

12007



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

**Case Reference** : **LON/00BF/LSC/2016/401**

**Property** : **Flat 3, 308 Croydon Road,  
Wallington, Surrey SM6 7LQ**

**Applicant** : **The Beddington Park Flat  
Management Company Limited**

**Representative** : **Urban Owners Limited**

**Respondent** : **Ms Sarah Matthews**

**Representative** : **Mr T Thomas**

**Type of Application** : **For the determination of the  
reasonableness of and the liability  
to pay a service charge**

**Tribunal Members** : **Tribunal Judge Richard Percival  
Mr P A Roberts DipArch RIBA  
Mrs L L Hart**

**Date and venue of  
Hearing** : **16 January 2017  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **14 February 2017**

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**DECISION**

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## **The application**

1. The Applicant seeks a determination pursuant to section 27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges demanded by the Respondent in respect of service charge from October 2014 to March 2015, and the service charge years 2015/16 and 2016/17.
2. The relevant legal provisions are set out in the Appendix to this decision.

## **The property and the lease**

3. Number 308 Croydon Road (“the house”) is a detached Victorian house that has been divided into five flats.
4. The freehold had at one time been held by a company composed of all five leaseholders. The current freeholder is a company composed of four of the five leaseholders, that is, those other than the Respondent. The Applicant acquired the freehold on 1 July 2014.
5. The Respondent holds a 175 year lease from 1993 on flat 3. The lease makes provision for a service charge to be payable by the Respondent to the Applicant, including provision for advance payment on account. Detailed provisions of the lease are set out as necessary later in this decision.

## **The hearing and the issues**

### *Representation and witnesses*

6. The Applicant was represented by Mr Stephen Charles of Urban Owners, the Respondent’s managing agents. Mr Porter of Urban Owners, the manager of the property, attended and gave evidence. Mr Sean Matthews and Mr R John also gave evidence. Mr Matthews is currently a director of the freeholder, and Mr John had previously been a director.
7. The Respondent was represented by Mr T Thomas. Ms Matthews, who lives in Scotland, did not attend.

### *Preliminary Issue*

8. On the papers, the Respondent had made a number of points relating to the past history of dealing with the freehold, which raised issues of, among other things, company law. There were also associated

complaints about such matters as data protection breaches and harassment. Mr Thomas accepted that these were matters outwith the jurisdiction of the Tribunal on this application. However, he submitted that the effect of these mis-dealings was that the Applicant company was not the landlord, and thus was misidentified as the correct party in these proceedings.

9. The Applicant submitted that, even if there were such issues to be determined in another forum, the question of the payability and reasonableness of the service charge should not be put on hold until that time. Mr Charles confirmed that the Applicant was only seeking to establish service charge liability from October 2014.
10. It was not contested that the Applicant is the registered holder of the freehold title. Registration is conclusive for our purposes.
11. *Decision:* the Applicant is the landlord for the purposes of proceedings before us relating to the service charge.

*Identification of the issues*

12. The Applicant landlord contended the relevant service charges were payable under the lease, and reasonable. The particular issues that arose were as follows;
  - (i) By way of a general issue, whether the agreement between the Applicant company and the managing agents, Urban Owners, was a qualifying long term agreement, and that accordingly the consultation requirements under section 20 of the 1985 Act should have been complied with;
  - (ii) October 2014 to March 2015: whether works to low walls at the front of the house were carried out to a reasonable standard;
  - (iii) October 2014 to March 2015: whether expenses for electrical maintenance were reasonably incurred;
  - (iv) October 2014 to March 2015: whether works to rainwater goods were reasonably incurred;
  - (v) October 2014 to March 2015: whether professional fees in respect of a surveyor were reasonably incurred;
  - (vi) 2015/16: the reasonableness of the management fee: and
  - (vii) 2016/17: advance payment in respect of insurance costs.

For the purposes of this decision, these issues have been organised chronologically, after the general issue in relation to the management contract. We heard evidence and submissions in respect of them in a different order during the hearing.

13. Initially, the Respondent argued that there was an issue as to whether the consultation procedure under section 20 of the 1985 Act was properly conducted in relation to the works, the reasonableness of which is dealt with at paragraphs 26# to 35# below. However, after we heard evidence and submissions, Mr Thomas (appropriately) agreed that he would not proceed with this argument..

