

**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER [SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985] [&  
SCHEDULE 11 TO THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002]**

**Case Reference:** LON/00AT/LSC2012/0614

**Premises:** Flat 10 Thornbury Court, Church Road, Isleworth  
Middlesex TW7 4PP

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**Applicant(s):** Mr and Mrs F H Faizi (Leaseholder)

**Representative:** None

**Respondent(s):** Greenside Properties Limited (Freeholder)

**Representative:** SLC Solicitors

**Date of hearing:** 14 January 2013

**Appearance for Applicant(s):** Mr Faizi

**Appearance for Respondent(s):** Mr A Morrell – Solicitor  
Mr G Sandifer – HML Shaw Managing Agents

**Leasehold Valuation Tribunal:** Mrs N Dhanani LLB (Hons)  
Mrs J Davies  
Mrs J Clarke

**Date of decision:** 25 February 2013

### **Decisions of the Tribunal**

- (1) The Tribunal makes the determinations as set out under the various headings in this Decision.
- (2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the Tribunal proceedings may be passed to the lessees through any service charge.
- (3) The Tribunal makes no order for costs.

### **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 following service charge period:
  - (i) 22 October 2006 to 25 March 2007,
  - (ii) 26 March 2007 to 24 December 2007, and
  - (iii) 26 March 2011 to 25 March 2012.
2. In relation the periods referred to at paragraphs 1(i) and (ii) above the Applicants claim that although the amounts demanded have been paid, they still wish to challenge the amounts.
3. The Applicants challenge the quantum of the Management and Accountancy fees.
4. The Applicants claim the Insurance premium is excessive.
5. In relation to the period 26 March 2011 to 25 March 2012, the Applicants sought clarification that the tribunal decision dated 18 September 2012<sup>1</sup> covered all charges in respect of the major works and that the Respondent did not intend to charge any additional sum in relation to these works. Mr Morrell on behalf of the Respondent confirmed that the determination of previous tribunal covered the total sum in relation to the major works and the Respondent is not seeking to recover any additional sum in relation to these works. On the assurance given by Mr Morrell, Mr Faizi accepted that the matter had been determined by the previous tribunal and accordingly he withdrew this issue from his application.

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<sup>1</sup> Case reference LON/00AT/LSC/2012/0279 -Flat 10 Thornbury Court Church Road Isleworth TW7 4PP

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

### **The hearing**

7. Mr Faizi, the Applicant appeared in person and on behalf of Mrs Faizi at the hearing. The Respondent was represented by Mr Morrell and Mr Sandifer appeared on behalf of the Respondent.
8. The hearing was scheduled to commence at 10:00am, Mr Faizi was not in attendance at 10:00am and so the start of the hearing was delayed until 10:30am. The hearing commenced at 10:30am although Mr Faizi did not appear until 10:42. The Tribunal summarised the proceedings and the submissions made on behalf of the Respondent which had been heard prior to Mr Faizi's attendance and thereafter hearing continued as usual.

### **The background**

9. The property which is the subject of this application is a three bedroom flat situated on the ground floor of a purpose built block of flats. The block comprises a total of sixteen flats.
10. 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.
11. The Applicants hold 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 lease is dated 9 December 1986 and made between Ashfaq Ahmed Malik(1) and The Halliard Property Company Ltd (2) ("the Lease").
12. The Applicants as lessee covenant under clause 2(2) of the Lease to pay and contribute a proportionate part of the relevant expenses and outgoings of the Lessor determined according to the proportion the rateable value of the property as at 25 March in each year bears to the aggregate rateable values of the flats in the Building. The Respondent stated that the rateable value of the property to be 318 and the aggregate rateable values of the flats in the Building to be 4,928[223]. Accordingly the proportion attributable to the Applicants property is 0.0645 (6.45%) of the total and this was accepted by the Applicants.
13. Mr Faizi was a Director and Company Secretary of the Thornbury Court RTM Company and accordingly he was responsible for the management of Thornbury Court in the period prior to September 2006. On the 12 September 2006 Gracemiller &Co were appointed as managing agents for Thornbury

