

Cambridge Centre
for Housing &
Planning Research

Leasehold and Freehold Charges

Appendix B:
Analysis of stakeholder
interviews

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1. Executive summary

This appendix summarises the opinions and experiences of the interviewed stakeholders on different charges that are levied on leasehold and freehold properties.

1.1. Summary of main findings

In regard to service charges, the interviews with stakeholders showed that, according to their experience:

- The lease is the most important document which sets out the service charge obligations.
- The level of service charge varies on a case by case basis according to the specificities of each building.
- In principle there are no differences between how the service charge is calculated for a new or an existing development, it always begins with an estimate of charges.
- In new developments, developers have no set approach to bringing managing agents on board, some engage with managing agents quite early in the development process, while others might bring them in to the development at a late stage.
- In new developments, the service charge may increase if it was set unrealistically low in the first year by the developer.
- In mixed tenure developments, where there may be market sale housing, social rented housing, shared ownership units and leasehold properties in the same development, the management of service charges can be more complex.

Interviews with stakeholders showed that there can be different categories of fees within the scope of administration charges ranging from fees for day-to-day management of the building to additional fees to cover additional services requested by leaseholders (such as permission fees). Some of the main issues discussed by interviewed stakeholders regarding permission fees are:

- Information about permission fees is not always transparent and upfront for leaseholders

- In some cases, they are a source of income for the freeholders so stakeholders believed they might be inflated
- After enfranchisement of leasehold houses, if enfranchisement is done informally, charging permission fees may continue

Commissions on building insurance were reported as a contentious topic by some interviewed stakeholders because the commission is sometimes high and not necessarily transparent. Although leaseholders should be notified of any commission received by landlords or managing agents, it is only on request that landlords or managing agents should declare what services are provided for that commission and the costs of those services.

The majority of interviewed stakeholders thought it is prudent to have a sinking fund in place to cover emergency payments and major items of expenditure, and to avoid large one-off bills. However, interviewees suggested mostly due to technical issues relating to Housing Revenue Account rules, social landlords cannot put in place a sinking fund for social sector leaseholders. As a result, it was considered more likely that it is common that social sector leaseholders receive large one-off bills.

It was reported by stakeholders that the practice of freehold estate rentcharges grew incrementally and became increasingly common for new build properties over the past 10-15 years. One of the main reasons behind the growth in the number of freehold estates with estate rent charge requirements was suggested that local authorities no longer adopt all communal areas and roads on estates. The lack of any redress or tribunal mechanism in place to enable freeholders to challenge estate rentcharges was identified in the stakeholder interviews as an issue.

Regarding ground rent, stakeholders reported that some housebuilders have used clauses for doubling ground rent every 10 years which increased payment liability after the review period. The marketability and mortgageability of leaseholders' properties have been reported to be reduced as a result of increased ground rent. It was thought that, when discussing the doubling of ground rent and whether or not it is onerous, the starting price and the period over which the rent doubles should be borne in mind, as doubling ground rent in itself was not considered by some to necessarily become onerous, most notably if the starting ground rent is low.

In terms of disputes, three main themes of disputes were described by stakeholders: the amount of the service charge, the standard of services provided and the behaviour of landlords or managing agents. It was perceived that although leaseholders have access to

the First-tier Tribunal (FTT) property chamber to challenge the reasonableness of some charges, there is an imbalance of power between landlords and leaseholders when it comes to dispute resolution, primarily because landlords usually have funding for legal support.

It was reported that if a leaseholder does not pay their service charges they may lose their property. However, interviewed stakeholders said that forfeiture is not common as in most of the cases managing agents and landlords try to exhaust all other options before making a claim at court to forfeit the lease.

2. Introduction and methods

This appendix presents analysis of the views of expert stakeholders about service charges and other related charges. Semi-structured interviews with stakeholders were conducted to develop an evidence base about the current processes and issues relating to service charges and other charges associated with leasehold properties and freehold estate rentcharges.

While the survey and interviews with leaseholders conducted for this research seek to understand the views and experiences of leaseholders, the interviews with stakeholders gave those working across all parts of the sector a chance to feed in views on the current use and operation of service charges and other fees and charges.

In total, 27 interviews with stakeholders were conducted for this research. Interviewed stakeholders included sector experts from national umbrella organisations representing both leaseholders and the wider industry, housebuilders and managing agents. Social sector landlords were interviewed to better understand issues relating to Right to Buy leaseholders.

All of the interviews were carried out by a researcher from the Cambridge Centre for Housing and Planning Research. The length of interviews was between 45 and 60 minutes. All of the interviews were transcribed and thematically analysed according to the main themes of the research. The analysis is supported by illustrative quotes from the interviews. To facilitate open conversation and protect participants' identities, the interview quotes have been anonymised.

Interviewed stakeholders were asked for their views on service charges, administration and permission charges, commission, sinking funds, large one-off bills, estate rentcharges, ground rent, disputes and enforcement actions. The interview guideline is included at the end of this report.

3. Service charge

3.1. Provision for service charge in the lease

Stakeholders reported that the lease is the most important document which sets out the service charge obligations, as, in their view, it is the provisions in the lease which allow the landlord or managing agent to collect a service charge to cover the relevant costs:

A service charge can only be collected in accordance with how the lease is drafted. (Industry umbrella organisation 1)

However, stakeholders reported that the lease may not always specify those items which are payable by the leaseholder, or the cost of the items. Rather it may contain clauses which allow a service charge:

The leases generally are not specific to what the service charge needs to be, and you will generally find there is a sweeper clause to the effect that whatever is necessary for the maintenance and upkeep of the common areas would fall into that. (Industry umbrella organisation 1)

It was reported that the inclusion of sweeping clauses in the lease is a common practice to address future and unforeseen circumstances:

We try to leave things like sweeping clauses in case things change, like technology changes, such as charging people for the Internet. (Housing association 1)

3.2. Principle of setting the service charge

While the provisions in the lease set out what can be charged for via the service charge, the amount of money charged will depend on a range of factors. Interviewed stakeholders reported that the level of service charge varies on a case by case basis according to the specificities of each building:

They [service charges] will just vary absolutely on a case by case basis according to the development, and according to each lease. (Consumer representative 4)

As mentioned by interviewees, the level of service charge differs between developments based on the level of services provided (for example, a luxury building may provide services such as a gym or concierge), where the building is located, the nature of the building (for

example, a listed building or a tower block), the condition and state of repair of the building and the scale of the building (for example, a large development may have more communal areas to be maintained). In the majority of interviews, interviewees explained why service charges vary between buildings and developments:

[Level of service charge] depends on if we are talking about a central London apartment building with concierge service and other amenity provision versus estate charges on more suburban type developments. (Housebuilder 1)

The level of charge also depends on the sector of the development. For example, charges are generally higher in the retirement housing sector:

[A development in] the retirement sector often has a warden who may live in so needs accommodation, guest accommodation, lounges and laundry rooms. These affect the level of charges. (Consumer representative 3)

It was reported that regardless of differences in the level of service charge in different buildings, typically, at the beginning of a service charge year, the freeholder or the responsible agent (e.g. a managing agent) will estimate the relevant costs for the year and prepare a service charge budget on that basis in order to send service charge payment requests to leaseholders. The share of the service charge which each leaseholder is expected to pay to meet that budget is usually stipulated in the lease:

The most typical model, but by no means universal, is that an estimate is made, projections are made of the likely cost of running a building for the year. That information is collated into a budget, and the budget is apportioned to the different leasehold owners within the development. (Industry umbrella organisation 1)

At the end of the service charge year, as mentioned by stakeholders, the cost of running the building is totalled and a set of accounts is produced. If there is a difference between the estimate and the actual spend, the leasehold owners may be asked to contribute more, or will be credited with the surplus:

If there is an unexpected shortfall, it may be necessary during the year to surcharge the individual leaseholders. Or, alternatively, if, at the end of the year, the agency's managed to save some money, then that surplus is credited back to the leaseholders. The agent does not keep it, and it may either be returned to the leaseholders or put into a reserve fund, and that may mean that the following year's service charge is reduced. (Industry umbrella organisation 1)

It was also mentioned that the budget may include a contingency fund to cover unexpected expenditure to avoid year end excess payments being needed.

3.3. Setting service charge for new developments

In principle, it was perceived by stakeholders that there are no differences between how the service charge is calculated for a new or an existing development. It always begins with an estimate of charges, calculated by either the developer or a property management agent. However, in a new development, the developer will make the final decision in relation to service charges.

