



LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985

Case Reference:	LON/00AP/LSC/2012/0290
Premises:	15 & 18 Woodleigh Court, Stuart Crescent, London N22 5NL
Applicant:	Woodleigh Court Residents Association Ltd
Representative:	Mr Philip Macaree of J Nicholson & Son
Respondent:	Mr Noel Robinson
Representative:	N/A
Date of hearing:	20/09/2012
Appearance for Applicant:	Mr Paul Macaree, Ms Kate Yaldren and Mr Graham Riches
Appearance for Respondent(s):	Mr Robinson appeared and represented himself
Leasehold Valuation Tribunal:	Miss J E Guest (solicitor) Mr D Banfield FRICS Mrs R Turner JP BA
Date of decision:	28/09/2012

Decisions of the Tribunal

- (1) The weekly cleaning fee of £50.00 is reasonable.
- (2) The Respondent is not entitled to the costs of replacing the fascia at Flat 18.
- (3) The Respondent is entitled to a set off in the sum of £240.21 in respect of the cost of the redecoration of the communal stairway to Flat 18.
- (4) Issues relating to the roof tiles should be dealt with by the roofing contractor under the guarantee and they do not give rise to any basis for the Respondent to challenge the service charges relating to the roof costs.
- (5) The figure for brought forward service charge arrears in respect of Flat 15 should be reduced by £115.00.
- (6) The administration fee payable is 10% in accordance with Clause 10 of Part I to the Fifth Schedule of the leases to Flats 15 & 18.
- (7) The Respondent's application under section 20C of the Landlord and Tenant Act 1985 was refused.

The Application

1. As a result of an application made by the Applicant dated 23/04/2012, the Tribunal is required to make a determination pursuant to section 27A of the Landlord and Tenant Act 1985 as to the payability and/or reasonableness of service charges in respect of the period from 01/04/2010 to 31/03/2012.
2. The relevant legal provisions are set out in the Appendix to this decision.

The Hearing

3. The hearing lasted a day. The Applicant was represented by Mr Philip Macaree of J Nicholson & Son, managing agents appointed by Woodleigh Court Residents Association Ltd. Also present on behalf of the Applicant was Ms Kate Yaldren, a director of Woodleigh Court Residents Association Ltd, and Mr Graham Riches, a director of Karsson Hawke Ltd, a cleaning contractor employed by the managing agents. The Respondent represented himself.

The background

4. Woodleigh Court is a four storey purpose built block of flats constructed in about the 1970's. The block has a total of 23 self-contained flats. There are three separate entrances leading to flats 1-8, flats 9-18 and flats 19-23 respectively.
5. The leasehold interests of Flats 15 and 18 Woodleigh Court are owned by the Respondent. The leasehold interest of Flat 15 was acquired by the Respondent in approximately the summer of 2008 – this is a lease dated 08/12/1979 and is made between Hadoncrest Limited and Stanley Brian Jarvis and Peggy Agnes Jarvis for a period of 99 years commencing on 29/09/1977. The lease of Flat 15 was varied on 02/06/2008 to extend the term to 999 years from 01/04/2002. The leasehold interest of Flat 18 was acquired by the Respondent about 18 years ago – this lease is dated 10/03/1975 and is made between Churchbury Investment Company Limited and Christopher Henry Kinchin-Smith and Susan Valerie Kinchin-Smith for a period of 99 years commencing on 29/09/1974. The lease of Flat 18 was varied on 11/03/2008 to extend the term to 999 years from 01/04/2002. The freeholder is Woodleigh Court Residents Association Ltd.
6. Both parties agreed at the conclusion of the hearing with the Tribunal's view that an inspection was unnecessary.
7. The service charges in dispute for each flat are £1,986.96 for the period from 01/04/2010 – 31/03/2011 and £1,742.50 for the period from 01/04/2011 to 31/03/2012. The Respondent challenged some aspects of the service charges for the two periods and he had refused to make any payment at all.
8. A bundle of documents was prepared by the Applicant for the Tribunal containing the parties' respective documents, which were considered fully by the Tribunal prior to the hearing. The Tribunal was also provided with the following additional documents at the hearing and neither party objected to these documents also being considered by the Tribunal, namely :
 - a. The leases of Flats 15 and 18;
 - b. Statement of Ina Prifi of Flat 6 Woodleigh Court dated 02/08/2012;
 - c. Email sent by Mr Raj Varma of Flat 1 Woodleigh Court sent on 15/08/2012;
 - d. R P Brown cleaning estimate dated 26/03/2009; and
 - e. Email sent by Mr Chris Goodwin on 17/09/2012.

