



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

Case reference : **LON/00BD/LSC/2019/0253**

Property : **1 Mountstuart Court, 2 Southcott Road, Teddington, TW11 0BF**

Applicant : **Ms Chris Williams and Ms Jo Swo**

Representative : **Ms Chris Williams (in person)**

Respondent : **1. Hotbed General Partners (Ground Rents 2010);
2. Hotbed General Partner (Ground Rents 2001) Nominee Ltd; and
3. Sandy Lane Residents Management Company Limited;**

Representative : **Mr Andrew Duncan (Solicitor) for the Third Respondent**

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

Tribunal Members : **Judge Robert Latham
Mr Luis Jarero BSc, FRICS
Mr Alan Ring**

Venue and Date of Hearing : **10 Alfred Place, London WC1E 7LR
on 23 and 24 January 2020**

Date of decision : **9 March 2020**

DECISION

Decisions of the Tribunal

- (1) The Tribunal makes the following determinations:
 - (i) Issue 1: legal fees – these are not payable as an administration charge under the terms of the Leasebook.
 - (ii) Issue 2: Management Agents Fees – these are payable and reasonable.
 - (iii) Issue 3: TV Aerial Maintenance – this is payable and reasonable as a reserve fund item.
 - (iv) Issue 4: Carpark Door - this is payable and reasonable.
 - (v) Issue 5: The Service Charge Contribution: this is payable and reasonable.
 - (vi) Issue 6: The Bollard – this should be an estate charge.
 - (vii) Issue 7: Contractor Parking Tickets - these are payable and reasonable.
 - (viii) Issue 8: Satellite Dish - this is payable and reasonable.
 - (ix) Issue 9: Lighting - this is payable and reasonable.
 - (x) Issue 10: Playground - this is payable and reasonable.
 - (xi) Issue 11: Playground - this is payable and reasonable.
- (2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that the Respondent may not pass 50% of its costs incurred in connection with the proceedings before the tribunal through the service charge.
- (3) The Tribunal determines that the Respondent shall pay the Applicant £150 within 28 days of this Decision, in respect of the reimbursement of 50% of the tribunal fees paid by the Applicants.

The Application

1. The Applicants seek a determination pursuant to section 27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) as to

the amount of service charges and administration charges payable by the Respondent in respect of the service charge years 2014 to 2019. The Applicants are the lessees of Flat 1, Mountstuart Court, 2 Southcott Road, Teddington, TW11 0BF (“the Flat”). Their lease is dated 23 July 2008.

2. The application is issued against:
 - (i) The landlords: Hotbed General Partners (Ground Rents 2010) and Hotbed General Partner (Ground Rents 2001) Nominee Ltd who acquired the freehold title from Linden Homes South East Ltd (“Linden Homes”) who were the developers and initial landlord.
 - (ii) The management company: Sandy Lane Residents Management Company Limited (“SLRMC”). The tenants hold shares in the Company but have not appointed the current directors.
3. On 15 July 2019, the Tribunal gave Directions. These have subsequently been amended. As a result of these Directions:
 - (i) A Schedule of Disputed Service Charges (“the Schedule”) has been prepared which is at p.39-61 of the Bundle.
 - (ii) Witness statements have been provided from Ms Chris Williams, the Applicant (at p.291) and Mr Anwar senior property manager employed by Hazelvine, the managing agents (at p.296).
 - (iii) The Applicants have prepared a Bundle of Documents which extends to 452 pages. It is difficult to navigate. The service charge accounts for the relevant years in dispute are at p.131-140.
4. On 27 November, the Applicants notified the Tribunal that they were withdrawing a number of their challenges. These include all the claims against the First and Second Respondents in respect of insurance. Ms Williams stated that her insurance contribution had been halved, saving her some £3,500. The Applicants have also withdrawn their claims in respect of audit and accountancy and electricity for both the estate and the block. The claim continues against SLRMC.
5. The relevant legal provisions are set out in the Appendix to this decision.

