FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BA/LSC/2024/0008**
Property	**:**	**Flats 1 and 2, 105 Hamilton Road, London, SW9 1JG**
Applicants	**:**	**Allan Meldrum and Erica House**
Respondent	**:**	**Assethold Ltd (Landlord) and Eagerstates Ltd (Landlord's managing Agent)**
Type of application	**:**	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985**
Tribunal members	**:**	**Mr O Dowty MRICS** **Mr S Johnson MRICS**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**24 October 2024**

DECISION

Decisions of the tribunal

(1) The tribunal makes the determinations as set out under the various headings in this Decision. Our determinations relate to the total, global, amounts payable in relation to each of the headings of cost by all relevant service charge payers together, not just the amounts payable by the present applicants. Those amounts must therefore be apportioned accordingly (the apportionment of service charges not being in dispute).

(2) 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.

(3) The Tribunal makes an order under Schedule 11 to the Commonhold and Leasehold Reform Act 2002 so that none of the landlord's costs of the tribunal proceedings may be passed to the lessees as an administration charge.

(4) 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 Applicant seeks 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 Applicants in respect of the 2022-23 service charge year.

2. The Applicants had originally challenged the budgeted figures for the service charge year 2023-24 as well, but did not pursue this and indicated at the hearing that they did not wish the Tribunal to make a decision concerning that year's budgeted amounts.

3. On 9 July 2024, Judge Martyński made an order debarring the respondent from participating in this matter, saying "it appears that the Respondent has failed to engage with these proceedings and has failed to comply with the tribunal's directions". The substantive engagement the respondent had in this matter, prior to the date of the hearing, extended only to providing invoices, statements and associated photographs (apparently in support of some of those invoices) to the applicants without detailed commentary.

The hearing

4. A face-to-face hearing was held in this matter on 10 September 2024. Both Applicants appeared in person at the hearing. Despite the respondent being barred, Mr Cullen of counsel attended on the respondent's behalf.

5. Mr Cullen's instructions were to seek a lifting of Judge Martyński's barring order of 9 July 2024, and he made an application to do so – mainly on the simple basis that the respondent should be allowed to participate in proceedings. The applicants observed that the respondent had "had their chance" to participate, and had 'thrown it away'. The applicants also said that this was the first they had heard of the respondent's desire to make such an application – and that they did not feel making such an application on the day of the hearing itself without notice was appropriate.

6. Having heard the submissions of the parties, we observed that the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 appeared to prevent such an application being made, as it was out of time.

7. The striking out of an applicant's case (or barring of a respondent) is set out in Rule 9 of the Tribunal's Procedure Rules. Paragraphs 5- 7 of Rule 9 say that:

> *(5) If the proceedings or case, or part of them, have been struck out under paragraph (1) or (3)(a), the applicant may apply for the proceedings or case, or part of it, to be reinstated.*
>
> *(6) An application under paragraph (5) must be made in writing and received by the Tribunal within 28 days after the date on which the Tribunal sent notification of the striking out to that party.*
>
> *(7) This rule applies to a respondent as it applies to an applicant except that-*
>
> *(a) A reference to the striking out of the proceedings or case or part of them is to be read as a reference to the barring of the respondent from taking further part in the proceedings or part of them; and*
>
> *(b) A reference to an application for the reinstatement of proceedings or case or part of them which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent from*

taking further part in the proceedings, or part of them.

8. Having considered the contents of paragraphs 5-7, it appeared clear to us that an application to lift a debarring order must be made in writing – and within 28 days of the respondent being notified of their debarring. We invited Mr Cullen to consider the matter, and gave him some time to do so, and he came to the same conclusion as us; but nevertheless continued with his application as those were his instructions. This was a valiant effort, but was of course doomed to failure – the Tribunal's Procedure Rules quoted above make clear that the respondent is simply out of time to make such an application, and they cannot make such an application orally. Accordingly, the Tribunal cannot entertain such an application.