9. The Tribunal's decision was made on the basis of the evidence before it and what follows is a summary of the evidence heard.
10. The parties had helpfully agreed a schedule of items that were in dispute and this decision will address each of those items in the same order in which they were considered during the hearing.

Cleaning costs of £50.00 per week

11. Mr Macaree on behalf of the current managing agents stated that new cleaning contractors were appointed about 6-7 months after J Nicholson & Son took over management in April 2011 as it was felt that a better service could be achieved without an increase in the cost. The former cleaners had charged £50.00 per week. The Tribunal was informed that the previous cleaning contractors had waived payment of their final invoices totalling £465.00 as a 'gesture of goodwill'.
12. Mr Macaree said that no complaints had been received by the managing agents about the cost or standard of the cleaning. Ms Yaldren of Flat 22 informed the Tribunal that she had no issue with the cleaning services provided. Chris Goodwin, another director, stated in his email of 17/09/2012 that the communal areas were 'shabby' but that he had no complaint with the standard of the cleaning.
13. Mr Macaree stated that there was lots of traffic to the communal areas, some flats were rented out and that the floors were old so that there were problems keeping the block clean. The entrances have tradesmen controls but he said that the doors were often propped open.
14. Mr Macaree said that the current cleaning contractors attended once a week for a period of 2 - 2 ½ hours and that their duties involved cleaning the communal areas, picking up litter and emptying out bins.
15. Mr Riches on behalf of the current cleaning company said that the cleaning was undertaken over a whole morning by one individual and that their work was checked on a monthly basis by either himself or his business partner. Mr Riches said that he had found the block to be reasonably clean on his visits. Ms Yaldren stated that there was a pin board in the communal hallway that recorded the cleaner's visits.
16. Mr Macaree informed the Tribunal that his view was that the charge of £50.00 per week was reasonable and in-line with the charges for other blocks under his company's management. He told the Tribunal that his company managed between 400-500 blocks and that, given this experience, he was well placed to comment on whether the charge was reasonable. Mr Macaree pointed out that some other blocks under his company's management were cleaned on a

fortnightly basis but that a weekly clean at Woodleigh Court was necessary given the problems keeping the block clean.

17. The Respondent refuted the views of Ms Yaldren and Mr Goodwin. He informed the Tribunal that Ms Yaldren's flat was situated in a stairwell shared with the fewest number of other flats (19-23 Woodleigh Court) so that there was less traffic in that part of the block, most were owner occupied and the entrance faced a side road so there were generally less problems. The Respondent said that the other two entrances (Flats 1-8 and Flat 9-18) had far fewer owner occupiers and faced out on to Wood Green High Road so that there were problems with these communal areas, including with local secondary school pupils who congregated in the communal areas and vagrants, so that these areas were much dirtier. The Respondent also refuted the views of Mr Goodwin on the basis that he had never lived in the block and only visited so would have limited knowledge of the conditions on a daily basis.
18. The Respondent relied upon a number of emails from other residents concerning the poor state of the block dating from 26/04/2009 to 01/11/2011. He complained that there was graffiti, spit and vomit in the communal areas that had been there for years. The Respondent produced photographs of some of the problems. The Respondent was unable to tell the Tribunal as to exactly when any of the photographs produced had been taken.
19. The Respondent said that the cleaning was undertaken on a daily basis when he was managing the block. Subsequently, a cleaning company run by Mr Brown was used. He informed the Tribunal that the service initially provided by Mr Brown was very good but that standards had slipped over time. He complained that there were incidents of cleaners spending only 13 minutes at the block or not even entering the building.
20. The Tribunal were informed by the Respondent that that the state of the block was considerably better since the current cleaning contractors had taken over. He stated that the service provided now was 'excellent'. The Respondent was, however, of the view that the cleaning should be undertaken on a twice weekly basis (with the car park and garden area included) for the same amount. The Respondent did not provide any quotes from alternative cleaning contractors to establish that such a level of service could be obtained at a cost of £50.00pw. The Respondent also complained that the managing agents were employing cleaning contractors based some distance away, although Mr Riches explained that the cleaner for the block lived not far away in Walthamstow. Mr Riches said that the charge for cleaning was not excessive and that a twice weekly clean for £50.00 per week was not commercially viable.

