FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BE/LSC/2013/0253** **LON/00BE/LSC/2013/0289** **LON/00BE/LSC/2013/0291** **LON/00BE/LSC/2013/0303** **LON/00BE/LSC/2013/0310** **LON/00BE/LSC/2013/0341** **LON/00BE/LSC/2013/0344** **LON/00BE/LSC/2013/0347** **LON/00BE/LSC/2013/0351** **LON/00BE/LSC/2013/0380** **LON/00BE/LSC/2014/0188**
Property	:	**St Saviours Estate**
Applicants	:	**Various leaseholders of St Saviours Estate**
Representative	:	**Mr Madge – Wyld of Counsel**
Respondent	:	**The London Borough of Southwark**
Representative	:	**Mr Walsh of Counsel**
Type of application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal members	:	**Judge S. O'Sullivan** **Mr C. Gowman** **Mr A Ring**
Date and venue of hearing	:	**10 Alfred Place, London WC1E 7LR**
Date of decision	:	**2 September 2015**

DECISION

Decisions of the tribunal

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

(2) The tribunal makes no order for costs under section 20C of the 1985 Act nor any order for reimbursement of fees.

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. The application originally related to estimated charges in respect of major works relating to a major refurbishment project known as St Saviours Phase 1B and St Saviours Phase 2. A hearing first took place in this matter on 22 and 23 April 2014.

2. Directions were made dated 18 July 2013 pursuant to which a hearing took place at 12.30pm on 22 and 23 April 2014. This followed an inspection of the property earlier that morning. It was agreed by the parties that it would be sensible to defer the proceedings until such time as the actual charges were available (they were expected to be available in August/September of 2014). The tribunal therefore limited its consideration at that hearing to whether certain works were an improvement and whether the Applicants had been validly consulted under section 20 of the 1985 Act. A decision was issued in relation to these interim matters. Directions were then made setting out a new timetable in relation to those matters arising. These directions were subsequently varied and a further case management conference took place on 26 March 2015. The reconvened hearing took place on 22 and 23 June 2015. A supplemental bundle was lodged for use at this hearing.

3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. The Applicants were represented by Mr Madge-Wyld instructed by Anthony Gold Solicitors. The Respondent was represented by Mr Walsh of Counsel. Also attending for the Applicants were Ms Taylor of 14 Thetford, Mr O'Keefe of 13 Attilburgh, S Mitchell of 9 Norman House and Ms Bauberger of 20 Woodville. Mr Todd and MS Parr attended to give expert evidence. For the Respondent were Mr Panormo, enforcement officer, Mr Wellbeloved, Mr Spiller, Mr Ottley, Mr Anderson and Mr Orford.

The background

5. The application is made by Applicants from 10 blocks on an estate comprising of 12 blocks in total. There are lead Applicants for each block in issue. The challenges made are to the major works, Phase 1B relates to Norman House, Chartes House, St Lawrence House, Tomson House, Thetford House and Attilburgh House. Phase 2 relates to St Vincent House, St Owens House, Woodville House and Breton House. Although two separate contracts are involved they are similar combining extensive roof works and other structural works with fire improvement and electrical works.

6. The applications in relation to Thetford House (an issue in relation to apportionment) and Norman House (a challenge to general service charge) also contained other challenges. However as it was confirmed that both of these aspects had now been settled between the parties and the tribunal did not consider these aspects any further.

Inspection

7. The tribunal inspected the property on 23 April 2014.

8. St Saviours Estate is situated to the North and South of Abbey St London SE1. The estate comprises 18 residential blocks with a total of approximately 550 dwellings. The estate is a mix of high and low rise blocks which were constructed in the early 1960`s.The construction is predominantly reinforced concrete frame with brick infill. The blocks have open access walkways to the upper levels and some of the units are provided with private balconies. The majority of the units on the estate are provided with PVCu replacement windows and with the odd exception recent replacement PVCu front doors had been installed. The tribunal noted that all communal fire doors appeared to have been renewed.

9. 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 and will be referred to below, where appropriate.

The issues

10. At the commencement of the reconvened hearing the issues were confirmed to be as follows;

i. In relation to the front entrance doors;

a. Was the replacement of the front entrance doors a repair or improvement?
b. If they were a repair was the wholesale replacement of almost every door reasonable?

ii. In relation to other fire resistance measures (stairwell, bin doors, electrical cupboard and other stair doors, refute and coal chutes and signs);

a) Were these works repairs or improvements?
b) If repairs was the extent of the works reasonable?

iii. Whether it was reasonable to recover the cost of the replacement windows to individual flats where;

a) The works would have been carried out by guarantee if carried out prior to 2011
b) It is unclear from the surveys which windows were in disrepair and thus whether the cost of repair is reasonable.

