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HM Courts & Tribunals Service

Residential Property TRIBUNAL SERVICE

LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER [SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985] [& SCHEDULE 11 TO THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002]

Case Reference:	LON/00AG/LSC/2012/0621
Premises:	Garden Flat, 12 Strathray Gardens, London
Applicant(s):	Strathray Estates Limited
Representative:	Mr Bruce Maunder-Taylor- Surveyor
Respondent(s):	Ronit Zilkha
Representative:	Mr T Brown- Counsel
Date of hearing:	21 January 2012
In Attendance for Applicant(s):	Mr N A Goldreich –Solicitor Mr J Lawson Mr A Michaels Philip Fisher managing agents
In Attendance for Respondent:	Ms R Javaid-Solicitor
Leasehold Valuation Tribunal:	Ms M W Daley LLB(hons) Mr S Mason BSc FRICS FCIArb Mrs R Turner BA JP
Date of decision:	

Decisions of the Tribunal

(1) The Tribunal makes the determinations as set out under the various headings in this Decision below.

(2) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985

(3) The Tribunal determines that the Respondent shall pay the Applicant within 28 days of this Decision, the reimbursement and hearing fee.in reimbursement of the Tribunal fees paid by the Applicant

(4) Since the Tribunal has no jurisdiction over county court costs and fees, this matter should now be referred back to the Central London County Court.

The application

1. The Applicant sought a determination pursuant to s.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 reasonableness and payability of service charges in the sum of £11,112.59 including an administration charge in the sum of £120.00 payable by the Applicant in respect of the service charge years 1.11. 10 to 31.10.11 for the management of the premises.

2. Proceedings were originally issued in the Central London County Court under claim no. 2YJ17860 . The claim was transferred to the Leasehold Valuation Tribunal, by order of Central London County Court on 10.9.2012.

3. A telephone pre-trial review was held on 10 October 2012, when directions were given for the determination of this matter.

4. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

5. The Applicant was represented by Mr Bruce Maunder-Taylor who appeared as a surveyor/advocate and also had been instructed by the Applicant as an expert witness in this case. The Respondent Ms Zilkha was represented by counsel, Mr Brown instructed by John Street Solicitors. At the start of the hearing the parties asked for additional time in order to narrow the issues. As a result the hearing resumed at 10.55am. At that time the parties confirmed that the reasonableness and payability of the insurance was no longer in issue, however the Section 20 consultation process was in issue.

6. At the commencement of the hearing the Respondent's representative handed in a further document, namely a Witness statement of the Respondent, Ms Ronit Zilkha. The Applicant objected to the late service of this, witness statement, stating that it had been served late on Friday(after 5pm) and that the context was that because of the severe weather on Friday, most of the Applicant solicitors' staff had gone home early, and there was no opportunity to take instructions on the content of the statement.

7. Ms Zilkha's representative stated that Ms Zilkha had experienced problems, both in funding her representation, and due to the ill health of her mother, which had meant that she had not been able to comply with the time-table given in the directions.

8. The Tribunal noted that although the witness statement was served late, Point 4 of the Directions had required witness statements to be served by 7 December 2012, the statement dealt with many of the issues that were already between the parties and as such it was unlikely that the Applicant would be taken by surprise in dealing with the issues. The Tribunal in deciding to admit the statement at this late stage noted that it could deal with matters by granting an adjournment in the proceedings if necessary, in order to enable the Applicant to deal with any matter that arose as a result of the late service of the statement.

9. The Tribunal were also provided with a copy of the decision in *Paddington Walk Management Limited –v- Governors of Peabody Trust.* This authority was provided in order to deal with issues that arose in relation to Section 20 of the Landlord and Tenant Act 1985.

The background

10. The property which is the subject of this application was described in surveyors' reports as; a lower ground floor converted flat within a former four-storey detached house with lower ground floor. The building consists of single-storey side and rear extensions, which have a mixture of three layer felt and lead roof finishes with glazed skylights. The window frames and casements are timber single glazed casements.

11. The Tribunal were informed that there were 4 flats on long leases and 6 other units which were let on assured short hold tenancies.

