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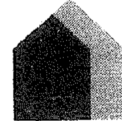

LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985

Case Reference:	LON/00BG/LSC/2012/0359
Premises:	18 SELBY STREET, LONDON, E1 5BX
Applicant:	MR. DAVID MATTHEW HORNE
Representative:	IN PERSON
Respondent:	SELBY BLOCK MANAGEMENT CO LTD
Representative:	PARC PROPERTIES MANAGEMENT LTD
Date of hearing:	30 AUGUST 2012
Appearance for Applicant:	IN PERSON
Appearance for Respondent:	MR. HOOMAN VAHABI (FINANCE DEPARTMENT) OF PARC PROPERTIES MANAGEMENT LTD
Leasehold Valuation Tribunal:	MR. L RAHMAN (BARRISTER) MISS KRISKO BSC (EST. MAN.) BA FRICS MR. L G PACKER
Date of decision:	13 SEPTEMBER 2012

Decisions of the Tribunal

(1) The Applicant's share of the yearly service charge is 10.16% of the total cost of services provided by the Respondent under the lease.

(2) The Tribunal determines the following is payable by the Applicant in respect of the service charges; 2008 - £591.82, 2009 - £690.17, 2010 - £916.59, 2011 - £712.83, and 2012 - £828.04.

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

(4) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of the Tribunal proceedings may be passed to the Applicant through any service charge.

(5) The Tribunal determines that the Respondent shall pay the Applicant £350 within 28 days of this Decision, in respect of the reimbursement of the Tribunal fees paid by the Applicant.

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 Applicant in respect of the service charge years 2008, 2009, 2010, 2011, and the estimated charge for 2012.

2. The application was received by the Leasehold Valuation Tribunal on 28th May 2012. A Pre-Trial Review took place on 28th June 2012 (the Respondent was represented by Mr. Plunkett, the Applicant did not attend).

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

The hearing

4. The Applicant appeared in person and was accompanied by his partner (Lydia Pevsner, who did not give any evidence). The Respondent was represented by Mr. Hooman Vahabi from Parc Properties Management Ltd. Mr. Plunkett, who attended at the Pre-Trial Review, was due to attend on behalf of the Respondent but had to cancel at the last moment. Mr Vahabi confirmed he was from the Finance Department and was aware of the Respondents accounts and would be able to help with the service charge demands and the associated accounts. Mr Vahabi stated he had been to the relevant property twice. His most recent visit was more than a year ago. There was no application from the Respondent to have the hearing adjourned.

5. Immediately prior to the hearing the Applicant handed in further documents, namely a bundle containing correspondence between himself and Parc Properties Ltd (A1-A33), various photographs of the property (B1-B6), and further submissions in support of his application (C1-C9). The start of the hearing was delayed while the Tribunal and Mr Vahabi considered these new documents. Mr Vahabi helpfully did not object to the late service of these documents by the Applicant. During the course of the hearing, it became apparent that various relevant items of evidence from the Respondent had not been served in advance of the hearing. Mr Vahabi submitted an additional bundle (34 pages) partway through the hearing. The Applicant was given an opportunity to consider the additional evidence. The Applicant also helpfully did not object to the late service of the additional evidence.

The background

6. The property which is the subject of this application is a 3 bedroom semi-detached property over 2 floors (including the ground floor). It is joined to a block containing 7 flats over 4 floors including the ground floor (the top floor has 1 flat and there are 2 flats on each of the remaining floors). The Applicant's property has a rear garden, as do the 2 ground floor flats in the adjoining block. The Applicant has a small front area between his property and the pavement, with railings, giving access to his property. The adjoining block also has a similar front area, with railings, providing access to the block, leading into a communal lobby area and stairs leading to the upper floors. There is a railing separating the Applicant's front area and the area in front of the block. To the right of the Applicant's property is a communal refuse area for the Applicant as well as the occupants of the adjoining flats.

