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Whose Rules Win?

Heat network regulation, leasehold service charge law and consumer contract law all apply to the same bill. Nobody has said which one gives way.

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Law stated at 3 September 2026. The service charge discussion concerns England.

In short

Since 27 January 2026, a block with communal heating has been governed by more than one body of law at once.

Ofgem’s authorisation conditions say what a heat supplier must charge, bill, disclose and do. The Landlord and Tenant Act 1985 says what a leaseholder can be made to pay through a service charge, when, and after what process. The Consumer Rights Act 2015 asks a third question, about the term that creates the liability at all.

Written decades apart, by different people, for different purposes, they now land on the same invoice.

A respondent to Ofgem’s consultation asked the obvious question: what happens when the fair pricing requirement and the statutory reasonableness test diverge, and how should landlords navigate competing requirements?[1] Ofgem’s answer was that the two are compatible, can exist side by side, and that any issues arising between them will be considered case by case.[2]

Nobody has said who does the considering. This paper sets out nine places where the regimes appear to collide, and what a managing agent and a leaseholder can each reasonably say about them. On most of them, neither party is obviously wrong.

The third of them reached court first. In June 2026 the High Court gave two Lambeth secure tenants permission to challenge their heating and hot water charges. One of their two grounds is that the tenancy term the council relies on to raise those charges is onerous and unfair under consumer contract law. Granting permission, Richard Clayton KC, sitting as a Deputy High Court Judge, held that the claims raise wider issues and points of law of general public importance.[3] The hearing begins on 1 December 2026.[4] Collision nine sets out what that regime asks of a heat charge.

A note on scope: this paper is written with long leasehold blocks in mind. But the statutory service charge regime is not confined to long leaseholders in every respect. Parts of it reach other tenants of dwellings who pay a variable service charge.

Why nobody joined them up

The heat supply relationship is governed by one set of instruments:

Energy Act 2023 → **Heat Networks (Market Framework) Regulations** → **authorisation conditions** — and, alongside them, your heat supply contract.

The service charge relationship is governed by another:

Landlord and Tenant Act 1985 → **consultation and summary-of-rights regulations** — and, alongside them, your lease.

And a third set applies to the lease or tenancy in its character as a consumer contract:

Consumer Rights Act 2015, Part 2 → **the fairness test and the grey list** — enforced by the courts and by the Competition and Markets Authority.

The contract and the lease are not the bottom rung of any of these ladders — they are private agreements that have to operate within whichever frameworks apply to them. Nothing in the first set of instruments amends anything in the others. The Energy Act gave Ofgem power over heat networks, not power over leases.

Three structures built to full height without a connection between them, and the first place they meet is the demand on a leaseholder's doormat.

Two readers, opposed positions

The managing agent has to buy heat, recover its cost, and comply with a framework that arrived without changing the lease. The obligations are immediate. The recovery mechanism is whatever the lease already says.

The leaseholder pays for heat through a service charge, has no choice of supplier, and has acquired regulatory rights that may or may not survive contact with the way their block actually bills.

Both are reading the same demand and reaching different conclusions. Neither is being unreasonable. The framework put them there.

Nine collisions

1. Is a heat charge a service charge at all?

A service charge under s18(1) has two limbs. It must be payable by a tenant of a dwelling, as part of or in addition to rent, for services, repairs, maintenance, improvements, insurance or the landlord's costs of management. And the whole or part of it must vary, or be capable of varying, according to the relevant costs.[5]

Both limbs are required.

Budget-and-balance structures are long established in service charge practice, and an estimated charge trued up at year end fits the second limb comfortably. A rate that holds steady during a charging period is not necessarily outside the definition either. The question is whether the liability varies, or is capable of varying, with relevant costs — looking at the lease and the charging mechanism as a whole.

