

IS/JSA/ESA/SPC - HOUSING COSTS - LEASEHOLD MAJOR WORKS

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INTRODUCTION

- 1 This memo contains guidance about the amount of benefit allowed as a housing cost for leasehold residents where their accommodation is modernised under the Decent Homes initiative. The guidance expands that given at DMG 23591, 23632, 44436 and 78457 and may be considered in conjunction with that given in DMG memo SPC 53.

BACKGROUND

- 2 The Decent Homes initiative was extended by the Public Service Agreement in response to a challenge from the government to increase the number of households in the private sector living in decent homes. This includes homes of former LA tenants who have purchased their property under the right to buy scheme.
- 3 In order to be decent a home should meet the current statutory minimum standard for housing, be in a reasonable state of repair and have reasonably modern facilities and services.

- 4 The building components that should be in a reasonable state of repair include external walls, roof structure and coverings, windows and doors, heating systems, plumbing and electrics. Modern facilities are indicated by kitchens less than 20 years old and bathrooms less than 30 years old and, for blocks of flats, there should be adequate size and layout of common areas.
- 5 Landlords are achieving the Decent Homes standard by a programme of regeneration and refurbishment with building works carried out on their leasehold housing stock.

COSTS

- 6 The cost of the structural work and refurbishments will be charged to leaseholders through service charges. A service charge is, as decided in R(IS) 4/91, a charge which the claimant is obliged to pay in terms of their occupancy agreement for services rendered in terms of that agreement.
- 7 Some residents may choose to meet their service charge costs by obtaining a home improvement loan.

SERVICE CHARGE

- 8 To determine what part of the service charge is eligible to be met as a housing cost the claimant will provide the annual service charge account which should include an itemised breakdown of the total expenditure including the reason that each item or structure has been replaced or refurbished. For example

Items	Major building works	Costs	Unit cost/ dwelling	Reason for work
Electrical installations	Replace mains distribution board, rising and lateral mains cables	£13,040	£1,630	Updating old systems and wiring
Rainwater goods	Replace guttering and down pipes	£2,400	£300	Leaking, broken and in disrepair

Note: to be representative of different sized dwellings the unit cost may be presented on the annual account as a fraction or a percentage of the total cost.

- 9 Having identified the amount charged for a year the DM should convert the total costs for the claimant's portion of the refurbishment works into a weekly amount (dividing by

52) and then from that weekly total deduct any ineligible costs. The resulting sum represents the weekly amount of eligible service charge.

ineligible costs

- 10 Ineligible costs¹ which should be deducted from the weekly amount arise in three circumstances. These are
1. where the costs are inclusive of any items mentioned in paragraph 6(2) of Schedule 1 to the Housing Benefit regulations 2006 (payments in respect of fuel charges)
 2. where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations 2006 (ineligible service charges) the amount attributable to those ineligible service charges;
 3. any amount for repairs and improvements.

*1 JSA Regs, Sch 2 para 16(2); IS (Gen) Regs, Sch 3 Para 17(2); ESA Regs, Sch 6 Para 18(2);
SPC Regs, Sch 2 para 13(2)*

- 11 The ineligible charges¹ mentioned in paragraph 10 **1.** above concern payments in respect of fuel charges and are unlikely to arise under the Decent Homes improvements.

1 HB Regs 06, Sch 1, para 6(2)

- 12 There are several ineligible service charges¹, mentioned in paragraph 10 **2.** above, which includes any charges that are not connected with the provision of adequate accommodation, however these are unlikely to arise under the Decent Homes improvements.

1 Sch 1, para 1

- 13 “Repairs and improvements”, mentioned in paragraph 10 **3.** above, means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

1. Provision of a fixed bath, shower, wash basin, sink or lavatory and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
2. Repairs to existing heating systems;

3. Damp proof measures;
4. Provision of ventilation and natural lighting;
5. Provision of drainage facilities;
6. Provision of facilities for preparing and cooking food;
7. Provision of insulation of the dwelling occupied as a home;
8. Provision of electric lighting and sockets;
9. Provision of storage facilities for fuel or refuse;
10. Repairs of unsafe structural defects;
11. Adapting a dwelling for the special needs of a disabled person; **or**
12. Provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under age 20 who is part of the same family as the claimant.