In relation to electrical work;

a) Was the installation of emergency lighting a repair or improvement
b) Were the other works necessary and therefore reasonable?

11. It had been confirmed at the previous hearing that any charges levied on Woodville in relation to timber renewal would be credited as the building was all metal.

Front entrance doors

12. The Applicants' main challenge was to the cost of the replacement of the front entrance doors to the individual flats.

13. In short the Applicants submitted that the Respondent's survey and photographs did not disclose that any of the front entrance doors were in disrepair. The fact that a leaseholder may have changed or added a lock did not render a door in disrepair.

14. The Applicants relied on the evidence of Mr Todd who gave evidence in relation to a review of Fire Safety Works report prepared by M Hoare, who was employed by Mr Todd at his practice, dated April 2015. Mr Todd appeared at the hearing to give evidence. The tribunal was given Mr Todd's curriculum vitae which set out his experience in relation to fire safety. Mr Todd confirmed that he was giving evidence as M Hoare was unable to attend. He confirmed that he had visited the site and for the purposes of quality assurance had been one of the two senior consultants who had signed off the report by M Hoare.

15. Mr Todd was critical of the stance taken by the Respondent in response to the Fire Resistance Safety Test undertaken on one door His view of the video which he had seen and was referred to in the report was that it eloquently made the case for why the doors did not need replacement. The results of that test in his view showed that there was no real concern until 22.12 minutes when a line of flame was seen at the door. There had also been a change in the way that the doors were tested which meant that they showed less resistance and that a notional fire door would now last 15-20 minutes. He referred to the Local Government Association (LGA) guidance "Fire safety in purpose –built blocks of flats" which is a guide to ensuring adequate fire safety in purpose-built blocks of flats, regardless of age. The guidance is particularly aimed at those who manage and undertake fire risk assessments of such buildings. He pointed out that Fire safety design in new blocks of flats is by the Building regulations but once a block was occupied the LGA guide was applicable. He stated that the guidance did not recommend the wholesale replacement of doors on existing blocks. His view was that older fire doors can provide adequate fire protection in a block; particularly with open walkways and that they do not require wholesale replacement due to retrospective requirements. Mr Todd criticised Mr Ottley's understanding of the applicable guidelines and the absence of a risk based approach when undertaking his assessment. By way of example the reliance on the Building regulations was incorrect, the correct reference was to the LGA Guidance Documents supporting those regulations, further the Approved Document B relied upon by the Respondent did not apply to existing buildings but to new buildings and it could not be applied as retrospective guidance. Mr Todd's conclusion was that the FD20 doors as were existing were fully sufficient for fire resistance purposes.

16. When asked by the tribunal he confirmed that in his view the addition of locks and new letterboxes were likely to make little difference in the event of a real fire and was not overly concerned about their effect on the fire resistance of any given door. His only concerns in relation to the photographs of the doors was in relation to glazing, this would need to be investigated and may need replacement. However if the glass were Georgian wire as it appeared from some photographs no replacement of the glass would be required as this was fire resistant.

17. Further reliance was placed by the Applicants on the Respondent's own fire risk assessments. These (save for a handful of instances) did not recommend wholesale replacement of the doors although in respect of doors in some locations recommended the installation of self closers. Thus the Applicants concluded that the wholesale replacement was not reasonable as even where there was disrepair there were a number of options available to the Respondent such as the installation of a fire resistant letter box, the fitting of intumescent strips and smoke seals. It was pointed out that the Respondent carried out no proper survey as to the condition of each front entrance door. In the absence of such a survey it was said that the Respondent was not entitled to recover the costs of the replacement of any of the doors.

18. The Applicants also relied on the evidence of Ms Parry who had carried out an inspection of the estate before the major works. She had not carried out a survey of each front entrance door. She concluded that the doors were generally in a good condition and not in need of replacement .On questioning by the tribunal she also gave evidence that it was possible to assess the fire resistance of a door visually. In addition when assessing whether a door was fire resistant she gave details of what that inspection would include, this was heard to include inspecting the door from the inside as well as out.

19. The Applicants also relied on a letter from the leaseholder of Flat 2, Ms Lucy Corderoy. This set out that she objected to the replacement of her front door and was relied upon to say that the front doors were replaced regardless of the condition of the doors and leaseholder wishes.

20. The Respondent relied on the evidence of Mr Ottley, a chartered surveyor employed by Blakeney Leigh Ltd. He confirmed in cross examination that he was not an expert in fire resistance although he said that he had attended a two day course on fire doors and was fairly competent. He gave evidence to the tribunal and was cross examined at some length.