12. The Respondent holds a long lease of the property, pursuant to, an original lease agreement, dated 22 September 1988. This agreement requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

The issues

13. The Respondent was responsible pursuant to the lease for 2/7 of the service charges. The service charges for 2011/12, related to the following services,

- Building Insurance,
- drains cleaning,
- Building repairs and maintenance
- Major works.

At the start of the hearing the parties identified the relevant issues for determination as follows:

(i) The payability and/or reasonableness of service charges for the year 1.11. 10 to 31.10.11.

14. The Tribunal noted that by the start of the hearing that the cost of insurance had been conceded accordingly the first issue was the cost of the drain clearing.

The Drain cleaning in the total cost of £1440.00

15. Mr Maunder-Taylor explained that the building was built in the late 1800s early 1900s. The upper part of the building was divided into flat-lets. Given age and the usage of the building, it was vulnerable to developing problems with the drains. As a result, the Applicant had made the decision to take the proactive step of have the drains flushed through on a quarterly basis.

16. Mr Maunder-Taylor pointed out that as the Respondent's premises was the basement flat and the drains were on the floor level of the flat, there was a greater probability that any drain blockage would adversely affect the Respondent.

17. The Tribunal was referred to a receipt dated 21/01/2011, for the cost of one visit for a flush through of the drains, in the sum of £300 plus vat making a total of £360.00.

18. The Tribunal wanted to know if there had been any specific problems with the drains in the past. And why Action Cleaning Enterprise had been chosen for the reactive work and BLM Plumbing and Heating had been chosen for the pro-active work.

19. In answer to those questions Mr Maunder-Taylor stated firstly, that if the landlord waited until the drains blocked they would be subjected to criticism and that the landlord had acted to avoid there being problems, which would have had a serious impact on the Respondent. In answer to the second question, both contractors were small local firms and had been instructed by the landlord to carry out local work on properties within the landlord's portfolio. There was no link between the landlord and the chosen contractors.

20. It was noted by Mr Brown (on the Respondent's behalf), that Action Cleaning Enterprise also carried out work in relation to a blocked gulley and down pipe at a cost of £72.00. Mr Taylor stated that he did not know what had caused the problem with the gulley; however the landlord had reacted to the report and had arranged for the gulley to be cleared.

21. Mr Brown asked Ms Zikha what her objection to this work was, Ms Zikha stated that normally the drains were flushed once a year, at a cost of £300.00 and that this had been the case for the last ten years, and was the case in 2012. Ms Zikha considered quarterly visits to be excessive and unnecessary.

22. In answer to Mr Maunder-Taylor's questions about the causes of blocked drains, Ms Zikha accepted that she did not know the cause or the difference between sediments in the drains and blockages caused by a single incident. The Respondent referred to the past history of the building in which one yearly clean had been sufficient.

23. Mr Maunder-Taylor stated that there should have been 4 visits in 2012 and that this was the proper maintenance arrangements for the property. He could not immediately explain why there was only one invoice for 2012.

The Tribunal's decision

24. The Tribunal having listened to the evidence have noted that the lesser sum of £360.00 **only** is reasonable and payable for the year 2011/12. . The Tribunal consider that, whilst it is reasonable to take proactive steps to prevent possible damage by blockage of the drains, and whilst the Tribunal accepts that the consequence of a blockage could severely impact on the Respondent, the Tribunal noted that there had been no history of previous damage, and that when emergency action was needed as a result of the blocked gulley and down pipe in Sep 2011, the cost of clearing the blockage was relatively small in the sum of £72.00.The Tribunal consider that one or at the maximum two flushes a year is reasonable. **The Tribunal consider that for the year 2010/11, the cost of one visit in the sum of £360.00 is reasonable and payable. .**

External building and maintenance in the sum of £48.00 and the decision of the Tribunal

25. This sum was for the reinstatement of faulty tiles. Mr Brown accepted on the Respondent behalf that the cost of this item was reasonable and payable. **The Tribunal accordingly find the sum of £48.00 for the cost of minor repairs to the roof reasonable and payable.**

Pest control in the sum of -:

(a)£78.00 plus Vat (b)£490.00 plus vat of £98.00 in the total sum of £588.00 and (c)a further follow up visit in the sum of £190.00 plus VAT of £38.00

26. There were three items for pest control for this period, one of £78.00, plus VAT in the sum of £13.65. The invoice for this was dated 8.12.2010 and was for work to create an access panel in the area under the staircase to enable baiting of the area between the floor on the first floor and the ceiling in the basement. The larger invoice dated 4.4.11 was for 7 visits carried out between 9th September 2010 and 5 January 2011. The purpose of these visits was to investigate and remedy the problem at the property associated with rat infestation.

