



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

Case reference : **LON/00AK/LSC/2017/0467**

Property : **Geary Court, 24 The Concourse
London N9 0TQ**

Applicant : **Ms Paraskeva-Maria Petrou and
Antonis Mikelis (Flat 24)
Nicola Jayne Newton (Flat 32)
Mrs Yin Ejechi & Mr Ebendo Ejechi
(Flat 35)
Bobita Dey (Flat 5)
Mr Adetoyese Ogungbe and Mrs D
Ogungbe (Flat 41)
Eresha Reid (Flat 7)
Matthew Durston (Flat 11)
Anna May Wilkinson (Flat 1)
Hortense Dongo (Flat 10)
Miss Ceylan Ansai (Flat 30)
Ms Melissa Dyett (Flat 47)**

Representative : **Mr Mikelis**

Respondent : **London and Quadrant Housing
Trust**

Representative : **Devonshires Solicitors LLP**

Type of application : **For the determination of the
reasonableness of and the liability
to pay a service charge**

Tribunal members : **Judge Carr
Mr Sennett**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **7th August 2019**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the sum of **£1124.77** is payable by the Applicant in respect of the service charges for the years 2016 -17 and **£1356.30** is payable by the Applicant in respect of the service charges for the years 2017 – 18.
- (2) The tribunal makes the determinations as set out under the various headings in this Decision
- (3) The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord’s costs of the tribunal proceedings may be passed to the lessees through any service charge.
- (4) The tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform 2002 so that tenant has no liability to pay administration charges in respect of litigation costs under the lease.
- (5) The tribunal determines that the Respondent shall pay the Applicant £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The application

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Applicant in respect of the service charge years 2016 – 17 and 2017 – 18.
2. The application, which was originally made on 8th December 2017, was stayed pending determination of lease variation applications relating to the property. The original applicants were Mr Antonis Mikelis and Ms Paraskevi-Maria Petrou. A further ten lessees have joined as applicants over the course of the claim.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. Ms Paraskeva-Maria Petrou and Mr Antonis Mikelis (Flat 24) appeared in person for both days of the hearing. Ms Dongo appeared on day 1. Mr Mikelis represented all of the Applicants. The Respondent appeared and was represented by Ms Osler of Counsel instructed by Devonshires Solicitors. Mr Foxcroft from Devonshires and Mr Smith from the Respondent were also present and Mr Smith gave evidence.

5. Immediately prior to the hearing the Respondents handed in a skeleton argument and an updated Scott Schedule which identified issues and made some concessions. The Schedule also identified the relevant invoices for each challenged item. The tribunal is grateful for this document which provided a useful way of structuring the hearing. Although the Respondents had constructed this schedule it was based upon the Applicants' arguments and the Applicants were given an opportunity to check that all of their concerns were addressed in the document, and an opportunity to add to the issues where pertinent.

The background

6. Geary Court is a purpose built block of 51 self-contained flats. 47 of the flats are held on shared ownership leases and 4 are assured shorthold tenancies with intermediate market rents. 16 of the original shared ownership leaseholders have undertaken full staircasing and own full equity shares in their properties.
7. There was no request for an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
8. The Applicants hold long underleases of their flats which, following variation, require 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.
9. The Respondent is the Lessee of Geary Court. The Lease for the Block is between St Modwen Developments Limited and Tower Homes Limited. Tower Homes was a former subsidiary of the Respondent, now re-absorbed into the parent organisation and St Modwen has sold the freehold of the Block on.

The issues

10. At the start of the hearing the parties identified the relevant issues for determination as follows:
 - (i) The payability and/or reasonableness of service charges for the year 2016 – 17 totalling £1722.12 and for the year 2017 – 18 totalling £1805.16. In particular the Applicants argue that in relation to both years:
 - a. No invoices were received until the tribunal proceedings commenced despite requests
 - b. Many of the charges related to anti-social behaviour and vandalism in the block and the Applicants do not consider

that charges to remedy disrepair are payable in these circumstances.

