FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AG/LSC/2019/0156**
Property	**:**	**Flat 3, 25, Priory Road, London, NW6 4NN**
Applicant	**:**	**Mr V J Amourgam**
Respondents	**:**	**Valepark Properties Limited** **Mr and Mrs Levy**
Type of Application	**:**	**Section 27A Landlord and Tenant Act 1985 - determination of the reasonableness and payability of service charges**
Tribunal Members	**:**	**Mrs H Bowers BSc (Econ) MSc MRICS** **Mr M Mullin** **Ms S Coughlin MCIEH**
Date and venue of Determination	**:**	**29 July 2019** **10, Alfred Place, London, WC1E 7LR**
Date of Decision	**:**	**8 August 2019**

DECISION

For the reasons given below, the Tribunal finds as follows:

- **The following service charges are payable by the Applicant:**

Item	Full Amount	25% Share	FtT Determination
Additional Roof Works	£2,253.60	£563.40	£563.40
Damp Works	£1,330.00	£332.50	£250.00
Tree Work	£896.33	£224.09.	£224.09
Surveyor	£420.00.	£105.00	£87.50
Insurance 2015/6	£3,713.45	£928.36	£928.36
Insurance 2016/7	£3,952.07	£988.02	£988.02
Insurance 2017/7	£588.78	£133.82	£133.82
Insurance 2017/8	£4,002.57	£1,065.00	£1,065.00
Insurance 2018/19	£4,162.65	£1,040.66	£1,040.66
Insurance 2019/20	£4,370.53	£1,092.64	£1,092.64

- **The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985, that any costs incurred as part of this application are not to be treated as 'relevant costs' for future service charge years.**

- **The Tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, that the Applicant's liability for any administration charge in respect of litigation costs is extinguished.**

REASONS

Introduction:

1.) The Applicant made an application, dated 18 April 2019, under section 27A of the Landlord and Tenant Act 1985 (the 1985 Act) for a determination of the reasonableness of service charges for various issues in the 2014/5 to 2019/20 service charge years. The application form indicated that the sum in dispute was £20,178.63 and that Mr Amourgam's share was £5,044.65 although it was stated that did not include the 2019 service charge year. Included in the main application was an application for an order under section 20C of the 1985 Act and an order under paragraph 5A to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (the 2002 Act). The Tribunal issued Directions in respect of these applications on 25 April 2019 that set out the steps that the parties had to take to prepare for the hearing.

Background:

2.) The application form indicates that 25, Priory Road, West Hampstead, London, NW6 4NN (the subject property) is a medium-sized Victorian semi-detached house, that has been divided into four flats. Given the issues involved the Tribunal did not think that it was appropriate to make an inspection of the property.

3.) The Applicant, Mr Amourgam is the long leaseholder of Flat 3. The first Respondent, Valepark Properties Limited, was the former freeholder and this company has subsequently gone into liquidation. The second Respondents, Mr and Mrs Levy are the current freeholder of the property. It is noted that Mr Levy had some legal interest in Valepark Properties Limited (Valepark). The Respondents have been represented by Benson Mazure LLP. In the correspondence letterhead from that firm, Mr Levy is noted to be a member of the firm.

The Law:

4.) A summary of the relevant legal provisions is set out in the Appendix to this decision.

The Lease:

5.) The lease for the subject property is dated 19 October 1987 and was originally between Shield Builders Limited as the Lessor and Mr Amourgam as the Lessee. The term is for 128 years from 24 June 1987.

