



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

|                            |          |                                                                                                                                                                                                                                                                                                                                    |
|----------------------------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Case Reference</b>      | <b>:</b> | <b>HAV/00HQ/LAC/2025/0017</b>                                                                                                                                                                                                                                                                                                      |
| <b>Property</b>            | <b>:</b> | <b>11 Birch Drive,<br/>Bournemouth, BH8 0LP</b>                                                                                                                                                                                                                                                                                    |
| <b>Applicant</b>           | <b>:</b> | <b>Victoria Tchernykh</b>                                                                                                                                                                                                                                                                                                          |
| <b>Respondent</b>          | <b>:</b> | <b>Bournemouth, Christchurch<br/>and Poole Council</b>                                                                                                                                                                                                                                                                             |
| <b>Representative</b>      | <b>:</b> | <b>Linda Cole, solicitor</b>                                                                                                                                                                                                                                                                                                       |
| <b>Type of Application</b> | <b>:</b> | <b>Application for a<br/>determination of liability<br/>to pay an administration<br/>charge<br/>(Schedule 11 Commonhold<br/>and Leasehold<br/>Reform Act 2002), and<br/>Application for<br/>determination of liability to<br/>pay and reasonableness of<br/>service charges<br/>(Section 27A Landlord and<br/>Tenant Act 1985)</b> |
| <b>Tribunal</b>            | <b>:</b> | <b>Judge T.Hingston<br/>Mr. C. Davies FRICS</b>                                                                                                                                                                                                                                                                                    |
| <b>Date of Decision</b>    | <b>:</b> | <b>8<sup>th</sup> September 2026</b>                                                                                                                                                                                                                                                                                               |

## **DECISION OF THE TRIBUNAL**

The Tribunal determines that the following service charges for the years in dispute are reasonable and payable by the Applicant as follows:

|                 |         |
|-----------------|---------|
| 2016 – 2017 ... | £231.93 |
| 2017 – 2018 ... | £294.02 |
| 2018 – 2019 ... | £208.80 |
| 2019 – 2020 ... | £234.37 |
| 2020 – 2021 ... | £218.19 |
| 2021 – 2022 ... | £338.47 |
| 2022 – 2023 ... | £161.75 |
| 2023 – 2024 ... | £361.62 |
| 2024 – 2025 ... | £384.00 |

## **BACKGROUND**

1. The property in question is a first-floor flat in a residential block of 4, which was sold to the Applicant under a 125-year Lease on the 9<sup>th</sup> of March 2015.
2. The other 3 flats in the block belong to Bournemouth, Christchurch and Poole Council (hereinafter referred to as 'The Council' or 'The Respondent') and they are occupied by Council tenants – as are the majority of the other flats in the development.
3. The Applicant originally made an application (received on 27 October 2025) for determination of liability to pay and reasonableness of administration charges for the years 2015 to 2025.
4. On the 17<sup>th</sup> of April 2026, at a Case Management and Dispute Resolution hearing, Tribunal Judge Jutton stated that it was clear to the Tribunal that in reality this was an application to determine the payability of service charges. Accordingly, permission was granted for the application to proceed as an application under section 27A of the Landlord and Tenant Act 1985 to determine whether service charges are payable and if so the amount payable for the service charge years ending 31 March 2015 to 31 March 2026 inclusive.
5. Directions were made for progress of the case, and the matter was listed for final hearing on the 26<sup>th</sup> of August 2026. A bundle of relevant documents and exhibits, comprising 155 pages, was provided by the Respondent. All page references hereinafter are to the electronic bundle unless stated otherwise.
6. The Applicant further seeks orders pursuant to Section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