It was reported in interviews that developers have no set approach to bringing managing agents on board in the development process. Some engage with managing agents quite early in the process, while others might bring them in to the development at a late stage:

We [managing agents] would work with the developers early on but sometimes the work on budgeting is already done. But a lot of the time, we get engaged quite early on to help provide a budget. (Managing agent 1)

It was suggested that if the managing agents are involved in the process of service charge budgeting, there will ideally be a discussion between the developer and the managing agent about all the necessary costs (e.g. ground maintenance, cleaning, the insurance, the repairs, the fire risk assessment, professional services required, management fees) prior to approval of the budget by the developer:

The developer sends us [managing agents] the plans, and based on those plans we will send them what we think is a draft of service charge budget, and that would cover all the necessary heads of expenditures that would require to be maintained. (Managing agent 3)

It was thought that in cases where the service charge budget is prepared collaboratively by managing agents and developers, the budget will reflect that:

The budget is a combination of our [managing agents] previous experience or the developers' previous experience with contracts and costs and the developers desire to manage the services to a certain level. (Managing agent 1)

As mentioned by interviewed managing agents, the managing agents would use their experience in property management in the process of preparing budget. For example, their experience on costs of maintaining lifts or communal spaces:

We manage 4000 properties with lifts across our portfolio, we use our experience and the information we have on how much it takes to maintain lifts. We would advise the developer how much communal space they are creating and what it would cost to maintain and decorate that every 5 or 7 years. (Managing agent 1)

Managing agents thought that problems can occur when managing agents are brought into the development at a late stage, or when their input is minimal. In such situations, the service charge may not be accurately estimated because of the developer's lack of experience in property management:

Developers may have some idea of insurance charges, but the cost of roof renewal in 25 years, or exterior redecoration in 10-15 years - may not be accurately estimated at all. (Consumer representative 3)

Managing agents also mentioned that sometimes developers may suppress service charges so that they do not become a disincentive for prospective buyers:

There are pressures from developers sometimes to keep service charges as low as possible because they want to make sure their apartments are attractive to sell. (Managing agent 1)

It was suggested that if the service charge is set unrealistically in the first year by the developer, then the managing agent may raise the service charge in the following year in order to meet the actual costs, and this has the potential to put leaseholders in a difficult position as, they will find out about the price hike after they have purchased, lived in the property for a year and then received a high service charge demand at the beginning of the second year. By this time, it is too late for them to withdraw as they have already purchased the property:

If year 1 has been lowballed, the agents come in and say the first year service charge was unrealistic and therefore we need to set a realistic figure. If you've been saving to buy a property and are told that the service charge will rise by 10-15% in the very next year, it is a difficult thing for people to swallow. (Consumer representative 3)

In addition to unrealistic estimations of service charges, it was perceived that there are other factors that might result in a slightly lower service charge in the first year of a new development. For example, there could be elements of the building that would still be under guarantee:

In year one, you may not budget for maintenance of a water system or a handling system, because it is still under a new guarantee. And then as components of the building fall out of guarantee, and start to require more maintenance, you would expect the service charge to increase a little. (Industry umbrella organisation 1)

It was reported that leasehold owners normally begin to contribute to the service charge immediately following their purchase, even though the charging schedule might not be fully established:

When the first flats are sold, each owner contributes for the forthcoming service charge period as part of the purchase process. (Managing agent 3)

When the first few people move in, there may be a contribution asked, but the schedule is not properly up and running. (Industry umbrella organisation 1)

It was thought that there is no set approach as to when and how developers hand over a new development to managing agents, although common practice seems to be that the development will be handed over to managing agents when the building is majority-occupied. Prior to that point, the developer (or the landlord) will run the building:

An agent would receive a building when it's part occupied, but well advanced, and it could be 50 per cent, 70 per cent or something like that. (Industry umbrella organisation 1)

As mentioned by interviewees, it is common that in low-rise developments, developers would hand over the development to managing agents block by block, on a staged basis:

Picture a Wimpey [Taylor], Barratt's, Persimmon type four storey estate where you've got about ten, 15 individual buildings, then the agents would take over each block - block by block - as it came over. (Industry umbrella organisation 1)

However, this process is complicated for high-rise buildings:

If you're building one tall building, then it can be a little bit complex in terms of phasing, and it really just depends on what's pragmatic. (Industry umbrella organisation 1)

3.4. Setting service charge for established developments

It was reported that for established developments, where the managing agent or the landlord has been managing the same building/estate in previous year(s), the managing agent or the landlord will prepare a budget based on expenditure in prior years, anticipated inflation, and other factors such as changes in utility costs, and, if they are not the landlord, they will present that budget to whoever appointed them (either a Right to Manage Company (RTMCo) or a landlord):

For existing buildings, every year we agree a budget with residents of the management company (RTMCo) or a freeholder, they determine the budget, obviously after we give our professional advice. (Managing agent 3)

After agreeing the budget, it was reported that, the managing agent will bill the lessees in accordance with the agreed budget.

It was reported that where a managing agent inherits a budget from a previous agent, they may continue to provide services and bill leaseholders based on that budget until the end of the service charge year:

When we inherit a budget, we don't do anything in the first year of management. We continue to meet the current budget and collect service charges based on that. (Managing agent 1)

As mentioned by interviewed managing agents, at the end of the service charge year, the new agent would review the budget and may revise it based on what they think is realistic:

When we come to re-budget, we look at the current expenditure whether it is realistic, we look at re-contracting, we go out to tender to make sure there is a value for money, we try to save costs where we can but if things are unrealistic and underinvested we will look at whether the service charges are realistic and that includes the reserve fund. (Managing agent 1)

3.5. Service charge for mixed tenure developments

It was reported that in mixed tenure developments, where there may be general needs housing, shared ownership units and leasehold properties in the same development, the management of service charges can be more complex: income levels may differ among residents and as a result of this, there are likely to be different expectations regarding the provided services:

If you earn a quarter of a million pounds a year, you're quite happy to pay a £4,000 service charge per year and have a concierge, get everything cleaned twice a day, but if you earn £25,000 a year, you don't want to spend 25% of it on your service charge. (Housing association 1)

Interviewed housing associations reported that they are concerned with the level of service charge and want to ensure that there is a good value for money for their leaseholders:

There is a pressure from housing associations when the charges are set up to make sure they are good value for money and they are only paying for the services that the residents received. (Managing agent 1)

Housing associations do not want to pay for upper market amenities, particularly in higher end apartments. (Housebuilder 1)

It was reported that if the housing association units are in a self-contained block in the estate, they can be charged a level of service charge which might be lower than the rest of the development:

You can allocate the right cost to make sure that they are only paying for their part of development. (Managing agent 1)

The general practice in the private sector is for a developer to build an estate which has a block (or blocks) for a housing association in addition to the private market blocks. It was reported that the housing association sometimes purchases that block and will own its freehold or is granted a head lease so that it can administer that block's service charge internally. However, the housing association may still need to pay an estate charge to the manager of the estate and this will be added to the service charge. For example:

[Developer] goes and builds an estate, and on the estate there's 120 flats, and the block has 20 units for the housing association. So that is where the housing association, generally, would buy the building, and so they would own the freehold [or head lease]

of the building, but they would still pay an estate charge for being part of the estate. And then they would themselves administer their own service charge internally. (Industry umbrella organisation 1)

It was mentioned that if the housing association units are 'pepper-potted' across the development and not in a distinct building, then the housing association would need to buy the lease of each individual unit in the same way that other leaseholders would or one headlease covering multiple units. In that situation, they would be treated as any other leaseholder and the service charge would be the same for all the units, as all are benefiting from the same level of services, whereas in the previous example some people did not have access to particular services:

When it is pepper potted you will have a more standardised service charge for everyone. Because people are having access to a same level services so they have to pay the same. (Managing agent 1)

It is a tenure blind service when the housing association units are pepper-potted. (Managing agent 3)

It was reported that when a housing association unit is sold through a shared ownership scheme or normal leasehold ownership, the buyer is liable to pay 100% of the service charge even though the leaseholder does not own 100% of the lease. However, if the housing association unit is socially rented, then the housing association is billed for the service charge:

We bill the shared owner their proportion of the service charge in accordance with the lease. If a proportion of the flats were social housing tenants, we don't bill the occupier, we bill the housing association and they have to pay the service charge for those units. (Managing agent 3)

Tenure segregation is often considered to be a practical way to differentiate the services provided and therefore the corresponding charges for those services. High service charges are particularly an issue for housing association leaseholders where the development is at the upper end of the market and relatively expensive services (e.g. concierge, gym) are provided.

3.6. Summary

- The lease is the most important document which sets out the service charge obligations.
- The level of service charge varies on a case by case basis according to the specificities of each building.
- In new developments, the service charge may increase if it was set unrealistically low in the first year by the developer.

4. Administration and permission charges

4.1. Categories of administration fees

There can be three different categories of fees within administration charges: standard professional fees (such as day-to-day management), professional fees for additional management work (such as major works projects), and additional fees for individual leaseholder work (such as permission fees, approvals and provision of information).

It was reported that the managing agent fee is generally a flat fee per property which will be negotiated with the freeholder or the RTMCo to cover a basic fee for the routine running of the estate:

The agent's fee is generally fairly transparent, and we say we are going to charge £150/£250 per unit, per annum to manage this estate. (Industry umbrella organisation 1)

Interviewed managing agents believed that people do not realise how much work is involved in property management:

The bill will go up if we charge by the time that we spend on a development in the same way as you pay a solicitor by the hour, because the agents do a lot more work than people realise. (Industry umbrella organisation 1)

I would personally have preferred it was treated professionally and you would be paid based on hours you work. (Industry umbrella organisation 5)

It was reported that if major works are required, there can be an additional managing agent fee for the procurement and oversight of that work, as this falls outside of the scope of the managing agent fee:

Normally large contracts sit outside of the routine day-to-day, and the agent would negotiate a separate contract with a client for those large works. (Industry umbrella organisation 1)

In the case of major work contracts, e.g. for reroofing a building, it was reported that the agent may charge a negotiated percentage of the value of the contract to procure and supervise the work:

Quite typically, the agent will say I will charge 10 per cent of the value of the contract. (Industry umbrella organisation 1)

It was mentioned by stakeholders that the third type of managing agent fee covers additional services requested by leaseholders in accordance with the provisions set out in the lease. Such charges are not quantified in the service charge provisions within a lease, and only those leaseholders who benefit from the service are charged. An example might be around the provision of information connected with the sale of a leasehold property:

When an individual unit is being bought or sold, an agent would generally charge for completion of Leasehold Property Enquiries forms, which should be prepared by the agent. (Industry umbrella organisation 1)

It was thought that consent and permission fees fall into this third category which encompasses three sub-categories: fees for the incoming buyer, fees for the seller, and permission fees for residing leaseholders.

