



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

Case reference : **LON/00AG/LSC/2020/0291**

**HMCTS code
(paper, video,
audio)** : **V: VHSREMOTE**

Property : **22 Brookes Court, Baldwin Gardens,
London EC1N 7RR**

Applicant : **Ms Nasima Khanom**

Representative : **Ms Apiramy Navendan**

Respondent : **The London Borough of Camden**

Representative : **Ms Mattie Green**

Type of application : **For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985**

Tribunal members : **Judge Nicola Rushton QC
Mrs Alison Flynn MA MRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **26 April 2021**

Date of decision : **30 May 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was V: VHSREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that the tribunal was referred to were in a bundle of 428 pages, the contents of which we have noted. The order made is described at the start of these reasons.

Decisions of the tribunal

- (1) The tribunal determines that the following sums are payable by the Applicant in respect of final service charges for the total for Heating, Hot Water and Gas Supply for the following years:

2015 – 2016	£889.57 (no reduction made)
2016 – 2017	£679.51 (no further reduction made)
2017 – 2018	£755 (reduction of 10% from £838.23)
2018 – 2019	£747 (reduction of 10% from £830.04)
2019 – 2020	£510 (reduction of 10% from £566.73)

- (2) The tribunal further determines that the sum of £625 is payable by the Applicant in respect of interim service charges for Heating, Hot Water and Gas Supply for the year 2020-2021 (being a reduction of 25% from the total £833.26 estimated by the Respondent).
- (3) The tribunal makes the further determinations as set out under the various headings in this Decision.
- (4) With the consent of the parties, the tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of the tribunal proceedings may be passed to the Applicant through any service charge.
- (5) The tribunal determines that the Respondent shall pay the Applicant £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The application

1. The Applicant (“**Ms Khanom**”) seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) as to the amount

of service charges payable by her to the Respondent landlord (“Camden”) for heating and hot water in respect of the years 2015/16; 2016/17; 2017/18; 2018/19; 2019/20; and 2020/21. In each case the service charge year ends on 31 March.

2. The application for 2020/21 relates to interim service charges paid in advance. Accordingly, this determination of the interim charges does not prejudice the final calculation of service charges for that year, nor Ms Khanom’s right to challenge the payability or reasonableness of any such final assessment under section 27A of the 1985 Act.
3. The application was issued on 29 September 2020.
4. Directions were issued by Judge Mullin on 19 November 2020 and were amended as to dates by Judge Sheftel on 12 January 2021. Those directions have essentially been complied with by the parties.
5. The Directions included provision for Ms Khanom to produce a schedule of the service charges in dispute, with details of her position, and for Camden to provide a response to it. This schedule has been produced by the parties, but did not include the interim charges for 2020-2021.
6. Given that 2020-2021 was included in the original application, the convenience of dealing with all years in the same hearing, and the ability of the parties to deal with the evidence for the year 2020-2021 at the hearing, the tribunal proposed and the parties agreed that the tribunal should determine the reasonableness and payability of interim service charges for 2020-2021 as well as final charges for the earlier years.
7. Extracts from the relevant legislation are set out in an appendix to this decision.

The hearing

8. Ms Khanom was represented by student adviser Ms Apiramy Navendan at the video hearing and Camden was represented by pupil barrister Ms Mattie Green. Prior to the hearing both representatives sent skeleton arguments and authorities which were received by the tribunal.
9. The tribunal heard live evidence from Ms Khanom herself, and from Mr Michael Hunt (gas technical officer) and Mr Scott Twelftree (leaseholder principal) on behalf of Camden. All witnesses were cross examined and also answered questions from the tribunal. Ms Khanom advised the tribunal that she was suffering symptoms of long Covid, and also that she was fasting for Ramadan. The tribunal made sure there were regular breaks during the video hearing and Ms Khanom confirmed that she was content to participate.