6.) The lease provides that the Lessee will pay one-fourth of the amount spent by the Lessor in compliance with clause 6 (a)-(c) and one-third of clause 6(d) on the quarter date following the expenditure. The service charge mechanism states that the Lessee's contribution will be certified by the Lessor's managing agent each quarter. There is a further obligation in clause 4(iii) for the Lessee to '*contribute and pay to the Lessor one-fourth part of the cost and expenses and outgoings and matters mentioned in the fourth Schedule (other than paragraph 6 thereof) and Clause 6 sub-clauses (a) (b) and (c) (and one-third part of the costs expenses outgoings and matters mentioned in sub-clause (d) of Clause 6 and in paragraph 6 of the Fourth Schedule hereto) as certified in manner hereinbefore provided*'. Clause 6 sets out the obligations of the Lessor to maintain, repair, redecorate and renew in respect of the building and the internal parts. The Fourth Schedule lists the expenses of maintaining repairing redecorating and renewing in relation to the building, external parts and the costs of insurance.

7.) Under clause 3(iv) the Lessee covenants to "*pay all costs charges and expenses (including Solicitors' costs and Surveyors' fees) incurred by the Lessor for the purpose of or incidental to the preparation and service of a notice under Section*

146 of the Law of Property Act 1925 notwithstanding forfeiture may be avoided otherwise than by relief granted by the Court'.

Hearing:

8.) The hearing was held on Monday 29 July 2019, starting at 10.30 am at 10, Alfred Place, London, WC1E 7LR. In attendance were Mr Amourgam as the Applicant, and Mr Levy, one of the second Respondents.

The Issues and the Tribunal's Determination:

9.) The Tribunal had the benefit of bundles provided by the Applicant and the Respondents. Documents referred to in these reasons are referenced with the prefix A and the page number for the Applicant's bundle and R plus the page number for the Respondents' bundle.

Additional Roof Works:

10.) The first disputed item is an invoice for £2,253.60 (A45) relating to additional works to the roof of the subject property. Mr Amourgam submits that there was no consultation in respect of these subsequent works and therefore his contribution should be limited to £250, but he also suggests that the decision from Phillips v Francis [2014] EWCA Civ 1395 could be applied to extinguish his whole liability for the major works to the roof, so reducing his total liability from £7,668.00 to £250 (original works ££5,414.40 (A44) and £2,253.60 (A45)).

11.) The background to this issue was that major works were carried out to the roof of the building in 2014. This was subject to a consultation and the Notice of Intention (A49) is dated 19 February 2014 and describes the works as '*external roof repairs including re-rendering the parapet and chimney stack*'. Reference is also made to a schedule of works and specification that may be inspected in the offices of Valepark Properties Limited, but there was no copy of those documents in the bundles. The relevant Statement of Estimates was dated 4 June 2014 (A66). Mr Amourgam referred to a letter in his bundle at A53 which he stated was sent about July 2014 which refers to the two consultation documents. The estimate under the original contract from Uxbridge Commercial Services Limited was dated 22 April 2014 (A52). This estimate detailed the preparatory works and then described the works as '*E) hack off and clear all render on party wall and remove flaking around chimney pots to mid-point of party wall. F) Re-render part wall and flinching around chimneypots with 2 coats render, including waterproof additive and all necessary stainless steel edge and drip beads. E) Allow the provisional sum of £350.00 for any works found necessary to lead flashings on party wall*'. The disputed invoice describes the works as '*1) Additional hacking off ….. 2) Brickwork repairs and EML over other areas … 3) Additional leas flashing to cover gap ….. 4) Pointing and re-bedding ridge tiles…*'.

12.) Mr Amourgam suggested that the additional works required their own consultation and that the Respondents had not sought dispensation under s20ZA of the 1985 Act and such an application can be made retrospectively. Mr Amourgam also argues that the second stage of the works was needed as the first stage of the works was not properly specified. He was unable to comment on the issues of costs or workmanship as he had not been able to access the roof. He suggests that Phillips v Francis set out some of the factors that help identify whether the works are a single set of qualifying works. His skeleton argument seems to suggest that the additional works and the original works were part of the same scheme.

13.) Mr Levy's position was that the works were inextricably linked to the major works and that the works were 'discovered' whilst the contractors were on site, it was impractical to carry out any consultation and therefore the Respondents believed in was reasonable to dispense with consultation. He further added that the Applicant had voluntarily paid his contribution as did the other leaseholders and that the Applicant had not complained about the cost or take any issue about the quality of the works.

