FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/11UE/LSC/2019/0058**
Property	**:**	**20 Grove Court, Beaconsfield Bucks HP9 1QW**
Applicant	**:**	**Mr M. Eaton**
Representative	**:**	**None**
Respondent	**:**	**Grove Court Properties (Beaconsfield) Ltd.**
Representative	**:**	**None**
Type of application	**:**	**For the determination of the reasonableness of and the liability to pay a service charge S.27 (1), a S.20 order and a Para 5 Sch 11 order.**
Tribunal member	**:**	**Mr N. Martindale FRICS**
Venue	**:**	**Cambridge County Court, 197 East Road, Cambridge CB1 1BA**
Date of decision	**:**	**7 February 2020**

DECISION

Decisions of the Tribunal

The Tribunal determines that the following items and sums raised in dispute, are reasonable and payable by the applicant to the respondent or orders made:

(1) Year 2018, actual service charge: "Decoration below garage facia": £175.63 disputed; £173.63 is payable.

(2) Year 2018, actual service charge: "Replacement of Balcony Railings": £844.00 disputed; £844.00 is payable.

(3) Year 2018, actual: "Interest charged by landlord on above": £14.38 claimed; Nil is payable.

(4) Year 2019, estimated service charge ? "Change to paint colour of garages": £1000 claimed; Nil is payable.

(5) That no order under S.20C Landlord and Tenant Act 1985, barring the recovery of costs from the applicant, incurred by the respondent, arising from this application be made.

(6) That no order under paragraph 5A, Schedule 11 Commonhold and Leasehold Reform Act 2002, reducing or extinguishing the applicants liability to pay an administrative charge be made.

Applications

1. The applicant made three separate applications, all on 14 September 2019, for determination at the Property, of: 1. Liability to pay and reasonableness of service charges under S.27A Landlord and Tenant Act 1985. 2. An order under S.20C Landlord and Tenant Act 1985, and 3. An order under paragraph 5A to schedule 11 of the Commonhold and Leasehold Reform Act 2002.

2. However the applicant confirmed at paragraphs 9 and 10 on page 6 of the first application form, that he also sought to make an application for an order under S.20C and an order under para 5 of Schedule 11. There was therefore no requirement for the applicant to make separate applications. The Tribunal notes that the applicant had sought to join all other leaseholders at the Building in both separate applications for costs limitation, but this has not been done. All three issues were to be determined at the same time.

Directions

3. Directions were issued from this Tribunal, by Regional Judge Wayte on 3 October 2019. These provided for the respondent landlord to disclose and send to the applicant tenant by 21 October 2019 all relevant documents relating to the dispute.

4. The tenant then had until 11 November 2019 to send copies of his bundle to the other party and to the Tribunal. The landlord finally had until 25 November 2019 to send copies of his bundle to the other party and to the Tribunal. The application was to be determined on or after 2 December 2019 or by hearing if there had been a request by 4 November 2019. There was no request.

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

6. Both parties complied with some of the Directions. The respondent's bundle extended to some 200 pages of A4; the applicant's bundle to 300 pages; some 500 pages of representations, schedules and copy leases in all. The applicant's statement of 'cases' ran to 50 pages.

7. Although both parties included a mass of material over a range of items and costs, unfortunately neither bundle contained a Scott Schedule clearly setting out the items and sums in dispute. The Tribunal therefore took as its starting point the items and sums in dispute as stated in the application form. These were four items only, totalling £2,034.01. This sum is referenced again at the start of the 'Written Submission' on behalf of the respondent. In both places these appear to confirm a total value of the entire dispute as around £2,000. There was some confusion about the sum(s) claimed and disputed over various costs to front and rear balcony railings.

Background

8. The Property No.20 is set within is a post war purpose built, 3 level block, the Building. Ground floor shops, with two level ten maisonettes above on first and second floor. The maisonettes each have a first floor private front balcony and a shared communal first floor rear balcony. Each balcony has railings.

9. Access to the maisonettes is from a rear communal service road, up an open stairwell and across the shared walkway (also forming the roof of the rear portion of the ground floor shops). Although the rear balcony is divided up in with a portion being included in the Property lease they each confer a mutual right of access to all other maisonettes. This balcony and stair case also has railings.

10. Behind the Building is a row of garages. One of these garages, No.11, forms the remainder of the demised Property. It is in the exclusive use of the applicant.

11. It appears that all leaseholders have extended their original leases. Some did this by reference to the original lease, amending only key terms, but most did so by means of an entirely new lease. The current lease dated 19 December 2014, of the subject Property was extended by the first means. The original lease of the maisonette No.20 was dated 24 December 1966. The process also included the simultaneous surrender of a former lease of garage No.11 and its inclusion by an extension of the demise, within the lease of the maisonette No.20.

