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FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00AE/LSC/2013/0669**
Property	:	**Flat 37, Ashford Court, Ashford Road, London NW2 6BT**
Applicant	:	**Hafton Properties Limited**
Representatives	:	**Mr S Unsdorfer, director of Parkgate Aspen, managing agents for Applicant, and Mr G Hayter, House Manager for Ashford Court**
Respondent	:	**Mr I Kamal**
Representative	:	**Mr D Van Heck, Counsel**
Type of Application	:	**For the determination of the liability to pay a service charge**
Tribunal Members	:	**Judge P Korn (chairman)** **Judge W Hansen** **Mr L Jarero BSC FRICS**
Date and venue of Hearing	:	**27th January 2014 at 10 Alfred Place, London WC1E 7LR**
Date of Decision	:	**3rd March 2014**

DECISION

Decisions of the tribunal

(1) The tribunal determines that the bank charges for 2011 (£131.00), the bank charges for 2012 (£100.00) and the estimated bank charges for the first half of 2013 (£100.00) are not payable.

(2) The tribunal determines that the remainder of the service charges and administration charges for the period covered by the county court claim are fully payable.

(3) The tribunal declines to make a section 20C cost order.

(4) For the avoidance of doubt, nothing in this determination is intended to fetter the discretion of the county court in relation to county court interest or fees.

The application

1. The Applicant seeks, and following a transfer from the county court dated 13th September 2013, the tribunal is required to make a determination pursuant to section 27A of the Landlord and Tenant Act 1985 ("**the 1985 Act**") as to the reasonableness and payability of certain service charges charged to the Respondent and a determination pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 as to the reasonableness and payability of certain administration charges.

2. The county court claim is for £9,660.80 by way of allegedly unpaid service charges, administration charges and ground rent (plus county court interest and fees). The tribunal does not have jurisdiction in relation to ground rent and therefore to the extent (if at all) that the payability of the ground rent is disputed this element of the dispute will need to be dealt with by the county court.

3. The relevant statutory provisions are set out in the Appendix to this decision (those relating to administration charges have not been included simply because the payability of the administration charges is not disputed by the Respondent). The Respondent's lease ("**the Lease**") is dated 21st March 1977 and was made between the Applicant (1) Ashford Court (Willesden) Management Company Limited (2) and Joanne Yee (3). The Respondent is the current leaseholder of the Property.

Disputed points

4. At the hearing Mr Van Heck, Counsel for the Respondent, said the following charges were disputed:-

- Porterage charges
- Cleaning charges
- Major works charges 2011
- Major works charges 2012
- Pest control charges
- Management fees
- Excess on building insurance
- Miscellaneous expenditure
- Lift maintenance
- General items.

5. All of the remainder of the service charges and administration charges forming part of the county court claim were agreed to be payable in full.

Respondent's case and Applicant's response on the disputed issues

Raising of complaints – general observations

6. In written submissions the Respondent states that he raised complaints on many occasions with a Brian Parker who was responsible for the maintenance of the block but never received a meaningful response. By way of example he refers to an email dated 12th February 2010.

7. At the hearing Mr Unsdorfer said that the Applicant did in fact respond to the Respondent's email, and he referred the tribunal to the copy letter in the hearing bundle from Joanna Sigalov (a director of Parkgate Aspen) to the Respondent dated 26th February 2010 enclosing a copy of Parkgate Aspen's Complaints Handling Procedure and inviting the Respondent to provide full details of the complaint. The Respondent said that he did not receive this letter.

8. Mr Unsdorfer also referred the tribunal to a letter from Brian Parker to the Respondent dated 11th March 2010 seeking (in Mr Unsdorfer's view) to resolve matters in a reasonable manner, and it was clear from the Respondent's follow-up email that the Respondent did receive that letter. In Mr Unsdorfer's view the Respondent's complaints were

simply a way of avoiding payment, and that between 25th September 2008 and 16th August 2010 the Respondent had paid nothing at all, despite the fact that during this time he was receiving rent from his own tenants who were in turn benefiting from the services that were being provided. He had not offered to pay part of the amount owed or to pay by instalments.

9. In response to a question from the tribunal, the Respondent said that in fact most of his complaints have been by telephone.