10. Ms Khanom was at home at the subject property, 22 Brookes Court, Baldwin Gardens, London EC1N 7RR (“**the Property**”) for the video hearing. During it Ms Khanom helpfully showed the tribunal the layout of her living room (in which she also had a bed), including the position of the radiator, using the webcam on her laptop.
11. The tribunal also permitted Ms Khanom during the hearing to show all those participating a photograph on her phone from January/February 2021, showing her at home wearing many sweaters and other clothes, which she said was because of the cold, and also a video on her phone of a visit on 31 December 2020 from a heating engineer. Ms Green had the opportunity to ask questions of Ms Khanom among other things on that video and photograph. In addition, Mr Hunt gave evidence, on which he was cross examined, as to a data logging exercise which he had carried out since filing his witness statement (which was dated 24 February 2021).
12. The tribunal would like to express its appreciation to both representatives for their useful written and oral submissions.
13. The tribunal’s conclusion was that all 3 of the witnesses were honest and credible and were seeking to assist the tribunal to the best of their ability. Further reference is made below to particular aspects of that evidence and of the parties’ submissions where relevant.

The background

14. The Property is a leasehold basement flat in a purpose-built block which includes a number of other leasehold properties. Ms Khanom has lived in the Property since 2006. Camden is the freeholder and landlord for the block. Heating and hot water for the flats in the block, including the Property, is supplied (or should be supplied) via a communal heating system, with centralised boilers.
15. In January 2017 the existing communal boilers broke down. Since that time, heating and hot water has had to be supplied using temporary boilers, installed and managed by heating contractors GEM. As at the date of the hearing, there were still no firm plans from Camden for their permanent replacement.
16. The tribunal did not consider that an inspection was practically possible given Covid restrictions. It did consider it was in a position to determine the issues on the evidence available (which included Ms Khanom using her webcam to show the tribunal features of the living room, as described above).
17. Ms Khanom holds a long lease of the Property which requires Camden to provide services and Ms Khanom to contribute towards their costs by

way of a variable service charge (at clause 3.2.1 of the lease). There was no dispute between the parties in principle that she had an obligation under her lease to contribute through the service charge to the cost, among other things, of heating and hot water to the Property. The issue was as to the reasonableness and payability of the service charge given Ms Khanom's objections that the supply of heating and hot water was inadequate.

The issues

18. At the hearing the parties' representatives identified the relevant issues for determination as follows:
 - (i) The payability and/or reasonableness of service charges for the 5 years from 2015/16 to 2019/20 for heating and hot water.
 - (ii) Whether Camden should reimburse the tribunal fees paid by Ms Khanom.
19. As noted above, the tribunal also clarified that it should determine the reasonableness and payability (under s.19(2) of the 1985 Act) of the interim service charges for the year 2020/21.
20. When Ms Khanom issued her application, there were other live issues, which had been conceded/ abandoned by Camden by the time of the hearing. In particular there was an issue as to her liability for service charges for six months' worth of the costs of hiring the temporary boilers¹. Ms Khanom disputed her liability for these beyond £250, because there had been no consultation of the tenants in relation to these costs, nor dispensation with consultation. Camden originally disputed that any consultation was necessary, arguing that the cost had been incurred on a monthly basis and so was under the consultation limit. However, in February 2021 all these sums were recredited to Ms Khanom's service charge account, including, as a goodwill gesture, the £250 capped sum.
21. In addition, on 11 and 18 February 2021 and in a stated effort to narrow the issues between the parties, Camden recredited the following sums to Ms Khanom's service charge account, in respect of heating/hot water charges for days when it appeared she had or might have had no service:

11.2.21	£82.53	40 days in 2016/17
11.2.21	£31.38	18 days in 2019/20

¹ A report from the Housing Ombudsman of 16 January 2020 had recommended that such costs should not be sought from her for a period of more than 6 months.