7. The rear garden directly behind the Applicant's property and the railed area to the front of the Applicant's property are part of his demised premises (paragraph 4 of the Particulars and clause 1.19 of the underlease). The "Building" (meaning the block of 7 flats and the Applicants house) and the communal areas are let to the Respondent by the Superior Landlord, Ronald John Woodman (paragraph 3 of the Particulars and clause's 1.4-1.6).

8. The Applicant purchased the underlease on 7th November 2007 and has continuously lived there since. One of the conditions of the underlease was that the Applicant had to agree to take up membership of the Respondent (clause 7). The Applicant accordingly became a member. He is not sure whether the other tenants are also members of the Respondent. He assumes they are members as his membership number is 8 and he was the last to join. According to the Respondent's Company Accounts, the Superior Landlord is one of its Directors and Parc Properties Management Ltd is its Secretary. Mr Vahabi confirmed Parc Properties Management Ltd have been managing the building since early 2007.

9. Photographs of the building were provided at the hearing. 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.

remaining 7 flats paid various percentages under both the Schedules. The costs under Schedule 1 were divided amongst the 8 properties. The percentages paid by the different properties totalled 100%. The costs under Schedule 2 were divided amongst the 7 flats and the various percentages paid by each flat totalled 100%.

15. The service charge was calculated in this manner because the Applicant explained he was unhappy to pay for costs in relation to the block, which he had no need to enter or use. When purchasing the lease, through his lawyers, he negotiated this particular method for calculating his contribution towards the service charge. But this was not in fact carried through to a written agreement. There was just an oral understanding. The Applicant stated he could not recall what his lawyers had advised him, at the time, so far as what was stipulated in the lease. The Applicant stated he had initially been happy with the revised basis of the allocation and had paid the service charges that were demanded under this arrangement. However, he was not happy with the amounts he was now paying and wanted to "sort it out". The Applicant stated in his application that he was only required to pay 10.16% according to the lease. The Applicant stated he should only have to pay 10.16% of the costs under Schedule 1.

16. Mr Vahabi confirmed the history of the arrangement. He stated that Parc Properties had recommended to its lawyers that the lease be changed in line with the proportions which the Applicant's lawyers had arrived at, and assumed the lawyers had changed the lease as instructed. However, they realised in early 2011 that the lease had not been amended. Parc Properties did not notify any of the leaseholders about this. They have since recalculated the previous service charges, based upon the wording of the lease. Mr Vahabi stated the other flat owners were now aware of the new calculations. Although some were liable to pay more under the new calculation, they have not complained about the new figures. Mr Vahabi states the Applicant is liable to pay 10.16% of the total costs under Schedules 1 and 2, not merely 10.16% of the costs under Schedule 1.

The Tribunal's decision

17. The Tribunal determines that the amount payable under the lease is 10.16% of the total costs as argued by Mr. Vahabi.

Reasons for the Tribunal's decision

18. According to the lease, the service charge percentage payable by the Applicant is 10.16% (as set out in the Particulars). The "Service Charge" is defined as the service charge of the "Annual Expenditure" (Clause 1.23). The Annual Expenditure is defined as "all costs expenses and outgoings whatever reasonably and properly incurred by the Landlord during a financial year in or incidental to providing all or any of the services and all sums reasonably and properly incurred by the Landlord during a financial year in relation to the

cleans per year. The Applicant provided a quote from a cleaning company (page C9 of his bundle). The Applicant confirmed he did not ask the company to provide a quote for cleaning of the outside on a monthly basis and his quote did not include VAT.

24. Mr. Vahabi referred the Tribunal to pages 326, 328, 330, 335, and 337 of the bundle. The Applicant stated he accepts the invoice on page 328 for the sum of £150 for the removal of rubbish. Each remaining page provides an invoice in the sum of £390 (including VAT) for cleaning of the communal area's (inside and outside) over a 3 month period. Mr. Vahabi confirmed (and the Applicant did not have any evidence to the contrary) that Parc Properties did not have any links with the cleaning company or with any of the other contractors. The cleaning was done once every 3 weeks. Parc Properties visit at least once a month, if not more, to check the cleaning.