It was perceived that leaseholders have access to the First-tier Tribunal (FTT) service for the first two categories of fees, because they fall under the service charge. However, it was thought that the third category of fees sits outside the protection of the test of reasonableness for service charges, and leaseholders are unable to challenge such fees:

As a leaseholder, if you think that the agent's fee is too expensive, or the contract that they've placed for electricity is excessive, then you can go to a tribunal to determine whether the service charge is reasonable or not [...] but that third category of fees sits outside the main service charge. (Industry umbrella organisation 1)

4.2. Permission or consent fees during the ownership

Some leases contain clauses which restrict the use of the property and may require the leaseholder to obtain permission prior to making a change (e.g. to make property alterations or to keep a pet). Although there was consensus among the interviewed stakeholders that having a mechanism in place to protect leaseholders from the actions of others is reasonable, there was concerns about unnecessary and over inflated permission fees:

The fact of going through the process is positive because most leases are held by apartment owners, and all of the residents in those apartments are interdependent and rely on each other and the positive behaviour of each other [...]. But in some cases those fees are becoming unnecessary and over inflated. (Industry umbrella organisation 4)

4.2.1. Transparency of the permission fees

Although interviewees expressed a consensus view that information about permission fees should be transparent and upfront, in reality, some managing agents were not open about the fees. There are cases where the leaseholder has to pay a fee just to make an enquiry:

I don't know how much anything is going to cost me. I have to pay [managing agent] £108 if I want to ask a question. I have to fill in the enquiry form online, pay them £108 to know if I need any permission, and then pay for the permission separately. (Leaseholder representative 1)

Making leaseholders aware at the point of purchase that they need to get prior consent for certain activities, and which may incur a fee, is key to avoiding consent issues. Where possible, if the purchaser intends to apply for such consents, enquiries should be made as to the likely cost of obtaining that consent:

First of all, you should have been appraised by your conveyancer or your solicitor that this consent is to be sought, for example, if you want to replace the kitchen. And, second, your solicitor should advise you of the likely cost of that, as it's not actually drafted in the lease itself. (Industry umbrella organisation 2)

The lease just says you have to seek permission from the freeholder and there may be a charge for this. (Leaseholder representative 1)

4.2.2. Exorbitant and unnecessary permission fees

Some interviewees reported that some managing agents charged for a variety of different consents:

Cases were also reported where housebuilders had transferred the freehold of the development to an investor freeholder, and the new freeholder had then inflated the fees as a source of income:

[House builder] would have charged a £300 permission fee for building a very small extension [...] but when [house builder] sold the freehold to a different company, [...] they wanted £2,600 for the same permission. (Leaseholder representative 1)

4.2.3. Permission fees after enfranchisement

After enfranchisement of leasehold houses, charging permission fees may continue:

Sometimes, unreasonable permission fees continue post-enfranchisement (Legal organisation 2)

It was reported that if leaseholders of houses opt to buy their freehold informally, rather than under the statutory route, then the selling freeholder will usually include restrictive covenants without the purchasing leaseholder realising (even though they often have legal advisers), therefore, purchasing the freehold may not remove the need to pay permission fees:

Developers are going now from freehold to fleecehold which is a fake freehold, it means you only will get rid of your ground rent when buying the freehold, all of the other fees are still remaining within that transfer deed. (Leaseholder representative 1)

When buying the freehold of a house informally, it is not always clear if permission fees will continue post-enfranchisement:

They don't tell you that you have to pay for these fees until the final stages, when you receive the transfer deed document and it is in the TP1 that you see that they're keeping in all the same fees that were in the lease. (Leaseholder representative 1)

Even in cases where the property was sold as freehold from the outset, permission requirements may still be contained in the deed:

My neighbour bought his freehold at the time of the purchase [...] but he still has to pay for permission fees. (Leaseholder representative 1)

4.2.4. Setting the administration fees

It was reported that at the time of appointment, many managing agents would have a standardised table of all of their charges which apply to all of their blocks. In cases where the managing agents only work for one freeholder (so in effect they are in-house), the freeholder may have some say in what fees are charged. The leaseholder does not have a choice about non-service charge fees (e.g. permission fees):

The leaseholder has no choice. So when the leaseholder wants to sell, that's the fee that's been committed to by the board. (Industry umbrella organisation 5)

Also, in some cases, administration fees can only be agreed on a case by case basis. For example, if a leaseholder needs consent to sublet, this can be regularised and fixed at the outset as the process and consent is always going to be the same. If, however, a leaseholder

needs consent to build a conservatory, that fee is going to be variable. The amount of work required will depend on individual circumstances.

It was thought by some stakeholders that relevant legislation could be changed such that administration fees could be considered by the FTT as unreasonable charges:

There should be a mechanism there for the leaseholder to be able to say 'my board didn't realise what they'd agreed', and challenge it. It's reasonable to amend legislation to say that there can be a challenge for those costs (Industry umbrella organisation 5)

While some interviewed stakeholders thought there should be standardised tariffs in place for chargeable items, to specify the range of fees, some managing agents were of the opinion that one size does not fit all, and that decisions about fees should be made based on individual situations:

It makes sense to say it should be a proportion of the fees and doing the works [...] but I think it should be left to the market [...] What we have to think about is how to stop the abuse. (Industry umbrella organisation 5)

4.3. Summary

- Interviews with stakeholders showed that there can be different categories of fees within the scope of administration charges ranging from fees for day-to-day management of the building to additional fees to cover additional services requested by leaseholders (such as permission fees).
- Interviews thought that information about permission fees is not always transparent and upfront for leaseholders
- In some cases, interviewees thought that they are a source of income for the freeholders and so believed they might be inflated.

5. Commissions

5.1. Commission on buildings insurance

As described by interviewed stakeholders, managing agents usually charge leaseholders a percentage of the contracts that they procure (procurement of extra works or insurance) to cover their costs, which they call a referral fee. Although this practice is not illegal, it was reported that it is a contentious topic:

They're not, strictly speaking, illegal although it is very, it's contentious, really, whether that's sharp practice or not. (Industry umbrella organisation 2)

It was reported that, usually, there is a provision in the lease which says that the landlord should arrange the insurance, the scope of that insurance and recovery of the cost from the leaseholders:

The landlord is responsible for insuring the whole block, terrorism insurance since 2007 is part of the requirement, and public liability in case of accidents [if the lease requires it to insure]. (Managing agent 1)

As mentioned by interviewees, in most cases, owners of freehold houses in an estate are required to arrange their own buildings insurance, and pay a share to the estate manager for public liability insurance:

In an estate with freehold houses, they should insure their building and contents. But public liability insurance for open spaces will be in addition to their house insurance and they have to pay for that. (Managing agent 1)

Where the landlord of a house or a flat is a local authority, the local authority is responsible for buildings insurance:

Under the terms of the lease, and actually as part of the implied covenants within the legislation, we are responsible for insuring against a full range of perils. (Local authority 1)

However, the local authority does not need to obtain an insurance policy in the same way as a private sector landlord. It was reported that they mostly self-insure:

It doesn't mean that we actually have to get a buildings insurance policy, because we could self-insure. (Local authority 1)

As mentioned by one of the interviewees, for a short period, a local authority decided to fully insure all of its portfolio externally, but:

The claims experience from tenants' flats was so adverse that it got to a stage where nobody would insure them. (Local authority 2)

As a result, it was thought that the common practice for local authorities is to self-insure:

I don't know a local authority that doesn't self-insure its tenanted stock. (Local authority 2)

5.2. Procurement of block insurance policy

It was reported that to procure an insurance policy, the managing agent will appoint a surveyor to obtain an insurance valuation before liaising with a broker to get quotes from various underwriters. This valuation is not usually obtained annually, and it is not clear how often this is done. A managing agent told us that once quotes are obtained, they will:

...provide those quotes to the client and that can be a RTMCo or it can be a freeholder, and they then will make a decision as to which policy to approve. (Managing agent 3)

It was also reported that if the freeholder has their own insurance broker, they would follow the same process but the freeholder may ask for a commission to cover the cost of the time spent arranging the insurance:

In that case they get the commission because they take on some of the process that would be otherwise with the broker. There are lots of freeholders who don't receive commission at all and just pass on the costs of insurance. Others do. (Managing agent 3)

5.3. Justifications for charging commission

Interviewed managing agents believed that a lot of work is involved in insuring a block and, as managing agent fees in the private sector do not include insurance handling costs, they charge a commission fee:

Lots of work is needed to be done when insurance is made and insurance commission is in part to pay for that work. (Managing agent 1)

Managing agents were of the opinion that leaseholders do not realise the complications involved in procuring a block insurance policy, which is more complicated than procuring insurance for a freehold house:

Everyone thinks that they can go online on comparison websites and get insurance for less money but requirements for a large block of flats are different from the requirements of the insurance you need for a flat. There are more elements of risk in a block of flats. (Managing agent 1)

It was reported that when a housing association is the freeholder and manages the block internally, often the management fee includes an insurance handling cost, and as a result the housing association or their managing agent may not receive commission:

We don't get any commission, we place the insurance, and our costs are covered by the management fee. Most of the other housing associations are working in the same way too. (Housing association 1)

5.4. High rates of commission

Although it is accepted that managing agents or landlords receive commission when they procure an insurance policy, it was recognised by interviewees that commissions can be high and not necessarily transparent:

Regularly, when I took over a new estate, and when we replaced the insurance, we were sometimes halving the cost of insurance, which would imply that the previous landlord or the previous agent was getting a very hefty commission. (Industry umbrella organisation 1)

