FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference:	CHI/21UF/2021/LAC/0004 & 5 CHI/21UF/2021/LIS/0017
Property:	Flats A & C Highfield House, 18 King Henrys Road, Lewes, East Sussex BN7 1BT
Applicant:	CPALL Limited
Representative:	Dean Wilson LLP
Respondents:	Ms Freda Rose Clark (Flat A) & Mr Ronald Oakley–Moore (Flat C)
Respondents' representative:	Nick Stokes
Type of Application:	Section 27A the Landlord and Tenant Act 1985 (Liability to pay service charges) Landlords application for the determination of reasonableness of service charges for the year 2020. Schedule 11 Commonhold and Leasehold Reform Act 2002 (Liability to pay administration charges) Landlords application for the determination of reasonableness of administration charges for the years 2019 and 2020
Tribunal Members:	Judge A Cresswell
Date of Decision:	11 August 2021

DECISION

The Applications

1. This case arises out of the Applicant landlord's applications, made on 26 February 2021, for the determination of liability to pay administration charges by both Respondents in the years 2019 and 2020 and service charges for both Respondents for the year 2020.

Summary Decision

2. The Tribunal has determined that the Applicant landlord has demonstrated that the service and administration charges in question are reasonable in amount and reasonably demanded and are payable by the Respondents.

The Issues

3. There were a number of issues raised by the Respondents, which were not relevant to the applications made by the Applicant, notably the structure of the Applicant company and associated legal costs, by example. Those issues are not dealt with substantively in this Decision because they are not directly relevant to the issues the subject of the application, which were detailed in the Tribunal's Directions.
4. The Tribunal has been careful to deal only with the issues raised in the applications, put plainly, whether the administration charges and further service charge contribution to the major works were reasonably demanded, but is conscious that there are many more issues between the parties, which require resolution if relationships are to improve.
5. **James Scicluna v Zippy Stitch Ltd & Ors** (2018) CA (Civ Div): Where the parties to tribunal proceedings had agreed a list of issues, the matters to be determined in the substantive hearing and on any appeal were properly to be limited to those agreed issues.

Inspection and Description of Property

6. The Tribunal did not inspect the property.
7. The property is described in a survey report by Leo Horsfield MRICS as follows: The property is a detached building located in a Conservation Area. The building has been historically converted into flats and is constructed with cavity brickwork external

walls, tile hung elevations and timber framed, cut and pitched roofs covered with plain tiles.

Directions

8. Directions were issued on 5 May 2021. These directions provided for the matter to be heard on the basis of written representations only, without an oral hearing, under the provisions of Rule 31 of the Tribunal Procedure Rules 2013, unless the parties requested an oral hearing, which they did not.
9. The Tribunal directed that the parties should submit specified documentation to the Tribunal for consideration. This determination is made in the light of the documentation submitted in response to those directions.

The Law

10. The relevant law is set out in sections 18, 19 and 27A of Landlord and Tenant Act 1985 as amended by Housing Act 1996 and Commonhold and Leasehold Reform Act 2002 and in Schedule 11 Commonhold and Leasehold Reform Act 2002.
11. The Tribunal has the power to decide about all aspects of liability to pay service charges and can interpret the lease where necessary to resolve disputes or uncertainties. Service charges are sums of money that are payable – or would be payable - by a tenant to a landlord for the costs of services, repairs, maintenance or insurance or the landlord's costs of management, under the terms of the lease (s18 Landlord and Tenant Act 1985 "the 1985 Act"). The Tribunal can decide by whom, to whom, how much and when service charge is payable. The Tribunal also determines the reasonableness of the charges.
12. The Tribunal has the power to decide about all aspects of liability to pay administration charges and can interpret the lease where necessary to resolve disputes or uncertainties. Administration charges are sums payable in addition to rent inter alia in respect of failure by a tenant to make a payment by the due date to the landlord. The Tribunal can decide by whom, to whom, how much and when an administration charge is payable. An administration charge is only payable insofar as it is reasonably incurred. The Tribunal therefore also determines the reasonableness of the charges.
13. In reaching its Decision, the Tribunal also takes into account the Third Edition of the RICS Service Charge Residential Management Code ("the Code") approved by the