14.) The Tribunal agrees with Mr Amourgam that Phillips v Francis helps to identify what may be a single set of works. Our finding from the facts is that the additional works are of a similar characteristic as the original works, they were contiguous to the original works and were essentially carried out at the same time as the original works. Indeed, the works were partially identified in the estimate. The additional works are a natural and logical extension of the original works. So we agree with Mr Amourgam that all the works being part of the same scheme. However, we disagree with him on the implications of that finding. We find that there was an effective consultation of the original works and that would cover the additional works. As such we find there was no failure to consult and that Mr Amourgam's contribution is not limited to £250 for either the whole scheme or for the additional works.

<u>Damp Works to Flat 1 and Front Building Steps</u>:
15.) This work related to damp proofing works to the kitchen of Flat 1 and repair works to the external steps. Mr Amourgam's position was that as there was no invoice, then he should not be liable for any contribution to this item. He also argued that there had been no consultation.

16.) The undisputed factual background to this issue was that the leaseholder of Flat 1, Mr Sofroniou, had commissioned a survey in relation to some damp issues in his flat. The survey was dated19 September 2014 [R24] from Damp Busters London Ltd and included a quotation for various works included some works that was within the scope of the Lessor's obligation under the lease, namely '*Kitchen Quotation Approx 1 days work Full price including all chemicals, materials and*

labour £650 Outside Steps Quotation Approx 3 days work Full price including all chemicals, material and labour £650.' (R28). Mr Sofroniou instructed Damp Busters to undertake the work and sought a contribution of £1,330 from the Respondents (R23), which was paid.

17.) Mr Amourgam stated that some work was undertaken, but he did not know the extent of the works, but he had no dispute about the works being undertaken. He argued that as the invoice was unavailable, the Respondents were in breach of Section 22(2) of the 1985 Act. He considered that it was not for a leaseholder to instigate the works.

18.) Mr Levy submitted that the work had to be done and he did not think the work should be stopped to allow consultation.

19.) Whilst the lack of an invoice is poor accounting on the part of the Respondents, in the opinion of the Tribunal that absence does not render the sum to be non-payable as a service charge item. Mr Amourgam acknowledged that he had no dispute about the work being undertaken. Therefore, the Tribunal considers that on the balance of probabilities the work was undertaken and the sums were incurred. However, these works would normally come within the scope of 'major works' for consultation purposes. There had been no consultation, therefore Mr Amourgam's contribution should be limited to £250.00.

Tree care:

20.) The invoice in dispute under this heading is an invoice from Treecare (Arboricultural Specialists) Limited dated 7 November 2017 for £896.33 (A32), Mr Amourgam's contribution would be £224.09. At A33 there is a covering letter from Mr Levy dated 11 October 2017 sent to all the leaseholders and enclosing a quotation dated 10 October 2017 from Treecare (A34). The quotation and the invoice are both addressed to Benson Mazure. The relevant service charge demand for Mr Amourgam was dated 29 November 2017 (A31).

21.) Mr Amourgam stated that he knew that the work had been done, but considered that the work had been instigated by another leaseholder. When referred to the invoice at A32 he stated that he had not received this document prior to these proceedings. He stated he had not been consulted. Initially Mr Amourgam seemed to suggest that the demand or the invoice was sent after 18 months of the sums being incurred, contrary to the requirements of section 20B of the 1985 Act. However, when looking at the documentation he seemed to accept that the demand for payment from him was within 18 months from the date the sums were incurred.

22.) Mr Levy stated that he had instructed the work to be carried out and had copied the documentation to the leaseholders.

23.) In the Tribunal's opinion, whilst it may be that one of the leaseholders prompted the work, the quotation and the invoice suggests that it was the Respondents who instructed the work to be undertaken. The demand for payment from Mr Amourgam, on 29 November 2017 was made within 18 months of the sum being incurred in October 2017. Therefore, the provisions of section 20B of the 1985 Act do not apply and the sum is payable by Mr Amourgam.

