



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

<b>Case reference</b>	<b>:</b>	<b>LON/00AG/LSC/2024/0627</b>
<b>Property</b>	<b>:</b>	<b>17 Priory Terrace Kilburn London NW6 4DG</b>
<b>Applicant</b>	<b>:</b>	<b>Ms Michelle Selzer</b>
<b>Representative</b>	<b>:</b>	<b>None</b>
<b>Respondent</b>	<b>:</b>	<b>Assethold Limited</b>
<b>Representative</b>	<b>:</b>	<b>Eagerstates Limited Counsel Mr Cullen</b>
<b>Type of application</b>	<b>:</b>	<b>Determination of the reasonableness and payability of service charges</b>
<b>Tribunal members</b>	<b>:</b>	<b>Tribunal Judge I B Holdsworth FRICS S Johnson MRICS</b>
<b>Date and venue of Hearing</b>	<b>:</b>	<b>7 April 2025 10 Alfred Place London WC1E 7LR</b>
<b>Date of Decision</b>	<b>:</b>	<b>7 May 2025</b>

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**DECISION**

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**Decisions of the Tribunal**

**Preliminary matters**

- a. The decision made by the Tribunal by Order of Judge Hawkes on 26 March 2025 not to debar the Respondent from the proceedings was upheld.
- b. The insurance charges for year 2023 are not within the 27A application.

## **Section 27A and a 20C Application**

- c. The Tribunal determines that the disputed service charges amounting to £2,322.31 were reasonable and payable for the service charge period 1 January 2020 to 31 December 2023.
- d. The total annual sums payable for the disputed service charge items are as follows:

### **Service charge years**

2019/20	£440.21
2020/21	£713.50
2021/22	£717.40
2022/23	£451.20

A schedule at Appendix B sets out the reasonable service charges for each item in the chargeable years in dispute.

- e. The Tribunal make a s.20 and paragraph 5A Order under the provisions of the Landlord & Tenant Act 1985 ('the 1985 Act') and paragraph 5A of Schedule 11 to the Commonhold & Leasehold Reform Act 2002 ('the 2002 Act') that prevents the recovery of costs incurred by the Respondent in these proceedings.
- f. The application hearing costs incurred by the Applicant in bringing this application to Tribunal to be reimbursed by the Respondent.

## **1. Application**

- 1.1 The Application sought a determination pursuant to s.27A of the 1985 Act and Schedule 11 of the 2002 Act as to the amount payable as a service charge and the reasonableness of administration charges for the service charge years 2019/20, 2020/21, 2021/22 and 2022/23.
- 1.2 The Applicant applied for a 20C Order under the provisions of the 1985 Act and paragraph 5A of Schedule 11 to the 2002 Act.
- 1.3 Tribunal issued Directions on 31 October 2024, which identified the issues in dispute in relation to service charges demanded by the Respondent since it had acquired the freehold of 17 Priory Terrace in 2019.
- 1.4 An oral casement management hearing had been listed to take place on 31 October 2024 at Alfred Place but neither party attended, nor did they provide a reason for their absence. This case management hearing had been listed so as to enable Tribunal to better understand the particulars of the application.

- 1.5 On 5 February 2025 Eagerstates Limited submitted a form order 1 application for either the Application to be struck out, or for an extension of time.
- 1.6 Tribunal by Directions dated 11 February 2025 revised the timetable for disclosure of relevant documents until 5 March 2025.
- 1.7 The Respondent subsequently failed to comply with the revised Directions, and, on 21 March 2025, the Applicant made an application requesting the Tribunal debarred the Respondent from the proceedings. This application was considered as a preliminary matter at the Hearing.
- 1.8 Judge Hawkes, by Order dated 26 March 2025, acknowledged the Respondent had served several documents late and considered whether any sanctions should be applied. She deferred any decision about debarring the Respondent to the Tribunal, who were deemed best placed to consider whether any prejudice had been caused by late submission of materials and documents.

## **2. The hearing**

- 2.1 A hearing was held on 7 April 2025 at 10 Alfred Place, London. Ms Selzer the Applicant attended as a litigant in person, whilst Mr Cullen, Counsel represented Eagerstates (the managing agent of the property) who attended on behalf of the Respondent, Assethold Limited.
- 2.2 None of the parties had requested an inspection of the property, nor did Tribunal consider one was necessary, or that it would have been proportionate in relation to the issues in dispute.

