



Leasehold Disputes

Guidance on procedure
Service charges
Dispensation with service charge consultation
Administration charges
Estate charges
Variation of Leases
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This guidance document is also available in Welsh. Please contact the tribunal for a Welsh version of this document

Part 1 Guidance on procedure

What does this guidance cover?

This guidance explains the procedures followed by the Leasehold Valuation Tribunal for dealing with:

- service charges;
- dispensation with service charge consultation requirements, administration charges; applications under the right to manage;
- the appointment of managers;
- the variation of leases;
- estate charge cases;
- forfeiture and landlord's choice of insurer.

A brief description of each of these types of case is given in Part 2.

What is the Leasehold Valuation Tribunal?

The Leasehold Valuation Tribunal (LVT) is the formal name given to the tribunal appointed to make decisions on various types of dispute relating to residential leasehold property. The Leasehold Valuation Tribunal is independent of the parties to an application and cannot give legal advice. LVT's are part of the Residential Property Tribunal (RPT).

Language Preference

The LVT welcomes receiving correspondence in Welsh or English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding. The Tribunal also welcomes phone calls in Welsh or English.

You may submit forms, documents and make written representations to the LVT in Welsh or English.

Who will deal with an application?

From the time an application is made to the LVT, a number of different people will deal with the paperwork involved and the parties. These include the following:

Clerks to the Tribunal

Clerks to the Tribunal are the administrative staff who will deal with the correspondence and other paperwork in the case from start to finish. The clerks are able to speak to parties about the processes and procedures relating to the application. They cannot give general legal advice or advise about the law relating to the matter in question.

The Tribunal Members

The Chair of the Tribunal, who will usually be a lawyer, is responsible for the smooth running of the proceedings and will write up the reasons for the tribunal's decision.

Other members of a tribunal may be lawyers, surveyors, other professional persons or lay persons. Lawyers are appointed by the Lord Chancellor whilst other members are appointed by the Welsh Ministers.

When a tribunal is set up to consider an application there will usually be three, but occasionally two, members including the Chairperson. Sometimes a chairperson sitting alone will exercise the powers of the tribunal. This will usually be when dealing with procedural and related matters although, in limited instances, a chairperson sitting alone can hear and determine the application.

The Residential Property Tribunal President

The Residential Property Tribunal President, assisted by a Vice President, is responsible for the members and, in particular, decides which member(s) should be appointed to hear and decide a particular case. They will not be involved in the decision in a case unless they are a member of the tribunal dealing with the case.

How can I obtain advice?

If you are in doubt as to whether an LVT can deal with your case you should take independent legal advice from a solicitor, housing advisor or contact:

Leasehold Advisory Service (LEASE)
Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX
Tel: 0207 832 2500
Fax: 0207 383 9849
Email: info@lease-advice.org
www.LEASE-advice.org

or a Citizen's Advice Bureau www.citizensadvice.co.uk

Part 2 – The types of application

Applications about service charges

What service charges are covered by this guidance?

The service charges covered are sums of money payable by a tenant under the terms of his/her lease to a landlord for the costs of services, repairs, improvements, maintenance, insurance or the landlord's costs of management. The service charge must **be one, the whole or part** of which varies or may vary according to the relevant costs.

Can the LVT make decisions about all aspects of a service charge?

The LVT can decide about all aspects of the liability to pay a service charge. It can decide by whom, to whom, how much and when a service charge is payable. A service charge is only payable to the extent that it is reasonable. Therefore in order to decide liability a tribunal also decides whether service charge costs are reasonably incurred and if so whether the standard of any services or works for which the costs are charged is reasonable.

Applications can be made either before or after service charge costs have been incurred.

Applications are made under section 27A of the Landlord and Tenant Act 1985.

What is the LVT's power to dispense with service charge consultation requirements?

The law requires landlords to consult with tenants before incurring expenditure for works or entering into long term agreements for services. Consultation is required when costs exceed prescribed limits.

The consultation requirements are very detailed and are contained in section 20 of the Landlord and Tenant Act 1985 and associated regulations.

An application may be made to the LVT to dispense with all or any of these requirements.

An application to dispense with or to modify consultation may be made before works are carried out.