Court by the tribunal and on 1 December 2008 HML Shaw were appointed by the tribunal to manage Thornbury Court.<sup>2</sup>

### **The issues**

14. 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 22 October 2006 to 25 March 2007 relating to:
    - a. Management fees of £3010.00
    - b. Accountancy fees of £305.50
    - c. Repairs and Maintenance charges of £1886.54
    - d. Reserve fund
  - (ii) The payability and/or reasonableness of service charges for 26 March 2007 to 24 December 2007 relating to:
    - a. Insurance premium of £2522.66
    - b. Repairs of £2821.55
    - c. Management fee of £6815.00
    - d. Gardening charges of £2978.00
    - e. Reserve fund.

### **Matters Agreed**

15. Mr Faizi confirmed at the start of the hearing that he no longer challenged the Repairs and Maintenance charges, the Accountancy fees or the gardening charges.
16. Having heard evidence and submissions from the parties and considered all of the documents provided, the Tribunal has made determinations on the various issues as follows.

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<sup>2</sup> Case Reference LON/00AT/LAM/2006/0006 – Thornbury Court Church Road Isleworth TW7 4PP

## Service charges for 22 October 2006 to 25 March 2007

### Management fees of £3010.00

17. The Respondent claims these fees relate to the period when the block was managed by Gracemiller & Co. Mr Morrell referred to the draft management agreement [44-49] which sets out the agent's remuneration as £5800 per annum payable quarterly. He rejected the Applicants claim that the management fees were excessive and had tripled from the fees charged previously. Mr Morrell invited the Tribunal to bear in mind the background to the appointment of Gracemiller & Co, who were appointed to deal with a property which had suffered neglect. He relied on the decision of the tribunal dated 10 October 2006<sup>3</sup> [34-43] in particular paragraphs 6, 34 and 36 in support.
18. Mr Morrell stated that the Applicant's portion of the fee quoted in the draft management agreement is approximately £362.50, calculated by dividing up the total fee of £5800 equally between the 16 flats. He relied on the invoices produced in respect of the fees charged. Mr Morrell rejected the fee of £150 per flat plus VAT put forward by the Applicants on the ground that it was based on a quote obtained at towards the end of 2004 and there was no evidence to show that the quote was for a like for like service. Mr Morrell invited the Tribunal to determine what it considered to be a likely management fee for a block of 16 flats surrounded by gardens and bin stores in an "H" shaped building.
19. Mr Faizi claimed the Management fees were excessive as they had almost tripled compared to those charged previously. He explained that whilst he was the director of Thornbury Court RTM Company there were difficulties in getting the landlord to cooperate and the funds collected by the freeholder were not transferred to the RTM Company and there was difficulty in raising service charges. He stated that the RTM Company had inherited a derelict building and during the period the building was managed by Gracemiller & Co they provided no more than a standard management service which did not justify the excessive charges. He accepted that Gracemiller took over a derelict property but he claimed that in the period of 20 months while they managed the property they did nothing to improve the condition of the property. He produced the Statement of service charge for the year ended 25 March 2008 dated 16 May 2008 which showed a management fee of £6815.00. He also produced a copy of a Statement of service charge for the period 26 March 2008 to 31 August 2008 which showed a management fee of £2839.58. He stated that Gracemiller & Co had reduced the management fee as the lessees had protested. He stated that in his opinion a fee of £200 per flat would be a reasonable management fee.

### The Tribunal's decision

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<sup>3</sup> Case Reference LON/00AT/LAM/2006/0006 – Thornbury Court Church Road Isleworth TW7 4PP

20. The Tribunal determines that the amount payable in respect of the management fee by the Applicants to the Respondent for the period of 5 months from 22<sup>nd</sup> October 2006 to the 25 March 2007 to be £107. 50 plus VAT.

