FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**CAM/00KF/LSC/2019/0052**
Property	**:**	**Flat 2, 17 Ailsa Road, Westcliff-on-Sea, Essex SS0 8BJ.**
Applicant	**:**	**Alex Payne**
Represented by	**:**	**In person**
Respondent	**:**	**Long Term Reversions (Harrowgate) Ltd**
Represented by	**:**	**Mrs Kerry Coleman, in-house solicitor**
Type of Application	**:**	**Application for the determination of the reasonableness and payability of service charges pursuant to s.27A Landlord and Tenant Act 1985**
Tribunal Members	**:**	**Tribunal Judge S Evans** **Mr S Moll FRICS**
Date and venue of Hearing	**:**	**2nd February 2020,** **Southend Magistrates Court**
Date of decision	**:**	**24th February 2020**

DECISION

The Tribunal determines that:

(1) Service charges are payable in respect of the matters not already agreed between in the parties in the sums hereinafter detailed;

(2) Service charges are not payable in advance under the terms of the Lease;

(3) The Applicant is estopped by convention from arguing that the Respondent to date has been entitled to maintain a reserve fund;

(4) No order is made on the Applicant's application for an order under s.20C/ para. 5A, on the express concession by the Respondent that it will not seek to add any costs of these proceedings to the service charges.

Introduction

1. The Tribunal is asked to determine the payability and reasonableness of costs to be incurred by way of service charges pursuant to an application made under s.27A of the Landlord and Tenant Act 1985 on 7th August 2019.

2. References in square brackets are to pages in the hearing bundle.

Parties and Property

3. The Applicant is the leaseholder of the Property, one of 4 flats in a converted 2 storey semi-detached house in a tree-lined avenue in Westcliff-on-Sea.

4. The Respondent is the Applicant's Landlord, and at all material times has engaged a Managing Agent called Gateway Property Management Ltd ("Gateway").

Background

5. The Applicant acquired his leasehold interest in the Property in 1989.

6. The Respondent acquired the leasehold reversion on 29th September 1998 [67].

7. The Tribunal was informed that in June 2000 the LVT made a determination in relation to service charges, which included a decision that a reasonable sum for management fees should be £100 plus VAT.

8. From 30th July 2012 the Respondent began to engage Gateway to manage the building.

9. From 20th August 2014 onwards demands have been made of the Applicant for yearly service charges in advance [75-80], the amounts of which he contends have become increasingly excessive.

10. These demands have been based on budgets [84-85, 92-93, 100-101, 108-109, 117-118, 120-121].

11. The Respondent has prepared accounts for the relevant service charge years ending September 2015 to September 2019 [86, 94, 102, 272].

The Application

12. By his Application the Applicant originally sought a determination for the service charge years ending September 2017 to 2019 only [1-13].

13. By directions dated 10th October 2019, the Applicant was permitted to widen the scope of the application to include the years ending September 2015 and 2020 [41].

14. The Applicant challenges costs of repairs, health and safety, management, cleaning and gardening, amongst other matters.

15. The Applicant and the Respondent have prepared detailed Statements of Case [49-53, 54-65].

16. The Applicant has also prepared a witness statement [255-261].

The Inspection

17. The Tribunal inspected the common parts and garden only of the building in which the Property is situated, on the morning of the hearing.

18. The Tribunal in particular noted the state of the trees and ivy in the rear garden, the extent of the grass to be cut, the lobby post box and notice board, the signs and smoke detectors in the common parts, the cupboard by the front entrance door, the door closer, and the front fencing outside that door.

The Hearing

19. During the hearing the Tribunal heard an oral application by the Applicant to adduce a statement (signed but undated) of Steven Lee, the Applicant's tenant in the Property. The application was opposed by the Respondent. The Tribunal granted the application for the following reasons:

    (1) The statement was short (1.5 pages) and confined to the issues surrounding gardening and cleaning;

    (2) Although the statement was only served on the morning of the hearing on the Respondent (because the Applicant considered it needed to be signed before it could be served) the Respondent indicated that it was in a position to call oral evidence from Mr Blewer of Gateway to rebut the statement, and the Tribunal found that the prejudice to it was reduced materially;

    (3) Whilst Mr Lee was not present at the hearing to be cross-examined, the Tribunal could decide the weight to be attached to the statement in the circumstances of its lateness and his absence;

    (4) Accordingly, applying the overriding objective, the Tribunal considered that it was in the interests of justice to admit the evidence.