18.2.21 £38.36 22 days in 2019/20

22. All of these deductions have been taken into account in Camden’s entries in the service charge schedule. Ms Khanom does not make any alternative case on the specific calculations, and the figures in the schedule are consistent with the underlying documents. The tribunal accordingly accepts those figures in the schedule as being the total amount which Camden has charged by way of service charge for heating and hot water in each of these years, after all of the concessions/allowances already made. The sums now claimed by Camden are accordingly:

2015 – 2016	£889.57
2017 – 2017	£679.51
2017 – 2018	£838.23
2018 – 2019	£830.04
2019 – 2020	£566.73

23. In relation to the interim service charges for 2020 – 2021, the estimate submitted by Camden to Ms Khanom on 28 February 2020 demanded an advance payment of £833.26 in respect of heating, hot water and gas supply, which the tribunal has accordingly treated as the amount of the interim service charge under this head.

Legal framework

24. This is an application for the tribunal to determine the reasonableness and payability of the service charges under s.19(1) of the 1985 Act², under which relevant costs incurred by Camden are only to be taken into account in determining the amount of the service charge to the extent that (a) those costs have been reasonably incurred and (b) the services or works are of a reasonable standard.
25. There is no challenge to the level of the actual costs incurred by Camden in providing the heating and hot water. Ms Khanom’s complaint is that the heating and hot water was not provided to a reasonable standard, and so the amounts charged should be reduced accordingly.
26. In *Country Trade Limited v. Noakes* [2011] UKUT 407 (LC), HHJ Gerald noted at [13] that “*It is an everyday occurrence for the LVT to be faced*

² Insofar as they are final service charges. The power to assess the reasonableness of interim service charges is in s.19(2).

with an application relating to the reasonableness of various elements within a service charge of a detailed and factual nature frequently involving quite small sums of money relating to goods or services which are part of most people's broad knowledge and experience of everyday life." In such cases, he stated, the tribunal should robustly scrutinise the evidence of both parties, which it could accept or reject on grounds of credibility. Where some work has been provided but the tribunal does not consider the charges claimed are reasonable or justified, the tribunal should apply a robust, common sense approach, making appropriate deductions based on the available evidence from the amounts claimed, explaining its reasons for doing so.

27. In *Saunderson v. Cambridge Park Court Residents Association Limited* [2018] UKUT 182 (LC), the landlord had failed to supply any heating and hot water to the tenant's flat at all, and the tenant had installed their own boiler as a consequence. The Upper Tribunal held that it was necessary in these circumstances to consider whether the landlord had provided heating and hot water to a "reasonable" standard under s.19(1)(b), as to which the answer was obviously "no" on the facts, so that no service charges were payable (save in respect of common parts).
28. Applying these authorities together, the tribunal considers that if and insofar as it concludes that heating and hot water has only been provided intermittently and/or has on occasions not been provided to a reasonable standard, it should make a percentage deduction to the service charges sought to reflect any such inadequacies, applying a robust and common sense approach and taking in accounts all the relevant facts.

The evidence as to heating and hot water supplied

29. The evidence of Ms Khanom taken overall was that since the installation of the temporary boilers in January 2017, there have been intermittent problems with her heating, and that the hot water has been lukewarm, so that it could only be used for showers and not baths. This had been a more serious problem since lockdown started in March 2020 and she and her daughter were confined to their home, and especially in the winter of December 2020 to February 2021. Camden had provided fan heaters and then standalone radiators during that winter to assist with her heating difficulties, but these had been insufficient and expensive to run.
30. In February 2020 Ms Khanom had had a meeting at the Property with Mr Hunt and Alex Lloyd (manager of GEM, the contractors responsible for the temporary boilers). They inspected her flat and she identified the problems, in particular that the radiators had large cold areas and the heating was intermittent. They recommended replacing the old radiators with new ones. As a result of the pandemic and Ms Khanom's daughter's (perfectly understandable) reluctance to agree to contractors coming

into the house at that time, the new radiators were not installed until October 2020. However, Ms Khanom said that this did not resolve the problems. In addition, she believed (although this was disputed by Camden) that the thermostatic controls (“**TRV**” or Thermostat Radiator Valves) on the new radiators were different from the old ones, in that they responded to the air temperature of the room in opening or closing. On 12 November 2020 Mr Hunt therefore offered to remove the TRVs. Ms Khanom asked him to do so, and the TRVs were removed on 16 December 2020, so the radiators were then “on or off”.

