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Residential  
Property  
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTION 27A OF THE LANDLORD AND TENANT ACT 1985**

**Case Reference:** LON/00BE/LSC/2012/0177

**Premises:** 125 Bredinghurst, Overhill Road, East Dulwich,  
London SE22 0PN

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**Applicant:** Southern Housing Group

**Representative:** Mr Cavanagh

**Respondent:** Mr Domoustchiev

**Representative:** n/a

**Date of hearing:** 21<sup>st</sup> June 2012

**Appearance for Applicant(s):** n/a

**Appearance for Respondent(s):** n/a

**Leasehold Valuation Tribunal:** Ms N Hawkes (Lawyer Chairman)  
Mr H Geddes JP RIBA MRTPI  
Mr O N Miller BSc

**Date of decision:** 3.7.12

### **Decisions of the Tribunal**

- (1) The Tribunal determines that the sum of £520.87 is payable by the Respondent in respect of the service charges items referred to the Tribunal for determination for the service charge year 2005/06.
- (2) The Tribunal determines that the sum of £709.34 is payable by the Respondent in respect of the service charges items referred to the Tribunal for determination for the service charge year 2006/07.
- (3) The Tribunal determines that the sum of £679.14 is payable by the Respondent in respect of the service charges items referred to the Tribunal for determination for the service charge year 2007/08.
- (4) The Tribunal determines that the sum of £716.98 is payable by the Respondent in respect of the service charges items referred to the Tribunal for determination for the service charge year 2008/09.
- (5) The Tribunal determines that the sum of £813.08 is payable by the Respondent in respect of the service charges items referred to the Tribunal for determination for the service charge year 2009/10.
- (6) The Tribunal determines that the sum of £938.38 is payable by the Respondent in respect of the service charges items referred to the Tribunal for determination for the service charge year 2010/11.
- (7) The Tribunal determines that the sum of £850.20 is payable by the Respondent in respect of estimated service charges for the year 2011/12.

### **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Respondent in respect of the service charge years 2005/06, 2006/07, 2007/08, 2008/09, 2010/11, 2011/12.
2. The relevant legal provisions are set out in the Appendix to this decision.

### **The hearing**

3. The Applicant was represented by Mr Cavanagh, the Applicant's Residents' Services Manager at the hearing and the Respondent appeared in person. Mr Parette, the Applicant's Leasehold Manager, and Ms Gale, the Applicant's Income Officer, also attended the hearing.

### **The background**

4. The Property which is the subject of this application is a flat situated in a purpose built, eight storey block comprising 148 flats which was constructed in 1971. The estate in which the Property is situated comprises this block together with another identical block. Accordingly, there are a total of 296 properties in the estate.
5. Neither party requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
6. The Respondent holds a long lease of the Property which requires the Landlord to provide services and the Tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the Lease will be referred to below, where appropriate.

### **The issues**

7. At the start of the hearing the parties identified the relevant issues for determination as follows:
  - (i) The payability and/or reasonableness of service charges for each of the years in question relating to Block Lift Maintenance.
  - (ii) The payability and/or reasonableness of service charges for each of the years in question relating to Estate Refuse Disposal.
  - (iii) The payability and/or reasonableness of service charges for each of the years in question relating to Estate Cleaning (referred to as Estate Staff Costs from 2010/11 onwards).
  - (iv) The payability and/or reasonableness of service charges for the years 2006/7 onwards relating to Block Communal Electricity.
  - (v) The payability and/or reasonableness of service charges from 2006/7 onwards relating to the Management Fee.
  - (vi) The payability and/or reasonableness of service charges in the year 2009/10 relating to Estate Sundry Repairs.
  - (vii) The payability and/or reasonableness of service charges in the year 2010/11 relating to Block Door Entry Maintenance.
  - (viii) The payability and/or reasonableness of estimated service charges for the year 2011/12.