20. The hearing proceeded by consideration of the service charges year by year as detailed on the Schedule helpfully completed by the parties [43-48], with the parties making representations and calling evidence where appropriate.

21. To the credit of the parties, concessions had been made both before and during the hearing, such that the Tribunal was not required to determine the following matters:

    - 2015: Accountancy, cost of roof works;
    - 2016: Health & Safety, Repairs and Maintenance, Out-of-hours emergency service, Accountancy;
    - 2017: Out-of-hours emergency service, Accountancy, Pest control;
    - 2018: Health & Safety, Out-of-hours emergency service, Accountancy;
    - 2019: Cleaning, Out-of-hours emergency service, Accountancy, Professional fees;
    - 2020: Health & Safety, Out-of-hours emergency service, Accountancy, Professional fees.

22. Lastly, the Tribunal heard evidence/submissions on 3 other issues:

(1) Whether the Lease enables the Respondent to claim service charges in advance;

(2) Whether the Lease enables the Respondent to keep a reserve fund;

(3) The Applicant's s.20C/para. 5A application.

The Lease

23. The Lease is for 199 years from 25th December 1986 [15-34] .

24. The relevant clauses for the purposes of the Application are:

(1) Clause 3(2), which requires the Applicant to contribute "one quarter of the costs expenses outgoings and matters mentioned in the Third Schedule" [23];

(2) Clause 4(4), being the Respondent's that

"(subject to the Landlord receiving beforehand from the Tenant the contributions prescribed in sub-clause (2) of clause 3 hereof) the Landlord will maintain repair decorate and renew" [and then there are set out various matters such as the main structure] [26-28];

(3) The Third Schedule, which includes the expenses of maintaining repairing decorating and renewing those parts, and by paragraph 5 "all other expenses (if any) reasonably incurred by the Landlord in and about the maintenance and property and convenient management and running of the Building managing agents' fees and expenses" [32-33].

Relevant law

25. The relevant statutory provisions are set out in Appendix 1 to this decision.

Determination

2015

Management charges

26. The Applicant's case is that the fees were unreasonable and excessive having regard to the size of the building and the work carried out. He

described the building as "self-managing". He pointed to the lack of management in certain areas, such as the long-standing ivy problem at the external rear of the Property. He suggested a figure of £150 per leaseholder (£600 in total).

27. The Respondent had already indicated in the Schedule that it was prepared to accept £200 per flat (£800 in total), rather than the £1156 in total demanded.

28. The Respondent's written case states that management fees include: preparing annual budgets service charge invoices, collecting the same, administering general maintenance contracts, sending out accounts, arranging and managing contracts, arranging health and safety inspections, and dealing with leaseholder queries [59].

29. The Respondent supplemented this with oral evidence from Mr Blewer (Property Manager) that all office-based duties were included, including banking of cheques, talking to contractors, getting quotes (repairs are mainly in-house, but cleaning and gardening are undertaken by external contractors), obtaining reports, and carrying out follow-up actions. Even from 2015 there have been quarterly site visits to the building, Mr Blewer explained.

30. The Respondent was unable to provide evidence of market rates. Similarly, the Applicant had not obtained any comparable quotes.

31. In *Forcelux v Sweetman* [2001] 2 EGLR 173 the Lands Tribunal examined the reasonableness of management fees by considering whether the fees were in line with market rates and accepted that once "reasonably incurred" it was not necessary for the fees to be the cheapest.

32. This Tribunal is also able to use its experience and knowledge. It does not agree that the building can or should be self-managing. It considers that the matters which are undertaken by the Respondent fall within the RICS Code and are otherwise reasonably incurred, being in line with market rates.