Tribunal's decision

21. The Tribunal decided that that charge of £50.00 per week for cleaning a block containing 23 flats was reasonable. The Tribunal accepted the evidence put forward by the Applicant regarding the reasonableness of the charge and relied upon its expertise and experience on this matter.
22. The Tribunal accepted that there were some concerns about the standard of the cleaning prior to the current contractors taking over. The Tribunal was informed that the previous cleaning contractors had made refunds totalling £455.00. In view of this, the Tribunal decided that it was not necessary to make any adjustment as the amount had been reduced in line with what would have been required by the Tribunal.
23. The Tribunal considered that the Respondent's expectation that the block and exterior areas should be cleaned twice weekly for £50.00 per week was simply unrealistic. Such a level of service would inevitably result in a higher charge.
24. Accordingly, the Tribunal found that the charges for cleaning were reasonable and allowed the costs in full.

Replacement of the fascia for Flat 18 at a cost of £771.75

25. The Respondent sought to recover the sum of £771.75 in respect of costs he had incurred in replacing the fascia to Flat 18 in October 2011. The Respondent claimed that he was entitled to be reimbursed for this sum and/or the sum should be set off against his service charges.
26. The flat roof to the block had to be replaced as it was beyond repair. A report obtained on the condition of the roof in June 2008 also recommended that rotten fascia boards would need to be replaced. The Respondent had negotiated with the building contractor ultimately appointed, Stamfords, that the fascias would be replaced as part of the building works. He had received an email sent on 04/06/2010 by the previous managing agents, Williamson and Dace, in which it was stated that an email from Stamfords referring to "new white fascia boards" would be included in the contract. The Respondent's position was that this had led him to believe not only that the works to the fascias would be included as part of the major roof works but also that he had paid for the cost of the fascias when he had been charged his proportion of the roof works.
27. No issue was raised by the Respondent concerning the consultation over the major works.

28. The works to the roof were undertaken in December 2010. The fascias were not repaired or replaced during the roof works but the fascia to Flat 7 was replaced some months later.
29. The Respondent informed the Tribunal that he had reported to both the building contractors and to Williamson and Dace that no work had been undertaken to the fascias at Flat 18. He said that water was pouring in to the flat. He had also later complained about the fascias and other matters in an email dated 27/06/2011 sent to the current managing agents and the other leaseholders in addition to raising this at the freeholder's AGM.
30. Mr Macaree's company were not the managing agents at the time of the major works. Mr Macaree said that he had made enquiries of the previous agents and that he had been informed that the freehold company did not have sufficient funds to repair/replace the fascias so that this additional work had not been included in the contract. The documents provided by the parties to the Tribunal did not include the final specification of works issued to the building contractors nor the invoice issued on completion of the works. Mr Macaree stated that his company had encountered difficulties in obtaining all the paperwork for the block from the previous managing agents.
31. The Respondent arranged to carry out the works himself as he became frustrated over the lack of progress. He said that he was moving out of Flat 18 in November 2011 since he was renting out the flat and that he wanted to sort it out urgently before the new tenants moved in. He therefore arranged for the works to be carried out in October 2011. He accepted that he had not given the Applicant or managing agents any quote for the works or any notice in advance of the works being actually executed. He said that he was in a rush to move out and, as he had not heard anything in response to his complaint, he went ahead and arranged the works.
32. The Respondent was of the view that he had effectively paid for the replacement fascias twice - as part of his contribution to the major works that he thinks included the fascias and again when he arranged to have the works carried out. He produced undated photographs showing the poor condition of the old fascia.
33. The Applicant's position is that the freehold company is responsible for the structure of the building and that they were not given any notice of any works nor the cost of those works. Mr Macaree said that he only saw the invoice for the replacement fascia when it was disclosed in these proceedings. He also informed the Tribunal that the cost of replacing the fascia at Flat 7 was much less - £350.00 plus VAT so that the Respondent should not be entitled to the full amount in the event that the Tribunal held the Applicant to be liable. The Respondent pointed out that the fascia to Flat 7 covered a smaller area of the building.