Insurance commission was perceived as one of the areas that give managing agents the opportunity to generate additional revenue:

I understand that block management is a low margin business. So there is inherent bias to find more expensive insurance than might otherwise be the case, as perhaps the commission is greater. (Consumer representative 3)

5.5. Declaring the commission

All interviewed stakeholders commented that the received commission should be declared to the leaseholders:

*Any commission that the landlord or managing agent are getting should be declared. It is their money and they should be able to understand what they are paying for.
(Managing agent 1)*

According to the third edition of the RICS Service Charge Management Code, leaseholders should be notified of any commission received by the managing agent in connection with placing insurance. However, it is only on request that managing agents should declare what services are provided for that commission and the costs of those services. This is voluntary, but may be required if a managing agent is a member of a trade association:

All [stakeholder] members have to declare any commissions they are taking. And we also say it's good practice to say how much. If somebody asks how much, then they have to tell them. (Industry umbrella organisation 5)

Although all the interviewed managing agents mentioned that it is a common practice to declare the commission received, it was reported that it is mostly only a title in the service charge year end summary:

At a high level, perhaps they will have a particular title for a spend and a figure, but, you might not see what's behind the figure unless you look at the contract, invoices and see what is being provided and paid for. (Consumer representative 3)

The Landlord and Tenant Act 1985 gives the leaseholder the right to ask for the details but if not provided it can be very expensive to enforce the right. It was reported by interviewees that leaseholders are generally unaware of this right:

Most people won't realise that this is their statutory right to see more than a summary of expenditure and that they can inspect the records behind that. (Consumer representative 3)

If leaseholders request disclosure of the commission that the managing agent received, then the managing agent should disclose the details:

If someone writes to us asking whether we take commission, then we will send them a commission disclosure letter, telling them what the commission is, what it is for, which

is provided by the broker, because we are appointed as the representative for the broker. (Managing agent 3)

5.6. Summary

- Commissions on building insurance were reported as a contentious topic by some interviewed stakeholders because the commission is sometimes high and not necessarily transparent.
- Sometimes there can be suspicion that commissions are inflated to provide a revenue stream.
- Disclosure of commissions is recommended by RICS code, and essential as part of membership of some trade associations, but is not mandatory and not always provided.

6. Sinking and reserve funds

6.1. Justification

A sinking fund is usually put in place to cover the cost of non-regularly occurring items of expenditure (for example, replacement of lifts on 20 year cycle or replacing the roof on a 30 year cycle). With the exception of Right to Buy/Right to Acquire leasehold properties, which will be discussed later, most of the interviewed stakeholders were of the view that sinking funds were an appropriate way to cover the costs of expensive replacements or maintenances:

In fact, there's probably no realistic way, apart from that [provision of sinking fund], for achieving those big, expensive capital action replacements. (Industry umbrella organisation 2)

It was reported that some housing associations with shared ownership properties have sinking fund provisions in place to avoid large, one off bills:

Pretty much all of our buildings have sinking funds. (Housing association 1)

As discussed by interviewees, different managing agents have different methods for operating sinking funds. Based on experience, managing agents forecast what the building will need in the longer term so they can plan ahead:

We don't want our customers to worry about having invoices for major works. (Housebuilder 2)

We have sinking funds to ensure there are no surprises. (Housebuilder 3)

I think it would be unusual not to have a cost spreading mechanism. If we didn't have one, we would have to charge on a one-off basis. (Housing association 2)

Lift replacements was mentioned as a good example of this:

You're probably looking at £40,000 or £50,000 for a lift replacement. If you were to levy that in one year as a service charge on 20 flats, that's a pretty huge amount on top of everything else. (Industry umbrella organisation 2)

It was reported that different managing agents operate different life cycles for different elements of the building:

Some people do a 15-year sinking fund but we decided a 30-year cycle is about right for us. (Housing association 1)

It was reported that the age and location of the building were also factored into the decision as to what should be included in the estimation of an appropriate sinking fund:

Some places are worse than others, for example, the coast of England, with salt spray and water freezing and melting in winter means that the external parts of building will disintegrate pretty quickly. (Consumer representative 3)

For a new build, we won't include a sinking fund for the roof... probably the roof won't need to be replaced for 60 years. (Housing association 1)

Other than in the retirement housing sector, we were told that leaseholders mostly contributed to the sinking fund as part of their service charge. If the leaseholders sold their lease on, they would not get a refund on money contributed to the sinking fund:

The lease could have sold on three or four times in 20 years, and so that the first, second and third leaseholders, who are no longer living there, have just contributed dead money to the lift replacement. I think that's justifiable. (Industry umbrella organisation 2)

6.2. Sinking funds in the retirement housing sector

In the retirement housing sector, it was reported that different developers had varying ways of operating a sinking fund. In addition to the contributions of leaseholders towards the sinking fund as part of their service charge, exit fees (or event fees) were commonly used to top up the sinking fund:

Each development has a contingency fund that is calculated in two ways, a small part of the monthly service charge [...]. Also a 1% [of the selling price] at the point of exit [when leaseholder leaves] is payable by our customers which also goes to the contingency fund. (Housebuilder 2)

In another case, the developer told us that they did not add a reserve element to the service charge of leaseholders and contributed to the sinking fund through event fees:

We contribute 20% of our event fees into the sinking fund [...]. (Housebuilder 3)

It was reported that this method helped to reduce the service charge, commonly quite high in the retirement sector, but there were concerns as to whether or not leaseholders were aware of these event/exit fees at the point of purchase, although action is currently being undertaken by Government to address this problem:

It really comes down to whether the person entering into the lease in the first place was made aware of the terms and the payments that they would be expecting to make. (Managing agent 4)

6.3. Sinking funds in the social sector

In the social housing sector, it was reported that it is common practice for sinking fund mechanisms to be in place for other leaseholders, but social sector leaseholders do not usually have sinking funds in place:

Shared ownership properties have sinking funds. The ones that don't have sinking funds are where we have Right to Buy properties. (Housing association 1)

Interviewees reported that there are several reasons why local authorities or housing associations may not run sinking funds for their social sector leaseholders.

The primary reason is related to technical issues relating to Housing Revenue Account rules. It was reported that, as early local authority leases did not provide for the operation of sinking funds, it would be problematic to have to introduce them now and treat leaseholders within the same block differently.

It was also mentioned that there is a lack of a functioning mechanism in place to run a sinking fund for social sector leasehold properties. Although some of the older Right to Buy leases have a capital expenditure reserve fund provision, which is similar to a sinking fund, they are unable to operate it as they lack a working mechanism:

Our very oldest leases have what they call a capital expenditure reserve fund in them, but it's got no proper mechanism there of how it should be run. (Local authority 1)

It was suggested that the lack of a functioning mechanism resulted in a local authority losing a court case, and this in turn led to the suggestion that many local authorities had abandoned the idea of a capital expenditure reserve fund:

We were taken to court by one of the leaseholders, because we'd not done any major works to his block, [...] we didn't have the funding to do the work. He sued us, and it ended up we had to give everybody back the money they paid into the fund, plus interest. (Local authority 1)

Also, it was mentioned that one of the reasons that sinking funds are less prevalent in the social sector is because local authorities and housing associations need to contribute equally to the sinking fund for the units in which they have tenants, and this can be a substantial undertaking:

For each of the tenanted properties we would need to pay money in to the sinking fund [...]. So if we are talking about £500 a property, the Housing Revenue Account would be having to put aside getting on for £20 million a year into individual sinking funds. (Local authority 1)

Administration of a sinking fund is complicated and expensive as each block needs a separate account:

It's expensive to run a sinking fund. Most local authorities thought it was difficult enough to collect service charges, and to manage a sinking fund for each block of flats is impossible. (Local authority 2)

For example, in a Borough:

We've got several thousand blocks across the borough, several hundred estates. For each of those blocks we would need to set up an individual account. (Local authority 1)

Moreover, as public sector housing expenditure is pooled across the borough, it is difficult to know how much each major work would cost in order to estimate the charges and set up an appropriate sinking fund:

If you have a public sector situation and wanted to set up sinking fund, how would you know how much it costs to manage each block? We would have no evidence. (Local authority 2)

In the past, consideration has been given to requiring social sector leaseholders to set up a tax free savings account, which could run with the property, in which to save money to pay for major work bills:

They [leaseholders] could put money aside on an annual basis into that, which would be almost a mini individual sinking fund, so it's there when they get a major works bill, they can use that to pay. (Local authority 1)

Leaseholders could put money aside independently to pay for their major work bills:

There's nothing to stop a leaseholder opening up a deposit account and putting money aside on an annual basis, so that it's there when they get a major works bill. Then if they sell the property they can take that with them. (Local authority 1)

6.4. Summary

- There is widespread agreement that sinking funds are an effective means of planning for large scale expenditure and avoiding large bills
- Sinking fund contributions in retirement sector can be collected via both service charges and event fees.
- Sinking funds can be successfully deployed in most leasehold settings, but can be complex to set up in the social sector for existing buildings.

