10222

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00BK/LSC/2014/0131 & LON/OOBK/LAC/2014/0010**
Property	:	**102A Ashley Gardens, Thirleby Road, London SW1P 1HJ**
Applicant	:	**Ms Roxanna Mirica**
Representative	:	**Mr Maurice Rifat (Counsel) Systech Solicitors**
Respondent	:	**Ashley Gardens Freeholds Limited**
Representative	:	**Mr Kester Lees (Counsel) William Sturges LLP**
Type of Application	:	**For the determination of the reasonableness of and the liability to pay a service charge and/or administration charge**
Tribunal Members	:	**Mr Jeremy Donegan (Tribunal Judge) Mr Trevor Sennett FCIEH (Professional Member) Mrs Lucy West (Lay Member)**
Date and venue of Hearing	:	**03 June 2014 10 Alfred Place, London WC1E 7LR**
Date of Decision	:	**21 July 2014**

DECISION

Decisions of the tribunal

(1) The tribunal has no jurisdiction to determine the applications before it.

(2) The Applicant is ordered to pay 70% of the costs incurred by the Respondent in resisting the applications.

(3) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

The applications

1. There are two applications before the tribunal, both of which relate to a sum of £4,162.84 that was demanded by the Respondent's managing agents, from the Applicant, on 20 November 2013 (the Sum).

2. The original application was dated 05 March 2014 (the First Application). This sought a determination of the Applicant's liability to pay and the reasonableness of the Sum, as a service charge, pursuant to section 27A of the Landlord and Tenant Act 1985 (the 1985 Act). Directions were issued on the First Application on 12 March 2014.

3. A further application was made to the tribunal, dated 27 April 2014 (the Second Application). This sought a determination of the Applicant's liability to pay the Sum, as an administration charge, pursuant to schedule 11 to the Commonhold and Leasehold Reform Act 2002 (the 2002 Act). Directions were issued on the Second Application on 02 May 2014.

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

The hearing

5. Both applications were listed for hearing on 03 June 2014. At that hearing, the Applicant was represented by Mr Rifat and the Respondent was represented by Mr Lees.

6. The tribunal was supplied with a hearing bundle that contained copies of the applications, the directions, the Applicant's lease, the parties' statements of case, the Respondent's reply, witness statements and relevant correspondence and documents.

7. Shortly before the hearing the tribunal was also supplied with copies of a statement from the Respondent's door entry system engineer, Mr

Christopher Scupham, dated 08 May 2014 and a letter from the Respondent's solicitors to the Applicant's solicitors dated 22 May 2014, relating to the use of Mr Scupham's statement. The tribunal was also supplied with a helpful skeleton argument from Mr Lees.

The background

8. The Applicant is the leaseholder of 102A Ashley Gardens, Thirleby Road, London SW1P 1HJ (the Flat). The Respondent is the freeholder of land at 1 to 14, 29 to 70, 100 to 131 and 148 to 159 Ashley Gardens (the Estate). The Estate comprises of approximately 150 flats let on long leases. The Flat is in Block 8 at the Estate (the Block).

9. The parties did not request an inspection of the Flat or the Estate and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

10. The Sum represents the total cost of investigating and repairing damage to the communal door entry system in the Block that was allegedly caused by the Applicant's contractor in October/November 2012. The damage is said to have occurred when the contractor drilled through an electrical cable for the system that was behind a skirting board in the Flat. This caused a short circuit that damaged the main power supply and a number of video monitors.

11. The Sum was demanded from the Applicant in an invoice from the Respondent's managing agents, D&G Block Management (D&G), dated 20 November 2013. The heading and narrative on the invoice reads:

Invoice

Re: Ashley Gardens – Flat 102A

From	*To*	*Description*	*Gross*
20/11/2013		*Door Entry System - Block 8*	*4,162.84*
		Total Due:	*£4,162.84*

12. The invoice states that payment should be made to *"D&G BM re: Ashley Gardens Service Charge"*. A summary of tenant's rights and obligations for service charges was attached to the invoice.

13. A further copy of the D&G invoice was sent to the Applicant and her solicitors on 26 March 2014, this time accompanied by a summary of tenants' rights and obligations for administration charges, on a without prejudice basis.

