



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

**Case Reference** : LON/00AU/LSC/2013/0670

**Property** : Flats 1 & 2 Green Man Tower, 332  
Goswell Road, London EC1V 7LQ

**Applicants** : (1) Ms K Revitt & Mr S Arnell – (Flat  
1)  
(2) Mrs P Serruya – (Flat 2)

**Representative** : Ms K Revitt & Mr S Arnell

**Respondent** : Green Man Tower Limited

**Representative** : Mr D Wood & Mr C Lomas

**Type of Application** : Liability to pay service charges

**Tribunal Members** : Judge Tagliavini  
Mr F Coffey  
Mrs L West

**Date and venue of hearing** : 10 Alfred Place, London WC1E 7LR  
10<sup>th</sup> March 2014  
Reconvene (deliberations) – 31<sup>st</sup>  
March 2014

**Date of Decision:** : 17<sup>th</sup> June 2014

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**DECISION**

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## **Decisions of the tribunal**

- (1) The Tribunal makes the determinations as set out under the various headings in this Decision
- (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.

## **The application**

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act as to the amount of service charges payable by the Applicant in respect of the service charge years 2007 - 2013 (Flat 1) and 2011 - 2013 (Flat 2).
2. The relevant legal provisions are set out in the Appendix to this decision.

## **The hearing**

3. The Applicants (Flat 1) appeared in person and Flat 2 was represented by Ms Revitt and Mr Arnell at the hearing. The Respondent was represented by Mr Wood and Mr Lomas.
4. The Respondent provided additional documents, as the Applicant had incorrectly believed these should be omitted from the hearing bundle. As the Applicants had already seen these documents the Tribunal decided that no prejudice was caused by their late submission to the Tribunal.

## **The background**

5. The property, which is the subject of this application, is a terraced building with commercial premises on the ground and first floors and the upper floors used for private residential flats.
6. 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. The Tribunal was however, provided with a number of photographs of certain disputed areas in the subject building.
7. The Applicants each hold a long lease of the property, which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

## **The issues**

8. At the start of the hearing the parties identified the relevant issues for determination as follows:
  - (i) The payability and/or reasonableness of service charges for the year 2007 – 2013.

*Although reference was made to “administration charges” the parties agreed that these more properly could be categorised as “management fees” and therefore fell under the heading of “service charges” rather than “administration charges”.*

9. 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.

### **2007 - Service charge items & amount claimed (Flat 1 only)**

Lighting/cleaning - £391.00

### **The Tribunal’s decision and reasons**

10. The Tribunal determines that the amount payable in respect of this service charge item by the Applicants of Flat 1 is £55.00 for communal lighting. The Respondent was unable to produce any invoices for lighting or cleaning for this service charge year and therefore, the Tribunal determined that on the basis that communal lighting had been provided as the Applicant’s did not assert that communal lighting was not available, some costs had been incurred. The Tribunal accepted the Applicants’ evidence that cleaning had not been carried out and the Respondent was unable to demonstrate otherwise.

Insurance - £408.00

### **The Tribunal’s decision and reasons**

11. The Tribunal determines that the amount payable in respect of insurance is £408.00. The Tribunal accepts the Respondent’s evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent’s explanation that an address for correspondence has been used and is different to the landlord’s registered address. This however, does not invalidate the building’s insurance for the subject premises.

Managing agents' fees (administration) - £87.00\*

**The Tribunal's decision and reasons**

12. The Tribunal allows the sum of £87.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

***\*The Tribunal understands that the parties have agreed that Flat 1 was charged 14.45% instead of 10% until the variation of the service charge proportion in 2011. The Tribunal has also been informed that the Respondent's have already made the necessary adjustments to the quoted sums and the Applicants' (Flat 1) service charge account and re-credits appropriately made. Where the service charge item is marked with an \* the Tribunal finds that any sum allowed in principle should be recalculated to reflect the 10% cost permitted to be charged to Flat 1 at that time.***

Window cleaning - £136.00

**The Tribunal's decision and reasons**

13. The Tribunal disallows this sum in its entirety. Pursuant to the First Schedule of the lease (Flat 1) the windows and cleaning are the Applicants' responsibility. Therefore the Applicants are not liable for these sums.

