

10229



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

**Case Reference** : LON/00AU/LSC/2014/0082

**Property** : 32 Tollington Park, London N4  
3Qy("the property")

**Applicants** : The Mayor and Burgesses of the  
London Borough of Islington

**Represented by** : Partners for Improvement in  
Islington- Mr Doug Pope Head of  
Housing  
Ms Linda Harris- Technical  
Manager  
Ms Victoria Akiwowo- Leasehold  
Officer

**Respondent** : Ms Margaret Anike

**Represented by** : Mr I Etukudohi- Solicitor ( day  
one) and Ms Anato- Dumelo  
Counsel ( day two)

**Type of Application** : For the determination of the  
reasonableness of and the liability  
to pay a service charge

**Tribunal Members** : Ms M W Daley LLB (Hons)  
Mr M Cairns MCIEH  
Mrs L Hart BA

**Date and venue of hearing** : 15 & 16 May 2014 10 Alfred Place,  
London WC1E 7LR

**Date of Decision** : 10 July 2014

---

**DECISION**

---

## Decisions of the Tribunal

- (1) In respect of the service charges for Major works the Tribunal makes the following determinations.
- (2) At the hearing the sum of £1862.00 was conceded by the Applicant as not payable in respect of the cost of work for the windows.
- (3) The Tribunal orders that a reduction in the sum of £95.00 should be made to the cost of major works for the repairs to the door frame. The Tribunal also finds that the major works should be reduced by £500.00, from £2787.06 to £2192.00 and the management cost for the major works ought to be reduced from 8% to 5% of the total cost of the major works.
- (4) The Tribunal determine that the sum of £1326.08 is the total sum, reasonable, and payable, in respect of the outstanding service charges.
- (5) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 in the leaseholder's favour.

## The application

1. The Applicant sought a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to whether service charges in the sum of £1602.12 for the service charges for the periods 2010-2014 are reasonable and payable.
2. The Applicant issued proceedings in the Northampton County Court in the sum of £10,826.24. The matter was transferred to the property chamber (Residential Property Tribunal) pursuant to the order of the court on 14.02.2014.
3. Directions were given by the Tribunal on 06.03.2014.

## **The matter in issue**

4. An oral pre-trial review was held by the Tribunal on 06.03 2014, which was attended by the Applicant's representative and the Respondent. Directions were given and the matter was set down for hearing on 15 & 16 May 2014. The matters in issue were-(i) the major works carried out in the sum of £9140.12 for repair and redecoration for the windows, external works to the path, steps, railings and the front walls, down

pipes, gutters and brick work with roof repairs and (ii) the annual service charges.

5. The Directions provided for an inspection to be carried out on 15 May 2014.
6. The relevant legal provisions are set out in the Appendix to this decision.

### **The background**

7. The Applicant holds a long lease of the premises, pursuant to a lease of premises dated 1 March 2004. The lease required the landlord to provide services and the Respondent, as leaseholder, to contribute towards the cost of the service, by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

### **The Inspection of the premises**

8. The Tribunal inspected the premises on 15 May 2014
9. We were met on site by Mr Pope and Ms Harris on behalf of the LB of Islington. This is a self-contained maisonette flat within a converted 4 storey mid-terrace property of traditional construction. The property appears to be late Victorian/early Edwardian, External walls are solid brickwork. There is a slated pitched roof over with a mansard style tiled section to the front only. Windows are single glazed/wood framed vertically sliding sashes. No 32 is on the upper two floors and has a separate entrance door at raised ground floor level giving onto an internal stairway to first floor level. Accommodation comprised four rooms on the upper floor and a living room, kitchen, bathroom and WC compartment, on the lower floor.
10. Accessible areas of the flat and the external elevations were inspected. A number of defects were noted including damp damaged front left bedroom ceiling, damp damaged party wall in the stairway, heavily stained skylight, sticking sashes to the front right bedroom and living room windows and a broken pane to the rear left bedroom window Externally there were several raised/slipped tiles to the mansard and rust staining below a boiler expansion pipe.

