

9795



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

**Case Reference** : LON/00AH/LSC/2013/0361

**Property** : Flat D, 143 Brigstock Road,  
Thornton Heath, Surrey CR7 7JN

**Applicant** : Mr Muhammad Umar Farooq  
Bhatti (1), Mr Mohammed Asif  
Saddiq Bhatti (2), Ms Saher Fatima  
Bhatti (3) and Ms Marium Hamera  
Bhatti (4)

**Representative** : Mr Charles Sinclair (Solicitor  
Advocate)

**Respondent** : Mrs Heytal Dushyant Parmar

**Representative** : Mr Dushyant Parmar and Mr  
Amadeep Singh

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

**Tribunal Members** : Mr Jeremy Donegan (Tribunal  
Judge)  
Mr Peter Roberts DipArch RIBA  
(Professional Member)  
Mr Alan Ring (Lay Member)

**Date and venue of  
Hearing** : 28 November 2013  
10 Alfred Place, London WC1E 7LR

**Date of Decision** : 09 January 2014

---

**DECISION**

---

## **Decisions of the tribunal**

- (1) The tribunal determines that the agreed interim service charges of £750 and £328 for the periods 30 December 2011 to 29 June 2012 and 30 June to 29 December 2012, respectively, each became due from the Respondent to the Applicants on 08 July 2013.
- (2) The tribunal determines that the Respondent is not liable to pay the administration charges of £567 and £156 levied by the Applicant's former managing agents in August 2011.
- (3) 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
- (4) The tribunal refuses the application for reimbursement of the tribunal fees paid by the Applicants.
- (5) Since the tribunal has no jurisdiction over County Court costs and fees, ground rent, interest and whether the service charges for June to December 2010 have been paid, these matters should now be referred back to the Romford County Court.

## **The application**

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as to the amount of interim service charges and administration charges payable by the Respondent in respect of the service charge years 2011/12 and 2012/13.
2. Proceedings were originally issued in the Northampton County Court under claim number 3YJ79551. The claim was transferred to the Romford County Court and then in turn transferred to this tribunal, by an order of District Judge Lewis dated 11 June 2013.
3. Directions were given by the tribunal on 25 July and 04 September 2013. The full hearing of the claim took place on 28 November 2013.
4. The relevant legal provisions are set out in the Appendix to this decision.

### **The hearing**

5. The Applicants were represented by Mr Sinclair at the hearing. The Second Applicant appeared at the hearing and gave oral evidence. The Respondent was represented by her husband, Mr Parmar, who was assisted by Mr Singh.
6. The tribunal was supplied with a bundle of relevant documents including the statements of case, directions, documents from the County Court proceedings, the lease and the relevant correspondence and demands.

### **The background**

7. The property which is the subject of this application is 143D Brigstock Road, Thornton Heath, Croydon CR7 7JN (the Flat), which is a one bedroom flat. The Applicants are the joint freeholders of 143 Brigstock Road (the Block), which consists of 9 flats. The Respondent is the leaseholder of the Flat. 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.
8. The Respondent holds a long lease of the Flat 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 are referred to below, where appropriate.

### **The lease**

9. The lease was granted by Milesahead Properties Limited (Landlord) to Tradeplan Limited (Tenant) on 20 November 2009 for a term of 125 years commencing on 29 September 2006. The definitions stipulate that the Tenant's service charge proportion is 1/9<sup>th</sup> of the expenditure identified in the second schedule and that the interest rate is "4% above the base rate of National Westminster Bank Plc from time to time or 10% whichever is the greater". The accounting period is twelve months from 25 March in each year but may be varied at the discretion of the Landlord.