Alternatively an application can be made after or during works where a dispute about consultation has arisen.

In either case the LVT can only make a determination to dispense if it is satisfied that it is reasonable to do so.

Applications for dispensation are made under section 20ZA of the Landlord and Tenant Act 1985.

Applications about administration charges

What are administration charges?

These are charges made to a tenant of residential property which are payable:

- a) for or in connection with the grant of approvals or applications for approvals;
- b) for or in connection with the provision of information or documents;
- c) in respect of a failure by the tenant to make a payment by the due date;
- d) in connection with a breach (or alleged breach) of a covenant or condition in the lease.

Administration charges can be variable or fixed. A variable charge is one that is neither specified in the lease (e.g. £50) nor is calculated in accordance with a formula specified in the lease.

Can the LVT make decisions about all aspects of administration charges?

The LVT can decide about all aspects of the liability to pay an administration charge. It can decide by whom, to whom, how much and when an administration charge is payable.

A variable administration charge is only payable to the extent that it is reasonable. Therefore, in deciding liability to pay a variable administration charge, a tribunal also decides whether the costs are reasonable.

Where the LVT is dealing with a fixed administration charge, it has the power to vary the lease on the ground that the charge specified or the formula by which the charge is calculated is unreasonable.

Applications are made under Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

Applications about estate charges

What are charges under estate management schemes (estate charges)?

These are charges made under schemes which were created under section 19 of the Leasehold Reform Act 1967 or Chapter 4 of Part I and section 94(6) of the Leasehold Reform Housing and Urban Development Act 1993. Estate charges can be variable or fixed.

A variable charge is one that is neither specified in the lease nor is calculated in accordance with a formula specified in the lease.

Can the LVT make decisions about all aspects of estate charges?

The LVT can decide about all aspects of the liability to pay estate charges. It can decide by whom, to whom, how much and when an estate charge is payable. A variable estate charge is only payable to the extent that it is reasonable. Therefore, in deciding liability to pay a variable estate charge, a tribunal also decides whether the costs are reasonable.

Where the LVT is dealing with a fixed estate charge, it has the power to vary the lease on the ground that the charge specified or the formula by which the charge is calculated is unreasonable.

Applications are made under section 159 of the Commonhold and Leasehold Reform Act 2002.

Applications to vary a lease or leases

What types of leases can the LVT vary?

The LVT has power to vary long leases of flats. A long lease is one which has been granted for a term exceeding 21 years. This is separate from the power to vary leases in relation to administration and estate charges which is dealt with above.

Can the LVT vary all and any type of provision in a lease?

No. The grounds for seeking a variation of a lease are set out in Part IV of the Landlord and Tenant Act 1987. If you are in doubt about whether the LVT can vary a lease you should take independent advice.

Who can apply for the variation of a lease?

Any party to a long lease of a flat may apply for the variation of a lease. Also, applications for variation may be made in respect of two or more flats where there is a consensus for that variation from the majority of parties to the leases. Furthermore, where the variation of one lease would affect other leases, then an application may be made to vary those other leases.

Must an applicant notify any other person of their intention to apply for a variation?

Yes. If a person wishes to apply for a variation of a lease, they must give notice of the application to any person whom they know or have reason to believe may be affected by the variation. For example, this may include other tenants or any superior landlord or mortgagee.

Those persons notified may apply to join in the proceedings as either applicants or respondents. If you are the respondent to an application for variation you also have a duty to notify persons who may be affected and who have not already been notified by the applicant.

Must an applicant provide the LVT with a draft of the variation they seek?

Yes. An applicant must provide a draft of the wording of the variation. If the LVT decides that it will vary the lease it will either adopt that wording or substitute other wording as it considers appropriate.

Applications about the Right to Manage

What is the Right to Manage?

This is a right for tenants of flats to take over the management of a property from the landlord without the need to show fault on the part of the landlord or any manager.

The requirements to exercise the right are set out in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002. The right is exercised through a right to manage company (RTM company).

Can the LVT deal with all disputes under the Right to Manage?