## The Hearing

.At the hearing the Tribunal were provided with the following additional documents

- (i) Pages 169 onward of the hearing bundle
  - (ii) The witness statement of Margaret Anike ( the respondent
  - (iii) Certificate of inspection dated 11.08.2011
  - (iv) Inspection diagram prepared by R J Laing Remedial Consultants dated 21.04.2010
  - (v) Copy of damp proof guarantee
  - (vi) Details of preliminary cost and contractors management overheads
  - (vii) Extract prepared for a previous LVT from Mr Rowe and Mr Reybould surveyors on agreed cost for overheads and provisional sums in relation to major works
  - (viii) Repairs statement dated 1.04.2012 to 31.03.2013
  - (ix) Statement of management fees together with details of Direct Housing Management team costs.
11. At the hearing the Respondent's representative confirmed the service charge items that were still in dispute. In respect of the reasonableness of the cost of the building insurance this was not disputed by the Respondent. However, the cost of £210 for the management fee was disputed, as was the sum of £276.04 for external and communal repairs on the basis that this did not apply to the Respondent's property. The Respondent also disputed the cost of the major works.
  12. The Applicant was represented by Mr Doug Pope who set out the background to the major works contract.
  13. The Applicant, The Mayor and Burgesses of the London Borough of Islington were represented by Partners for Improvements in Islington, who had carried out work on this and other Islington local authority properties pursuant to a 15 year contract for the refurbishment of certain properties.
  14. Mr Pope explained that in January 2010 a Section 20 Notice had been served pursuant to the Landlord and Tenant Act 1985. This notice had been based on a surveyors report. The surveyor had looked at the external areas of the property and had set out the work to be undertaken. A notice template was then used to prepare the section 20 notice. The properties would have been individually inspected, where the surveyor was able to gain access.
  15. One of Ms Anike's complaints had been that the notice referred to "*communal and external repairs*". Mr Pope explained that this sum was taken out of the estimate, although it had in error originally been referred to the in Section 20 notice.
  16. The works were completed in July 2011, although the final account had not been issued until March 2012, once the work

- had been certified by an individual surveyor from a team of surveyors.
17. The demand for payment had also been served on the Respondent in March 2012 and this sum was still outstanding.
  18. At the inspection, it had become apparent to the Applicants' representatives that there were defects which had not been picked up under the defects liability period, prior to the certificate of practical completion having been signed off. Mr Pope stated that even though there were still some snagging issues, this did not change the fact that major work had been carried out and the sums were due.
  19. Mr Pope stated that any snagging issues could be dealt with by the contractors, being called back to remedy the defects, and accordingly the cost of the major work was reasonable.
  20. In her witness statement Ms Anike set out in detail the issues that she had in general terms with the work, Ms Anike stated that the Section 20 Notice served on or around 17.10.10 included estimates for the cost of external and communal refurbishments which could not apply to her property, as the items related to blocks of flats. The Respondent also set out that she had received a questionnaire on the completion of the work and that despite completing this regarding concerns that she had about the nature and quality of the work, the Applicant had not remedied the defects.
  21. The Respondent referred to letters that she had written to D'Onay Johnson on 22.04.12 and also on 10.06.2013.
  22. In paragraph 20 of her witness statement the Respondent stated:- *"...The Applicant contracted to refurbish my property but instead abandoned the work and left the property in an unsafe state. The Claim is based on false premise that the Applicant was entitled to the amount claimed...I believe that the Applicant's claim for £9,140.12 is unfair, not reflective of the actual works carried out and disproportionate considering the works actually done..."*
  23. The Tribunal decided to adopt the approach of working through the joint Scott Schedule which had been prepared by the parties.
  24. The first items were for the repairs to the windows:- *"... for the repair of the Box Frame, ease and adjust to leave in working order, replace the sash only and Repair and overhaul to leave in working order.* The total sum due for these items was £1862.00.
  25. Mr Pope on behalf of the Applicant conceded that this sum was not due and withdrew this sum from the major works demand.

### ***The Tribunal's determination on this issue***

26. According upon the Applicant's concession that this sum is not now due, the Tribunal determine that the total sum for the major works should be reduced by the sum conceded of £1862.00.