- c. Some invoices are missing or unclear.
 - d. The cleaning charges are unreasonable as the standard and quality of cleaning is poor.
 - e. Bulk rubbish collection charges are unreasonable.
 - f. The administration fee of £70 in addition to the management fee is unreasonable.
 - g. The management charges are too high for the quality of management provided.
 - h. In addition the Applicants raise the following issues in relation to the charges payable for the year 2017 – 18:
 - i. The consultation fee in connection with the provision of CCTV is unreasonable as the hourly charge is too high.
 - j. The third party management costs of £181.48 are unreasonable as there was a delay in the repair of a serious leak and a delay in providing fire safety information.
11. Having heard evidence and submissions from the parties and considered all of the documents provided, the Tribunal has made determinations on the various issues as follows:

Concessions

- 12. The Respondent conceded that there had been miscommunication between the Applicants and themselves, and with the aim of rebuilding trust, offered to reduce the management charges to 5% of the service charges for the years in dispute.
- 13. The Applicants agreed to accept that offer although they expressed grave concerns about the possibilities of building a good relationship.
- 14. As a result of the acceptance of the concession the Tribunal makes no determination on the reasonableness of the management charges.
- 15. After close examination of the invoices the Respondents made concessions in relation to a number of items. These are set out in Appendix 2 to this decision. These concessions relate to the Applicants'

points about missing or unclear invoices and therefore no decision is required from the Tribunal relating to those issues.

16. Appendix 2 also makes clear what management charges are now payable by the Applicants.

Failure to provide invoices

17. The Applicants argue that the service charges for the years in dispute are not payable because the Respondent failed to provide invoices when requested to do so.
18. They gave evidence about when these were requested. The invoices for 2016 – 17 were requested on 3rd June 2017, and for 2017-18 on 15th August 2018. The Applicants agree that they were told that they could come and inspect the invoices at the offices. However they also said, and produced an email in support, that they were told that someone would contact them in order to make the arrangements.
19. The Respondent argues that the request was not made formally, that the Applicants were able to view the invoices at the Respondent's offices, and that the onus was on the Applicants to make the arrangements.
20. It also argues that, in the event, any failure to provide invoices is no longer material as the Applicants have had access to all of the invoices for the purposes of the tribunal.

The tribunal's decision

21. The tribunal determines that the failure to provide invoices in response to emailed requests does not make the service charges for the years in question unpayable.

Reasons for the tribunal's decision

22. The invoices were provided in time for the tribunal hearing.
23. The poor communications from the Respondent and the delay goes to the reasonableness of management charges. However this matter has been responded to via the concession in relation to management fees which has been accepted by the Applicants.
24. The Tribunal is concerned at the barriers that were put in the way of the Applicants examining the invoices. Whilst it understands that the Respondent is able to pass on to lessees the costs of copying invoices etc, the Applicants should be able to examine invoices without having to incur large costs or take time off work. After all, those invoices relate to money they are expected to pay. The Tribunal would have thought that an organisation as large as the Respondent could be

facilitative, for instance it could have a system for providing an intranet site containing all invoices relating to the particular service charge year. This would help build relationships of trust between the Respondent and its lessees and in the end help with the effective management of the building.

The payability of service charges when the service charge arose because of anti-social behaviour or vandalism.