A charge fixed for a term with no reconciliation is a different matter, and the Upper Tribunal has now dealt with one. In *Barton v Platform Housing Ltd* the tenancy carried a service charge and a separate charge for heating and hot water. Both were set annually by notice. The landlord calculated them from estimated costs, but the agreement did not require it to, and there was no reconciliation at year end. The Deputy Chamber President held that neither was a service charge within s18(1). The charge must vary, or be capable of varying, according to relevant costs. Setting it by reference to estimated costs is at least one remove from that.[6] He accepted the same analysis for the heating and hot water charge, which the agreement did not require to be related in any way to the cost of supplying it.[7] s19(2) was read as statutory recognition that a periodic reconciliation, by one means or another, is an essential feature of a charge inside s18.[8]

So this is no longer speculation. What remains untested is how the principle applies to newer heat-charging models. A rate contractually pegged to an external comparator under a price promise moves with the comparator, not with what the heat cost the block. No decision addresses that.

It matters in both directions. The authorisation conditions hang carve-outs on the term: where a charge is a Service Charge, the twelve-month back-billing limit is disapplied and parts of the billing condition are modified.[9] If a particular heat charge falls outside s18, those carve-outs never engage and the full regulatory position applies to a block that has assumed otherwise. And the leasehold protections fall away with it. *Barton*'s application was struck out because the tribunal had no jurisdiction under s27A over a charge that is not a s18 service charge.[10]

This boundary is due to move. Section 53 of the Leasehold and Freehold Reform Act 2024 will split s18 into a “service charge” and a “variable service charge”. Fixed charges will come within some of the 1985 Act protections, while the s19 reasonableness test will be confined to variable ones. It is not yet in force.[11]

This works charge by charge, not block by block. A block may recover some elements through a variable service charge and others under a separate heat supply contract. So the classification, and every carve-out that depends on it, has to be worked out element by element rather than settled once for the building.

The agent’s position: the lease treats it as a service charge, it is collected as one, and the reconciliation makes it vary with cost.

The leaseholder’s position: whichever way that lands, a protection is available. Inside s18, the reasonableness test and the tribunal’s jurisdiction come with it. Outside s18, the twelve-month limit applies.

2. Fairness and recoverability are different questions

A6 requires charges to be fair and not disproportionate. s19 limits the amount payable to relevant costs reasonably incurred, and where works are involved, to works of a reasonable standard.[12]

These are two different tests on two different topics: A6 regulates the fairness of the charge, s19 whether it can be recovered from this tenant. A charge permitted by the lease is not thereby fair under A6, and regulatory compliance does not by itself establish recoverability under the lease and s19. Different bodies apply them, on different evidence, with different consequences.

There is a third fairness test as well, applying to the term rather than to the charge, and it is dealt with at collision 9.

The agent’s position: a charge built in line with the cost allocation framework has been constructed properly.

The leaseholder’s position: s19 asks whether the cost was reasonably incurred, not whether it was correctly allocated once incurred. Complying with A7 says nothing about whether the block should have entered that contract at that price.

Both are right, about different questions.

3. Twelve months or eighteen — and against what?

The regulatory limit on recovering old charges is twelve months, subject to the stated exceptions. Where the charge is a Service Charge, that limit is disapplied.[13]

s20B substitutes a different rule. Costs incurred more than eighteen months before a demand is served cannot be recovered. The exception is where the tenant was told in writing, within those eighteen months, that the costs had been incurred and that a contribution would be required.[14]

The periods differ, and so does the thing being protected against. The regulatory rule is aimed at late billing — the supplier who does not send the bill. s20B is aimed at historic expenditure, the cost incurred long ago and only now surfacing in a demand. A block can be clean on one and exposed on the other.

The agent's position: s20B governs, and a protective notice preserves recovery.

The leaseholder's position: if the charge is not a s18 service charge, twelve months is the limit and no protective notice extends it.

4. Who decides how the cost is split?

A7 is an outcome test rather than a formula. It requires charges to be structured, and costs attributed, consistently with charges being fair and not disproportionate, having regard to Ofgem's guidance — and Ofgem has said its requirements apply whatever pricing methodology an operator uses. The lease meanwhile already allocates service charge costs, usually by a fixed percentage or a floor-area apportionment settled when the building was sold.

Where the lease apportionment and the A7 methodology produce different numbers, a conflict may arise. An allocation based on consumption may depart from the lease; a fixed lease percentage may be hard to justify for some variable heat costs. Neither result follows automatically. The regulatory question is whether the charging structure and the attribution of costs produce a fair and proportionate outcome; the leasehold question is whether the lease permits that apportionment at all.