The Hearing

6. Ms Chris Williams appeared in person on behalf of herself and Ms Jo Swo. She gave evidence. On 31 January 2014, Ms Williams acquired the leasehold interest in the Property. On 20 February 2015, Ms Williams

added her daughter, Ms Swo, as a joint tenant. Ms Williams has worked as a property accounts administrator. She is now retired.

7. Mr Andrew Duncan, a Solicitor with All Square Law, appeared on behalf of SLRMC. He adduced evidence from Mr Anwar who has been the senior property manager employed by Hazelvine, the managing agents, since June 2015. Hazelvine and All Square Law are linked companies.
8. At the beginning of the hearing, the Tribunal was concerned that we did not appear to have a copy of the Applicants' lease. The Tribunal merely had a "Leasebook" (at p.93-124). The Applicants had included in the bundle extracts from the leases of two Phase 2 blocks, namely Makepeace Court and Braham Court. We adjourned so that the Land Registry Official Copy of Title could be obtained. This confirmed that there is a "Lease Deed" of just four pages but which incorporates the Leasebook. This was intended to be drafted in language which is easy to understand. The problem of such an approach is that respective obligations of landlord and tenant are less clearly defined. It seems that this became apparent to the developer. In Phase 2, the landlord resorted to a more traditional lease.
9. In the experience of this Tribunal, a lease book may helpfully explain the terms of a lease in language that the layperson is able to understand. Problems arise where a lease book is used as a substitute for a formal lease. It is apparent that the manner in which this estate was developed has led to the current dispute.

The Development of the Estate

10. On 10 March 2006, the Secretary of State granted Linden Homes planning permission for the erection of an office unit, a creche, nursing home and 198 flats, 40% of which are to be affordable on the former Seaboard Site. The site overlooks Bushy Park and is in a desirable location. The development is known as "Park Avenue, Sandy Lane".
11. Phase 1 consists of 107 flats of different forms of tenure. There were 28 long leaseholds, namely Mountstuart Court (Block E): 14 flats and Garside Court (Block F): 14 flats. There were 73 unit of social housing (including shared ownership). The shared ownership flats are at Ironside Court (Block G): 21 flats and Steele Court (Block H): 32 flats. There are 26 social rented units at Palgrave Court (Block I). There is a creche under Block I managed by Kids Unlimited.
12. On 22 December 2006, Linden Homes transferred the freehold title of the social housing blocks to A2 Housing Solutions Limited ("A2 Housing"), a registered social landlord. SLRMC, the "management

company”, is a party to this transfer, and is responsible for maintaining the external communal facilities.

13. The Applicants’ lease deed is dated 23 July 2008. The Landlord is Linden Homes. SLRMC, the management company, is a third party to the lease. The tenant is granted a lease of “Apartment 1” and the parking space edged red on the lease plan. The Flat has two bedrooms and is on the ground floor. The lease is for a term of 125 years from 1 January 2008. The Flat is let subject to the provisions contained in the Leasebook. The tenant’s share of (i) insurance costs; (ii) building services costs and (iii) estate service costs are each defined as “a fair and reasonable proportion”.
14. The Leasebook ([2.2]) defines the estate as “an area of freehold land at Park Avenue Sandy Lane Teddington, all registered at the land registry under title number TGL235174”. There is a plan of title number TGL235174 at p.151. After the hearing, the Respondent provided the current copy of the Land Registry entry which is in the same form. The title plan includes a much larger area than the lease plan which is based on the “Conveyance Plan 2, Phase 1”. It includes Phase 2 which had yet to be developed. It also includes land which is currently occupied by the Deer Park View Care Centre (a plot to the north west of Phase 2).
15. The Leasebook (at [1.1]) provides for the tenant “and the tenants of the apartments in the building” to be members of the management company. The “building” is defined (at [2.3]) as “the building comprising a number of apartments, including your apartment, and common parts”. Reference is made at [2.5] to “common parts, which you and others may use, such as corridors and lifts and stairwells and entrance areas”. Further (at [2.5]) “the estate also has communal areas. These are facilities that you and others may use, such as the estate roads, footpaths and parking forecourts, or enjoy, such as landscaped area”.
16. Chapter 11 provides that the landlord is responsible for insuring the whole building and the tenants of the building are collectively responsible for the cost of insurance. Chapter 12 provides for the management company to be “responsible for looking after the building and providing services to those who use it and the estate”. The tenants of the building are to pay the management company a service charge that covers all its costs. Paragraph 12.2 defines the “building services” and [12.3] the “estate services”.
17. Phase 2 of “Park Avenue, Sandy Lane” consists of 94 flats which are let on long leases. There are five blocks: Craufurd Court (Block B): 15 flats; Makepeace Court (Block B1): 22 flats; Carlisle Court (Block C): 16 flats; Needham Court (Block C1): 22 flats; and Braham Court (Block D): 19 flats.