Porterage charges

10. The Respondent's position is that the charges are excessive and that the service itself has been excessive. In written submissions the Respondent states that he has sought information regarding porterage but that none has been forthcoming. He has not been told who the porters are, what hours they work and when, their hourly rates or their salary.

11. As the Respondent understands it, there is one resident porter who works 8am to 5pm Mondays to Fridays and 9am to 1pm on Saturdays. In evidence he has submitted what he describes as "the average wages for a resident porter in London" although in fact it is a copy of one job advertisement for a residential porter in London W1. At the hearing Mr Van Heck noted that the service charge accounts also included the cost of relief staff and suggested that the aggregate cost was excessive.

12. Mr Van Heck also referred the tribunal to paragraph (8) of the Fifth Schedule to the Lease which describes the extent of the power to employ a caretaker/porter as follows:

"If in its absolute discretion it shall think fit employ a caretaker for the purpose of performing such duties as the Company shall determine on such terms and conditions as the Company shall in its discretion think fit and such other persons as the Company may from time to time consider necessary and in particular provide accommodation (free from payment of rent or rates and other outgoings which shall be paid by the Company) and any other services considered by the Company necessary for them whilst in the employ of the Company".

Mr Van Heck submitted that one effect of this wording was that it did not allow the landlord/management company to include within the service charge the cost of the porter's accommodation.

13. In addition, Mr Van Heck suggested that the porter's contract was a qualifying long term agreement in respect of which the Applicant had failed to consult leaseholders and that therefore the Respondent's

contribution should be limited to reflect the failure to consult pursuant to section 20 of the 1985 Act and the relevant consultation regulations.

14. Mr Unsdorfer referred the tribunal to an email from Andrew Alcock of Abbatt Property Services dated 27th January 2014 in which he cast doubt on the relevance of the alternative quotation (or, strictly speaking, the copy job advertisement) provided by the Respondent. The advertisement was for a much smaller block of 20 flats which he understood to be only 50% occupied, so that the level of work needed would be much less.

15. Mr Unsdorfer also disagreed with Mr Van Heck's interpretation of the relevant clause in the Lease; in his view it meant that a notional rent for the porter's accommodation was included in the service charge. As regards the level of charges, the building was in a rough neighbourhood and the level of porterage was not only considered appropriate but was also approved by the Residents Committee. Mr Unsdorfer added that the agreement with the porters was not a qualifying long term agreement as the porters were employees.

Cleaning charges

16. The Respondent in his written submissions states that the common parts are left in a deplorable state and that the cleaning charges are substantial and should reflect high standards. He has also offered some comparable evidence in the form of a quotation from FK Domestics of £8.50 + VAT per hour for a 35 hour weekly service.

17. Mr Unsdorfer questioned how the Respondent was able to form the view that the block was in a poor state if he did not actually live there. The Respondent's answer was that he and his agents visit regularly. Mr Unsdorfer also asked what information the Respondent gave to FK Domestics to enable them to provide an alternative quotation. The Respondent said that he gave them some information about the building but that they did not inspect the block. Mr Unsdorfer submitted that they could not possibly have known what they were quoting for without inspecting, given the size of the building.

Major works charges 2011

18. The Respondent in his written submissions states that the Applicant failed to consult with him in relation to these works. At the hearing Mr Van Heck said that he was unable to add anything or to be more precise on this issue as the Applicant had provided insufficient information as to what major works had been carried out.

19. Mr Unsdorfer said that there had not been any projects over the consultation threshold in 2011 and therefore there had been no need to consult.

Major works charges 2012

20. Mr Van Heck said that the 2012 Statement of Service Charge Expenditure contained a figure of £92,663 for major works, which was clearly over the consultation threshold, and the Respondent had not been consulted in relation to any works in 2012. In response to a question from the tribunal, Mr Van Heck said that he was not arguing that the obligation to consult applied if the consultation threshold was only reached by aggregating the cost of different sets of works carried out during the service charge year which were not related to each other, i.e. if they could not properly be regarded as one set of works. Again, the Respondent was unclear what major works had been carried out.

21. Mr Unsdorfer said that resurfacing works, stack repairs and re-carpeting works had been carried out in 2012 but that these works were completely unconnected and that therefore there had been no need to consult as no single set of works was over the threshold.