8. The Applicant, upon making an oral application, was granted permission to add the annual cost of insurance and the annual accounts certification fee to the items referred to the Tribunal for determination. The reasonableness and/or payability of these sums was not disputed by the Respondent. For the avoidance of doubt, the Tribunal was not asked to determine the reasonableness and/or payability of any reserve fund contributions which have been demanded by the Applicant.
9. Having heard evidence and submissions from the parties and having considered the relevant documents, the Tribunal has made determinations on the various issues as follows.

#### **Service Charge Year 2005/06**

10. The Applicant claims by way of service charge for the year 2005/06 the sum of £548.28 comprising the sum of £475.23 set out in its application notice plus the Respondent's contribution to the cost of insurance in the sum of £66 and the Respondent's contribution to the cost of the Accounts Certification Fee in the sum of £7.05.

#### **The Tribunal's decision**

11. The Tribunal determines that the amount payable in respect of these items is £520.87.

#### **Reasons for the Tribunal's decision**

##### **Block Lift Maintenance**

12. In its application notice, the Applicant claims a sum in respect of block lift maintenance in respect of each of the relevant years. However, during the course of the hearing, the Applicant conceded that the Respondent is not obliged to contribute to the cost of Block Lift Maintenance under the terms of his lease. Accordingly the sum of £27.41 claimed by the Applicant in respect of Block Lift Maintenance in this year is not payable.

##### **Estate Refuse Disposal**

13. By Clause 3(a) of the Lease, the Respondent is required to pay the service charge contributions as set out in Part I of the Third Schedule to the Lease. By clauses 6 and 7 of the Part I of the Third Schedule, the service charge includes the Respondent's contribution to all costs and expenses of or

incidental to providing the services specified in sub-clause 4(5) of the Lease. The services specified in sub-clause 4(5) include refuse disposal.

14. The sum claimed by the Applicant in respect of refuse disposal relates to the provision of a second weekly refuse collection, in addition to the weekly collection arranged by the Council. The Respondent disputes this charge on the grounds that there is no need for a second weekly collection because there is enough space in the skips to accommodate two weeks' worth of rubbish. He also gave evidence that he had never seen the second weekly rubbish collection and he did not accept that such a collection actually took place.
15. Mr Cavanagh gave evidence that there is a second weekly refuse collection. He stated that he had personally seen two refuse collections in the same week and he referred the Tribunal to one of the invoices received by the Applicant from Southwark Council in respect of the second weekly collections which states "second weekly collection of refuse @ Dawson Heights".
16. Mr Cavanagh also gave evidence that Dawson Heights is a large estate; that the rubbish skips are full part way through the week; and that, if there were no second collection, the estate would be an unpleasant place in which to live.
17. The Tribunal accepts the Applicant's evidence that a second weekly refuse collection is reasonably required and that such a collection takes place. The Tribunal finds that the costs claimed in respect of the second weekly refuse collection were reasonably incurred in respect of each of the years in question.

### **Estate Cleaning**

18. By Clause 3(a) of the Lease, the Respondent is required to pay the service charge contributions as set out in Part I of the Third Schedule to the Lease. By clauses 6 and 7 of the Part I of the Third Schedule, the service charge includes the Respondent's contribution to all costs and expenses of or incidental to providing the services specified in sub-clause 4(5) of the Lease. The services specified in sub-clause 4(5) include the cleaning of common areas.
19. The Respondent argued that the sum charged by the Applicant in respect of estate cleaning is unreasonably high when compared to the hourly rate paid to the cleaners of residential premises. However, he only took into account the amount which the cleaner would *receive* per hour but did not take into account the additional costs to the employer of employing cleaning staff such as sickness benefits etc.
20. Mr Cavanagh gave evidence that there are two cleaners and three residential caretakers who are employed to carry out work in Dawson Heights. The proportion of the caretakers' salaries which is attributable to work carried out in connection with the common parts (as opposed to maintenance work within

dwelling occupied by periodic tenants) is charged under the headings estate cleaning/estate staff costs.