10. Clause 5 of the lease contains the Tenant's obligations, which include:

*(2) to pay contributions by way of Service Charge to the Landlord equal to the Tenant's Proportion of the amount which the Landlord may from time to time expend and as may reasonably be required on account of anticipated expenditure on rates services repairs maintenance or insurance being and including expenditure described in the Second Schedule AND to pay the Service Charge not later than 28 days of being demanded the contributions being due on demand*

*AND if so requested in writing by the Landlord to pay the Service Charge by banker's order or other means of automatic transmission of funds to a bank or other financial institution and account nominated by the Landlord*

*(16) to pay all expenses including solicitors' costs and disbursements and surveyors' fees incurred by the Landlord incidental to the preparation and service of a notice under Section 146 of the Law of Property Act 1925 or incurred in or in contemplation of proceedings under Sections 146 or 147 of that Act or of proceedings on account of arrears of rent for forfeiture of this Lease or for the recovery or attempted recovery of those arrears notwithstanding forfeiture is avoided otherwise than by relief granted by the Court and to pay all expenses including solicitors' costs and disbursements and surveyors' fees incurred by the Landlord of and incidental to the service of notices and schedules relating to defects or wants of repair decoration replacement and renewal arising before the expiration or sooner determination of the Term whether the notice be served during or after the expiration or sooner determination of the Term*

### **The issues**

11. At the start of the hearing the tribunal identified the relevant issues for determination as follows:

(i) The payability and/or reasonableness of the following service charges claimed in the schedule attached to the Claim Form:

Service Charge for period 30/12/2011 to 29/06/12      £750.00

Service Charge for period 30/06/12 to 29/12/12

(stated to be 30/06/12 to 29/10/12 in schedule)      £328.00

(ii) The payability and/or reasonableness of the following administration charges claimed in the schedule attached to the Claim Form:

Admin Charges – VFM      £567.00

Charges – Late Fee Charges by VFM June 2011      £156.00

12. The schedule attached to the Claim Form also includes service charges for the period 30 June to December 2010 in the sum of £40.92 and for 30 June 2010 to 29 June 2011, the further sum of £325. The Respondent does not dispute these charges but contends that all service charges up to June 2011 have been paid in full.

13. The Respondent relies upon a letter that she sent to the former managing agents, VFM Property Management (VFM), dated 05 August 2011. That letter refers to an enclosed cheque “for **£733.12** for the projected service charge up to the 31<sup>st</sup> December 2011”. The Applicant denies receiving this payment, albeit that it was acknowledged by VFM in their letter to the Respondent dated 09 August 2011.
14. At the hearing, Mr Parmar and Mr Singh invited the tribunal to determine whether the service charges demanded in June 2010 had been paid. The tribunal declined to do so, upon the basis that it does not come within its jurisdiction under section 27A of the 1985 Act. This is a factual issue that should be determined by the County Court, if it cannot be agreed by the parties. It should be a simple matter for the Applicants to check with VFM whether the cheque for £733.12 was banked. Similarly it should be easy for the Respondent to establish if the cheque has gone through her bank account.
15. It follows that the tribunal has no jurisdiction to determine the service charges demanded in June 2010. Further it has no jurisdiction to determine the other items claimed in the schedule attached to the Claim Form, namely County Court costs and fees, ground rent and interest.
16. 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.

**Service charge for period 30/12/11 to 29/06/12 - £750**

17. The Applicants are seeking to recover the sum of £750 by way of an interim (advance) service charge demanded on 30 December 2011. They rely on a budget of anticipated expenditure headed “*Projected Service Charge Budget to 2012*”. This gave details of anticipated expenditure for the Block totalling £19,980, with the Respondent’s 1/9<sup>th</sup> share being £2,220, which equates to £1,110 per half year. The budget is stated to be for the period from 01 July 2011 to 30 June 2012, even though the accounting year runs from 25 March.
18. The Respondent disputes three items in the service charge budget, namely:

***Completed Works – Previous Year*** **£3,690**

The Respondent’s case is that no works had been completed in the previous year (2010/11). If works totalling £3,690 had been undertaken then the Applicants should have complied with the consultation requirements of section 20 of the 1985 Act. No section 20 notices have been served. During the hearing, Mr Sinclair confirmed

that the works in question were actually undertaken in the year 2011/12 and included in the service charge accounts for the year ended March 2012. Copies of the relevant vouchers were included in the hearing bundle, with the earliest invoice being dated "*March 2011*". It appears that the description of the works in the budget, as having been completed in the previous year, was incorrect.

***Accountancy Audit***

***£700***

The Respondent disputes this item upon the basis that no audited accounts had been provided at the time the budget was produced. Certified accounts were subsequently produced by a firm of chartered accountants, Crane & Partners, in September 2012. These include a sum of £480 for accountancy fees.