27. This was followed by a further visit on 13.09.2011, for the monitoring of the rat infestation at the property.

28. Mr Maunder-Taylor stated that the building was an older building and as such this had all the attendant problems of cockroaches, mice and rats. Given this, reasonable steps had been taken by the managing agent in instructing pest control operatives and the cost of the pest control was reasonable, and payable.

29. Ms Zilkha stated that she did not accept that this charge was reasonable and payable. In paragraph 3-4 of her witness statement the Respondent set out her case on the issue of the pest control.

30. In paragraph 3 the Respondent stated-: *"...The Landlord lets his flats on short term rent including bed-sits. The tenants that rent the flats do not look after the flats...The tenants throw the rubbish outside the building including raw meat, food, clothes and general rubbish which is not acceptable ...4. The tenants would leave their rubbish outside of the Property rather than leave it inside the rubbish container. This would attract foxes that would then go through the rubbish leaving it strewn over the front of the building... I believe that the pest issue has arisen as a result of the rubbish created by the Landlord's tenants. I have had to deal with the pest issue over the last 8 years and pay towards Pest Control privately. It has only been in the last two years that the Landlord is now dealing with pest control..."*

31. Ms Zilkha in paragraph 5 of her statement set out that she had complained to the managing agent that there was a problem with rat infestation, and that her complaint had been ignored. This had been in a climate where "...*There were rat droppings everywhere on the landing of the ground floor...*"

32. Ms Zilka had also provided the Tribunal with photographs of the exterior of the premises. The photograph was of rubbish strewn around the exterior of the premises, and although the photograph was not dated, the photograph showed that there was a problem with the cleanliness at the building.

33. In reply Mr Maunder-Taylor made complaint about the late service of the evidence and the fact that the landlord had not known about this issue or been given an opportunity to go back into previous years records and demonstrate what work had been carried out in relation to pest control. The landlord would also have had the opportunity to make contact with the local authority in order to establish the extent of any problems with rat infestation in the local area.

34. Mr Maunder-Taylor stated that all of these issues would have to be fully explored in order to deal with the Respondent's allegations. It was submitted on the Applicant's behalf, that the landlord had acted reasonably in carrying out the work, that in response to the infestation some action needed to be taken.

35. Mr Maunder-Taylor refuted the suggestion that the cost was higher than it might have been if work had been carried out in previous years.

The Tribunal's decision

36. The Tribunal having considered all of the evidence have determined that whilst the overall cost of the work is reasonable, the Tribunal noted the concerns that the Respondent set out about the state of the premises, which could be seen from the photographs that were produced at the hearing and some that were also in the bundle.

37. The Tribunal noted that the photographs showed rubbish having been dumped outside the building and as a matter of common sense; the Tribunal consider that, any dumping of rubbish outside appropriate rubbish containers will contribute to the on-going nature of the rat infestation. The Applicant accepts that there is a problem with rat infestation and states that they have acted reasonably and responsibly in dealing with the matter. No specific comment was made about whether the actions of the landlord's tenants had caused or contributed to the on-going problem at the premises, save that the late production of this allegation by the Respondent has left the Applicant at a disadvantage in dealing with this matter.

38. The Tribunal accept that the Respondent's witness statement was served outside the time-table in the Directions. Nevertheless, the issue concerning the infestation is set out by the Respondent as a potential cause of action in

paragraph 19 of her Defence and Counterclaim. Given this, and the fact that dumping is clearly known to contribute to infestation, it was foreseeable that the landlord would need to show what steps have been taken to deal with this issue. The Tribunal has noted the evidence of the photographs (which were included, in the bundle); this has led the Tribunal to conclude that more vigorous steps could have been taken to enforce standards of cleanliness at the property.