31. However, Ms Khanom complains that the radiators were still not heating up reliably and indeed this worsened from the end of December 2020. The frequency of Camden’s logs of complaints from Ms Khanom increased during 2020 (although with little in the summer months). Ms Khanom said that she had not herself kept a diary of problems, as she had not anticipated she would need this for a court case.
32. The tribunal has received no expert evidence as to effectiveness of the radiators and the heating and hot water system so far as the Property is concerned, or as to the reasons why Ms Khanom might be experiencing inadequate hot water and heating. On the basis of the evidence it has received, it can only therefore reach conclusions as to whether there have probably been inadequacies in the supply; it cannot reach any conclusions whatever as to what features of the system caused any problems. It understands there is a separate dispute between the parties, in which Ms Khanom has instructed solicitors, relating to the quality of the heating and hot water system. Nothing in this decision is intended to or could prejudice those proceedings.
33. Camden’s position, in part, is that Ms Khanom did not operate or did not know how to operate the radiator controls correctly, and that this was why the radiators were not coming on. Mr Hunt’s evidence was that he and others have shown Ms Khanom how to operate the controls correctly on various occasions. Criticism has also been made of the fact that the bed in Ms Khanom’s living room is close to the radiator, which it is said would have blocked air flow and prevented the TRVs from operating correctly. Criticism has also been made by Camden of the fact that she has sometimes had the window open (she says, to combat condensation).
34. The tribunal does not consider it credible that the repeated problems of intermittent lack of heating, and of lukewarm water, of which Ms Khanom has complained over an extended period of time are simply the result of her failing to understand how to operate the radiators. Ms Khanom’s distress at being confined in lockdown to an unheated flat in cold winter months, and the negative effects of this on her, came across as genuine and compelling. It seems very unlikely that Ms Khanom (clearly an intelligent woman) would not have mastered the radiator controls or rearranged her flat if this was all that was required for her heating to work reliably.

35. The evidence was that there have been many visits by GEM engineers to the Property as a result of complaints by Ms Khanom, sometimes resulting in the heating coming on again and sometimes not. However, Ms Khanom said that even when the heating did restart, this did not last.
36. Mr Hunt said in evidence that GEM had believed there was a flow issue to the Property. He said GEM needed to investigate and he was unable to explain the problems. He said they had recognised there appeared to be a pressure issue affecting the Property (but not other flats). At the same time, the data loggers which had recently been installed (in March 2021) had showed a constant temperature of about 65 degrees going into the flat and 50 going out, which suggested a good supply of heat to it. He confessed to being baffled, and also that he believed that now Ms Khanom had only an on/off control, she was having to turn them off to control the heating. It was apparent that Mr Hunt considered the heating problems to be genuine, and to be difficult to resolve in part because they were intermittent.
37. On the basis of all of the evidence, including the repair logs as well as the oral evidence of Ms Khanom and Mr Hunt, the tribunal has concluded that there have been intermittent interruptions to the heating since January 2017, with more serious disruption starting in late 2019/early 2020. It also accepts that at least for significant periods, the water has been lukewarm and while hot enough for a shower, insufficient for a bath. Ms Khanom's evidence was that both she and her daughter had medical conditions which would have benefitted from a hot bath.
38. Against that background, and taking into account all of the evidence and submissions from the parties and having considered all of the documents provided, the tribunal has therefore made determinations in relation to the specific service charge years as follows.

