



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : LON/00AT/LSC/2013/0783
LON/00AT/LSC/2014/0053

Property : Flats 1, 2 and 3, 25 Spencer Road,
London W4 3SS

Applicant : **Campion House Estate Limited**

Representative : **Mr C Green, Solicitor**

Respondent : **Leon Hackett & Louise Heanan
(Flat 1)
Peter Coomber (Flat 2)
Andrea Tinker & R Dickens (Flat 3)**

Representative : **Mr P Coomber**

Type of Application : **Correction certificate**

Tribunal Members : **Ms N Hawkes
Mr I Thompson BSc FRICS
Mr L Packer**

**Date and venue of
Hearing** : **26.8.14 at 10 Alfred Place, London
WC1E 7LR**

Date of Decision : **15.9.14**

DECISION

As Chairman of the Tribunal, which decided the above-mentioned case, I hereby correct the errors and clarify the decision dated 15th September 2014 as follows:¹

Paragraph 6 of the decision will now provide:

6. *The leaseholders were represented by Mr Coomber of flat 2 at the hearing and the landlord was represented by its solicitor, Mr Green.*

Name: Judge N Hawkes

Date: 23rd April 2015

¹ Regulation 50 The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

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Respondent : **Leon Hackett & Louise Heanan
(Flat 1)
Peter Coomber (Flat 2)
Andrea Tinker & R Dickens (Flat 3)**

Representative : **Mr P Coomber**

Type of Application : **For the determination of the
reasonableness of and the liability
to pay service charges and
administration charges**

Tribunal Members : **Ms N Hawkes
Mr I Thompson BSc FRICS
Mr L Packer**

**Date and venue of
Hearing** : **26.8.14 at 10 Alfred Place, London
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DECISION

Decisions of the tribunal

- (1) No service charge is currently payable because the respondent has failed to comply with section 21B(1) of the Landlord and Tenant Act 1985 ("section 21B(1)").
- (2) The Tribunal determines that, if section 21B(1) had been complied with, the sum of £378.37 would be payable by each applicant in the service charge year 2008/09.
- (3) The Tribunal determines that, if section 21B(1) had been complied with, the sum of £710.56 would be payable by each applicant in the service charge year 2009/10.
- (4) The Tribunal determines that, if section 21B(1) had been complied with, the sum of £1,010.61 would be payable by each applicant in the service charge year 2010/11.
- (5) The Tribunal determines that, if section 21B(1) had been complied with, the sum of £1,277.40 would be payable by each applicant in the service charge year 2011/12.
- (6) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985 but notes that the respondent has agreed that its costs cannot be passed through the service charge.
- (7) The Tribunal does not make an order for costs under rule 13(1) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.
- (8) Since the Tribunal has no jurisdiction over county court costs and fees, application reference LON/00AT/LSC/2013/0783 should now be referred back to the County Court at Exeter.

The application

1. Application reference LON/00AT/LSC/2013/0783 is a claim brought by the landlord against Mr Coomber which was transferred to the Tribunal from the Exeter County Court by an order dated 1st November 2013.
2. At a directions hearing on 21st February 2014, the Tribunal ordered that application reference LON/00AT/LSC/2013/0783, by the tenant of flat 2, 25 Spencer Road, should be heard together with application reference LON/00AT/LSC/2014/0053 which is an application brought by the tenants of flats 1 and 3 against the landlord.

3. Both of these applications concern the reasonableness and/or payability of service charges and/or administration charges. In this decision, the tenants are referred to as the applicants and the landlord is referred to as the respondent.
4. The applications came before the Tribunal for determination on 23rd June 2014. However, they were not ready for hearing and so further directions were issued and the final hearing of the applications took place on 26th August 2014. A supplemental bundle was prepared for the adjourned hearing.
5. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

6. The applicants were represented by Mr Coomber of flat 2 at the hearing and the respondent was represented by its solicitor, Mr Green.
7. Immediately prior to the hearing, the parties handed in further documents, namely, a skeleton argument from Mr Coomber and a witness statement and exhibits from the respondent. The start of the hearing was delayed while the Tribunal and the parties considered these new documents.

The background

8. The property which is the subject of this application is a house which has been converted into four flats.
9. Some photographs of the property which were taken by Mr Coomber were provided in the hearing bundle. 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.
10. The applicants hold long leases of the property which require the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.

The issues

11. During the course of the hearing, the parties identified the relevant issues for determination as follows:
 - (i) The payability and/or reasonableness of the service charges and administration charges for the years ending 29.9.09 to 29.9.12.