*The section 20 procedure in relation to the management agreement between the respondent company and Urban Owners*

14. A contract was agreed between the Applicant company and Urban Owners on 16 March 2015. Under the heading “term” the contract provides:

This Agreement shall commence on the Commencement Date as defined in Clause 1 [1 April 2015] and shall continue in force for a period of one year and thereafter run, from year to year unless terminated earlier in accordance with the provisions of Clause 10.

15. Clause 10 makes various provisions for termination for cause, and without cause on 30 days’ notice by either party.
16. The Applicant argued that this contract was a qualifying long term agreement, that is, an agreement entered into by the landlord for a term of more than twelve months, to an annual value of more than £100 per tenant (section 20ZA(2) of the 1985 Act and regulation 4 of the Service Charges (Consultation etc)(England) Regulations 2003 (“the 2003 Regulations”)).
17. It was agreed that the value threshold of £100 a year per tenant had been reached.
18. The Respondent argued that the contract was in fact a rolling contract that continued for more than twelve months.
19. The Applicant argued that the term was one year, and thus less than that requiring a consultation exercise. Mr Charles relied on *Paddington Walk Management Ltd v The Governors of Peabody Trust* [2010] L&TR 6.

20. We drew the parties attention to *Poynders Court Ltd v GLS Property Management Ltd* [2012] UKUT 339 (LC), and allowed them 14 days to submit further written representations, should they choose to do so. Both did, the Applicant relying on *Paddington Walk* and the Respondent on *Poynders Court*.
21. In *Paddington Walk*, the judge held that a management contract expressed to be “for an initial period of one year from 1 June” and then continuing “thereafter on a year-by-year basis with the right to termination by either party on three months’ written notice” did not constitute a qualifying long term agreement.
22. In *Poynders Court Ltd v GLS Property Management Ltd* [2012] UKUT 339 (LC), the Upper Tribunal distinguished *Paddington Walk*, on the basis that that agreement included a specific term relating to its duration, whereas in *Poynders Court* the contract was silent as to duration. In *Poynders Court*, the terms of the contract (services relating to annual service charges, a two year period for consideration of fee increases) made it clear that the parties contemplated a contract of a longer duration than 12 months.
23. While *Paddington Walk* is a decision of the county court, and so persuasive but not binding on us, the distinction between contracts with a specified duration that might roll over to more than 12 months and those that had no specified length but were nonetheless intended to last longer than 12 months is established in *Poynders Court*, a decision binding on this Tribunal.
24. In our judgment, the contract in this case clearly falls within the *Paddington Walk* category. A difficult issue may arise where the structure of a contract’s terms is such that the parties must be anticipating a term longer than twelve months, but the term is nonetheless expressed as being for a year, with provision for rolling-over, but this is not that case.
25. *Decision*: The contract between the Applicant company and Urban Owners is not a qualifying long term agreement.

*October 2014 to March 2015: Reasonableness of quality of work in relation to low walls (“the planters”)*

26. At some time, a portion of the driveway had sunk. In addition, the low walls at the front of the property which retained earth, and were referred to as “the planters” at the hearing, were in a poor condition and required repair.
27. Works to rectify these problems took place, following a section 20 consultation. The Respondent complained that the quality of the work

done on the planters was poor, such as to make the full amount charged to the service charge (£2,200) unreasonable. The quality of the repair to the surface of the drive was not contested.

28. The existing planter walls were built of paving blocks. It was agreed that the original intention, upon which the contract was let, was that the existing blocks would be cleaned and re-used. The evidence was, however, that after the work started, the contractor stated that the mechanical recovery of the blocks was too difficult. The directors acting for the Applicant (this was at a time before Urban Owners contract) agreed that the builder should use other materials to match as closely as may be the original.
29. We were provided with photographs of the repairs by the Respondent. These show that the repair was effected with normal bricks, in a way that did not match the existing wall at all. In addition, the brick work can in place be seen to be clearly poorly laid. While we accept the Applicant's argument that poor pointing to the reverse of the wall was not inappropriate where that was to be covered by earth, it is also the case that the pointing is poor, and in some cases there are gaps between the bricks, on the top coping course. When Mr Roberts put it to the Applicant that these gaps could lead to rapid deterioration in the walls as a result of water penetration and damage through frost, the Applicant did not demur.
30. In one place, of which again we had photographs, the contractor had not repaired loose blocks at all. Rather, an extremely poor "do it yourself" repair had been effected by one of the other leaseholders/directors of the Applicant company. While no charge was made to the service charge in relation to this repair, the Respondent argued that it was relevant to poor supervision.
31. In his evidence, Mr John, who was involved in the supervision of the contractor for the Applicant, accepted that the quality of the brickwork was not ideal, but given the problem with recovering the blocks, and the length of time the issue had been outstanding, it was reasonable. Mr Matthews, who was one of the director/leaseholders, albeit not resident, accepted, in his evidence, that it was "perhaps incorrect" to have accepted the work on the planters, but the main issue was the repairs to the driveway itself, which were done well. Both witnesses laid stress on the fact that the repairs had been outstanding for a considerable time, and that those involved in the Applicant company were impatient to see the matter resolved.
32. We accept the Respondent's evidence that the repairs were, in part, of unreasonable quality. That applies both to the appearance, as a result of the use of non-matching brickwork, and, in places, to technical deficiency in the quality of the workmanship. In addition, the