2015 - 2016

39. This year predates the installation of the temporary boilers. Although Ms Khanom said in cross examination that she had had some issues with heating since 2015, she gave no details for the period before the temporary boilers. Nor do the repair logs retained by Camden record any complaints from Ms Khanom for this period.

The tribunal's decision and reasons

40. The tribunal determines that the amount payable in respect of heating and hot water for 2016-2017 is £889.57, that is the amount charged.
41. This is because there is no evidence before the tribunal of any real problems before the installation of the temporary boilers. The tribunal

concludes therefore that the service charges charged by Camden for this period are reasonable.

2016 - 2017

42. The temporary boilers were installed at the end of this period, in January 2017. As above, there is no evidence of problems before this.
43. Camden's log records two complaints from Ms Khanom, on 14 and 20 February 2017, although only one related to regulation of the hot water supply (the other related to a leaking radiator).
44. Since the issue of the application, on 11 February 2021, Camden has allowed a credit of £82.53 for 40 days' lack of heating and hot water for this service charge year.
45. In his oral evidence Mr Twelftree explained that this had been calculated as the total heating and hot water cost for the year, less the repairs element, divided by 365 and multiplied by the number of days. He also said that on 27 February 2020 he had contacted Ms Khanom and asked her to provide details of all the dates when she had been without heating or hot water. He said Ms Khanom suggested that he use the dates logged with Repairs, as she did not have other records. This is what he therefore did (although the deduction for the service charge year 2016/17 was not made in 2020).

The tribunal's decision and reasons

46. The tribunal determines that the amount payable by way of service charge in respect of heating and hot water for 2016-2017 is £679.51, i.e. the net amount now claimed by Camden after the credit of £82.53.
47. The tribunal considers that the deduction of £82.53 for lack of heating and hot water for 40 days at the end of the 2017 service charge year already reflects the extent to which the service was inadequate in that year. No further deduction is therefore appropriate.

2017 - 2018

48. Aside from the credit of £1,229.69 for the temporary boilers themselves and £1.82 credit for remote monitoring, Camden has given no other credit for this year, on the basis there were no complaints logged in the repair log for that year.
49. Ms Khanom accepted in evidence that she did not make any complaints to Camden during that period. Her evidence was that the heating and hot

water service was inadequate during that year, but that she was very busy with work at that time and not at home much of the time.

The tribunal's decision and reasons

50. The tribunal considers that, taking the evidence of intermittent problems as a whole, and accepting Ms Khanom's evidence that the heating and hot water supply was sometimes inadequate during this year, a deduction of 10% should be made to the service charges for heating and hot water for this year to reflect those problems. This is intended in particular to take into account the evidence that the hot water was not fully hot.
51. The tribunal therefore determines that the amount payable by way of service charge in respect of heating and hot water for 2017-2018 is £755 (being a reduction of 10% from the £838.23 charged).

2018 - 2019

52. Camden's repair log records 3 complaints by Ms Khanom during this period, two of which were for heating problems and the radiators not working properly.
53. On 30 April 2020 Mr Twelftree credited £20.98 to Ms Khanom's account, intended to reflect 9 days' lack of heating during this period.
54. Ms Khanom's evidence was that she believed she made more than 3 complaints during this year, but she had not kept a separate record because she did not anticipate she would need to. She accepted she had received the credit, although she said she did not realise this at the time because she only received an annual statement of the total charges. Her evidence was that there were problems with the radiators during this year, as well as the ongoing issue with hot water.

The tribunal's decision and reasons

55. The tribunal considers that, taking the evidence of intermittent problems as a whole, a further deduction of 10% should be made to the service charges for heating and hot water for this year to reflect those problems, in addition to the 9 days credit allowed. This is intended to take into account that the hot water was not fully hot as well as any further heating issues.
56. The tribunal therefore determines that the amount payable by way of service charge in respect of heating and hot water for 2018-2019 is £747 (being a reduction of 10% from £830.04 allowed by Camden after the deduction of its credit).