9. In any case, having already heard the arguments of the parties, we considered that granting such an application, made orally on the day of the hearing, without notice, in relation to a long-standing debarring order, would not be procedurally fair to the applicants.

10. Accordingly, we did not lift the debarring order on the respondent – and instead Mr Cullen's participation at the hearing was limited to note-taking, which neither we nor the applicants took any issue with.

The background

11. The applicants are the leaseholders of Flats 1 and 2, 105 Hamilton Road, London, SW9 1JG. The building is located on the corner of Hamilton Road and Merton High Street in the London Borough of Merton, and includes a shop unit below.

12. 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.

13. The Applicants hold long leases of their flats at the property, which require the landlord to provide services and the tenants to contribute towards their costs by way of a variable service charge. All of the issues raised by the applicants relate solely to the reasonableness of the costs claimed. There was no challenge in relation to payability under the lease, an alleged failure to consult or limitation.

14. The applicants provided in their bundle a copy of a decision made by this Tribunal dated 23 August 2023, in relation to the service charges payable for the service charge year 2021-22 (the immediately preceding year). Whilst we have read, and are aware of the contents of that decision, we are not bound by it, and instead have considered this matter based on the evidence presented to us – albeit including that decision.

15. A large part of the applicants' desire to include that decision, however, seems more aimed towards the fact that they have used the amounts determined by the Tribunal before to estimate, for some costs such as the management fee and the insurance, what amounts the Tribunal might decide were reasonable this time. They aver they have already paid those amounts to the respondent, but that does not mean that they necessarily agree with them.

The issues

16. At the start of the hearing, the applicants identified the relevant issues for determination as being the amounts charged in the 2022-23 service charge year for:

- Insurance
- Window Cleaning
- Gutter Cleaning
- Drone Survey
- Fire Health and Safety Risk Assessment
- Fire Health & Safety Monthly Testing
- Common Parts Inventory
- Common Parts Decorating
- Signs for Fire Health & Safety
- Electrical Fault Finding
- Management Fee

17. 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.

Insurance – Amount Claimed £3,237.70

18. The respondent provided a policy schedule from Aviva – giving a total amount payable of £3,187.80. For unknown reasons, believed by the applicants to be a broker's fee, the amount charged was £50 higher than this.

19. The applicants averred that they had obtained a quote on the market from First Point, which suggested a premium of £840.65 would be appropriate.

The tribunal's decision

20. The tribunal determines that the total amount payable in respect of insurance is £1,750.

Reasons for the tribunal's decision

21. The applicants provided a quote from First Point, which they believed to be "on all fours" with the cover provided. But, despite it would appear the best efforts of the applicants, it isn't. In particular, the sum insured is only £500,000 – as against the sum insured by Aviva of £1,370,542 (based on a declared value of £1,015,216). The applicants averred that they had provided all of the information requested of them to First Point, and that this was a figure First Point had arrived at themselves. First Point did not inspect the subject building, and nor was it clear to us how they had arrived at what - we must note as an expert Tribunal – would seem at first sight to be a very low reinstatement cost figure for the building.

22. Aviva are a well-known and reputable company, and whilst we agree with the applicant that it would seem that the insurance taken out by the respondent appears to be on a 'block' basis, there is nothing wrong with that per se. That being said, the respondent did not evidence, prior to their debarring, that any market testing had been carried out – and the respondent failed to provide anything further than simply the policy schedule in support of the amount charged, which was £50 less than what was claimed for no provided reason.

23. Accordingly, we believe that the amount claimed is excessive, but that the applicant's quotation is not reliable. Instead, doing the best we can with what is available to us, we determine an amount of £1,750 for the insurance of the building.

Window Cleaning – Amount Claimed £504

24. The respondent claimed £504 for window cleaning. The applicants provided a quote for £60 to cover 2 cleans a year at the property.