## **RELEVANT LAW**

7. See Appendix.

## THE LEASE – Relevant provisions

8. The service charge provisions are contained in Clause 4 of the Lease, at Page 104 of the electronic bundle.
9. Clause 4 provides for each year's costs to be estimated in advance, and then the accounts are to be balanced at the end of the financial year by way of credit given or additional payment demanded.
10. The lessee covenants (at Clause 4 (ii)) to pay '*the relevant share*' of costs incurred by the Council or its agents in carrying out their obligations (for repair, maintenance, insurance, management etc.) under the Fourth Schedule.
11. The Council has a discretion as to what a 'relevant share' of the costs should be, in terms of calculating a '*reasonable proportion*' (Clause 4 (a)).
12. The Lease also gives a discretion to the Council/lessor to set up a reserve fund (Clause 4 (ii)) and to charge additional amounts as and when necessary (Clause 4 (b)).
13. Under Clause 5 (6) the Lessor covenants to enforce the various restrictive covenants against other lessees in the block, but it explicitly **excludes** '*...any persons holding flats under a Tenancy Agreement with the Council.*'
14. The First Schedule (Page 115) deals with regulations to be observed by the Lessee, including a prohibition on conducting any business or commercial activity from the flat, and there is also a regulation restricting the lessee from accumulating refuse, depositing waste in the garden area, or erecting or attaching any external apparatus to the building without permission from the landlord.
15. Paragraph 1 (11) of the First Schedule deals with regulations forbidding the lessee from causing nuisance or annoyance to the occupiers of any of the neighbouring flats.
16. The Fourth Schedule is entitled '*Guidance regarding items currently included in the assessment of Service Charges*', and it sets out a non-exhaustive list of the categories of Landlord's expenses which may be incurred in complying with their obligations under the Lease.
17. Paragraph 12 of the Fourth Schedule provides for 'Administration charges' in the form of:  
*'The fees and disbursements paid to any managing agent appointed by the Council in respect of the building, provided that so long as the Council do not employ managing agents they shall be entitled to add the sum of 15% of any of the above items for administration.'*

## HEARING

18. The hearing took place at Havant Justice Centre on the 26<sup>th</sup> of August 2026.

19. The parties attended remotely via video link: Ms. Tchernykh as Applicant in person, and Ms. Linda Cole representing the Council, with Mrs. Emma Goodwin (Senior Leasehold Services Officer with the Council) appearing as a witness.

## **APPLICANTS' CASE**

20. The Applicant's case was set out on the original Application form (Page 13), in her 'Position Statement' dated 7<sup>th</sup> April 2026 (Page 41), in her 'Statement' dated 18<sup>th</sup> May 2026 (Page 54) and in an email to the Tribunal titled 'Skeleton Argument' and dated the 24<sup>th</sup> of August 2026.

21. Ms Tchernykh also gave oral evidence, questioned the witness and made submissions during the hearing.

22. The service charges (as challenged by the Applicant) were set out in the costs summaries for the relevant years at Pages 125 – 132.

23. The expenditure/costs in these summaries fell into four categories:

- Maintenance expenditure
- Records and Accounts charge
- Insurance premium
- Grounds maintenance of communal area, and
- Contract administration charge.

24. In her original Application form Ms. Tchernykh referred to '*£89 Administration charges*' which she said she had been paying, and she objected to these charges because she said that there had been no works carried out to the building in the last 10 years, apart from a minor roof repair and a 'bathroom leak'.

25. Ms. Tchernykh noted on the Application form that there are no lifts in the building and no communal areas apart from the garden.

26. In her later statements and emails to the Tribunal Ms. Tchernykh confirms that she is challenging the following:

- The 'contract administration' charges
- The 'records and accounts' charges,
- The cost of a roof repair in November 2024, and
- The cost of repairs to her shower in December 2024.

27. In addition, Ms. Tchernykh queries whether she should have to pay anything at all to the Council for their 'management' function, when (she considers) they have failed to manage the property adequately in a number of respects.

28. Firstly, Ms. Tchernykh alleges that the Council have failed to enforce covenants against tenants in the block who are: -

- depositing waste and refuse in the communal garden,

- erecting structures and attaching them to the building, the guttering and the balcony area outside her flat,
- engaged in drug-dealing from the premises at all hours of the day and night, and
- causing noise nuisance such as to cause her to leave her flat and live elsewhere on a temporary basis.

29. Ms. Tchernykh states that the behaviour of the Council tenants has affected her right to quiet enjoyment of her property under the terms of her Lease.

30. Secondly, Ms. Tchernykh claims that Council staff have behaved in a bullying and harassing way towards her; refusing to provide information or obtain estimates for works to be done, and sending letters threatening court action rather than resolving issues amicably.

31. Thirdly, Ms. Tchernykh argues that the invoices and breakdown of costs for the works to her shower and repairs to the roof are not consistent with the job that was actually done, and she submits that the costs of both jobs were excessive and unreasonable.