7. Large one-off bills

7.1. One-off bills in the social sector

There was a consensus amongst interviewees that it would be unusual to send leaseholders large one off bills for major works and not have a cost spreading mechanism (e.g. sinking fund) in place, other than in a social sector leaseholder situation, where a local authority or housing association is the landlord:

We do send out very, very big bills from time to time. (Local authority 1)

Many council-built blocks are ageing and expensive to maintain:

A lot of properties were built in the 60s and the early 70s, which are now more or less at the end of their life. They weren't necessarily built for 125 years, which is what the average lease is, they were built for 40/50 years. (Local authority 1)

It was reported that common expensive works carried out by local authorities and housing associations include re-cladding, brickwork, concrete repairs, lift replacements, water pump repairs and renewing windows. Many local authority-owned leases also include the right to carry out (and charge for) improvement works, which many privately-owned leases do not. The inclusion of improvement works can hugely increase the bill. In many cases, the units are tower blocks and the cost of maintenance is exacerbated as scaffolding is often required:

You could easily spend £100,000 to £150,000 on scaffolding alone. (Local authority 1)

A service charge bill for major works will be sent to social sector leaseholders at the beginning of the service charge year, payable by instalments:

If we're doing major work and it's going to cost the leaseholder £20,000, which is not unusual, then the leaseholder should be paying their service charge in four quarterly instalments of £5,000 through the course of the year. (Local authority 1)

7.2. Payment options

It was thought that paying such large bills is difficult for many social sector leaseholders, and there are a number of different payment options in place to help leaseholders:

We do recognise that that is virtually impossible for a lot of our leaseholders, so we have a number of different payment options in place that they can utilise. (Local authority 1)

It was reported that it is a mandatory obligation for social landlords to offer leaseholders an interest-free period to pay for major works. It was also reported that social landlords may offer a service charge loan:

We can offer them a softer option for payment... a two-year interest free option to pay us. Or they can get a five year loan from us with fairly generous repayment terms. (Housing association 1)

It was mentioned that the interest free period for one local authority's leaseholders was 36 months for a bill of less than £7,200, or 48 months if the bill was larger. We were told that the interest free period was only available if the leaseholder was living in the property:

We provide an interest-free period for 36 months, and if it's a bill of more than £7,200, they can have 48 months, but that's for resident leaseholders only. (Local authority 1)

As reported by one of the interviewees, for non-resident leaseholders, the only available option is the service charge loan:

Between 35 and 50 per cent of our properties have been sublet, [...] they don't have the option to pay on an interest-free period, because they're getting an income by subletting the property, [...] but they are allowed to get a service charge loan at a very good rate of interest. (Local authority 1)

7.3. A cap on one-off bills

Although there is not any mandatory cap on the amount that social landlords can charge their leaseholders (except for projects funded by Government which is known as Florrie's law), some local authorities might have a voluntary cap for people in hardship. For example, a local authority reported that they have a £10,000 cap on one off bills which is only available for leaseholders living in hardship.

It was reported that not all leaseholders with a social landlord need assistance in paying the bills, as some are letting out their properties or have an investment portfolio:

Leaseholders are not all the same, they are not all impoverished, there are even some leaseholders who have investment companies (Local authority 2)

7.4. Advance information

It was reported that as part of the offer letter (Section 125 notice) given to the Right to Buy/Right to Acquire leaseholders, there is a section about the works anticipated by the social landlord in the next five years and their likely costs. It was reported that those leaseholders' bills will be limited to the amount shown in the Section 125 notice, plus an allowance for inflation:

When there is a Right to Buy, part of the offer given to them, we have told them of what we're anticipating doing in the next five years, and what that likely cost to them will be. (Local authority 1)

As explained by an interviewee, if somebody buys the property from the first leaseholder on the open market, they will be given an indication of the programme for the next three to five years but they may not be given budget estimates for the works:

They may not be given budget estimates, because it can be a bit dangerous if you say we're going to spend a million pounds on the block, and your service charge for that is likely to be £20,000, and it comes back that it's going to be £2 million and it's going to be £40,000. (Local authority 1)

Although the Section 125 notice includes information about any anticipated major works and their costs, one of the interviewees remarked that leaseholders were still often unaware of the charges that they would have to pay as part of their ownership:

When they receive their Section 125 notice, they only look at the value of the property and the discount they receive, they don't look at the service charge and major work costs. (Local authority 1)

It was mentioned that even if the leaseholders did not have direct access to information about the future major works, their social landlord would be able to provide the information on request:

The information is freely available to anybody who asks. They could come to us on an annual basis and ask where they are in the programme. Also they've got freedom of

*information requests that they can make if they have difficulty getting the information.
(Local authority 1)*

It was reported that, for major projects, social landlords expect leaseholders to be aware of the programme and its approximate costs:

After the end of the 125 notice, they've still got a five-year programme of work that's published and they have a resident consultation that starts probably two to three years before the work is undertaken. (Local authority 1)

7.5. Summary

- Large one off bills can more frequently arise for social leaseholders as there may not be a sinking fund and the types of properties (e.g. older high rise blocks) may require more expensive works.
- Some local authorities offer payment plans, others place a voluntary cap on expenditure.
- Advance warning of major works is provided at point of sale via RTB.

8. Estate rentcharges

It was reported that there are two types of rentcharge. One type of rentcharge is similar to ground rent which gives occupier the right to occupy:

One is similar to ground rent and you don't get anything for it. (Government department 1)

However, estate rentcharges can also take the form of a service charge arrangement. This mostly applies to freehold properties in new build developments and will be discussed below.

The ground rent type charge is called 'Rentcharges' while the service charge equivalent for freeholders is estate rentcharges.

8.1. Origin

One of the interviewees believed that local authorities started to arrange estate rentcharges when Right to Buy houses were sold on mixed tenure estates:

It started with Right to Buy council houses. When those houses were sold on, then they have to pay for the maintenance costs so the tenants wouldn't have to pay all the costs of managing. (Freeholder representative)

However, we were told that the practice grew incrementally and has become increasingly common for new build properties over the past 10-15 years:

Over the last 10 years, we've seen more and more estates being sold with estate rentcharges. (Managing agent 1)

8.2. Reasons for estate rentcharges

It was reported that arrangements to charge estate rentcharges are put in place for freehold properties in order to pay for the upkeep and maintenance of the communal areas and facilities, in a similar fashion to service charges for leasehold properties:

If you have an estate with freehold houses with shared facilities which need to be looked after, it would be unreasonable not to have a mechanism by which owners pay for communal costs. (Government department 1)

As mentioned by interviewees, landscaping, rubbish collection, street lightings, grounds and road maintenance, maintenance of sewers, public liability insurance for communal spaces and estate management fees are the main items covered by estate rentcharges:

What is included in an estate rent charge is: grounds maintenance, maintenance of sewers, maybe a sinking fund for roads, a requirement to pay for lighting and a nominal management fee around £90 a year. (Housing association 1)

Interviewed stakeholders unanimously believed that one of the main reasons behind the growth in the number of freehold estates with estate rent charge requirements is that local authorities no longer adopt all communal areas and roads:

It's becoming more common as local authorities have become more reluctant to adopt open space and other amenities. (Housebuilder 1)

We were told that, traditionally, in the majority of cases local authorities would adopt the roads, green spaces and the infrastructure in return for a fee from developers if these areas are finished to a required standard. But the situation has changed over time. It was reported that as local authorities are under increasing fiscal pressures, they either ask for a larger sum or refuse to take the infrastructure over:

It's become much more difficult to get local authorities to adopt new roads and infrastructure in return for some fee from the developer. Some developers have reported that the local authorities have either demanded exacerbated sums to take over the management and responsibility, or have refused to take them over. (Industry umbrella organisation 4)

It was perceived that local authorities are looking to reduce their financial liabilities by adopting fewer roads and amenities:

Councils are very underfunded at the moment; they are struggling with budgets. (Managing agent 1)

Councils are reluctant to look after those areas because they need extra funds to look after those areas. It is not a surprise that they are happy for the developer to keep that and look after them itself and residents pay for them. (Managing agent 1)

As a result, it was reported that local authorities are more strict about the standard of the work and they only adopt roads or amenities if they are finished to a required standard:

*If the local authority doesn't adopt the road, it is maybe because it is not finished to a suitable standard and they will have to spend money on them in due course.
(Government department 1)*

It was also reported that some developers may build these amenities to a lesser standard so they get the benefit of income from management of the estate charges as they know the local authority will not adopt the amenities:

It's been four and half years and still they [the roads] haven't been adopted by the council because they are not up to standard. (Freeholder representative)

Also, it was perceived that the requirements for adoption by the local authority have become more complex in recent years because of other policies introduced by government:

Currently requirements have become much more complex because of other government policies, e.g. flood management mitigation; they can be quite complex and specific. (Housebuilder 1)

In addition to non-adoption of these amenities, the other reason for the growth in the number of estates with estate rentcharges, as reported by interviewees, is to meet the requirements for management, as discussed during the planning permission process:

During the planning permission stage, we have to provide a management structure for the site. (Housebuilder 1)

At the planning agreement stage, the developer and council discuss and agree on what is going to be there and who is going to pay for it. (Managing agent 1)

8.3. Setting estate rentcharges

Managing agents reported that they set an estate rent charge budget in a same way as a service charge budget:

We will set a budget in a same way as we do for blocks of flats. Obviously, they will be paying only for things that are relevant for their development. (Managing agent 1)

It was perceived that the amount of estate rent charge varies from one development to another, depending on the services that it covers:

It can vary from £100 to £1000 a year. (Freeholder representative)

It varies depending on the amount of amenities retained in private hands. If sewers and roads are not adopted, fees are bigger. (Freeholder representative)

8.4. Common problems

As with service charges, it was reported that there can be a lack of transparency and upfront information about estate rentcharges at the time of purchasing a property. It was thought that this may be one of the main issues with estate rentcharges, that at the time of purchase, buyers are often not aware of their responsibilities:

It should be made clear upfront to people that they are going to have to pay these estate charges on top of their council tax. (Consumer representative 4)