12. The applicant provided a copy of the short form extended lease of both, as well as of the two preceding leases (of the maisonette and of garage). The landlord has provided a copy of a sample new lease, it is of Flat 15 which is in a quite different format. It is of limited use. All leases included in the bundles refer to the extent of the demise and rights marked on plans and shaded variously in pink, green and brown, but the plans in the copies provided are monochrome only. The Tribunal has therefore interpreted these in connection with other material in the bundles, as best it can.

13. The current lease of the Property, following renewal, includes within the demise the maisonette, both balconies (front and rear) and the garage. All areas are subject to the same common terms regarding control of access for, obligations to, and obligations to pay for, works. to the issues in dispute. The applicant therefore holds 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.

14. The landlord identified a scheme of capital repair and decorative works to the exterior of the Building. It then took some time to narrow down the scope and quantities of the works and who would be responsible. The scope varied somewhat over the consultation period and into the implementation phase.

15. Neither party requested a hearing. 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.

Issues

S.20 Consultation and implementation

16. **Applicant:** Although the tenant submitted three related applications in respect of the Property and costs arising there is no reference in any to the question over the effectiveness of the S.20 consultation by the landlord with leaseholders over the recent capital works programme. This issue is first raised at the start of the applicant's statement of 'cases' submitted in his bundle.

17. The applicant refers to the case of Jastrzembski v Westminster City Council (2013). From it draws attention to: The change in the nature of the works; that quotes increased, that the cost of raw materials and labour had increased; that original tradespeople were not available; and that there were changes to the leaseholders. He sets out the timetable for planning to completion of 3 years. He regards guidance from the Westminster decision regarding the listed elements of change and that such contracts should be completed in months rather than running into years make the consultation and implementation process at the subject Property excessive.

18. The applicant is concerned that the initial description of the scope timing and extent of the works programme was misleading and that in fact they took another 18 months to carry out than they should have. He was concerned at the delay and extent, when carried out, of the scope of the works through this period which in his view showed that the landlord *"did not have scope of the works under control after more than 2 years since the start of planning the work under letter dated 14 August 2015"*.

19. The applicant state that more works were added to the original schedule and these were not subject to proper consultation. For example *"New handrails around the plinths… Replacement fascia to front of garages… Decorate below front fascia of garage… Replace roof felt drips, Replace warped guttering and general overhaul of guttering as required.* He concludes that the landlord *"did not have the consultation process under control."*

20. The applicant was further concerned about the*"Change to Colour of garage Doors Without Consultation."* There had been no consultation and he only picked up this important detail in later correspondence with the landlord. Indeed the landlord's response to his observations were very limited and in his view inadequate, requiring him to remind them by way of further correspondence.

21. The applicant was concerned that whilst being warned about forthcoming costs in August 2015 such financial demands were actually

only forecast to leaseholders in detail nearly two years later in September 2017. *"As such, Leaseholders would have been taking action 2 years earlier than necessary to prepare for the costs such as (potentially) arranging loans, taking decision to defer expenditure on other things, etc."*

22. The applicant looked at the 3 builders quotes obtained by the landlord. Carberry £49,732; Shakespeare 346,446; Yellow £35,151. The landlord awarded the contract to the most expensive. Carberry was experienced in this work, were certified with BSC, provided the most comprehensive quote and were able to carry out the works I 2017. The applicant was concerned that pre-tender checks had not been carried out to ensure that all bidders could meet these requirements rather than leaving this to after their receipt. The applicant felt that the landlord could and should have broken up the contract to allow smaller specialised contractors to bid for parts rather than getting one to manage it more expensively. He wondered if the landlord had been influenced by other contracts with the same company.

23. The Carberry bid was £51,209 but on completion had risen to £65,801, a rise of 27%, another example given by the applicant of a loss of control of the contract scope and price.

24. More generally the applicant drew attention to the rise of raw materials of 4.1% and labour of some 9.0% over the consultation and project period, which would not have occurred if the work had commenced 18 months earlier. The applicant concludes by referencing the changes to leaseholders at maisonettes No.11 and No.15 who would have received quite inaccurate estimates of costs and that this could have affected those sales.

25. The applicant asked the Tribunal to find that the landlord was *"in breach of the Section 20 process and to limit the service charge to the statutory £250 per leaseholder and to order GCPB to refund the Leaseholder the difference between £250 and what each Leaseholder ha already paid."* The applicant provided no items or figures which are to be refunded to each leaseholder other than the £844.00 identified in the application form as being refundable to him.