32. In respect of the roof repair. Ms. Tchernykh's case is that the works were necessary because rodents, attracted by the refuse in the garden, had got into the roof and caused damage. She disputed the 'Breakdown of costs' at Page 75, stating that (for example) no ladder was provided or erected, there was no 'paired working', and no roof tiles were renewed.

33. Ms. Tchernykh considered that the total cost of the roof repairs, at £318.03, was excessive. Although she acknowledged that the Council had an obligation to repair and maintain the roof and structure of the building, she submitted that the damage to the roof was not 'general wear and tear' but arose from the Council's failure to deal with the refuse. She told the Tribunal that she could have got an outside contractor to do the job for either £30 or £50.

34. In respect of the shower repair, Ms. Tchernykh argues that the 'Breakdown of costs' at Page 74 also referred to 'paired working', renewal of some piping, and turning off or draining the water supply, none of which was actually done. She complains that the Council did not provide her with an estimate before the plumber attended and the cost was excessive.

35. Exhibits, including photographs (of the roof, the shower, and the garden) and video footage taken from the flat, were produced in support of the Applicant's case.

36. Ms. Tchernykh told the Tribunal that she had made a number of complaints to the Housing Officers at the Council, but despite attempts to clear up the garden in 2020/2021, and complaints of noise nuisance of various kinds, the problems had continued.

37. No issue was taken with the apportionment of service charges, in that Ms. Tchernykh pays 25% of the total costs in respect of the block of 4 flats and she did not query this arrangement.

38. There was no dispute about the annual payment towards insurance, or about the cost of mowing the grass in the garden, as Ms. Tchernykh concedes that the mowing is done regularly.

39. However, overall Ms. Tchernykh argues that if she is not able to use the flat, then the Council are not complying with their obligations under the Lease and she should not have to pay any service charges at all.

Section 20C recovery of landlord's costs of the proceedings and Paragraph 5A administration charges

40. The Applicant asked the Tribunal to make orders preventing the Council from recovering the above costs from her by way of service and administration charges.

**RESPONDENT'S CASE**

41. The Respondent's case is set out in their Position Statement of 1<sup>st</sup> April 2026, in the witness statements of Emma Goodwin dated 2<sup>nd</sup> and 29<sup>th</sup> of June 2026, and in the Skeleton Argument of 20<sup>th</sup> August 2026.

42. Mrs. Goodwin also gave evidence during the hearing and Ms. Cole questioned both the Applicant and the witness and made submissions on behalf of the Council.

43. The Respondent refers to the terms of the Lease and confirms that the Council is entitled to recover both service charge expenditure and administration charges from the lessee as demanded.

44. It was submitted by Ms. Cole that the costs were reasonably incurred, and of a reasonable amount.

45. In respect of the Applicant's criticisms of the Council and her dispute as to any liability to pay service charges, the Respondent's position was as follows:

Failure to enforce restrictive covenants against those residents occupying flats under Council tenancy agreements

46. It was argued that this was outside the remit of the Leasehold department.

47. The officers in the Housing department of the Council are responsible for dealing with anti-social behaviour, noise nuisance, cluttering, breaches of tenancy agreement etc, and they are attempting to do so, but it was submitted that these issues were not within the jurisdiction of the Tribunal.

### Records and Accounts charge

48. The charge for management of the leasehold property (referred to as the 'Record and accounts charge') was only in respect of limited duties such as (for example) collecting ground rent, estimating and apportioning service charges, producing end of year statements and responding to leasehold enquiries.

49. The total Records and Accounts charge over the period from 2016 – 2025 was £766.12. (Page 136). It was submitted that this was an extremely reasonable sum for the service provided in accordance with the Lease.

### Contract Administration Charge

50. Ms. Cole pointed out that the charge of 15% (which was provided for under the Lease in relation to arrangement and administration of works carried out to the property) had only been applicable in three of the years under consideration: in 2017-2018, 2018-2019, and 2024-2025 (as per the list at Page 135). On each occasion relatively modest repair works had been undertaken, and in the remaining years there had been no administration charge at all.

51. The total charge to Ms. Tchernykh under this heading over the relevant period was £29.13, which was said to be reasonable.