14 Commissioners have addressed some of the issues encountered when determining the eligible and ineligible aspects of the service charge. The Commissioners have decided that:

1. the upkeep/maintenance of communal pathways, gardens¹, repair of a lift and repointing of brickwork are all connected with the provision of adequate accommodation. The costs of a car park barrier, a car park attendant², the installation of a pergola and the repair of a clock tower are all connected with the provision of adequate accommodation.
2. works which are to be funded out of the service charge can be for the avoidance of the need for the repair of unsafe structural defects. For example, timely replacement of slackening roofing tiles will prevent the roof timbers becoming rotted to the point of collapse through water penetration³.
3. where there are windows there is natural light already and no need to provide it³.
4. provision is something not already in existence or the replacement of something which no longer functions³.

5. re-pointing is not a damp proof measure, redecoration is not a repair or improvement and so their associated costs are not deducted from the service charge⁴.
6. by preventing the entry of rainwater a roof may prevent damp, damp proofing may not be the predominant purpose of a roof and although a roof repair might have the predominant purpose of preventing damp a roof renewal would not⁵.

1 CIS/1496/95; 2 CIS/2205/0; 3 R(IS)2/07; 4 CIS/667/02; 5 CIS/2132/98

- 15 The final weekly amount of the service charge is then attributed to a 52 week period from the date the liability arose¹.

Note: the attribution period for this service charge is independent of any prior service charge that is already in payment so the dates are unlikely to be the same.

*1 JSA Regs, Sch 2 para 16(3); IS (Gen) Regs, Sch 3 Para 17(3); ESA Regs, Sch 6 Para 18(3);
SPC Regs, Sch 2 para 13(3)*

Example

The leasehold residents of a 2 storey flat complex have had their building modernised under the Decent Homes programme at a cost of £90,400, the work involved the prudent renewal of the communal electrical wiring, windows and doors, the lift, replacing all the roof tiles, external redecoration, the perimeter fencing and the upgrading of the roof space insulation. The costs are levied as a service charge and each of the 8 residents are required to contribute an appropriate share of the costs. In this case each persons share of the costs amounted to £11,300 which comprised of £1,100 for wiring, £2,800 for windows and doors, £2,000 for lift renewal, £3,200 for roof tiles, £500 towards redecoration, £900 for fencing and £800 towards insulation.

Resident 1, Juliet, is liable for the service charge (she does not obtain a loan to meet the service charge). The DM decides that the £11,300 is a service charge¹ and that this converts to a weekly amount of £217.31 a week (£11,300 divided by 52). From the weekly amount there should be deducted the costs of any works considered to be, not connected with the provision of adequate accommodation or a repair or improvement. The DM considers that, all the works are connected with the provision of adequate accommodation (therefore there is nothing to deduct as described by paragraph 10 2. above). The DM considers the roof renewal is not a damp proof measure² and therefore not a repair or improvement, the rewiring is not the provision of electrical lighting or sockets³ and not a repair or improvement, the replacement of windows and doors is not the provision of natural lighting or ventilation⁴, the upgrading of roof space insulation with better rated material is not the provision of insulation and neither

re-decoration⁵, the lift replacement, nor fencing are included in the exhaustive list of potential repair or improvements. As there is nothing in the works to indicate that what is contemplated is anything more than the prudent renewal of protective decoration or the replacement of potentially unserviceable items with similar items, then there is nothing that is a repair or improvement (as described by paragraph 10 3. above) and therefore nothing to deduct. The cost of the building works is met in full giving a housing cost service charge of £217.31 a week.

1 R(IS) 4/91; 2 CIS/2132/1998; 3 CSJSA/160/98; 4 CIS/2901/04; 5 CSJSA/106/98

HOME IMPROVEMENT LOAN

- 16 A claimant who obtains a home improvement loan to meet the service charge costs should provide evidence of the purpose of the loan, this should include an itemised breakdown of the costs and reason that each item has been replaced or refurbished. The home improvement loan will be eligible to the extent that the works are considered to be for repairs or improvements¹.

