

SERVICE CHARGE DISPUTE/COMPLAINTS PROCEDURE

2010 will always try to make sure that service charges are calculated properly and fairly. However, there may be occasions when leaseholders think that we have miscalculated charges or charged for work that has not been done. Set out below is the procedure that 2010 will follow:-

Initial Enquiries

You can make an enquiry at your local neighbourhood office, by completing a feedback form on the website or by contacting the leasehold manager on 01709 823 488.

If you are not happy with the response you receive, you will be advised to either:

- **Follow 2010s' complaints procedure (below).**
- **Apply to the Leasehold Valuation Tribunal.**

2010s' Complaints Procedure

Stage 1

Make an official complaint to the Leasehold Manager;

- By phone (01709 823 488).
- In writing, to;

Norfolk House
Walker Place
Rotherham
S65 1AS

- By completing a complaint form from your local neighbourhood office.
- By email at – complaints@rotherham.gov.uk
- By visiting our website – www.2010rotherham.org – and filling in a feedback form.

You will receive a full response within 10 working days or we will send a letter explaining why there is a delay and saying when we will send a full response. The response will give you the chance to have your complaint dealt with in the second stage of the complaints procedure if you are still unhappy.

Stage 2

Investigation by senior independent officer

2010 will contact you to arrange an interview and give a full written response within 20 working days, or we will explain why there is a delay and give a new

date for when you should receive a response. The response will give you the chance to send the complaint to the final stage of the complaints procedure.

Stage 3

Complaints review panel meeting

A date will be set for a hearing within 20 working days, but at a time that is convenient for you to attend. We will send a summary of the complaint to you and also send this report to the members of the panel. You will receive a full written report of the panel's decision within five working days of the hearing.

Outcome

If the complaint is accepted we will apologise, explain what went wrong, rectify the complaint and change procedures so that the mistake is not repeated.

In circumstances where you are still not satisfied with the outcome of the complaint, then you will be encouraged to use the Leasehold Valuation Tribunal service.

Applying to the Leasehold Valuation Tribunal

What is a Leasehold Valuation Tribunal (LVT)?

LVTs' are part of the Residential Property Tribunal Service (RPTS) and provide an accessible and relatively informal way to resolve residential leasehold disputes. Each LVT usually consists of three members: a lawyer, who is often the chairman, a valuer and a lay person. The LVT is entirely independent and impartial in its approach. There are five regionally based LVT offices (London, Northern, Midland, Eastern and Southern) plus one for Wales.

Proceedings at the LVT are semi-formal. Neither side is required to be represented by a barrister, solicitor or valuer, evidence is not given on oath and the usual court rules do not apply. However, parties appearing before an LVT may wish to seek professional advice, and it is sensible to arrange representation if the argument relates to the interpretation of the law or the terms of the lease. In cases of a technical nature, the LVT is usually assisted by expert evidence from a valuer or experienced property manager.

Applying to the LVT

Either you as the leaseholder or RMBC as the landlord can apply to the tribunal to settle a dispute over charges. The tribunal will decide:

- if the cost of the services we are charging for is reasonable
- if the work being charged for is of a reasonable standard
- if the amount we are asking for in advance is reasonable.

However, applications cannot be made where the issue has been:

- agreed or admitted by the leaseholder concerned;

- determined by a court;
- referred to arbitration. Any reference to arbitration must be with the tenant's agreement following the dispute arising; or
- (has been) the subject of determination by arbitration as a result of an agreement after the dispute has arisen.

The application must be made on the correct form where one is required, and in the proper manner. The LVT produces model application forms and these are available in printed form from the local LVT or can be downloaded from the LVT website (www.rpts.gov.uk). Guidance is provided on how to complete the forms.

Any application to the LVT will require the preparation of a proper case. The LVT has to consider the argument and evidence from both sides and it is essential that applicants present their case properly. Where there is a hearing, members of the LVT may ask questions, but their function is to make a decision on what is before them, not to find the evidence for themselves. The landlord may normally be in a better position to present the case than the tenants because they may have the relevant facts concerning the management and functioning of the building. The tenants will have to obtain their evidence as best they can, although they can request the LVT to issue directions requiring the production of information relevant to the issues.

Most applications to the LVT are subject to payment of a fee, presently set at a maximum of £500. The application fee is based on a sliding scale dependent upon the circumstances, and is payable with the application. For applications relating to the challenge of costs, the initial fee is based on the amount in question; for other applications it is based on the number of flats to which the application relates. Where an application covers both cases, the application fee will be whichever is the greater. Further details are available at <http://www.lease-advice.org/aplvtmain.htm>

The LVT process carries several advantages over County Court procedures, especially in its capacity to pull together professionals to sit as an expert panel in judgement on the reasonableness of actions or events. These experts are often more familiar with both the jurisdiction and technicalities of leasehold cases than judges. An LVT is also able to employ discretion and arrive at a decision through consultation and dialogue. LVTs are recognised as holding the potential to provide speedier case processing, cost savings and a simplified path to dispute resolution.

Decisions and enforcement

Once the LVT have made a decision, both the landlord and the leaseholder is bound to accept it. The LVT delivers its decision in writing as soon as possible after the hearing. The decision becomes final four weeks later, provided no notice of appeal is given. Any order made by the LVT may be enforced, with the permission of the county court, in the same way as a county court order.