Pest control charges

22. Mr Van Heck submitted that there was no provision in the Lease for the recovery of the cost of pest control through the service charge. He also noted from the Applicant's written submissions that the main expenditure in relation to pest control had been in relation to bed bug infestation, and he submitted that the problem of bed bugs was limited to the interior of individual flats and did not occur in the common parts and that therefore the cost was not recoverable through the service charge. In any event, in the Respondent's view the pest control work had not been done effectively as he still had to take his own steps at his own cost to secure the Property from mouse and rat infestation, and he believed the charges to be excessive.

23. On the subject of mouse/rat control, Mr Unsdorfer said that the Respondent's complaints clearly related to problems within his own Property which were his own responsibility. The tribunal added that mouse control was often a recurring problem, particularly in London, and therefore it was arguably unrealistic to expect the problem to be solved by one set of pest control measures. Mr Unsdorfer also questioned the Respondent's assertion that he had incurred expenses during the relevant period as he was unable to produce any copy invoices in support other than a very recent one dated 16th December 2013.

Management fees

24. Having originally argued that these were not covered by the Lease, the Respondent – through Mr Van Heck – conceded that they were covered. There was also no challenge to the reasonableness of the amount of the management fees. However, the agreement with the managing agents was considered by the Respondent to be a qualifying long term agreement in respect of which the Applicant had failed to consult.

25. Mr Unsdorfer said that the agreement was an informal one which ran from one quarter to the next and therefore it was not a qualifying long term agreement.

Excess on building insurance

26. Mr Van Heck said that the Respondent was in some difficulty in arguing this point in detail as he had very little information. The Respondent's primary argument was that there had been multiple insurance claims relating to damp problems and that this had led to a high excess. In the Respondent's view the Applicant had been negligent in failing to maintain the water pipes properly and that this negligence led to the need to pay a high excess.

27. Mr Unsdorfer did not accept that the Applicant had been negligent in relation to damp issues and believed that most of the water problems had been caused by tenants. He considered the level of excess to be normal for this type of building.

Miscellaneous expenditure

28. These items are broken down in the service charge accounts as TV Aerial & Satellite, Bank Charges and Sundries & Petty Cash. The Respondent's position was that the TV Aerial & Satellite charges and the Bank Charges were not recoverable under the terms of the Lease. Specifically in relation to TV Aerial & Satellite the Respondent also argued that these charges should not be payable every year – as these items only need to be installed once – unless the charges related to ongoing maintenance.

29. Mr Unsdorfer submitted that the TV Aerial & Satellite charges were covered by paragraph (15) of the Fifth Schedule to the Lease and that the Bank Charges were covered by paragraph (17) of the Fifth Schedule. The Applicant's position was that the TV Aerial & Satellite charges did represent new costs in each year.

Lift maintenance

30. Although initially described as lift insurance Mr Van Heck said that this was actually an issue of lift maintenance. He referred to an alternative quotation from 'Direct 365' sourced by the Respondent and contained in the hearing bundle. He submitted that this was a much cheaper option.

31. Mr Unsdorfer submitted that the alternative quotation was not comparable and not appropriate for this type of building. He referred the tribunal to an email from Bill Jennings of W Jennings & Associates Ltd (lift consultants) stating that he believed the existing contract to be competitive and that it was also the right sort of contract to have taken out given the degree to which the lifts appear to be vandalised and misused. Mr Unsdorfer added that the Respondent's alternative quotation from Direct 365 was not credible as it did not take the particular circumstances of the building into account and Direct 365 had not inspected the building. He also noted that Direct 365 committed itself to providing a quotation within the hour and he did not consider that this gave it sufficient time to look into the issues properly.

General items

32. Mr Van Heck said that the Respondent was unclear about the entry in the Statements of Service Charge Expenditure relating to excess service charges for garages.

33. Mr Unsdorfer responded that there was no garage charge and that the reference to excess service charges for garages in fact represented a credit to the service charge account.