***Cleaning***

***£1,150***

The Respondent points out that the Applicants entered into the cleaning contract without any form of consultation with the leaseholders. During the hearing the Second Applicant explained that he undertakes the cleaning at the Block and there is no written contract. Rather there is a verbal contract that can be terminated at any time, without notice. The Applicants contend that the cleaning contract is not a Qualifying Long Term Agreement for the purposes of section 20 of the 1985 Act and that there was no requirement to consult with the leaseholders, before they entered into the contract. The actual cleaning costs shown in the service charge accounts for the year ended March 2012 were £959.

19. In evidence, the Second Applicant stated that the interim service charge of £1,110 per half year had been reduced to £750 for December 2011, following negotiations with the leaseholders. This was disputed by Mr Parmar and was not mentioned in the Applicants' statement of case.
20. The Respondent also disputes her liability to pay this service charge upon the grounds that the original demand was invalid, as it only showed the Second Applicant, as the freeholder of the Block. This was admitted in the Applicants' statement of case.
21. The Applicants rely on a revised demand dated 06 July 2013, headed "*Application for Payment*", giving the names of all four Applicants. The revised demand was issued by Resolve Property Solutions (RPS). During the hearing, the Second Applicant explained that he is the proprietor of RPS, who had taken over the management of the Block from VFM in July 2012.
22. At the hearing, the Second Applicant explained that the freehold was originally purchased by him in March 2011. The freehold was then

transferred into the joint names of all four Applicants in late 2011. However this second transfer was not registered until April 2012. The Applicants contend that it was correct to show the Second Respondent as the sole freeholder until such time as the second transfer was registered.

23. During the hearing, Mr Parmar supplied the Tribunal with an extract from a Land Registry search for the freehold, which shows that the transfer into the joint names of all four Applicants was registered on 23 April 2012. It does not show the date of this transfer.
24. The service charge accounts for the year ended March 2012 showed total actual expenditure of £17,324, compared with the budgeted figure of £19,980. In the light of the figures given in the accounts and the information provided at the hearing, Mr Parmar agreed the amount of the interim charge in the sum of £750.

### **The tribunal's decision**

25. The tribunal makes no determination as to the amount of the interim service charge for the period 30 December 2011 to 29 June 2012, this charge having been agreed in the sum of £750. The tribunal determines that payment became due on 08 July 2013.

### **Reasons for the tribunal's decision**

26. The amount of this service charge was agreed by Mr Parmar at the hearing.
27. The original demand was issued on 30 December 2011 but only gave the Second Applicant's name. By this time the freehold had been transferred into the joint names of all four Applicants, albeit the transfer had not been registered. The demand should have given the names of all four Applicants, as they became the beneficial joint owners of the freehold upon completion. The failure to give the names of all four Applicants in the demand dated 30 December 2011 amounted to a breach of section 47(1) of the Landlord and Tenant Act 1987 (the 1987 Act). This breach was only rectified when RPS served the revised demand dated 06 July 2013. The service charge became due when the Respondent received the revised demand, pursuant to section 47(2) of the 1987 Act. Assuming that the revised demand was sent to the Respondent by first class post and allowing 2 clear days for delivery then it should have been received by 08 July 2013.

### **Service charge for period 30/06/12 to 29/12/12 - £328**

28. The Applicants are seeking to recover the sum of £328 by way of an interim (advance) service charge and rely on a demand dated 30 June

2012. Again the demand only gave the Second Applicant's name. Further the description given on the demand was incorrectly stated to be "Service Charge 31/12/2012 to 29/06/2013".

29. The Applicants also rely on a budget of anticipated expenditure headed "Annual Forecasted Budget: 30<sup>th</sup> June 2012 – 30<sup>th</sup> June 2013". This gave details of anticipated expenditure for the Block totalling £5,920, with the Respondent's 1/9<sup>th</sup> share being £657.70, which equates to £328.85 per half year. In fact the amount demanded was a slightly lower figure of £328.80. Again the period of the budget does not match the accounting year.
30. Actual expenditure for the Block for the year ended March 2013 came to £8,856, as shown in the service charge accounts. These accounts appear to have been prepared by RPS.
31. The Respondent's only ground for disputing this item was that the original demand was invalid, as it only gave the Second Applicant's name. Again this was admitted in the Applicants' statement of case. The revised demand issued on 06 July 2013 included a slightly lower figure of £328 for "SC June 2012-December 2012".
32. In the light of the figures given in the accounts and the information provided at the hearing, Mr Parmar agreed the amount of the interim charge in the sum of £328.