25. The Applicants argue that a large number of the service charges that they were required to pay relating to repairs to the communal areas, were the result of anti-social behaviour or vandalism by third parties. Concerns about security amongst the applicants have been exacerbated by a murder in an adjacent block.
26. The Applicants explained that the block suffered from intrusions by third parties who would smoke cannabis, deal in drugs and cause damage to the property. The Applicants said, and produced an email in support, that the property manager had told them that they did not have to pay service charges when the damage was the result of vandalism.
27. The Respondent explained the block insurance did cover vandalism. However the insurance only paid out in specific circumstances and there was an excess. This excess was described in statements as £100 but was corrected in the hearing to £250. Despite the excess being £250 lessee charges are capped at £100 when the works order is marked with a note that the cause of the work is vandalism.
28. The Respondent was very clear that only those instances on the accounts which were capped were incidents properly described as vandalism and regretted any impression given by the property manager that no charges would be made for works residents thought were caused by vandalism. More was required for costs to be reduced due to vandalism.
29. The Respondents said that for instance the insurers required a crime reference number which would require residents to report matters to the police. They also needed concrete evidence that damage was caused by vandalism. They requested that residents report all suspicions of vandalism to them or the police. They told the tribunal that the police were prepared to treat the block as an anti-social behaviour 'hot-spot' but required much more information from residents in order to trigger the additional policing resources. They also suggested that the Applicants were misguided about the definition of vandalism, so for instance urine in a lift and the consequent cleaning charges were not vandalism for the purposes of insurance.
30. From the Applicants' perspective it was often difficult to know that damage had been caused by people hanging around in the property until they were charged for particular works. They did not want to

confront drug dealers or others in the property or to take photographs of those people.

31. There was some discussion between the parties about how residents could communicate with the Respondent when they suspected that damage to the common parts and the structure of the building were caused by vandalism.
32. The Tribunal noted that only one charge had been capped due to vandalism during the two years which are the subject of the claim.
33. There was also a suggestion that people got access to the blocks as a result of tailgating. It was not clear to the Tribunal how this happened and how it could be stopped by residents.
34. The Respondent did point out that drawing on insurance to cover the costs of everything that the lessees considered was the result of vandalism would result in the insurance premium increasing which would be a detriment to the Applicants.

The Tribunal's decision

35. The Tribunal determines that the charges for works which the Applicants claimed were the result of vandalism but had not been treated as such by the Respondents were reasonable and payable charges.

Reasons for the tribunal's decision

36. The decision whether works should be treated as caused by vandalism or not is the decision of the Respondent.
37. There was no evidence from the Applicants that the Respondents had been unreasonable in making those decisions.
38. The Tribunal accepts that it is difficult for the Applicants to obtain evidence that proves damage has been caused by vandalism. It also accepts that the procedures of the Respondent in making decisions about vandalism were not clear, and made more obscure by the communications of the property manager.
39. The only way the problem of vandalism is going to be stopped is by the Applicants, Respondents and the police working closely together to get rid of the current culture of blame and defensiveness. There was some suggestion in the Respondent's evidence that everything had been done which could be done. The Tribunal hopes that this is not the case and that as a result of these proceedings a strategic approach for the effective prevention of vandalism can be developed for the block which is clearly communicated to all lessees and residents.

The reasonableness of cleaning charges

40. The Applicants argue that the cleaning charges are unreasonable because the standard of service was very poor. They point to the many complaints made about the standard of service and the cleaner. The Respondent only provided cleaning schedules after a long delay and has never provided cleaning reports.
41. The Respondent said that the Applicants did not make specific complaints and that it was insufficient to make generalised accusations.
42. The Tribunal asked about how the cleaning was supervised. The lack of specificity in the replies suggested that this was an area which could be clarified.

The Tribunal's decision

43. The Tribunal determines that the charges for cleaning be reduced by approximately £20 per annum (approximately 10%).

Reasons for the Tribunal's decision

44. There was no evidence that the cleaning was not done although the standard to which it was done is disputed. Standards are difficult to evidence but the number of complaints made and the lack of attention to the management of the cleaning suggests that there is some substance to the Applicants' claim.
45. A reduction of 10% of the cleaning costs in these particular circumstances is appropriate.