39. However the Tribunal noted that this issue is predominantly about the management of the property, and the way that the managers have failed to deal proactively with the dumping of rubbish which the Respondent considers as caused or contributed to the problem, of infestation, rather than a claim that the work itself was unnecessary, or that the cost of the work was unreasonable.

40. The Tribunal accepts that the cost of the pest control treatment is reasonable and for this reason determines that the Respondent is liable to contribute to the cost of the same; **accordingly the Respondent is liable to pay for the the cost of the pest control treatment for 2011/12.**

The cost of removal of a wasp nest of £85.00

41. Ms Zilka conceded that the cost of this item was reasonable. **The Tribunal determine that the cost of the removal of the wasp nest was reasonable.**

The major works- cost of roofing works in the sum of £32,038.33

42. The Section 20 notice was dated 8 February 2011, this letter informed the leaseholder that there were two options, one involved leaving the scaffolding up at a cost of £6,500 - -£8,500 plus VAT for a period of 4 weeks and then £385-£400.00 plus VAT per additional week thereafter . The other option, (which was the one carried out by the landlord) involved taking the scaffolding down after the initial inspection and re-erecting to carry out the works at a cost of approximately £5,000 plus VAT on each occasion. The Respondent did not take part in the consultation process, and stated in her evidence that she had been confused by the letters and unsure as to what the different options meant and that she had wanted to take legal advice about the letters.

43. The Respondent's counsel accepted that the Respondent had received the section 20 notice. However he stated that the Respondent had not been properly consulted as there were two lots of scaffolding. Mr Brown submitted that as there had been no consultation about the initial scaffolding, accordingly, this effectively nullified the whole process. In addition the Respondent had thought that the estimate had included the cost of both scaffolding works and had been shocked to find that the second scaffolding cost an additional £6100.00.

44. Ms Zilkha was asked why she had not spoken to the managing agent about her concerns. Ms Zilkha stated that at the time she thought that she did not have a choice about the work being carried out, and that she also thought the work would cost between £4000-£5000.The letters from the landlord appeared to confirm this.

45. Mr Maunder Taylor in reply stated that the landlord could only go so far in assisting the leaseholder. A copy of the specification was attached to the second notice dated 28 July 2011 and information was given of three tenders, in addition, no observations were received from any of the leaseholders, including Ms Zilkha.

46. Mr Maunder-Taylor stated that in Ms Zilkha's case she had instructed a surveyor, and lawyer and as such she had demonstrated that she was able to seek appropriate help and consult experts where necessary.

47. The Tribunal heard extensive submissions from Mr Maunder-Taylor; he submitted that the scaffolding was not covered by the section 20 notice procedure as it was not qualifying work. In support of this he relied upon *Paddington Walk Management Limited-v-Governors of the Paddington Trust* and also referred to *Phillip-v-Francis*. Alternatively he submitted that the Tribunal ought to dispense with the requirements under section 20ZA of the Landlord and Tenant Act 1985.

48. Mr Brown did not accept these arguments and submitted that dispensation should not be granted as the figures in the initial notice were misleading to the Respondent and this caused her prejudice. Mr Brown also mentioned in passing, (as he did not develop this argument) an issue about the capping of the chimney pots that the Respondent's surveyor had raised concerning the nature of the roof work. The Tribunal noted that Mr Brown did not seek to say that the quality of the roof work was such that this merited a reduction in the cost of the work.

49. Mr Maunder-Taylor did not accept any criticism of the work and stated that the specification was prepared by a chartered surveyor, and the work was also supervised and certified by a chartered surveyor. And noted that Ms Zilkha's Surveyor had not had access to the roof when he prepared his report.

50. The Tribunal did not need to determine this case on these points, as the Respondent did not set out specific criticisms of the work. In relation to Mr Maunder-Taylor's submissions in relation to whether the scaffolding was part of the cost of the work the Tribunal have not set out a full account of his submissions, as during the course of the hearing the Applicant produced a letter dated 15.3.11, which dealt with the extent of the consultation. This letter confirmed that the landlord had consulted on the first set of scaffolding erected at the property which had been used to access the roof to carry out the inspection.