14. The Applicant puts her case in two ways. If the Sum is a service charge then she contends that it was not demanded in accordance with the lease, was not reasonably incurred for the purposes of section 19 of the 1985 Act and there has been a breach of the consultation requirements in section 20 of that Act. Alternatively, if the Sum is a variable administration charge then the amount of the charge is not reasonable.

The lease

15. The Applicant holds a long lease of the Flat, which requires the Respondent to provide services and the Applicant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease are referred to below, where appropriate.

16. The lease was granted by the Respondent (the Lessor) to the Applicant (the Lessee) on 22 July 2011 for a term commencing on 31 October 2010 and expiring on 30 October 3009.

17. The definitions are to be found at clause 1.2 and include:

"Services" means the services listed in Schedule 4;

"Service Charge" means the sum payable by the Lessee in accordance with Clause 5.1;

"Service Charge Percentage" means 0.50000% of the Service Cost;

"Service Cost" means the costs incurred by the Lessor providing the Services from time to time;

18. The Lessee's covenants are to be found at clause 4 of the lease and include:

4.7 Alterations

(a) Not make any alterations or additions to the Premises nor cut maim alter or damage any of the walls or timbers of the Premises or of the Main Structure or the Pipes or the exterior of the Premises without the Lessor's previous consent in writing and not without the Lessor's previous consent in writing to alter the internal arrangement of the Premises or any part or remove any of the Lessor's fixtures at the Premises

(b) Not to make any connection with or to the Pipes serving the Premises otherwise than in accordance with plans and specifications approved by the Lessor (such approval not to be unreasonably withheld or delayed) and subject to obtaining

consent to make such connection from the relevant competent authority or undertaker.

4.19 Indemnity

To be responsible for and to keep the Lessor fully indemnified against all damage damages, losses, costs, expenses, actions, demands, proceedings, claims and liabilities made against or suffered or incurred by the Lessor acting directly or indirectly out of:

(a) any act omission or negligence of the Lessee or an persons at the Premises expressly or impliedly with the Lessee's authority or under the Lessee's control; or

(b) any breach or non-observance by the Lessee of the covenants, conditions the Regulations or other provisions of this Lease or any of the matters to which the demise is subject.

(c) all costs and expenses in respect of the enforcement of the mutual covenants contained in Clause 3 (and shall provide such security or deposit in respect of costs and expenses as the Lessor may reasonably require).

4.25 Common Parts

Not to obstruct the Common Parts or cause or permit them to be obstructed and to pay to the Lessor the cost of making good any damage at any time caused by the Lessee (or his servants, agents, licensees or visitors) to any part of the Building or to the person or property of the tenants or the occupiers of any other flat in the Buildings

19. The detailed service charge provisions are at clause 5 of the lease and provide for payment of advance charges on the usual quarter days with an end of year balancing charge/credit following production of the service charge accounts. The Respondent's financial year runs from 25 December to 24 December.

20. Various regulations are to be found in the first schedule to the lease, including:

15. The Lessee will not do or permit his servants or licensees to do any damage whatsoever to the Buildings the fixtures fittings and chattels therein contained and the curtilage and paths adjoining the Buildings and the Lessee will forthwith on demand by the Lessor pay to the Lessor the cost of making good any such damage

21. The Services are listed in the fourth schedule to the lease. The maintenance and repair of the door entry system is not specifically referred to. Mr Rifat and Mr Lees agreed that the only applicable paragraph is:

> *15. Carrying out all such works, installations, acts, matters and things as in the absolute discretion of the Lessor be necessary or advisable for the proper maintenance safety and administration of the Buildings*

The preliminary issues

22. In his skeleton argument, Mr Lees raised the following preliminary issues:

    (i) Whether the tribunal should permit the evidence of Mr Scupham; the Applicant's solicitors having taken issue with the late service of Mr Scupham's statement;

    (ii) Whether the Sum is a service charge; and

    (iii) Whether the Sum is an administration charge.

23. At the start of the hearing, Mr Rifat informed the tribunal that the Applicant was no longer objecting to the Applicant's reliance on Mr Scupham's statement. The tribunal informed the parties that it would deal with the status of the Sum as a preliminary issue, as it would only have jurisdiction to determine the payability and reasonableness of the Sum if it is a service charge and/or an administration charge.