Mr Hayter's evidence

34. Mr Hayter gave evidence in his capacity as House Manager for the block, and the tribunal noted the contents of Mr Hayter's witness statement. In response to a question from Mr Van Heck, Mr Hayter said that the cleaners worked from 9am to 4pm with a break for lunch. The common parts were vast; there was about a mile of carpeting. Residents were continually leaving rubbish in the corridors, often all over the place, and it was a constant ongoing battle for the cleaners to keep the building clean and tidy. Whilst the position could be improved by employing more cleaners, this would increase the cost above that which he believed leaseholders would be happy to pay.

35. Regarding bed bug control, the recommendation received by the Applicant's managing agents was to treat the affected flats and the immediately surrounding areas. The focus was not on treating the

common parts themselves, simply because bed bugs did not congregate in the common parts where there were no beds. Mr Hayter said that the treatment process was a complex matter and that because many occupiers were transient it was difficult to get their co-operation to make the treatment as effective as it should be. As to whether there should be a recharge to individual flats for the cost of treatment of bed bugs in those flats, Mr Hayter said that it was difficult to prove the source of the infestation and therefore not practical to apportion the cost otherwise than through the service charge.

36. In relation to the building insurance excess, Mr Hayter said that the vast majority of the claims were for water leakage related incidents within individual flats, for example because of taps being left on. The management team had tried talking to residents to discuss how to reduce leaks etc. Where an incident seemed to be the fault of a particular occupier the Applicant's policy was to try to charge the relevant leaseholder but sometimes the leaseholder refused to pay and it tended not to be worthwhile to take the leaseholder to court.

37. Mr Hayter referred the tribunal to a set of copy photographs showing the current state of parts of the building.

Tribunal's analysis and determinations

Porterage charges - general

38. The agreement with the porters is not considered by the tribunal to constitute a qualifying long term agreement for the purposes of the Service Charges (Consultation Requirements) (England) Regulations 2003 ("**the 2003 Regulations**"). Paragraph 3(1)(a) of the 2003 Regulations states that an agreement is not a qualifying long term agreement if it is a contract of employment, and the Applicant's evidence – which was not countered by the Respondent – was that the agreements with the porters are contracts of employment. Consequently the 2003 Regulations do not apply to the agreements with the porters and therefore the Applicant was under no obligation to consult with the leaseholders in respect of those agreements.

39. Regarding the Respondent's claim that the charges were excessive and that the service itself has been excessive, the tribunal does not accept this. The Respondent's comparable evidence is poor; it is simply one job advertisement which relates to a much smaller block in a very different area and therefore the roles are not comparable. Aside from this poor comparable evidence the Respondent has only really offered assertions, and the tribunal does not find them convincing. The evidence indicates that the Residents Committee is happy with the porterage charges and the extent of the service, and Mr Hayter has given credible evidence regarding the size and nature of the building and of the challenges faced in running it. In this context – and in the

absence of a sharper challenge from the Respondent – the charges are considered to be reasonable.

Porterage charges – notional rent

40. The Respondent has also raised a separate question regarding the inclusion of a notional rent for the porter's flat in the service charge, arguing that the Lease does not allow for this. The relevant provision is paragraph (8) of the Fifth Schedule to the Lease, which is set out in paragraph 12 above. That paragraph gives the landlord/management company power to employ a caretaker and (in relation to that caretaker) to *"provide accommodation (free from payment of rent or rates and other outgoings which shall be paid by the Company)"*. The Respondent's argument is that these words mean that the rent or notional rent is payable by the management company itself and cannot be put through the service charge.

41. Although the point has not been argued, it is worth commenting that in the context of the wording of the whole of paragraph (8) of the Fifth Schedule the word "caretaker" is – in the tribunal's view – interchangeable with the word "porter". Therefore, the fact that the function has been designated as porterage by the Applicant does not take it outside the ambit of paragraph (8).

42. As regards the specific issue of rent or notional rent, the relevant wording could have been drafted more clearly and there is a superficial attraction to the Respondent's argument. However, when faced with ambiguous wording a tribunal (or court) must try to give business efficacy to that wording if it can do so whilst keeping to a reasonable interpretation of the meaning of that wording. In this case, the tribunal's view is that the point of the words *"accommodation (free from payment of rent...)"* must be that the caretaker/porter does not have to pay for his own accommodation, i.e. that it is rent free for **him**. This cost instead becomes a cost of the management company, and the provision of the accommodation will be an item which is recoverable through the service charge. If the Respondent's interpretation were correct then it is difficult to see why this paragraph would give the management company the power to provide accommodation to the caretaker/porter if the intention was not to allow it to put the cost through the service charge.