18. The Tribunal has been provided with a copy of the lease for 14 Braham Court. It is dated 29 June 2011. The Applicants' Leasebook (at [1.3] provides that it is the landlord's intention "and we shall use reasonable endeavours to grant all new leases of apartments in the Estate in a similar form to your lease in all material respects". Linden Homes have rather opted for a more traditional form of lease which avoids the ambiguities arising from the looser language used in the Leasebook. In substance, the terms of the lease seem to reflect those in the Applicants' Leasebook. However, we are satisfied that this lease cannot be of any assistance in construing the terms of the Leasebook as it can have no relevance to what the parties to the Applicants' contract intended in 2008.

The Background

19. On 31 January 2014, Ms Williams acquired her leasehold interest in her flat. On 20 February 2015, she put the flat into joint names with her daughter, Ms Jo Swo. Ms Swo has played no part in these proceedings.
20. Ms Williams has had justified complaints that SLRMC has not been operated as intended. She complains that she has not been afforded in practice, the degree of control that she had been led to expect in the management of her flat. Whilst the tenants are shareholders, the directors remain nominees of Linden Homes. Annual General Meetings have not been held whereby the tenants are able to elect the directors. Mr Duncan stated that the transition had been delayed whilst the various freehold interests in the estate are resolved. Steps are in hand to ensure that there are tenant representatives on the board. We are satisfied that this has no relevance to the issues which we are required to resolve. If any shareholder is dissatisfied with how the company is being operated, there are steps that it is open to them to take whether under the Company's Articles of Association or Company law. We were told that the tenants at Braham Court have set up a working party to address their common concerns.
21. There has been a history of poor relations between Ms Williams and the managing agents. There has been a previous decision involving these parties, namely LON/00BD/LSC/2018/0109. On 9 July 2018, the Tribunal issued its determination, namely that a sum demanded towards a roof replacement fund was both payable and reasonable. Mr Anwar stated that since this decision, the managing agents had received some 260 e-mails from Ms Williams.
22. We are satisfied that whilst Ms Williams has sought to encourage her neighbours to support her disputes with Hazelvine, they have declined to do so. Mr Duncan referred the Tribunal to a number of e-mails passing between Ms Williams and her neighbours. When questioned by Mr Duncan, Ms Williams stated that she did not know the names of her fellow lessees. She stated that she could not recall sending an e-mail to

Ms Karen Foster. Mr Duncan produced an e-mail trail from September/October 2018 which confirmed that Ms Williams had copied her neighbours into a number of e-mails which she had sent to the managing agents. On 3 October 2018, Ms Foster had responded stating that she did not wish Ms Williams to represent her in any of the issues that she was pursuing. We did not find Ms Williams a satisfactory witness. She must have known that she had sought the support from her fellow lessees and that they had failed to give her that support.

23. We are further satisfied that this application was precipitated by the legal fees which Hazelvine sought to recover from Ms Williams in respect of the first set of tribunal proceedings. In August 2018 (at p.218), Hazelvine notified that the 14 lessees at Mountstuart Court that they would be seeking to recover the costs of “over £4000” as a “block” service charge. Unsurprisingly, the lessees objected to this. On 26 June 2019, Hazelvine wrote to Ms Williams seeking to charge her for the full cost. On 9 July, Ms Williams issued the current application.