The analysis also differs by cost category. Metered energy use, standing plant, distribution losses, common parts and capital replacement are not obviously governed by the same basis, and a straight contest between "consumption" and "lease percentage" flattens a question with more than two answers. Our paper *Who Pays for the Pipe* deals with allocation on the regulatory side, and *The Heat the Meters Do Not See* with heat that never reaches a dwelling meter. The lease side sits outside anything Ofgem controls.

5. The heat supply agreement may be a qualifying long term agreement

A qualifying long term agreement is an agreement entered into by or on behalf of the landlord or a superior landlord for a term of more than twelve months.[15] Where relevant costs under it mean any tenant contributes more than £100 in an accounting period, s20 applies. Unless the consultation requirements were met, or dispensed with by the tribunal, the contribution is capped at that amount.[16]

Many heat supply agreements run for more than twelve months, and a leaseholder’s contribution for heat under one will commonly exceed £100 in an accounting period. There are statutory exclusions from the regime, so the question is whether this agreement is caught, not whether heat is expensive.

The statutory consequence is not discretionary: if the section applies and consultation did not happen, the limit follows. What is untested is the application. Is a given heat supply arrangement a qualifying long term agreement entered into by or on behalf of the landlord or a superior landlord? Is the leaseholder’s payment for heat a relevant contribution under it? Those are questions about a specific agreement and a specific lease, and they have not been litigated in this context.

Renewals, extensions and material variations need checking too. The relevant agreement may not be the one originally put in place, and the party that entered into it may sit further up the chain than the immediate landlord.

Which is why the question is worth asking now rather than in a defence. Nothing in the authorisation conditions recognises the cap. A6 and A7 tell you how to build a fair, cost-reflective charge. They do not tell you whether you are permitted to collect it.

6. Repair first, consult second

Respondents raised this with Ofgem directly: the obligation to restore supply promptly sits awkwardly with s20, which requires consultation before recovering the cost of qualifying works.[17]

Ofgem did not change the condition. Its position is that authorised persons should prioritise restoring supply and take all reasonable steps to do so promptly, and it points to the fair pricing and cost allocation guidance for the costs that follow.[18]

Where qualifying works would take any leaseholder's contribution above £250, consultation is required or the contribution is capped at that figure.[19] Consultation takes weeks. An unheated building in February does not.

The tribunal can dispense with the requirements where it is satisfied that it is reasonable to do so.[20] Dispensation may be sought in advance as well as afterwards; the Supreme Court identified very urgent works as an obvious case for asking in advance.[21] It is not a formality either way. Where the application comes after the event, what the leaseholders lost by not being consulted is central. Urgency helps. It does not decide the application by itself.

7. Ofgem can recognise the lease. It cannot let anyone change it.

The authorisation conditions contain machinery for varying a supply contract: notice of a disadvantageous unilateral variation, notice of a charge increase, a restriction on how often charges can be increased, and consequences if the consumer does not accept. Two of those are switched off here. The charge-increase notice and the six-month frequency restriction are expressly disapplied to the extent the charges are Service Charges; the disadvantageous variation notice survives.[22] So in this one place the regime has already made room for lease mechanisms rather than colliding with them.

A lease operates differently. Issuing a regulatory notice or a revised heat supply contract does not ordinarily rewrite it. Any change has to be authorised by the lease itself, agreed between the parties, or made through an available statutory route.

The drafting history is revealing. The consultation draft of the conditions carried a defined term, Relevant Lease, and built lease-aware machinery around it. The final conditions dropped it: search the operative text as made and the term does not appear, surviving only in the marked-up comparison as struck-through draft language, alongside the Service Charge concept that replaced it.[23]

The regime that emerged is not lease-blind but lease-indirect, working through the character of the charge rather than the instrument that creates the liability. It can disapply its own requirements where a charge is a Service Charge. It cannot reach into the lease that makes it one — though, as collision 9 sets out, it can restrict what the authorised person does with a term it dislikes.