Surveyor:

24.) The disputed invoice for the appointment of a surveyor is at A43. This is from True Associates and is dated 26 November 2014 and is for a sum of £350 plus VAT at 20%, the total being £420.00. The invoice does not include the VAT Number for True Associates, nor does it include a tax point.

25.) Mr Amourgam seems to suggest that the failure of the invoice to include the VAT Number and a tax point renders the invoice invalid and therefore he should not be liable to any contribution towards the invoice.

26.) Mr Levy had not appreciated that the tax point and VAT Number were missing.

27.) The Tribunal agrees with Mr Amourgam and finds that that relevant invoice is not compliant for VAT purposes. However, in the opinion of the Tribunal the technical VAT point does not invalidate the invoice for service charge purposes. There seems to be no dispute that the work was undertaken or that the invoice was paid. However, as there is no evidence that True Associates is VAT registered the sum that is payable should be net of VAT In these circumstances the tribunal finds that the sum of £350.00 is payable as a service charge and Mr Amourgam is liable for proportionate contribution.

Insurance – AXA:

28.) Mr Amourgam has raised issues in respect of three periods of insurance when the insurance cover was provided by AXA as detailed below:

Date of Issue	Effective Date	Renewal Date	Premium (Including IPT)	Bundle
25/06/2015	29/06/2015	29/06/2016	£3,713.45	A100, R72
25/50/2016	29/06/2016	29/06/2017	£3,952.07	A90, R80
23/05/2017	28/04/2017	29/06/2017	£588.78	A82, R93

29.) Mr Amourgam stated that documents provided were not invoices nor receipts of payments made, but renewal documents. The insurance broker, Clear Insurance Management, should have provided the invoices to the Respondents. He also explained that, despite requests, he had not received any of the policy

documentation, summary of risks or statement of fact. He has sought details of the insurance cover due to his mortgage requirements but the information had not been forthcoming. Because there being no invoices and the lack of documentation, Mr Amourgam considered that the building was not insured. In all these circumstances, Mr Amourgam did not consider he had any liability to pay for insurance. A point was also raised that in respect of the 23 May 2017 policy, the documentation was presented to Mr Amourgam in May 2019 and therefore more than 18 months had passed since the sum had been incurred and that there was now liability under section 20B. It is noted that the demand for payment for this premium was presented on a document shown at A7 that has the due date 24 June 2016 to 24 June 2018.

30.) The Tribunal had a copy of a letter from Benson Mazure dated 18 July 2019 and enclosing a letter from Clear Insurance Management (Clear), also dated 18 July 2019. The letter indicated that it had been copied to Mr Amourgam. Mr Amourgam complained that the letter had not been included in the bundle as required by the Directions. The Tribunal had a brief adjournment for Mr Amourgam to consider the letter and to make any submissions about the admission of the letter. After the adjournment, Mr Amourgam did not take any particular issue with the letter. The letter from Clear stated that the building had been insured with AXA from 29 June 2012 to 29 June 2017 and with Allianz from 29 June 2017 to 29 June 2018 with Valepark as the freeholder and with Allianz from 29 June 2018 to 29 June 2020. Mr Amourgam explained how he had tried to contact Clear but had still not received the required documentation. This letter from Clear had not alleviated his concerns. If this had been provided to him at the time this may have helped.

31.) Mr Levy submitted that the building had been insured for the whole period and that premiums were paid. He stated that he has received receipts for payment but these have not been included in the bundle. Copies of the insurance certificates had been sent to Mr Amourgam, but it was acknowledged that Mr Levy had not sent the policies or receipts for payment.

