also expected to identify service charges separately to the rent charge.

**Statutory Instrument 2016 No 390 - The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016**

“social rent basis” means—

- (a) a rent determined in accordance with the principles set out in one of the following—
  - (i) chapter 3 of the Rent Standard Guidance 2015,
  - (ii) chapter 3 of the Rent Standard Guidance 2012 published by the regulator in March 2012,
  - (iii) chapter 2 of the Guidance on Rents for Social Housing,
  - (iv) Rent Influencing Regime guidance published by the Housing Corporation in October 2001, or
  - (v) Guide to Social Rent Reforms published by the Secretary of State in March 2001, or
- (b) subject to a maximum rent determined in accordance with paragraph 1 or 2 of Schedule 2 to the Act;

**Provision relating to rent and service charge**

**16.**—(1) Subject to paragraph (2), in the social housing rents provisions(a), a reference to an amount of rent payable to a registered provider—

- (a) in the case of affordable rent housing, includes a reference to such amount payable to the registered provider as constitutes service charge; and
- (b) in the case of other social housing, does not include a reference to such amount payable to the registered provider as constitutes service charge.

## **MHCLG – Policy statement on rents for social housing – February 2019**

### **Service Charges**

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- 2.35 Registered providers are expected to set reasonable and transparent service charges which reflect the service being provided to tenants. Tenants should be supplied with clear information on how service charges are set. In the case of social rent properties, providers are expected to identify service charges separately from the rent charge.
- 2.36 Service charges are not governed by the same factors as rent. However, registered providers should endeavour to keep increases for service charges within the limit on rent changes, of CPI + 1 percentage point, to help keep charges affordable.
- 2.37 Where new or extended services are introduced, and an additional charge may need to be made, registered providers should consult with tenants.

## SERVICE CHARGES

### Legal Advice obtained in 2021

18. Section 18 of the 1985 Act sets out the definition of “service charge” and provides,

- “(1) In the following provisions of this Act “service charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent—*
- (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and*
  - (b) the whole or part of which varies or may vary according to the relevant costs.”*

19. If the service charge is not stipulated on the front sheet then it “*may vary*” according to the relevant costs. As a result, in principle, any service charges imposed will be caught by the regime regulating payment of service charges.

### NHF – Service Charges Guide

## What is a service charge?

A service charge is a payment made by a tenant or leaseholder for services received in connection with the occupation of his or her home.

The term ‘service charge’ is frequently also used to describe the estate charges that freeholders are required to pay in connection with services delivered under the terms of a **freehold** transfer.

The statutory definition of a variable service charge is found in s18 of the Landlord and Tenant Act 1985. There is no statutory definition of service charges in a more general sense, nor of a fixed service charge. (see **Fixed** or **variable**).

## How service charges are distinct from rents

Virtually all tenancies are subject to a rent charge, payable in connection with occupation of the property. Rents are used by landlords to cover the costs of repairs, maintenance and insurance of the properties, as well as housing management that includes the administration of tenancies from start to finish.

In addition to the rent charge, some tenancies and **lease** agreements have a charge for services. This charge is for services provided in connection with the property not covered by the rent and provided by the landlord in the resident's neighbourhood, split between communal and individual charges. Charges for housing support costs are dealt with separately as they relate to services to individuals rather than being linked to the individual home.

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