Maintenance/decoration - £171.00

**The Tribunal's decision and reasons**

14. The Tribunal disallows this sum in its entirety. The Respondent has failed to provide any documentary or oral evidence as to the work carried out.

Lift maintenance - £140.00\*

**The Tribunal's decision and reasons**

15. The Tribunal allows this sum in full - £140.00. The Tribunal finds that this is not a Long Term Qualifying Agreement because there is no contract lasting longer than 12 months. The Tribunal accepts that the lift is 80+ years old and requires regular maintenance for its safe operation and running. The Tribunal finds the costs claimed to be reasonable and notes that the Applicant did not seek to adduce any evidence as to any alternative cost.

16. The Applicants sought to rely on section 20B of the Landlord and Tenant Act 1985 and asserted that the demands for invoices were outside of the allowed period of the costs having been incurred. Although the lease states that the service charge year runs from the 25<sup>th</sup> day of March, the parties have by express or implied agreement varied this to 1 January to 31 December. The Applicants accept that the service charges were first demanded in April 2009 and therefore the Tribunal finds that if the service charge year-ends 31 December 2007, the demand for payment of these service charges falls within the 18-month period permitted by section 20B. The Tribunal notes that neither party sought to assert that this variation of the service charge year was not binding or operative by reason of any waiver.
17. However, the Tribunal finds that the demand for these 2007 charges was not accompanied by any Statement of Rights and Obligations in accordance with section 21 of the Landlord and Tenant Act 1985 and until these sums are validly demanded with the accompanying requisite notice these sums are not yet due from the Applicants.

#### **2008 - Service charge items & amount claimed (Flat 1 only)**

Drains - £652

#### **The Tribunal's decision and reasons**

18. The Tribunal allows the sum of £250 only. The Tribunal finds (and the Respondent accepts) that no section 20-consultation process was entered into or dispensation applied for in respect of these works. The Tribunal accepts the Respondent's oral evidence that some work to the drains was necessary and was carried out but the Tribunal has not been provided with any documentary evidence to support the claims for payment or the works carried out.

Insurance - £318.00\*

#### **The Tribunal's decision and reasons**

19. The Tribunal determines that the amount payable in respect of insurance is £318.00. The Tribunal accepts the Respondent's evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent's explanation that an address for correspondence has been used and is different to the landlord's registered address. This however, does not invalidate the building's insurance for the subject premises.

Various small repairs - £121.00

**The Tribunal's decision and reasons**

20. The Tribunal disallows the whole of this sum. The Respondent failed to provide any reasonable evidence to support the claim for this sum.

Fire escape clean - £168.00\*

**The Tribunal's decision and reasons**

21. The Tribunal allows the totality of this sum (subject to any recalculation to reflect 10% of the service charges). The Tribunal is satisfied that the works were both necessary and carried out by the Respondent as claimed.

Cleaning - £168.00

**The Tribunal's decision and reasons**

22. The Tribunal disallows the entirety of this sum. The Tribunal finds there is no documentary evidence to support this claim and finds the Respondent's evidence on this issue to be vague and unpersuasive.

Managing agent fees (administration) - £43.00

**The Tribunal's decision and reasons**

23. The Tribunal allows the sum of £43.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

Minor costs - £43.00

**The Tribunal's decision and reasons**

24. The Tribunal disallows the whole of this sum. The Tribunal finds that the Respondent failed to provide any explanation as to how this sum has been incurred and therefore does not consider it reasonable.

Lift charge – £120.00\*

**The Tribunal's decision and reasons**

25. The Tribunal allows this sum in full - £120.00. The Tribunal finds that this is not a Long Term Qualifying Agreement because there is no contract lasting longer than 12 months. The Tribunal accepts that the lift is 80+ years old and requires regular maintenance for its safe operation and running. The Tribunal finds the costs claimed to be reasonable and notes that the Applicant did not seek to adduce any evidence as to any alternative cost.