24. The tribunal received oral submissions on the preliminary issues from Mr Rifat and Mr Lees.

The Applicant's submissions

25. Mr Rifat contended that the Sum is a service charge, within the meaning of section 18 of the 1985 Act. The Applicant is a tenant of a dwelling and the Sum is payable directly or indirectly for services, repairs and maintenance, namely the repair of the door entry system.

26. Mr Rifat conceded that the cabling for the system forms part of the common parts, as defined in the lease. He acknowledged that the repair fell within clause 15 of the fourth schedule, which he described as very wide ranging.

27. Mr Rifat referred to the invoice from D&G dated 20 November 2013, as "*masquerading as a service charge demand*" in that it stipulated that

payment should be made into the service charge account for the Estate and a summary of tenants' rights and obligations was attached.

28. Mr Rifat's alternative submission is that the Sum is an administration charge for the purposes of paragraph 1(1)(d) of schedule 11 to the 2002 Act, as it is payable in connection with a breach (or an alleged breach) of a covenant or condition in the Applicant's lease. In particular it is a sum payable by the Applicant arising from an alleged breach of clauses 4(7), 4(19) or 4(25) of the lease.

29. Mr Rifat relied on the Upper Tribunal's decision in ***Christoforou and others v Standard Apartments Limited [2013] UKUT 0586 (LT)***, relating to the recovery of legal costs. At paragraph 32 of his decision, the Deputy President (Mr Martin Rodger QC) found that *"...paragraph 1(1) is wide enough to encompass costs payable by a tenant under commonplace tenant covenants to indemnify a landlord against costs of proceedings or costs incurred as a result of a breach of covenant".*

30. The indemnity covenant in ***Christoforou*** was very similar to that found at clause 4.19 of the Applicant's lease. Mr Rifat contends that the Sum falls within paragraph 1(1)(d) of schedule 11 in that the Applicant is being asked to indemnify the Respondent for the cost of repairing the damage to the door entry system in much the same way that the tenants in ***Christoforou*** were asked to indemnify the landlord for legal costs.

The Respondent's submissions

31. Mr Lees expanded upon the points raised in his skeleton argument in his oral submissions.

32. The Respondent's case is that the Sum is neither a service charge nor an administration charge. Rather it is seeking to recover the Sum, as damages for trespass and/or negligence. Mr Lees expressed the view that trespass must now be admitted by the Applicant, in the light of Mr Rifat's concession that the cabling for the door entry system is part of the Common Parts.

33. The Respondent also seeks a contractual indemnity for the damage caused by the Applicant's builders, pursuant to clauses 4.19 and 4.25 of the lease and paragraph 15 of the first schedule to the lease.

34. Mr Lees stated that claims for damages and/or a contractual indemnity were matters for the Country Court, rather than the tribunal.

35. Mr Lees referred to the initial letter sent by the Respondent's estate manager to the Applicant, dated 21 December 2012. This referred to damage to the door entry system *"..caused by your builders"* and that

she would be responsible for the cost of the repairs. This made no reference to a service charge or the service charge provisions in the lease. Mr Lees contends that repairing damage caused by the builders is not a service charge.

36. In relation to the D&G invoice of 20 November 2013, Mr Lees pointed out that the Applicant was being asked to pay the Sum in full. If this had been demanded as a service charge then she would only have been liable to pay 0.5% in accordance with the lease. Upon this basis the invoice was not a service charge demand, notwithstanding the form of the document.

37. Mr Lees also referred to the initial letter from the Respondent's solicitors to the Applicant's solicitors, dated 20 February 2014, which stated that *"..the amount claimed by our client is not claimed as "service charges""*.

38. Mr Lees argued damages for trespass/negligence are not and could not be an administration charge within schedule 11 to the 2002 Act. Equally he contended that a contractual indemnity is not an administration charge.

39. Mr Lees distinguished the facts in this case from those in ***Christoforou*** and pointed out that a claim for legal costs is quite different to claims for damages and/or an indemnity. In ***Christoforou*** the claim for costs arose from the leaseholders' breach of the lease, namely their failure to pay their service charges.