21. His evidence was that he had carried out a visual inspection of all of the doors on the estate to assess whether each door was in disrepair. He explained that he did this by looking at each door and asking the question *"Are we ever going to make this a fire door – this is predominantly what we did"* (sic). His evidence was that all replacement doors were required to conform with Building Regulations 2010 and be FD20 compliant. As FD20 doors were no longer manufactured it followed that where doors required replacement they had been replaced with the closest available alternative which was FD30 doors. Mr Ottley accepted that not all of the doors on the estate had to be fire resistant and this depended on their position. In this regard he explained that that many of the ground floor flat occupants opted for a new door which accounted for their replacement of those doors irrespective of their condition.

22. Mr Ottley relied on a Fire Resistance Testing Report dated 19 November 2014 which he said supported the decision to renew the front entrance doors. Further it was Mr Ottley's position that the installation of a letterbox or new lock meant that the door was in disrepair as it would no longer meet FD20 requirements irrespective of its condition. When he was referred to the LGA Guide he confirmed that although he had heard of this guidance he had never read it.

23. Mr Ottley also relied on a photographic schedule of the doors which include comments. This was confirmed to have been prepared 6 months ago for the purpose of the proceedings. The comments were confirmed to have been made "generally by me" (Mr Ottley). When asked what reference documents had been used to add the comments Mr Ottley confirmed that he had made an assumption on the conclusions reached based on the photographs and from memory from this initial visual inspection. The most common comments made were "*non-original door type does not conform to FD20 standard*". In only a few cases was there any mention of disrepair.

24. As far as the letter relied on by the Applicants from Ms Corderoy of Flat 2 Attilburgh House the Respondent submitted that there was no evidence as to the condition of her door. Based on Mr Ottley's evidence it was said that it was likely that this door had been in disrepair for a reason other than fire resistance and therefore had to be replaced.

25. In closing Counsel for the Respondent invited the tribunal to accept Mr Ottley's evidence that the doors which were replaced were in disrepair either because (i) there was some physical disrepair such as rot or warping or that (ii) the notional fire resistance of the doors had been compromised because of the addition by the tenants of locks, letter plates or non fire resistant glass. The Respondent further submitted that the Applicants had adduced no evidence as to the condition of their own doors which had been within their power.

26. As far as the evidence of Mr Todd was concerned the Respondent submitted that it was of no value when the condition of the doors on the estate was considered and that his evidence was only informative as to the applicable regulations and guidance. It was also said that his insistence that the specimen door tested by the Applicant could be considered a fire door lacked credibility. Mr Todd accepted the "notional" test was based on an assessment as to whether a particular door was capable of meeting the FD20 fire test. However the specimen door in the test failed to meet the FD20 benchmark. It was submitted that this lent weight to the Respondent's evidence that it had concluded that many of the doors failed to meet the requisite standard and were replaced for that reason.

27. The Respondent also submitted that Mrs Parry's evidence was of little weight given that there was no schedule of condition of the doors. To

assist the tribunal in determining whether it was reasonable for the Respondent to replace the doors.

28. Put simply the Respondent's position was that the doors on the property "as built" were fire resisting. When they dropped below this "as built" standard they were in *"disrepair"* requiring like for like replacement. As FD20 doors could no longer be obtained the replacement doors were FD30. Counsel for the Respondent submitted that the Applicants had brought the application claiming the cost of replacing the front doors was unreasonable but they had no evidence of the condition of their doors. The Applicants were not able to say which doors should be replaced. Therefore Counsel for the Respondent submitted that the tribunal should rely on the evidence of Mr Ottley that he had individually assessed each door and that no blanket approach had been applied. Further it was submitted that the tribunal was bound to accept the view of Mr Ottley as a qualified expert unless he lacked credibility.

Front entrance doors – the tribunal's decision

29. The directions made following the first hearing in this matter dated 25 June 2014 made specific provision for information in relation to the condition of the front entrance doors. However despite this specific direction the tribunal had very little evidence of either a documentary nature or witness evidence to assist it in relation to the condition of the front entrance doors and the process which the Respondent went through in considering their condition and the action required.

30. Both parties made submissions as to the meaning of disrepair but were in agreement as to the relevant case law and the tribunal need not dwell on the meaning of disrepair.