Issue 1: Liability for Legal Fees

24. On 26 June 2019 (at p.267), Hazelvine sent the Applicants an invoice for £4,200 as the costs incurred by the managing agents in respect of the first tribunal application. The invoice is at p.271. A breakdown of the charges is provided at p.312. £3,000, inclusive of VAT, is claimed in respect of a fixed fee for all the work up to, but excluding, the hearing. This includes attendance at a case management hearing and a mediation. A further £1,000, plus VAT, is claimed for the final hearing. The invoices sent by Allsquare Law to SLRMC are at p.274-5.
25. Mr Duncan argues that these sums are payable pursuant to Chapter 9 of the Leasebook. This is headed “Protecting our Interests”. Paragraph 9.4 relates to “Indemnity”. It provides:

“You are responsible for and must indemnify us and the management company against all claims and demands made, all proceedings brought, and all loss and liability arising, directly or indirectly, from:

- (a) the condition of your apartment or
- (b) anything you or anyone else at your apartment does or fails to do or
- (c) a breach of your obligations under your lease

except where we or the management company are made responsible under your lease, or where we or those for whom we are responsible or the management company have caused the loss or liability.”

26. Mr Duncan relies specifically on [9.4(b)]. In construing this clause, we have regard to the Supreme Court decision in *Arnold v Britton* [2015] UKSC 36. We must identify what the parties had intended through the eyes of a reasonable reader. That meaning is most obviously to be gleaned from the language used.
27. The Tribunal is satisfied that this clause does not permit to recover the legal costs against the tenant. We are satisfied that this clause relates to conduct (or failure to act) within the flat. Thus, it would extend to any act of nuisance committed by the tenant, their licences or their visitor. It would also extend to water leaking into another flat through the negligence of the tenant.
28. Paragraph 9.5 makes specific provision for the management company to recover its costs in specified situations, including where a notice is given under section 146 or 147 of the Law of Property Act. That is quite different from the current situation. The tenant brought an application to this Tribunal which is normally a “no costs” jurisdiction. Clear and unambiguous wording would be required to permit the management company to recover its costs in such circumstances.
29. The logic of Mr Duncan’s argument, is that SLRCM would be able to recover its costs against a tenant, were the tenant to be successful in an application before this Tribunal. This cannot be what the parties intended.
30. Had we concluded that this sum of £4,200 was payable as an administration charge, we would have been satisfied that it is reasonable. However, we conclude that it is not payable.
31. After the hearing, Ms Williams forwarded the Tribunal an invoice, dated 3 February, which Hazelvine had sent her demanding £11,822.04 in respect of the current application. This matter is not before the Tribunal; however, our finding would be equally relevant to this demand.
32. We have not been asked to determine, and we make no finding, as to whether it would be open to SLRCM to recover these legal costs as either a “block” or “building” charge under Paragraph 9.4 of the Leasebook.

Issue 2: Managing Agents Fees (2014-2019)

Managing Agents Fees						
	2014	2015	2016	2017	2018	2019
Estate	£22,349	£22,349	£22,349	£23,466	£24,170	£24,859
Block	£1,518	£1,518	£1,518	£1,595	-	£1,688