Secretary for State under section 87 of the Leasehold Reform Housing and Urban Development Act 1993. The Code contains a number of provisions relating to variable service charges and their collection. It gives advice and directions to all landlords and their managing agents of residential leasehold property as to their duties. In accordance with the Approval of Code of Management Practice (Residential Management) (Service Charges) (England) Order 2009 *Failure to comply with any provision of an approved code does not of itself render any person liable to any proceedings, but in any proceedings, the codes of practice shall be admissible as evidence and any provision that appears to be relevant to any question arising in the proceedings is taken into account.*

14. In **Enterprise Home Developments LLP v Adam** (2020) UKUT 151 (LC):

27. In Yorkbrook Investments Ltd v Batten (1986) 18 HLR 25 Wood J, giving the decision of the Court of Appeal, addressed the issue of the burden of proof on the reasonableness of service charges. At page 34 he said this:

"Having examined the statutory provisions we can find no reason for suggesting that there is any presumption for or against a finding of reasonableness of standard or costs. The court will reach its conclusion on the whole of the evidence. If the normal rules of pleadings are met, there should be no difficulty. The landlord in making his claims for maintenance contributions will no doubt succeed, unless a defence is served saying that the standard or the costs are unreasonable. The tenant in such a pleading will need to specify the item complained of and the general nature – but not the evidence – of his case. No doubt discovery will need to be ordered at an early stage, but there should be no problem in each side knowing the case it has to meet, providing that the court maintains a firm hold over its procedures. If the tenant gives evidence establishing a prima facie case then it will be for the landlord to meet those allegations and ultimately the court will reach its decisions."

28. Much has changed since the Court of Appeal's decision in Yorkbrook v Batten but one important principle remains applicable, namely that it is for the party disputing the reasonableness of sums claimed to establish a prima facie case. Where, as in this case, the sums claimed do not appear unreasonable and there is only very limited evidence that the same services could have been provided more cheaply, the FTT is not required to adopt a sceptical approach. In this case it might quite reasonably have taken the view that Mr Adam had failed to

establish any ground for thinking the sums claimed had not been incurred or were not reasonable, which would have left only the question whether any item of expenditure was outside the charging provisions.

15. Some relevant statute law is set out in the Annex below.

Ownership

16. The Applicant is the owner of the freehold. Both Respondents are shareholders in the Applicant company.

The Lease

17. Ms Clark holds Flat A under the terms of a lease dated 20 October 1995, which was made between CPALL Ltd as lessor and Ms Clark as lessee. Mr Oakley-Moore holds Flat C under the terms of a lease dated 20 October 1995, which was made between CPALL Ltd as lessor and Mrs J M Allen as lessee. The Tribunal understood these leases to be representative of all leases at the property.
18. The Respondents appear to argue that the terms of the leases are altered by Advisory Policy Notes said to have been agreed for the property, but this is clearly not the case. Firstly, the Advisory Notes themselves record: *"(see individual leases for relevant legal provisions)"* as part of their heading, suggesting that the legal terms of the relationship between landlord and tenant are to be found in the lease.
19. Further, they are described in the heading as being Advisory Policy Notes for CPALL Ltd Directors, not as agreed lease terms between landlord and tenant. In the body of the document is stated: *A unanimous vote of the full Board is required to ……. alter ……. the terms and provisions of individual leases.*
20. Secondly, the discussion of the Land Registry notation *"This official copy is incomplete without the preceding notes page"* as being a reference to the Advisory Notes is to misunderstand that this is actually a reference to the Notes on the first page of the Land Registry documentation. There is a clear example of this on pages 307 and 308 of the bundle, the first page setting out the Notes and the second page containing the above notation reference to those Notes; the Notes being, in this case:

These are the notes referred to on the following official copy

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21. The Tribunal does not need to determine the legal status of the Advisory Notes and can see that there are very real issues between the parties as to how the Applicant company should be run, which require (outside this case) to be clarified. However, the Tribunal is satisfied that the lease is the document that contains and details the legal basis for demanding service charges and administration charges and it is the lease that the Tribunal is required to interpret when answering the questions raised by the applications.