supervision of the contract by those acting for the Applicant was inadequate.

33. We accept Mr Thomas' argument that most of the value of the work related to the planters rather than the work to the drive. We assume that 75% of the final charge relates to the planters, and conclude that 25% of that sum is not payable to reflect the unreasonable quality of the work and its supervision.
34. *Decision:* In respect of the work undertaken on the planters, the standard of the work was unreasonable, and the supervision of the contract by the Applicant inadequate. The service charge for October 2014 to March 2015 should be reduced by £412.50.

*October 2014 to March 2015: electrical maintenance*

35. The Respondent queried a service charge item of £540 for "electrical maintenance". It was agreed that the work to which it related was the provision of a separate electricity supply for the communal hall. Electricity to the hall had previously been supplied via one of the flats, and the work was done at a time when the then leaseholder (Mr John) sold his interest.
36. An invoice was provided to support the charge. Mr Thomas criticised this document, in particular because it did not identify the contractor, but did not doubt its veracity. He contended, however, that it was excessive for the work done. He had himself been an electrician before he retired, he told us, and would expect such work to cost about £200.
37. Mr Charles for the Applicant said that the work was necessary, it was done, and the sum charged was not on its face unreasonable. The invoice, while deficient in some respects, did contain the necessary information.
38. The Tribunal indicated to the parties that we may use the expert knowledge available to us in assessing the reasonableness of this sum, such expertise being that generally acquired, rather than relying on any specific piece of disclosable information. Both parties accepted this way of proceeding.
39. *Decision:* The charge for electrical maintenance was within the reasonable range for the work it was agreed had been undertaken.

*October 2014 to March 2015: whether works to rainwater goods were reasonably incurred*

40. In November 2014, emergency repairs were effected to rainwater goods after water ingress to one of the flats. The Respondent submits that, at £300 (including VAT) the cost is excessive for the work done.
41. The invoice lists the work as clearing the side and front catchment pits and locating and fixing the leak from the high level guttering, clearing guttering elsewhere and debris from a drain, removing a shrub growing in a waste pipe joint and clearing dead leaves from the drive. It included a call out charge.
42. Mr Thomas claimed a reasonable fee would be £150.
43. The Applicant argued that the work was significant, and included more than merely routine leaf clearance. It was also undertaken on an emergency basis.
44. We do not consider that the Respondent has come near to showing that this cost was outwith the reasonable range for the work undertaken.
45. *Decision:* the expenditure on repairs and maintenance of rainwater goods was reasonably incurred.

*October 2014/March 2015: Insurance/professional fees*

46. Mr Thomas complained that for the period between 2012 and 2015, the freeholder's insurance did not cover subsidence. This came about because, after a then-director of the Applicant company sought to recover the cost of the sinking of the driveway under the insurance, the insurance company required first a questionnaire to be completed, and then a survey undertaken, before the insurance was reinstated. There were, the Respondent argued, repeated failures on behalf of the Applicant to complete the steps necessary for the insurance to be re-instated to include subsidence cover.
47. Mr Thomas rightly conceded that these failures did not have any impact on service charge demands in respect of expenditure on insurance.
48. However, he did submit that, in the light of this history, the expenditure of £540 on the professional fees of a surveyor were not reasonably incurred.
49. The survey, which was necessary as a pre-condition set by the insurance company for the re-instatement of subsidence insurance, took place in February 2015. The evidence was that the insurance was, indeed, reinstated as a result of the survey.