## **3. Preliminary matters**

- 3.1 The Applicant explained that the late delivery of information, in response to the Directions, had caused her additional anxiety, further work and significant inconvenience.
- 3.2 Counsel acknowledged the Respondent had not complied in full with the Directions. He contended any omissions or delays had not caused prejudice to the Applicant. Counsel referred to the Order Judge Hawkes and the requirements of that Order. Counsel said that the Respondent had satisfied the requirements of Judge Hawkes both in the provision of information and within the timescale specified in the revised Directions.

### **3.3 Decision of the Tribunal**

- 3.3.1 Tribunal had regard to the timetable set out in the Directions and the extent to which the Respondent had complied. It was noted there were delays in delivery of the information, some of which was also incomplete.

- 3.3.2 Tribunal considered the likely prejudice caused by late and incomplete delivery of information and decided this had not caused undue prejudice to the Applicant. It was acknowledged that the failure of the Respondent to comply with the initial timetable was not helpful to the Applicant but, having considered the overriding objective at rule 3 of the Tribunal Procedure (First Tier Tribunal (Property Tribunal Rules 2013) ('the **2013 rules**'), it would have been disproportionate to have barred the Respondent from taking any further part in the proceedings.
- 3.3.3 Tribunal determined that the Respondent could participate in the proceedings and no sanction would be applied.

#### **4. Second preliminary matter**

- 4.1 The matters in dispute had not been clearly and unambiguously presented in the Application.
- 4.2 A request had been made by the Tribunal for the parties to attend a Case Management Hearing but neither party had participated.
- 4.3 Counsel for the Respondent advised that the disputed sums for the service charge year 1 January to 31 December 2023, as set out in the Scott Schedule (p.161 of the bundle), did not include the insurance charges. Counsel said that his client had inferred this sum was not an item in dispute.
- 4.4 The Applicant said this was an omission; she had inadvertently failed to include this item from the schedule.
- 4.5 The Tribunal noted that the Applicant had sent an e-mail to Tribunal on the evening prior to the hearing. This confirmed the insurance charge for 2023 was not included in the Scott Schedule and she asked by this e mail that this would be done.
- 4.6 The Applicant contended that the insurance charges for 2023 were in dispute and should be presented to Tribunal, despite the information not having been included within the submitted Scott Schedule.
- 4.7 **Decision of the Tribunal**
- 4.7.1 Tribunal had referred to the Directions, which required the Applicant to submit the sums in dispute in a Scott Schedule and the Applicant had complied in respect of all other matters, except for the insurance charges for 2023.
- 4.7.2 At the hearing the Respondent had therefore not had an opportunity to prepare any argument to justify the insurance charges, as they had not known these were in dispute.
- 4.7.3 Tribunal determined that this issue was not presented in accordance with the Directions. It was common ground it was not included in the submitted Scott Schedules as confirmed by the Applicants e mail. The

Respondent was not aware this was a matter in dispute and to determine the matter would have been a breach of Natural Justice. As a consequence the Tribunal decided this issue was inadmissible.

**5. Issues in dispute at the hearing**

- 5.1 In the Applicant's witness statement, (p.158 -177 of the bundle), together with her oral testimony, she confirmed that all the matters in dispute had been identified in the Scott Schedule.
- 5.2 It was agreed by Counsel that the Scott Schedules presented all the issues in dispute, and he accepted they could be used as the basis for Tribunal's deliberations.

**6. The property**

- 6.1 The property comprises a four-storey period building, which had been converted into four flats. The flat held on a long leasehold by the Applicant was on the first floor, accessed from a communal hallway.
- 6.2 The property has a garden, together with a communal refuse and garden waste storage area.

**7. The law**

- 7.1 The relevant legal positions are set out in the appendices to the Decision.

**8. The issues**

- 8.1 Tribunal relied upon the Scott Schedule as the primary listing of the items in dispute and, during the hearing, used them as an agenda for discussion. Oral evidence was heard from the parties on each of the disputed items.
- 8.2 Several disputed costs appeared in several account years. There are recurring disputes between the parties over the service charges in respect of insurance, bin cleaning, and accountancy fees. These were reviewed by Tribunal and their determination are both given below and the findings annotated in the table at Appendix B.
- 8.3 A decision as to the reasonable sums payable for each of the other matters in dispute has been provided by item in the appended Scott Schedule, together with an explanation of each being made.

**9. Disputed insurance charges**

- 9.1 The Applicant referred Tribunal to her Statement of Case (p.158 of the bundle), This compared the insurance charges incurred by the current right to manage (RTM) company with those charged during the period when Eagerstates Limited was acting on behalf of the Respondent in management.

