

DISCRETIONARY REDUCTION IN MAJOR WORKS SERVICE CHARGES POLICY

Responsible Officer

Director of Customer Services

Aim of the Policy

Phoenix aims to support Leaseholders in exceptional financial hardship in meeting their obligations under their lease and to prevent homelessness. This policy sets out the basis on which Phoenix will consider a discretionary reduction in major works service charges.

Policy Scope

This policy shall apply to service charges which are payable by a lessee in respect of a dwelling in England for the costs of repair, maintenance or improvement.

The Policy

Phoenix will:

1. Consider each case on its own merits against the policy criteria below and in the context of Phoenix's charitable objectives.
2. Not reduce a major works service charge below £15,000; (charges may still exceed £15,000 after a reduction has been applied).
3. Ensure that any reduction in major works service charge is capable of being accommodated in Phoenix's business plan.
4. Not consider an application for a discretionary reduction in a major works service charge to a leaseholder who is not resident in the property.

Phoenix has charitable status and decisions by the Board must reflect its charitable objectives. Any decision to apply a discretionary reduction in the major works service charge to a leaseholder can only be taken if the Board considers that the leaseholder meets the charitable beneficiary test.

Absentee landlords do not meet the charitable beneficiary test and are excluded from the policy.

In deciding whether to waive or reduce a service charge Phoenix will have regard to the following criteria:

- a) Any estimate of the costs of the works notified to the lessee or any predecessor in title before the purchase of the lease of the dwelling;
- b) Whether the purchase price paid by the lessee took account of the costs of the works;

- c) Any benefit which Phoenix considers the lessee has received or will receive as a result of the works, including an increase in the value of the lease (including the reduction of a negative value in the lease), an increase in energy efficiency of the dwelling, an improvement in the security of the dwelling and an improvement in services or facilities;
- d) Whether, upon receipt of an application by a lessee, Phoenix, having regard to the exceptional hardship criteria, considers that the lessee would suffer exceptional hardship in paying the service charge; and
- e) Any other circumstances of the lessee which Phoenix considers relevant.

Exceptional Hardship

Criteria for assessment of eligibility for discretionary reduction in major works service charge

In considering an application to reduce the service charge because of exceptional hardship Phoenix will have regard to:

- Whether the dwelling is the lessee's only or principal home;
- The total amount of the service charges paid or are payable by the lessee since the purchase of the lease of the dwelling;
- The amount of the service charge payable in the year in which the lessee applies for the reduction because of exceptional hardship;
- The financial resources available to the lessee;
- The ability of the lessee to raise funds to pay the service charge;
- The ability of the lessee to pay the service charge if the landlord extended the period for payment; and
- Any other relevant consideration.
- None of the financing options set out in the Major Works Service Charge Repayment Options are applicable to or viable for the leaseholder.
- The leaseholder must fall within Phoenix's charitable objectives set out in its rules:

"The business of providing housing, accommodation, and assistance to help house people and associated facilities and amenities for poor people or for the relief of aged, disabled, handicapped (whether physically or mentally) or chronically sick people".

- The level of equity in the property is less than the amount of the major works service charge.
- Repayment of the reduced major works service charge must be made in accordance with one of the options set out in the Major Works Service Charge Repayment Options.
- The reduction in the charge can be accommodated within Phoenix's business plan.

In order to assess whether the leaseholder falls within Phoenix's charitable objectives, a leaseholder must submit a full income and expenditure report with bank statements, credit report and (if necessary) be willing to submit to a full independent financial assessment and arrange a valuation (at the leaseholder's cost) of their property by a firm of independent chartered surveyors appointed by PCH. The leaseholder must also provide any medical report which is relevant to their health or disability.

Officers will prepare a report summarising the above with a recommendation to the Board as to whether to apply a discretionary reduction in each case. The Board's decision will be final and there will be no right of appeal.

Monitoring and review

This policy will be monitored by Key Performance Indicators and Performance reports to Board annually and will be reviewed every three years or sooner if there are changes to legislation or good practice.

Legislation

- The Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014
- Commonhold and Leasehold Reform Act 2002 (as amended)
- Coronavirus Act 2020

Reference to other documents and associated policies and procedures

Including:

- Leasehold Management Policy
- Major works service charge repayment options
- Phoenix Community Housing Rules of Association

Definitions

Term/acronym	Description
Resident	Includes tenants, freeholders and leaseholders.
Phoenix	Phoenix Community Housing.
Leaseholder	Leaseholder or Lessee

Document Type:	Policy
Title:	Discretionary Reduction of Major Works Service Charges
Author	Head of Home Ownership and Income Services
Department Owned By	Customer Services
Equalities Impact Assessment:	Yes
Approval Date:	30-07-2020
Approved By:	Board
Implementation Date :	03-08-2020
Status:	FINAL
Version No:	V3
Last updated:	June 2020
Issue Date:	03-08-20
File Path:	S:\Policies and Procedures Manual\Department- CS Specialist Housing Services\Discretionary reduction in Major Works Service Charges\CS Discretionary Reduction in Major Works Service Charges FINAL V3 July 2020.docx