The agent's position: the supply contract governs the heat, the lease governs the service charge, and they operate in parallel.

The leaseholder's position: my lease is the bargain I bought, and a document issued to me afterwards does not change it.

8. What the demand has to say

Ofgem prescribes what billing information a bill must contain, in a form modified for Service Charges. s21B prescribes something different. Every service charge demand must come with a summary of the tenant's rights and obligations. Where it does not, the tenant may withhold payment, and the lease's provisions about non-payment or late payment have no effect while they do.[24]

Neither document substitutes for the other. Two separate requirements, two separate contents, both of which must be validly provided.

A block that has rebuilt its billing to meet the authorisation conditions, without checking that the s21B summary is still attached, has given every leaseholder a reason not to pay.

9. The term itself may be unfair — and that question is in court now

Part 2 of the Consumer Rights Act 2015 applies to a contract between a trader and a consumer.[25] It is not confined to goods and services, and a lease or tenancy can be a consumer contract. Whether a particular landlord is a trader, and a particular occupier a consumer, is a threshold question that turns on the facts and, for public authority landlords, is part of what the Lambeth judicial review will address.

Where it does apply, an unfair term is not binding on the consumer.[26] A term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations to the detriment of the consumer. That is judged on the nature of the subject matter, and on all the circumstances existing when the term was agreed.[27]

Which Act applies depends on when the lease was granted. Part 2 of the 2015 Act does not apply to any contract entered into before 1 October 2015; for those, the Unfair Terms in Consumer Contracts Regulations 1999 continue to have effect.[28] Given the age of most leasehold stock, that will often be the governing instrument, and the Lambeth claim is pleaded in the alternative under both.

The assessment date matters as well. A charging or escalation clause is judged on the circumstances existing when it was agreed. Nothing in the 2026 regime retrospectively improves a clause granted in 2006, and a heat supply contract issued in 2026 does not repair it.

Four provisions of the 2015 Act matter to a heat charge in particular.

The price is protected, but only on a condition. A term setting the main subject matter or the price level is excluded from the fairness assessment. That exclusion holds only if the term is transparent and prominent.[29] Transparent means plain, intelligible and legible. Prominent means brought to the consumer's attention so that an average consumer would be aware of it. B2 already requires the heat supply contract to be in writing and in plain language, in a single pack, with nothing incorporated by reference to a website. Doing that properly makes it more likely the price term qualifies. It is the one place in this paper where complying with the authorisation conditions helps you under another regime rather than complicating things.

Mandated content sits outside the test. Part 2 does not apply to a term to the extent that it reflects mandatory statutory or regulatory provisions.[30] So content a supplier is required by the conditions to include is, to that extent, not assessable for fairness. What is not mandated by anything is the price level or the escalation mechanism, and those are where the argument lives.

A new supply contract does not escape the lease. Suppose a term of one contract reduces someone's rights, or increases their obligations, under another. That term is then subject to Part 2 as if it sat in the other contract. It does not matter whether the parties are the same, or whether the second contract is itself a consumer contract.[31] So a B2 heat supply contract that cuts across what the lease provided can be assessed as though it were in the lease.

Nobody has to raise it. A court dealing with a term of a consumer contract must consider whether it is fair, even if no party has raised the point. It needs only enough legal and factual material to do so.[32] In a claim for arrears, the question arrives whether or not the leaseholder knows the argument exists.

And the authorisation conditions run their own version of the same test. A Supply Contract is defined to include a lease.[33] The authorised person must take all reasonable steps to ensure its terms are not unduly onerous. It must also not include, enforce or take advantage of any term where doing so would be incompatible with the conditions.[34] So where the lease is the Supply Contract, an onerous charging clause is a regulatory question as well as a contractual one — and the duty bites on enforcement, not just on drafting. Ofgem cannot rewrite the clause. It can make relying on it a compliance failure.

The remedy differs in shape from anything else in this paper. s19 can reduce the amount recoverable to what is reasonable. An unfair term is instead not binding on the consumer, although the consumer may still choose to rely on it, and the rest of the contract continues so far as practicable.[35] It is not a mechanism for substituting a reasonable price for the contractual one.