33. The Tribunal decides that £200 per flat is a reasonable charge for the work undertaken.

Health & Safety

34. The Applicant's case is that the fees for the Health and Safety report (which included a fire risk assessment) [127-136] were unreasonable and

excessive having regard to the size of the building and the work carried out.

35. He also submitted that it was unreasonable that Health & Safety Reports were undertaken every service charge year, but contended that they instead be done every 3 years.

36. He also pointed out a discrepancy in each year's reports, in that the authors seemingly stated that no access had been gained to the rear of the building during inspection, but at the same time wrote that the boundary fences at the rear were in good repair - an apparent contradiction.

37. The Applicant was also concerned by the relationship between the Health & Safety company (Associated Surveying Ltd) and the Respondent/ Gateway.

38. The Applicant had no comparable quotes of his own. He said he could not have obtained the same without contractors having to come to the Property, at a cost. He suggested £420 for a first report and £200 for any updating report, but since a report had been obtained in 2014, nothing should be payable for 2015.

39. The Respondent relied on its written case, that the 3rd Schedule para. 5 of the Lease allowed recovery in contractual terms, and that the reports were necessary and reasonable in amount.

40. However, the Respondent made a significant concession during the hearing: that it would not seek to recover costs for similar reports incurred in the years ending 2016, 2018 and 2020.

41. The Tribunal determines that, in the light of that concession, the £420 spent on the report in 2015 was an expense "reasonably incurred by the Landlord in and about the maintenance and …convenient management and running of the Building…." (para 5 of the 3rd Schedule [33]).

42. The Applicant's case falls far short of a case of a sham relationship between the surveyors and the Respondent/Gateway.

43. The Tribunal also determines the report came at a reasonable cost. The cost of both inspecting and writing up the report, even if similar to previous reports, was included.

Repairs and maintenance

44. The Applicant accepted that all works had been done, but disputed the amount.

45. In relation to the only outstanding matter of £788.24 (£656.87 plus VAT) for the lobby works, the Applicant suggested a maximum of £300 labour and £100 materials, the works requiring only a general handyman, not a skilled tradesman.

46. Perusal of the invoice reveals there were visits over 2 days to fit a new front door closer, to make good doors in order to fit locks to an electrical cupboard, and to fix up safety signs.

47. The Respondent relied on its written case [62], adding that a lot of clients thought that the use of an associated company was a good thing, because works can be undertaken at the same time as other scheduled matters, and therefore not separately invoiced at a greater cost.

48. Mr Blewer gave evidence that the full day rate for a worker was now charged out at £350 plus VAT, and that a call-out for an hour's work is £85 plus VAT.

49. Given all these points, the Tribunal determines that the work was reasonably incurred, but there should be a small reduction in the cost, given the nature of work and materials involved. We allow £700 inclusive of VAT.

2016

Management charges

50. The Applicant and Respondent made identical submissions to those made for 2015.

51. The Tribunal decides that £200 per flat is a reasonable charge for the work undertaken, for the same reasons as pertaining to 2015.

2017

Management charges

52. The Applicant and Respondent made identical submissions to those made for 2015 and 2016, with the exception that the Applicant was prepared to increase his proposed figure to £175 per flat.

53. The Tribunal decides that £200 per flat is a reasonable charge for the work undertaken, for the same reasons as pertaining to 2015.

Health & Safety

54. The Applicant and Respondent made identical submissions to those made for 2015.

55. The Tribunal allows the cost of £420 inc VAT for the same reasons as given in paragraphs 40 to 43 above.

Repairs and maintenance

56. The Applicant only disputed 2 items:

    (1) The £360 including VAT claimed for cleaning gutters, on the basis that the work had already been undertaken in Spring 2016, as part of a specification of works to the guttering;

    (2) The lobby works at a cost of £270.78 including VAT [238] for the fitting of 2 smoke alarms (noted on inspection to be battery operated), for adjusting the front door, building a post box (pigeonholes for post), removing leaves next to the front entrance door, and for materials. The Applicant offered £150 labour and £30 materials.

57. The Respondent through Mr Blewer explained that the clearing of gutters was done as part of winter maintenance, and that, if done today, would involve 2 men in a van, using a gutter vacuum on a long pole with a 3 storey reach; and that the facilities manager stated that such work had happened for the past 5 or 6 years.

