

Policy Statement

Subject: Service charges, arrears and bad debts

This policy statement and the associated procedures have been drawn up and approved by the Board in order to ensure that the Company complies with its legal obligations.

1. Summary

- Posol is the management company for the Higgs and Hill/Swan Hill/Crest Homes residential estate at Port Solent.
- It recovers its costs via a service charge to its shareholders who own the houses and berths on the estate.
- The duty to pay the service charge is set out in the legal documents that shareholders sign when they buy a property.
- Service charges are payable within 14 days of the date of the account issued by the Managing Agent.
- A further 14 days grace will be allowed for shareholders to pay their service charge.
- If the account is not settled in full after 28 days, a reminder will be sent. A further period of 14 days grace will be allowed after the reminder letter is sent.
- If the invoice remains unpaid at the end of this time, interest will be added to any unpaid account backdated to the date on which payment was technically due (i.e. 14 days after the issue of the original account).
- If the account is still unpaid after three months, action to recover the debt will be taken in the County Court.
- If judgement is obtained but the debt is still not paid, Posol will take the case back to the County Court and at the same time a debt recovery agency will be instructed.
- All costs associated with the recovery of unpaid service charges will be added to the amount owing.
- In exceptional circumstances Posol may be able to take hardship into account if the Board is given advance notice.

2. What is the service charge?

Port Solent Residents Management Company Limited (Posol) is the management, maintenance and service company for shareholders who own a property on the Higgs and Hill/Crest Homes/Swan Hill estate, and for the adjacent mooring areas. Posol is owned by the shareholders, who elect the Board of Directors to run the Company on their behalf. Each house owner holds one 'A' share in the company and each berth holder holds one 'B' share. The company is established in the interest of its shareholders as a body and on a not-for-profit basis.

The company negotiates and pays the Port Solent Charge on behalf of shareholders, as well as providing a number of direct services including landscape gardening, maintenance of the residential pontoons, provision of communal TV aerial service (to part of the estate only) and insurance. In undertaking these responsibilities, Posol incurs other administrative and audit costs.

Posol recovers these costs from its shareholders via an itemised service charge account. This shows the basis for the service charge on their house and/or berth, the amount paid on account for the current financial year, and the amount of any adjustment (+/-) required to fund the company's actual expenditure established by the audited accounts for the previous year. The Managing Agent issues an account for service charge payment twice each year in April and October. It is current practice to ask shareholders to pay 2/3 of the annual service charge in the April invoice, with the remaining 1/3 being paid in October.

More information about how the service charge is constructed is given at the end of this statement.

3. Responsibility for the payment of service charges

As the owners of Posol, it is the responsibility of each shareholder to ensure that the Company is properly managed and, therefore, that service charges are paid promptly.

The duty to pay the service charge is set down in the deed of transfer signed by each shareholder when purchasing their house and the sub-underlease signed when purchasing a berth. These legal documents require service charges to be paid within 14 days of receipt of the company's invoice. Legal precedent has established that the obligation to pay the service charge is wholly based on the covenants signed when buying the house or berth. Payment is not conditional on the shareholder being satisfied with the performance of either Premier Marinas plc or Posol Residents Management Company Limited and therefore withholding payment is not an option.

4. Late payment of service charges, recovery of arrears and bad debts

Late payment of service charges by shareholders involves Posol in extra administrative expense as additional demand notices have to be sent out. Late payments may also mean that a bank overdraft has to be established, with associated fees and interest charges. Therefore it is in the interests of all shareholders that service charges are paid promptly, otherwise these additional costs will be incurred.

Any shareholder who has not paid their service charge within the 14 days stipulated within the legal documents is technically in arrears. Posol will allow a further 14 days grace and will then issue a standard reminder letter after 28 days. Any member who has not paid their charge within a further 14 days of receipt of the reminder letter will be judged to be in arrears, and the Board will then take the following action.

