9527

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00AU/LSC/2013/0493**
Property	:	**84 Muriel Street London N1 9QU**
Applicant	:	**The Governors of the Peabody Trust**
Representative	:	**Mr Allison of Counsel**
Respondent	:	**Ms Belen Lopez**
Representative	:	**Mr Bloor**
Type of Application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal Members	:	**Dr Helen Carr** **Mr Ian Thompson FRICS** **Mr Alan Ring**
Date and venue of Hearing	:	**10 Alfred Place, London WC1E 7LR**
Date of Decision	:	

DECISION

Decisions of the tribunal

(1) The tribunal determines to reduce the service charges demanded for the years in dispute by £489.64 p.

(2) The tribunal makes the determinations as set out under the various headings in this Decision

(3) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") [and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act")] as to the amount of service charges payable by the Applicant in respect of the service charge years 2006 - 2013.

2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. The Applicant was represented by Mr Allison of Counsel at the hearing and the Respondent attended and was represented by Mr Bloor, her partner. For the Applicants the following persons attended: Mr Ramesh Manicks, Senior Service Charge Accountant, Mr Ed Wallis, Principal Surveyor, Mr Peter Collett Electrical Manager, Ms Cynthia Mathurin, Caretaking Services Manager, Mr Chris Waters, Landscape Services Manager.

The background

4. The property which is the subject of this application is a 2 bedroom maisonette within a development of 42 flats and maisonettes in a 10 storey block built in 1964. The block has nine leaseholders. It enjoys the benefit of two lifts and door entry system. To the rear there is a communal garden shared with the adjacent block, Fife Terrace.

5. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

6. The Respondent holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

The issues

7. At the start of the hearing the parties identified the relevant issues for determination as follows:

   (i) Major works charges for door entry system installed in 2011 - 2012

   (ii) Major works - Digital TV aerial installation 2011 – 2012

   (iii) The payability and/or reasonableness of service charges for service charge years ending March 31st 2006 – 13 in particular charges for

      a. Caretaking

      b. Repairs and maintenance

      c. Lift servicing

      d. Gardening and grounds maintenance

      e. Lighting and electricity charges

      f. Entry phone

      g. Refuse collection

      h. Communal TV aerial

      i. Management fee

      j. Insurance

      k. Audit fee

8. Having heard evidence and submissions from the parties and considered all of the documents provided at the hearing, the tribunal has made determinations on the various issues as follows.

Major works charges for door entry system

9. The Applicant considers that the works were reasonable and necessary and fall within the terms of the lease. It carried out the requisite statutory consultation procedure. It noted that only one leaseholder attended the meeting it held as part of the consultation process and it received no written representations from the leaseholders in Muriel Street.

10. The Respondent argues that the works were not necessary. Mr Bloor highlighted previous works done to the door entry system in 2001 and 2006. Whilst Mr Bloor agreed that the statutory consultation had been carried out, he pointed to correspondence indicating that the leaseholders were promised a further meeting to respond to their concerns about the necessity of the works. He suggests that the reason there were no written representations made was that the leaseholders were relying on the promised meeting which never materialised. The failure to hold that meeting was very poor practice. Further it required Mr Bloor to point out to the Applicant that not all the works that were billed for had been carried out.

11. In his opinion the doors were in good condition, and there was no need to replace the entry phone handsets. All that needed to be done was to replace the door panels.

12. The Applicant responded by saying that the concerns raised by the lessees were dealt with in correspondence, that the works were necessary as the provider of the original system had gone out of business, and replacement parts were becoming increasingly difficult to source.

13. There was agreement that the contract had not been managed to the highest of standards and that it was regrettable that it was the lessees that had to point out that works were not fully completed. The Applicant therefore offered to reduce the management fee on the contract to 5%.

The tribunal's decision

14. The tribunal determines that the amount payable in respect of door entry system is payable and reasonable, and that the management fee, now that it is reduced to 5% of the cost of the works is payable and reasonable.

Reasons for the tribunal's decision

15. The Applicant explained the necessity for the works, and the statutory processes had been fully complied with. The Tribunal accepts those explanations. The concession of the reduction of management fees for the project is sufficient compensation for whatever faults there were with the process of checking completion of works.