### **2009 - Service charge items & amount claimed (Flat 1 only)**

Small water leak - £200.00

#### **The Tribunal's decision and reasons**

26. The Tribunal disallows this sum in total. The Respondent failed to provide any satisfactory evidence as to how this sum had been incurred and the Tribunal finds the sum claimed not to be reasonable.

Insurance - £327.00

#### **The Tribunal's decision and reasons**

27. The Tribunal determines that the amount payable in respect of insurance is £327.00. The Tribunal accepts the Respondent's evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent's explanation that an address for correspondence has been used and is different to the landlord's registered address. This however, does not invalidate the building's insurance for the subject premises.

Small repairs and minor costs - £98.00

#### **The Tribunal's decision and reasons**

28. The Tribunal disallows this sum in its entirety. The Tribunal finds that the Respondent has failed to provide any satisfactory evidence as to how this sum has been incurred and therefore the Tribunal does not find the sum claimed to be reasonable.

Window cleaning - £150.00

#### **The Tribunal's decision and reasons**

29. The Tribunal disallows this sum in its entirety. Pursuant to the Fourth Schedule of the lease for Flat 1 the windows and cleaning are the Applicants' responsibility. Therefore the Applicants are not liable for these sums.

Cleaning - £265.

**The Tribunal's decision and reasons**

30. The Tribunal allows the sum of £25.00 only. The Tribunal is satisfied from the parties' evidence that some cleaning was carried out and allows a pro-rated sum for this service charge.

Front door lock change and keys cut - £525.00

**The Tribunal's decision and reasons**

31. The Tribunal disallows the entirety of this sum. The Tribunal accepts the Applicants' evidence that the keys to this lock have not been changed. In the absence of persuasive documentation produced by the Respondent to support this item of expenditure, the Tribunal does not find it to have been reasonably incurred.

Managing agents' fees (administration) - £43.00\*

**The Tribunal's decision and reasons**

32. The Tribunal allows the sum of £43.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

Repairs to ceiling communal area - £250.00

**The Tribunal's decision and reasons**

33. The Respondent has accepted that it is liable for the sums incurred and therefore the Tribunal finds that no sum is payable for this item as it has not been reasonably incurred.

**2010 - Service charge items & amount claimed (Flat 1 only)**

Major works - £2,598.00

**The Tribunal's decision and reasons**



34. The Tribunal finds that the sum of £2,598.00 is in principle payable for these works as it has been reasonably incurred. The Tribunal notes that the applicants seek to challenge this item of service charge on the basis that no section 20-consultation procedure was carried out. This lack of consultation has been accepted by the Respondent, who has now issued an application, pursuant to section 20ZA of the Landlord and Tenant Act 1985 seeking dispensation from the requirement to serve the required notices.

Insurance - £388.00\*

#### **The Tribunal's decision and reasons**

35. The Tribunal determines that the amount payable in respect of insurance is £388.00. The Tribunal accepts the Respondent's evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent's explanation that an address for correspondence has been used and is different to the landlord's registered address. This however, does not invalidate the building's insurance for the subject premises.

Managing agent fees (administration) - £159.00\*

#### **The Tribunal's decision and reasons**

36. The Tribunal allows the sum of £159.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

Lift charge – £124.00\*

#### **The Tribunal's decision and reasons**

37. The Tribunal allows this sum in full - £124.00. The Tribunal finds that this is not a Long Term Qualifying Agreement because there is no contract lasting longer than 12 months. The Tribunal accepts that the lift is 80+ years old and requires regular maintenance for its safe operation and running. The Tribunal finds the costs claimed to be reasonable and notes that the Applicant did not seek to adduce any evidence as to any alternative cost.