- Interest on the outstanding amount of the service charge will be added at 2% above the Bank of England base lending rate calculated on a daily basis, backdated to the date on which the payment was due (i.e. 14 days from receipt of the original service charge account).
- Action will be taken by the company in the County Court to recover any debts outstanding after three months from the date on which the payment was due, and the interest incurred plus the company's legal and administrative costs will be added to the amount outstanding.
- If judgement in favour of the Company is obtained in the County Court but the debt remains unpaid, the Company will take the case back to the County Court and at the same time instruct a debt recovery agency.

It is the company's policy to take all steps necessary to ensure that it does not incur bad debts. If, however, in the opinion of the Board, and every effort having been made to recover the debt, a debt is irrecoverable it will be written off and become a charge on the general accounts of the association, and therefore payable by the members as a whole. The company reserves the right to establish a contingency fund for this purpose.

5. Service charge credits

Any surplus arising at the end of the financial year will be either added to the sinking fund, or credited against the service charges due in the following year. Cash refunds will not be made unless there are exceptional circumstances. It follows that a person who has ceased to be a shareholder will not receive any adjustment.

6. Financial hardship

Posol recognises that circumstances occasionally arise in which its members may face financial difficulties that cause genuine hardship. The Company is prepared to take a sympathetic view of such cases wherever possible. Where shareholders are genuinely unable to pay their service charges within the time period laid down, they should write within 14 days of receiving the service charge account to the Managing Agent explaining their difficulties. Every effort will then be made to come to a mutually satisfactory arrangement.

The Company regrets that it will not be able to take a sympathetic view of hardship cases if the shareholder concerned does not communicate with the directors in sufficient time to prevent the normal arrears procedures being followed. The burden of proof lies with the shareholder and not with the Board, whose decision will be final.

All written and verbal communication between the member concerned and the directors of Posol will take place in the strictest confidence and will not be referred to by name in the circulated Board Minutes.

7. How the service charge is made up

Each householder is liable for 1/423rd of Posol's expenditure attributable to the housing areas, e.g. landscaping, ground maintenance, insurance, a share of the Port Solent Charge falling on Posol (see below), and the costs incurred in employing a managing agent.

Each berth holder is liable additionally for 1/309th of Posol's expenditure attributable to the residential mooring areas, e.g. insurance, maintenance and replacement, as necessary, of the pontoony, and a share of the Port Solent Charge falling on Posol.

Posol is required to provide annual individual accounts to each householder, showing how instalments paid on account match individual liability as calculated in accordance with these rules. Adjustments are required in cases of either under or over payment, after allowing for allocations to the reserves.

Sinking Funds: By Articles 22 and 27, the Company may establish reserves or 'sinking' funds but any funds must be split to avoid landscaping and other "householder" costs falling on berth holders' reserves and pontoony costs falling on householders' reserves.

The Port Solent Charge: This is analogous to a local rate, and is levied by Premier Marinas plc under the terms of its lease from Portsmouth City Council. This is a charge payable by all residential owners and commercial enterprises at Port Solent, whether or not the individual householder or commercial enterprise participates in any activity connected with the marina proper (a point often not understood by householders who are not also berth holders).

The purpose of the Port Solent Charge is to reimburse Premier Marinas plc for expenditure incurred in carrying out its obligations contained in the Second Schedule of each underlease relating to the Common Parts of the Marina (Note: Posol is an under-lessee in respect of the residential berths).

The main obligations falling on Premier Marinas plc, for which the Port Solent Charge is levied, are to maintain (which includes repair, replace and cleanse) within the marina:

- the structure of the marina, the hoist quay and the lock;
- the inner and outer waiting pontoons, fuel and visitors' pontoons;
- the lock gates and machinery, work boats and plant and equipment, including the fuel bay;
- the landscaping, car parks, roads and footpaths;
- the signs and information services;
- the methane and leachate protection systems, fire fighting and safety equipment and security systems.

In addition, the marina operator must:

- dredge the marina and access channel;
- light the common parts and the car parks etc;
- insure the marina, plant and equipment and common parts, and insure against public liability;
- pay uniform business rates in the common parts including the marina control building;
- impose and enforce Rules and Regulations for the proper and safe operation of the marina;
- keep the marina, car parks and common parts clean and tidy, etc.

Approved by the POSOL Board in June 1995, revised and updated by the Board on 3 May 2002.

Signed:

John Nouch
Company Secretary