

Brief Encounter: Can I challenge my heating costs?

Question

The service charges for our retirement flat include all our heating and hot water bills which have shot up this year. When we got the annual accounts, it emerged that the landlord had entered into a contract with a new gas supplier on very poor terms. Since we pay the bills, can we challenge the landlord's choice of gas supplier?

Answer

The main control over excessive service charge bills is provided by section 19 of the Landlord and Tenant Act 1985. Service charges are limited to costs which are "reasonably incurred". Essentially this means that the landlord must use a reasonable process for deciding on any expenditure (for example, it should usually obtain more than one estimate for major items) and the amount of the expenditure should not be obviously excessive.

There are additional controls which specifically apply to service agreements such as gas supply contracts. Any contract for over 12 months which involves a leaseholder paying £100 a year (inclusive of VAT) is a "qualifying long-term agreement" under section 20 of the 1985 Act. The landlord is required to consult with the leaseholders before it enters into a qualifying long term agreement and to serve a series of notices. If the landlord fails to consult, it cannot recover more than £100 a year for these costs. However, the restriction does not apply to all long term agreements. In the recent case of *Paddington Walk v Peabody*, a county court judge decided that a fixed three year maintenance contract for a block of flats was covered by section 20, but that a one year agreement with managing agents which was simply rolled over from year to year was not.

If the gas supply agreement costs you more than £100 and it was for a fixed period of over a year, you should have been consulted and you can complain to the Leasehold Valuation Tribunal. If it was not, you can only challenge the landlord's choice of supplier if it behaved unreasonably.