### Roof repairs in November 2024

52. In respect of the works to the roof the Respondent's case was that the leak was caused by general wear and tear (so that no claim could be made against the insurance policy) and that there had been a minor repair costing £318.03, with each flat paying their 25% share at £ 79.50.

53. On behalf of the Council Ms. Cole conceded that no new roof tiles had to be fitted, but she explained that the 'Breakdown of costs' document was based on the National Housing Federation Schedule of Rates, in order to ensure fair and proportionate pricing. This meant that the cost of each individual item was recorded as the nearest and most similar item in the schedule in order to set a representative price for the work, and therefore the generic description was not always accurate.

### Shower repairs on December 24<sup>th</sup> 2024

54. The situation was different in respect of the urgent shower repair at Ms. Tchernykh's flat on Christmas Eve 2024, when plumber attended to resolve the problem of a leak into the flat below.

55. The Respondent Council confirmed that there is no obligation under the Lease for the landlord to deal with repairs to internal systems such as a shower unit in the leasehold flat, and correspondingly no right under the lease to levy a service charge for such works.

56. Therefore, although the Council/landlord had arranged for a contractor to carry out the repair when Ms. Tchernykh contacted them about the leak, this was a separate, private agreement between the lessee and the Council and the cost should never have been reclaimed as a service charge.

57. In order to correct this error, Ms. Tchernykh's service charge account had been refunded the sum of £249.55, and the amount was invoiced separately.

58. It was thus submitted that Ms. Tchernykh's complaints about the lack of an estimate and the reasonableness of the cost was not related to any 'service charge' and was not within the jurisdiction of the Tribunal.

59. As for the allegation that Council staff had 'bullied' and 'harassed' Ms. Tchernykh, the Council's case was that staff had behaved transparently and correctly throughout, and that charges had been properly demanded by the finance department when sums were outstanding.

60. In summary Ms. Cole submitted that the Council had shown that there was contractual recoverability of the service charges, that the expenditure had been reasonably incurred, and that the amounts were reasonable.

#### Section 20C recovery of landlord's costs of the proceedings and Paragraph 5A administration charges

61. The Respondent invited the Tribunal to refuse both these applications on the grounds that the Council had complied with all Directions, disclosed all relevant information and documentation, responded to the Applicant's concerns and voluntarily corrected the only identified error (in respect of the shower) prior to the hearing.

## **FINDINGS AND DETERMINATION**

### Shower repair

62. Firstly, the Tribunal found that the payment for shower repairs in December 2024 was outside the terms of the Lease and was not relevant to any service charge determination by the Tribunal.

### Alleged failure to enforce covenants

63. In respect of Ms. Tchernykh's complaints of drug-dealing, littering of the garden and general anti-social behaviour by her neighbours, the Tribunal had great sympathy with Ms. Tchernykh but found that the Council staff responsible for managing the subject leasehold property and administering service charges had no power to do anything about it.

64. The Council's leasehold department were complying with all the detailed terms of the Lease as to maintenance, repairs and general management, and the Tribunal found that the fact that Ms. Tchernikh was unable to have quiet enjoyment of her flat was not due to any failing on their part.

65. The Lease requires the landlord to enforce covenants against other lessees, but specifically (as above) excludes any obligation to enforce against those occupying flats under Council tenancies.

66. In the light of the Tribunal's own knowledge and experience it was therefore determined as follows: -

#### Records and Accounts charges

67. Ms. Tchernykh conceded that annual estimates, accounts and statements had to be prepared (although she pointed out that Ground rent was paid automatically by direct debit and there was no work required to collect it).

68. The total 'Records and Accounts' charge for management over the period from 2016 – 2025 was £766.12, an average of just over £85 per year. The Tribunal determined that the annual amounts were very reasonable for management of a block of this size and type and they were payable.

#### Contract administration charges

69. In respect of the 15% levy on various works during the years, as set out in the list at Page 135, the Tribunal determined that all the amounts charged were recoverable under the Lease and they were reasonable and payable.

#### Roof repair in 2024

70. It was accepted that no roof tiles were actually renewed at this time, although the photographs only showed a small section of the roof and it was not possible to identify exactly where they were taken from.