26. **Respondent:** The respondent sets out an alternative timetable of events. This shows the 'First Notice' - Notice of Intention to carry out works dated 25 February 2016 and a 'Second Notice' dated 6 March 2017 with consultation concluding 5 April 2017. This was followed by an award of the contract to Carberry (contractors) on 25 September 2017, which commenced 24 October 2017 completed 21 December 2017 with minor snagging running on until early 2018.

27. The respondent calculates the total period as 6.5 months from the end of the consultation to the end of the major works scheme. The

respondent reported minimal feedback to the consultation from the leaseholders and a minimal change in the scope of works from First to Second notices. The respondent submitted that the consultation was valid and complied with the requirements of the Act.

28. The respondent also made submissions if the consultation period was considered to be defective, as to whether the Tribunal should grant dispensation and referred to Daejan investments Ltd. v Benson & Ors (2013). What loss would a leaseholder incur if unconditional dispensation was granted ? What evidence of such loss has been provided by the leaseholder ? If provided what form and quantity of compensation from the landlord to the leaseholder might redress the balance in terms of the level of service charge arising from the scheme of works ? What are the consequences to the leaseholder of the landlord's partial or complete failure to consult ? Terms of compensation might include those of costs.

29. The respondent maintains that the applicant fully engaged in the consultation process and that the applicant has provided no evidence of disadvantage or prejudice as a result of the claimed inadequacies of the process.

30. **Decision:** On the evidence and case references submitted, on balance the Tribunal accepts the respondent's timetable and account of events. It does not therefore find significant failings in the consultation process under the Act, for this scheme of works to be rendered defective. The statutory cap of £250 does not therefore apply to service charges arising in respect of this scheme of works. The issue of terms on which dispensation might be required by the landlord and granted, or not, by the Tribunal, does not arise therefore for determination.

'Decoration below garage fascia'

31. The garage has a metal door topped with a timber below a plastic fascia. The lease requires the landlord to redecorate external metal and wood at the Property every third year. The tenant has to pay for this. The applicant states that the redecoration records of the landlord showed that it was carried out in 2001, 2004, 2009 and 2017. This is said to not be in accord with the lease.

32. The applicant would have preferred to have done this small amount of redecoration himself and not to have been charged anything for this. The applicant did not dispute the need for the work, or its quality or cost.

33. The respondent made no specific representations on this issue.

34. **Decision:** The landlord is responsible for all external redecoration. There is no provision in the lease for exclusion of some work of decoration to external parts in favour of the tenant. There is no evidence of a separate agreement between the parties to allow this. Based on the evidence submitted by the parties the sum said to be £175.63 claimed by the landlord for this work is reasonable and payable.

'Replacement of Balcony Railings'

35. The maisonette demise includes a private front balcony and a shared rear balcony. The lease requires the landlord to redecorate all external metal and wood every third year. The tenant has to pay for this. The applicant states that redecoration records of the landlord showed that it was actually only carried out in 2001, 2004, 2009 and 2017 and therefore not in accord with the lease. Such sustained neglect has contributed to the need for replacement now.

36. The applicant disputes a payment of £844.00 towards the cost of 'replacement', of railings at the Building, carried out the respondent. It appears to the Tribunal that the applicant has already paid £844.00, but only on the basis that the 'replacement' work was still disputed. He now seeks its refund.

37. The applicant argues that this historic sustained breach of decoration accompanied by a neglect to carry out small scale repairs to these items over the years allowed most of the metal railings to the front and rear balconies to rust to the point where they were incapable of repair. He states that it was for this reason that all of the balconies to the front and most of those to the rear balcony were recently replaced. The applicant does not challenge the extent, quality, cost or payability of redecorating railings where they were not replaced.

38. The applicant was concerned that no proper independent assessment was carried out by the respondent prior to the works of replacement of most of the railings were being commissioned.

39. The applicant also disputes the claim by the landlord that additional railings had to be installed around two small up stands forming part of the rear roof walkway, to protect users from trips. He states that these features had been on the roof since construction. If anything at all had been needed then hazard markings and/or signage should have been quite sufficient solution but, these solution appeared not to have been considered. That said, he does not dispute payment for this work; they are not replacements but, rather are improvements.

40. The respondent raises the query as to which of these sets of railings form part of the Property. In fact they both do. The landlord appears to argue that it is entitled to maintain (in addition to redecorate) those railings to the front of the Property, as well as those to the rear.