The agent's position: the lease is the bargain the leaseholder bought with the flat, the charging clause was in it, and the price is a core term outside the fairness assessment.

The leaseholder's position: the exclusion only holds if the term is transparent and prominent, and a charging mechanism that nobody can work out from the document does not meet that description.

And one question underneath all of them

Which entity carries on the regulated activity in a leasehold block: the freeholder, the resident management company, the right-to-manage company, or the managing agent?

That is a scope question under the Energy Act 2023 and the market framework regulations rather than something the conditions answer, and it sits outside this paper. It is also the first thing a block should settle, because nothing else can be allocated until it is.

Regulatory status is not something the parties can allocate between themselves — you cannot make the wrong entity the authorised person by agreeing that it is. What they can do is record the analysis and align their responsibilities with it. The management agreement between freeholder, company and agent is a third document, drafted before any of this existed, which allocates responsibility on its own terms and may match neither the lease nor the regulatory position.

If your block has not worked that question through in writing, it has not started.

Where this goes, and what happens if they disagree

Ofgem has not identified a single forum that will reconcile these regimes. The First-tier Tribunal can determine the leasehold and service charge questions within s27A — whether a service charge is payable and if so by whom, to whom, how much, when and in what manner.[36] Ofgem retains responsibility for compliance with the authorisation conditions. Its "case by case" statement was about how it will approach conflicts, not about handing them to anybody. The unfair terms question belongs to the courts, and the Competition and Markets Authority and other listed regulators have their own enforcement functions over it.[37] Three routes, no shared door.

Paying concedes nothing: a tenant is not taken to have agreed or admitted a matter by reason only of having made a payment.[38] And a lease cannot foreclose the question — an agreement by the tenant purporting to provide for a determination in a particular manner, or on particular evidence, is void to that extent.[39] Whether that touches a supply contract’s charging methodology, which the conditions require the contract to set out, is itself unresolved.

Nothing makes the regimes agree. A decision under one does not settle the separate question arising under another. The same facts and findings may carry weight in both, but nothing requires a single reconciled outcome. So a charge can in principle be recoverable under the lease while its calculation or presentation attracts regulatory attention. And a regulatory concern does not, by itself, extinguish the leaseholder’s contractual liability.

Principal potential consequences

Issue	Principal potential consequence
A6 fair pricing	Ofgem enforcement, potentially including financial penalties and consumer redress
A7 cost allocation	Ofgem enforcement; separate restrictions may affect passing regulatory penalties or redress into charges
B7 back-billing	Subject to its exceptions and service charge treatment, recovery action outside the permitted period is prohibited
s18 classification	If the charge is outside s18, the tribunal has no s27A jurisdiction over it
s19 reasonableness	Tribunal determination reducing or disallowing the amount payable
s20 consultation	Statutory contribution limit unless the requirements are satisfied or dispensed with
s20B time limit	Relevant historic costs may become irrecoverable unless a valid notice preserves recovery
s21B summary	The tenant may withhold the service charge until the prescribed summary is provided
B2 onerous terms	Ofgem enforcement; the authorised person must not include, enforce or take advantage of an incompatible term
Unfair terms	An unfair term is not binding on the consumer; the rest of the contract continues without it

Different triggers, different forums, different consequences, no coordination between them.

What to do now

If you manage the block

- Establish, network by network, which entity carries on each regulated activity. Record the legal analysis, and align the management and operating agreements with it.
- Find the heat supply agreement and check its term, including any renewal, extension or variation. If it runs beyond twelve months and costs any leaseholder more than £100 a year, establish whether s20 consultation was carried out — and by whom, since the agreement may have been entered into further up the chain.
- Compare the lease apportionment with the basis on which you actually allocate heat costs, category by category. If they differ, take advice before the next demand.
- Check whether each element of your heat charge satisfies both limbs of s18(1), rather than assuming it does because the lease uses the words.
- Check that your demands still carry the s21B summary after any billing rebuild.
- Build an s20B(2) check into year-end and into any major cost. Serve a protective notice where costs have actually been incurred but the demand will not follow within eighteen months. A notice that does not match the statutory facts is not worth serving.
- Decide in advance what you do when a repair is urgent and consultation is not possible.
- Read your charging and escalation clause as a stranger would. Could an average consumer work out from it what they will pay and how it can change? That answer decides whether the price is assessable for fairness at all.