*1 JSA Regs, Sch 2 para 15(2); IS (General) Regs, Sch 3 Para 16(2); ESA Regs, Sch 6 Para 17(2);
SPC Regs, Sch 2 para 12(2)*

- 17 Commissioners have addressed some of the issues encountered when determining whether certain structural works and refurbishments are a repair or an improvement. The Commissioners have decided that:
1. by preventing the entry of rainwater a roof may prevent damp, damp proofing may not be the predominant purpose of a roof and although a roof repair might have the predominant purpose of preventing damp a roof renewal would not¹.
 2. re-pointing is not a damp proof measure¹.
 3. installation of a new central heating system is not a repair².
 4. insulation is limited to such things as the installation of loft or cavity wall insulation³.
 5. provision is something not already in existence or the replacement of something which no longer functions³. Where there are windows there is natural light already and no need to provide it.
 6. accommodation includes all the grounds and buildings available to the claimant as of right under the lease, such as dining rooms, the laundry, communal areas, gardens, car parks, walkways or any other part of the complex which are used

by the claimant for purposes for which he would normally use part of his dwelling if he were not in leasehold accommodation⁴.

1 CIS/2132/98; 2 CIS/514/97; 3 R(IS)2/07; 4 CIS/1460/95

Example

The leasehold residents of a 2 storey flat complex have had their building modernised under the Decent Homes programme at a cost of £90,400, the work involved the refurbishment or replacement of the - communal electrical wiring, windows and doors, the lift, replacing all the roof tiles, external redecoration, the perimeter fencing and the upgrading of roof space insulation. The costs are levied as a service charge and each of the 8 residents are required to contribute an appropriate share of the costs. In this case each persons share of the costs amounted to £11,300 which comprised of £1,100 for wiring, £2,800 for windows and doors, £2,000 for lift renewal, £3,200 for roof tiles, £500 towards redecoration, £900 for fencing and £800 towards insulation.

Resident 2, George, obtains a home improvement loan to pay off his £11,300 service charge. The DM considers if each of the refurbishments is a repair or an improvement (as described on the exhaustive list at paragraph 13 above), he decides that the roof renewal is not a damp proof measure¹ nor the repair of an unsafe structural defect and therefore not a repair or improvement, the rewiring is not the provision of electrical lighting or sockets² and not a repair or improvement, the replacement of windows and doors is not the provision of natural lighting or ventilation³ nor is it the provision of insulation, the upgrading of roof space insulation with better rated material is not the provision of insulation and neither redecoration⁴, the lift replacement nor fencing are listed as a potential repair or improvement. None of the works are considered to be a repair or improvement and as such the DM cannot award any amount as a housing cost in respect of the home improvement loan.

1 CIS/2132/1998; 2 CSJSA/160/98; 3 CIS/2901/04; 4 CSJSA/106/98

TYPICAL REPAIRS

- 18 Annex A contains a list of some of the typical building repair and refurbishments carried out on leasehold accommodation under the decent homes initiative including corresponding columns highlighting eligibility where the costs are met by either a loan or a service charge.

Annotations

Please annotate the number of this memo (DMG 21/09) against the following DMG paragraphs:

23591, 23616, 44436, 78457.

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in Memo DMG 26/08 - Obtaining legal advice and guidance from DMA Leeds.