58. As to the other works, post on the floor could become a health and safety issue (trip/fire hazard) and the invoice showed that the Respondent runs a fluid service, undertaking a number of smaller works which might otherwise be separately invoiced.

59. The Tribunal prefers the evidence and submissions of the Respondent. It determines that all these works were reasonably incurred at a reasonable price.

2018

Management charges

60. The Applicant and Respondent made identical submissions to those made for 2017.

61. The Tribunal decides that £200 per flat is a reasonable charge for the work undertaken, for the same reasons as pertaining to 2015.

Gardening

62. The costs claimed are a one-off £402 [196-197] and then £45 per month.

63. The Applicant's case is that the cost is unreasonable and excessive; that a minimal amount of work has been carried out to the garden during the year. The state of the garden is indicative of the lack of management, he says.

64. The ivy growing up the rear elevation has been a particular bone of contention. The Applicant submits that if it had been inspected earlier, it would have been cut back sooner than it was (most recently in 2019, the Tribunal was told). It appears that it was cut at the base and weedkiller applied. On the Tribunal's inspection, the ivy was dead but had not been removed (the Respondent agrees - in order to avoid damage to brickwork).

65. Shrubs and bushes have not been trimmed on a regular basis, the Applicant says. He also says the cutting of the grass should only take 30 mins.

66. The Applicant offers £160 for the year (being 8 visits at £20 per hour).

67. The Respondent relied on the invoice [196] in the sum of £402. This indicates that 2 operatives from an external contractor spent a total of 5 man hours on gardening. They are licensed waste contractors, and not only cut trees (albeit not at height), but also cut the grass and removed all waste materials.

68. As to the monthly visits, Mr Blewer gave evidence that works had indeed been done by GMS contractors. The Respondent also relies on Site Visit Declaration Forms signed by the contractors, showing the times of attendance and therefore the hours spent on each occasion, as well as a brief description of works. With 2 operatives the hourly rate equates to only £22.50. The Respondent accepted that grass cutting may take only 30 minutes, but pointed to the fact that additional works were done on each occasion.

69. The Tribunal determines that the first item of £402 spent [196] was a cost reasonably incurred and at a reasonable cost, albeit it might be considered on the high side. The Tribunal reminds itself that the cost does not have to be the cheapest possible.

70. As to the monthly costs of £45, the Applicant had no comparable quotes to support the figure of £20 per hour. The Tribunal, particularly in the light

of its inspection, does not accept that only 1 hour per month would be sufficient to undertake the work necessary. The Tribunal notes the evidence of Mr Lee, but affords it minimal weight. If he is right that no works have been carried out, then the Respondent's invoices would not be genuine ones.

71. Nor does the Tribunal find that the evidence shows that works have not been to a reasonable standard, except perhaps in relation to the ivy, but in that respect there is no evidence that costs have actually been increased as a result of delay in addressing the issue.

72. Accordingly, the cost (equating roughly to £11 per month for each leaseholder) the Tribunal finds to be reasonable.

Repairs and maintenance

73. The Applicant accepts the works to the front fencing was necessary but contends that the invoice in the sum of £475.91 is excessive [240]. There should not have been 2 visits, and 2 half days would have been sufficient, he contends.

74. The Applicant offered £200 plus a small amount for materials, which he struggled to put a value upon. He did not have a comparable quote.

75. The Respondent gave some evidence putting flesh on the invoice. There were 2 new fence posts used. At £328 for labour, this was roughly equivalent to one full day's rate of £350.

76. The Tribunal uses its experience and expertise. This was a bespoke job, and would have required 2 visits, given the painting works. The Tribunal determines that the works were necessary, were undertaken to a reasonable standard, and were at a reasonable cost. The £475.91 is allowed in full.

2019

Management charges

77. The Applicant and Respondent made identical submissions to those made for 2017-2018.

78. The Tribunal decides that £200 per flat is a reasonable charge for the work undertaken, for the same reasons as pertaining to 2015.