## External Repairs

27. The next heading was the external works this was for scaffolding cost, aerals, gullies and cables, although this was the heading, for the major work, this work related to damp work to the ground floor flat, flat A.
28. The Respondent's objection to this work was that the work related to internal work at flat A and therefore the Respondent was not liable for the cost of any of this work. In relation to the scaffolding cost of £1252.50 the Respondent in the Scott Schedule set out that her objection to this item was that the scaffolding should have been erected for just a few weeks and that it had remained in place for several months, and this had contributed to the cost of the scaffolding.
29. In reply Mr Pope set out that although the works were referred to as work to flat A, this was where access had been provided from and the work was as such to the structure Clause 5 (3) of the lease, states:- "*...A proportion of the expenses and outgoings and incurred by or to be incurred by the Council in respect of those items set out in the Third Schedule hereto and which comprise (1) the repair maintenance renewal and improvement of the Building and any facilities and amenities appertaining to the Building; (2) the provision of the services for the Building; (3) other heads of expenditure...*"
30. The Respondent's representative stated that the Respondent had no evidence that this was not condensation. The Applicant referred to the schedule and the fact that damp affected the structure of the building. The analogy was made of the case of a tenant in the basement being required to contribute to the cost of roof repairs, as this work was required not just for the benefit of the first floor tenant but in order to preserve the integrity of the building.
31. The Respondent also raised the issue of the spindle; this was described as being part of the common parts of the building.
32. In relation to the "*...abutment of the garden wall*" this wall was described as touching the premises and therefore at risk of bridging the damp proofing and causing damp to the premises. There was also the issue of the garden fence which was also part of the major works contract. Mr Pope referred the Tribunal to the lease in particular clause 7 (5) e of the lease which stated:- "*Except as provided in Clause 3(3) and 8 hereof to repair redecorate and keep in repair (e) The boundary walls and fences of and in the curtilage of the Building.*". This work related to the boundary of the premises, and as such was payable by the leaseholder as part of the terms of the lease. This was disputed by the Respondent, and in addition she stated that the garden was for the benefit of the ground floor flat, and she did not have access to the garden and as such should not be responsible for the cost of maintaining the same.
33. In respect of the scaffolding, Mr Pope stated that the Applicant paid a lump sum for scaffolding therefore it was immaterial how

long the scaffolding was erected on the building, as the cost did not increase.

34. Ms Anike disputed this, she stated that she had attempted to get a quotation for scaffolding based on her description of the building and had been quoted less.
35. Mr Pope explained that the contract for the works were part of a private finance initiative, this included the cost of the scaffolding. The Applicant had placed a public notice for the contract of works in 2003 for a 15 year Long- term qualifying agreement. Consultation had been carried out with the leaseholders, under section 20 of the 1985 Act. Under this procedure the leaseholders had been given an opportunity to nominate a contractor. The Contract had been awarded to Partners for Improvement in Islington ("Partners"); given this there was no requirement to consult each time Partners carried out work.
36. The Applicant considered the pricing for the scaffolding and the other sums for preliminary and supervision to be reasonable. Additionally to ensure that Partners for Islington provided good value for money there was an internal "...challenge process" in which the bill for major works was reviewed. This ensured that the cost of the work was reasonable.
37. Mr Pope stated that in respect of the contract for Major works cost for items such as preliminaries the history of this was that when the Applicant and Partners had entered into the contract the original cost of the preliminaries had been 56%, as this rate had been the subject of leaseholder dispute, an application had been made to the then Leasehold Valuation Tribunal for a determination in respect of this sum. The Tribunal were referred to an extract of the proceedings.
38. This case had been settled, however the Applicant and Partners had nominated two expert building surveyors (Daniel Rowe who had been instructed by Partners and Mervyn Raybould instructed by PFI-LAG) who had each valued the cost of the preliminaries in a slightly different manner, and had prepared a joint statement setting out the basis upon which they calculated the preliminaries.
39. The figures were 33.65% and 29.00%. However despite this, the sum settled at by the Applicant for Preliminaries was slightly below the sum suggested by the expert, with the lower figure, of 29.00 %. The preliminaries were set at 20.25% for this contract and 8% for the contract management and overheads. Mr Pope was confident that this was reasonable given that it was below the building industry norm for this type of contract.
40. The Respondent's representative submitted that the pricing for the scaffolding was based on economies of scale which was not achievable on a smaller contract. Although no alternative basis was put forward for the preliminaries the amount put forward by the Applicant was not accepted as reasonable as there were issues with the manner in which the work had been carried out, and the standard of the work.