The administration fee of £70 in addition to the management fee is unreasonable

46. The Respondent explained that the administration fee represented the cost to each lessee of the provision of central services.
47. The administration fee was introduced in 2016/17 on the basis that it reflected a more accurate contribution towards running costs. It argues that it represents best value for money.
48. Prior to the introduction of the fixed fee, management fees were charged at 15% of the total cost of services less contribution to the sinking fund. Since the introduction of the fee the variable management fees have been reduced to 10% of total cost of services. The Respondent considers this provides better value to the lessees and points to the fall in charges from 2015/16 when charges totalled £252.00 per flat to the years in question when charges were approximately £200.

The tribunal's decision

49. The tribunal determines that the administration fee of £70 is payable and reasonable.

Reasons for the tribunal's decision

50. The charge is payable under the lease and is reasonable.
51. Because of the Respondent's concession in relation to management fees the Tribunal is not making a decision about the reasonableness of management fees in this particular claim.

The consultation fee in connection with the provision of CCTV is unreasonable as the hourly charge is too high.

52. The Applicants argue that £62.50 per hour is a very high charge for consultancy about CCTV, that they had no knowledge that this consultation was being carried out, and that anyway the Respondent did not do the works as proposed by the consultants. In fact cameras were only installed at one of the staircases on the block.
53. The Respondent suggested that 18 hours work at a hourly rate of £62.50 per hour is reasonable for a professional consultancy service. The Applicants have failed to provide evidence to the contrary. Moreover the Respondent suggests that, although the works were not carried out as suggested by the consultant, that the point is not relevant as the lessees have not been billed for the installation of any cameras.

The tribunal's decision

54. The tribunal determines that the charge for the consultation fee is not payable and reasonable.

Reasons for the tribunal's decision

55. The Tribunal accepts that arguments of the Applicants. The consultancy charges appear high, and the Respondent did not accept the advice of the consultants. Nor were the Applicants involved in the decision about where cameras should be installed.

Third party management costs

56. The Applicants argue that the costs of the freeholder are not reasonable because it delayed in providing information about fire protection and delayed in repairing a leak to the property.

57. The Respondent says it has no control over those costs. The Respondent merely passes down the costs it is charged by the Head Landlord to its Leaseholders.

The Tribunal's decision.

58. The Head Landlord is not a party to the application. In these circumstances the tribunal is making no determination in relation to its charges.
59. If the Applicants seek to challenge the Head Landlord's costs for these years or for any future years they should raise the issue with the Respondent who will pass their concerns onto the Head Landlord. Any application in connection with those costs to this Tribunal must name the Head Lessor as a Respondent.

Bulk rubbish collection charges

60. The Applicants argue that they are being charged for the removal of rubbish left by certain problematic individuals. They say they were told that those responsible would be identified via CCTV and charged individually.
61. The Respondent says that its responsibility is to ensure the building is kept tidy and clean and it is entitled to recover the costs of doing so. It argues that even if the individuals concerned were identified it would still be able to recover the costs from all of the lessees if it considered it reasonable to do so.

The Tribunal's decision

62. The Tribunal determines that the charges for the bulk rubbish collection is payable and reasonable.

Reasons for the tribunal's decision

63. The Tribunal accepts the arguments of the Respondent.

Other matters

64. The Tribunal notes that other matters have been raised by the Applicants such as the water supply pump main/service, the regularity of lift and other servicing and payments to the sinking fund.
65. The Applicants were not able to show in any of the other matters raised that the charges made were not reasonable and payable. The Respondent is entitled to determine the regularity of servicing and maintenance and to require contributions to the sinking fund.

66. The Tribunal notes that the Applicants, who were unrepresented, have acquitted themselves well, particularly in their attention to the details of the invoices. The Tribunal is aware that the Applicants find the Tribunal's insistence that comparative costs need to be provided in order to sustain a challenge to the reasonableness of the charges frustrating, but that is what the law requires. The Tribunal urges the Applicants to work with the Respondent in future to improve the conditions in the property.
67. The Tribunal welcomes the concessions by the Respondent in connection with management charges and difficulties with the invoices. It is however concerned that the property management is defensive and it notes for instance that the property manager was reluctant to address the concerns of the Applicants. The Tribunal considers that it would be much more productive for the Respondent to harness the energies and abilities of the Applicants to help in the improvement of the property.