Interviewed stakeholders described the lack of any redress or tribunal mechanism in place to enable freeholders to challenge estate rentcharges:

As a freeholder, you can't challenge estate rentcharges. You can't go to the First-tier Tribunal. (Freeholder representative)

There must be some sort of mechanism for redress or challenge in place. (Consumer representative 4)

Leaseholders have better legal protection if they want to challenge the reasonableness of their service charges payable under a lease when compared to freeholders with estate rentcharges:

If you've got a leasehold property and you've got an unreasonable service charge, then you can dispute it at the property tribunal. If you've got a freehold property with an estate rentcharge, there's no mechanism for complaining if that charge appears to be high. (Consumer representative 4)

It was reported that leaseholders have the right to challenge their service charge, but it was thought that freeholders living in an estate with communal services will not be able to challenge the associated costs:

*If we get our freehold, then we can't challenge the estate management charges.
(Leaseholder representative 1)*

To avoid such a situation, we were told that they are advised by legal experts to:

*Keep two titles separately to have more protection against estate management fees...
to keep the title of leasehold for the property that we have the freehold of. (Leaseholder
representative 1)*

It was reported that freeholders subject to estate rentcharges can have access to an ombudsman service if their management company is a member of an ombudsman scheme:

*We are a member of an ombudsman scheme. If someone is unhappy, we have our own
internal complaint process, if they are still unhappy we will refer them to our
ombudsman service. (Managing agent 3)*

However, an ombudsman only focuses on conduct issues and they do not have jurisdiction to determine about more substantive issues such as reasonableness of charges.

8.5. Non-payment of estate rentcharge

It was reported that, as with leaseholders, freeholders who are subject to estate rentcharges can face enforcement action if they do not pay their contribution:

*Depending on the terms of the deed, there might be a right of re-entry to enforce a sale
to recover arrears...they certainly have the right to sue on the debt, as the debt will be
created by reference to the deed. (Government department 1)*

Managing agents mentioned that collecting charges from freehold properties is more difficult than for leasehold properties, and, in most cases, if the money at stake is not substantial, then they will not take action until the point of sale or re-mortgage:

*We may only leave them on their account for a period until they need to sell or re-
mortgage. (Managing agent 3)*

8.6. Summary

- It was reported by stakeholders that the practice of freehold estate rentcharges grew incrementally and became increasingly common for new build properties over the past 10-15 years. One of the main reasons behind the growth in the number of freehold estates with estate rentcharge requirements was suggested that local authorities no longer adopt all communal areas and roads on estates.
- There are concerns about upfront transparency for home buyers and the ability to challenge the reasonableness of estate rentcharges.

9. Ground rent

9.1. Background

It was perceived that, historically, ground rent used to be a peppercorn sum to cover the landlord's ongoing costs:

In the 70s, ground rent was just a peppercorn. And then they were increased maybe to £50 a year, which is a token amount to cover the landlord's genuine ongoing costs that he might incur as a landlord. (Managing agent 4)

However, it was reported that this practice has changed over time and ground rent became a source of income:

Ground rent is an income source which makes the development viable for building. (Consumer representative 3)

It was reported that there are investors who are particularly interested in ground rent investment:

In an environment where income from savings etc. is not too high at present, ground rent is a secure form of investment for some. (Consumer representative 3)

It was perceived that all private landlord leases usually have some kind of review mechanism. There are various forms of ground rent multipliers, the detail of which will be set out in the lease:

Most of the leases will have a mechanism for increasing the ground rent. (Managing agent 4)

There is no formal definition of what constitutes an "onerous ground rent". A ground rent is generally considered onerous if it makes a property unmortgageable. In recent years, many lenders have stated that they will not lend on new builds if the ground rent is equal to or more than 0.1% of the value of the property:

If the ground rent it is less than 0.1% of value of property, then it is not onerous. (Leaseholder representative 1)

9.2. Doubling ground rent

When discussing the doubling of ground rent and whether or not it is onerous, it was suggested that, the starting price and the period over which the rent doubles should be borne in mind, as doubling ground rent in itself does not necessarily become onerous. For example:

Back in the 1990s you would have, for example, a ground rent of £50 that doubled every 33 years, and that was never considered a problem. (Industry umbrella organisation 2)

It was perceived that even ground rents doubling every ten years might not be onerous if the starting ground rent is low and the doubling happens only a few times:

There are doubling ground rents every ten years, but it only does it four times. So if you start with £50, then it goes to £100, then to 200 and then to 400 in 40 years' time. That doesn't look bad. (Industry umbrella organisation 2)

There has been a period of time in the past when a doubling ten year ground rent would not have been hugely onerous. (Industry umbrella organisation 4)

We were told that, in the 2000s, higher starting ground rents doubling every ten years were introduced by some housebuilders to create a value proposition for freeholders:

From my understanding, they were suggested by third party freehold investors as a way of making the freehold more valuable. (Industry umbrella organisation 4)

It was pointed out by the housebuilders interviewed, that at the time of introducing the ten-year doubling ground rent, prior to the 2008 financial crisis, interest rates were much higher and an RPI-linked ground rent and a ten-year doubling would have been aligned:

We introduced the doubling ground rent to our standard leases in 2007. It was at the time that interest rate was very different, which meant that general RPI and doubling would have been effectively aligned at a future date. Clearly not anymore after the 2008 worldwide economic crisis changed the interest rate landscape. (Housebuilder 1)

It is worthwhile to flag that we have been through an unprecedented period of low inflation which has exacerbated the issue and given a disconnect between inflation and the doubling by historical standards. (Industry umbrella organisation 4)

The housebuilders thought that there have been approximately 10,000 properties which were sold with an onerous doubling ground rent, and it was suggested that currently none of the developers sell leasehold properties on a ten-year doubling ground rent basis:

There is no developer at the moment who sells property on a ten-year doubling ground rent basis. The media story seems to have been generated by around 10,000 doubling ground rents which originated in the late 2007-8 period. (Industry umbrella organisation 4)

It was reported that, to address the difficulties created for the leaseholders with onerous ground rent terms, some developers initiated lease variations from a doubling ground rent to an RPI linked ground rent. However, we were told that this does not always mean that the ground rent is no longer onerous as the ground rent can still be above 0.1% of the value of the property:

[A housebuilder] offers a lease variation from a doubling ground rent to RPI linked ground rent, but they are just changing a very onerous term to an onerous term, because some of them are still above 0.1%. And if they accept the variation then they have to give up their legal right to sue [that housebuilder]. (Leaseholder representative 1)

It was reported that the common practice at the moment is an RPI-linked ground rent with a 10 to 15-year interval:

The lenders dislike the term doubling being used anywhere. The norm is becoming RPI and usually with a 10 to 15-year interval. (Industry umbrella organisation 4)

It was reported that RPI-linked ground rent could become onerous in future. It was also mentioned that a doubling ground rent on a 25 year basis might result in a lower amount than an RPI-linked ground rent in 25 years' time:

The break point which RPI and doubling crosses over is about 20-21 years, theoretically a leaseholder with a doubling ground rent every 25 years is likely to be better off than the one who has an RPI linked ground rent. (Industry umbrella organisation 4)

9.3. Ground rent and enfranchisement price

It was reported that by enfranchising a leasehold house, the leaseholder buys the freehold and will no longer pay ground rent. It was mentioned that in calculating the price payable to the freeholder in the process of enfranchisement, ground rent is an important element:

If you have an obligation of paying £100 ground rent a year for 70 years, then part one of the calculation is 'what is the value today to the landlord of the right to refuse £100 a year for the next 70 years?'. (Legal organisation 2)

This is called a capitalisation rate, the part of the premium that one has to pay to enfranchise. The higher the ground rent, the more the leaseholder will have to pay to enfranchise.

9.4. Ground rent in the social housing sector

It was reported that leasehold properties in the social sector also have ground rent. However, ground rents are not usually considered to be a source of income for the freeholder:

Ground rent is not an income stream for us. (Housing association 1)

It was thought that where the housing association is the freeholder, the ground rent can range from a peppercorn amount to a more substantial amount:

We have lots where it is peppercorn, we have another group where it is £10, we have another group where it is £100 and it is fixed for the life of the lease, and we have some where the lease says increase it by, say, £250 over 25 years or something like that. The latter group would be in minority. (Housing association 1)

It was reported that there may be some leases with a doubling ground rent clause:

Our policy is not to have doubling ground rent. It is possible that we might have some leases where the clauses do that. But if they do, we agree with the leaseholder to vary the lease. (Housing association 1)

It was reported that where the local authority is the freeholder for Right to Buy leaseholders, there is a cap on ground rent of £10, unless the local authority itself is a leaseholder and has to pay a higher ground rent to its freeholder:

Under the Right to Buy legislation, the maximum ground rent we can charge is £10 a year, unless we have a lease on a property and our ground rent is more than £10 and we are incurring higher ground rent, in which case it's a charge that we can pass on. (Local authority 1)

We were told that if the local authority builds new affordable housing to sell, they might charge a higher ground rent:

Where we're doing new build to sell as affordable housing, we will charge higher ground rent, and it's normally about £200 a year that rises every 25 years or so. (Local authority 1)

Capping ground rents at £10 for social housing was felt to be restrictive on the basis that £10 would not cover the costs incurred in administering ground rents:

£10 ground rent is a ridiculous amount and it will not cover the cost of issuing the invoices and managing those ground rents. (Local authority 1)

9.5. Summary

- Ground rents have been historically low, but in recent years have increasingly been used on new properties as an income stream.
- There is no set definition of an onerous ground rent, but it is considered problematic if it affects the ability to get a mortgage or sell the property.
- The house builders believe thought that there have been approximately 10,000 properties which were sold with an onerous doubling ground rent, and it was suggested that currently none of the developers sell leasehold properties on a ten-year doubling ground rent basis.