21. The Respondent contended that the cleaning could be carried out by fewer employees and that the caretakers are rarely involved in cleaning other than picking up rubbish.
22. The Tribunal, applying its expert knowledge and experience, finds that the charges for cleaning are reasonable for a block of the type in which the Property is situated (which, as stated above, contains 148 flats) including in the years in which the estate cleaning/estate staff costs rose. Accordingly, the Tribunal finds that these charges were reasonably incurred in respect of each of the years in question.

### **Conclusion**

23. The sum of £27.41 charged in respect of Block Lift Maintenance in this year must be deducted from the sum of £548.28 (the total amount which has referred for determination in these proceedings). Accordingly, the Tribunal finds that the balance of £520.87 is payable.

### **Service Charge Year 2006/07**

24. The Applicant claims by way of service charge for the year 2006/07 the sum of £742.36 comprising the total of £681.31 set out in the Applicant's application notice plus the Respondent's contribution to the cost of insurance in the sum of £54.00 and the Respondent's contribution to the cost of the Accounts Certification Fee in the sum of £7.05.

### **The Tribunal's decision**

25. The Tribunal determines that the amount payable in respect of these items is £709.34.

### **Reasons for the Tribunal's decision**

#### **Block Lift Maintenance**

26. For the reasons set out above, the Tribunal finds that the sum of £33.02 claimed by the Applicant in respect of Block Lift Maintenance in this year must be deducted from the sum of £742.36 (the total amount which has been referred for determination in these proceedings).

#### **Estate Refuse Disposal**

27. For the reasons set out above, the Tribunal finds that the sum claimed in respect of refuse disposal is payable and reasonably incurred.

### **Estate Cleaning**

28. For the reasons set out above, the Tribunal finds that the sum claimed in respect of estate cleaning is payable and reasonably incurred.

### **Block Communal Electricity**

29. By Clause 3(a) of the Lease, the Respondent is required to pay the service charge contributions as set out in Part I of the Third Schedule to the Lease. By clauses 6 and 7 of the Part I of the Third Schedule, the service charge includes the Respondent's contribution to all costs and expenses of or incidental to providing the services specified in sub-clause 4(5) of the Lease. The services specified in sub-clause 4(5) include estate lighting.
30. The Respondent was, understandably, concerned by the rise in Block Communal Electricity charges (i.e. estate lighting charges) in this year and by subsequent fluctuations in the charges for electricity. The electricity charges rose from £27.80 in 2005/06 to £123.06 in 2006/07. The Respondent also argued that the charges were too high when compared to his personal electricity bills.
31. Mr Cavanagh explained that that the electricity charges fluctuated because of discrepancies between the estimated and the actual charges which resulted in credits in some years and also because invoices relating to electricity consumed in 2005/06 were not received until 2006/07. The Tribunal notes that, if regular electricity meter readings had taken place, the estimated charges should have been in line with the actual charges and the fluctuations in the bills should not have occurred.
32. However, applying its expert knowledge and experience, the Tribunal finds that the charges for electricity are reasonable for a block of the type in which the Property is situated (which, as stated above, contains 148 flats) when account is taken of the fact that charges in respect of one year have, in some instances, been paid in the following year. Accordingly, the Tribunal finds that the electricity charges were reasonably incurred in respect of each of the years in question.

### **The Management Fee**

33. By Clause 3(a) of the Lease, the Respondent is required to pay Service Charge contributions as set out in Part I of the Third Schedule to the Lease. By clauses 6, 7(6) and 7(7) of the Part I of the Third Schedule, the service

charge includes the Respondent's contribution to all costs and expenses of and incidental to the management of the building in which the Property is situated and the estate and all costs and expenses of and incidental to the employment of any managing agents.