The tribunal's decision

25. The tribunal determines that the total amount payable in respect of window cleaning is £60.

Reasons for the tribunal's decision

26. The respondent provided 4 invoices from Gresham Group Limited, each for £126.00, apparently in relation to the cleaning carried out at the property. The applicants provided a quote they had received from a local window cleaner, Samuel Pinto, for £60 to cover two cleans per year – which they averred was sufficient at the property. The window cleaning is done, the applicant's averred, to only 8 windows.

27. We have no reason to doubt the quote provided by the applicants, and a frequency of 4 times a year does seem excessive. Whilst not determinative, the fact is that the leaseholders are the ones who would suffer the most from dirty windows – and they only wish for 2 cleans a year.

28. Accordingly, we determine that the window cleaning should be reduced to £60.

Gutter Cleaning – Amount Claimed £228

29. The respondent provided 2 invoices in relation to gutter cleaning, one from February 2024 and another from August 2024, to a total of £114 each. The applicants averred that twice a year was too frequent, that the cost per clean should be £75 and that once a year would be sufficient.

The tribunal's decision

30. The tribunal determines that the amount payable in respect of Gutter Cleaning is £114.

Reasons for the tribunal's decision

31. The applicants averred that cleaning the gutters out twice a year was too frequent, and that once would be sufficient. This appears sensible to us, and the respondent has been barred from these proceedings.

32. However, the applicants' dispute as regards the cost per clean is based on three apparent quotes which were not provided to us. The only invoices we have are to a total of £114, and this does not appear particularly excessive to us.

33. Accordingly, the amount for gutter cleaning is reduced to £114.

Drone Survey – Amount Claimed £300

34. The respondent provided an invoice for a drone survey dated 29 January 2023, to the amount claimed. The applicants disputed the need for the drone survey, given the roof had only been recently repaired at that point.

The tribunal's decision

35. The tribunal determines that no amount is payable in respect of the Drone Survey.

Reasons for the tribunal's decision

36. The applicants averred that, when the drone survey was carried out, the roof had only recently been repaired (in February and March of 2022 – as against a survey date, presumably from the date of the invoice, in January 2023). They therefore submitted that it was unnecessary, and that they had pictures from the roofer who had carried out the repair.

37. The respondent has not provided any further detail than simply an invoice.

38. There is no obvious cause for the drone survey being carried out within 12 months of an apparently satisfactory roof repair, and no explanation has been provided for it. Accordingly, we find that it was not reasonable to incur this cost.

Fire Health & Safety Risk Assessment – Amount Claimed £408

39. The respondent provided an invoice to the sum claimed from London Fire Prevention. The applicants averred that no amount was reasonable for this item.

The tribunal's decision

40. The tribunal determines that no amount is payable in respect of the fire health and safety risk assessment.

Reasons for the tribunal's decision

41. The applicants submitted that no amount was reasonable for this item, apparently on the basis of fire safety regulations and the Building Safety Act – but it wasn't clear exactly what they were referring to. The applicants' position on this item was slightly hard to follow, but it appeared that they submitted that no amount would be reasonable to pay because the applicants were, as a matter of statute, responsible for all fire safety at the building themselves.

42. We do not agree with the applicants on that point, particularly in the absence of being provided with authority to support their argument. In any event, even were the landlord not required by law to take steps concerning fire safety, that does not mean the landlord cannot do so, nor even stop them being obliged to do so for some other reason, contractual or otherwise; and the applicants did not suggest that this item was not payable under the terms of the lease.

43. Nevertheless, these assessments do not need to be carried out every year – which it would appear from the Tribunal's previous decision provided

in the bundle concerning the 2021-22 service charge year that they are – or even every other year. If it were the case that the respondent has been prevented by the Tribunal from charging for a health and safety risk assessment for a number of years, it might be argued that the charge should be allowed now (on the basis it must, at some point, be needed) – but the respondent is barred and can't provide us with either that argument, nor the information to support it.