DMA Leeds: June 2009

Annex A		loan eligible	service charge
Roof	a. Major Repair b. Renewal c. Replacement d. Chimney stack repairs	Yes No No No	No Yes Yes Yes
Roof safety	This may include fitting roof safety rails, or roof safety harness's, allowing regular inspection and maintenance	No	Yes
Insulation	a. Roof insulation b. Wall insulation	} Yes but only if provision	} Yes if not provision
Building frame repairs	a. Cladding to the exterior of the building to prevent damage to the structure, insulates protects building from the elements	No	Yes
Concrete repairs	This may include cleaning, painting and protective coating, or repairs (including the concrete frame)	No	Yes
External walls	a. Brickwork cleaning b. Repairs to brickwork, pointing, repairs to rendered surfaces c. Replace wall ties	No No No	Yes Yes Yes
Balconies walkways	a. Repairs to balcony balustrades and handrails b. Repairs to common walkways and balconies	No No	Yes Yes
Windows	a. Replacement b. Replacement of single glaze with double glaze	No No	Yes Yes
Communal doors	a. Repair and replacement of communal doors, ensuring compliance with fire regulations	No	Yes
External redecoration	a. Carry out the redecoration to all external elements of the existing fabric of the building, including use of anti-graffiti paint where appropriate	No	Yes
Communal area repairs & decoration	a. Carry out redecoration of all communal internal areas including corridors and stairways, using fire retardant and/or anti-graffiti paint where appropriate b. Replacement of communal flooring	No No	Yes Yes
Rainwater goods	a. Repair/replace guttering and down pipes	Yes but only if provision	Yes if not provision
Drains	a. Rod and Jetting wash through all existing drainage and inspection chambers b. Replace communal waste/soil pipes c. Major repair or replacement	No } Yes if provision	Yes } Yes if not provision

Electrical Installations	a. Replace mains distribution board b. Replace rising and lateral mains cables c. Replace bulk head lighting to communal staircases & balcony soffits d. Replace communal corridor lighting	} No No Yes if provision	} Yes Yes Yes if not provision
TV Aerial	a. Replace analogue aerial with digital, may include replacing cabling serving all units b. Installation of satellite dish to receive additional channels	No No	Yes No
Ventilation	a. Maintenance and cleaning of communal shafts & flues b. Replace communal extractor fans	No Yes if provision	Yes Yes if not provision
Entry Systems and Access	a. Installation or renewal of entry systems, which may include cabling and handsets in each property b. Works to comply with Disability Discrimination Act	No No	Yes Yes
Damp works	All methods of damp proofing, which may include:- a. Insertion of chemical damp proof course b. Laying a waterproof membrane on the basement floor	Yes Yes	No No
Refuse/recycling systems	a. Replacement or repair of refuse/recycling systems and or hopper heads	Yes if provision	Yes if not provision
Bin chambers	a. Repairs to communal bin chambers	No	Yes
Lifts	a. Replacement of lift car, control panel and components b. Replace lift motor room equipment c. Major overhaul d. Installing lifts and shafts	No No No No	Yes Yes Yes Yes
Dry rot works	May include:- a. Chemical treatment of problem areas b. Replacement of structural timbers such as joists	No Yes	Yes No
Water pumps	May include:- a. Installation of pumps due to reduced water mains pressure b. Replacement of an existing pump	No No	Yes Yes
Water supply	a. Replacement of the water main serving the building b. Replacement of communal water tanks	No No	Yes Yes
Fire safety	a. Install, repair or replace communal fire detection systems b. Installation or renewal of smoke detectors c. Replacement of dry risers to tower blocks (essential part of fire fighting) d. Install, repair or replace fire escapes	No No No No	No No Yes Yes
Lightning protection	a. Installation or replacement of lightning conductor	No	Yes

Asbestos removal	a. Removal of asbestos under controlled conditions	No	Yes
Communal Heating	a. Major overhaul or replacement of communal heating systems or individual elements	Yes	No
	b. Installation of communal heating systems	No	Yes
Estate works	a. Estate lighting	Yes if provision	Yes if not provision
	b. Controlled access and security	No	Yes
	c. Repairs to estate roads or paths	No	Yes
	d. Provision and refurbishment of recreational areas	No	Yes
	e. Landscaping	No	Yes
	f. Boundary walls and fences	No	Yes
Associated costs	Costs essential to the works, which may include:		
	a. Surveys	} Yes if associated with an eligible item	Yes
	b. Preliminaries e.g. site set up costs		Yes
	c. Fees		Yes
	d. Access equipment e.g. scaffolding		Yes
	e. Health and safety		Yes