34. The management fee rose considerably from £27.41 in 2005/06 to £124.98 in 2006/07. The Respondent argues that the 2006/07 management fee is too high when compared with the management fees charged in previous years. He states that a reasonable management fee would be in the region of £30. However, he accepts that he does not know the market level of management fees and that his argument was based solely on the rate of increase.
35. Mr Cavanagh gave evidence that the Applicant had been under charging prior to April 2006 when it decided to bring the management fee in line with the standard management fee charged to its leaseholders on other estates. He explained that the cost of a lot of the work carried out by the Applicant had not previously been passed on to leaseholders. He gave evidence that the Applicant provides an estate surgery; that it carries out estate inspections every two months; and that letters are sent out regarding issues on the estate. Mr Cavanagh stated that the average fee for employing a managing agent in the social housing sector is £150 per flat.
36. Applying its expert knowledge and experience, the Tribunal finds that the management fee of £27.41 charged in the year 2005/06 was well below the market rate and that the management fees in subsequent years are reasonable. Accordingly, the Tribunal finds that the management fees were reasonably incurred in respect of each of the years in question.

### **Conclusion**

37. The sum of £33.02 charged in respect of Block Lift Maintenance in this year must be deducted from the sum of £742.36 (the total amount which has referred for determination in these proceedings). Accordingly, the Tribunal finds that the balance of £709.34 is payable.

### **Service Charge Year 2007/08**

38. The Applicant claims by way of service charge for the year 2007/08 the sum of £694.51 comprising the total of £633.46 set out in the Applicant's application notice plus the Respondent's contribution to the cost of insurance in the sum of £54.00 and the Respondent's contribution to the cost of the Accounts Certification Fee in the sum of £7.05.

### **The Tribunal's decision**



39. The Tribunal determines that the amount payable in respect of these items is £679.14.

### **Reasons for the Tribunal's decision**

#### **Block Lift Maintenance**

40. For the reasons set out above, the Tribunal finds that the sum of £15.37 claimed by the Applicant in respect of Block Lift Maintenance in this year must be deducted from the sum of £694.51 (the total amount which has been referred for determination in these proceedings).

#### **Estate Refuse Disposal**

41. For the reasons set out above, the Tribunal finds that the sum claimed in respect of refuse disposal is payable and reasonably incurred.

#### **Estate Cleaning**

42. For the reasons set out above, the Tribunal finds that the sum claimed in respect of estate cleaning is payable and reasonably incurred.

#### **Block Communal Electricity**

43. For the reasons set out above, the Tribunal finds that the sum claimed in respect of block communal electricity is payable and reasonably incurred.

#### **The Management Fee**

44. For the reasons set out above, the Tribunal finds that the management fee is payable and was reasonably incurred.

#### **Conclusion**

45. The sum of £15.37 charged in respect of Block Lift Maintenance in this year must be deducted from the sum of £694.51 (the total amount which has been referred for determination in these proceedings). Accordingly, the Tribunal finds that the balance of £679.14 is payable.

### **Service Charge Year 2008/09**

46. The Applicant claims by way of service charge for the year 2008/09 the sum of £732.57 comprising the total of £670.93 set out in its in the Applicant's application notice plus the Respondent's contribution to the cost of insurance in the sum of £54.00 and the Respondent's contribution to the cost of the Accounts Certification Fee in the sum of £7.64.

### **The Tribunal's decision**

47. The Tribunal determines that the amount payable in respect of these items is £716.98.

### **Reasons for the Tribunal's decision**

#### **Block Lift Maintenance**

48. For the reasons set out above, the Tribunal finds that the sum of £15.59 claimed by the Applicant in respect of Block Lift Maintenance in this year must be deducted from the sum of £732.57 (the total amount which has been referred for determination in these proceedings).

#### **Estate Refuse Disposal**

49. For the reasons set out above, the Tribunal finds that the sum claimed in respect of refuse disposal is payable and reasonably incurred.