31. We first considered whether we had any evidence as to whether the doors were in disrepair. We had regard to paragraph 16 of Mr Ottley's witness statement in which he refers to his visual inspection of the front entrance doors and make no reference to a written record. In his oral evidence however he informed the tribunal that he had walked the estate with the contractor, ground floor doors were said to only have been changed if requested as they had free access, upper floor doors were not replaced if they were in original condition and in good repair otherwise they were changed. On questioning Mr Ottley made it clear that he did not accept the principle of a risk assessment and considered that any alterations to the door meant that the door was no longer fit for purpose and not to FD20 standard. It appeared clear to us that his survey was based on his limited understanding of what constituted disrepair and its interplay with the relevant fire resistance requirements and his interpretation of the fire resistance standards in force.

32. We considered that the survey carried out by Mr Ottley was wholly insufficient. In his oral evidence he described the exercise he had carried out as *"I walked around and wrote down as we went which doors should be replaced"*. He did not make any notes to support his findings which would be expected on any thorough inspection and the survey produced by him was retrospective produced to assist the tribunal. It appeared to us that the basis that his interpretation of disrepair was whether the door was in its original FD20 condition. If any alterations had been made which in his view compromised fire safety standards he concluded that the door was in disrepair. This conclusion is supported by his retrospective survey accompanied by photographs which clearly focuses on fire resistance issues rather than those of disrepair. We noted that in particular this retrospective report did not record the alleged defects of doors which were replaced save only in one or two instances but rather included the generic comment *"Non original door not rated to FD20 standard"*.

33. We then went on to consider whether there were any issues in relation to fire resistance which rendered the door into disrepair. We accepted the evidence of Mr Todd who was clearly an expert in his field in relation to the viability of the original doors. We also had regard to the LGA Guidance the purpose of which was to avoid the wholesale replacement of doors on blocks of this nature. We concluded therefore that the doors had not required wholesale replacement on the basis of their fire resistance and that any doors which had alterations were likewise not necessarily in disrepair.

34. We considered that Mr Ottley's assessment of whether the doors were in disrepair was carried out on a narrow draconian basis and was not based on a full and thorough inspection or any real understanding of the fire resistance requirements. We did not consider his evidence to be credible as it was based on the total absence of notes and recollections based on a large major works project which had taken place over three years ago. We therefore concluded that we could place very little weight on Mr Ottley's evidence in relation to the condition of the doors.

35. We were of the view that we could not place full reliance on the conclusions reached in Ms Parry's report as she had not carried out a comprehensive survey of the doors. However we did consider that her report did support the Applicants' stance that the condition of the doors overall was not poor. In addition she did provide us with a useful summary of the type of condition survey she would expect to see and the deficiencies noted in the survey carried out by Mr Ottely.

36. The best evidence before the tribunal in relation to the condition of the doors was the Respondent's own fire risk assessments. Although we were not provided with the assessments in respect of all blocks, of those we had, common conclusions were reached. In all the reports it was suggested that no more than a few doors needed replacing, where there

was only one means of escape it was suggested that closers be considered. Although the reports did suggest that the landlord should consider the wholesale replacement of the doors on any major works project we had no evidence of the process the landlord went through in considering whether the doors needed replacing on any major works project save for the evidence given by Mr Ottley. Given that almost identical concerns were raised in each of the reports we considered that it was reasonable to rely on these conclusions in respect of the estate as a whole.

37. We found it somewhat puzzling that the Respondent placed no reliance on its own fire risk assessments and indeed did not refer to them throughout the hearing. We have no details about who had commissioned these reports and their purpose. It was the Respondent's position that Mr Ottley had preferred his own condition survey and had disregarded the assessments although this conflicted with Mr Ottley's oral evidence in which he said that he had not been aware of the assessments.

38. We were therefore not satisfied that the doors were in disrepair and had required wholesale replacement. Where the fire risk assessments require replacement of specific doors we consider those costs should be allowed. However in cases where the fire risk assessments had recommended the fitting of door closers on specific floors with single direction escape we considered that an allowance should be made to cover this cost. We had no evidence before us to assist us in this regard and thus doing the best we could and having regard to our own experience and expertise we allowed the sum of £80 per door. We would ask the Respondent to identify to which doors this will apply having regard to the fire risk assessments. We note that Counsel for the Applicants has already produced s summary of the doors attached to his closing submissions. Otherwise where the fire risk assessments are silent or no fire risk assessments were provided we disallow the costs of the replacement front entrance doors in full.

Other fire resistance measures

39. The Applicants relied on the Blakeney Leigh feasibility report from 2008 which identified that there were certain communal doors which required replacing. The Applicants' surveyors' evidence accepted that some of the doors in the blocks did not close properly and required painting. However it was said that only the occasional door was rotten, warped or had been the subject of vandalism and required replacement. Reliance was also placed on the fire risk assessments carried out by the Respondent which did not advocate the wholesale replacement of the bin or electrical cupboard doors or the communal doors. There were some recommendations for upgrade but the evidence of M Hoare was that as long as the doors were otherwise in good condition there was no requirement for their replacement. It was said that there was certainly

no requirement for the installation of new doors in the communal stairways.