## **2011 - Service charge items & amount claimed (Flat 1 & Flat 2)**

Insurance - £459.00

### **The Tribunal's decision and reasons**

38. The Tribunal determines that the amount payable in respect of insurance is £459.00. The Tribunal accepts the Respondent's evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent's explanation that an address for correspondence has been used and is different to the landlord's registered address. This however, does not invalidate the building's insurance for the subject premises. The Tribunal also accepts that the premiums were reasonably increased by the number of claims made in respect of the subject building.

Managing agents' fees (administration) - £166.00

### **The Tribunal's decision and reasons**

39. The Tribunal allows the sum of £166.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

Lift charge, fire alarm check & electricity check – £201.00

### **The Tribunal's decision and reasons**

40. The Tribunal allows this sum in full - £201.00. The Tribunal finds that the contract for lift maintenance is not a Long Term Qualifying Agreement because there is no contract lasting longer than 12 months. The Tribunal accepts that the lift is 80+ years old and requires regular maintenance for its safe operation and running. The Tribunal finds the costs claimed to be reasonable and notes that the Applicant did not seek to adduce any evidence as to any alternative cost. Further, the Tribunal is satisfied that a check on the fire alarm and electricity were costs reasonably incurred.

Drains - £517.00

### **The Tribunal's decision and reasons**

41. The Tribunal allows the sum of £250 in respect of these costs. The Tribunal is satisfied that the work was both necessary and carried out to a reasonable standard and cost. However, it is accepted by the Respondent that the section 20 consultation procedures were not

followed and no application for dispensation pursuant to section 20ZA has been made in respect of these costs.

Cleaning - £272\*.

**The Tribunal's decision and reasons**

42. The Tribunal allows the sum of £60.00 only. The Tribunal is satisfied from the parties' evidence that some cleaning was carried out and allows a pro-rated sum for this service charge to reflect the limited amount of cleaning carried out.

Window cleaning - £31.00

**The Tribunal's decision and reasons**

43. The Tribunal disallows this sum in its entirety. Pursuant to the Fourth Schedule of the lease for Flat 1 the windows and cleaning are the Applicants' responsibility. Therefore the Applicants are not liable for these sums.

**2012 - Service charge items & amount claimed (Flat 1 & Flat 2)**

Professional (legal) fees & project management - £486

**The Tribunal's decision and reasons**

44. The Tribunal allows the sum of £400 in respect of these items. The Tribunal is satisfied that the lease allows at clause 7 of the Fourth Schedule for the charging of legal fees. However, the Tribunal is not entirely satisfied that the sums originally sought by the Respondent are reasonable and therefore makes a reduction in respect of them.

Insurance - £541.00

**The Tribunal's decision and reasons**

45. The Tribunal determines that the amount payable in respect of insurance is £541.00. The Tribunal accepts the Respondent's evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent's

explanation that an address for correspondence has been used and is different to the landlord's registered address. This however, does not invalidate the building's insurance for the subject premises. The Tribunal also accepts that the premiums were reasonably increased by the number of claims made in respect of the subject building. The Tribunal finds that the Applicants have failed to establish that these leaks could have been avoided. Had the works been included in the major roof works project the cost of those works would necessarily have increased in any event. Further, the Tribunal finds it reasonable for the Respondent to have managed the major works projects in stages given the difficulties in collecting sufficient sums for such works.

Managing agents' fees (administration) - £159.00

#### **The Tribunal's decision and reasons**

46. The Tribunal allows the sum of £159.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

Lift charge & fire alarm check – £270.00\*

#### **The Tribunal's decision and reasons**

47. The Tribunal allows this sum in full - £270.00. The Tribunal finds that the contract for lift maintenance is not a Long Term Qualifying Agreement because there is no contract lasting longer than 12 months. The Tribunal accepts that the lift is 80+ years old and requires regular maintenance for its safe operation and running. The Tribunal finds the costs claimed to be reasonable and notes that the Applicant did not seek to adduce any evidence as to any alternative cost. Further, the Tribunal is satisfied that the fire alarm costs were reasonably incurred.

Cleaning - £272.