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

21. The Tribunal had regard to the invoices included in the bundle [113 and 132]. These invoices show that for the period from 23 October 2006 to 31 December 2006 the sum of £1112.32 plus VAT was charged in respect of the management fees and the quarterly management fees invoiced in January 2007 amounted to £1450 plus VAT. Therefore the actual amount charged in respect of the management fee for the period in question was £2562.32 plus VAT. The draft management agreement allows for a charge of £5800 plus VAT for the year so this equates to £2416.67 for a period of five months. Therefore the amount actually charged exceeded the fee quoted in the draft agreement. The annual fee of £5800 plus VAT is equivalent to a fee of £362.50 plus Vat per unit.
22. The draft agreement sets out the services to be provided for the fee charged. The Tribunal considered the nature and level of service described to be no more than usual services for a residential block of flats such as Thornbury Court. The Tribunal gave little weight to the quote produced by the Applicants as it was obtained three years prior to the service charge periods in question and there was no evidence that it was a like for like quote. The Tribunal noted that Mr Faizi claimed the fee charged was excessive but he gave no evidence as to the specific management services which in his view fell below a reasonable level. It is accepted that the managing agents did provide a management service, the Applicants simply challenge the level of the fee charged as they consider it to be excessive. The Tribunal having regard to its general knowledge and experience considered a fee of is £250 plus VAT per annum per unit to be a reasonable fee for a block such as Thornbury Court.

### **Reserve Fund of £3000.00**

23. Mr Morrell stated that he relied on the submissions made to the previous tribunal as set out in the decision dated 18 September 2012<sup>4</sup>. He stated that in his view the sum in question is not a reserve fund but a contingency fund. He relied on the provisions of clause 2(2)(b)(v) of the Lease which defines the "*expenses and outgoings incurred by the Lessor*" as including "*such reasonable part of all such expenses and outgoings and other expenditure hereinbefore described which are of a periodically recurring nature(whether recurring by regular or irregular periods) whenever disbursed incurred or made*". He stated that the Applicants had not paid any sums in respect of the

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<sup>4</sup> Case reference LON/00AT/LSC/2012/0279-Flat 10 Thornbury Court Church Road Isleworth TW7 4PP

reserve fund and so if the Tribunal determined that a reserve fund was not payable there would be no credit due to the Applicants. Mr Sandifer stated that it is good practice to maintain a reserve fund although he accepted that a reserve fund could only be maintained if the Lease made provision for such a fund. He stated that he could not confirm whether there was a charge for a reserve fund on the latest accounts but he stated that if it had been included then he will ensure a credit is applied in accordance with the Tribunal's determination.

24. Mr Faizi was not certain whether he had made any payment in respect of the Reserve Fund. In his statement of case he claimed that in this period a half yearly charge of £186.49 had been paid, but he was not able to refer the Tribunal to any documentary evidence to show that such a sum had been demanded or paid. He stated that if the funds were raised as a contingency then any sums not spent within a particular service charge period ought to be reimbursed. Upon considering the documents, he claimed he had paid a total of £1266.70 in relation to the service charge at the end of November 2007 [222]. He explained that he had remortgaged the property and so he was required to clear all outstanding service charges and the payments had been made by his solicitor to Gracemiller & Co. He relied on the decision of the previous tribunal<sup>5</sup> which had determined that a reserve fund was not payable.

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

25. The Tribunal determines that a sum in respect of the Reserve Fund is not payable for the period 22<sup>nd</sup> October 2006 to 25 March 2007.

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

26. The Tribunal noted that the statement of service charge for the period 22<sup>nd</sup> October 2006 to 25 March 2007 [224] did not include a charge in respect of a Reserve Fund. Accordingly the Tribunal holds that a payment in respect of Reserve Fund is not due for this period.