44. Accordingly, we find that no amount for the health and safety risk assessment is payable in the 2022-23 service charge year.

Fire Health & Safety Monthly Testing – Amount Claimed £432

45. The respondent provided 2 invoices, apparently covering 9, monthly "Fire health and safety tests", to the total claimed. The applicants averred that the tests were unnecessary, did not apparently take place and that in any case they should not be carried out more than once a year.

The tribunal's decision

46. The tribunal determines that the amount payable in respect of Fire Health and Safety Testing is £96.

Reasons for the tribunal's decision

47. As with the Fire Health and Safety Risk Assessment, the applicants made submissions based on their understanding of the law around fire safety, without more specific reference to the law specifically than, at one point, referring to the Fire Safety Regulations 2022 in general. The summary of those submissions was that it was the applicants' legal responsibility to check the fire alarms were working, and therefore that it was unreasonable for them to be charged for their testing, when they could simply do it themselves.

48. Again, the applicants' submissions concerning fire safety legislation were difficult to follow – particularly without any reference to specific authority – and we do not agree with their conclusions. Regardless, even were it the case that the landlord was not required by a particular act of parliament or set of regulations to test the alarms at the property – that does not stop him from doing so of his own volition nor being obliged to as the result of a contractual obligation, nor even by another piece of statute. The fact is that there is a fire alarm system in the common parts, and we find it difficult to see how the landlord might realistically delegate the testing of that system to leaseholders. Reference to wider statute aside, there has been no suggestion by the applicants that the leases themselves prevent the costs of such testing being put through the service charge.

49. The applicants also averred that they had never seen anyone conduct the testing, and they therefore "question" whether the tests occurred at all, but there are invoices in the bundle from an apparent third party in support of those tests having been done – and this is therefore an accusation of fraud against them. If the applicants wished to pursue such an allegation, it would need to be supported by evidence; which, other than their suggesting that the testing might not be happening, was not provided.

50. Apparently in the alternative, the applicants averred that the alarms did not need to be tested monthly – and instead that a single check at a cost of £40 might be reasonable. The respondent is debarred for failing to comply with directions, and it is therefore trite to note that the respondent has not explained why such a frequency is required.

51. We agree with the applicants that monthly testing appears to be too frequent, but we think the fire alarms should be tested every six months – as 12 months is too long given how important they are. The applicant suggested a single check at a cost of £40 might be appropriate, but in fact the individual checks which make up the respondent's claimed amount cost £40 excluding VAT or £48 including it. Accordingly, two checks at the amount including VAT – which appears reasonable to us – leads to a total of £96.

Common Parts Inventory – Amount Claimed £36

52. The respondent provided an invoice to the total claimed. The applicants averred that no amount should be paid for this item.

The tribunal's decision

53. The tribunal determines that no amount is payable in respect of the common parts inventory.

Reasons for the tribunal's decision

54. The common parts at the property are very small, consisting of an 'l-shaped' area serving really as a simple corridor, with stairs, for the two subject flats. The applicants aver that they do not understand what this is for, and we do not either. No inventory has been provided either to us, or apparently to the applicants.

55. Without further details, this would appear to be no more than a cursory look at the common parts – and if that is the case it should be included in the management fee at the property.

56. Accordingly, we find that no amount is payable.

Common Parts Decorating – Amount Claimed £475

57. The respondent provided an invoice to the total claimed. The applicants aver that these works were derisory in extent and quality, and no amount is payable.

The tribunal's decision

58. The tribunal determines that no amount is payable in relation to the common parts decorating.

Reasons for the tribunal's decision

59. The applicants provided a photograph in the bundle, at page 69, which they said showed the extent of the works carried out. Those works extended, we were told, simply to a small patch of (unnecessary) painting, which from the photograph provided appears to have been done shoddily.

60. The works conducted are clearly not £475 worth of works, and given the only evidence we have is that they were unnecessary to begin with we find that no amount is payable at all.