33. The Applicants challenge these management fees. They contend that they are not chargeable because there is no contract in place. They suggest that it is a Qualifying Long Term Agreement (QLTA). The charges are unreasonably high and are twice the amount that other agents would charge. They rely on [12.7] of the Leasebook which provides that though the management company need not seek the lowest cost, it must get value for money. It must require competitive tenders or quotations from contractors and suppliers at regular intervals.
34. The Applicants pay 0.4831% of the estate and 5.5882% of the block service charges. Thus, the managing agents' fees which the Applicants have been required to pay have ranged from £192.80 (£107.97 + £84.83) to £214.42 (£120.09 + £94.33).
35. After the hearing, The Respondent provided us with a copy of the initial management agreement between SLRMC and Hazelvine, dated 24 October 2008. The current agreement is on the Hazelvine web-site. We were provided a copy of it at the hearing. It is undated. Clause 8 of the current agreement is for an "initial term" of 12 months. It can be determined by 3 months' notice, the earliest being the final day of the initial term (clause 28). Section 20ZA (2) of the Act defines a QLTA as an agreement "for a term of more than twelve months". As this agreement can be determined by notice, it is not a QLTA.
36. Ms Williams argued that the rates charged by Hazelvine are unreasonably high. She provided a quote from Robert Heald, of Wallakers, dated 28 February 2018 (at p.214) suggesting a rate of £100 to £120 + VAT per unit. Mr Heald was not called to give evidence. We are an Expert Tribunal. The rates suggested by Mr Heald are significantly lower than the market rate. In our view, the rates charged by Hazelvine are not unreasonably high; they are at the lower end of the scale. We have regard to the fact that SLRMC adduced no evidence that they have recently tested the market. This is regrettable.
37. Ms Williams argued that Hazelvine cannot manage the Estate efficiently as they are based 50 miles away in Bourne End. In fact, they are 24.3 miles away (see p.385). They do not need to be local, in order to provide an adequate service. Ms Williams has failed to adduce any sufficient evidence that the services provide have been inadequate. The Tribunal therefore conclude that the management fees charged are both payable and reasonable.

Issue 3: TV Aerial Maintenance (2014 to 2019)

38. The Applicants complain about the annual sum of £200 included in the accounts for TV aerial maintenance as a block charge. SLRMC respond that this is a reserve fund item. We agree. This is an accountancy matter.

Issue 4: Carpark Door (2014)

39. The Applicants complain about the sum of £178.80 included in the 2014 accounts for repairs to a carpark door as a block charge. The block has no such facility. SLRMC accept that this is an error and should be charged to another block. A credit will appear on the reconciled 2019 accounts.

Issue 5: The Contribution to the Service Charge by the Creche

40. The tenants are required to pay “a fair and reasonable proportion” of the block and the estate service charges. SLRMC have computed the block service charge on the basis of the square footage of each flat. Thus, six flats pay 5.5882%; three pay 7.1447%; three pay 7.689% and one pays 10.4363%. The Applicants pay 5.5882%, the lowest percentage. They have no complaint as to how the block service charge is apportioned.
41. The estate charge, on the other hand, is divided according to the number of flats on the estate. There are 201 flats on the estate. 6 units are charged to non-residential units. The Applicants pay 1/207 of the estate service charge, namely 0.4831%. They make no complaint about this.
42. However, there is some estate expenditure which only benefits the Phase 1 development. This relates to the water pump. This is the 107 flats in the five blocks and the creche. The creche pays one unit and the Applicants pay 1/108. They complain that the creche pays too little and that it should pay 9 units having regard to its floor area.
43. We are satisfied that the proportion to be allocated to the creche is a matter for the discretion of SLRMC, provided that they exercise that discretion reasonably. Mr Anwar stated that the provision of the creche was part of the section 106 planning consent. It is not possible to assess how much water is used compared with residential users. SLRMC has to have regard to the sum that the creche is able to afford. The creche is a facility for the estate. The sums charged to the Applicants are modest: £36.20 (2004), £59.30 (2015), £51.76 (2016), £32.73 (2017), and £48.42 (2018). We are not satisfied that the proportion allocated to the creche is unreasonable.

Issue 6: The Bollard (2016)

44. The Applicants complain about a sum of £1,810.90 for the installation of new bollards included in the 2016 as a block service charge. They argue that this should be an estate service charge. SLRMC respond that

the Applicants had annexed land to the front of her ground floor flat. Mr Williams justified this on the grounds of safety to prevent drivers in the parking area for Mountstuart Court driving onto the communal pathway.