### **Service charges for 26 March 2007 to 24 December 2007**

#### **Insurance premium of £2522.66**

27. Mr Sandifer confirmed that the Insurance premium due for the period 1<sup>st</sup> April 2006 to 31<sup>st</sup> March 2007 was £1965.74 inclusive of Insurance Premium Tax as per the Renewal Schedule [68-81]. He also confirmed the insurance premium for the period 1<sup>st</sup> April 2007 to 31<sup>st</sup> March 2008 was £2312.46 inclusive of Insurance Premium Tax as per the Renewal Schedule [82-110]. Mr Sandifer was granted a short recess to telephone the Lansdown Insurance brokers and

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<sup>5</sup> Case reference LON/00AT/LSC/2012/0279-Flat 10 Thornbury Court Church Road Isleworth TW7 4PP

after speaking to them he was able to confirm that it is the Broker's practice to approach Zurich Insurance and Norwich Union each year and to place the insurance with the company which provided the lower quote.

28. Mr Sandifer stated that there had been two claims on the insurance policy due to escape of water on the 21<sup>st</sup> November 2005 in the sum of £3336.00 and another on the 15 September 2006 in the sum of £475.00. In addition he pointed out the Residential Buildings sum insured had increased from £2,728,340 in the period 1<sup>st</sup> April 2006 to 31<sup>st</sup> March 2007 to £2,875,782 in the following period. He suggested that these factors may have resulted in an increase in the premium. Mr Sandifer referred to the invoice from Lansdown Insurance Brokers dated the 31 March 2005 produced by the Applicants which shows a Premium of £1,804.95 in respect of Building Insurance arranged through Norwich Union and stated that this was broadly in line with the premiums for the years 2006/2007 and 2007/2008.
29. Mr Faizi simply claimed that in his view the Insurance Premium was excessive and unreasonable as it had been insured for less in the past. He relied on a copy of an invoice from Lansdown Insurance Brokers dated the 31 March 2005 which shows a Premium of £1,804.95 in respect of Building Insurance arranged through Norwich Union. He produced no other evidence in support of his claim.

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

30. The Tribunal finds the Insurance Premium charged to be reasonable and accordingly determines that the sum of £111.87 is payable by the Applicants to the Respondent for the period in question based on a Premium of £2312.46 for the year ending 25 March 2008 and the Applicants proportion of 0.0645.

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

31. Since the application has been made by the Applicants, the burden of proof is on them to show that the service charges are unreasonable. If the Respondent had submitted an application requiring a determination that the service charge is payable it would be a matter for them to show not only that the costs had been incurred but also that they had been reasonably incurred. The Directions issued on the 10 October 2012 directed that *"if the Applicants intend to dispute the level of the insurance premium, it should include two copies of comparable quotes obtained on a like for like basis with full supporting documentation"*. Mr Faizi submitted no evidence other than a copy of an invoice from Lansdown Insurance Brokers dated the 31 March 2005 showing a Premium of £1,804.95. The invoice gives no details as to the period of cover or the sum insured. The invoice shows that the insurance company and the brokers are the same as those for the period in question.
32. The Tribunal having regard to its general knowledge and experience finds the premium charged to be reasonable.



**Management fees of £6815.00**

33. Mr Morrell confirmed the submissions made in support of the management fee in relation to the previous period applied equally to this period.
34. Mr Faizi argued that the fees were excessive and unreasonable and he confirmed that his submissions made in respect of the previous period in support of the management fee applied equally to this period.

**The Tribunal's decision**

35. The Tribunal determines that the amount payable in respect of the management fee by the Applicants to the Respondent for the period of 9 months from 26 March 2007 to the 24 December 2007 is £193.50 plus VAT.

**Reasons for the Tribunal's decision**

36. The Tribunal for the reasons set out above under paragraphs 21 to 22 consider a fee of is £250 plus VAT per annum per unit to be a reasonable fee.

**Reserve Fund of £3000.00**

37. In addition to the comments noted at paragraph 23 above Mr Sandifer stated that clause 2(2)(b)(vii) provides for a balancing charge. He stated that no monies had been spent from the Reserve Fund. He referred the Tribunal to the letter from Gracemiller & Co as outgoing managing agents [220-221] which enclosed the following documents:

- (i) Schedule of service charge arrears as at 30 November 2008 [222],
- (ii) the service charge budgets for 2007 [225] and 2008[226],
- (iii) the service charge accounts for the period 22 October 2006 to 25 March 2007[224], and
- (iv) the service charge accounts for the period 26 March 2007 to 25 March 2008[228].