Major works charges for digital TV aerial installation

16. The Applicant considers that the works were reasonable and necessary and covered by the terms of the lease. The works were prompted by the digital switchover. The Applicant carried out the requisite statutory consultation procedure. In addition it surveyed the preferences of all of its residents so that it could respond to their wants. It took on board their preferences, so for instance Muriel Street was not provided with the facilities for foreign television, as this was not required. However the Applicant did not consider itself bound by the preferences of the present residents; as a landlord it had to consider 'future-proofing' its investment.

17. The Applicant asked the tribunal to note that the original price to carry out the works was cheaper. However as the works were about to commence it became clear that the system originally proposed could not be installed without considerable additional work and by scaffolding of the block. It was therefore decided to install a 5 wire SCR system which increased the costs by about £30 per unit.

18. The Applicant agreed that it could have done more to explain to the leaseholders of the block why it had had to change its plans. However, it had no choice, and as the consultation had been about the installation of a digital tv aerial, there was no requirement for it to re-consult on the project.

19. The Respondent had several objections to the charges for the installation. In particular Mr Bloor said that they did not wish to pay for Sky services, that they objected to paying for more than one socket per flat, and that they were promised that the installation would be relatively cheap.

20. The Applicant responded that it had made a decision to provide the extra services as it wished to 'future proof' its investment, that the additional sockets had been installed in flats which already had this additional provision, as it would not be fair to reduce provision for some occupiers, and that the increase in costs were beyond its control. It also pointed out that it was not able to charge for the installation according to the number of sockets in individual flats, as it had to apportion charges in accordance with the lease.

The tribunal's decision

21. The tribunal determines that the amount payable in respect of the installation of the digital TV aerial is payable and reasonable.

Reasons for the tribunal's decision

22. The Applicant explained why the works had been carried in the way in which they were. The Tribunal accepts those explanations. In addition the statutory processes had been fully complied with. The Applicant is fully entitled to install the system it considers most appropriate not only for the current but the future needs of its occupiers. Any increase in cost caused by the particular system installed was unavoidable because of the additional unexpected costs which would have been incurred had it carried on with its original plans.

Caretaking charges

23. The Respondent has the benefit of a caretaking service to her block as part of a service provided to what the Applicant describes as the Kings Cross Estates. It is a static service provided over four blocks, with the caretaker spending 10 hours a week at Muriel Street. The provision has been organised differently over the years. At the current time it is managed in-house, although in previous years it has been managed by Pinnacle.

24. The Respondent considered that there had been unacceptable increases in the charges made for the caretaking service. He agreed however that the service, except when the caretaker took holidays and his duties were covered by other employees of Peabody, was good. He argued that the Tribunal should take the charge of £5000 made to the block for caretaking in 2006 as the benchmark for costs, and that only inflationary increases should be allowed subsequent to that date.

25. Whilst the Applicant's witness was describing the benefits of the service it became clear that in previous years up to 2007 the service had included the carrying out of tenants' repairs. The Tribunal pointed out that this service, provided exclusively to the Applicant's tenants, should not have been paid for by the lessees of the block. The Applicant agreed and, as a concession, reduced the caretaking charges for the years in question as follows: 2005-6 charge reduced from £13,415 to £11,000; 2006-7 charge reduced from £17,876 to £12,000.

26. The Applicant pointed out that the Respondent had benefitted from two errors made over the years in dispute in relation to the charges made for caretaking. Those errors meant that the Respondent was only paying his share of half of the cost of caretaking provision. The Applicant argued that the proposals that the Respondent was making in

connection with the charges were not realistic. They did not even cover the costs of employing a caretaker for the hours he spent at the estate. The Respondent should be aware that the costs of the service include more than the caretaker's salary; they include the costs of employing him, holiday and sick relief, costs of cleaning and other supplies.

The tribunal's decision

27. The tribunal determines that the amount payable in respect of caretaking should be reduced by the amounts conceded by the Applicant in 2005/6 and 2006/7 as recorded in paragraph 25. Other than that the tribunal determined that the charges for caretaking were payable and reasonable.

Reasons for the Tribunal decision.

28. The service provided is good and a reasonable price is charged for it. The Respondent must realise that the service must cover its costs.

Charges for repairs and maintenance

29. The Applicant argued that the charges for repairs and maintenance were payable under the terms of the lease and reasonable.

30. The Respondent did not trust the Applicant's system for charging for repairs and maintenance. Mr Bloor wanted to see further details concerning the invoices which underpinned the charges. He wanted the Tribunal to scrutinise each of the charges.