45. We find that this is payable as a service charge. However, we are satisfied that it should be charged as an estate rather than a block charge. The lease book defines the respective “building” (block) and “estate” charges at [12.2] and [12.3]. The building charge is restricted “all communal parts serviced areas communal areas conduits and facilities in the block”. The estate services extend to “all common parts areas and facilities in the estate”.

Issue 7: Contractor’s Parking Tickets (2017)

46. The Applicants complain about the sum of £120 included in the 2017 accounts in respect of parking tickets incurred by contractor as an estate charge. The Applicants contend that this is an improper charge and that they are not recoverable under the lease. The Applicants’ liability is only 58p.
47. We find that this sum is payable. It is in the discretion of the managing agents as to whether or not to compensate contractors for such penalties. It can be paid as a gesture of goodwill. If contractors have to arrange for parking in advance, their contract price may be higher.

Issue 8: Satellite Dish (2018)

48. The Applicants complain about the sum of £777.60 included in the 2017 accounts for the replacement of a satellite dish and aerial mount as a block charge. The Applicants contend that it did not need to be replaced.
49. The invoice for this work, dated 19 July 2018, from Briant Communications, is at p.195. In an e-mail, dated 3 October 2018 (at p.189), Gavin Cox, from Briant Communications, describes the equipment to be very loose and moving. There was a risk that if the bolts failed, the whole rig would fall to the ground. It is most improbable that this work would have been done if it was not required. Ms Williams has adduced no sufficient evidence to establish that it was not required. The Tribunal is satisfied that the work was required and that this service charge is payable.

Issue 9: Lighting (2017)

50. The Applicants complain about the sum of £1,63.64 included in the 2017 accounts for lighting as an estate charge. They contend that the work is not payable under the lease and is an improvement. SLRMC

respond that the lights were routinely failing. The call out costs for electricians were proving to be greater than the cost of replacement. This was a necessary and proportionate response to the unreliable lighting in the communal hallways. As a result of these works, the lighting costs have reduced significantly. We agree that this sum is payable.

Issue 10: Play Ground (2017)

51. The Applicants complain about the sum of £399.07 included in the 2017 accounts for “playground” as an estate charge. They complain that that the damage was due to vandalism from the social tenants of A2 Housing. The cost charged to the Applicants is £1.93. We accept that this sum is payable. SLRMC is obliged to repair and maintain this equipment. Ms Williams has adduced no evidence as to the cause of the damage. Had the perpetrator been identified, it would have been open for SLRMC to have sought compensation from that person. However, it is extremely unlikely that it would have been cost effective to do so. The sums demanded are payable and reasonable.

Issue 11: Play Ground (2018)

52. The Applicants complain about the sum of £856.16 included in the 2018 accounts for “playground” as an estate charge. They complain that that the charge was unnecessary as the visit was abortive. They also complain that this was a further act of vandalism. The cost charged to the Applicants is £0.37. We accept that this sum is payable for the reasons stated above.

Application under s.20C and Refund of Fees

53. In the application form the Applicants apply for orders under section 20C of the 1985 Act and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. We have found in favour of the Applicants on two issues, Issues 1 and 6. The Respondent has conceded on Issue 4. The Respondent accepts that Issue 1 is the one that precipitated the current application. However, the Applicants have failed on a number of issues. No adequate evidence has been adduced in respect of many of the items that they have challenged. The Tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass 50% of its costs incurred in connection with the proceedings before the Tribunal through the service charge. The Tribunal has found that it is not open to the Respondent to pass on the cost of these proceedings to the Applicants as an administration charge. However, in the event that we are wrong on this, we make an order under 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. We further order the Respondent to refund the Applicants 50%

of the Tribunal fees that they have paid within 28 days of the date of this decision.

Judge Robert Latham
9 March 2020

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

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 the appropriate 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 the appropriate 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 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.

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,
 - (c) 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
 - (d) 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 the appropriate 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 the appropriate 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).