If you own the flat

- Ask which body is, or is treated as, authorised for supply and for operation of your network, and for a copy of the heat supply contract.
- Ask whether the heat supply agreement was consulted on under s20, when, and by which party.
- Check whether your demands carry the summary of rights and obligations.
- Compare what you are charged against the apportionment in your lease.
- If the charge is within s18, know that a s27A application is available, that payment does not waive it, and that it can determine the amount as well as the liability. If it is not, the tribunal has no jurisdiction over it — which is why the s18 question comes first.

- Find the clause your landlord relies on to set and raise the heat charge, and read it. The fairness question starts with that clause, not with the bill.
- Ask before you argue. Much of this is a documentation problem rather than a dispute, and correspondence is cheaper than a hearing.

About heatnetworkcompliance.co.uk

We work on the Ofgem side of this. We are not your solicitor, and the s18, s20, dispensation and unfair terms questions above belong with a property lawyer — we would rather say so than pretend otherwise.

What we can tell you is whether your regulatory documents are right, and whether they contradict the way you actually recover charges.

Start free — Readiness. Eight questions, five domain lights across consumer protection, fair pricing, financial resilience, registration and data reporting. *heatnetworkcompliance.co.uk/readiness*

Compliance Assessment — £995 + VAT, one-off. Upload the documents you use today and get a scored report on where they fall short of the conditions. If your heat supply agreement points leaseholders at the wrong ombudsman, or a billing rebuild dropped something it should not have, this is where it surfaces.

The Policy Generator — from £2,495. A full policy and consumer document suite generated from your answers. It asks how you recover charges: all through the service charge, none of it, or some. It then changes the back-billing, contract-change and billing wording to match, so the carve-outs in this paper are built into the documents rather than left for you to spot. It holds each network separately, which matters where a block sits in a mixed portfolio.

Everything it produces is a draft starting point, watermarked as such. Where a condition does not apply to you, the output says so rather than quietly holding you to a stricter line than the rules do.

Further reading in this series

- *Who Pays for the Pipe* — how costs are allocated between consumers under A7.
- *No Number to Hit* — what fair pricing under A6 does and does not require.

- *The Heat the Meters Do Not See* — heat delivered into a building but never recorded at a dwelling meter.
- *The Bill You Left Too Late* — condition B7, the service charge carve-out and the back-billing boundary.
- *One Complaint, Two Ombudsmen* — where a heat complaint goes when the same facts are also a housing complaint.

Caveats

Sections 18 to 30 of the Landlord and Tenant Act 1985 apply in England and Wales. The consultation thresholds cited here are the English regulations; Wales has its own, and Scotland's regime is different again. If your portfolio crosses a border, so does the analysis.

The interface is also still moving. Ofgem has said that bundling — heat recovered through rent or service charges — is an area where government leads further policy work, and that DESNZ and MHCLG are exploring options for unbundling heat charges from housing charges.[40]

The scale is not small. Citizens Advice puts a third of heat network consumers on charges bundled into rent or a service charge. One in seven of all heat network consumers falls outside Ofgem's billing and back-billing protections as a result. Those figures come from a survey of 3,266 consumers carried out between February and May 2026.[41]

Most of the interaction between the regimes has yet to be tested, which leaves real uncertainty for operators, agents and leaseholders alike. Several of the questions above are put here as questions because that is what they are.

The Lambeth claim is the first to reach a hearing, and it concerns secure council tenants with charges levied under a tenancy agreement rather than long leaseholders. It will not decide the s18, s20 or s20B questions in this paper. Nor could it: s26 of the 1985 Act disapplies ss18 to 25 from the tenancies of certain public authorities, including local authority periodic tenancies.[42] What it may produce is a reasoned High Court judgment on whether a heat charging term in a residential occupation agreement is unfair. Cases settle, grounds fall away, and courts decide no more than they need to, so that is a prospect rather than a promise.