#### **The Tribunal's decision and reasons**

48. The Tribunal allows the sum of £60.00 only. The Tribunal is satisfied from the parties' evidence that some cleaning was carried out and allows a pro-rated sum for this service charge to reflect the limited amount of cleaning carried out.

#### **2013 - Service charge items & amount claimed (Flat 1 & Flat 2)**

Major works & project management costs (major works project) - £5,104

### **The Tribunal's decision and reasons**

49. The Tribunal allows these costs in full - £5,104. The Tribunal determines that professional fees are not subject to section 20 consultation procedures, as they are not classified as "works". The Tribunal finds that the Applicant has failed to establish that the cost of these works was unnecessarily high or unreasonable. The Tribunal accepts the Respondent's evidence (Mr Brown) that window sealants were replaced.

Insurance - £867.00

### **The Tribunal's decision and reasons**

50. The Tribunal determines that the amount payable in respect of insurance is £541.00. The Tribunal accepts the Respondent's evidence that the building has been properly and reasonably insured. The Applicants did not provide any alternative quotes for insurance of this building in the subject year. The Tribunal accepts the Respondent's explanation that an address for correspondence has been used and is different to the landlord's registered address. This however, does not invalidate the building's insurance for the subject premises. The Tribunal also accepts that the premiums were reasonably increased by the number of claims made in respect of the subject building. The Tribunal finds that the Applicants have failed to establish that these leaks could have been avoided although notes that problems with water penetration is on-going and requires resolution.

Managing agents' fees (administration) - £159.00

### **The Tribunal's decision and reasons**

51. The Tribunal allows the sum of £159.00. The Tribunal determines that Mr Woods has had some managing agent role in looking after this property and finds that the sum claimed is modest.

Lift charge - £238.00

### **The Tribunal's decision and reasons**

52. The Tribunal allows this sum in full - £238.00. The Tribunal finds that the contract for lift maintenance is not a Long Term Qualifying Agreement because there is no contract lasting longer than 12 months. The Tribunal accepts that the lift is 80+ years old and requires regular maintenance for its safe operation and running. The Tribunal finds the costs claimed to be reasonable and notes that the Applicant did not seek to adduce any evidence as to any alternative costs.

Cleaning - £289.00

### **The Tribunal's decision and reasons**

53. The Tribunal allows these costs in full - £289.00. The Tribunal is satisfied that cleaning is now being carried out and the charges made are reasonable.
54. The Tribunal finds that item 17 of the lease Particulars (page 3 of the lease) does permit the landlord to vary the percentage of the service charge sum collected on an "equitable basis". The Tribunal accepts the Respondent's explanation that the percentage charged to Flat 1 has until 2011 been (under) charged at 10% and the proper percentage should have been 14.45% to reflect the footage of Flat 1 after it had been extended prior to the Applicants' purchase. The Tribunal notes that the Applicants have not sought to challenge this variation in service charge percentage with effect from 2011.

### **Section 21B of the Landlord and Tenant Act 1985**

55. The Tribunal finds that the Respondent has consistently failed to serve the statutory required Rights and Obligation notices required by section 21B. Consequently, although the Tribunal has determined the sums that are in principle payable by the Applicants, these sums are not due until such time as demands for service charge payments are made accompanied by the necessary notices making the sums due and payable.

### **Application under s.20C and refund of fees**

56. In the application form the Applicants applied for an order under section 20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass any of its costs incurred in connection with the proceedings, before the Tribunal through the service charge.

**Name:** Judge Tagliavini

**Date:** 17/6/2014

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985**

#### **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 a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,

- (d) the date at or by which it is payable, and
  - (e) the manner 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 a leasehold valuation 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) a leasehold valuation 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.

### **Leasehold Valuation Tribunals (Fees)(England) Regulations 2003**

#### **Regulation 9**

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

### **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 a leasehold valuation 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 a leasehold valuation 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 12, paragraph 10**

- (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
- (2) The circumstances are where—
- (a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
  - (b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
- (a) £500, or
  - (b) such other amount as may be specified in procedure regulations.
- (4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.