41. The Respondent's representative also disputed that the roof works were carried out. The Tribunal were referred to photographs of the disputed areas which showed the roof. The respondent disputed that the horizontal lead flashings had been renewed and also was not satisfied that the roof had been renewed. The Tribunal were referred to photographs which had been taken by the Respondent and were included in the bundle and depicted damage to the ceiling of a bedroom in the Respondent's house. The Respondent was also unhappy with the standard of work to the door and frame.
42. The Tribunal was referred to a letter from the Respondent dated 22.04.2012. In her letter to D'Onay Johnson the Respondent wrote -: *"The Sky roof is in a total mess and still water penetration into my walls. All the water damages into my property... I was phoning continually to get this sorted out after all their promises, nothing was done to remedy the situation..."*
43. The Respondent stated that she had telephoned the Applicant on numerous occasions as well as indicating her dissatisfaction on the questionnaire sent out. However the work still remained outstanding.
44. On her behalf the Respondent's representative referred to the fact that the Applicant appeared to lack capacity to check that the work had been properly carried out to the required standard, and the fact that there was no acknowledgement of the Respondent's complaint, or any referral of these matters to the Applicant's complaints procedure
45. On behalf of the Applicant, Mr Pope stated that although the sky light was included in the lead work, he was not sure that the sky light had been replaced rather than renewed. He did however accept that from the photograph it was evident that the sky light was defective. However he submitted that this work was covered by the defects liability period which dealt with so called snagging work, the Applicant was willing to go and look at the sky light and would remedy any defect. Accordingly this item was still payable by the Respondent.
46. In answer to the query as to whether the works was carried out to a reasonable standard, and whether the Tribunal ought to value the work on the basis of the condition that it was in, Mr Pope accepted that the Tribunal might place a different value on the work, however he did not make any concessions in respect of the cost of the roof work.
47. In respect of the door and frame Mr Pope referred the Tribunal to the final account which had been prepared. It was noted that work had been carried out to the door and frame the total cost was £190.00. Mr Pope was aware that the Tribunal had seen the door, however he pointed out to the Tribunal that there had been an inevitable passage of time. He invited the Tribunal to form its own view on the reasonableness of the cost of this item of work.



### ***The Tribunal's determination on this issue***

48. The Tribunal having considered the wording of the lease are satisfied that the cost of the work to the ground floor flat for the purpose of remedying the damp at the premises, and the external work to the spindle and the wall and the fence are covered by the provisions of the lease referred to, accordingly the Tribunal find that these items of work fall within the covenant of the lease and the Respondent is required to contribute to the cost of these works.
49. The Tribunal however having inspected the premises were concerned that the work to the roof had not been carried out to the appropriate standard. This was evident from the water penetration into the property. There were also issues with the manner in which the Applicant had handled complaints made about the quality of the work. This has in the Tribunal's view contributed to this matter being prolonged.
50. Accordingly, notwithstanding the Applicant's undertakings to carry out works to put right the snagging items, the Tribunal consider that the correct approach is to consider whether at the date of the hearing the sum claimed for service charges is reasonable and payable in accordance with section 27A of the 1985 Act.
51. The Tribunal consider that the appropriate deduction from the cost of the work in the sum of £2787.06 is £500.00 for the unsatisfactory roof repair and £95.00 reduction to the front door repair; the total sum now payable is £2192.00. The Tribunal also considers that there was a failure to manage the major works, and given this, although the Tribunal considers the management charges, and preliminaries to be reasonable, the sum charged does not reflect the actual service provided to the Respondent. Accordingly the management of the major works shall be reduced from 8% to 5% of the contract price. The Tribunal noted that the cost of the preliminaries which was 20.25% of the total cost will be reduced once the major works is recalculated.

