

Basis for conclusions

Service charges in commercial property, 2nd edition, RICS professional standard

Executive summary

1. The aim of this project is to ensure that the standards set by RICS on the management of commercial service charges and adopted by all property bodies remains up-to-date, relevant and maintains its high status in the market.
2. The expert group is intended to provide a balanced view from all sides of the industry and had representatives from several organisations including BDO, The British Council for Offices (BCO), The British Property Federation (BPF), The British Retail Consortium (BRC), The Law Society, The Property Managers Association (PMA), ICAEW and UK Hospitality, and it is anticipated all will support and adopt the published standard.

Background

1. The document was originally published by RICS as a cross-industry guidance note over 20 years ago, before being rebranded as a professional statement. The 1st edition professional statement was published in September 2018 and effective April 2019. This is the 2nd edition will publish as an RICS professional standard.
2. This professional standard is among the most successful pieces of guidance produced by RICS. It has achieved prominence in the industry being seen as representing best practice regarding commercial service charges. It is significantly embedded within the market, being referred to as a matter of course during disputes and regularly referred to within leases and other contracts. It is also one of the most downloaded documents in our portfolio.
3. The purpose of the update to this professional standard has been to:
 - improve general standards and promote best practice, uniformity, fairness and transparency in the management and administration of services charges in commercial property
 - ensure timely issue of budgets and year-end certificates
 - reduce the causes of disputes and to provide guidance on resolution and
 - provide guidance to solicitors, their clients (whether owners or occupiers) and managers of service charges in the negotiation, drafting, interpretation and operation of leases, in accordance with best practice.

Development process overview

1. Previous author Peter Forrester FRICS was commissioned to write this updated standard, with Jonathan Lovejoy MRICS as co-author.
2. A public consultation was held from 17 September to 29 October 2024, to gauge feedback and inform the development of the standard.
3. RICS in-house editorial team copyedited the text, checked the overall style and presentation of the document and aligned it with RICS' house style and standards framework.
4. The development and final publication of the standard was also informed by our internal governance mechanisms including the [Commercial Property Professional Group Panel](#), the [Knowledge and Practice Committee](#) and the Professional Standards Steering Group, who approve standards on behalf of the [Standards and Regulation Board](#).

Consultation

Process

1. A public consultation took place from 17 September to 29 October 2024.
2. The consultation process was facilitated using [iConsult](#), RICS' interactive platform, where participants were encouraged to provide feedback on the draft document and/or respond to a questionnaire.
3. The consultation site provided a free download of the proposed draft in PDF form, a version of the draft on the site that participants could comment on, and a questionnaire that participants could answer.
4. The consultation was supported by a communications strategy, which included:
 - i. a social media campaign (e.g. [LinkedIn posts](#))
 - ii. features in RICS newsletters, such as the 'All Profession'
 - iii. posts on [MyRICS Community](#)
 - iv. direct emails from the RICS Property team to key stakeholders, including the [Commercial Property PGP](#).

Press

The consultation received press interest, which included articles by [CoStar](#), [Dentons](#), [Local Government Lawyer](#) and [Lexis Nexis](#).

Statistics

- We received 285 responses from 49 participants in the form of 15 questionnaire responses and 270 comments on the draft standard. It should be noted that the total number of comments on the draft received was 1,415, but many of these were duplicates due to several tenants submitting the same agreed responses that had been suggested by service charge consultants. There were 765 downloads of the draft standard.
- RICS members made up 49% of the consultation respondents.
- SMEs made up 20% of the respondents, compared to large firms, which made up 80% of the respondents.
- Several key stakeholder groups and bodies participated in the consultation. These include but were not limited to:
 - property and facilities management firms
 - commercial real estate services firms
 - consultancy firms
 - commercial occupiers
 - valuation firms
 - operations and developer firms
 - estate agents and
 - trade bodies.

Key themes from the consultation and RICS' response

This basis for conclusions focuses only on the more significant changes made, but several minor textual refinements put forward by commentators have also been adopted, which improve the overall clarity. RICS is grateful to all those who responded.

