



The Impact of the Service Charge Code

**BCSC Shopping Centre Management Conference Breakout Session, Liverpool -
3 March 2009**

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Introduction

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Presentation Agenda

- Why Create a New Code?
- Key Points/Objectives
- How is it new?
- Best Practice Procedures
- Group Tasks
- Conclusion



‘Service charges that are poorly managed are a cause of constant dissatisfaction and are typically the biggest cause of discontent between landlord and tenant. The Royal Institution of Chartered Surveyors (RICS) Code of Practice for "Service Charges in Commercial Property" advocates transparency and, for the first time, recognises that service charge managers are spending the overhead of other companies.’ British Retail Consortium.

Why create a new Code?

- Previous Guide 5 years old
- General industry concern
- Business Practice had moved on
- 1 April 2007 Code introduced

Key Points:

- Communication
- Transparency
- Timeliness

Objectives:

- Reduction of conflict
- 'Not for Profit, not for loss'
- Budgeted/forecastable part of the occupier's overhead
- Cash neutral to the owner's income stream

How is it new?

- Duty of care and right to challenge
- Recognition of the regular need to review/modernize
- Right to amend apportionment
- Record methodology of new regime

'Best Practice Procedures'

- Management
- Communication
- Transparency
- Service Standards and Provision
- Administration
- Additional Shopping Centre Services

Management

- Duty to manage responsibly
- Duty of care owed to occupiers
- Demonstrate delivery of service standards
- Monitoring and reviewing
- Sound management procedures
- Recognition of need to promote on-site Management skill/training

Communication

- Regular and continuous
- Timely response to enquiries
- Feedback/Meetings
- Variance RPI + 2%

Transparency

- Accounts
- Explanatory Notes
- Sharing of information e.g. Pedestrian Flow Data

Service Standards & Provision

- Provided 'commercially and professionally'
- Service contracts regularly measured and reviewed against KPI's
- What costs are excluded?
- Set-Up Costs
- Improvements/Redevelopment Costs

Administration

- Management Fees not %
- Apportionments
- Voids/Concessions
- Timeliness of Budgets/Accounts
- Comparisons/Variations

Additional Shopping Centre Services

- Marketing and Promotions
- 50/50 split?
- Landlord bears cost of rebranding and launching

Group Task 1

How would you analyse, monitor and demonstrate the effectiveness of a marketing programme to your tenants?

Commercialisation/Non Core Income

‘Any activity that delivers income for an Asset Owner that is outside the core revenue stream’ [RICS Code of Practice Consultation Paper]

Commercialisation/Non Core Income

- Clear statement of policy
- Treatment of Income

Group Task 2

The following is a list of key commercialisation activities. Give some thought as to how you would treat the income derived from each in terms of the service charge. How much, if any, would you credit back to the service charge? Give reasons for each. If appropriate, how would you calculate the contribution back to the service charge?

Group Task 2 continued

- Retail Merchandising Units (RMU)
- Vending Machines and Units
- Advertising (including horizontal, vertical, static, moving and digital opportunities)
- Casual Leasing (including field promotions, testing and product sampling)
- Office Services (including photocopying, printing, room hire and general services)
- Telecommunications Equipment (including aerials, Wi-Fi and broadband rights)

Group Task 2 continued

- Automatic Teller Machines
- Car Valet Services
- Children's Rides and Amusements
- Photo Machines
- Plasma Screens
- Breakdown Services
- Car Park Income

Commercialisation/Non Core Income

- Not funded by Service Charge > 100% to Owner
- Funded by Service Charge > credited to Service Charge e.g. photocopying
- Some Services or Site Team support paid by Service Charge > contribution to Service Charge e.g. RMU's, Kiosks
- Income from Promotions credited to Promotional Budget
- Income from Permanent or Semi Permanent mall space

Group Task 3

A typical 1960's concrete framed shopping precinct with residential units above, located in a suburb of a major conurbation. The scheme is largely open with the exception of one covered mall. It is open 24/7 due to rights of access over the precinct enjoyed by the residential tenants. The Landlord spends circa 40% of the annual budget on manned Security. In order to reduce costs, the Landlord has decided to spend £250,000 on the following:

Group Task 3 continued

- Installation of new roller shutters, gates and barriers to close down the precinct from 7pm to 7am every day
- The construction of an alternative access for the residential tenants
- New CCTV system (the existing scheme has no CCTV)

Would you feel confident in seeking to recover the cost of all of these works through the service charge from the retail tenants and how would you justify this?

Improvements to Existing Equipment

- What does the lease say?
- Lease overrides the Code
- Occupiers must benefit
- Reasonable payback
- Communication

Limitation of Effectiveness

- Cannot override leases
- Compliance not required under statute
- No real sanction for non-compliance
- Legally Code not taken into account when interpreting service charge

Conclusion

- Guide to good management practice
- Avoidance of conflict
- Can self-regulation work?
- Heading for formal legislation?



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