Tribunal's decision

34. The Tribunal decided that the cost of the replacement fascia to Flat 18 was not recoverable from the Applicant.
35. On the evidence available, the Tribunal concluded that it was more likely that the specification for the roof works had not included the works to the fascia so found that the Respondent had not been charged for the fascia works as part of the roof replacement costs. The only evidence to support the Respondent's assertion that the major works had included the fascias was the email of 04/06/2010. There was no other evidence that suggested that the Respondent had been charged for works that had not been undertaken. In light of this, the Tribunal accepted the Applicant's evidence that the freehold company had insufficient funds to carry out the fascia works since this was the more likely explanation as to why the fascias were not repaired/replaced when the roof works were undertaken.
36. The Tribunal accepted the Respondent's evidence that the fascias to Flat 18 were rotten and that he had spent the sum of £771.75 replacing the same. However, The Applicant is responsible for the repair of the structure of the building. This obligation is set out at Clause 5(d) of the lease for Flats 18.
37. The Tribunal accepted the Respondent's evidence regarding the various complaints that he had made regarding the condition of the fascias at Flat 18. However, the Respondent had not formally given notice of his intention to arrange the works himself, including providing any time limit as to when he would do so and at what cost. The Applicant was, therefore, deprived of any opportunity of approving or contesting the intended works. In view of this, the Tribunal considered that the Applicant should not bear the cost of the Respondent's works.
38. The Tribunal also considered whether the Respondent was unable to provide the Applicant with sufficient notice due to the urgency of the situation. The Tribunal did not consider the matter to be urgent. The Tribunal noted that the situation had existed for some years and the works had been arranged as the Respondent was in a rush to let out the flat.

Cost of decorating communal areas

39. The Applicant also arranged for the communal areas to Flat 18 to be redecorated at a cost of £440.21. The Respondent again claimed that he was entitled to be reimbursed for this sum and/or the sum should be set off against his service charges.
40. The Respondent produced photographs showing the poor condition of the communal areas. He was again unable to specify when the photographs were

taken. The Respondent complained that all other communal areas had been decorated save for the area leading up to Flat 18. He asserted that the costs of the redecoration had been charged to the service account. The Respondent referred to his email of 27/06/2011 that referred to this issue and he also informed the Tribunal that he had raised the matter at AGMs. When his complaints were not addressed, the Respondent undertook the works. The invoice in respect of this item is dated 31/11/2011 but this is an error and it should be dated 31/10/2011. The Respondent similarly wanted this work done before he moved out of Flat 18 in November 2011 to let the property.

41. The Respondent again went ahead and proceeded with his works without giving notice of his intention to do.
42. The Applicant's position is that the residents had decided to carry out the redecoration of the communal areas on a voluntary basis and Mr Macaree could offer no explanation as to why this had not included the stairwell leading to Flat 18. Ms Yaldren informed the Tribunal that the redecoration was a cost saving exercise and a community spirited event. She informed the Tribunal that the cost of the materials had been charged to the service account. Given this, Mr Macaree offered to refund the Respondent for the cost of the materials he had used. There had also been a concession that the Respondent would be reimbursed for filling in cracks that had been undertaken as part of the redecoration at a cost to the Respondent of £100.00.
43. The Respondent's position was that the works to the stairwell had to be undertaken by a professional since the area was high up and involved a long drop.

Tribunal's decision

44. The Tribunal decided that the cost of the Respondent's redecoration materials of £20.21 and, in addition, the hire of a decorating tower in the sum of £200.00 should both be reimbursed/set off against service charges.
45. The Applicant consented to the redecoration of the communal areas. The other lessees had been reimbursed for the materials used for redecorating the common parts and the Respondent should be placed in the same position.
46. The Tribunal accepted that the communal stairway area to Flat 18 could not be accessed without a tower so included a sum in respect of this. The labour costs were not allowed since the Applicant had not agreed to the redecoration being undertaken on a professional basis and, further, the Applicant had not been given notice that the Respondent was intending to incur such expenditure.