38. Mr Morrell clarified that the Applicants contribution towards the Reserve Fund is 6.4529% (0.0645) of £3000 which amounts to £193.59 for the year.
39. Mr Faizi put relied on the points detailed at paragraph 24 above. He reiterated the point that if monies were not spent in a particular period the excess should be reimbursed to the leaseholders and should not be retained.

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

40. The Tribunal determines that no further sum is payable by the Applicants to the Respondent.

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

41. This Tribunal had regard to the decision of the previous tribunal dated 18 September 2012<sup>6</sup>, but since each first tier tribunal's decisions turn largely on their own facts one such tribunal's decision cannot bind another's. The previous tribunal stated at paragraph 24 of their decision that it was not satisfied that the Reserve Fund contributions were payable as *".....the Respondent was unable to explain the basis on which the Reserve Fund had been calculated and the Tribunal is not satisfied on the evidence adduced, that the amounts held in the "Reserve Fund" comprise a reasonable part of all expenses, outgoings and expenditure of a periodically recurring nature or that they relate in any way to periodically recurring items."*
42. The sum itemised as "Contingency" of £3000 is included in the budgets for 2007 and 2008. The Statement of service charge for the year ended 25 March 2008 shows an excess of income over expenditure of £3778.58. The Respondent produced no evidence as to the basis on which the "Contingency" or the sum shown in the Statement of service charge as "General Reserve" were calculated.
43. The Lease permits the recovery of a reasonable part of all expenses and outgoings and other expenditure which are of a periodically recurring nature. The Tribunal notes that any sums paid are subject to the balancing provisions under clause 2(2) (b)(vii) of the Lease and the Respondent is required to credit the Applicants account any amount which may have been over paid by way of an interim payment and the Applicants are required to pay to the Respondent any underpayment. The fact that the Statement of service charge for the year ended 25 March 2008 shows an excess of income over expenditure of £3778.58 must mean that lessees who have paid their contribution of service charge are due a credit.

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

44. In the application form and at the hearing, the Applicants applied for an order under section 20C of the 1985. 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

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<sup>6</sup> Case reference LON/00AT/LSC/2012/0279-Flat 10 Thornbury Court Church Road Isleworth TW7 4PP

pass any of its costs incurred in connection with the proceedings before the Tribunal through the service charge.

### Costs

45. The Respondent applied for an order that the Applicants pay costs of £500 to them pursuant to the Tribunal's powers to award costs<sup>7</sup> on the grounds that the Applicants had behaved unreasonably frivolously and vexatiously in connection with the proceedings. Mr Morrell argued that the application was made without any precision as it was submitted before the tribunal had issued a decision in respect of the last application. Mr Morrell contends that the application is vexatious and an abuse of process as it seeks to tread ground already trodden. He complained that the Applicants had made no effort to seek any comparable quotes other than one sheet of paper. He criticised Mr Faizi's late arrival at the hearing and the Applicants failure to produce a bundle for the hearing.
46. Mr Faizi explained that he had tried to negotiate with the Respondent in order to settle the matter but the Respondent had issued possession proceedings against the Applicants and he was of the view that the service charges levied were unreasonable. He stated that the Respondent had delayed in complying with the Directions making it difficult for him to comply with the Directions.
47. The Tribunal did not consider the Applicants had acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings. Both parties had failed to comply fully with the Directions. The Applicants may have submitted their application a little prematurely and should ideally have waited until after the decision was issued in respect of their previous application, however ill judged their timing may have been it does not amount to conduct which can be described as frivolous, vexatious, abusive, disruptive or otherwise unreasonable. The Applicants cannot be criticised for submitting an application to the Tribunal to determine the reasonableness of service charges particularly when they are faced with proceedings for possession of the property on the basis of non- payment of these service charges. The Tribunal does not consider the Applicants conduct in connection with the proceedings warrants an order for costs.

Chairman:

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N Dhanani

Date:

25 February 2013

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<sup>7</sup> Paragraph 10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002

## **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 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.