Health & Safety

79. The Applicant and Respondent made identical submissions to those made for 2015.

80. The Tribunal allows the cost of £420 inc VAT for the same reasons as given in paragraphs 40 to 43 above.

Gardening

81. The costs claimed are the monthly costs of £45.

82. The accounts for the year end have now been prepared [272]. The Respondent no longer seeks a budget figure of £540, but limits its claim to the £90 actually incurred.

83. The Tribunal allows that sum, in particular as the Applicant did not dispute it.

Repairs and renewals

84. The accounts for the year end have now been prepared [272]. The Respondent no longer seeks a budget figure of £800, but limits its claim to the £36 actually incurred.

85. The Tribunal allows that sum, in particular as the Applicant did not dispute it.

2020

86. The Tribunal notes that all figures claimed are estimated costs.

Management charges

87. The Applicant and Respondent made identical submissions to those made for 2017-2018.

88. The Tribunal decides that £200 per flat is a reasonable charge for the work undertaken, for the same reasons as pertaining to 2015.

Gardening

89. The costs claimed are the monthly costs of £45. The parties repeated their earlier submissions.

90. The Tribunal allows the £540 claimed, for the same reasons as under 2018-2019.

Repairs and renewals

91. The estimated costs are £800, i.e.£200 per leaseholder.

92. The Applicant points to the fact that in 2019 only £36 was spent on repairs, and so the figure seems plucked from the air.

93. The Respondent contends that it is sensible to have an appreciable sum, ready for any repairs whether emergency or otherwise, and that apart from 2019, the sums expended in earlier years have been at least £800 p.a. [113, 104, 97, 89].

94. The Respondent accepted that it did not have any programme for works, and the £800 was chosen as a sum which it thought was a reasonable amount.

95. The Tribunal allows the estimate of £800 as a cost for works which are likely to be reasonably incurred, and finds that the amount is a reasonable estimate, given the sums spent in previous years (2019 excepted).

Cleaning

96. The Applicant contends that there has never historically been cleaning, and that it is not necessary, since the leaseholders can continue to do it themselves. Further the cost is excessive: 26 visits at £14 pw.

97. The Respondent contends that there is no obligation on the leaseholders to clean. It also clarified that the visits which started on 1st October 2019 are fortnightly; even though Lee Brothers do the cleaning, they cannot simply cover all the cleaning when they come to do the gardening.

98. Mr Blewer gave evidence that he had seen mud traipsed through the lobby, and that one leaseholder had called up to complain about a lack of tidiness, and a lack of a cleaner.

99. The Respondent further observed that the cost claimed represents only £7 per week, which was extremely good value for money.

100. The Tribunal prefers the Respondent's contentions, and finds that cleaning is not only necessary factually (e.g. to avoid a slipping hazard on a tiled area), but is required to be undertaken under the lease terms as a matter of contract.

101. The Tribunal notes the evidence of Mr Lee, but affords it minimal weight. If he is right that no works have been carried out, then the Respondent's invoices would not be genuine ones.

102. Further, the Tribunal determines that the £360 claimed for 26 visits does represent very good value for money.

Whether services charges are payable in advance

103. The Applicant's case is simple. This is an old-style Lease, and clause 3(2) does not permit of payments in advance; the Respondent may only invoice for works already executed. However, he conceded that if the Respondent identified a fixed sum for repairs etc. in advance, it could claim that sum from the leaseholders in advance, and that sum would also be payable in advance.

104. The Respondent contends that it should be implied into clause 3(2) that service charges should be payable in advance. When pressed as to how this implication came into being, i.e. by previous dealings, or by custom or usage, or by necessity in order to give business efficacy, the Respondent's submissions were rather more tentative. There is no evidence of any course of conduct between the original lessor and lessee. There is no evidence of custom or usage in this field. For there to be implication by necessity, the Tribunal would have to be satisfied that, if the absence of the implied term had been pointed out at the time, both contracting parties (assuming them to have been reasonable persons) would have agreed without hesitation to its insertion. Given the absence of any express mechanism for balancing the accounts (i.e. crediting any sums overpaid at the end of the service charge year, or alternatively for keeping any surplus, or for demanding any debits if the advance service charges were less than the actual relevant costs) the Tribunal cannot be certain that the parties would have agreed to its insertion without hesitation.

