



Affordable Homes Service Charge Cap Guidance

Bristol City Council

2023

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1.1 Introduction

In order to ensure affordability Bristol City Council (BCC) sets a service charge cap on affordable housing secured through S106 agreements. This is in common with our HomesWest Partner local authorities across the West of England.

This guidance explains how the service charge cap will work in practice in Bristol City Council (BCC). This guidance will apply to Section 106 (S106) affordable homes delivered in Bristol.

The Council would prefer to see the cap applied to non-s106 affordable units, so the service charge can remain the same for all units to maintain equality between the affordable tenures. It is not intended that any shortfall in service charge resulting from the cap applied to S106 units should be charged to non S106 affordable units or market units on the same scheme. If it is not possible to remain within the cap, providers should request an exemption, further information is provided in the guidance.

1.2 Planning Consultations

Below shows the amended wording in planning consultations:

“Total service charge costs should not exceed the service charge cap of £650 for an affordable unit (index linked). The total costs of rent + service charges for all affordable units must not exceed the current [Local Housing Allowance](#) rates at the letting of the first and each subsequent letting.

Early consultation is recommended with the Strategy and Enabling team to minimise high service charge costs. The approach to service charges is set out in the Council’s [Affordable Housing Practice Note](#) (AHPN).”

1.2 Section 106 Wording

Below shows the suggested wording in S106’s. This includes a service charge and service charge cap definition, how service charges will be implemented for different tenures and a formula to calculate the service charge amount. Further definitions related to service charges have also been added to the appendix.

Service Charge - a sum (which expression shall include any Estate Charge(s) and/or Ground Rent Charges) that covers the contributions required from time to time for those services and facilities which are of a nature and to a standard reasonably required in connection with the Affordable Housing Unit(s) such as maintaining, repairing and servicing any communal parts related to the Affordable Housing Unit(s), the cleaning and lighting of common parts

and the maintenance of any communal gardens or landscaping areas or shared highways that directly benefit the Affordable Housing Unit(s).

Service Charge Cap - the sum of £650.00 (Six Hundred and Fifty Pounds) per annum per unit Index Linked unless as agreed in writing between the affordable housing provider and the Council. For the avoidance of the doubt the Service Charge Cap shall not include Sinking Fund Charges for Shared Ownership or First Homes.

Social Rented Units - that no occupier of a Social Rented Unit shall be charged a Service Charge in excess of the Service Charge Cap unless as agreed in writing between the affordable housing provider and the Council.

Affordable Rented Units - that no occupier of an Affordable Rented Unit shall be charged a rent higher than the Affordable Rent (which for the avoidance of doubt shall include any Service Charge).

Shared Ownership Units - that no occupier of a Shared Ownership Unit shall be charged a Service Charge in excess of the Service Charge Cap and no element of such Service Charge shall be included in any rent for such unit unless as agreed in writing between the affordable housing provider and the Council.

First Homes - that no First Homes Owner or occupier of a First Home shall be charged a Service Charge in excess of the Service Charge Cap unless as agreed in writing between the affordable housing provider and the Council.

Calculating Service Charges - The Service Charge Cap for the Affordable Housing Units will be subject to indexation in April of every financial year ('the Indexation Trigger') based on increases in the Index and calculated using the following formula:

$$C = \text{£Y} \times (B / A)$$

Where:

A is the value of the Index for September 2018

B is the value of the Index for September of the financial year preceding the Indexation Trigger

£Y is the Service Charge Cap prior to indexation

C is the level of Service Charge Cap payable in respect of the Affordable Housing Units after application of the Indexation formula.

Below is an example of the calculation for 23/24, this is not included in the s106.

$$\text{£755} = \text{£650} \times (123.8/106.6)$$

Where:

- A is the value of the Index for September 2018 - **106.6**
- B is the value of the Index for September of the financial year preceding the Indexation Trigger - **September 2022 – 123.8**
- £Y is the Service Charge Cap prior to indexation - **£650**
- C is the level of Service Charge Cap payable in respect of the Affordable Housing Units after application of the Indexation formula - **£754.87, rounded up to £755**

Amending Service Charge Cap

The s106 wording allows for the units to go above the service charge cap with agreement from the Council, which should avoid a Deed of Variation being needed.

1.3 Affordable Private Rent Service Charges

The information below is taken from the [Delivery of Affordable Build to Rent Homes in Bristol](#) practice note which explains how service charges will work for Affordable Private Rent homes:

“Affordable Private Rent rents should be inclusive of all Universal Credit eligible service charges and capped at Local Housing Allowance levels. The rent and service charge must be separately identified. Components of the service charge relating to ‘lifestyle’¹, which would not be met by Universal Credit, should also be clearly identified in all marketing and will be paid as a top up by the individual tenant in accordance with the terms of the tenancy agreement.”

1.4 Service Charge Cap Exemptions

- The service charge cap is for non-specialist s106 units only. Specialist homes are exempt from the cap, however early discussions should take place with Strategy & Enabling on proposed costs.
- Sinking funds may be charged additionally to service charges. Sinking fund charges should only be set to recover the replacement costs of items or areas of the building at their expected end of ‘life’ as part of programmed repairs for the building.

1.5 Service Charge Cap Exemptions Process

¹ This could include, but not be limited to: gyms, Wifi, individual living expenses and other non-essential service elements.

Below shows the process on how HomesWest (HW) Partners and/or developers can make an exemption request to the service charge cap, where costs will be above the service charge cap for non-specialist s106 units.

1. HW Partner/Developer to make Enabling Manager aware as soon as they think service charge costs will go above the cap. HW Partners/Developer to complete service charge cap exemption template provided by the Strategy & Enabling team and send service charge cost schedules.
2. Enabling Manger to review evidence and let HW Partner/Developer know if they need further information, accept the cap can be lifted or state it can't be lifted with an explanation why.
3. If the cap is lifted the HW Partner/Developer should keep the Enabling Manager aware of the full costs to the tenant/leaseholder making sure they are reasonable and have written confirmation if the amount changes from what was agreed.
4. Where new information comes in this should be communicated to the Enabling Manager so they have the latest cost information which may impact on whether the cap can be lifted.
5. Where the s106 has already been signed a Deed of Variation may be needed to state that the service charge cap can be varied.

1.6 Monitoring Service Charges

- Service charge information will be collected for new schemes through BCC's active and future pipeline monitoring.
- Schedule of service charge costs to be provided for each scheme once this is available. This enables Strategy & Enabling to understand the costs and whether the cap is suitable for the future.

1.7 Useful Service Charge Links

- [Universal Credit: service charges - guidance for landlords - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/universal-credit-service-charges)
- [Rent Standard and guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/rent-standard)

For further information please contact the Strategy & Enabling team at strategyandenabling@bristol.gov.uk

Appendix One

The table below shows further definitions in the s106 agreement related to service charges.

S106 Definitions	
“Estate Charges”	any rentcharge imposed on a freehold property/owner pursuant to The Rentcharges Act 1977
“Ground Rent Charges”	any charges or payments that can legally be imposed on a leasehold property/owner pursuant to the Leasehold Reform (Ground Rent) Act 2022
“Sinking Fund Charges”	any charges required to cover the costs of replacing items or areas of a building at their expected ‘end of life’ as part of programmed repairs for that building