Signs for Fire Health & Safety – Amount Claimed £144

61. The respondent provided an invoice to the total claimed. The applicant averred that, whilst the sign was necessary, it was unreasonably high in cost given the lack of design work needed.

The tribunal's decision

62. The tribunal determines that the amount payable in respect of the fire health and safety sign is £144.

Reasons for the tribunal's decision

63. The applicants' submissions on this matter were that the signs were needed, but that they should be covered by the management fee or under the costs of the monthly fire testing visits.

64. We do not agree that this should be covered by the management fee, and it is different from the testing of the alarm systems at the property. The applicants accept that a sign was needed, and to our minds it is reasonable to have that sign designed and placed in the property.

65. The applicants averred, apparently in the alternative, that the cost of the sign was too high. The design work involved was minimal, and involved editing a template. However, the applicants did not provide any quotes for us to consider in the alternative.

66. Accordingly, we find that the full amount is payable.

Electrical Fault Finding – Amount Claimed £102

67. The respondent provided an invoice to the sum claimed. The applicants averred that the only electrics in the common parts ran off the power supply for Flat 1, and therefore that the electrical fault finding was not necessary.

The tribunal's decision

68. The tribunal determines that no amount is payable in respect of electrical fault finding.

Reasons for the tribunal's decision

69. The applicants averred that the only electrics in the common parts, for the lighting and mains smoke detector, ran off the power for Flat 1 (and the applicants had an informal agreement between them as regards the related costs). There were no sockets in the common parts. It was therefore unnecessary for any electrical fault finding to be done.

70. We agree with the applicants. If the power for the communal parts run off the supply for Flat 1, then there is no need for electrical fault finding investigations.

Management Fee – Amount Claimed - £900

71. The respondent provided an invoice to the total claimed. The applicant averred that the management fee was excessive and should be reduced. The applicants did not advance a specific figure which they thought would be appropriate, but each applicant had paid £225 (totalling £450), in anticipation that our decision would be similar to the Tribunal's decision concerning the prior year's service charges.

The tribunal's decision

72. The tribunal determines that the amount payable in respect of the management fee is £450.

Reasons for the tribunal's decision

73. The applicants spoke to the difficulties they have experienced in dealing with the management of the property. They have had, they aver, to repeatedly attend at the Tribunal to achieve fair service charges. The respondent had provided even less communication or feedback this time. The applicants wanted a managing agent who would respond to their questions and worked with them. It shouldn't be the case, they averred, that such a level of conflict was necessary.

74. We agree that the management of the building has not been of a good standard. This is partly spoken to by these proceedings themselves – the applicants have been obliged to come to the Tribunal, having done so in the past, to achieve fair service charges. There is, of course, a distinction to be drawn between the respondent company and their managing agent (despite their close association with each other) – but a number of the issues in this case are the fault of poor management, and there is clearly a lack of communication between the managing agent and the applicants.

75. Accordingly, we consider that the charge of £450 per flat is too high in light of the standard of service actually received. Instead, we believe a charge of £225 per flat would be appropriate – giving a total of £450.

Application under s.20C and refund of fees

76. At the end of the hearing, the Applicants made an application for a refund of the fees they had paid in respect of the application and the hearing[1]. Having heard the submissions made 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.

77. In the application form and at the hearing, the Applicants applied for an order under section 20C of the 1985 Act, and under Paragraph 5A of Schedule 11 of the 2002 Act. Having heard the submissions made 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 section 20C of the 1985 Act, and an order to be made under Paragraph 5A of Schedule 11 to the 2002 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, nor as an administration charge.

Name: Mr O Dowty MRICS **Date:** 24 October 2024

[1] The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Rights of appeal

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.

Section 20ZA

(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 subject to annulment in pursuance of a resolution of either House of Parliament.

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).

Schedule 11, paragraph 5A

5A(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.