71. However, it was agreed that there was a roof leak and the Tribunal found that the repairs were, whether caused partly by rodents or not, consistent with general routine maintenance and repair, not reclaimable under the insurance policy. The costs of the repairs were therefore recoverable under the Lease.

72. As to reasonableness, the Tribunal found that the invoice and 'Breakdown of costs' document were extremely misleading and unsatisfactory, and it was understandable that the lessee had disputed the nature of the works done. Whilst it may be fair to use a standard 'Schedule of Rates' in order to calculate what should be charged, the written breakdown should reflect exactly what works were carried out in order to avoid confusion.

73. Nevertheless, the Tribunal determined that the total amount of £318.03 was consistent with the average charge for one day's work by a roofing contractor, therefore Ms. Tchernykh's share, at £79.50, was reasonable and payable.

**Alleged bullying and harassment**

74. The Tribunal understood that the letters from the Council finance department threatening legal action caused Ms. Tchernykh to feel anxious and harassed.

75. The Tribunal found that a more considerate and constructive approach in correspondence would have helped to resolve matters satisfactorily, and the Council should perhaps review their automatic response systems in order that the first letter could be a polite reminder rather than an immediate threat of legal action.

76. However, the Tribunal did not find that there had been any intentional bullying and/or harassment of Ms. Tchernykh by Council staff.

**CONCLUSION**

77. The Tribunal therefore determines that all of the costs as levied by the Council as service charges over the period from 2016 - 2025 are recoverable, reasonably incurred, and reasonable in amount.

**Section 20C recovery of landlord's costs of the proceedings and Paragraph 5A administration charges**

78. The Tribunal found that Ms. Tchernykh had legitimate and significant concerns about the various issues in her immediate neighbourhood, and that the invoices for actual works done (to the roof) were misleading and inaccurate.

79. In the circumstances it is determined that the Application to the Tribunal was not wholly unjustified, and it is just and equitable to make orders as requested, to the effect that none of the costs of the proceedings or the administration costs are to be regarded as 'relevant costs' to be recovered from Ms. Tchernykh by way of service charges.

**Right to Appeal**

A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) as this will enable the First-tier Tribunal to deal with it more efficiently.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

**BIRCH AVENUE APPENDIX – RELEVANT LAW**  
**HAV/00HQ/LAC/2025/0017**

**The Landlord and Tenant Act 1985**

**Service charges**

**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 provision 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 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 20ZA - Consultation requirements: supplementary**

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

(2) In section 20 and this section— “qualifying works” means works on a building or any other premises, and “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—  
(a) if it is an agreement of a description prescribed by the regulations, or  
(b) in any circumstances so prescribed.

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

(5) Regulations under subsection (4) may in particular include provision requiring the landlord— (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,  
(b) to obtain estimates for proposed works or agreements,  
(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,  
(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and  
(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

*(And in the case of works to which section 20D applies (remediation works), regulations under subsection (4) may also include provision requiring the landlord—*  
*(a) to give details of the steps taken or to be taken under section 20D(2),*  
*(b) to give reasons about prescribed matters, and any other prescribed information, relating to the taking of such steps, and*  
*(c) to have regard to observations made by tenants or the recognised tenants' association in relation to the taking of such steps.*

*(6) Regulations under section 20 or this section—*  
*(a) may make provision generally or only in relation to specific cases, and*  
*(b) may make different provision for different purposes.*

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

### **Section 20C - Limitation of service charges: costs of proceedings.**

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before... the First-tier Tribunal... 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...  
(b) in the case of proceedings before the First-tier Tribunal, to the tribunal;  
(c) in the case of proceedings before the Upper Tribunal...  
(d) in the case of arbitration proceedings...

(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 27A – Liability to pay service charges – jurisdiction**

(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.

## **The 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) .....

(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) .....

**Paragraph 2** A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

**Paragraph 3** .....

### **Paragraph 4**

(1) A demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges.

(2) The appropriate national authority 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 an administration charge which has been demanded from him if sub-paragraph (1) is not complied with in relation to the demand.

(4) Where a tenant withholds an administration charge under this paragraph any provisions of the lease relating to non-payment or late payment of administration charges do not have effect in relation to the period for which he so withholds it.

### **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).

Limitation of administration charges: costs of proceedings

### **Paragraph 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 (in this case, First Tier Tribunal proceedings), and

(b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings (as above.)