- (ii) A claim to a set off made by Mr Coomber on behalf of the applicants.
 - (iii) An application under section 20C of the Landlord and Tenant Act 1985.
 - (iv) An application for an order for costs under rule 13(1) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 made by Mr Coomber on behalf of the applicants.
12. It was not in dispute that each of the applicants is required to pay 25% of the relevant costs.
13. Having heard evidence and submissions from the parties and having considered all of the documents referred to, the Tribunal has made determinations on the various issues as follows.

The service charge year 2008/09

14. The determinations in relation to payability set out below are subject to the applicants' contention that nothing is currently payable because the respondent has failed to comply with section 21B(1) of the 1985 Act.

Matters referred to in the Schedule of Issues which are no longer in dispute

15. The respondent accepted that nothing is payable by the applicants in respect of cleaning and gardening costs because the sums in question have already been paid directly by the applicants. It was agreed that nothing is payable by the applicants under the heading "transfer to reserve fund" and that any sums paid under this heading have been credited to the applicants, for all the years in question. Mr Coomber informed the Tribunal that the applicants no longer dispute that the electricity charges (£12.58 per applicant) are payable.

Buildings insurance

16. The respondent claims the sum of £625.15 from each applicant in respect of the cost of buildings insurance. The total cost of the premium was £2,500.58. Mr Coomber argued that this premium was outside the range of reasonable premiums and he relied upon an alternative quotation which he had obtained in the sum of £1,246.73.
17. The only argument raised by the respondent in opposition to Mr Coomber's assertion that the sum payable should be £1,246.73 was that his insurance quotation was not like for like. Mr Coomber gave oral evidence that he had asked the landlord for a copy of the landlord's

insurance policy and that he had then requested an alternative quotation for a policy on the exactly same terms.

18. Ms Griffiths, an employee of Trust Property Management ("TPM") who were the landlord's managing agents at the material time, gave evidence on behalf of the landlord. TPM took over the management of the property in 2009.
19. When it appeared during the course of the evidence that Mr Coomber's quotation was like for like, save that the sum insured by the landlord was slightly lower, Ms Griffiths appeared not to persist with the contention that the sum claimed in respect of insurance was reasonable and instead stated that she did not understand why Mr Coomber had not passed their quote to TPM so that they could have switched insurer. She said that she had not seen Mr Coomber's quotation on the file. Mr Coomber gave evidence that he had sent his quotation directly to the landlord rather than to TPM and he stated that if the landlord had not forwarded the quotation to TPM this was not a matter for which he could be held responsible.
20. On the basis of the oral evidence, the Tribunal accepts Mr Coomber's contention (which appeared not to be disputed) that a reasonable charge for the insurance for all of the years in question is £1,246.73 in total and £311.68 per applicant.
21. There was also an issue as to whether or not the sum claimed in respect of insurance in the year 2008/09 had already been paid. After some discussion between the parties, it was accepted that the applicants had initially paid the insurance premium of £2,500.58 but that the landlord had refunded the applicants the sum of £2,203.00. Accordingly, the Tribunal finds that sum of £297.58 has been paid by the applicants in respect of insurance but not refunded. The amount payable is therefore the difference between £1,246.73 and £297.58, namely £949.15, or £237.29 per applicant.

Management fee

22. The respondent claims the sum of £868 (£217 from each of the applicants) in respect of management fees for the four months or so for which the managers were in post in the service charge year 2008/09. Mr Coomber states that the management charge is unreasonable and he relies, in particular, upon an alternative quotation which he obtained from Ringley in the sum of £512 per annum (for managing all four flats). He states that Ringley was not in fact willing to take over the management of the property but that this was solely because "the accounts were in a mess".

23. A landlord does not have to use the cheapest possible managing agents if the costs claimed are within a reasonable range. The Tribunal considers a sum of up to in the region of £450 + VAT per unit to be within the reasonable range of charges for the management of a four unit property such as 25 Spencer Road, if the management is of a reasonable standard.
24. However, Ms Griffiths confirmed that in the present case no asbestos survey, health and safety checks, or regular periodic inspections, took place despite the managing agents' specification including all of these. Nor was any cleaning or gardening carried out during the relevant period. Whilst the Tribunal accepts Ms Griffiths' evidence that some day to day management, billing etc. was carried out, the Tribunal is not satisfied, in view of the admitted omissions listed above, that the management was carried out to a reasonable overall standard, or to the managing agents' own specification.
25. The Tribunal finds on the facts that a reasonable charge for the limited management which was carried out is the lesser figure of £250 per unit and £1,000 in total per full year. In this service charge year, TPM provided its management services for some 4 months, and the Tribunal finds that the payable sum is thus approximately one third of £1,000, namely £330, or £82.50 per applicant.