41. The respondent asserted that these railings had to be replaced principally because the gaps between the upright metal members were now considered excessive and/or their overall height was below that required, under modern building regulations. Their replacement was on health and safety grounds. The respondent denied that the main reason was unimpeded corrosion arising from a failure to paint and where required repair the railings in earlier years. This argument is said by the applicant to be unsustainable as a significant portion of the rear (shared walkway) railings have not been replaced, simply repaired and repainted.

42. The respondent mentioned that the leaseholders of some of the other maisonettes let by way of the new form of leases to parts of the Building, had agreed with the landlord that they would prefer the replacement of the railings with new even at an additional cost. There was however no evidence that the applicant had agreed to such a variation in responsibilities within his old form lease.

43. **Decision:** The cost allocation is confused in the submissions and is hard to determine, however the Tribunal identifies and has concluded that apparently two sums of £844.00 were sought by the respondent, £1688.00 in total. All of this was for work to railings.

44. The first amount of £844.00 has apparently not been paid at all by the applicant. The Tribunal concludes that this cost appears to be the contribution sought from the applicant in respect of 1) repairs, 2) decorations and 3) replacements to and of some of the rear balcony railings. From the evidence and submissions made the Tribunal determines that this sum is reasonable and payable in full to the respondent.

45. The second amount of £844.00 has been paid by the applicant but, its payability is now disputed by the applicant. It is unclear whether the applicant disputed the sum when it was paid over but, this point is not taken by the respondent. The Tribunal determines that this second sum of £844.00 appears to be the contribution sought from the applicant in respect of the replacement of the front balcony railings, and for 2) the applicant's share of the cost to install additional railings to the rear balcony around the two up stands. From the evidence and submissions made the Tribunal determines that the lease does not permit the landlord to carry out this work as it lies outwith its responsibilities; or is an improvement, respectively. The costs of such cannot be recharged to the applicant leaseholders via a service charge.

46. The Tribunal found no evidence in the bundles to support an argument that the tenant had agreed outside the lease terms to have the landlord carry out this repair or replacement work for him. Nor is there evidence that the landlord has done this work by entry in default of a notice on the tenant to repair the railings. The cost sought is not for decoration, only their entire replacement. On this basis the Tribunal determines that this sum of £844.00 is not recoverable from the applicant under the lease.

47. Overall, seeking to deal with both outstanding sums for work to railings at the Building which the Tribunal believes remain in dispute; the sum of £844.00 already paid by the applicant to the respondent is reasonable and payable but, that a second sum of £844.00 apparently still claimed from the applicant by the respondent, is not payable. On the application before it the Tribunal determines that the £844.00 is reasonable and payable, and has already been paid in full by the applicant.

'Interest charged by landlord on above'

48. This issue appears to be in respect of the delay by the applicant in paying both the garage fascia sum claimed of £175.63 and the replacement railings sum claimed of £844. The tenant does not consider it right to pay to this if these two sums are found not to be reasonable and payable.

49. The respondent made no specific representations on this issue.

50. **Decision:** Irrespective of the determination above of the 'fascia' and 'railings' issues, the Tribunal could find no provision in the old form lease for the Property which makes provision for interest on late payments. Nil payable.

'Change to paint colour of garage'

51. This issue appears from the application form to concern an estimated service charge levied in advance of the actual charge and to relate to a future requirement for the landlord to paint all garage doors in a new colour, white rather than blue, the latter colour being that of the garage door forming part of the Property. The basis for the £1000 contribution and the applicant's query of it is unclear.

52. Under the lease, all decoration of external metal and wood is the responsibility of the landlord, including choice of its colour. This includes the garage doors. The landlord is required to decorate at 3 yearly intervals and the years are set out in the lease. It is unclear if the garage doors were painted in a specified year.

53. The respondent regards the issue as very minor and that it does not relate to the payability or reasonableness of service charges.

54. **Decision:** The lease does not appear to include provision for the landlord to levy a service charge in advance of expenditure. In other words such charges can only be in respect of actual sums incurred. Tribunal cannot make a determination of a sum which has not been demanded.

S.20C Order barring landlords service charge costs recovery

55. In view of the decisions above the Tribunal makes no order barring recovery of the landlords costs incurred in responding to this application through the service charges levied on this leaseholder in particular but not in respect of other leaseholders. Notwithstanding this finding, the lease does not appear to the Tribunal, to allow recovery of such costs through future service charges under the lease.

Para 5 Schedule 11 Order barring administration costs recovery

56. The Tribunal could not find any representations from either the applicant, or the respondent, nor any item or sum billed to the applicant for administration costs. Again the lease does not appear to the Tribunal to allow recovery of such administration costs through the lease except in default of an obligation or breach of covenant, neither of which apply here. The Tribunal makes no order.

Name: Neil Martindale Date: 7 February 2020

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

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).