25. The Tribunal determines the Respondent's cleaning cost to be reasonable and proportionate. Based upon the Applicant's own quote (£80 multiplied by 12 and £75 multiplied by 2), the cost would be £1,110 excluding VAT. The Respondents charge of £1,710 is inclusive of VAT and includes the regular cleaning of the outside, including the refuse area, which the Tribunal determine would need regular cleaning. Cleaning the refuse area only twice a year, as suggested by the Applicant, would be inappropriate and a potential health hazard.

26. Based upon the Tribunal's own knowledge and experience, the Tribunal estimate the cleaning of the internal lobby would require at least 11/2 hours every fortnight, at a cost of about £30 per hour (including insurance and cleaning products etc.) The Tribunal estimate that just the cost of cleaning the inside equates to £1,170 (excluding VAT). Considering the costs of cleaning the windows and the refuse area, the Respondent's total cost of £1,710, inclusive of VAT, is at the lower end.

Accountancy

27. Mr. Vahabi stated the actual accountancy cost was £885.50 (invoice on page 311). This was for the preparation of the service charge account and the Respondent's company accounts for filing at Companies House. Mr. Vahabi was unable to explain what percentage of the cost related to the preparation of the service charge account and what percentage related to the preparation of the company accounts. After contacting his office, Mr. Vahabi was still unable to clarify the matter. He stated there was a single invoice for preparation of both the accounts. Mr. Vahabi stated his guess was that 70-75% of the cost related to the preparation of the service charge account because it involved more work.

28. Mr. Vahabi stated the remainder of the accountancy figure for 2008 comprised of an administration charge of £381.88 and interest of £157.72 (due to late payment of service charge). The interest payment was an income to the

company. The Tribunal was not referred to any evidence concerning these figures in the bundle. In any event, Mr Vahabi clarified that the individual tenant responsible for the late payment of the service charge pays for this. In the circumstances, Mr Vahabi agreed that other service charge payers, including the Applicant, should not be charged for this.

29. The Applicant stated he did not have a view on the accountancy cost provided by Mr. Vahabi but would leave it to the discretion of the Tribunal.

30. The Tribunal note the lease does not provide for the recovery, by way of a service charge, of the Respondent's costs of preparing and filing its company accounts. The accounts that have been prepared are not service charge accounts but the Respondent's unaudited profit and loss account. The Respondent has not been able to provide a breakdown of the costs involved in providing the service charge figures. Mr. Vahabi was only able to "guess" a 70-30% split. The Tribunal note the limited number of bills and invoices concerning the service charge account. In the circumstances, applying the Tribunals own knowledge and experience of such matters, the Tribunal determines £500 to be a reasonable amount payable for the accountancy costs relating to the service charge accounts.

Secretarial costs

31. Mr. Vahabi referred the Tribunal to page 325 of the bundle. The invoice shows these costs were incurred purely in relation to the Respondent's company accounts. This cost is not recoverable as a service charge under the lease. Mr. Vahabi did not seek to argue to the contrary.

Management fee

32. The Applicant argued the fee was unreasonable. He thought it should be half the amount charged. The Applicant did not have any quotes from other management agents.

33. The Tribunal note the cost per unit was about £211 before VAT. The actual cost to the Applicant is about £170. Using the Tribunal's knowledge and experience of such matters, the Tribunal find this a reasonable amount.

The Tribunal's decision

34. For the reasons given, the Tribunal determine the service charge payable by the Applicant for 2008 is £591.82 (Insurance £1,017, light and heat £123, repairs and renewals £83, cleaning £1,710, sundry expenses £1, accountancy £500, management fees £1,691, and the contribution towards the sinking fund £700, giving a total of £5,825, of which the Applicant is liable to pay 10.16%).