Accountancy fee

26. The respondent claims an accountancy fee in the sum of £184 in total and £46 per applicant. The accountancy fees rise to £216 in subsequent years.
27. Mr Coomber did not have any specific alternative quotation for accountancy fees but he stated that Ringley's quotation was inclusive of accountancy charges. On the basis of Ringley's quotation of £512 in total he submitted that £100 would be a reasonable fee for the accountancy services. He pointed to the fact that the accounts are simple and include a limited number of items.
28. Ms Griffiths gave evidence, which the Tribunal accepts, that the accounts are prepared in-house but checked by an external accountant. Mr Coomber accepted that in the region of at least four hours' work would be required but he maintained that the charge in respect of accountancy fees was too high arguing that the individual who initially prepares the accounts is simply a "book keeper". Ms Griffiths emphasised that the person who checks the accounts is a qualified accountant and the respondent maintained that the overall accountancy charges are reasonable.

29. On the basis of Ms Griffith's evidence regarding the accounting arrangements, the Tribunal finds on the facts of this case that the sum claimed in respect of accountancy fees is within the reasonable range of charges in this and in subsequent service charge years.

Total sum payable by each applicant in the service charge year 2008/09

30. Accordingly, the Tribunal finds that the total sum payable by each applicant in the service charge year 2008/09 is £378.37.

The service charge year 2009/10

31. The determinations in relation to payability set out below are subject to the applicant's contention that nothing is currently payable because the respondent has failed to comply with section 21B(1) of the 1985 Act.

Matters referred to in the Schedule of Issues which are no longer in dispute

32. It was accepted that nothing is payable under the heading "transfer to reserve fund" and that any sums paid have been credited to the applicants. Mr Coomber informed the Tribunal that the tenants no longer dispute that the electricity charges (£23 per applicant) are payable.

Buildings insurance

33. For the reasons set out above, the Tribunal finds that the sum of £311.68 is payable by each applicant in respect of buildings insurance.

Management fee

34. For the reasons set out above, the Tribunal finds that the sum of £250 is payable by each applicant in respect of the management fee.

Accountancy fee

35. For the reasons set out above, the Tribunal finds that the accountancy fee of £216 in total is reasonable and that £54 is payable by each applicant.

Surveyors' fees

36. The respondent claims £287.50 (£71.88 per applicant) under this heading. Mr Coomber believes that the surveyor who prepared the

report to which these charges relates is a Mr Tilbury and that Mr Tilbury is neither a fellow nor a member of the Royal Institution of Chartered Surveyors. He also disagrees with the surveyor's conclusions and therefore considers the report to be worthless. He has not, however, provided the Tribunal with a copy of the report (which he confirmed is in his possession).

37. The Tribunal was provided with a copy of an invoice dated 21st July 2009 for the work in question from Benjamin Mire Chartered Surveyors who have the Royal Institution of Chartered Surveyors insignia on their headed paper. The Tribunal is not of the view that every individual who works on behalf of a company of Chartered Surveyors must themselves be a fellow or a member of the Royal Institution of Chartered Surveyors in order for the fees to be reasonably incurred. Further, the Tribunal notes that Mr Coomber confirmed that the applicants themselves have used an experienced expert who is neither a fellow nor a member of the Royal Institution of Chartered Surveyors.
38. On the limited evidence available and, in particular, in the absence of the surveyor's report the Tribunal is not satisfied that there is any aspect of the reasoning contained in the report which would warrant a reduction in the surveyor's fees. The Tribunal notes that it is possible for competent professionals to express differing expert opinions on the same issue. The Tribunal finds as a fact that the surveyor's fees in the sum of £287.50 in total are reasonable. Accordingly, the sum of £71.88 is payable by each applicant under this heading.

Total sum payable by each applicant in the service charge year 2009/10

39. Accordingly, the Tribunal finds that the total sum payable by each applicant in the service charge year 2009/10 is £710.56.

The service charge year 2010/11

40. The determinations in relation to payability set out below are subject to the applicant's contention that nothing is currently payable because the respondent has failed to comply with section 21B(1) of the 1985 Act.