- 9.2 The charges for the period October 2023 to October 2024 had been £1,736.84 and, for the following year, £1,412.43. The Applicant said this contrasted with excessive charges made by the Respondent's managing agent. She contended that the property had been insured for an excessive sum in respect of rebuilding and the policy had included cover for unnecessary items, such as, employer's and property owner's liability.
- 9.3 Counsel referred Tribunal to a landlord's responsibility under clause 4 of the lease (p.38 of the bundle), which stated:

*'To keep the property including the demised premises insured to its full reinstatement value against loss or damage by fire and such other of the usual comprehensive risks as the lessor may in its discretion think fit to insure against and to cause all monies received in respect of any such insurance as foresaid to be paid out with all convenient speed in rebuilding repairing or otherwise reinstating the property'*

- 9.4 The payability of the insurance charges was not disputed by the Applicant.
- 9.5 Counsel explained that insurance cover was procured through an arm's length transaction, He implied this policy may have formed part of a portfolio insurance policy but offered no evidence in support of this assertion. Counsel also alluded to additional landlord's liabilities following the Grenfell disaster, but did not comment upon the appropriateness of the sum insured. Counsel did point out it was at the discretion of the Respondent as to the risks it sought to insure against. Counsel said the reasonableness of the premium charged was not solely based upon the costs of alternative cover.

9.6 **Decision of the Tribunal**

- 9.6.1 Tribunal considered the results of the market comparables testing exercise, resulting from the RTM company now being responsible for insuring the property.
- 9.6.2 No evidence put before Tribunal proved a market comparison exercise had been undertaken by the Respondent and/or its insurance brokers, nor what the typical policy cost may be for this type and age of building.
- 9.6.3 Tribunal found the argument that the property was insured for an excessive cost for rebuilding the entire structure compelling and that the additional risks insured may have been more relevant to a portfolio of properties than this specific building.
- 9.6.4 The Tribunal has experience of insurance costs for similar properties to the subject dwelling and rely upon this knowledge and experience in making this decision. It was for these reasons Tribunal determined that the reasonable and payable insurance premiums for the following periods are as listed below:

Charge period	Total premium	Applicant's contribution
01 January-31 December 2020	£1,760.84	£440.21
01 January-31 December 2021	£2,200.00	£550.00
01 January-31 December 2022	£2,200.00	£550.00

#### 10. **Bin cleaning charges**

- 10.1 The Applicant referred the Tribunal to the invoices contained within the bundle in respect of cleaning the communal bin storage area, which showed an annual charge of £312.
- 10.2 It was explained that during the disputed service charge years, the Respondent's managing agent had commissioned regular cleaning of the bins, the costs for which were then levied against the service charge account.
- 10.3 The Applicant said that the individual bins were the responsibility of each lessee, but the bins were owned by the London Borough of Camden and, further, she had made no request for her bin to be cleaned.
- 10.4 Counsel pointed out the Respondent's responsibility, under the provisions of the lease at clause 3, that it should ensure the property enjoyed by the lessee in common with others was to:

*'Tend keep clean and tidy generally to maintain any forecourt or garden used in connection with the property'*

Counsel asserted that this included not only the bin storage area but also the bins.

- 10.5 Counsel pointed out to Tribunal that there had been a reduction in the costs from June 2021, following receipt of competitive quotes for the bin cleaning. He further stated it was reasonable for the Respondent to instruct such cleaning as part of its responsibilities for maintenance of the property.
- 10.6 **Decision of the Tribunal**
  - 10.6.1 Tribunal accepted that the Respondent had a responsibility for the maintenance of *'any forecourt or garden ...'* and concurred with Counsel's proposition that there was a need for a brown garden waste bin, to enable the Respondent's contractors to dispose of accumulated vegetation arising out of maintenance of the communal gardens.

- 10.6.2 The Tribunal deemed it was reasonable for monthly cleaning of only the brown garden waste bin to be levied against the service charge account, as set out in the Scott Schedule. The annual sums payable is shown at Appendix B.

## **11. Accountancy costs**

- 11.1 The Applicant alleged she had no information on the service provided by the accountants and therefore the service charge costs were not justified
- 11.2 Counsel for the Respondent took Tribunal to the bundle where invoices for accountant's services were provided for each of the relevant service charge years. He said the Accountancy charges reflected the costs for preparing certified accounts in accordance with the of the lease provisions.

### **Decision of the Tribunal**

- 11.3 The Tribunal reviewed the lease requirements for certified service charge accounts and concluded that accountants' services were necessary. Based on the experience and knowledge of the Tribunal of similar charges they concluded the submitted invoices were both reasonable and payable. The payable sums are shown on the attached schedule at Appendix B.