### **The tribunal's decision**

33. The tribunal makes no determination as to the amount of the interim service charge for the period 30 June to 29 December 2012, this charge having been agreed in the sum of £328. The tribunal determines that payment became due on 08 July 2013.

### **Reasons for the tribunal's decision**

34. Again the amount of this service charge was agreed by Mr Parmar at the hearing. The service charge became due on 08 July 2013 for the reasons set out at paragraph 27 of this decision.

### **Administration charges June 2011 - £567 and £156**

35. The Applicants seek to recover administration charges levied by VFM during the summer of 2011, pursuant to clause 5(16) of the lease. They rely on an invoice from VFM dated 10 August 2011 in the sum of £472.50 plus VAT (total £567) and a ground rent and a "Final Demand For Payment" issued by VFM on 02 August 2011 that includes a sum



of £156 for "Late Charges". No invoice was produced in relation to the £156 charge, which presumably equates to £130 plus VAT.

36. During the hearing, the Second Applicant stated that VFM charged additional fees for pursuing the ground rent and service charges due for the Flat on 30 June 2011. His understanding was that VFM sent four chasing letters to the Respondent before charging additional fees. The Second Applicant also stated that the administration charges levied by VFM formed part of the management fees totalling £3,277 that were included in the service charge accounts for the year ended March 2012. If the Applicants are able to recover the administration charges from the Respondent then the sum recovered will be credited to the service charge account.
37. VFM's invoice dated 10 August 2011 refers to "Additional Services" for the period "To 10 August 2011". Their charges are broken down as follows:

Administration

Late Payment Charge	2 No @ £65.00	£130.00
Final Demands	1 No @ £65.00	£65.00
Correspondence	3 No @ £65.00	195.00

Professional Fees

Property Manager	0.75 Hour @ £110.00	<u>£82.50</u>
------------------	---------------------	---------------

Total Fee £472.50

38. The Applicants rely on correspondence passing between VFM and the Respondent during July and early August 2011, as justification for VFM's fees.
39. The Respondent disputes the administration charges in their entirety. Mr Parmar pointed out that the initial demand and reminder issued VFM were incorrectly sent to his wife at the Flat, rather than their home address at 220 Fulwell Avenue, Clayhall, Ilford. He also advised the tribunal that VFM had details of their home address and that the demand did not come to his wife's attention until early July 2011.
40. The demands from VFM included a sum of £650 for historic arrears that pre-dated their management of the Block. The Respondent denies that there were any historic arrears and relies upon a letter and service charge statement from the previous managing agents Circle Residential

Management Ltd (Circle) dated 25 March 2011, showing that the account was up to date. Both of these documents were sent to the Respondent at 220 Fulwell Avenue.

41. The Respondent also relies upon the correspondence passing between her and VFM in July and early August 2011. On 06 July 2011 she sent a cheque for £200 to VFM being ground rent for the period 30 June to 30 December 2011. On 13 July 2011 the Respondent sent a long letter to VFM, querying items of proposed expenditure in the service charge budget for the year ending June 2012 including the sum of £3,690 for major work. The Respondent also detailed payments that she had made to Circle. VFM responded in a detailed letter dated 15 July 2011. In that letter they stated that the historic arrears figure had been *"..calculated using the handover information provided by Circle Residential.."*
42. On 05 August 2011 the Respondent sent a further letter to VFM, responding to their letter of 15 July 2011. It is this letter which referred to the enclosed *"..cheque for £733.12.."*. VFM responded in a letter dated 09 August 2011, in which they advised that they were trying to obtain details of the arrears from Circle and *"Until we receive full details from Circle, we will put on hold chasing these monies"*. The letter acknowledged receipt of the Respondent's cheques for £200 and £733.12 and stated that *"..there is a balance of £376.88 outstanding for the current service charge period, interest of £17.12 and late payment charges of £156, totalling £550 that now needs to be paid"*. The letter goes onto demand payment of £550 by 30 August 2011, failing which solicitors would be instructed *"..to commence debt collection procedures"*.
43. Mr Singh pointed out that VFM had not written four letters to the Respondent before levying additional charges. Further the queries raised in the Respondent's letters were justified and it was unreasonable for VFM to charge additional fees for responding to these queries.