No. The detailed procedures for exercising the right and for running an RTM company are relatively complex and are not dealt with in this guidance. However, the LVT can deal with the following applications:

- a) an application by an RTM company for a determination that it was entitled to acquire the right to manage on the relevant date where the landlord disputes the entitlement;
- b) an application by an RTM company for a determination that it is entitled to acquire the right to manage where the landlord is missing;
- c) an application for a determination of the amount of costs incurred by the landlord (or other party to the lease other than the landlord and tenant) or a manager appointed under the Landlord and Tenant Act 1987 (see below) in association with the exercise of the right;
- d) an application for a determination of the amount of accrued uncommitted service charges to be paid by landlord/third party/manager to an RTM company;
- e) an application by the RTM company, a landlord or a tenant for a determination whether approval is to be given under the terms of a lease;
- f) an application by an RTM company for a determination that the right may be exercised early.

Applications under c) and d) can be made by the RTM company or the landlord/third party/manager.

Applications to appoint a manager

What power does the LVT have to appoint a manager?

The LVT has the power to appoint a manager of premises containing flats under section 24 of the Landlord and Tenant Act 1987, where it is satisfied that grounds have been proved and that it is just and equitable to do so. Usually it is necessary to prove that there is fault with the management of the property, for example a failure to carry out obligations under a lease or charging unreasonable service charges.

Who can make an application to appoint a manager?

Applications can be made by a tenant or group of tenants.

Must an applicant take any preliminary steps before making an application?

Yes. An application to appoint a manager cannot be made unless a notice which complies with section 22 of the 1987 Act has been served.

Exceptionally, on application, the LVT has power to dispense with the service of this notice. It can do so if it is satisfied that the grounds set out in section 22(3) apply, namely that it would not be reasonable to serve such a notice on the landlord.

Applications about forfeiture

Can the LVT deal with all aspects of forfeiture?

No. The County Court decides whether or not a lease should be forfeited.

What forfeiture disputes can the LVT deal with?

The LVT is limited to deciding the following:

- a) whether there has been a breach of a covenant or condition in the lease (other than those described in paragraph (B) below). A landlord under a long lease cannot serve a notice under section 146 of the Law of Property Act 1925 on a tenant unless they have obtained a determination that there has been such a breach or unless the tenant has admitted the breach. An application for this type of determination can only be made by a landlord. The application to the LVT is made under section 168(4) of the Commonhold and Leasehold Reform Act 2002;
- b) whether service charges or administration charges are payable. A landlord under a long lease cannot take steps to forfeit a lease in respect of an alleged failure to pay service charges or administration charges unless they have obtained a determination that such charges are payable. This is the same type of application as described under section 27A of the Landlord and Tenant Act 1985 or schedule 11 of the Commonhold and Leasehold Reform Act 2002.

Applications about insurance

Can the LVT deal with disputes about insurance?

Yes. The LVT can deal with insurance disputes in two circumstances:

- a) where a lease requires that a tenant insures a property with an insurer nominated or approved by the landlord, the LVT may determine whether the insurance provided is unsatisfactory in any respect and/or whether the premiums payable are excessive;
- b) where insurance is payable as part of a service charge, then the LVT can decide on its recoverability under the lease and its reasonableness.

Part 3 – Making an application

How is an application made to the LVT?

Application forms are available from the Residential Property Tribunal office.

An applicant may need to complete more than one form, where for example they want the LVT to make a decision about service charge costs and an administration charge.

All forms should be completed as fully as possible. When completing the forms applicants should read the guidance notes. These tell the applicant what documents should be included.

Applicants will be asked to provide full documentation at a later stage. The application form should be returned to the Residential Property Tribunal office.

Can a County Court transfer a case to the LVT?

Yes. If the County Court is dealing with a case which includes issues that the LVT has power to deal with, the judge can decide to make an order for those issues to be transferred to the LVT.

Usually, the rest of the claim will be adjourned until after the LVT makes its decision. The claimant in the County Court case becomes the applicant at the LVT.

Does an applicant have to pay a fee to make an application?

For some applications, yes.

The Welsh Ministers have decided that for service charge, dispensation of service charge consultation requirements, administration charge, appointment of a manager, landlord's choice of insurer and lease variation applications, fees are payable.