32.) The schedule to the 1985 Act provides leaseholders with very specific rights in respect of insurance, including the provision of certain documentation. There are significant consequences on a person who fails to comply with the provisions of the schedule. However, whether there has been compliance and consequences of non-compliance is not a matter for this Tribunal. Although, it may have been frustrating from Mr Amourgam not to receive the documents to which he is entitled, the Tribunal is satisfied that the lack of those documents does not prevent the premiums being recoverable as a service charge item. From the letter from Clear, the Tribunal is satisfied that the building was insured at all relevant times. In these circumstances the Tribunal determines that the AXA insurance premiums are payable and that Mr Amourgam is liable for his proportion. As to

the section 20B point, the evidence would suggest that the demand for payment from Mr Amourgam was made on 24 June 2018 and therefore within the 18 months of the effective date/date incurred and therefore the sum is not excluded from payment.

Insurance – Allianz:

33.) The Mr Amourgam takes issue with the premiums under the Allianz policy with regards to consultation. The relevant insurance details are as follows:

Effective Date	Renewal Date	Premium (Including IPT)	Bundle
29/06/2017	29/06/2018 at 00.01 hours	£4,002.57	A75, R101
29/06/2018	28/06/2019	£4,162.65	A68, R108
29/06/2019	29/06/2020	£4,370.53	A136

34.) Mr Amourgam suggested that as the 2017/2018 policy was due for renewal on 29/06/2018 at 00.01 hours, then this fell into the definition of a 'qualifying long-term agreement' (QLTA) and should have been subject to consultation. There has been no application for dispensation on the part of the Respondents. Therefore, Mr Amourgam would be limited to a contribution of £100. As the insurance period seems to fall short of one day in 2018/9, it is argued that it would be unreasonable for the leaseholders to pay any contribution to a policy that is defective. With the 2019/2020 period, as it is effective from 29 June 2019 and the renewal date is 29 June 2020, it is suggested that it follows the same principle as 2017/8 and that it goes beyond the year and is a QLTA that requires consultation. Reference is made to the FCA definition of renewal, being '*carrying forward a contract, at the point of expiry and as a successive or separate operation of the same nature as the preceding contract, between the same contractual parties*'.

35.) Mr Levy considered that consultation was not required as parts of days or seconds were not relevant. He thought consultation was a waste of time as the Respondents would be bound to follow the recommendations of the broker and he considered that the insurance premiums could not be improved upon and given the history with the insurance companies, he would be reluctant to change insurers. Replying to questions from Mr Amourgam he stated that there had been a change from AXA to Allianz following a recommendation by the broker.

36.) Mr Amourgam is taking a very technical point on the Allianz insurance policies being QLTAs. In the opinion of the Tribunal the addition of the time for renewal at 00.01 hours on 29 June 2018 is misleading. Relying on its expertise in such matters the Tribunal notes that normally these sorts of insurance policies are for a period of one year, with the policy generally ending at midnight at the end of the year and a new or renewed policy happening immediately afterwards. In this case we consider that notwithstanding the odd way in which the periods of

insurance are recorded on the renewal documents, the intention of the relevant parties was for policies for one year and not for more or less than one year. Thus we find that the insurance policies are not QLTAs. Therefore, for the 2017/8 and 2019/20 the Tribunal finds that they are not QLTAs and as such no consultation is required and Mr Amourgam's contribution is not limited to £100 for those relevant policies. For the 2018/2019 the potential shortfall of one day for the insurance period, would again appear to be misleading, but even if it was not, in the opinion of the Tribunal it would not invalidate the policy. As such the Tribunal determines that Mr Amourgam's contribution to the premium for that year is payable.

General Observations:

37.) The Tribunal makes the following comments, it is noted that the lease for the subject flat is not in a modern form and therefore the service charge arrangements are a little unusual. However, the statutory provisions that govern service charge regimes are extremely important and in particular the leaseholder's rights to information and details of the insurance. The schedule to the 1985 Act sets out the rights of leaseholders and the requirements of a lessor. Mr Levy indicated to the Tribunal that he was aware of the tenant's rights to see policies and other documents including receipts that would prove that the insurance had been paid. He said that he received a receipt from the insurance broker each year and the Tribunal considers that had these been made available to Mr Amourgam it would have been reassurance to him that the property was in fact insured. The failure to comply with those statutory requirements may have a serious consequence on lessors.