51. Ms Zilkha could not recall having received this letter.

52. The Tribunal noted that this letter had taken the Respondent by surprise and had effectively changed the nature of the submission made by Mr Brown on her behalf. The Tribunal stated that the Respondent would be granted an additional 14 days to respond to the letter produced by the Applicant.

53. The Respondent did not provide any additional submissions on this issue.

The Tribunal's decision

54. The Tribunal determines that the Landlord had properly consulted on the works. No issue had been raised by the Respondent about the quality of the work or indeed about the decision to erect scaffolding in order to inspect the roof. ; Given this, the sole issue that had been raised was whether the landlord had properly consulted. The Respondent's case on this matter was effectively an "all or nothing submission" in that if the Tribunal determined that the Landlord had not properly consulted in accordance with the provisions in the Service Charge (Consultation etc.) Regulation 2003, the leaseholders' contribution would be limited to the sum of £250.00.

55. The Tribunal considered all of the correspondence and in so doing, noted that the landlord had properly consulted the leaseholder at every stage of the work., Although the Tribunal may have considered that it was not necessary or cost effective to erect two lots of scaffolding, this was not the challenge before the Tribunal, and in any event, the Applicant had consulted about the scaffolding being left in situ. Had the scaffolding been left, it would have had the effect of increasing the overall cost.

56. Although the Respondent denied receiving the letter dated 15.03.2011, the Tribunal could see no reason why this letter would not have been sent by the Applicant or received, or why the Respondent would not have contacted the landlord or the managing agents if she was unsure about the content of the subsequent letter dated 27.04.2011. This had to be considered in the light of the fact that Ms Zilkha had raised queries before.

57. **The Tribunal therefore determine that the Applicant properly consulted with the Respondent, and given that this is the only issue before the Tribunal on the Major Works, the cost of the major works in the sum of *£32,038.33* is reasonable and payable.**

Application under s.20C and Application for cost under refund of fees

58. At the hearing, the Respondent applied for an order under section 20C of the 1985 Act. The Tribunal explained that the only costs in issue were the costs of

the Tribunal procedure. The County Court costs were a separate matter that would be referred back to the county court,

59. Mr Brown asserted that the lease did not provide for the cost of the hearing to be recoverable as a service charge There was a clause within the lease, clause 21 which related to "... *pay all costs charges and expenses... incurred by the landlord for the purpose of or incidental to the preparation and service of a notice under Section 146 or 147 of the Law of Property Act 1925...*" As such he asked that the Tribunal make an order on the basis of what was just and equitable in all the circumstances.

60. Mr Maunder-Taylor stated that he would be applying for costs under Schedule 12, paragraph 10; this was effectively a cost award on the grounds that the Respondent had acted "frivolously and vexatiously" in the defence of the claim.

61. Mr Maunder-Taylor submitted that everything had been put in issue by the Respondent and the background to this, was that the Respondent had paid nothing in the interim, and in circumstances where the Respondent had subsequently conceded charges such as the insurance as reasonable and payable at the hearing.

62. The Tribunal noted that such an application would need to be made on notice, and accordingly directions were given that any such application should be made by **28 January 2013**, with the Respondent being granted until **4 February 2013** to provide any response.

63. By letter dated 25 January 2013 from Compton Solicitors, sent on the Applicant's behalf he applicant cited the Respondent's denying liability for each element of the service charge, which had then had to be proved at cost to the Applicant. The Applicant also cited the fact that the Respondent, had not paid any of the service charges, even the sums that were not in dispute. There had also been a denial of receipt of the section 20 Notices, in circumstances where, (save for the notice dated 15./03/11), the Respondent subsequently admitted receipt of the relevant notices. A similar criticism was made of the Respondent's refusal to acknowledge documents served by the Applicant.

64. In particular, the Applicant cited the late concession concerning the insurance in circumstances were the Applicant's witness Mr Coulson, was put to great inconvenience in rearranging meetings to attend the hearing on 21 January 2013.