No fees are payable for right to manage applications, forfeiture applications under section 168(4) of the Commonhold and Leasehold Reform Act 2002 and estate management charge applications.

In all other cases there are two-fees: the application fee and a hearing fee.

How much is the application fee?

An application fee varies either according to how much money is in dispute (for service charges, administration charges) or according to the number of dwellings to which the application relates (dispensation of service charge consultation requirements, appointment of managers and variation of leases). Further information on fees can be found in the separate guidance for application fees, hearing fees and waiver of fees guidance.

When must the application fee be paid?

This depends on whether the application is made direct to the LVT or whether the case has been transferred from the County Court.

For direct applications the fee must be paid with the application. Fees must be paid by cheque or by postal order made in favour of 'Welsh Government'.

For transferred applications the claimant in the County Court will be invoiced for the fee when the papers are received from the County Court.

If the applicant has already paid a fee to the County Court, this will be deducted from the invoice.

The fee must be paid by cheque or by postal order made in favour of the Welsh Ministers. **The LVT will not accept cash.**

Waiver of fees

If the applicant or their partner are in receipt of one of a specified number of benefits, the applicant can apply for a waiver of the fees. The benefits are as follows:

- Income Support.
 - Housing Benefit.
 - Income Based Job Seekers Allowance.
 - Income Related Employment and Support Allowance.
 - Working Tax Credit where;
 - a) **either** that credit includes a disability element **or** severe disability element (or both) or it is combined with child tax credit;
- and**
- b) the gross annual income used to calculate the Working Tax Credit is £14,213 or less.
- A Guarantee Credit under the State Pensions Credit Act 2002.
 - A current certificate issued under the Funding Code (legal aid) which is in respect of the proceedings before the Tribunal, the whole or part of which have been transferred from the County Court for determination by a Tribunal.

If more than one application is made to the LVT does the applicant have to pay a separate fee for each one?

No, an applicant need only pay one fee. This will be the highest of the fees they would have paid for any one of the applications they are making.

How much is the hearing fee?

The hearing fee is £150 unless the applicant is entitled to have it waived (see above). The next chapter explains when this fee must be paid. The applicant does not need to pay the fee until they receive a request from the Residential Property Tribunal.

They must pay the hearing fee by either a cheque or a postal order drawn in favour of the Welsh Government. **The LVT will not accept cash.**

If the case is to be decided without a hearing (see the next chapter) the applicant does not have to pay a hearing fee.

What happens after an application has been received by the LVT?

The application will be acknowledged within 14 days. If the applicant does not receive an acknowledgement within 14 days of sending it, they should contact the Residential Property Tribunal office to make sure that it has arrived.

The application will be checked by a clerk to ensure that the applicant has supplied sufficient information to enable the application to proceed.

If important information is missing, the Clerk may write to the applicant requesting this information be sent to the Residential Property Tribunal.

A copy of the application will then be sent to any person named as a respondent on the application form.

Will information be shared with other parties?

Yes. Copies of correspondence or documentation [including the original application form] will be sent to the other party/parties. Directions usually require applicants and respondents to send copies of documentation to each other. Such information is often referred to as 'bundles'.

How will the LVT deal with the case?

The LVT can decide cases at a hearing, where applicants, respondents and their witnesses attend to give oral evidence and to explain their case in person. Alternatively, the case can be decided without a hearing and on the basis of a consideration of documents and written representations alone.

Part 4 - How the LVT will process the application

A Procedural Chairperson will look at the papers provided and will decide whether a Pre-Trial Review (PTR) is necessary.

If parties are invited to a PTR it is strongly recommended that they attend.

If a PTR is not arranged and a party feels that they would benefit from a PTR hearing, they may write to the clerk and request one.

What is a Pre-Trial Review (PTR)?

This is a short hearing to which all parties are invited. It is conducted by an LVT Chairperson who may sit alone or, in some cases, with either one or two other members.

The PTR is a relatively informal hearing to try to identify the issues in the case and to see if any part of the dispute can be resolved by agreement at that stage. It is not a hearing of the issues and the LVT will not make any final decision on the case.

No hearing fee is payable for a PTR.

What happens at a PTR?