Code adherence and complaints

RICS members are expected to report non-compliance (RICS Bye-Law B5.2.1(c))

The professional standard is now considered to be a minimum acceptable standard of performance – any departures from mandatory or core provisions must be declared to clients and in the pack.

Mandatory requirements

Time limits are now mandatory with caveats.

Where these timescales cannot be met, a timely explanation must be provided of when they will be issued and the reason for the delay in line with the mandatory communication provisions. This does not dispense with the obligation to provide both.

Reference to the Supreme Court decision for *Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd* is included regarding withholding payment.

Best practice principles

There is greater emphasis on sign-off of accounts.

Supporting notes and any accompanying information are to record a true and accurate reflection of actual costs and statement to be included confirming that there are sufficient controls in place to mitigate the risk of costs being included where no liability existed at year end.

Management fees

Management fees should relate only to the actual work carried out in managing and administering the service charge. The manager will often perform additional roles and duties relating to investment interests, for example, asset management and recollection. In such cases the fees the manager charges in relation to performing such additional duties should not be included in the service charge management fee and comprise a cost to the landlord.

Management companies

Management companies are now required to comply with this professional standard.

Insurance

Where advantageous rates are secured, for example, from placing group contracts, the value of any discounts should be passed on to tenants in full. This includes any form of incentivised rebates linked to policy performance.

Landlords, managers and related entities should always disclose any remuneration, commission, rebates and other sources of income and related income or other benefits received in connection with placing or managing insurance.

The Heat Network (Metering and Billing) Regulations

Reference to these regulations is included to clarify that energy costs only are required to be invoiced outside the service charge on a regular basis. The cost of maintenance and repair, etc. of plant and equipment remains in the service charge, unless leases provide otherwise.

Allocation and apportionment

Managers must provide a full apportionment matrix to all tenants clearly showing the basis and method of calculation.

Mixed use scheme

A new section was added regarding mixed-use schemes. This includes guidance on the *Building Safety Act 2022* regarding responsibility for fire and building safety of high-risk buildings.

Estate charges

A new section relating to the estate charges from large mixed-use schemes has been added.

Balance sheets

In the spirit of openness and transparency, it is considered good practice to include a balance sheet or cash reconciliation as part of or in addition to the statement of actual expenditure.

Industry-standard cost classifications

These have been updated – splitting ‘Repair’ and ‘Maintenance’ from a combined cost heading to two to better differentiate between them.

Change of landlord or manager

A new section around procedures relating to change of landlord or manager has been added.

Dispute resolution

This section has been substantially updated in light of the Supreme Court decision of *Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd*, which established the principle of ‘pay now, argue later’.

Clarification is also provided regarding dealing with a contractual dispute under the terms of the lease and complaints regarding the manager’s compliance with the professional standard and includes guidance on reporting concerns about an RICS member or RICS-regulated firm.

Provision for anticipated future expenditure

Guidance on sinking funds and reserve funds remains broadly unchanged but new sections have been included regarding funding of future costs and how they are treated in the service charge accounts – noting that they are probably outside current lease provisions:

- agreed retention of funds already collected (non-accruals)
- agreed contribution towards future works and
- payment plans.

Templates for key elements in these voluntary agreements have been created and will be made available as separate downloads.

Environmental social and governance (ESG)

This section has been substantially updated and provides guidance for recovery of costs of improving environmental performance

Service charge certificate

The landlord's service charge certificate has been broadened as follows:

'Model landlord surveyor's certificate

Certification period: [dd/mm/yyyy] to [dd/mm/yyyy]

Landlord:

Managing agent:

Building:

I hereby certify that, according to the information available to me, the attached statement of service charge expenditure, supporting notes and accompanying information, records the true and accurate actual cost to the landlord of providing the services to the property for the period [dd/mm/yyyy] to [dd/mm/yyyy], in accordance with the current edition of RICS' *Service charges in commercial property*.'

Financial reporting

Substantial guidance is now included around the reporting of accruals. The professional standard now requires a schedule of material accruals to be provided.