#### **Estate Cleaning**

50. For the reasons set out above, the Tribunal finds that the sum claimed in respect of estate cleaning is payable and reasonably incurred.

#### **Block Communal Electricity**

51. For the reasons set out above, the Tribunal finds that the sum claimed in respect of block communal electricity is payable and reasonably incurred.

#### **The Management Fee**

52. For the reasons set out above, the Tribunal finds that the management fee is payable and was reasonably incurred.

#### **Conclusion**

53. The sum of £15.59 charged in respect of Block Lift Maintenance in this year must be deducted from the sum of £732.57 (the total amount which has been referred for determination in these proceedings). Accordingly, the Tribunal finds that the balance of £716.98 is payable.

### Service Charge Year 2009/10

54. The Applicant claims by way of service charge for the year 2009/10 the sum of £842.52 comprising the total of £768.77 set out in the Applicant's application notice plus the Respondent's contribution to the cost of insurance in the sum of £66.00 and the Respondent's contribution to the cost of the Accounts Certification Fee in the sum of £7.75.

### The Tribunal's decision

55. The Tribunal determines that the amount payable in respect of these items is £813.08.

### Reasons for the Tribunal's decision

#### **Block Lift Maintenance**

56. For the reasons set out above, the Tribunal finds that the sum of £20.74 claimed by the Applicant in respect of Block Lift Maintenance in this year must be deducted from the sum of £842.52 (the total amount which has been referred for determination in these proceedings).

#### **Estate Refuse Disposal**

57. For the reasons set out above, the Tribunal finds that the sum claimed in respect of refuse disposal is payable and reasonably incurred.

#### **Estate Cleaning**

58. For the reasons set out above, the Tribunal finds that the sum claimed in respect of estate cleaning is payable and reasonably incurred.

#### **Block Communal Electricity**

59. For the reasons set out above, the Tribunal finds that the sum claimed in respect of block communal electricity is payable and reasonably incurred.

#### **The Management Fee**

60. For the reasons set out above, the Tribunal finds that the management fee is payable and was reasonably incurred.

#### **Estate Sundry Repairs**

61. By Clause 3(a) of the Lease, the Respondent is required to pay Service Charge contributions as set out in Part I of the Third Schedule to the Lease. By clauses 6 and 7(6) of the Part I of the Third Schedule, the service charge includes the Respondent's contribution to the costs and expenses of and incidental to the maintenance of the building in which the Property is situated and the estate.
62. In respect of this service charge year, the Respondent challenged a specific item of work set out in an invoice dated 5<sup>th</sup> March 2010 from WWW Electrical Contractors to the Applicant in respect of communal electrical repairs in the sum of £2,680. He stated that a reasonable charge for the work would be 50% of the sum claimed in this invoice.
63. Mr Cavanagh explained that invoice relates to repairs which were carried out to faulty lights on the estate. The invoice does not specify the work in any detail; Mr Cavanagh accepted that no tendering process was carried out before instructing WWW Electrical Contractors; and he stated that there was no post-inspection of this work.
64. The Tribunal is not satisfied that any adequate cost control measures were put in place by the Applicant in respect of this work and, in the absence of any alternative evidence, the Tribunal accepts the Respondent's account that the reasonable charge for this work would be 50% of the sum claimed. The Respondent's share of this bill is £17.40 and, accordingly, the sum of £8.70 falls to be deducted from the sum charged to the Respondent in respect of sundry expenses in this service charge year.
65. However, the Tribunal accepts the Applicant's evidence that this was an isolated instance in which the Applicant needed to obtain a contractor at short notice. Mr Cavanagh gave evidence that he is "more than confident that this was a one off" and that appropriate cost control measures were put in place in respect of other items of expenditure.

### **Conclusion**

66. The sum of £20.74 charged in respect of Block Lift Maintenance in this year and the sum of £8.70 referred to above under the heading Estate Sundry Repairs must be deducted from the sum of £842.52 (the total amount which has referred for determination in these proceedings). Accordingly, the Tribunal finds that the balance of £813.08 is payable.