At the PTR the LVT will look at the application and the documents sent with it. All parties will be given an opportunity to speak.

The purpose of the PTR is:

- to find out whether there is any prospect that the parties can settle any of their disagreements;
- to find out whether either party is able to make admissions about any part of the application; for example, a landlord may admit that part of a charge was excessive or a tenant might admit that part of a charge was reasonable;
- to decide what further steps need to be taken to enable the application to come to a hearing;
- to decide if the application can conveniently be heard in conjunction with any others that deal with the same property/issues;
- to deal with any application made by any person who wants to join in the proceedings as a further party to them;
- to set out the ground rules to enable the application to be heard in an efficient manner.

After the PTR the LVT will give directions setting out the steps to be taken by the parties to deal with the points mentioned above.

What are directions?

Directions are the orders made by the LVT which require the parties to take specified steps to ensure that all the necessary information about an application is provided. Directions may be given for any type of case.

The most common directions are to:

- indicate what information will be required by the LVT for the full hearing;
- provide written statements of a party's case. This is a document which sets out what is in dispute and a summary of the arguments in support of a case;
- provide the other parties to the case with copies of documents which are relevant to the dispute;
- try to agree with the other parties which documents will be used at the hearing of the application and collate these into a bundle. If no agreement can be reached each party will be asked to produce their own bundle of documents. The pages on a bundle of documents should be numbered for ease of reference;
- include expert evidence in a report (see below);
- include in appointment of manager cases, a requirement that the proposed new manager attend the full hearing so that the LVT can ascertain whether he/she would be an appropriate person to appoint. The directions will also set out a timetable for the full hearing of the application and may also fix a time for the LVT to inspect the property.

What should a party do if they cannot comply with directions?

They should always do their best to comply with directions. However, if there is a good reason for non-compliance a party should write to the other parties and to the LVT explaining the difficulty.

If appropriate, the LVT will vary the directions.

On occasion the LVT may arrange for there to be a further PTR. If a party does not understand what the directions require, they should ask the LVT for an explanation.

Will parties need an expert to help them with their case?

This depends on the type of case. Expert evidence is sometimes needed where the dispute involves very technical matters. Experts are not always required and this is something a party may wish to discuss at the PTR.

If expert evidence is required then the expert will be asked to produce a report which sets out the evidence that they will give at the hearing of the application.

If both parties intend to call expert evidence on a particular issue, the experts will be asked to exchange their reports and may also be asked to meet before the hearing to find out if any aspects of the matter can be agreed.

It may be possible to agree jointly to instruct one single independent expert.

How does the LVT set a timetable for the hearing of a case?

The LVT will give time limits for complying with the directions.

At the PTR it will be possible to discuss how much time should be given for each stage of the directions. It is vital that the timetable is adhered to.

Any failure to comply with the directions may prejudice a party's case and in particular the LVT may give less weight to evidence which is late or which takes another party by surprise.

In Direction the LVT may also give a date for the final hearing of the case.

In order to set a date it is necessary for an estimate to be made of how long the final hearing is likely to last.

This process is assisted if parties are able to given an indication of how many witnesses they might be calling and how long their evidence is likely to last.

The LVT may also decide that an inspection of the property is necessary and if so, will also include this in the directions.

Can the date of the final hearing be changed?

A hearing before the LVT should take priority over other engagements.

Once the date has been fixed and the parties notified, the LVT will not permit a postponement unless a very good reason has been shown.

This is necessary in the interest of justice to all parties and to ensure the efficient use of resources generally.

If a party wishes to apply for a postponement they should send in a written request. They should send a copy of the request to all of the other parties to the application.

Parties will be notified in writing whether or not a postponement has been granted.

When does the hearing fee have to be paid?

The hearing fee must be paid within 14 days of request.

If the fee remains unpaid after that time the application will be treated as having been withdrawn.

May other parties join the application?

Other people who have an interest in the application may apply to be joined as applicants or respondents.

The LVT has discretion whether to allow other persons to join in this way and will usually only do so if he or she may be affected by the outcome of the case.

Are there any further hearings before the full hearing?

The LVT can arrange for there to be further PTR hearings. This can follow the request of one or more of the parties or because the LVT considers it necessary.