40. Thus the Applicants submitted that the cost of the replacement doors was an improvement or is a repair unreasonable in amount.

41. Although previous reference had been made to the cost of replacing coal chute doors it was confirmed that these works would not be recovered.

42. As far as fire signs were concerned it was said for the Applicants that the provision of fire signs where none existed previously was an improvement.

43. The Respondent submitted that in the absence of any evidence from the Applicants as to the condition of the other fire resisting works the tribunal should rely on the evidence of Mr Ottley that many chutes were in disrepair.

Fire protection - the tribunal's decision

44. We noted that the majority of the stairwell doors protected the stairwells and although Mr Hoare had recommended they did not need to be replaced without assessment some were noted to be in very poor condition and badly damaged.

45. We had very little evidence in relation to these fire protection works but considered we could place reliance on the Respondent's own fire assessments. There were indications that some of the doors were in poor condition requiring replacement whilst others required repair. We concluded that some of the works may not have been required had a full survey been carried out. We would stress that we found ourselves in a very difficult position evidentially and both parties could have done more to put relevant evidence before us. However doing the best we could with the evidence before us we allowed 50% of the fire protection costs across all of these further elements.

Windows

46. The individual leaseholders' windows were under guarantee until 2011, copies of which were provided to the tribunal. It was the Applicants' case that had the works been carried out as previously intended in 2008/09 the window works would have been carried out under guarantee.

47. Further the Applicants submitted that there was no credible evidence that the windows were in fact in disrepair given the lack of proper

surveys. The tribunal had limited evidence in respect of the windows in Attilburgh, Chartes, Norman and St Lawrence House.

48. In response the Respondent submitted that the Applicants had no evidence as to the condition of the windows. In addition as they had not produced the final account in evidence (although it had been disclosed to them) they could not rely upon that to say that the costs were excessive.

Windows – the tribunal's decision

49. We considered these costs should be allowed in full. The leaseholders had not requested any works to be done to repair their windows whilst under guarantee and we accept that an organisation such as the Applicant had a large major works programme. We had not evidence in relation to the condition of the windows to assist us.

Electricals

50. This item included the cost of emergency lighting and repairs to rising mains and laterals.

51. The Applicants had challenged the cost of emergency lighting as this had already been installed in the blocks. It was confirmed for the Respondent that the Applicants would not be charged for the cost of any emergency lighting works.

52. The Applicants questioned these works on the basis that there was no evidence that the works had been done, the cost of the works and whether such works were required. On that basis the Applicants submitted that the Respondent could not show that the works were reasonably incurred and therefore not recoverable.

Electricals – the tribunal's decision

53. We noted that there was to be no charge for emergency lighting. We allowed the cost of the rising mains in full.

Other items

54. The Applicants had raised challenges to the cost of works in relation to the following items;

i. Concrete structure, brickwork and chimney pots;
ii. Main roof at Norman House;
iii. Contingency;
iv. Preliminaries;

v. Scaffolding;
vi. Professional fees

55. However it was acknowledged by Counsel for the Applicants that they had produced no evidence in support of their contention. They had failed to provide the final account in evidence and thus were not in a position to challenge the cost. Accordingly without any evidence from the Applicants the cost of the above items was allowed as reasonable.

Application under section 20C/Reimbursement of fees

56. The Applicants sought an order under section 20C. Having regard to the background to this matters, the various concessions made over the course of the application, the totality of the evidence before us and the decisions made by the tribunal we did not consider it appropriate to make any order under section 20C.

57. Likewise for the same reasons we did not consider it appropriate to make any order for reimbursement of fees.

Name: S O'Sullivan **Date:** 2 September 2015

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
   (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
   (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;
   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,

(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
(a) the person by whom it would be payable,
(b) the person to whom it would be payable,
(c) the amount which would be payable,
(d) the date at or by which it would be payable, and
(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are

not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—
(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
(aa) in the case of proceedings before a residential property tribunal, to that tribunal;
(b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
(c) in the case of proceedings before the Upper Tribunal, to the tribunal;
(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
(a) specified in his lease, nor
(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Schedule 11, paragraph 2

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

Schedule 11, paragraph 5

(1) An application may be made to the appropriate tribunal for a determination whether an administration charge is payable and, if it is, as to—
(a) the person by whom it is payable,
(b) the person to whom it is payable,
(c) the amount which is payable,
(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject matter of an application under sub-paragraph (1).