43. In summary, whilst paragraph (8) of the Fifth Schedule is inelegantly drafted, the tribunal considers that it is wide enough to enable the Applicant/management company to include the notional rent for the porter's accommodation through the service charge.

Cleaning charges

44. The tribunal has considered the parties' written submissions and oral evidence, including the witness evidence of Mr Hayter. On the basis of the evidence provided the tribunal considers that the cleaning service is acceptable. The tribunal particularly notes the Applicant's evidence as to the size of the building and the problems encountered by the staff, and this evidence has not been credibly countered by the Respondent. The Respondent's comparable evidence is weak, particularly as FK Domestics have not seen the building and there is no real evidence that they have a detailed understanding as to what is required and how many man-hours would be needed. As FK Domestics are not in a position to state how many man-hours would be needed it is not clear that using them would represent a saving anyway. Ultimately, the Respondent's challenge is not considered sharp enough and the cleaning charges are payable in full.

Major works charges 2011

45. No credible evidence has been offered by the Respondent to indicate that works were carried out which required consultation, and the Applicant denies that works requiring consultation took place. Therefore, this challenge is rejected by the tribunal and the cost of such works as were carried out in 2011 (to the extent not covered by other parts of the tribunal's decision) is payable in full.

Major works charges 2012

46. No credible evidence has been offered by the Respondent to indicate that a discrete set of works was carried out which required consultation, and Counsel for the Respondent does not seek to argue that unconnected works carried out at different times during the service charge year should be aggregated for consultation purposes. The Applicant denies that a discrete set of works was carried out which was above the consultation threshold, arguing that the different sets of works were not connected. In the absence of a sharper challenge, the cost of the works carried out in 2012 (to the extent not covered by other parts of the tribunal's decision) is payable in full.

Pest control charges

47. The Respondent has argued that these charges are not recoverable under the Lease, but in the tribunal's view they are covered by paragraph (15) of the Fifth Schedule to the Lease, the relevant part of which reads: *"... do or cause to be done all such works installations acts matters and things as in the discretion of the Company shall be deemed necessary for the proper maintenance safety and administration of the Building"*. Whilst this paragraph is quite general

and one should be cautious about reading too much into such a provision, the tribunal considers that it is wide enough to cover pest control. It is not surprising that there is no specific clause relating to pest control, and the tribunal considers that it is the sort of thing that could reasonably be said to be contemplated when referring to an act necessary (in the discretion of the Company) for the proper maintenance and safety of the building.

48. The Respondent's submission that bed bug control should not be a service charge item is not accepted. Bed bug infestation can be a serious issue and the bugs can pass between flats very easily, and so it is not realistic or reasonable to treat this issue as anything other than a building-wide issue to be dealt with by the building management team and put through the service charge. The Respondent's comments on mouse/rat control are not considered pertinent as he has failed to establish that the Applicant's service in relation to this issue has been sub-standard. Therefore, these charges are payable in full.

Management fees

49. The only challenge to these is that the Respondent considers the management agreement to constitute a qualifying long term agreement for the purposes of the consultation requirements.

50. Under section 20ZA(2) of the 1985 Act a qualifying long term agreement means (subject to regulations limiting the definition further) *"an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months"*. The Applicant's submission is that it is an informal agreement from quarter to quarter and therefore is not an agreement for a term of more than 12 months. In the absence of any contrary evidence or sharper challenge from the Respondent the tribunal has no alternative but to conclude that the agreement does not constitute a qualifying long term agreement and that therefore the Applicant was under no obligation to consult.

51. In the absence of any other challenge these charges are payable in full.

Excess on building insurance

52. The evidence does seem to indicate the existence of a large number of claims forming part of the service charge but which might more properly have been paid by individual leaseholders. However, there is insufficient evidence available to the tribunal to enable it to comment any further on this aspect, and the tribunal takes the point (made by Mr Hayter) that it is not necessarily appropriate to take individual leaseholders to court unless one has compelling evidence that the

problem concerned has arisen as a direct consequence of their negligence or actions.