Service Charge Year 2009

35. Mr Vahabi referred the Tribunal to page 189. The actual costs for this year were £8,463 (Insurance £1,306, light and heat £125, repairs and renewals £525, cleaning £1,946, accountancy £997, secretarial costs £650, administration charges £523, management fees £1,691, and £700 for the sinking fund). The Applicant took issue with the following items of cost.

Repairs and renewals

36. The Applicant wanted to see the invoices for the works that had been done. Mr. Vahabi referred the Applicant to pages 305 (£74.75), 316 (£223.10), 319 (£90.00), and 321 (£136.74). Having looked at the invoices, the Applicant confirmed the costs had been incurred and were reasonable and payable under the lease.

Cleaning

37. The Applicant stated the costs were too high. He relied upon the same reasons he had given for the previous year. Mr. Vahabi referred the Tribunal to the relevant invoices for the cost of cleaning the windows (pages 303, 309, 313, and 319) and the cost of cleaning the internal parts of the block (pages 299, 308, 312, and 317). The Applicant stated he accepts all the invoices add up, he accepts the cost of cleaning the windows were reasonable, but the Respondent had paid too much for the cost of the internal cleaning. The Tribunal determine the overall costs for cleaning to be reasonable and payable for the same reasons given for the cleaning costs concerning the previous service charge year.

Accountancy

38. The Applicant and the Respondent relied upon the same arguments as for the previous service charge year. The Tribunal determines, for the same reasons given as for the previous year, £500 to be a reasonable amount payable for the accountancy costs.

Secretarial costs

39. Mr. Vahabi confirmed these costs were incurred purely in relation to the Respondent's company accounts. This is not recoverable as a service charge under the lease. Mr. Vahabi did not seek to argue to the contrary.

Administration charges

40. Mr. Vahabi stated the costs are in relation to the late payment of service charges. Mr Vahabi clarified that the individual tenant responsible for the late payment of the service charge pays for this. In the circumstances, Mr Vahabi agreed that other service charge payers, including the Applicant, should not be charged for this.

Management fees

41. The Applicant raised the same argument as for the previous year. The Tribunal determine the Management fee to be reasonable and payable for the same reasons given as for the previous year.

The Tribunal's decision

42. For the reasons given, the Tribunal determines the service charge payable by the Applicant for 2009 is £690.17 (Insurance £1,306, light and heat £125, repairs and renewals £525, cleaning £1,946, accountancy £500, management fees £1,691, and the contribution towards the sinking fund £700, giving a total of £6,793, of which the Applicant is liable to pay 10.16%).

Service Charge Year 2010

43. Mr Vahabi referred the Tribunal to page 189. The actual costs for this year was £11,539 (Insurance £1,039, light and heat £137, redecoration £3,820, repairs and renewals £153, cleaning £1,951, sundry expenses £1, accountancy £801, secretarial costs £664, administration charges £195, management fees £1,780, and £1,000 for the sinking fund). The Applicant took issue with the following items of cost.

Redecoration

44. Mr Vahabi referred the Tribunal to page 286. He explained the painting and decorating works to 16 Cornerstone Court was a reference to 1-8 Selby Street. The cost of the total work was £3250.80. With the addition of VAT, the cost was £3,820. Mr. Vahabi stated all the internal communal areas were painted, including the front door, all the stairs and each of the landings, the railings, the skirting boards, and the ceilings on each floor.

45. The Applicant stated at the hearing he accepts the works were done and it may well have cost £3,820. However, he believed it was a simple job and could have been done for £2,000. The Applicant stated he had not been consulted on the matter therefore his contribution should only be £250. Mr. Vahabi agreed the tenants should have been consulted but were not. He stated he accepts the Applicant should only pay £250.

46. The Tribunal determines the Applicant should have been consulted on this matter. In the absence of a proper consultation process the Applicant's contribution is capped at £250.

Repairs and renewals

47. Mr Vahabi referred the Applicant to invoices on pages 288 and 299. Having looked at the invoices, the Applicant accepted the amount was reasonable and payable under the lease.

