



# SERVICE CHARGE TRANSPARENCY REQUIREMENTS: ONGOING COSTS OF THE NEW BUILDING SAFETY REGIME

## **CONSULTATION RESPONSE**

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**PREPARED AND SUBMITTED BY**

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## ABOUT THE BRITISH PROPERTY FEDERATION

The British Property Federation is the representative organisation for the property investment sector.

In the context of this consultation exercise our members develop and own high rise residential property, which will include leasehold flats. We are therefore coming at the issue from a freeholder's perspective.

We welcome this opportunity to comment on the consultation, and please find our response to the specific questions below.

## PART 1 - SERVICE CHARGE DEMANDS

Question 1: Do you agree or disagree with the proposal that landlords must identify the element of the service charge spent on the ongoing costs of the new building safety regime in service charge demands?

We support the proposal that the on-going costs of the building safety regime should be separately itemised. For all concerned, however, it is important there is clarity on what is defined as "the ongoing costs of the new building safety regime." For example, landlords and their agents apply and recover funding for existing fire safety requirements, on Fire Risk Assessments (FRAs) and testing of certain equipment, etc. As an illustration, the list of building safety act costs in paragraph 10, includes "assessing building safety risks". Will that include the costs of FRAs, which strictly speaking are a Fire Safety Act requirement not a Building Safety Act one? Clarity is needed to avoid unnecessary queries and disputes.

## ANNUAL SERVICE CHARGE STATEMENTS

Question 2: Do you agree or disagree with the proposal that, as part of the annual service charge statement, landlords must do both of the following:

- identify the element of the service charge spent on the ongoing costs of the new building safety regime.
- provide a per-building itemised breakdown of the specific measures that were paid for.

We support what is being proposed.

Question 3: Do you have any other comments on the proposed requirements to make the ongoing costs of the new building safety regime transparent?

Much of the impact of what is being proposed will be executed by managing agents and it is important they are engaged in shaping the proposals and are given sufficient lead time to amend their processes and systems.

We would also stress that leaseholders have existing rights to challenge the reasonableness of service charge expenditure at the First Tier Tribunal, and a useful exercise that Government and the sector could undertake is to better educate and guide leaseholders on their established rights.

## PART 2 - SERVICE CHARGE DEMANDS

Question 4: If you will be responsible for charging these new costs, what administrative and operational changes are required to ensure that you can issue service charge demands with the ongoing costs of the new building safety regime made separately identifiable?

Existing systems and processes should be able to cope with the new itemisation. There will be some set up costs in terms of changes to software and bill formats, staff training, explaining new bill formats to leaseholders, etc. Once new systems and processes are in place, however, the on-going costs should be relatively like existing costs.

Question 5: Do you agree or disagree that any administrative and operational changes would be easy to implement with regards to service charge demands?

We agree.

## ANNUAL SERVICE CHARGE STATEMENTS

Question 6: If you will be responsible for charging these new costs, what administrative and operational changes are required to ensure that you can issue annual service charge statements with the ongoing costs of the new building safety regime made separately identifiable?

As said, there will be some set up costs in terms of changes to software and bill formats, staff training, explaining new bill formats to leaseholders, etc.

Question 7: If you will be responsible for charging these new costs, what administrative and operational changes are required to provide leaseholders with an itemised breakdown of the total money per building of the annual service charge that is going toward paying for building safety measures?

The same changes will be required as per our response to question 6.

Question 8: Do you agree or disagree that any administrative and operational changes would be easy to implement with regards to annual service charge statements?

Yes, we agree.

## TIMINGS

Question 9: What would the impact on you be if there were a delay between commencing the charging mechanism provisions and the transparency requirements?

Landlords and their agents would be unable to recover the reasonable set-up costs they had incurred.

Question 10: Would you prefer option 1 or option 2?

Option 1: The transparency requirements for the ongoing costs of the new building safety regime come into effect as quickly as possible after the regime is up and running, meaning that a staggered implementation may be required if the government pursues the wider service charge reforms.

Option 2: The transparency requirements for the ongoing costs of the new building safety regime are delivered to a slower timeline as part of any wholesale reform to drive up transparency of service charge costs, offering potential efficiencies in implementation.

Landlords and their agents can only recover costs that are legally allowable. Applying costs for a legislative requirement that has not passed would be ultra vires. It is therefore important that the transparency requirements come into effect as soon as possible so that any set up costs can be fairly recovered.

It is difficult to know whether option 1 will lead to more work and costs for landlords and their agents, without knowing the specific proposals that the Government is contemplating. We are told these emanate from the work of the LUHC Select Committee, and Lord Best's work on the Regulation of Property Agents. The common thread is more standardisation of service charge demands. We guess that implementing standardisation alongside the proposed building safety transparency requirements would be more efficient, but it is difficult to see how they could be aligned given the different timescales the Government is working to.

The overriding factor should therefore be that building safety costs are recoverable, and not open to dispute, and that means pursuing option 1.

## RESPONDENT

Question 13: What is your name?

Ian Fletcher

Question 14: What is your email address?

ifletcher@bpf.org.uk

Question 15: Are the views that you have expressed on this consultation your own personal views or an official response from an organisation you represent?

Organisation

Question 19: What is the name of your organisation?

British Property Federation

Question 20: Which category best describes the activities of your organisation?

Trade association