The tribunal's decision

40. The Sum is neither a service charge nor an administration charge. It follows that the tribunal has no jurisdiction to determine the Applicant's liability to pay the Sum or the reasonableness of the Sum.

Reasons for the tribunal's decision

41. Although the invoice dated 20 November 2013 was on D&G's standard service charge paperwork, it did not demand the Sum as a service charge. This should have been clear to the Applicant or her advisers, as she was being asked to pay the full cost of repairing the damage to the door entry system, rather than her service charge proportion of 0.5%. Further the Sum was not claimed as an interim charge or an end of year balancing charge, in accordance with the service charge provisions in the lease.

42. If there was any doubt in the Applicant's mind as to the status of the Sum, then the position was made clear in the letter from the

Respondent's solicitor dated 20 February 2014. This spelt out that that the Sum was not claimed as "*service charges*".

43. The Sum does not fall within the definition of a service charge, given in section 18 of the 1985 Act, in that the Respondent is seeking damages and/or a contractual indemnity for the full cost of repairing the door entry system. The Applicant is not being asked to contribute to services, repairs, maintenance etcetera, pursuant to her lease.

44. The Sum does not fall within the definition of an administration charge within paragraph 1(1) of schedule 11 to the 2002 Act. The Respondent's claim for damages is outside the lease, as it is founded on trespass and/or negligence. Whilst the claim for a contractual indemnity is made in accordance with the lease, it is not an amount payable in connection with a breach of a covenant or condition in the lease.

45. Mr Lees is right to distinguish this case from ***Christoforou***, in which the freeholder incurred legal costs in obtaining a determination of unpaid service charges in the Leasehold Valuation Tribunal (the LVT). The freeholder then sought to recover its costs from the leaseholders concerned and the LVT and the Upper Tribunal accepted that the costs were an administration charge. The costs were payable under a contractual indemnity in the lease but had been incurred in pursuing an earlier breach of the lease, being the non-payment of the service charges. In this case the Applicant is not seeking to recover legal or administrative costs. Rather it seeks damages and/or a contractual indemnity arising from damage caused to the common parts.

Costs

46. The tribunal gave its decision on the preliminary issues, orally, at the hearing. In the light of that decision, Mr Lees made an application for costs under Rule 13 (1) (b) (ii) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the 2013 Rules).

47. Mr Lees submitted that the Applicant acted unreasonably in bringing and conducting the First Application. It should have been clear that the Sum was not a service charge from the outset. Not only was this clear from the manner in which it was demanded, this was also spelt out in the letter from the Respondent's solicitors to the Applicants' solicitors dated 20 February 2014. The Applicant was given fair warning but proceeded to issue the First Application.

48. Mr Lees expressed the view that the First Application was always "*doomed to failure*" and should never have been brought. The Applicant acted unreasonably in issuing the application and in then continuing with the case through to a full hearing. Further there had

been no advance warning of the application in their initial letter to the Respondent.

49. In relation to the Second Application, Mr Lees accepted that the Applicant had not acted unreasonably in bringing the proceedings. The tribunal had raised the possibility that the Sum might be an administration charge in the original directions. Further by the time of the Second Application the Respondent had served the further copy of the D&G invoice, with the summary of rights and obligations for administration charges attached, on a without prejudice basis.

50. Mr Lees contended that the Applicant's conduct of the Second Application was unreasonable and made various criticisms of her statement of case, including:

(a) She had made no reference to paragraph 15 of the fourth schedule to the lease, which the Applicant now relies on, or the letter from the Respondent's solicitors dated 20 February 2014;

(b) She had alleged that the design of the door entry system was flawed but had not produced any evidence to support this;

(c) She had challenged the cost of repairing the door entry system but had not produced alternative quotes;

(d) She had suggested that the damaged cable formed part of her demise yet it was now conceded that the cable formed part of the common parts; and

(e) She had raised matters that were not within the tribunal's jurisdiction.

51. Mr Lees also relied upon the late concession made regarding the cable forming part of the common parts and pointed out that there had been no indication that this concession would be made until just before the hearing. Equally, the Applicant's advisers had failed to notify the Respondent's advisers that they were no longer objecting to the use of Mr Scupham's statement until the hearing. As a consequence, Mr Lees was obliged to address both of these issues in his skeleton argument.