Section 20C:

38.) Mr Amourgam explained that he had been reluctant to enter into more litigation, but had been frustrated from the lack of documentation supplied by the Respondents. He had made several requests for documents, but these had not been forthcoming and so he had to make the application to the Tribunal so that he could receive the requested documentation.

39.) Mr Levy quoted from a single paragraph if a 2003 LVT decision in which no order was made for costs under section 20C. However, he was unable to identify an express provision in the lease that allowed such costs to be recovered as service charges, although he suggested that the general wording in the Fourth Schedule to the lease did give some scope for recovery.

40.) The Tribunal disagrees with Mr Levy that there are provisions in the lease that would allow the Lessor to recover costs linked to this litigation as service charge items. However, the Tribunal is stilled required to make a decision on the application for an order. Overall, although Mr Amourgam has had little success in his application, we consider that a lot of his issues would have been resolved if the

Respondents had actively engaged with him and provided the documents to which he is entitled. We considered that Mr Amourgam had been obliged to make the application to obtain the necessary information. Given all these factors, the Tribunal makes an order under section 20C that the costs incurred in respect of this application are not to be treated as 'relevant costs' for future service charge accounts.

Paragraph 5A

41.) Mr Amourgam relied on the same issues as raised in respect of his application for an order under section 20C, considered above.

42.) Mr Levy explained that he had attended the hearing as one of the Respondents. However, he stated that the Landlords had instructed Benson Mazure to act and therefore he has billed his costs as a solicitor. Indeed he is the only fee earner shown on the schedule of costs he produced for the hearing.

43.) The Tribunal makes no finding as to whether the lease will allow the Respondents to recover any litigation costs against Mr Amourgam as an administration charge. However, for the same reasons as expressed in paragraph 40 of this decision, the Tribunal makes an order under paragraph 5A of Schedule 11 to 2002 Act, that the Applicant's liability for any administration charge in respect of litigation costs is extinguished

Final Conclusions:

44.) Included in the late papers submitted by the Respondents was a statement of costs, that was headed 'Rule 13 of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013'. There was no specific application for an order under Rule 13 before the Tribunal. A party is entitled to make such an application within 28-days from the decision. However, before the parties make such an application, they should consider the decision in Willow Court Management Limited v Alexander [2016] UKUT 290 (LC).

Chairman: *Helen C Bowers* **Date:** *8 August 2019*

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office, which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix

LANDLORD AND TENANT ACT 1985

Section 19 Limitation of service charges: reasonableness

(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 provision of services or the carrying out of works, only of 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 20 Limitation of service charges: consultation requirements

(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.— Limitation of service charges: time limit on making demands.

(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.— Limitation of service charges: costs of proceedings.

(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 leasehold valuation tribunal or the First-tier 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 the county court;

(aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;

(b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;

(ba) in the case of proceedings before the First-tier Tribunal, to the 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 the 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.

Section 20ZA Consultation requirements: supplementary

(1) Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

"qualifying works" means works on a building or any other premises, and

"qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section *"the consultation requirements"* means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Section 27A Liability to pay service charges: jurisdiction

(1) An application may be made to a leasehold valuation 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 it which it is payable.....
(2) Subsection (1) applies whether or not any payment has been made.
(3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred fro 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 it 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 subject of determination by a court, or
(d) has been 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.

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

Paragraph 5A to Schedule 11

(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.

(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.
(3) In this paragraph—
(a) *"litigation costs"* means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and
(b) *"the relevant court or tribunal"* means the court or tribunal mentioned in the table in relation to those proceedings.

Proceedings to which costs relate	***"The relevant court or tribunal"***
Court proceedings	The court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court
First-tier Tribunal proceedings	The First-tier Tribunal
Upper Tribunal proceedings	The Upper Tribunal
Arbitration proceedings	The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court."