The statutory ground is moving as well as the regulatory one. Section 53 of the 2024 Act will redraw the s18 boundary this paper turns on, and will replace the s20B(2) written notice with a prescribed future demand notice. Neither is in force. Both are worth watching.

And this paper reads the legislation. It does not read your lease, which is where most of these questions will actually be decided.

Sources

- Ofgem, *Heat networks regulation: authorisation conditions* (decision and Appendix 2 conditions, 13 January 2026).
- Ofgem, *Heat networks regulation: consumer protection guidance* (January 2026).
- Landlord and Tenant Act 1985, sections 18 to 30.
- Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987).
- Consumer Rights Act 2015, Part 2, and the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (SI 2015/1630).
- Unfair Terms in Consumer Contracts Regulations 1999 (SI 1999/2083).
- Leasehold and Freehold Reform Act 2024, Part 4 (not yet in force).
- *Barton v Platform Housing Ltd* [2025] UKUT 369 (LC).
- *Daejan Investments Ltd v Benson* [2013] UKSC 14.
- Public Interest Law Centre, “Permission Granted! Challenging the Heat Network Trap” (23 June 2026).
- Citizens Advice, *Hidden debt, hidden risks* (July 2026).
- Heat Networks (Market Framework) (Great Britain) Regulations 2025 (SI 2025/269); Energy Act 2023.

> *Disclaimer: This white paper is for information only. It does not constitute legal or regulatory advice. The service charge, consultation, dispensation and unfair terms questions raised here turn on the wording of particular leases and agreements and should be taken to a suitably qualified property lawyer. Heat network operators and suppliers should develop their compliance arrangements with reference to the current final Authorisation Conditions and Ofgem's published guidance. All references are to instruments, guidance and decisions current at 3 September 2026.*

Endnotes

1. Ofgem, *Heat networks regulation: authorisation conditions* (decision, 13 January 2026), summary of consultation responses on fair pricing and cost allocation.
2. Ibid., Ofgem response, “Interactions with the Landlord and Tenant Act”.
3. Public Interest Law Centre, “Permission Granted! Challenging the Heat Network Trap” (23 June 2026). Permission was granted on two grounds: that the tenancy term relied on to raise the level of service charges is onerous and unfair, in breach of s62 of the Consumer Rights Act 2015 or reg 5(1) of the Unfair Terms in Consumer Contracts Regulations 1999; and that the levy of the charges and the continuing demand for accrued rent liabilities is contrary to Article 1 of the First Protocol to the European Convention on Human Rights. Claimants represented by Tom Hickman KC and Jeremy Ogilvie-Harris.
4. Hearing listed to begin 1 December 2026. Date drawn from reporting current at 2 September 2026: Simon Pirani, “Heat networks judicial review challenge”, *The Ecologist*, 2 September 2026.
5. Landlord and Tenant Act 1985, s18(1)(a) and (b). Relevant costs are defined at s18(2) as costs incurred or to be incurred by or on behalf of the landlord or a superior landlord; by s18(3)(b) they may fall in an earlier or later period than the one the charge is payable for.
6. *Barton v Platform Housing Ltd* [2025] UKUT 369 (LC), Martin Rodger KC, Deputy Chamber President, 30 October 2025, at [34], applying *Home Group Ltd v Lewis* [2008] EWLands LRX/176/2006 at [21]. Contrast *Re: Southern Housing Group Ltd* [2010] UKUT 237 (LC), where the agreements limited the charge by reference to the cost of the services and were held to be within s18(1).
7. *Barton*, at [35].
8. Ibid., at [33]; Landlord and Tenant Act 1985, s19(2).
9. Authorisation conditions, Appendix 2, B7.3, and the modifications to condition B6 for Service Charges. “Service Charge” is defined at A3 as a service charge within the meaning of s18(1) of the 1985 Act, or any similar charge attracting equivalent legal protections elsewhere in Great Britain.
10. *Barton*, at [15] and [36]. The First-tier Tribunal's jurisdiction under s27A is to determine whether a service charge is payable; where the sum is not a service charge as defined by s18, it has no power to consider it.
11. Leasehold and Freehold Reform Act 2024, s53, not in force at Royal Assent (see s124(3)). It substitutes new subsections (1) and (2) in s18, defining “service charge” and “variable service charge” separately, and amends s20B(2) to require a prescribed future demand notice in place of the present written notification.
12. Authorisation conditions, A6.1; Landlord and Tenant Act 1985, s19(1)(a) and (b). Where a charge is payable before the costs are incurred, s19(2) limits it to a reasonable amount, with adjustment afterwards.
13. Authorisation conditions, B7.1 and B7.3.