53. The Respondent's evidence on this issue is not considered by the tribunal to be persuasive and the Respondent has offered no evidence to support his assertion that the Applicant was negligent in failing to maintain the water pipes properly. These charges are therefore payable in full.

Miscellaneous expenditure

54. The Respondent argues that the bank charges are not covered by the Lease whilst the Applicant argues that they are covered by paragraph (17) of the Fifth Schedule. This paragraph reads as follows: *"Keep proper books of account of all costs charges and expenses incurred by it in carrying out its obligations under this Schedule and maintaining proper records of the Reserve Fund and to pay any costs and fees incurred for keeping and auditing such accounts and the issue of the certificates to the Lessee and the other lessees in the Building of the amounts payable by them in respect of the maintenance charges".*

55. The tribunal does not consider that the above provision is wide enough to cover bank charges. The reference to "costs charges and expenses" is to the act of recording of its costs etc in books of account, and the reference to "costs and fees" is to the costs and fees incurred in keeping and auditing such books of account (not in keeping bank accounts). The tribunal does not consider that any of the other service charge provisions cover bank charges and therefore the bank charges are not payable. As the dispute relates to the actual charges for the years 2011 and 2012 and the estimated charges for the first half of 2013, this is the period for which these charges are disallowed. According to the service charge accounts, the bank charges for 2011 amount to £131.00, the bank charges for 2012 amount to £100.00 and the estimated bank charges for the first half of 2013 amount to half of £200.00, i.e. £100.00.

56. As regards the TV Aerial & Satellite charges, the Respondent's assertion that these might constitute a repeat charge for installation is merely an assertion and is not supported by any evidence. The Applicant's position is that these are actual costs incurred in the relevant year and the tribunal accepts this in the absence of a stronger challenge from the Respondent. As regards whether these charges are covered by the Lease, the relevant part of paragraph (15) of the Fifth Schedule – already quoted in the context of pest control – reads: *"... do or cause to be done all such works installations acts matters and things as in the discretion of the Company shall be deemed necessary for the proper maintenance safety and administration of the Building".* Again the tribunal notes that this paragraph is quite general, but again the tribunal considers that it is wide enough to cover aerial and satellite

charges as the tribunal considers that it is the sort of thing that could reasonably be said to be contemplated when referring to an act necessary (in the discretion of the Company) for the proper maintenance and administration of the building.

Lift maintenance

57. The tribunal notes the parties' respective submissions and does not find the Respondent's alternative quotation to be very strong or persuasive. Direct 365 have given a quotation based on very little information and without having visited the block. They have seemingly been given no details of the history of the usage of the lifts and they commit to quoting within an hour which suggests that they do not look into the relevant issues in detail before giving an initial quotation. In addition, the quotation is given subject to the exclusions detailed in their Terms & Conditions which the tribunal has not seen and which might be very significant, particularly in relation to a block where the evidence indicates there have been significant levels of vandalism and misuse.

58. On the basis of the evidence provided and in the absence of a more persuasive challenge the charges seem to the tribunal to be reasonable and are therefore payable in full.

General items

59. The item identified by the Respondent was excess service charges for garages, but the evidence indicates that this is not a charge at all but instead it is a credit to the service charge account. As there is no charge, there is no dispute in respect of which a determination is required.

Cost Applications

60. The Respondent applied for an order under section 20C of the 1985 Act that the Applicant should not be entitled to add its costs incurred in connection with these proceedings to the service charge. The Applicant has succeeded on nearly every issue and in the tribunal's view has acted reasonably in making the application. In the circumstances, the tribunal declines to make a section 20C order. Therefore the Applicant can add its reasonable costs incurred in connection with these proceedings to the extent (if at all) that the Lease allows for these costs to be recovered.

61. There were no other cost applications.

Further written submissions

62. The Respondent made further written submissions after the hearing and after the tribunal had already reached its decision. The submissions were therefore too late to affect the decision. To the extent that they constituted a request for the tribunal to review its decision (albeit that it may not be possible to seek a review of a decision before seeing that decision), having also seen the Applicant's written submissions in response the tribunal does not consider it necessary or appropriate to review its decision on the basis of those further submissions.

Name: Judge P Korn **Date:** 3rd March 2014

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.