

Steps to challenge major works charges

In the first instance, leaseholders who wish to challenge their major works or service charges should begin with the 2-stage LBS complaint process.

1. Southwark Council Complaints

This is 2 stage, free process. You can make a stage 1 complaint using the webform. You should receive a reference number for the complaints lodged, and a response should be issued to you within 8 weeks.

At stage 1, the complaint should include:

- details of the issue,
- what has been done,
- what hasn't been done, and
- what does cl want for redress?

LBS Stage 1 complaint Webform:

https://forms.southwark.gov.uk/ShowForm.asp?fm_fid=726

If you are not satisfied with response, or you have not received a response within 8 weeks, you can escalate to review stage using the webform where an independent team within council will look at how the original decision was come to.

At stage 2, the complaint should include:

- Where LBS haven't addressed points of concern
- Ongoing short comings in their response
- Anything new that is related to the overarching issue, for example a new flood where LBS did not really fix the issue again.

LBS Stage 2 complaint Webform:

https://forms.southwark.gov.uk/ShowForm.asp?nc=LZZO&fm_fid=2180

If the 2-stage process has been exhausted and leaseholders are unhappy with the outcome they can also escalate any complaints that they have to an external body.

2. Housing Ombudsman

An independent body who can investigate and hear each sides' case before making a decision. Referrals can be made by you directly if you have utilised the entire Southwark formal complaints process and had a final response. Decisions can only be challenged by Judicial Review.

Issues that Housing Ombudsman will consider

- Leasehold issues
- Rents and service charges
- Property condition – repairs and improvements

- Estate management
- Compensation
- Complaint procedures

The Housing Ombudsman has published guidance on how they make decisions on remedies. This includes various issues such as unresolved leasehold issues and disrepair which is caused by landlord failings. Please note that this Remedies Guidance is an internal document made publicly available by the Housing Ombudsman to improve transparency in decision making.

For details please see: <https://www.housing-ombudsman.org.uk/wp-content/uploads/2022/09/Remedies-Guidance-September-2022.pdf>

Please find the guide for seeking compensation here: <https://www.housing-ombudsman.org.uk/centre-for-learning/key-topics/our-orders/#c>

Seeking Compensation: Points to Consider

- How many rooms are affected and which rooms are affected?
- How much mortgage you pay each month, if any?
- Have the rooms affected been rendered uninhabitable?
- What type of disrepair was it?
- When did you first report the issue to the Council and when did the council fix the issue?
- What is the severity of the disrepair?
- Is the disrepair causing serious harm to your health and safety?
- Are there any personal possessions that have been damaged and need replacing; and what the value of that might be?
- Did you pay out of pocket for a repair/ redecoration which occurred as a consequence of delayed or non-action by LBS and/or its contractors?
- Do you have evidence for the expenses?
- Is there anything that you can claim compensation from via home contents insurance if you have a valid policy- this will affect the amount of compensation that the council will make as they won't pay twice for something that has already been compensated?

Tips from the Housing Ombudsman: <https://www.housing-ombudsman.org.uk/residents/make-a-complaint/outcome-page-help-complain-landlord/>

3. Southwark Council Arbitration Tribunal

Free tribunal for disputes between Southwark and their leaseholders. Hearing panels are divided into the Tenant and Leasehold Arbitration Panel and the Homeowners Service Charge Arbitration Panel. Once the application is submitted, LBS should respond within 5 working days regarding a hearing date.

The arbitration panel is composed of one elected tenant or leaseholder representative, an independent chairperson and a councillor. A qualified housing law expert acts as a legal advisor to the panel. They should be free of conflict of interest with you and be from a different ward to the ward you live in. They can award compensation or require freeholder to do something (e.g. make repairs). Written decisions are made within 28 days of hearing and they are legally binding. Arbitration decisions can only be challenged in court, not at the First Tier Tribunal. You will have 28 days to make an appeal regarding any administrative or procedural errors arising from the judgement.

<https://www.southwark.gov.uk/council-and-democracy/complaints-comments-and-compliments/arbitration>

<https://www.southwark.gov.uk/home-owners-services/independent-representation-and-arbitration/homeowner-s-arbitration-service>

4. First Tier Tribunal – Property Chamber, Residential Property Disputes

Leaseholders (or a leaseholder group) can apply to FTT for a fee of £300. First Tier Tribunal – Property Chamber is a tribunal who predominantly deal with leasehold and service charge disputes. They will look at each side's case and make a decision. You can call witnesses and submit evidence. Decisions can be challenged in the Upper Tribunal and further through the court system. Many applicants represent themselves. You can represent yourself or pay for representation by a legal professional. <https://weareadvocate.org.uk/>. Advocate can offer free representation if you are eligible.

<https://www.lease-advice.org/advice-guide/application-first-tier-tribunal-property-chamber/>

There is guidance on the FTT's website for each type of application. For details: <https://www.gov.uk/government/collections/residential-property-first-tier-tribunal-forms>

Tenant Applicants to the FTT may apply for an order under Section 20C of the Landlord and Tenant Act 1985 to not have the legal costs incurred by the Landlord in the case to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application. It is up to judge to decide if the request for and granting of order is just and equitable in the circumstances.

The judge will make an oral decision at the end of the hearing and a written decision ('notice of decision') will be posted to the parties within 6 weeks. You can apply to the FTT to lodge an appeal or a reconsideration within 28 days of the date on the written decision.