### **The tribunal's decision**

44. The tribunal determines that the Respondent is not liable to pay the administration charges of £567 and £156.

### **Reasons for the tribunal's decision**

45. The Respondent was entirely justified in challenging the historic arrears figure of £650, given that Circle had stated that there were no arrears as at 25 March 2011. The question then is whether VFM were entitled to charge additional fees of £723 (£567 and £156) for

their work in July and early August 2011, in accordance with clause 5(16) of the lease.

46. The original demand issued by VFM was dated 01 June 2011 and stated that payment was due on 30 June 2011. A first reminder was sent on 01 July 2011. Both of these documents were addressed to the Respondent at the Flat, rather than her home address. The tribunal accepts that these documents did not come to her attention until early July 2011. The interim service charge did not become due until 28 days after the Respondent received the demand, which would be late July or early August 2011. Upon receiving the demand the Respondent made part payments of the sums demanded. Further the tribunal accepts that the queries raised by the Respondent in her letters of 13 July and 05 August 2011 were justified and reasonable.
47. The tribunal notes that the Applicants did not produce any invoice from VFM for the late payment charge of £156. There appears to be a duplication of charges in that the invoice for £472.50 plus VAT, dated 10 August 2011, included £130 plus VAT (£156) for late payment charges. It is also notable that the letter from VFM dated 09 August 2011 made no mention of their additional fees of £472.50 plus VAT.
48. The tribunal considers that it was unreasonable for VFM to charge any additional fees for their work in July and early August 2011 given that the original demand and reminder were sent to the wrong address, the service charges did not fall due until late July or early August, the service charge budget was for the wrong period, the "*Completed Works – Previous Year*" item in the budget was wrongly described and given the queries raised and payments made by the Respondent.

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

49. At the end of the hearing, Mr Sinclair made an application for a refund of the fees that the Applicants had paid in respect of the hearing<sup>1</sup>. Having heard the submissions from the parties and taking into account the determinations above, the tribunal does not order the Respondent to refund any fees paid by the Applicants.
50. At the hearing, the Respondent's representatives 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 Applicants may not pass any of their costs incurred in connection with the proceedings before the tribunal through the service charge. The Applicant has succeeded in relation to the interim service charges but

---

<sup>1</sup> The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

these were agreed by Mr Parmar at the hearing, once the basis of the charges had been properly explained. This was not clear from the Applicant's statement of case. The Respondent has succeeded on the point taken on the form of the demands and the tribunal has found that the interim service charges only became due on 08 July 2013, after the County Court proceedings were initiated. The Respondent has successfully resisted the claim for administration charges.

### **The next steps**

51. The tribunal has no jurisdiction over County Court costs and fees, ground rent, interest and whether the service charges for June to December 2010 have been paid. This action should now be returned to the Romford County Court for a determination of these issues. The tribunal has not made any determination in relation to the actual service charge expenditure claimed in the accounts for the years ended March 2012 and March 2013 and it is open to the Respondent to seek a determination of this expenditure via a separate application to the tribunal under section 27A of the 1985 Act, if she wishes to do so. The tribunal recommends that the Respondent first seeks independent legal advice, if she wishes to make such an application.

**Name:** Jeremy Donegan

**Date:** 09 January 2014

## 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.

### **Landlord and Tenant Act 1987 (as amended)**

#### **Section 47**

- (1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely –
  - (a) the name and address of the landlord, and
  - (b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.
- (2) Where –
  - (a) a tenant of any such premises is given such a demand, but
  - (b) it does not contain any information required to be contained in it by virtue of subsection (1)

then (subject to subsection (3)) any part of the amount demanded which consists of a service charge or an administration charge (“the relevant amount”) shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant



- (3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or (as the case may be) administration charges from the tenant
- (4) In this section “demand” means a demand for rent or other sums payable to the landlord under the terms of the tenancy

## **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).