22. The construction of a lease is a matter of law and imposes no evidential burden on either party: (**(1) Redrow Regeneration (Barking) ltd (2) Barking Central Management Company (No2) ltd v (1) Ryan Edwards (2) Adewale Anibaba (3) Planimir Kostov Petkov (4) David Gill** [2012] UKUT 373 (LC)).

23. When considering the wording of the lease, the Tribunal adopts the guidance given to it by the Supreme Court:

Arnold v Britton and others [2015] UKSC 36 Lord Neuberger:

> 15. When interpreting a written contract, the court is concerned to identify the intention of the parties by reference to "what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean", to quote Lord Hoffmann in Chartbrook Ltd v Persimmon Homes Ltd [2009] UKHL 38, [2009] 1 AC 1101, para 14. And it does so by focussing on the meaning of the relevant words, in this case clause 3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of (i) the natural and ordinary meaning of the clause, (ii) any other relevant provisions of the lease, (iii) the overall purpose of the clause and the lease, (iv) the facts and circumstances known or assumed by the parties at the time that the document was executed, and (v) commercial common sense, but (vi) disregarding subjective evidence of any party's intentions. In this connection, see Prenn at pp 1384-1386 and Reardon Smith Line Ltd v Yngvar Hansen-Tangen (trading as HE Hansen-Tangen) [1976] 1 WLR 989, 995-997 per Lord Wilberforce, Bank of Credit and Commerce International SA (in liquidation) v Ali [2002] 1 AC 251, para 8, per Lord Bingham, and the survey of more recent authorities in Rainy Sky, per Lord Clarke at paras

21-30.

24. *Under Clause 2(13) the Respondents covenant:*

> *"(13) To pay to the Lessors on demand all costs, charges and expenses (including legal costs and surveyor's fees) which may be incurred by the lessors or otherwise become payable by the lessors in relation to or incidental to:*
>
> *(1) The preparation and service of a notice under Section 146 of The Law of Property Act 1925 as incurred by or in contemplation of any proceedings in respect of the flat under Sections 146 and 147 of The Law of Property Act 1925 or in the preparation or service of any Notice thereunder notwithstanding that forfeiture is avoided otherwise than by relief granted by the Court.*
>
> *(2) The recovery or attempted recovery of arrears of rent, maintenance charges or other sums due from the lessee".*

25. Under clause 2(23)(1) the Respondents covenant:

> *"To pay to the Lessors as a maintenance and service charge (hereinafter called "the Service Charge") a one-ninth part of all money expended by the Lessors in complying with their obligations contained in the Fifth and Sixth Schedules hereto".*

26. Clause 2(23) provides:

> *"(2) The Service Charge shall be calculated and paid in accordance with the following provisions:*
>
> *(a) on the 8th day of March in every year the Lessee shall pay to the Lessors or their Agents in advance the sum of Pounds (£) or such other sums as the Lessors or their Accountants or Managing Agents (as the case may be) shall specify at their discretion to be a fair and reasonable interim payment on account of the Lessee's liability under Sub-Clause (1) of this Clause but nothing herein shall restrain the Lessors from demanding such sum as may be reasonably necessary and lawfully due from the Lessee if the amount to be*

paid to the Lessors shall exceed the sum in hand such sum (if so demanded) be immediately due and payable."