31. The Tribunal did not consider that it was proportionate to expect the Applicant to produce an explanation for invoices for all expenditure incurred for repairs and maintenance for the years in dispute. Nor was it appropriate for it to act as a forensic accountant and scrutinise each of the charges. In its opinion the Respondent had to demonstrate that she had an argument to suggest that the charges were anything other than payable and reasonable before it would require the Applicant to produce further evidence. However it agreed to defer consideration of the charges until the Respondent had had a further opportunity to consider the charges and raise particular issues.

32. Having had that opportunity, the Respondent challenged a number of invoices. One charge for inspection of a fire alarm and emergency lighting, when the engineer noted on the invoice that there was no provision of these services in the block appeared on the face of the invoice to be unreasonable. The Applicant was not able to offer an explanation and agreed to credit the Respondent with the costs of those five invoices.

33. The Respondent raised questions about a number of other invoices. For instance she was sceptical about the need to call a contractor to replace light fittings when its charges were so much higher than the cost charged to the lessees when the caretaker changed the light bulb. The Applicant was able to produce evidence to show that in the instances when a contractor was called the work required was beyond the capacity of someone without electrical qualifications. The Respondent then argued that if that was the case, it seemed surprising that so few of the charges related to the changing of light bulbs as opposed to light fittings, as defunct light bulbs seem a more likely occurrence. Mr Collett for the Applicant suggested that this was because the caretakers rarely bothered to fill in the paperwork to justify charges for changing light bulbs and therefore there were no charges passed onto the lessees.

34. At a later point in the case the Applicant made a concession in relation to a refund made for the costs of a lift handle. It had mistakenly thought that this had been credited to the Respondent's account when it had not been. It therefore agreed to credit the Respondent's account with the appropriate amount.

The tribunal's decision

35. The tribunal determines that the amount payable in respect of repairs and maintenance is reasonable and payable other than the credit that the Applicant has conceded in connection with the inspection for the fire alarm and emergency lighting and the credit for the lift handle.

Reasons for the tribunal's decision

36. The Tribunal was impressed with Mr Collett's evidence. He was able to answer most of the Respondent's questions about charges and demonstrate that they were reasonable and payable. The Respondent was not able to provide evidence to substantiate her challenges to the charges.

Lift servicing

37. The property has the benefit of two lifts. Mr Collett on behalf of the Applicant explained the contractual arrangements made to maintain the lifts. The Applicant argued that the costs of maintaining the lifts were reasonable and payable.

38. The Respondent was very mistrustful of the costs of lift servicing and wanted the Tribunal to investigate every detail. In the Tribunal's opinion this was not proportionate. The Applicant produced a copy of the current lift maintenance contract for the Respondent.

The tribunal's decision

39. The tribunal determines that the amount payable in respect of lift maintenance is payable and reasonable.

Reasons for the tribunal's decision

40. The Applicant's evidence of the payability and reasonableness of the lift maintenance charges was accepted by the Tribunal. Drawing on its own expertise it appeared to the Tribunal that the costs were reasonable and the Respondent produced no evidence to suggest that this was not the case.

Gardening and grounds maintenance

41. The Applicant provided evidence that the charges for gardening and ground maintenance were covered by the lease. It also maintained that the charges were reasonable. It stated that there had been a period when service was poor, but in response to complaints from the residents this had been investigated and charges had been reduced.

42. The Respondent challenges the gardening and grounds maintenance charges on a number of grounds. Firstly she considers that the apportionment of the charges between the Kings Cross estates is not in accordance with the terms of the lease, secondly that using rateable values for apportionment is inappropriate, thirdly that there are cheaper ways of providing an adequate service to Muriel Street, fourthly that the variations in charges over the years are not reasonable, and fifthly that the Applicant needs to have better systems for ensuring the quality of service delivery.

43. Mr Waters for the Applicant gave evidence in connection with this issue. It became apparent during the course of his evidence that the charges for gardening in the years up to 2011 -12 were not being apportioned in accordance with the terms of the lease and those figures were recalculated resulting in reductions of charges for the lessees of Muriel Street. These concessions resulted in the Applicant seeking a declaration of reasonableness in respect of the following revised and lowered costs: 2006/7 £2,771.39; 2007/8 £3,249.13; 2008/9 £2,558.47; 2009/10 £2,060.13 and 2010/11 £2,794.24. Of these, the Respondent continued to challenge all figures with the exception of 2009/10.