Matters referred to in the Schedule of Issues which are no longer in dispute

41. It was accepted that nothing is payable under the heading "transfer to reserve fund" and that any sums paid have been credited to the applicants. Mr Coomber informed the Tribunal that the tenants no longer dispute that the electricity charges (£1.09 per applicant) or the

sums claimed in respect of repairs and maintenance (£303.84 per applicant in total) are payable.

Buildings insurance

42. For the reasons set out above, the Tribunal finds that the sum of £311.68 is payable by each applicant in respect of buildings insurance.

Management fee

43. For the reasons set out above, the Tribunal finds that £250 is payable by each applicant in respect of the management fee.

Professional fee

44. The respondent claims the sum of £350 under the heading "professional fee" and states in the Schedule of Issues that the landlord "is entitled to instruct a managing agent, accountants and a surveyor". However, during the course of the hearing, the respondent changed its position and stated that the sum of £350 was in fact a hearing fee for an earlier Tribunal hearing. Mr Coomber stated that those earlier proceedings were withdrawn because the landlord had sued the wrong person and that he had received a letter of apology but that he did not have this evidence to hand because the true nature of the claim only emerged during the course of the hearing.
45. The Tribunal find that part-way through the hearing was too late for the respondent to seek to change the nature of its case in order to enable it to claim a hearing fee rather than the professional fees of a managing agent, accountant and/or surveyor under this heading.
46. Mr Coomber would have been prejudiced if the respondent had been permitted to lead formal evidence on the issue because he did not have his evidence in opposition to the revised claim with him at the hearing. The Tribunal finds that nothing is payable under the heading "Professional fee".

Accountancy fee

47. For the reasons set out above, the Tribunal finds that the accountancy fee of £216 in total is reasonable and that £54 is payable by each applicant.

Surveyors' fees

48. The respondent claims £360 in total and £90 from each of the applicants in respect of surveyors' fees. Again, Mr Coomber believes

that the surveyor who prepared this report is a Mr Tilbury and that he not a fellow or a member of the Royal Institution of Chartered Surveyors. He also disagreed with the surveyor's conclusions and therefore considers the report to be worthless. He has not, however, provided the Tribunal with a copy of the report.

49. Again on the limited evidence available and in the absence of a copy of the surveyor's report, the Tribunal is not satisfied that there are any grounds for criticising the author of the report and/or for reducing the surveyors' fees. Accordingly, the Tribunal finds on the evidence available that the surveyor's fees are reasonable.

Total sum payable by each applicant in the service charge year 2010/11

50. Accordingly, the Tribunal finds that the total sum payable by each applicant in the service charge year 2010/11 is £1,010.61.

The service charge year 2011/12

51. The determinations in relation to payability set out below are subject to the applicant's contention that nothing is currently payable because the respondent has failed to comply with section 21B(1) of the 1985 Act.

Matters referred to in the Schedule of Issues which are no longer in dispute

52. It was accepted that nothing is payable under the heading "transfer to reserve fund" and that any sums paid have been credited to the applicants.

Service charge in advance

53. The Tribunal accepts that sums credited have been repaid and the respondent confirmed that nothing is claimed under this heading.

Charge for Actual Expenditure to Completion (the leaseholders acquired the right to manage during the course of this year)

54. There is no breakdown in the Schedule and, accordingly, the Tribunal has considered the invoices at pages 71 to 78 of the supplemental bundle.

Buildings insurance

55. For the reasons set out above, the Tribunal finds that the sum of £311.68 is payable by each applicant in respect of buildings insurance.

Management fee

56. The sum charged relates to approximately six months' management and, for the reasons stated above, the Tribunal finds that £1,000 in total per year and therefore £500 in total for six months (£125 per applicant) is payable.

Costs chargeable to Right to Manage Company

57. The respondent accepted that invoices in the sum of £240 (Contractor Notices) and £250 (Preparation of RTM Counter notice), if payable, are payable by the Right to Manage Company.
58. Notwithstanding this, the respondent submitted that the Tribunal should find that these costs are payable by the applicants on the grounds that "they are essentially the same people". The Tribunal rejects this submission. The Right to Manage company is a different legal entity from the tenants as individuals and the costs in question cannot properly form part of the tenants' service charge.

External redecorations

59. The invoices at pages 79 to 81 of the supplementary bundle which the respondent relies upon as substantiating this head of claim add up to £3,362.88 in total. The invoices relate to work carried out in preparation for a major works project (external redecoration work to the property) which was not in fact undertaken because the tenants acquired the right to manage before the work had commenced.
60. The applicants have provided no alternative quotations and the Tribunal is satisfied, having considered the limited evidence available, that the charges are within a reasonable range for the work in question. The Tribunal therefore finds that the sum of £840.72 is payable by each of the applicants under this heading.