10. Disputes and redress

10.1. Main themes of disputes

It was perceived that there is an imbalance of power between landlords and leaseholders when it comes to dispute resolution, primarily because landlords usually have funding for legal support:

Landlords are represented either by legally qualified people or professional managing agents, while lessees are, more often, on their own. (Consumer representative 3)

It was reported that the costs related to dispute resolution in the tribunal service can quickly become high for leaseholders:

The tribunal was meant to be low cost and a relatively informal forum. (Consumer representative 3)

Three main themes of disputes were described by stakeholders: the amount of the service charge, the standard of services and the behaviour of agents.

10.2. Disputes over charges

It was reported that leaseholders frequently dispute the amount of money they are required to pay for service charges when they feel they are not getting good value for money:

A classic dispute is on how much does it cost? Is it payable? When they pay, is it a reasonable amount? (Legal organisation 1)

There are certainly plenty of occasions where leaseholders feel that their costs are excessive. (Industry umbrella organisation 1)

Whether the charge is excessive or not, or payable, will be decided by the First-tier Tribunal (FTT) property chamber. It was reported that the FTT will test the reasonableness of the costs before making any decision. We were told that there is no single way to determine the reasonableness of charges as each case is different:

There is no magic test of reasonableness, every case is different. (Legal organisation 1)

It was reported that the FTT relies on case law and objectively tests the charges to assess their reasonableness. It was thought that case law provides the range of reasonableness and the landlord has the right to choose within that range; this does not have to be the cheapest option:

In case law, Plough Investments against Manchester, the judge set out a very sensible test of reasonableness: where there is more than one way of carrying out works or providing services, it is for the landlord to decide which way to do that as long as it falls in a range of reasonableness, it doesn't have to be the cheapest. (Legal organisation 1)

It was reported that the FTT looks at the charges objectively to decide whether they are reasonable:

One of the tests is to say, if the landlord had to pay for those works or provide services themselves, would they have entered into that contract? It's objective. (Legal organisation 1)

Also it was reported that, by visiting the property and seeking expert evidence, the FTT can make a judgment about both the reasonableness and the standard of work:

The tribunal will visit the property and, because they are experienced, they will make a value judgement. Also they use expert evidence which may say this was not the best way to carry it out. (Legal organisation 1)

10.3. Dispute over service standards

It was reported that the quality of the work undertaken is often disputed:

There are complaints about the quality of works and maintenance. People often feel that they've been given a bad deal. (Industry mediation organisation 1)

It was perceived that the amount of time it takes to provide a service often leads to dissatisfied leaseholders:

We get complaints about repairs not being done fast enough. There are three sorts of repairs which bog off leaseholders: lifts, lights and locks, they don't think we do them fast enough. (Housing association 1)

10.4. Behaviours of managing agents and poor communication

It was reported that the behaviour and level of service provided by managing agents is another frequent source of dissatisfaction and consequently often leads to dispute. Lack of transparency and responsiveness are the main themes cited by stakeholders:

Complaint handling is an issue. A lot of management companies simply do not engage with leaseholders properly. (Industry mediation organisation 1)

....complaints that we are not transparent enough or quick enough with answering a query. There are a number of service charge disputes which really revolve around transparency. (Housing association 1)

It was reported that dissatisfaction amongst leaseholders can arise because they are unable to understand or readily track how their money has been used to provide services:

There is a huge raft of issues around the actual accountancy and the use of money. For leaseholders, it seems that the money goes in and out of the accounts without them being able to track it....What we see is poor practice in the use of service charges, and especially in accounting practice, which leaves leaseholders massively confused about what money has been used and for what purpose. (Industry mediation organisation 1)

This is despite the fact that most leases require the landlord to provide year end accounts, breaking down the charges, and serving these accounts on leaseholders. We were told that, often, this does not happen, but it is an enforceable right in the tribunal.

It was also reported that failing to properly run the statutory Section 20 consultation process can also result in disputes over the performance of managing agents:

An agent may fail to follow up a consultation process; sometimes agents have been taken on that, where they've failed to follow the consultation process as they should. (Industry umbrella organisation 1)

10.5. Other disputes

In addition to those reasons given above, we were told that there are also disputes over the costs of leasehold enfranchisement:

We have leasehold enfranchisement, which is about how much a person has to pay to extend their lease or to buy the freehold. (Legal organisation 1)

The other area of dispute mentioned by interviewees is between leaseholders themselves:

Increasingly, there are situations where it is leaseholder against leaseholder. It can be RTM companies, or where they have just bought the freehold, have exercised their right to enfranchise and only half of the leaseholders have participated and the rest have these as their landlord, and they don't like each other. They can be very tricky. Disputes are still about service charges, but the question is whether it is really about the service charge or about personality. (Legal organisation 1)

Stakeholders also mentioned that, in some cases, the dispute is a result of the leaseholder not fully understanding or being informed the obligations of the lease:

Sometimes cases arise because leaseholders don't understand the obligations under their lease. [In some cases] they don't know that as well as paying a mortgage and ground rent, they have to contribute towards specific service charges. (Legal organisation 1)

10.6. Redress schemes

It was reported that, legally, property managers are required to belong to one of the government approved redress schemes which provide alternative dispute resolution but it does not mean that all the agents are registered:

Property agents are required by legislation to belong to an ombudsman or a redress scheme. (Industry mediation organisation 1)

We were told that the Property Ombudsman (TPO) is one of the providers of this service for leaseholders. It was reported that, in addition to TPO, the Property Redress Scheme offers a commercial alternative to dispute resolution:

Property redress services: they are not an ombudsman; they are a commercial firm providing redress schemes. (Industry mediation organisation 1)

It was reported that redress schemes can only offer dispute resolution for minor disputes which are not about the reasonableness of charges or more complicated areas. These are dealt with by the FTT:

TPO is not able to take complaints about the level of charges, for example: is my service charge correct? Do I have to pay it? Was I properly consulted on it? That falls to the First-tier Tribunal. Poor service and poor complaint handling are what TPO deals with. (Industry mediation organisation 1)

However, we were told that TPO can award compensation:

The Ombudsman can make compensatory awards in individual cases up to a maximum of £25,000 for actual and quantifiable loss and/or for aggravation, distress and/or inconvenience caused by the actions of an agent. (Industry mediation organisation 1)

10.7. Summary

- In terms of disputes, three main themes of disputes were described by stakeholders: the amount of the service charge, the standard of services provided and the behaviour of landlords or managing agents.
- It was perceived that although leaseholders have access to the First-tier Tribunal (FTT) property chamber to challenge the reasonableness of some charges, there is an imbalance of power between landlords and leaseholders when it comes to dispute resolution, primarily because landlords usually have funding for legal support.

11. Enforcement actions

It was reported that, in both the social and private sectors, if a leaseholder does not pay their service charges, they may lose their property:

Ultimately, if the leaseholder doesn't pay, they could lose their property. (Local authority 1)

It was mentioned that the threat of forfeiture is common and case law has encouraged landlords to start proceedings on the basis of forfeiture as a quicker way of resolving disputes. However, we were told that forfeiture is not common. It was reported that in most of the cases managing agents and landlords try to exhaust all other options before making a claim at court to forfeit the lease:

They want to make sure that all the processes are exhausted before ordering for forfeiture. (Managing agent 1)

Before taking formal action, we were told that some good managing agents will first try to informally contact the leaseholder to talk to them about their arrears:

The first thing is to talk to them personally to know why they don't pay. Sometimes there is a dispute and they think they should not pay for certain things. (Managing agent 1)

It was reported that the first formal action is to write to the leaseholder with outstanding service charges and inform them about consequences of not paying their service charges:

After the conversation, if they won't pay and don't engage with us about why they are not paying then we need to formally write to them and tell them they need to pay. (Managing agent 1)

We issue a gentle reminder. If they still don't pay, we issue a second reminder, and if they still don't pay, then we issue a letter of claim. (Local authority 1)

It was reported that sending a letter of claim is a part of pre-action protocol which should be done prior to commencing any court action for the recovery of outstanding service charges:

The letter of claim comes under the court's new pre-action protocol, so we have to go through a process before we can make a claim to the court. (Local authority 1)

At this stage, it was reported that the managing agent provides the leaseholder with all necessary information about the service charge and gives them 30 days to reply and raise any related enquiry:

The pre-action protocol says this is the amount you owe, plus the interest and these are the potential court fees that could be added to this, and asks them if they have any queries. They have 30 days to reply to that, and we then provide them with the information that they've requested. (Local authority 1)

It was reported that if matter is not resolved at this stage, then the agent will usually send another notice before making a court claim:

If we haven't come to an agreement in that time, we give them a 14-day notice that we're going to take them to court. If they don't pay, we will then make a court claim. (Local authority 1)

It was reported that if matter is not resolved then the First-tier Tribunal, or a court, determines, firstly whether the charge is payable, and then, if it is payable and the leaseholder has still not paid it, then either a charging order will be put on the property or based on a Section 146 Notice of the Law and Property Act 1925, the lease will be forfeited:

If there is no mortgage company to pay a service charge then we will have to go to court who will decide if the service charges are payable or not. In most circumstances they say it's payable and if they can't pay at that stage, there will be a charging order put in place so when the property is being sold, any overdue service charges will be paid. (Managing agent 1)

Ultimately, if they still don't pay we'll issue a 146 notice, which is a breach of the lease notice, and that could lead to forfeiture of the lease. (Local authority 1)