52. In relation to Mr Scupham's statement, Mr Lees advised that this has been served in response to the Second Application, which was issued after the Respondent had served its statement of case. There was no need for any evidence from Mr Scupham in relation to the First Application. His statement had been served on 08 May 2014 shortly after the Second Application was issued and some time before the full hearing.

53. Mr Lees referred the tribunal to the letter from the Applicant's solicitors of 22 May 2014, which explained the reasons for the late service of Mr Scupham's statement and the omission of the statement in the hearing bundle. He also suggested that there had been a failure on the part of the Applicant's solicitors to consult with the Respondent's solicitors, regarding the contents of the bundle.

54. Mr Lees asked the tribunal to take account of three additional factors when deciding the application for costs, namely:

(a) The Applicant's liability to pay the Sum arose from her negligence;

(b) The lease provides for a contractual indemnity; and

(c) The Respondent is a leaseholder owned company. If the Applicant does not pay the Respondent's costs then these will have to be borne by the leaseholders.

55. The Respondent's solicitors had not produced any schedule of costs and Mr Lees invited the tribunal to make an order that the costs be assessed separately.

56. Mr Rifat opposed the application for costs, on behalf of the Applicant. He reiterated that the D&G invoice of 20 November 2013 gave the impression that the Sum was being demanded as a service charge. The assertion that it was not claimed as "*service charges*", in the letter from the Respondent's solicitors dated 20 February 2014, was hidden away and at odds with the form of the invoice.

57. Mr Rifat contended that the Applicant had not acted unreasonably in bringing the First Application. The Respondent had correctly conceded that bringing the Second Application was not unreasonable, given the re-service of the D&G invoice on a without prejudice basis. The same concession should have been made in relation to the First Application, as this had been prompted by the form of the original invoice.

58. Mr Rifat suggested that it would not be appropriate for the tribunal to punish every party that loses a case, by means of a costs order. The tribunal's costs jurisdiction is not analogous to that in the County Court or High Court. The fact that the Applicant had lost on the preliminary issues did not justify an order for costs, as "*parties lose on jurisdiction points every day*".

59. In relation to the question of conduct, Mr Rifat advised that there had been no wholesale breach of the tribunal's directions. Both parties had been slightly late in serving their statements but that was all. As to the late concessions, Mr Rifat reiterated that the timetable had been

complied with and that the nature of a case will often change as litigation progresses.

60. Mr Rifat rejected the suggestion that the Applicant had acted unreasonably in objecting to Mr Scupham's evidence. His statement had been served late and the objection had reasonably been abandoned by the start of the hearing.

61. Mr Rifat suggested that a "*blunderbuss approach*" to litigation was common, where numerous claims are made initially but then refined as the case develops. The Applicant should not be blamed for the changing shape of her case, as the Respondent had shifted its position. The original D&G invoice gave the impression that the Sum was a service charge. The re-served invoice gave the impression that it was an administration charge.

The tribunal's decision

62. The Applicant shall pay 70% of the Respondent's costs of these proceedings, to be summarily assessed by tribunal.

Reasons for the tribunal's decision

63. For the reasons outlined in paragraphs 41 and 42 above, the Applicant (or her solicitors) should have known that the Sum had not been demanded as a service charge. At the very latest this should have been clear when her solicitor received the letter from the Respondent's solicitor of 20 February 2014. This would have been almost two weeks before the First Application was issued.

64. The Applicant acted unreasonably in bringing the First Application, as this was entirely misconceived and was always doomed to failure. She then acted unreasonably in continuing with the application and maintaining that the Sum was a service charge up to and including today's hearing. The tribunal raised the status of the Sum in its original directions and this was also addressed in the Respondent's statement of case and reply. The Respondent's solicitors reiterated that the Sum had not been demanded as a service charge in a letter to the Applicant's solicitors dated 14 March 2014. The First Application should have been withdrawn long before the hearing.