### ***The Service charges in the sum of £1602.12***

52. The final item was the service charges for the periods in issue. The first issue was the management fee. The management fee for this year had been set at £219. Mr Pope explained that this was a slight increase against the previous year's figure of £210. Mr Pope set out the reason for the increase which has been included in a document in the hearing bundle -: '*...How have we calculated this figure?' partners have carried out a full review of the cost involved in providing the Leasehold Service to you. This review took account of staff cost and office overhead cost, such as stationary, printing and lighting. This has established that the actual cost of providing leasehold service is £256.19 per leaseholder... the council has been consulted on this change, and, recognizing that the increase in the management fee is substantial, they have asked that the fee should be capped at 210 in 2012/2013 and 219 in 2013/2014.'*

53. Mr Pope stated that this increase was mainly based on the overheads such as on cost such as staffing for the leasehold team, etc. and the cost of central support services and matters such as office overheads.
54. For these costs the management involved the preparation of service charges estimates and actuals, administration, and inspection of the communal areas. Mr Pope considered that this charge was reasonable and was actually less than the cost of providing the service.
55. Ms Anike stated that she did not understand the distinction between the actual and the estimated charges. It was explained that whilst one figure is based on an estimate using the information available to the Applicant at the start of the year, the other figure is the actual cost incurred.
56. Mr Pope then went through the items which made up the actual service charges for the year 2012/13. The Insurance at £374.14 was the same, as there was no communal electricity this had no charge even though the estimated charge was £15.62. Therefore there was an adjustment in the tenants favour. The major variation had been the Repairs in which the actual had been £276.04 against the estimated charge of £50.00.
57. In the witness statement of Victoria Akiwowo the service charges payable by the Respondent were set out in paragraph 11 as the estimated charges for 2010/11, 2011/12, 2012/13 and 2013/14. The sum outstanding was £1602.12 plus an administration fee, which was not set out or disclosed to the Tribunal.
58. The Applicant did not specifically set out the detailed evidence on what made up the sum of £276.04 which was challenged by the Respondent.

***The Tribunal's determination on this issue***

59. The Tribunal noted that there was no dispute on the reasonableness of the cost of the insurance and that the Respondent accepted this charge as reasonable. The Tribunal noted that the management charge was disputed; however, the Applicant provided detailed information of how the charge was made up and the nature of the work undertaken in relation to the management of the premises.
60. The Tribunal also noted that this was based on the information now available to the Applicant, under charging of the cost of management. Although this related to the management of all of the leasehold properties, rather than the Respondent's property.
61. The Tribunal noted that the Respondent's premises was in a converted house made up of the Respondent's premises and one other, accordingly the management of the premises was likely to be less intensive than the management of properties situated on an estate or in a large block. Nevertheless, the Respondent did not provide any comparable evidence of the cost of management and accordingly the Tribunal used its knowledge and experience of other properties, and in doing so it concluded that the sum

charged was reasonable accordingly no deduction will be made to this item.

62. The Tribunal noted that no other challenge was made to the service charges save for the sum of £276.04. The Tribunal noted that no evidence was tendered on behalf of the Applicant to support this item. Accordingly as the Applicant has not provided evidence concerning this sum, the Tribunal cannot be satisfied of the reasonableness of the sum claimed, the Tribunal accordingly find that this sum is not reasonable or payable. The total service charges due is £1326.08

### **Application under s.20C and refund of fees**

63. At the hearing the Respondent made an application under Section 20C, Ms Anato-Dumelo submitted on behalf of the Respondent that the proceedings could have been avoided if the Applicant had provided the Respondent with the appropriate level of information, and responded to the Respondent's queries, accordingly it was appropriate for an order to be made.
64. This was not accepted by the Applicant who considered that the service charges were reasonable.
65. The Tribunal considers given its findings that the work was not carried out to an appropriate standard that it is just and reasonable to make an order under Section 20C of The Landlord and Tenant Act 1985.
66. The Tribunal determines that this matter shall be remitted back to the County Court in accordance with the Tribunal's determinations, within 28 days of the date of this determination.

**Name:** Ms M W Daley

**Date:** 10 July 2014

## **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 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
- (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

- (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
- (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

**Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;

- (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

**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).