It was reported that if there is a mortgage on the property, then it is likely that the mortgage company gets involved and pays the outstanding service charge to avoid forfeiture:

The mortgage lender will pay the service charge to protect their interest in the property because they don't want forfeiture to happen. (Industry umbrella organisation 5)

If they can't pay and there is a mortgage company, we request the money from the mortgage lender. They will step in to pay the service charge for them and will add it to their mortgage. We see that quite a lot. (Managing agent 1)

Normally if there's a mortgage on the property, the building society or the mortgage provider will actually pay it, because if the property is forfeited, then they lose their interest in it. (Local authority 1)

It was reported that, usually, either the leaseholders will pass on information about their mortgage lender or the landlord can find it in the Land Registry:

More often than not the leaseholder would tell us but also through the Land Registry we could find out because there will be a mortgage interest attached to the property and Land Registry has that. (Managing agent 1)

Stakeholders felt that approaching the mortgage company to recover costs can be beneficial to the leaseholder, for example:

There was a woman who had thousands and thousands in arrears and couldn't pay, she didn't realise that the mortgage lender would be prepared to step in and pay and add it to the mortgage. She was happy for a couple more thousand to be put on her mortgage. It can be a relief for people to do that. (Industry umbrella organisation 5)

It was reported that forfeiture of the lease is quite rare:

Forfeiture is the ultimate threat; I can't remember the last time that we have been involved in it. That's not something that landlords like to do. (Managing agent 1)

Forfeiture is the ultimate measure; over a period of 30 years working with local authorities I know a handful of forfeitures for different reasons. (Local authority 1)

Although forfeiture is not common, it was reported that it creates uncertainty for leaseholders and is perceived to give the landlord an upper hand in disputes:

The problem is that whilst there aren't many forfeitures, the landlord can use the threat of it and tenants would buckle in order to avoid forfeiture. (Legal organisation 2)

Most stakeholders believed that forfeiture should be abolished:

We should abolish forfeiture and have a new scheme for terminating the tenancy if tenant did something naughty. (Legal organisation 2)

11.1. Summary

- The ultimate sanction is that leaseholders can lose their homes if they do not pay, however, this rarely happens.
- Interviewed stakeholders said that forfeiture is not common as in most of the cases managing agents and landlords try to exhaust all other options before making a claim at court to forfeit the lease.

12. Conclusions

The interviews with stakeholders showed that the level of service charge varies on a case by case basis according to the specificities of each building.

The interviewees said that in principle there are no differences between how the service charge is calculated for a new or an existing development, it always begins with an estimate of charges. The interviews found that in new developments, developers have no set approach to bringing managing agents on board, some engage with managing agents quite early in the process, while others might bring them in to the development at a late stage. One issue identified by stakeholders was that in new developments, the service charge may increase if it was set unrealistically low in the first year by the developer, and this may come as a surprise to leaseholders.

Interviews with stakeholders showed that there can be different categories of fees within the scope of administration charges ranging from fees for day-to-day management of the building to additional fees to cover additional services requested by leaseholders (such as permission fees). Interviewed stakeholders said that information about permission fees is not always transparent for leaseholders. Stakeholders thought that in some cases, permission fees are a source of income for the freeholders so stakeholders believed they might be inflated. Interviewees said that after enfranchisement of leasehold houses, if enfranchisement is done informally, charging permission fees may continue.

Commissions on building insurance were reported as a contentious topic by some interviewed stakeholders because the commission is sometimes high and not necessarily transparent. Although leaseholders should be notified of any commission received by landlords or managing agents, it is only on request that landlords or managing agents should declare what services are provided for that commission and the costs of those services.

The majority of interviewed stakeholders thought it is prudent to have a sinking fund in place to cover emergency payments and major items of expenditure, and to avoid large one-off bills. However, mostly due to technical issues relating to Housing Revenue Account rules, social landlords cannot put in place a sinking fund for social sector leaseholders. As a result, it is common that social sector leaseholders receive large one-off bills.

It was reported by stakeholders that the practice of freehold estate rentcharges grew incrementally and became increasingly common for new build properties over the past 10-15 years. One of the main reasons behind the growth in the number of freehold estates with

estate rent charge requirements is that local authorities no longer adopt all communal areas and roads on estates. The lack of any redress or tribunal mechanism in place to enable freeholders to challenge estate rentcharges was identified in the stakeholder interviews as an issue.

Regarding ground rent, stakeholders reported that some housebuilders have used clauses for doubling ground rent every 10 years which increased payment liability after the review period. The marketability and mortgageability of leaseholders' properties have been reported to be reduced as a result of increased ground rent. It was thought that, when discussing the doubling of ground rent and whether or not it is onerous, the starting price and the period over which the rent doubles should be borne in mind, as doubling ground rent in itself does not necessarily become onerous, most notably if the starting ground rent is low.

In terms of disputes, three main themes of disputes were described by stakeholders: the amount of the service charge, the standard of services provided and the behaviour of landlords or managing agents. It was perceived that although leaseholders have access to the First-tier Tribunal (FTT) property chamber to challenge the reasonableness of some charges, there is an imbalance of power between landlords and leaseholders when it comes to dispute resolution, primarily because landlords usually have funding for legal support. It was reported that if a leaseholder does not pay their service charges they may lose their property. However, interviewed stakeholders said that forfeiture is not common as in most of the cases managing agents and landlords try to exhaust all other options before making a claim at court to forfeit the lease.

13. Interview guide

The following questions were used as a topic guide to steer the conversations with stakeholders. Not all interviewees were asked, or answered, every question on this list:

Introduction

1. Tells us a little about you and your organisation.

Service and administration charges

2. How is the service charge calculated for a new development, and who sets the indicative charge (e.g. the house builder, the managing agent who will eventually take over)?
3. How are service charges calculated for an existing development?
4. How much do service, administration and other charges vary from year to year?
5. How much do leaseholder/freeholder charges vary according to different circumstances, and what are the extremes? (different typologies: high-rise/low-rise developments, mixed tenure developments, retirement homes)
6. Can these charges be justified economically and legally?
7. In what circumstances can the service charges levied be described as unreasonable?
8. Are one-off charges for major works a particular challenge for leaseholders (particularly leaseholders who purchased under Right to Buy)?
9. How common are sinking funds?
10. Are you aware of any charges that are made that do not fall within the meaning of a service charge or administrative charge? If so, are those charges regulated under any other statutory provision?
11. How are managing agents commissioned to manage charges?
12. How can the managing agent be changed?
13. What is your view on the services provided by different managing agents?

Doubling ground rent

14. How many leaseholders have doubling ground rent clauses within their lease contract?
15. What are the typical ground rent review terms within these contracts?
16. Why have doubling ground rents, and rents much higher than the historic 'peppercorn' rent, been introduced?
17. What has been the impact of such ground rents?

18. How and why have investors become interested in ground rents, and what has been the impact?

Estate rentcharges

19. What are estate rentcharges used to pay for?
20. What are the trends (over time and geographically) in the use of estate rentcharges for freeholders on private estates?
21. What are the impacts of estate rentcharges on leaseholders or freeholders?
22. Are estate rentcharges fair, reasonable and/or economically justifiable? Why?
23. Can an estate rent charge be challenged? How?

Developers conduct

24. Is there any evidence that shows revenue streams lost by developers are being recovered elsewhere (e.g. through freehold rent estate charges or new leasehold charges)?
25. Do house builders use standard leases across their developments?

Rights and obligations

26. To what extent are leaseholders aware of their rights and obligations in relation to the charges?
27. What restrictions are commonly placed upon leaseholders and freeholders and why?
28. Is there sufficient guidance for leaseholders, and for those setting charges?
29. Is there sufficient regulatory and legal protection?
30. How easy is it for leaseholders to take over the management of the building (Right to Manage) and enfranchise the management?
31. How easy and common is it for leaseholders to purchase the freehold of their property?

Monitor performance

32. Can leaseholders, or those subject to estate rentcharges, monitor and enforce the performance of the services for which advance charges are made?

Enforcement action and dispute

33. What enforcement action is taken if the charge is not paid?

34. How do leaseholders or those subject to estate rentcharges experience enforcement action?
35. What is the effect of enforcement action on leaseholders'/ freeholders' relationship with their landlord or estate owner?
36. What are the main themes of disputes between leaseholders and landlords/estate managers?
37. Who normally wins? Landlord or leaseholder?
38. How do landlords recover the legal costs of proceedings after the ruling 6th April 2017 that litigation costs, such as barristers' and solicitors' fees, cannot automatically be charged back to the tenant as an administration fee?
39. Are you aware of any legal disputes about ground rents? Estate rentcharges?
40. What kind of advice/ mediation/ resolution are available?
41. What improvements can be made to reduce disputes over service charges?

Market analysis

42. Are the levels of charges determined by a well-functioning market?
43. Are market failures, such as imperfect competition, playing a role in their pricing?
44. Does any imperfect competition vary regionally, and if so, how does this impact on the charges leaseholders face?

Social housing

45. What impact do service charges have on the affordability of social housing?
46. Is there any cap on the amount of service charge?
47. Are charges a particular issue on mixed tenure developments?
48. Are one-off charges for major works a particular issue where some tenants have purchased their property through RTB?
49. Can the additional cost of service charges in flats raise the total cost to tenants above the cost of a house?

Recommendations

50. What changes would you like to see to the service charge, ground rent, or estate rent charge framework?
51. How and who would these changes benefit?
52. Do you think it would be beneficial to ask developers/landowners to submit a draft management plan (identifying the public realm and services) as part of the planning application?