65. Given the tribunal's findings it is only right that the Applicant should pay the Respondent's costs of the First Application on the standard basis. In relation to the Second Application, the concession made by Mr Lees was entirely appropriate. The Applicant did not act unreasonably in bringing the application, as she was given a certain amount of encouragement by the tribunal's original directions and the re-service of the D&G invoice on a without prejudice basis.

66. In his skeleton argument, Mr Lees stated that he had been unable to find any authority on the question of a contractual indemnity provision being an administration charge. Prior to the hearing, the tribunal had identified that the decision in ***Christoforou*** might have some relevance and this authority was relied upon by Mr Rifat. On examining the facts the tribunal concluded that the case could be distinguished from the applications before it.

67. Given the apparent lack of case law on the point, the tribunal have concluded that the Applicant did not act unreasonably in pursuing the Second Application through to the final hearing. The fact that the tribunal have found against her does not justify an order for costs, in itself. Rather an order would only be appropriate if her conduct of the Second Application was unreasonable.

68. At the hearing, the tribunal pointed out to Mr Lees that it was in some difficulty in assessing whether the Applicant had acted unreasonably in the way that she had presented her case. This is because the tribunal did not hear any evidence or consider the merits of either application, having decided it had no jurisdiction. However the tribunal was able to consider whether the Applicant's general approach to the proceedings was reasonable. A "*blunderbuss approach*" to litigation is not acceptable. The Applicant or her advisers should have identified the issues at the outset rather than refining her case, as it progressed. The tribunal concluded that the Applicant acted unreasonably in asserting that the damaged cable was part of her demise and part of her responsibility in her statement of case, only to concede that it was part of the common parts on the morning of the hearing. Inevitably this has resulted in additional costs for the Respondent, as they had to address this issue. It was specifically dealt with in Mr Lees' skeleton argument.

69. The tribunal concluded that the Applicant acted unreasonably in objecting to the use of Mr Scupham's evidence only to withdraw the objection on the morning of the hearing. The statement was necessitated by the Second Application and was served well in advance of the hearing. The Applicant should have agreed to the use of the statement and included a copy in the hearing bundle, in accordance with the letter from the Respondent's solicitors dated 22 May 2014.

70. It follows that the Applicant shall also pay the Respondent's costs arising from the late concessions as to ownership of the cable and the use of Mr Scupham's evidence.

71. The First Application was submitted on 05 March 2014 and the Second Application was submitted on 27 April 2014. The work undertaken by the Respondent's solicitors up to 26 April 2014 related solely to the First Application. The work after this date would have covered both applications. It follows that over half of the Respondent's total costs relate to the First Application. The Respondent is entitled to recover

these costs from the Applicant together with the costs arising from the late concessions. Taking a pragmatic and global approach the tribunal concluded that it was appropriate for the Applicant to pay 70% of the Respondent's costs. These will need to be assessed by the tribunal. Given the nature of the case, a summary assessment is appropriate.

Application under s.20C and refund of fees

72. In the application forms the Applicant applied for an order under section 20C of the 1985 Act. This application was not pursued at the hearing. Accordingly the tribunal makes no order under section 20c.

73. There was no application for a refund of the fees that the Applicant had paid to the tribunal in respect of either application[1].

The next steps

74. Directions are attached for the determination of the Respondent's costs.

75. The tribunal has no jurisdiction to determine the Applicant's liability to pay the Sum. Rather this is a matter for the County Court. The parties are encouraged to try and resolve this issue informally to avoid the need for further litigation.

Name: J P Donegan (Judge) **Date:** 21 July 2014

[1] The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

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 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—
(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
(aa) in the case of proceedings before a residential property tribunal, to that tribunal;
(b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;

(c) in the case of proceedings before the Upper Tribunal, to the tribunal;
(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

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).

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Rule 13

(1) The Tribunal may make an order in respect of costs only –
(a) under section 29 (4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in –
(i) an agricultural and land drainage case,

(ii) a residential property case, or
(iii) a leasehold case; or

(c) in a land registration case.

...

(7) The amount of costs to be paid under an order under this rule may be determined by –

(a) summary assessment by the Tribunal;

(b) agreement of a specified sum by the paying person and the person entitled to receive the costs ("the receiving person");

(c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an application to a county court; and such assessment is to be on the standard basis or, if specified in the costs order, on the indemnity basis.