105. It also begs the question, what sums would be payable in advance? True it is that the lessor would not have any monies on account to pay for emergency or other works if sums were not payable in advance, but both contracting parties may have considered that the lessor had deep enough pockets to cover such an eventuality. The state of the evidence does not allow the Tribunal to draw any inferences or make findings of fact.

106. Accordingly, we find that service charges are not payable in advance, but encourage both the Applicant and the Respondent, in conjunction with the other leaseholders, to come to a sensible arrangement concerning this issue. Failing that, and without binding any Tribunal as to any future application, and without giving the Respondent any hope that an

application might be successful, the Respondent might wish to consider its options regarding an application for a lease variation under s.35/37 of the Landlord and Tenant Act 1987.

Reserve Fund Contributions

107. The Applicant complains that the Respondent has kept a reserve fund contribution contrary to the terms of the Lease. Having paid service charges in advance, any surplus from time to time has been retained by the Respondent, which is kept to pay for repairs going forward.

108. The Respondent agrees the Lease does not permit it contractually to keep a reserve fund, but relies upon the principles of estoppel by convention. In *India v India Steamship Co Ltd (The Indian Endurance and The Indian Grace) (No.2)* [1998] A.C. 878 Lord Steyn explained at page 913E-G:

> "It is settled that an estoppel by convention may arise where parties to a transaction act on an assumed state of facts or law, the assumption being either shared by them both or made by one and acquiesced in by the other. The effect of an estoppel by convention is to preclude a party from denying the assumed facts or law if it would be unjust to allow him to go back on the assumption: … It is not enough that each of the two parties acts on an assumption not communicated to the other. But it was rightly accepted by counsel for both parties that a concluded agreement is not a requirement for an estoppel by convention."

109. The Respondent relies on the service charge case of *Admiralty Park Management Company Ltd v Ojo* [2016] UKUT 421 (LC). The service charges demanded by the management company in that case had been calculated other than in accordance with the lease, and an estoppel was found. The Applicant relies on another service charge case, *Jetha v Basildon Court Residents Co Ltd* [2016] UKUT 421 (LC) where an estoppel was declined. These are but illustrations on a theme, each case being fact sensitive.

110. On the facts of the instant case, the Tribunal finds an estoppel by convention proven, for the following reasons:

(1) The Lease contains no service charge mechanism for the keeping of a reserve fund;

(2) The Respondent has written to the Applicant for many years indicating that sums would be kept as reserve, and the accounts sent to the leaseholders also refer to a reserve;

(3) The Applicant has acquiesced in that assumption by the Respondent that a reserve may be kept. Although he has written to complain about service charge sums being demanded in advance, he did not complain about reserve funds;

(4) It would be unjust to the Respondent to allow the Applicant to go back on the assumption, i.e. to unwind the clock to unravel the accounts and require an inquiry into the same, after all these years.

111. However, that does not mean that going forward, the Applicant is bound to acquiesce in such conduct if it were to continue. But for present purposes, the Tribunal declines to interfere with the state of affairs historically, or to find that any amounts are not payable owing to any historic overpayment.

Section 20C/ para 5A

112. The Tribunal declines to make any order on the express concession by the Respondent at the hearing that it will not seek to add any costs of these proceedings to the service charges.

113. The Tribunal wishes to record its gratitude to the parties for making sensible concessions during the hearing, which was conducted by both parties in a professional manner.

Judge: S J Evans

Date:
24/2/20

ANNEX – RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier at the Regional Office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request to an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will

then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

Appendix 1

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 the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,

(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
(a) the person by whom it would be payable,
(b) the person to whom it would be payable,
(c) the amount which would be payable,
(d) the date at or by which it would be payable, and
(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

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

Section 20C

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

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

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

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

Schedule 11 para 5A of the Commonhold and Leasehold Reform Act 2002

(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.

(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.

(3) In this paragraph-
(a) "litigation costs" means costs incurred or to be incurred by the landlord in connection with proceedings of a kind mentioned in the table [First-tier Tribunal proceedings.