## **12. Legal fees incurred by the Applicant**

- 12.1 The Applicant had challenged the validity of the legal and debt recovery fees she had incurred during the service charge year 2022, which totalled £1,290. She explained these fees were levied by a debt collector, referred to as DRA, who was instructed by the Respondent's managing agent, following the Applicant's failure to pay her proportion of the service charges on time.
- 12.2 Counsel argued that the fees had not been included in the service charge accounts for the relevant year and thereby were not a service charge. He claimed that the omission of these fees from the service charge account meant Tribunal had no jurisdiction to determine whether these fees were either fair and reasonable or payable. He offered no further evidence as to the payability or reasonableness of these charges
- 12.3 The Applicant said that these fees were unreasonable, and no details had been provided to justify the total sum payable. Further, the Applicant alleged the Respondent's managing agent ignored her letters seeking clarification as to the disputed costs and instead responded by the instruction of DRC without making any effort to address the issues raised.



#### **12.4 Decision of the Tribunal**

- 12.4.1 The Application had included a request that Tribunal consider the payability and reasonableness of any administration charges levied.
- 12.4.2 In accordance with Schedule 11 of the 2002 Act, it was within the jurisdiction of a Tribunal to review and determine the payability and reasonableness of administration charges.
- 12.4.3 Tribunal determined that the specific legal fees incurred in this case were an administration charge and, as such, it had jurisdiction to review and determine the monies payable.
- 12.4.4 No evidence was provided in the bundle to justify the fees. For example, there was no schedule setting out the time expended or the task(s) undertaken. The Respondents Counsel made no effort to offer further evidence to validate and justify the expenditure.
- 12.4.5 It is incumbent upon the Landlord to make a Prima Facie case for the service charge. In this instance this was not done. The Tribunal has jurisdiction to determine the costs, and they concluded the charges are unreasonable and thereby, not payable.

#### **13. Other service charge items in dispute for years 2020-2023**

- 13.1 The four Scott Schedules are attached at Appendix B. These set out the Tribunal's findings for each of the remaining disputed items/costs. A justification for each decision is given in summary format on the Schedules.
- 13.2 The sums payable by the Applicant in accordance with the relevant lease provisions are detailed in column 5, together with an explanation and justification for each charge given in column 6.

#### **14. Section 20 costs**

- 14.1 Any determination about s.20C and a paragraph 5A Order Application is made on the basis of whether it is just and reasonable that the Respondent be prevented from recovering its costs of the proceedings, based on the level of success enjoyed by the Applicant.

- 14.2 The Applicant argued that it was necessary for her to make an application, due to the persistent refusal of the Respondent to provide appropriate information and undertake good management of the property. She referred to the failure of the Respondent to comply with Tribunal's Directions when first set out and the additional stress and work it had caused her in preparation for the hearing.
- 14.3 Tribunal has found in favour of the Applicant on most of the disputed issues and, given these outcomes, Tribunal determines that it is just and fair that the Respondent landlord cannot recover any costs of the Tribunal proceedings through the service charge provisions within the lease.
- 14.4 The Tribunal therefore makes a s.20C and a paragraph 5A Order preventing the recovery of costs incurred by the Respondent in the proceedings.
- 14.5 They also order the Respondent to reimburse the costs of the Tribunal application and hearing fees to the Applicant.

**15. Retrospective rule 13 application**

- 15.1 The Applicant sent an e mail to Tribunal on the day after the hearing date. It was explained to the parties at the hearing that no further submissions would be admissible on completion of the hearing. The Applicant's post hearing e-mail is therefore deemed inadmissible and the content ignored by Tribunal.
- 15.2 Should the Applicant wish to pursue a s.13 Costs Order she should seek legal advice prior to submission of the appropriate formal application to Tribunal.

**Name:** Ian B Holdsworth      **Date:** 7 May 2025

Tribunal Judge

## **A P P E N D I X     A**

### **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 (ie, 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.

## Scott Schedules

Item	Sum Demanded by Landlord	Sum sought from Applicant	Total sum payable by Leaseholders	Tribunal determination	
				Sum payable by Applicant	Reason for payable charge
Insurance	£ 1,760.84	£ 440.21	£ 1,760.84	£ 440.21	This charge is comparable to that made by the RTM albeit for a slightly different risk coverage.