Flat roof tiles

47. The Respondent objected to the costs of the roof replacement works on the basis that the works were not of a reasonable standard.
48. The works to replace the roof were undertaken in December 2010. It was said that tiles were laid over two outside common areas and the balconies of the top flats. The Respondent complained that some of these tiles were not properly fixed, as the works had been done in cold weather so the glue had not adhered properly. The contractor had returned to refix the tiles to his balcony but did not do the same to the common areas. The Respondent produced photographs showing a small number of roof tiles that were not in position. The Respondent informed the Tribunal that he had actually lifted up the tiles concerned to demonstrate that they were not stuck down. He thought that these heavy tiles could be dangerous if thrown from the roof and again cited the problem with local secondary school pupils who had got up onto the roof. The Respondent confirmed that the lack of adhesion had not resulted in any water ingress. He had previously informed the Tribunal that the problems with the pupils had been taken up with the local schools.
49. The Applicant's position was that these issues were minor 'snagging' items that either had been or were to be addressed by the roofing contractor. Mr Macaree pointed out that the works were covered by an insurance-backed 15 year guarantee. The contractors had already returned to deal with some of the areas and if required would be called back to attend to the remainder. Ms Yaldren informed the Tribunal that she had been on the flat roof in recent weeks and she thought that the tiles had been stuck down. It was noted by the Tribunal that the roof area is not a roof terrace and that Mr Macaree considered that it should not be accessed except in emergency.

Tribunal decision

50. The Tribunal was satisfied that the issue with the flat roof tiles would be addressed by the Applicant. This issue did not give rise to any ground to disallow the roof costs as unreasonable or not of a reasonable standard.
51. This was a minor problem that was covered by guarantee. The Respondent's primary concern was that of potential vandalism rather than that the roof was in a defective state. The Tribunal would urge the Applicant to arrange for the matter to be addressed as soon as practical.

Brought forward arrears

52. The Respondent contended that arrears of £472.50 had been wrongly brought forward in the service charge year ending 31/03/2011. The Respondent informed the Tribunal that this dispute only related to Flat 15 and that he

agreed the figures regarding Flat 18. The Respondent queried a payment of £50.00 made in the service charge year ending 31/03/2010 but he did not produce any evidence as to the payments he had actually made. Without any evidence from the Respondent as to the payments he had actually made, the Tribunal was limited to the extent that it could investigate whether the Applicant's records were correct.

53. The Tribunal noted that the Applicant did not produced service charges accounts but relied instead upon the company accounts produced by their accountants.
54. The ledgers produced showed that the sum of £15.00 had been added to the account for Flat 15 for the service charge year 2008-2009 that appeared to relate to ground rent. In relation to the service charge year 2009-2010 for Flat 15, there was a mathematical error in the figures so that the brought forward figure was overstated by £100.00.

Tribunal's decision

55. The service charge arrears for Flat 15 should be reduced by £115.00 to reflect the fact that ground rent should not be included as part of the service charge and to amend the error in respect of the amount carried forward to the service charge year 2009-2010.

Administration expenses

56. The Respondent disputed the management fee as it was in excess of the 10% administration fee referred to at Clauses 10 of Part I of the Fifth Schedule of the leases for Flats 15 and 18. This clause provides that, "*An addition of ten per centum shall be added to the costs and expenses outgoings and matters referred to in the preceding paragraphs of this Schedule for administration expenses*".
57. Mr Macaree's view was that Clause 10 no longer applied as the deeds of variation referred to Clause 5(a) and that this related to Clause 5(a) of the lease of Flat 21, which refers to a contribution towards the cost of doing the things in the Fifth Schedule and the Fifth Schedule of this lease specifies at Clause 1(7) that this shall include, "*The cost of employing the Lessor's Managing Agents for the general management....*". Mr Macaree sought to argue that these terms had thereby been incorporated into the terms of the leases for Flat 15 & 18. The managing agents were relying upon the lease for Flat 21 as the specimen lease. Mr Macaree had tried to obtain copies of the leases for Flat 15 & 18 from the Land Registry without success. The Respondent did not produce the leases for Flat 15 & 18 to the Tribunal and the Applicant until the start of the hearing. Mr Macaree further sought to argue that additional fees could be charged for management due to the inclusion

within Part 1 of the Fifth Schedule of the cost of "Specialist Reports" and "The cost of any expenses incurred by the Lessor in obtaining the maintenance contributions from the lessee"