14. Landlord and Tenant Act 1985, s20B(1) and (2).
15. Ibid., s20ZA(2).
16. Ibid., s20(1) and (7); Service Charges (Consultation Requirements) (England) Regulations 2003, reg 4(1).
17. Ofgem decision, consultation responses on security of supply.
18. Ibid., Ofgem response on the impact of s20 of the 1985 Act.
19. Service Charges (Consultation Requirements) (England) Regulations 2003, reg 6.
20. Landlord and Tenant Act 1985, s20ZA(1).
21. *Daejan Investments Ltd v Benson* [2013] UKSC 14, per Lord Neuberger at [56]: a landlord may ask for a dispensation in advance, the most obvious case being works that must be carried out very urgently.
22. Authorisation conditions, B3.6, disapplying B3.1.2 (31 days' notice of a charge increase) and B3.2 (no more than one charge increase in six months) to the extent the Charges are Service Charges. B3.1.1, notice of a Disadvantageous Unilateral Variation, is not disapplied.
23. Compare Appendix 2 of the decision (the conditions as made), in which the term does not appear, with Appendix 3 (the marked version showing changes from the consultation draft), where it appears throughout the struck-through text — including in the draft of the back-billing carve-out, which turned on a Relevant Lease before it was recast to turn on a Service Charge.
24. Landlord and Tenant Act 1985, s21B(1), (3) and (4).
25. Consumer Rights Act 2015, s61(1) and (3). "Trader" and "consumer" carry the Part 1 meanings: s76(2), referring to s2(2) and s2(3). By s2(4), applied by s76(3), a trader who claims an individual is not a consumer must prove it.
26. Ibid., s62(1).
27. Ibid., s62(4) and (5).
28. Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015, SI 2015/1630, arts 3 and 6(1)(a): Parts 1 and 2 do not apply to a contract entered into before 1 October 2015. Art 6(4) preserves the Unfair Terms in Consumer Contracts Regulations 1999 for such contracts.
29. Consumer Rights Act 2015, s64(1), (2), (3), (4) and (5). By s64(6) the exclusion does not apply to a term of a contract listed in Part 1 of Schedule 2.
30. Ibid., s73(1)(a). By s73(2), mandatory statutory or regulatory provisions include rules which, according to law, apply between the parties on the basis that no other arrangements have been established.
31. Ibid., s72(1), (2) and (3).
32. Ibid., s71(1), (2) and (3).
33. Authorisation conditions, A3, definition of Supply Contract: a contract (including a deemed contract or any other form of contract, including a lease) for the supply of heating, cooling or hot water between an authorised person and a Consumer.
34. Ibid., B2.11 and B2.12. B2.5 separately requires the contract to be in Writing, plain and intelligible, set out in a single pack of one or more documents, and not to incorporate any terms or conditions by reference to any website or analogous resource.
35. Consumer Rights Act 2015, s62(1) and (3), and s67.
36. Landlord and Tenant Act 1985, s27A(1).
37. Consumer Rights Act 2015, s70(1) and Schedule 3.
38. Landlord and Tenant Act 1985, s27A(5).
39. Landlord and Tenant Act 1985, s27A(6).
40. Ofgem decision, foreword and the response on interactions with the Landlord and Tenant Act.

41. Citizens Advice, *Hidden debt, hidden risks* (July 2026), and accompanying press release. Survey by IFF Research of a nationally representative sample of 3,266 heat network consumers, February to May 2026.
42. *Barton*, at [13] and [23]; Landlord and Tenant Act 1985, s26.