Cleaning

48. The Applicant stated the costs were too high. He relied upon the same reasons he had given for the previous years. Mr. Vahabi referred the Tribunal to the relevant invoices. The Tribunal determines the overall costs for cleaning to be reasonable and payable for the same reasons given for the cleaning costs concerning the previous service charge years.

Accountancy

49. The Applicant and the Respondent relied upon the same arguments as for the previous service charge years. The Tribunal determines, for the same reasons given as for the previous years, £500 to be a reasonable amount payable for the accountancy costs.

Secretarial costs and administration charges

50. Mr. Vahabi confirmed the secretarial costs were incurred purely in relation to the Respondent's company accounts. This was not recoverable as a service charge under the lease. Mr. Vahabi did not seek to argue to the contrary. Mr. Vahabi stated the administration charges are in relation to the late payment of service charges. Mr Vahabi clarified that the individual tenant responsible for the late payment of the service charge pays for this. In the circumstances, Mr Vahabi agreed that other service charge payers, including the Applicant, should not be charged for this.

Management fees

51. The Applicant raised the same argument as for the previous years. Although the management fee had increased by nearly £100 compared to the previous years, the Tribunal determines the Management fee to be reasonable and payable for the same reasons as given for the previous years.

The Tribunal's decision

52. For the reasons given, the Tribunal determines the service charge payable by the Applicant for 2010 is £916.59 (Insurance £1,039, light and heat £137, repairs and renewals £153, cleaning £1,951, sundry expenses £1, accountancy £500, management fees £1,780, and the contribution towards the sinking fund £1,000, giving a total of £6,561, of which the Applicant is liable to pay 10.16% (equates to £666.59). (The Applicant also contributes £250 towards the cost of the redecoration).

Service Charge Year 2011

53. Mr Vahabi referred the Tribunal to page 30 of the additional bundle he provided to the Tribunal partway through the hearing. The actual costs for this year was £8,351 (Insurance £985, light and heat £140, repairs and renewals £513, cleaning £2,003, accountancy £798, company running costs £1,037, management fees £1,865, bank charges £10, and £1,000 for the sinking fund). The Applicant took issue with the following items of cost.

Cleaning, company running costs, management fees, and the accountancy fees

54. The Applicant relied upon the same arguments as raised for the previous service charge years.

55. For the same reasons given by the Tribunal in relation to the same arguments raised in the earlier service charge years, the Tribunal determines the costs concerning the cleaning and management fees are reasonable and payable under the lease, the accountancy fee should be £500, and the company running costs are not payable under the lease.

The Tribunal's decision

56. For the reasons given, the Tribunal determines the service charge payable by the Applicant for 2011 is £712.83 (Insurance £985, light and heat £140, repairs and renewals £513, cleaning £2,003, accountancy £500, management fees £1,865, bank charges £10, and the contribution towards the sinking fund £1,000, giving a total of £7,016, of which the Applicant is liable to pay 10.16%).

Service Charge Year 2012 - Estimate

57. The breakdown of the budget for the year is set out on page 44 of the bundle. The total amount is £9,715.00. Mr Vahabi confirmed the Company Administration costs of £765.00 and the Director & Officer Insurance cost of £375.00 should be struck out as they relate to the running costs of the Company and are not recoverable under the lease. Mr. Vahabi also confirmed the Auditors Fees (£925.00) should be amended according to the Tribunal's finding on the reasonable amount payable for the accountancy costs (the Tribunal have determined £500 as a reasonable sum). This gives an amended budget for the year totalling £8,150, which equates to £828.04 as the Applicant's share of the service charge.

58. The Tribunal note the Applicant's argument that the budget is too high. However, the Tribunal determines the budget to be a reasonable estimate for the service charges. The budget is broadly in line with the actual charges the Tribunal found reasonable and payable for the preceding years. Of course it is

open to the Applicant, with proper evidence, to challenge the actual costs when available, in the context of a Section 27A Application.