58. Mr Macaree also stated there would be commercial consequences if the management fee was based on Clause 10 of the leases for Flats 15 & 18, as a 10% charge would not be sufficient.
59. The Respondent was of the view that the deeds of variation were only intended to vary the length of the terms not to make any other changes to the terms. He said that all the leases were identical save for Flat 21 and all terms had been extended at the same time. The Respondent said that the terms of the lease of Flat 21 were varied beyond the extension of the term in order to bring this lease in line with the others. He thought that the solicitors had mistakenly referred to Clause 5(a) of the lease for Flat 21 when drawing up the deeds of variation for the other Flats. The Respondent also pointed out that the previous managing agents had on more than one occasion amended their management fee in order to reduce it to the 10% charge. It was also noted by the Tribunal that Clause 5(a) of the leases for Flat 15 & 18 was a covenant of quiet enjoyment and, therefore, did not relate at all to service charges.

Tribunal's decision

60. The leases of Flats 15 & 18 provide for a charge of 10% in respect of administration expenses in accordance with Clause 10 to Part I of the Fifth Schedule. It is not considered that the cost of Specialist Reports and the other expenses referred to in paragraph 57 above give a general ability to charge the management fees currently incurred.
61. The bundle of documents provided to the Tribunal included the leases of Flats 21 and 22. It was noted that the leases of Flat 15 & 18 are in the same terms as the lease of Flat 22.
62. The leases for Flat 15 & 18 contain clear and unambiguous terms concerning the charge for administration expenses.
63. The deeds of variation contain an error by referring wrongly to Clause 5(a). Such an error does not create any binding obligation. The deeds of variation were intended to extend only the length of the terms and not to provide any other variations. This plainly was the intention of the parties at the time.
64. It would be regrettable if, as a result of the Tribunal's decision, the managing agents terminate their agreement. However, the Tribunal is compelled to base its decision on the correct legal interpretation of the leases and not on any other basis.

Costs

65. The Respondent made an application under section 20C of the Landlord and Tenant Act 1985.

Tribunal's decision

66. The Tribunal declined to make an order under section 20C.
67. The question to be considered by the Tribunal is whether it is just and equitable in all the circumstances to make such an order. This includes having regard to the degree of success of each party and their conduct.
68. The Respondent was largely unsuccessful. The Tribunal had found that the service charges challenged by the Respondent were reasonable. The Respondent had not made any payments at all for two years. Whilst the Tribunal found in favour of the Respondent in relation to the administration expenses, the Tribunal notes that the leases for Flats 15 & 18 were only produced by the Respondent at the morning of the hearing. The Applicant had been forced to pursue the application given the lack of payment and to seek clarification regarding the administration expenses.

Chair: Miss J E Guest

Date: 28/09/2012

Appendix of relevant legislation

Landlord and Tenant Act 1985

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 a Leasehold valuation 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 a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
 - a. the person by whom it would be payable,
 - b. the person to whom it would be payable,
 - c. the amount which would be payable,

- d. the date at or by which it would be payable, and
 - e. the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- a. has been agreed or admitted by the Tenant,
 - b. has been, or is to be, referred to arbitration pursuant to a post dispute arbitration agreement to which the Tenant is a party,
 - c. has been the subject of determination by a court, or
 - d. has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 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 leasehold valuation 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.

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- a. (2) The application shall be made—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;
 - b. in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
 - c. in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
 - d. in the case of proceedings before the Upper Tribunal, to the tribunal;
 - e. 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.

Leasehold Valuation Tribunals (Fees)(England) Regulations 2003 Regulation 9

1. Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
2. A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

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, 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
 - c. 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 a leasehold valuation 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 a leasehold valuation 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 12, paragraph 10

- (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
- (2) The circumstances are where—
 - a. he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
 - b. he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
 - a. £500, or
 - b. such other amount as may be specified in procedure regulations.
- (4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.