65. The Applicant referred to the directions given by the Tribunal which required the Respondent to state whether the insurance would be in issue, and to comply with the requirements to exchange witness statements.

66. The Respondent's solicitor John Street Solicitors by letter dated 7 February 2013 denied that the Respondent had acted "frivolously and vexatiously" citing that they had continually asked for a breakdown of the service charges and noting that all service charges save for the year in issue had been paid.

67. The Respondent's solicitors also stated that the Respondent confirmed that she had received the section 20 notices save for the one dated 15/03/11 which she did not recall receiving and therefore could not concede that this notice had been served on her when her Statement of Case was prepared.

68. Of Mr Coulson's attendance, in the letter at paragraph 6) the Solicitor's submitted on behalf of the Respondent that the Applicant had not at any stage informed them that they intended to bring Mr Coulson to the hearing

69. The Tribunal noted that the directions indeed asked for the Respondent to set out her case on the insurance in paragraph 1. Which stated at paragraph 1-: *"By 7 November 2012 the Respondent shall send to the Applicant her statement of case setting out her full reasons for disputing the sums claimed and, if it be the case, confirmation that she intends to pursue the question of the reasonableness of the insurance premium for this period. The statement should include any documents she intends to rely upon at the hearing of this matter..."*

70. In paragraph 7 of the Statement of Case the Respondent stated "The insurance policy was not explained or disclosed to me..."

71. On 12.12.2012 the witness statement of Andrew Coulson Insurance broker of St Giles Insurance and Finance Services Ltd provided a statement which made it clear that a large part of the insurance claims (which affected the cost of the premium) related to claims settled on the Respondent's behalf. It was not clear when this document was served on the Respondent. It is clear that the Respondent ought to have given some thought to her position and indicated that her position on the reasonableness of the insurance had changed.

72. Equally the Tribunal consider that the Applicant could have informed the Respondent of their intention to call Mr Coulson. Although no criticism is made of them as, paragraph 4 of the directions indicate that witness statements of all witnesses upon whom the parties intend to rely in oral evidence should be provided by 7 December 2012. This ought to have informed the Respondent of the *potential* that Mr Coulson would be called.

73. However the Applicant could have asked the Respondent to accept this evidence in statement form, and in the event that the Respondent did not agree, they would then have *had to* call Mr Coulson. This is quite a common step to take. The Applicant did not do this, in circumstances where others could have provided this evidence, as the claims history ought to have been available to the Applicant's managing agent, who could have given evidence of the nature and extent of claims at the building.

74. In the circumstances although all of the charges were in issue, there was nothing out of the ordinary in this, and the Tribunal noted that this case was essentially about a year of charges which were out of kilter with the Respondent's experience. The Respondent appeared to the Tribunal to have

genuine, albeit at times misguided queries about the overall cost. There is nothing that suggests that the issues raised by the Respondent were frivolous or vexatious.

Having considered the submissions from the parties and taking into account the determinations above, the Tribunal determines that no award should be made under Schedule 12, paragraph 10. However, the Tribunal considers it perfectly proper for any hearing fee paid by the Applicant to be reimbursed, and order that the Respondent reimburse the cost of the hearing fee.

75. The Tribunal has no jurisdiction over ground rent or county court costs. This matter should now be returned to the Central London County Court, where the issue of the cost of the county court proceedings will be determined.

76. The Tribunal noted that the Administration costs, in the sum of £120.00, were essentially the management charge, the Tribunal noted that although there was criticism of the management, there was no challenge to this charge, as this charge is not challenged, the Tribunal have considered whether charge is reasonable,. The Tribunal noted that although there were criticisms of the management of the infestation, we were not invited to reduce the management charge, and having looked at the level of the charge, The Tribunal consider that the standard of work was reasonable for the charge (which is in the Tribunal's knowledge and experience lower than average) accordingly we find the sum of £120.00 reasonable and payable..]

Chairman: Ms M W Daley (Hons) LLB

[name]

Date: 07 March 2013

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 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.

(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 a leasehold valuation tribunal;
(b) 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;
(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).

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 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.