2019 - 2020

57. Camden's log records significantly more complaints by Ms Khanom during this year: a total of 14, most of which were for problems with the communal heating or problems of hot water supply. They were concentrated in the winter months, November to February.
58. Camden has already given a credit of £69.74 for this year, calculated as 40 days disruption to heating and hot water. The credits were made on 11 and 18 February 2021.

The tribunal's decision and reasons

59. The tribunal considers that given the extent of the recorded complaints during this period, and the fact that they were repeatedly of inadequate heating and/or hot water, the credit already given by Camden is insufficient to reflect the extent of the inadequacy of the service provided.
60. Doing its best in all the circumstances and on the evidence available, the tribunal therefore makes a further deduction of 10% to the service charges in respect of heating and hot water for 2018-2019, which are therefore assessed as £510 (being a reduction of 10% from the £566.73 allowed by Camden after deduction of its credit).

Interim service charges for 2020 - 2021

61. This period is not covered by the schedule, although it was included in the original application. As already noted, advance service charges for heating and hot water for the current year have been demanded in the sum of £833.26.
62. Camden's repair log records several complaints from Ms Khanom of lack of heating in particular from September 2020. There are no complaints logged after 23 November 2020, although there was email correspondence in evidence between Ms Khanom, Mr Hunt and other Camden representatives.
63. The tribunal accepts the evidence of Ms Khanom as to the continuing problems with her heating, and the fact this was known to be an increasing problem just before this in February 2020. The fact that Camden provided Ms Khanom with fan heaters and oil radiators in itself supports the conclusion that there were significant problems.

The tribunal's decision and reasons

64. By the time that the estimated service charges were set for 2020 – 2021, it was known that there were significant problems with the heating and

hot water supplied to the Property. That has only been confirmed by the difficulties which Ms Khanom suffered during the most recent winter. The tribunal concludes that given the problems with the supply of heating and hot water, which were apparently increasing in severity from late 2019/early 2020, it is appropriate to make a reduction of 25% to the interim service charges for the 2020 - 2021 period.

65. The tribunal therefore determines that a reasonable interim service charge in respect of heating and hot water for 2020 – 2021 is £625, being 75% of the sum of £833.26 in fact charged.

Application under s.20C and refund of fees

66. In her application form Ms Khanom applied for an order under section 20C of the 1985 Act. Camden indicated through its counsel that it did not intend to pass on any costs through the service charge and that it did not oppose such an order. For the avoidance of doubt, 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 Camden may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.
67. At the hearing Ms Khanom made an application for a refund of the fees that she had paid in respect of the application and hearing³. Having heard the submissions of the parties and taking into account the determinations above, the tribunal orders Camden to refund the £300 fees paid by Ms Khanom within 28 days of the date of this decision. In particular it notes that the further concessions made by Camden were not made until the end of February 2021, and further reductions have now been made by the tribunal. In effect Ms Khanom has had to pursue this application to obtain those results. Also, although she did not agree to mediation, there were other earlier occasions on which she indicated she was willing to enter into negotiations, but which did not lead to any resolution.

Name: Judge N Rushton QC

Date: 30 May 2021

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.

³ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

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.

(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 of an application under subsection (1) or (3).

(7) The jurisdiction conferred on [the appropriate tribunal] in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.]

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).

Schedule 11, paragraph 5A

(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.

(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.

(3) In this paragraph—

(a) “litigation costs” means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and

(b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings.

Proceedings to which costs relate	“The relevant court or tribunal”
Court proceedings	The court before which the proceedings are taking place or, if the

	application is made after the proceedings are concluded, the county court
First-tier Tribunal proceedings	The First-tier Tribunal
Upper Tribunal proceedings	The Upper Tribunal
Arbitration proceedings	The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.