In addition the LVT can arrange for there to be a 'preliminary hearing'.

What is a preliminary hearing?

In exceptional cases, the LVT may be concerned that they do not have the power to deal with all or some of the issues raised by the applicant. In such a case, a preliminary hearing will be arranged at which the parties will be given the opportunity to make representations.

Following the preliminary hearing the LVT will give a written decision on whether it has power to proceed and, if so, it will issue directions similar to those given at a PTR.

No hearing fee is payable for a preliminary hearing.

Can an application be withdrawn?

An applicant can withdraw all or part of their application if they no longer wish to proceed. In this case they should notify the LVT in writing and they should copy the letter to all other parties.

What procedure does the LVT follow to determine cases on consideration of papers alone?

If no party requests a hearing or the LVT considers it to be appropriate, then cases can be determined on consideration of documents alone without the need for a hearing.

Paper considerations will usually be suitable for simple cases. However, there is no reason in principle why they should not also be used for more complicated cases, in particular where for example, the issues do not involve decisions on contested evidence.

Where it has been directed that a case can be determined on consideration of the papers alone, the parties will be asked to provide all of the documentation by a specified date.

A hearing fee is not required.

An LVT will then be asked to consider the case. In some circumstances further information may be requested.

In some cases the LVT may wish to inspect the property. Once the LVT has reached its determination, a decision will be sent to the parties and the rights of appeal, set out in Part 6 of guidance will apply to that decision.

If the Tribunal directs that a case should be decided on consideration of papers alone can a party still request a hearing?

Yes, a party can request a hearing at any stage before the determination is made. Where a party requests a hearing, it will be arranged as described later on in this guidance.

What steps can the LVT take to decide urgent cases?

Where it is important that a case is decided as a matter of real urgency (e.g. because the health, safety or welfare of a tenant is at risk), then the applicant should notify the LVT of the urgency and the reason for this.

In exceptional circumstances the LVT can arrange a hearing at very short notice and if necessary a decision on an application can be given within a matter of days. It will assist the LVT if they are given as much information as possible in writing as to the need for urgency.

The procedure will also be assisted if an applicant informs any person affected, that the application is to be made. They should let the LVT know that they have done this.

Part 5 - The hearing

What happens at the full hearing?

The full hearing is when the case is heard.

The proceedings are orderly but informal. Each party is given an opportunity to explain their case.

Usually, the applicant will present their case first and the respondent will follow afterwards. The LVT will include a Chairperson and one or two other members.

The LVT will be careful to make sure that both parties have a fair hearing and put the points they want to make.

The LVT is not there, however, to make either party's case for them.

Will a party be allowed to ask questions at the hearing?

Yes. Either party will be able to ask the other about their case if present. The LVT members may also ask questions.

For example, a tenant may be asked to explain why an element of the service charge is unreasonable.

Similarly, a landlord may be asked to say why an element of the service charge is reasonable or to explain management decisions or actions.

What documents will the LVT refer to at the hearing?

The LVT will refer to the documents supplied by the parties. These should be included in a "bundle". This is a set of documents relevant to the issues in the case.

In the directions, the parties may have been asked to provide copies of a single bundle which includes all of the documents that the parties wish to refer to.

Alternatively, each party may have been asked to provide copies of his or her own bundle.

In either case, the pages of the bundle must be numbered for ease of reference.

The directions will indicate when the copies of bundles are to be sent to the LVT and to the other party.

It is very important that bundles are supplied in good time for the hearing. This will give the LVT members the opportunity to read the papers and may prevent unnecessary postponement and adjournments.

What happens when the tribunal carries out an inspection?

The LVT may want to inspect the property to familiarise itself with it.

Usually, the inspection is held on the morning of the hearing. In some cases the LVT will arrange for an inspection during or at the end of the hearing.

The parties are entitled to attend the inspection and to draw the attention of the LVT to any physical aspect of the property that they wish them to see, but not to make any representations; those must be kept for the hearing.

Usually the LVT will need to inspect the exterior of the property and the common parts.

When will the parties know the LVT's decision?

Occasionally an LVT will let the parties know the decision at the end of the hearing.