(b) on or as soon as possible after the 7th day of March in each year the annual costs of the Lessors' obligations under this Lease shall be calculated and a Service Charge Statement being a detailed account duly certified by a Director of and authorised by the Lessors showing the total expenditure by the Lessors in performing their obligations under the Fourth Schedule and the total receipt from the lessees of the flats in the Building including any reserve fund and the respective lessees share of the total expenditure (with all accounts and vouchers being available for immediate inspection by the Lessee) shall be served upon the Lessee and if the Lessee's share of such annual costs under the provisions hereinbefore contained as shown by the Service Charge Statement shall fall short of or exceed the aggregate of the sums paid by the Lessee on account of the Lessee' contribution the Lessee for the time being shall forthwith pay to or be refunded by the Lessors the amount of such shortfall or excess as the case may be notwithstanding any devolution of the Lease to the Lessee for the time being subsequent to the commencement of the accounting period to which such shortfall or excess (as the case may be relates) PROVIDED that any amount repayable to the Lessee under this sub-clause may at the option of the Lessors be applied in or towards the Lessee's contribution for the next or any other ensuing period AND PROVIDED FURTHER that any sum repayable as aforesaid may at the option of the Lessors be retained by them to provide a fund for the repayment of any liability of any kind which in the discretion of the Lessors should be reasonably provided for including (without prejudice to the generality of the foregoing any items of repair or maintenance and of a nature such monies at the discretion of the Lessors to be invested in the name of the Management Fund to earn interest until such monies are required

27. Clause 5 provides:

"If the yearly rents hereby reserved or any of them or any part thereof respectively shall remain unpaid for twenty-one days or upwards after becoming payable (whether formally demanded or not) or any of the

covenants on the lessee's part hereinbefore contained shall not be performed or observed then and in any such case it shall be lawful for the Lessors at any time thereafter to re-enter upon the Flat or any part thereof in the name of the whole and thereupon the demise shall absolutely determine …"

The Administration Charges

The Applicant

28. The Applicant explains that, following a Section 20 consultation exercise for major works at the property, a service charge demand was issued to the Respondents for their share of the major works and other charges on 8 March 2019 in the sum of £7327.35.
29. When the payment was not made, the Applicant instructed solicitors to pursue the sum at the County Court and the Respondents also instructed solicitors.
30. Partial, but satisfactory payment was made by the Respondents on 15 and 17 July 2019 (Mr Moore and Ms Clark respectively).
31. Solicitors' fees incurred by the Applicant in the claim against Ms Clark amounted to £1857.00, and in the claim against Mr Moore amounted to £2133.60. These sums were demanded of the Respondents as an administration charge on 13 March 2020 and service charge in the sum of £931.11 was demanded on 8 March 2020.
32. After a failure to pay the above sums, solicitors were instructed by the Applicant on 2 July 2020. Whilst the service charges were paid in 2 instalments of £460 on 19 May 2020 and £471.11 on 25 September 2020, the administration charges were not paid. The managing agent charged £120 and the solicitors £249 for their work on this second debt collection.
33. On 23 September 2020, the Applicant demanded the 1/9th share of the further sum required for additional works discovered during the major works (i.e. £1184.91) together with the £120 and £249 previously demanded for the second debt collection process by managing agent and solicitor. These sums were not paid. The service charge monies are required for completion of the works.
34. The Applicant seeks an order for payment of the administration charges associated with its 2 debt collection exercises in accordance with Clause 2(13) of the lease.

The Respondents

35. The Respondents say that any administration costs associated with the recovery of these inaccurate charges from agents or solicitors should be dismissed.

36. The leaseholders, as part of the Respondent company, should not have to pay for the actions of 2 of the Directors. It is the 2 Directors who should be responsible for the solicitor's costs. It is not possible to differentiate costs the responsibility of the 2 Directors from those the responsibility of the Respondents.