44. Mr Waters told the Tribunal that since he had come into post he had developed good relationships with the caretakers at the blocks who provided him with accurate and up-to-date reports on the standard of gardening. He explained the variations in charges over the years as caused by the need for additional works to trees etc in those years.

45. There was still a need to apportion costs between Fife Street and Muriel Street – the lease did not deal with the issue of a resource shared with another block. Mr Waters considered that rateable value provided the best means for apportionment as it was the system used for all services. The Respondents considered that the costs for gardening should be apportioned on a unit basis. This would clearly benefit Muriel Street as the 12 units at Fife Street are bedsits and therefore have low rateable values.

The tribunal's decision

46. The tribunal determines that the amounts payable in respect of gardening and maintenance charges prior to 2011 - 12 should be the recalculated based on the proper apportionment of charges according to the terms of the lease. Those calculations were made by the Applicant during the course of the hearing and are recorded at paragraph 43. The Tribunal accepts those revised charges as being reasonable. Other than those reductions (which average out at about £60 per year for the Respondent) it considers that the remaining charges are reasonable and payable. In addition it determines that it is reasonable to apportion charges between Fife Street and Muriel Street on the basis of rateable values.

Reasons for the tribunal's decision

47. The Tribunal was impressed with the evidence of Mr Waters who has put in place real measures to ensure quality of provision and provided evidence of the reasons for the variations in charges. On the face of the figures the charges appear reasonable and the Respondent provided no evidence of alternative costs. The Tribunal accepted Mr Waters' evidence and rationale for the calculation of the various reductions that resulted in the concessions made by the Applicant for the earlier years. The Applicant is able to decide on a reasonable method to apportion costs between Fife Street and Muriel Street and use of rateable values is a reasonable method to use.

Lighting and electricity charges

48. The Applicant argues that the electricity bills from EDF, following its investigation of the issues raised by the Respondent, are payable and reasonable. Those charges have been incurred and have to be paid.

49. It is perhaps fair to say that the problems with lighting and electricity charges lie at the heart of the lack of trust that the Respondent has with the accuracy of the Applicant's service charge demands. It was the Respondent who pointed out to the Applicant that there is only one meter at the block and therefore that the EDF bills from four meters could not be accurate. Although it was agreed that the Applicant gained

reductions from EDF the Respondent thinks that it would have been possible to stand up more to EDF and gain further reductions. In addition Mr Bloor states that it is impossible from the figures provided to calculate costs of provision and make proper year on year comparisons. He considers that as the unit costs for provision of electricity have remained constant that there is no reason for an increase in charges. He also considers that the Applicant bears responsibility for any increase in costs for the period when the supply of electricity fell outside of contract. Further the Respondent has made numerous suggestions for energy saving at the block, none of which have been implemented by the Applicant.

50. Mr Manicks from the Applicant gave evidence to the Tribunal in connection with the EDF charges. He produced the revised figures and an explanation of how these were arrived at. He explained variations as the result of the way invoices are charged at different times, so for instance in one year one electricity bill might be paid, and in another two. Overall he would argue that there is consistency in the charges, and that what is probably most misleading is the low charge for the first year in dispute, for which he does not have an explanation.

The tribunal's decision

51. The Tribunal determines that the charges for electricity are reasonable and payable.

Reasons for the tribunal's decision

52. The Tribunal was impressed with the work that the Applicant had put in to clarify and reduce the charges levied by EDF. It accepts the evidence that these charges are now reasonable and payable. Whilst the Tribunal understands how frustrated the Respondent is by the fact that she has to inform the Applicant of mistakes, and the apparent complexity of the charging system, the Respondent has no evidence to suggest that the current figures are anything other than reasonable and payable. She has produced for instance no comparable figures from similar sized blocks with two lifts.

Other charges

53. The Respondent had a number of other queries in connection with the service charges for the years in question. These were dealt with briefly within the hearing with the following outcomes

    (i) The Applicant conceded that it could not charge a general fee for audit costs but only the actual costs of the audit. It therefore reduced the costs for the Respondent to £9 per year in dispute.

(ii) The Respondent agreed that she had no evidence to suggest that the insurance charges were anything other than payable and reasonable. Although they varied, and there was no explanation for the variation, even at their most expensive they remained, in the expert opinion of the Tribunal very reasonable for charges for a mixed tenure block in the heart of London. The Tribunal therefore determined the charges to be reasonable.