50. We have considerable sympathy for the Respondent. It appears that the subsidence insurance, which both parties agreed was desirable (and the provision of which may well have been required by the lease, although we do not so find) had been allowed to lapse for a considerable period due to the inattention and inaction of the Applicant.
51. However, even on the Respondent's own evidence, once the subsidence insurance was thrown into a doubt, it was clear that the insurance company would require a survey to be undertaken. It follows that, at some point, such expenditure would have fallen to be included in the service charge. While the timing may be unfortunate, the conduct of a survey could not be said to be unreasonable.
52. *Decision:* The service charge referable to the professional fees incurred as a result of the survey required by the insurance company before subsidence insurance would be re-instated was reasonable and payable.
- 2015/2016: the management fee*
53. The management fee for the year of £2,307 was contested by the Respondent.
54. The fee was made up of a per unit charge of £350 plus VAT, a first year charge of £150 plus VAT and various small additional disbursements.
55. Mr Thomas argued that communication between Urban Owners and the Respondent was poor, as was their provision of documentation, and this justified some reduction in the management fee charged by way of service charge.
56. The Applicant's submission was that communication with the leaseholders was good. Urban Owners provided an on-line web portal for leaseholders which provided demands, accounts and invoices in pdf format. There was a noticeboard at the property. The dedicated manager (Mr Porter) visited more than the twice a year required by the contract.
57. While, in the Tribunal's experience, the per unit charge was towards the higher end charged for the management of properties of this type, it was well within the reasonable range. The Tribunal rejected Mr Thomas' complaint about poor communication practice. In addition to the matters referred to above, the papers disclosed considerable correspondence between the parties and two lengthy "dispute resolution" processes.
58. *Decision:* The management fee for the service charge year 2015/16 is payable and reasonable.

*2016/17: Insurance*

59. The service charge demanded on account included a sum in respect of the cost of the Applicant's covenant to insure. The question therefore arose whether the lease made provision for such payment.
60. The provisions in the lease relating to the Landlord's insurance obligations are various. The recitals refer to the payment by the Lessee of "a sum or sums of money equal to one fifth's proportion on account of the amount the landlord may expend" on insurance, on demand. This recital refers to the risks specified in "clause 5.(2)", which appears to be a mis-reference to clause 5.3.1, which specifies standard risks, and itself imposes an obligation to insure.
61. The matter is, however, complicated by two further provisions in the lease. Clause 6 deals with the costs to be charged on the maintenance fund (upon the basis of which the service charge is calculated), which by clause 6.1.1.2 includes (only) third party liability insurance. Further, clause 3.3.4 provides for the calculation of a payment of service charge for the forthcoming year, and expressly excludes "the insurance contributions".
62. The terms of the obligation in the recitals is potentially ambiguous. The words "on account of" may mean "by way of an advance payment", or they may mean "in respect of". If the latter, the lease would make no provision for advance payment of the costs of insurance. Neither interpretation is entirely satisfactory. If the former is correct, then the recitals relate an obligation to pay an advance charge, but only that. While technically cured by the freestanding obligation in clause 5.3.1, it remains somewhat surprising (in either event, the inclusion of a limited class of insurance in the maintenance fund which is then excluded from advance payment as part of that calculation is difficult to understand).
63. However, we have concluded that "on account" in the recitals does impose an obligation to pay a contribution to future expenditure on insurance. We accept the Applicant's argument that the words that follow indicate that that is the correct construction. The lease refers to "the amount the landlord *may* expend", the apt tense if an advance payment is contemplated. Further, the term "on account" is used elsewhere in the lease in this sense.
64. *Decision:* The lease makes provision for advance payment in respect of future expenditure on insurance, and accordingly that part of the service charge which relates to insurance is payable. That it was reasonable, if payable, was not in issue.

**Application under section 20 of the 1985 Act**

65. At the end of the hearing, the Respondent applied for an order under section 20C of the 1985 Act that the costs of these proceedings should not be recoverable through the service charge.
66. The Applicant has been very largely, although not wholly, successful before us. While the preponderance of success does not determine how we should decide an application under section 20C, it is an important consideration. In particular, there must be unusual and significant features to justify the removal of a landlord's contractual right to recover costs (if it has one) where the landlord has been largely successful. Having heard the Respondent's arguments, we do not consider that such features are evident in this case.
67. We come to this conclusion without hearing argument on, nor considering, whether the lease makes provision for the recovery of the costs of these proceedings; and our decision in respect of this order is no bar on such an argument being made in the future.
68. *Decision:* We make no order under section 20C of the 1985 Act.

**Name:** Tribunal Judge Richard Percival      **Date:** 14 February 2017

## **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).