The Tribunal

37. The Tribunal is satisfied that the Applicant was reasonable in seeking to recover the monies owed by the Respondents on the two occasions in issue. A landlord cannot maintain a building without timely payments by leaseholders nor can it be expected to bear the burden of reasonable costs of recovering payable sums when the lease allows it to pass on those costs to a non-paying tenant.
38. It is significant that both Respondents were legally represented when they made substantial payments on the first occasion, such that the Respondents can be taken to have agreed the service charge amount and the ability of the Applicant to demand it, and then paid the service charge element on the second occasion when solicitors were again instructed by the Applicant, in relation to which payment they make no suggestion that it was unreasonable in amount.
39. The lease permits the employment of solicitors and the recovery of their costs under Clause 2(13) and it is illustrative that payment was not made until solicitors were instructed.
40. The Respondents do not challenge the amount of work undertaken by the solicitors nor its value, both elements of which are detailed in invoices within the bundle. Nor is there anything about the time or its cost which strikes the Tribunal as being unreasonable for the work described as being undertaken. The Respondents do not challenge the value of the work undertaken by the managing agent, which is detailed in an invoice within the bundle. Nor is there anything about the cost which strikes the Tribunal as being unreasonable for the work described as being undertaken.
41. Accordingly, the Tribunal orders the Respondents to pay the following sums to the Respondents as administration charges: Ms Clark £1857 (2019) plus £120 plus £249 (2020), total £2226; Mr Moore £2133.60 (2019) plus £120 plus £249 (2020), total £2502.60.

The Service Charge Demand

The Applicant

42. The Applicant explains that, following a Section 20 consultation process for major works at the property, a service charge demand was issued to the Respondents for their share of the major works and other charges on 8 March 2019 in the sum of £7327.35.
43. The works commenced in or about February 2020, but further substantial necessary works became apparent once scaffolding was in place. Accordingly, the Applicant completed a further Section 20 consultation process. A further total figure of £10,664.13 (i.e. £1184.91, the 1/9th share per tenancy) was required after allowing for savings made on the original project.
44. On 23 September 2020, the Applicant demanded the 1/9th share of the further sum required together with the £120 and £249 previously demanded for the debt collection process by managing agent and solicitor. These sums were not paid. The service charge monies are required for completion of the works.
45. The Applicant has worked with the contractor and agreed some changes to the specification and will continue to work with it to ensure that a sound result is forthcoming from the works without additional cost. The works were inspected by the Surveyor engaged by the Respondents when they were only partially completed.
46. Some delays have been occasioned by reason of the pandemic and materials shortages and by the time taken in the further Section 20 exercise.
47. The Applicant recognises that the Respondents are able to challenge the quality of the works and their costs when presented with their balancing accounts at the works' conclusion.
48. Mr Moore generates a lot of difficult correspondence, which makes it hard to respond promptly or at all.
49. The Respondents did not engage with the original Section 20 consultation process within time. The contractor identified by Mr Moore didn't inspect the roof eaves before giving a quotation.
50. A further Section 20 consultation was undertaken as the additional works identified were sizeable and likely to result in a significant increase in cost. Due to the Applicant knowing there was already resistance amongst some leaseholders about the works, it decided to err on the side of caution and undertake a further s20 consultation to ensure all leaseholders had the opportunity to engage.

The Respondents

51. The Respondents explain that works are still in progress after 16 months, when they were estimated to take 8 to 10 weeks.
52. Communication has been poor.
53. The original costs were believed to be excessive, despite being the lowest of 3 other tenders.
54. The works were for repair and redecoration to all elevations.
55. Mr Moore provided alternative pricing for sections of work.
56. The Applicant provided little detail of the extra works and this did not become clear until the Tribunal proceedings. It is now apparent that some 35% of the original works are to be omitted. With omitted works, cash in hand and the 10% contingency within the original estimate, there should be no requirement for further funding. There is a lack of clarity as to what is to be done and of the descriptions of works intended and performed.
57. An independent surveyor inspected the property in October 2020 and noted several shortcomings.
58. Only now is there snagging for defects, unsatisfactory and incomplete work.
59. The Company set up and the various persons and organisations standing in and acting on behalf of the Company all have a bearing on making this far from a routine case.
60. The offer of 'raising challenges at year end into actual costs expended if they consider the works were not carried out to a reasonable standard and at a reasonable cost' sounds particularly hollow. The likelihood of any resolution at that time would be extremely low.
61. The Respondents asks the FTT to determine the charges demanded by the Applicant for the additional work are unreasonable. The fact that the demand does not relate to the contract costings and the managing agents were only too willing to pass on costs to the leaseholders without checking their validity or accuracy should carry significant weight.

