

THE PRIMARY CARE PREMISES FORUM

SERVICE CHARGE GUIDANCE FOR GP TENANTS



SERVICE CHARGE

GUIDANCE FOR GP TENANTS

Introduction

This guide is for occupiers of primary care premises who are required to be a service charge for building or estate services. This is general guidance only and does not constitute formal advice. Occupiers should obtain their own professional advice for any matters affecting their own premises.

It is mandatory for any Landlord or Managing Agent (acting on behalf of a Landlord) to follow the Royal Institution Chartered Surveyors (RICS) Service charges in Commercial Property Professional Statement 1st edition, September 2018, if they are a RICS member or their firm is regulated by the RICS.

Contents

Section A: Service Charge Budget.

Section B: Service Charge Audit

Section C: Occupier Obligations

What is a Service Charge?

A service charge is a payment for services provided by the landlord or a 3rd party to a building or estate. The payment is normally separate to the rent although is usually due at the same time as rent payments. The level and type of services provided will vary depending on the type of building and the specific lease terms. Typically, they include the upkeep of common parts in a building occupier by two or more different occupiers or for external estate management. The Landlord normally has a legal duty to provide the services and the occupier is legally obliged to pay for the services provided. The nature of the services provided will be detailed in the lease or tenancy agreement.

A. Service Charge Budget

- i. What period does the Service Charge financial year cover? This will not necessarily correspond with a calendar year or the NHS financial year. In some instances, the lease will define the service charge accounting period.
- ii. The Landlord should issue a service charge budget within a reasonable period prior to the commencement of the service charge year and ideally have discussed it with you in advance of this. A reasonable period would be at least one month prior to the commencement of the service charge financial year. The Landlord should work on the principles of best practice ensuring services are obtained on the appropriate value for money basis and competitive quotes obtained where required.
- iii. The budget should be clear and identify all the planned expenditure for the year. A reasonable provision may be made for expected but currently unknown costs. These need to be defined as clearly as possible. Service charges can vary considerably in extent and scope but must follow the provisions outlined in the lease. The RICS professional statement referred to above provides a further guide to the type of charges that are acceptable.
- iv. Check to see whether the apportionment calculations are correctly worked out, i.e. the percentage of costs you are liable to pay. This again should be clearly defined. Typically, this is based on your lettable area as a percentage of the total lettable area within the building. This is particularly important where there is more than one occupier.
- v. Are there any vacant areas controlled by the landlord.? The landlord is unable to charge any costs to the tenant associated with the operation or letting of vacant space. The apportionment of costs relating to these vacant lettable areas should therefore be attributed to the Landlord.
- vi. Have regard to your lease as this defines the type of expenditure that will be recoverable through the service charge. Has the budget been prepared correctly in line with the lease?
- vii. Management fee: The remuneration of the Landlord/Managing Agent for managing the services set out in the service charge budget. This may include the supervision of the site team overseeing the site contractors, the supervision of Health & Safety services and the accounting function necessary to budget and reconcile, the service charge account. The fee should be on a fixed price basis although this is dependent on the lease as it may stipulate that the management fee is a fixed percentage of the total expense incurred.

B. SERVICE CHARGE AUDIT

- i. At the end of the year the service charge audit report sets out the expenses incurred and reconciles them against the agreed budget. The report should be issued to the tenants within four months of the service charge year end. This is in line with the RICS Professional Statement
- ii. The tenant should review the report checking for sense, accuracy and alignment with the agreed budget.
- iii. In certain circumstances expenses may exceed the agreed budget. If expenses exceed the budget, the Landlord will issue a demand for the balancing sums required. Conversely the Landlord should issue a credit note and return any sums owing should expenditure be less than budget.

C. OCCUPIER OBLIGATIONS

- i. Occupiers need to be mindful that the service charge provisions in the lease are legally binding and that prompt payment of on-account and balancing charges (if applicable) is also essential for the continuity of service point of view.
- ii. Occupiers must continue to pay the service charge and any sums withheld must reflect the actual sums in dispute. Following resolution, any service charge sums raised incorrectly by the Landlord must be adjusted without delay.
- iii. Occupiers should raise any concerns to the Landlord immediately and look to resolve this through effective communication between both parties. Should matters not be able to be resolved then Alternative Dispute Resolution is considered best practice as litigation through the Courts is considerably more expensive for both parties.

**Guidance prepared by David Austin and Simon Gould
of the Primary Care Premises Forum**

April 2021