(iii) The Respondent had no evidence to suggest that the charges for bulk removal of rubbish were anything other than reasonable. The Tribunal did not consider it proportionate to require the Applicant to provide evidence relating to each charge. It therefore determined the charges to be payable and reasonable.

(iv) The challenge to the communal aerial charges and the entry phone charges were tied up with the challenges to the major works, and the charges are based upon contractual agreements. The Tribunal determines that they are payable and reasonable.

Management fees

54. The Applicant charges management fees at 20% of the total service charge bill. It considers the amount to be reasonable and payable.

55. The Respondent considers that the service provided by the Applicant is so poor that it should not have to pay any management fees for the years in dispute. It considers that the Applicant failed to respond properly to its many letters of complaint.

The tribunal decision

56. The Tribunal considers the management fees to be payable and reasonable.

Reasons for the tribunal decision

57. The Tribunal accepts that the service provided by the Applicant is not in every way a premium service and that mistakes have been made in connection with service charge demands that should not have been made. However in many ways the Applicant provides a very good service. The Tribunal was impressed with the standard of management of services and the evidence provided. Mr Manicks had gone to great lengths to sort out the electricity bills, Mr Waters seemed very

committed to providing the best possible gardening and grounds maintenance service. The caretaking service appeared well managed, as did the repairs and maintenance. The Tribunal noted that the Respondents had been able to use a two stage complaints procedure, a service not open to many lessees. These services all have to be paid for.

58. The concessions made by the Applicant also result in reductions in management fees payable by the Respondent. Although the Applicant did not necessarily respond in full to the complaints of the Respondent, it has done its best, in a proportionate way to deal with the concerns raised.

59. Finally, the Tribunal noted that the 20% fee equated in real terms to a very modest rate per leaseholder for each of the years. Those rates (which incidentally are capped at £185 per lessee) are and were at the very lowest end of the scale and in our expert opinion below what one could expect to be charged in the private sector. Accordingly, we determine that no further reductions should be made other than those already made as a result of the Applicant's concessions.

Application under s.20C and refund of fees

60. At the hearing, the Respondent applied for an order under section 20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines not to grant the application.

61. The tribunal formally records that it received documentation from the Respondent after the hearing. The parties should note that the documentation was not taken into account by the tribunal in reaching its determination. It should also be noted, that even if the documentation had been taken into account, would not have made a difference to the outcome.

62. The tribunal is aware that the Respondent and Mr Bloor will be very disappointed in the decision of the tribunal. They have worked very hard to alert the tribunal to inconsistencies and lack of clarity in the demands presented to them. They have suffered a great deal of stress and frustration in their dealings with the Applicant. However the tribunal does not carry out a forensic accountancy exercise on behalf of lessees. Its role is to determine the reasonableness and payability of service charge demands. Once it is apparent that the lease covers the charges made and that the costs demanded fall within a reasonable band of charges, it is for the Respondent to show that the charges are not reasonable. Nor is it open to the tribunal to determine that the Applicant should change its management practices and policies in

response to suggestions, however reasonable those suggestions may seem from the perspective of the Respondents.

63. The Respondents are encouraged to change their perspective. Taking a broader approach, in the tribunal's experience, the service charges made in connection with Muriel Street, a block in the centre of London benefiting from two lifts, a caretaking service, an electronic door entry system and a communal garden are very reasonable charges. Whilst the Applicant has made mistakes in its accounts, several of those mistakes have been to the benefit of the Respondent. The Applicant has not applied to correct those mistakes, although the tribunal may have been sympathetic to such an application. Instead it has made concessions in connection with its mistakes. This indicates good faith on the part of the Applicant. The tribunal would encourage the Respondent to accept this and move on.

Name: Helen Carr **Date:** 13th December 2013

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
   (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
   (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,

(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
(a) the person by whom it would be payable,
(b) the person to whom it would be payable,
(c) the amount which would be payable,
(d) the date at or by which it would be payable, and
(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are

not 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.

(2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
- (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
- (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
- (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
- (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
- (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
- (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
- (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
- (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
(a) specified in his lease, nor
(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Schedule 11, paragraph 2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Schedule 11, paragraph 5

(1) An application may be made to the appropriate tribunal for a determination whether an administration charge is payable and, if it is, as to—
(a) the person by whom it is payable,
(b) the person to whom it is payable,
(c) the amount which is payable,
(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject matter of an application under sub-paragraph (1).