Application under s.20C and Paragraph 5A of Schedule 11 and refund of fees

68. At the end of the hearing, the Applicants made an application for a refund of the fees that they had paid in respect of the application/hearing¹. Having heard the submissions from the parties and taking into account the determinations above, the tribunal orders the Respondent to refund any fees paid by the Applicant within 28 days of the date of this decision.
69. In the application form the Applicants applied for an order under Paragraph 5A of Schedule 11 of the 2002 Act. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under paragraph 5A of Schedule 11 of the 2002 Act. For the avoidance of doubt the tribunal also makes an order under section 20C of the 1985 Act, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.

Name: Judge Carr

Date: 7th August 2019

Rights of appeal

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

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).

Appendix 2

Derived from Counsel for the Respondent's Scott Schedule of Challenged Items
2016/2017:

No.	Challenged Item	Cost per flat £	Tribunal decision: cost per flat £	Notes
1	Administration fee	70	70	
2	Communal Repair	79.09	79.09	
3	Electricity consumption	17.55	17.55	
4	Electrical Equipment/maintenance service	26.58	26.58	
5	Communal cleaning – incl Clearway Environmental Services invoice at £222	202.04	180	Reduction see decision
6	Lift maintenance & servicing	220.15	220.15	
7	Fire protection equipment & servicing (responsive)	57.01	57.01	
8	Fire Protection equipment & servicing (contracted)	33.92	33.92	
9	Door entry system maintenance & servicing	16.68	16.68	
10	Communal TV equipment maintenance & servicing	2.79	2.79	Accepted by Applicant
11	Bulk refuse collection	13.76	13.76	
12	Water supply/pump maintenance	25.49	25.49	

	& servicing			
13	CCTV	30.94	30.94	
14	Emergency Lighting maintenance	38.32	38.32	
15	Sinking Fund	250.88	250.88	
16	Management fee	127.39	61.61	Reduction from 10% to 5% offered by Respondent and accepted by Applicant. 5% applied to items in Tribunal decision column (excludes Admin fee and sinking fund contribution)
	Totals	1212.59	1124.77	

Derived from Counsel for the Respondent's Scott Schedule of Challenged Items
2017/2018:

No.	Challenged Item	Cost per flat £	Tribunal decision cost per flat £	Notes
1	Admin fee	70.00	70.00	
2	CCTV – consultant report	30.99	0.00	See decision
3	Communal repairs	97.38	97.38	
4	Communal light bulb renewal	71.96	65.98	Duplicate charge of £304.84
5	Electrical equipment/maintenance/service	10.86	9.80	£54 rebate offered by Respondent
6	Communal cleaning	209.17	190.00	See decision
7	Specialised equipment servicing	6.20	3.89	£117.60 rebate offered by Respondent
8	Lift maintenance/	226.38	226.38	

	servicing			
9	Fire protection equipment	98.53	98.53	
10	Fire protection equipment servicing	39.44	36.62	Respondent concedes invoice of £144
11	Door entry system	25.95	25.95	
12	Communal TV equipment	1.70	0.10	£81.16 rebate offered by Respondent as not communal repair
13	Bulk refuse collection	42.00	39.73	£2.27 rebate offered by Respondent as graffiti removal subject to cap
14	Water pump maintenance service	5.77	5.77	
15	Emergency lighting maintenance	13.15	13.15	
16	Sinking fund contribution	250.88	250.88	
17	Third party management costs	181.48	181.48	
18	Admin fee/management fee	134.94	40.66	Reduction from 10% to 5% offered by Respondent and accepted by Applicant. 5% applied to items in Tribunal decision column (excludes Admin fee, Third party management and sinking fund contribution)
	Totals	1516.78	1356.30	