Application under s.20C and refund of fees

59. At the end of the hearing, the Applicant made an application under Regulation 9 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 for a refund of the fees that he had paid in respect of the application and hearing (£350 in total). Having heard the submissions from the parties and taking into account the determinations above, the Tribunal orders the Respondent to refund any fees paid by the Applicant within 28 days of the date of this decision.

60. At the hearing, the Applicant also applied for an order under section 20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the Tribunal through the service charge.

61. The Applicant stated he felt he had no alternative but to start proceedings to get a fair resolution to this problem. He had lost trust in the Respondent. Mr. Vahabi stated he would leave the matter at the Tribunal's discretion but pointed out the Applicant did not actually win, except in relation to the failure to consult. Mr. Vahabi stated the costs incurred by the Respondent would be added to the service charge but he was unable to state what the costs were.

62. The Tribunal accept that one of the issues, the percentage payable under the lease, had effectively been resolved prior to the hearing, albeit not to the Applicant's satisfaction. However, even after the figures had been adjusted by the Respondent, the Applicant still managed to have his service charge reduced further, and not by an insignificant amount. It was only at the hearing that the Respondent accepted that the Applicant should not have been charged for the secretarial costs and the administrative charges. The Respondent charged by way of service charge the full costs of the redecoration in 2010, even though it was admitted at the hearing the work had been done without proper consultation and should therefore have been capped at £250. The Respondent's accountancy costs were reduced by the Tribunal, by not an insignificant amount. It only became apparent to the Applicant at the hearing that the Respondent was automatically putting any excess from the budget for any given year into the sinking fund. Whilst the Respondent's intention may have been good, according to the lease, any excess should have been credited to the Applicant in the following service charge year.

63. The Respondent's bundle was difficult to understand. It was only at the hearing that Mr. Vahabi was able to explain a lot of the matters. For example,

the Respondent had not provided service charge accounts as required under the lease but had instead provided its company profit and loss accounts. When referred to the actual accounts for each year, it was apparent the accounts for 2008, 2009, and 2010 did not include the contributions made towards the sinking fund. The Respondent only provided the actual costs for 2011 partway through the hearing by producing the Respondent's profit and loss account for that year.

64. Although the issue, concerning the percentage payable under the lease, had been resolved prior to the hearing, the Tribunal note the Respondent had become aware of this in early 2011 yet failed to notify any of the leaseholders. When the Applicant raised the matter with the Respondent in February 2012, the Respondent replied they were in the process of obtaining the Applicant's lease from the solicitors to confirm the charge rate was correct, despite Mr Vahabi's evidence at the hearing that the Respondent became aware of this in early 2011. It was only on 21st June 2012 that the Respondent had accepted the Applicant was required to pay 10.16% (see letters on pages 48 and 102). The Respondent sent an invoice dated 1.1.12 for payment on account for the 1st half of 2012 (£768.56)(page 57). It states the Applicant was to pay 20.32% of Schedule 1 and 0% for Schedule 2. There is a further invoice dated 25.1.12 for payment on account for the 1st half of 2012 (page 124). It states the amount payable by the Applicant is 10.16% of Schedule 1, yet the figure is exactly the same as in the invoice dated 1.1.12. The letters are confusing.

65. A lot of matters needed clarification at the hearing. For all the above reasons, on balance, the Tribunal make the above orders in the Applicant's favour.

Chairman:

Date: 13/9/12

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 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Section 20C

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

(2) The application shall be made—
  (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  (aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
  (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
  (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

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

Leasehold Valuation Tribunals (Fees)(England) Regulations 2003

Regulation 9

(1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.

(2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
  (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
  (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
  (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or

(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
(a) specified in his lease, nor
(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Schedule 11, paragraph 2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Schedule 11, paragraph 5

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

(2) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
(a) in a particular manner, or
(b) on particular evidence,
of any question which may be the subject matter of an application under sub-paragraph (1).

Schedule 12, paragraph 10

(1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).

(2) The circumstances are where—
(a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
(b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.

(3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
(a) £500, or
(b) such other amount as may be specified in procedure regulations.

(4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.