### **Service Charge Year 2010/11**

67. The Applicant claims by way of service charge for the year 2009/10 the sum of £958.10 comprising the total of £884.35 set out in the Applicant's application notice plus the Respondent's contribution to the cost of insurance in the sum of £66.00 and the Respondent's contribution to the cost of the Accounts Certification Fee in the sum of £7.75.

### The Tribunal's decision

68. The Tribunal determines that the amount payable in respect of these items is £938.38.

### Reasons for the Tribunal's decision

#### **Block Lift Maintenance**

69. For the reasons set out above, the Tribunal finds that the sum of £19.72 claimed by the Applicant in respect of Block Lift Maintenance in this year must be deducted from the sum of £958.10 the total amount which has been referred for determination in these proceedings.

#### **Estate Refuse Disposal**

70. For the reasons set out above, the Tribunal finds that the sum claimed in respect of refuse disposal is payable and reasonably incurred.

#### **Estate Cleaning**

71. For the reasons set out above, the Tribunal finds that the sum claimed in respect of estate cleaning is payable and reasonably incurred.

#### **Block Communal Electricity**

72. For the reasons set out above, the Tribunal finds that the sum claimed in respect of block communal electricity is payable and reasonably incurred.

#### **The Management Fee**

73. For the reasons set out above, the Tribunal finds that the management fee is payable and was reasonably incurred.

#### **Block door entry maintenance**

74. The Respondent argued that the charge of £15.33 in respect of block door maintenance was too high. Mr Cavanagh explained that there had been an increase in vandalism to the communal door and that repairs were also necessary due to the age of the system.
75. Applying its expert knowledge and experience, the Tribunal finds that the sum charged in respect of block door entry maintenance in this year was reasonable.

## **Conclusion**

76. The sum of £19.72 charged in respect of Block Lift Maintenance in this year must be deducted from the sum of £958.10 (the total amount which has referred for determination in these proceedings). Accordingly, the Tribunal finds that the balance of £938.38 is payable.

### **Estimated Service Charge for the year 2011/12**

77. The Respondent claims the sum of £850.20 is payable by the Applicant on account of estimated service charges in respect of the service charge year 2011/12.

### **The Tribunal's decision**

78. The Tribunal determines that the sum of £850.20 is payable by the Applicant on account of estimated service charges in respect of the service charge year 2011/12.

### **Reasons for the Tribunal's decision**

79. By Clause 2 of Part I of the Third Schedule to the Lease, the Respondent is required to pay an estimated service charge by equal quarterly payments on 1<sup>st</sup> April, 1<sup>st</sup> July, 1<sup>st</sup> October and 1<sup>st</sup> January in each year.
80. The Tribunal finds that the estimated service charge for the year 2011/12 is reasonable having regard to the previous years' accounts and to the Tribunal's expert knowledge of the likely costs of maintaining and managing a 148 flat block.

### **Application under s.20C and refund of fees**

81. No application was made by the Respondent under section 20C of the Landlord and Tenant Act 1985. However, the Tribunal notes that the Applicant stated that it would not pass any of its costs incurred in connection with the proceedings before the Tribunal through the service charge. No application was made for a refund of the fees which the Applicant paid in respect of the application/hearing.

Chairman:

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Naomi Hawkes

Date:

3.7.12



## Appendix of relevant legislation

### Landlord and Tenant Act 1985

#### Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a Tenant of a dwelling as part of or in addition to the rent -
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the Landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the Landlord, or a superior Landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
  - (a) "costs" includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

#### Section 19

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

#### Section 27A

- (1) An application may be made to a Leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.



- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
  - (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
  - (a) has been agreed or admitted by the Tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the Tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

### **Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or leasehold valuation tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
  - (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

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

### **Leasehold Valuation Tribunals (Fees)(England) Regulations 2003**

#### **Regulation 9**

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).