More often the LVT will issue a document containing their decision and the reasons for it after the hearing and usually within six weeks.

In cases where the application has been referred to the LVT from the County Court, then a copy of the decision will also be sent to the County Court.

Can the LVT order one party to pay the other party's costs?

No. Save in exceptional, limited, circumstances each party has to pay its own costs.

Those circumstances are where:

- a) an application has been dismissed on ground that it is frivolous or vexatious or otherwise an abuse of process or
- b) a party has in the opinion of the LVT acted frivolously, vexatiously, abusively or disruptively or otherwise unreasonably in connection with the proceedings. Furthermore, even in such a case the LVT may not award an amount in excess of £500.

Some leases allow a landlord to recover legal costs as part of the service charge.

The LVT has the power to make an order preventing a landlord from taking this step.

This is known as a section 20C order. A party may ask for a s20C order either in the application form or, by completing a separate form obtainable from the LVT office.

Part 6 - The decision

Can the LVT order one party to reimburse the fees paid by another party?

Yes. Any party can ask the LVT to order another party to pay to them the whole or part of any fee that they have paid to the LVT. The LVT also has the power to do this of its own volition without the request of a party.

Can a party ask the LVT to reconsider its decision?

No. The regulations do not allow the LVT to reconsider its decision. If a party is unhappy with the LVT's decision the appropriate course of action is to ask for permission to appeal.

If a party is unhappy with the LVT's decision, how do they appeal?

Any party can appeal an LVT decision to the Upper Tribunal (Lands Chamber).

Permission to appeal must be given by either the LVT concerned or the Upper Tribunal (Lands Chamber).

Any application for permission (leave) to appeal must first be made to the LVT within 21 days of the date the decision was sent to the parties, although the LVT has power to extend that time, in exceptional cases, if a request for an extension is made within that time.

The application should set out the grounds for appeal.

The Upper Tribunal (Lands Chamber) will not accept any application for permission to appeal unless permission has first been refused by the LVT. Following a refusal of permission by the LVT, parties have 14 days to seek permission from the Upper Tribunal (Lands Chamber).

See further guidance on appeal process.

Are tribunal decisions publicly available?

All decisions made by Residential Property Tribunals/LVT's are open to the public.

Any request to withhold a decision or personal details contained within that decision must be made in writing to the Residential Property Tribunal.

The request should set out the reasons for wanting the decision withheld. All requests will be considered on a case by case basis.

Does the Human Rights Act apply to the LVT's proceedings?

Yes. Parties to an application are entitled to the benefit of the provisions of the Human Rights Act 1998.

In effect, this entitles them to have their case determined in accordance with the European Convention on Human Rights.

Of particular relevance is Article 6 of the Convention which provides that parties have the right to a fair hearing within a reasonable time and before an impartial tribunal. This includes their right to put their case and to question the case brought by the other party and to be given reasons for the decision of the LVT.

Also relevant is Article 8, which provides that everyone has the right to respect for his private life, his home and his correspondence, any inspection of the inside of a property will only be undertaken with the consent of the occupier.

In making their decisions, LVTs are obliged to have regard to the rights embodied in the Convention and where possible to interpret legislation consistently with those rights.

Assistance to Parties

In this instance the term “participant” means, an applicant, party, witness or other person taking part in proceedings which relate to an application or an order of the tribunal is addressed.

To enable participants to effectively participate in the proceedings assistance will be provided (free of charge) if, for example, they are:

- unable to read or speak or understand the English language or the Welsh language;
- unable to read English or Welsh as a consequence of being temporarily or permanently blind or partially sighted;
- able to speak in English or Welsh, but is unable to read or write in English or Welsh;
- without hearing or speech.

The requirement for a tribunal to provide a participant with the services of a person to read, write, or explain the nature and content of documents does not include a requirement for a tribunal to give any legal advice, but includes a requirement to explain the procedural steps in the proceedings.

A participant is entitled to assistance whether or not the participant is represented by someone else.

A participant requiring assistance but not receiving it must at the earliest opportunity notify the requirement for assistance to the tribunal.

Residential Property Tribunal

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Disclaimer

The contents of this publication are correct at the time of going to press.