Administration fees

61. The respondent sought to argue that the cost of collecting rent is recoverable as part of a management charge pursuant to clause 12 of the lease by which the applicants covenanted to "To pay all costs charges and expenses relating to the management of the Property". The Tribunal rejects this submission (see *Woodfall: Landlord and Tenant* at paragraph 7.170) and finds that the wording relied upon is insufficient to encompass the costs of recovering arrears. Further, in any event, the sums claimed are not yet due (see below) and so the administration fees were not reasonably incurred.

Total sum payable by each applicant in the service charge year 2011/12

62. Accordingly, the Tribunal finds that the total sum payable by each applicant in the service charge year 2011/12 is £1,277.40.

The Service Charge Demands

63. Mr Coomber gave evidence that the service charge demands which were served on him did not state the landlord's correct address prior to the service of corrective demands in June 2014 and that the correct summary of tenants' rights and obligations was not included with the June 2014 service charge demands. Section 21B of the 1985 Act provides that a demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charge. If this requirement is not complied with, a tenant may withhold payment of a service charge which has been demanded from him (subsection 21B(3)) of the 1985 Act.
64. Ms Griffiths gave evidence that it is the practice of TPM to send out the correct summary of tenants' rights and obligation on the back of the service charge demands in all cases. However, she could not give any direct evidence in relation to the demands which were actually served on Mr Coomber.
65. Unfortunately, no copies of the documents which were served on Mr Coomber in June 2014 were provided for the Tribunal to consider. The Tribunal notes that Mr Coomber gave direct evidence whereas Ms Griffiths gave indirect evidence and finds on the balance of probabilities that demands containing the necessary summary of tenant's and obligations have not yet been served. Accordingly, the service charge payments referred to above will not be due until such time as section 21B of the 1985 Act has been complied with.

The applicants' claim to a set-off

66. Mr Coomber claims that a leak emanating from a communal water tank in flat 4 caused approximately £18,000 worth of damage to the property. The respondent denies that the water tank is communal and argues that any damage is the responsibility of the occupant of flat 4. Mr Coomber has produced no expert evidence going to the issue of causation. This may be the result of an indication in the directions that expert evidence would not be needed.
67. In the absence of any expert evidence going to the issue of causation, the Tribunal declines to hear this matter and makes no determination.

Section 20C of the 1985 Act

68. It was agreed that by the respondent that its costs cannot be put through the service charge account. As stated above, the respondent no longer manages the property.

Application under rule 13(1) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013

69. The Tribunal's power to make a costs order is contained in rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 which provides:

13. (1) The Tribunal may make an order in respect of costs only—(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs (b) if a person has acted unreasonably in bringing, defending or conducting proceedings in – (i) an agricultural land and drainage case; (ii) a residential property case, or (iii) a leasehold case...

70. Such an order can be made where proceedings were started on or after 1 July 2013, the date on which the new Tribunal Rules came into effect, so it applies to this case where the proceedings were started after that date.
71. Before this new costs power came into effect, the Tribunal had the power to make a costs order under paragraph 10, Schedule 12 of the Commonhold and Leasehold Reform Act 2002 limited to a maximum order of £500 (or other amount to be specified in procedure regulations). Under rule 13 of the new rules there is no upper limit on the amount of the costs that a party can be ordered to pay.
72. Rule 13 costs should, in our view, be reserved for cases where on an objective assessment a party has acted unreasonably. This is the test which has been applied. The Tribunal is essentially a costs-free jurisdiction where parties should not be deterred from using the jurisdiction for fear of having to pay another party's costs simply because they have failed in their application.
73. Mr Coomber argued that an order for costs should be made against the respondent pursuant to rule 13 on the grounds that nothing is currently payable because the respondent has failed to comply with section 21B of the 1985 Act.
74. The Tribunal has preferred Mr Coomber's evidence that section 21B of the 1985 Act has not been complied with to the respondent's evidence to the contrary. However, the Tribunal is of the view that the respondent legitimately contested the point and that its conduct of the

proceedings has at no time reached the threshold of being unreasonable.

The next steps

75. Since the Tribunal has no jurisdiction over county court costs and fees, application reference LON/00AT/LSC/2013/0783 should now be referred back to the County Court at Exeter.

Judge Naomi Hawkes

Date 15th September 2014

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.]
- (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).