The Tribunal

62. The Tribunal is conscious that the payments sought here are payments on account and that the Respondents will have an opportunity to address concerns as to the reasonableness of the work actually performed and its cost when the sums are reconciled at works' end.

63. It is significant that both Respondents were legally represented when they made substantial payments on the occasion of the first demanded sums for major works, such that the Respondents can be taken to have agreed that service charge amount and the ability of the Applicant to demand it.
64. The Tribunal is satisfied that the Applicant has relied upon professional advice in assessing the works required and supervising their completion.
65. The sums in question relate solely to the extra works identified during the initial major works.
66. The Respondents queried why the Applicant engaged in a further Section 20 consultation exercise, and thereby extended the time the works have taken to complete, but the Tribunal supports that approach. Given the questions raised by the Respondents following a Section 20 exercise, it is inevitable that there would have been far more criticism in the absence of consultation (one of the main criticisms of the Respondents in any event being a lack of communication) together with the risk of an inability to recover part of the expenditure because there was a lack of legally required consultation.
67. The Section 20 exercise resulted in a number of tenders, including from contractors identified by tenants. Mr Moore complains that the contractor identified by him was not chosen and that his choice may have led to reduced costs. However, there is no clarity that Mr Moore's contractor tendered on the exact same basis as the other contractors and his "tender" appears to have been based on a summary of required work rather than the full Specification. Also, Mr Moore's contractor's "tender" is dated 7 July 2020, which is after the 30-day period from 27 May 2020 allowed by the Notice of Intention.
68. In those circumstances, the selection of contractors to perform the works on the basis of the cheapest for "roof verges" and "asphalt steps" and the selection of the same contractor as for "asphalt steps" for "lead bay roof" at only some £3 more expensive than the lowest quote for that task, thereby having the same contractor completing 2 of the required tasks, appears to the Tribunal to be a very reasonable approach to take.
69. Mr Moore's surveyor has highlighted concerns as to work quality and cost, but the Tribunal notes that his survey took place whilst work was in progress and finds that his report is more focused on the works' end stage when the landlord must account to the tenants for the expenditure of their monies rather than the earlier stage on

which the Tribunal must now concentrate, being the monies demanded on account and the knowledge held by the landlord at that stage. The Tribunal also reflects that only part of the survey report was included in the bundle.

70. Whilst the Respondents have sought to do their own mathematical analysis of the costs of works done, variations in works done, omissions from the original project and whether all new works are actually new, the Tribunal prefers the analysis detailed by Mr Davenport of the Chartered Surveyors responsible for the project. His company will be responsible for accounting for all of the monies expended on the project and he can be expected to have a better skilled grasp of the detail than good meaning residents doing their honest best.

71. The Tribunal finds, accordingly, that the demand from each of the Respondents of a 1/9th share of the sum of £10,644.13, i.e. £1184.91 is reasonable and payable in accordance with Clause 2(23)(2)(a) of the lease.

Section 20c and Paragraph 5A Application and Fees

72. The Directions said that the parties should include in their statements of case any applications in respect of the above. No such applications were made.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will

then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

ANNEX

Landlord and Tenant Act 1985 as amended by Housing Act 1996 and Commonhold and Leasehold Reform Act 2002

18 Meaning of "service charge" and "relevant costs"

(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.

19 Limitation of service charges: reasonableness

(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 provision 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.

27A Liability to pay service charges: jurisdiction

(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 postdispute 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 of an application under subsection (1) or (3).
(7) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.