# DISPUTED SERVICE CHARGES – YEAR ENDED 31 DECEMBER 2021

					Tribunal determination		
Item	Sum Demanded by Landlord		Sum sought from Applicant	Total sum payable by Leaseholders		Sum payable by Applicant	Reason for payable charge
Insurance	£	3,907.62	£ 976.61	£	2,200.00	£ 550.00	The Tribunal based upon their knowledge and experience determined a reasonable sum payable as £2,200 incl of taxes.
Bin cleaning	£	312.00	£ 78.00	£	144.00	£ 36.00	Legitimate that landlord has control of say 1 brown garden waste bin at £10 per month £120 +vat = total cost £144
Glueing down of loose Astro turf	£	198.00	£ 49.50	£	-	£ -	Unable to identify with any certainty the location of the Astro turf. Amount disallowed.
Accountants fee	£	510.00	£ 127.50	£	510.00	£ 127.50	Reasonable charges for service given. Determination based upon experience and knowledge.
Total				£	2,854.00	£ 713.50	

# **DISPUTED SERVICE CHARGES – YEAR ENDED 31 DECEMBER 2022**

Item	Sum Demanded by Landlord		Sum sought from Applicant		Total sum payable by Leaseholders		Tribunal determination	
							Sum payable by Applicant	Reason for payable charge
Insurance	£	3,907.00	£	976.91	£	2,200.00	£ 550.00	The Tribunal based upon their knowledge and experience determined a reasonable sum payable as £2,200 incl of taxes.
Fire Alarm works	£	4,956.00	£	1,416.00	£	-	£ -	Some detail of works S20 consultation but no challenge at time of consultation. No detailed specification provided in bundle. No alternative quotes. No works details or further information provided by either party. No invoice. No risk assessment in bundle or proof of S20 consultation. In the absence of any information about consultation or works no prima facie case made for payment so sum disallowed.
Annual inspection and installation of security tags	£	498.00	£	124.50	£	-	£ -	No evidence of works so no justification for charge. Sum disallowed.
Bin cleaning	£	588.24	£	147.06	£	129.60	£ 32.40	1 bin per month cleaned at charge of £9 per bin plus vat

Item	Sum Demanded by Landlord		Sum sought from Applicant		Total sum payable by Leaseholders		Tribunal determination		
							Sum payable by Applicant	Reason for payable charge	
Legal costs	£	1,290.00	£	1,290.00	£	-	£	-	Tribunal rely upon 2002 Act Schedule 11 to review charges. No evidence of works or charges submitted, and costs disallowed.
Fire door works	£	1800.00	£	450.00	£	-	£	-	The tribunal conclude this charge was incorrectly identified by the Applicant. If the sum is correct it would appear to relate to electrical cupboard if the description is correct then her share is £125 for fire doors. She was not aware of any fire door works and no evidence offered by either party about the electricity cupboard. No alternative quotes or supporting information. No prima facie case made by Landlord that charge is payable, so the Tribunal conclude no sum payable.
Accountants fee	£	540	£	135	£	540	£	135	Reasonable sum for service
Total					£	2,869.60	£	717.40	

# **DISPUTED SERVICE CHARGES – YEAR ENDED OCTOBER 2023**

Item	Sum Demanded by Landlord		Sum sought from Applicant		Total sum payable by Leaseholders		Tribunal determination	
							Sum payable by Applicant	Reason for payable charge
Bin cleaning	£	99.36	£	24.84	£	10.80	£ 2.70	£99.36 charge relates to cleaning of all bins. Payable for one bin only.
Accountants fee	£	540.00	£	135.00	£	540.00	£ 135.00	Reasonable sum for service.
Gateway repair	£	144.00	£	36.00	£	144.00	£ 36.00	No gate on property but evidence of protruding nails (Bundle page 135) where gate most likely did exist at one point. Sum allowed.
Communal parts redecoration	£	630.00	£	157.50	£	630.00	£ 157.50	Although limited evidence small sum for decoration and reasonable to expect decoration during period.
Removal of metal	£	480.00	£	120.00	£	480.00	£ 120.00	Evidence in bundle of works.
Handover fee	£	630.00	£	157.50	£	-	£ -	No evidence of any work carried out for charge. Sum disallowed
Management charge	£	1224.00	£	292.80	£	-	£ -	Incorrect description of date of management service on service charge accounts. No detail of services provided and date of service. Sum disallowed.
<b>Total</b>					<b>£</b>	<b>1,804.80</b>	<b>£</b>	<b>451.20</b>



## **A P P E N D I X     C**

### **The law**

#### **Relevant legislation**

#### **Landlord & 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 21B**

- (1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.
- (2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
- (3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.
- (4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.
- (5) Regulations under subsection (2) may make different provision for different purposes.

- (6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.