



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **CAM/12UC/LSC/2021/0019**

HMCTS : **CVP**

Property : **Flat 5, 56 Green End Road, Cambridge CB4
1RX**

Applicant (Tenant) : **Robert Price**

**Respondent (Landlord &
Freeholder)** : **Cloughmore Homes Limited**
Representative : **John Price**

Type of Application : **1) To determine the reasonableness and
payability of Service Charges (Section 27A
Landlord and Tenant Act 1985) and
Administration Charges (Schedule 11
Commonhold and Leasehold Reform Act
2002)**
**2) For an Order to limit the service charges
arising from the landlord's costs of
proceedings (Section 20C Landlord and
Tenant Act 1985)**
**3) For an Order to reduce or extinguish the
Tenant's liability to pay an administration
charge in respect of litigation costs
(paragraph 5A of Schedule 11 of the
Commonhold and Leasehold Reform Act
2002)**

Tribunal : **Judge JR Morris
Ms A Flynn MRICS**

Date of Application : **14th March 2021**
Date of Directions : **23rd April 2021**
Date of Hearing : **17th August 2021**
Date of Decision : **7th October 2021**

DECISION

Covid-19 Pandemic: Remote Video Hearing

This determination included a remote video hearing together with the papers submitted by the parties which has been consented to by the parties. The form of remote hearing was Video. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing/on paper. The documents referred to are in a bundle, the contents of which are noted.

Pursuant to Rule 33(2A) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and to enable this case to be heard remotely during the Covid-19 pandemic in accordance with the Practice Direction: Contingency Arrangements in the First-tier Tribunal and the Upper Tribunal the Tribunal has directed that the hearing be held in private. The Tribunal has directed that the proceedings are to be conducted wholly as video proceedings; it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing; a media representative is not able to access the proceedings remotely while they are taking place; and such a direction is necessary to secure the proper administration of justice.

Decision

1. The Tribunal determines that the Service Charge for the year ending 31st December 2018 is not payable by the Applicant to the Respondent pursuant to section 20B of the Landlord and Tenant Act 1985 because there is no evidence that a Demand has been served within 18 months of the costs being incurred.
2. The Tribunal determines that the Service Charge of £485.86 is reasonable and payable by the Applicant to the Respondent for the year ending 31st December 2019 when properly demanded.
3. The Tribunal determines that the Service Charge of £654.16 is reasonable and payable by the Applicant to the Respondent for the year ending 31st December 2020 when properly demanded.
4. The Tribunal makes an Order under section 20C of the Landlord and Tenant Act 1985 that the Respondent's costs in connection with these proceedings should not be regarded as relevant costs to be taken into account in determining the amount of any Service Charge payable by the Applicants.
5. The Tribunal makes an Order extinguishing the Applicants' liability to pay an administration charge in respect of litigation costs under paragraph 5A of Schedule 11 of the Commonhold and Leasehold reform Act 2002.

Reasons

Application

6. This Application is one of three made by the Applicant in respect of properties in respect of which he has a leasehold interest. Each Application has been dealt with separately and a decision has been issued for each because there are differences with regard to the properties, the Leases and the covenants, the

Service Charges and heads of expenditure and amount and the years in issue. However, a number of the issues raised are common, therefore, there is some repetition and similarities in the account of the evidence and the submissions made in each of the Decisions. The Statements of Case dealt with all three Applications and the Tribunal has identified and addressed only those points and submissions that are relevant to each Application.

7. The Application dated 14th March 2021 is for:
 - 1) A determination of the reasonableness and payability of Service Charges incurred for the years ending 30th June 2018, 2019 and 2020 and the costs to be incurred for the year ending 30th June 2021 (“the years in issue”). (Section 27A Landlord and Tenant Act 1985) and Administration Charges (Schedule 11 Commonhold and Leasehold Reform Act 2002);
 - 2) An Order to limit the service charges arising from the landlord’s costs of proceedings (Section 20C Landlord and Tenant Act 1985);
 - 3) An Order to reduce or extinguish the Tenant’s liability to pay an administration charge in respect of litigation costs (paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002).
8. Directions were issued on 23rd April 2021.
9. In the written and oral representations, it was apparent that Mr John Price had perceived the business arrangement between Mr Robert Price and himself as a family firm with each having a role within the company. However, the Tribunal found that in law this was not the case. Mr John Price is the Director of Cloughmore Homes Limited which is the Freeholder of the Block in which the Property is situated. Mr John Price as an individual is the Leaseholder of 6 of the 7 flats and Mr Robert Price is the Leaseholder of one. All the Leaseholders let their Flats on short leases.
10. Mr John Price has taken on the role of Managing Agent and he also undertakes the gardening, minor repairs and some caretaking.
11. It was apparent that prior to 2018 the management of 56 Green End Road, Cambridge had been relatively informal with costs being paid and accounted for within the family context. Since 2018 the business relationship between the parties has changed requiring matters to be put on a more formal basis. In the course of the transition there has been a hiatus in respect of accounting for some of the work carried out and the costs incurred. The Tribunal in its determination has done its best with the evidence available.
12. The Tribunal was not insensitive to the personal nature of this dispute, nevertheless, as a Tribunal it is only concerned with the law and its application to the evidence and submissions.
13. There is a mention of ground rent and breach of lease. The Tribunal only has jurisdiction in respect of the particular Applications to deal with service and administration charges.

14. The Tribunal identified two issues: (i) reasonableness and (ii) payability of the Service Charge for each year.

The Law

15. A statement of the relevant law is attached to the end of these reasons.

Description of the Property

16. The Tribunal was not able to make an inspection of the Property or the Estate in which it is situated due to Government Coronavirus Restrictions. The following description is derived from the Lease, the Statements of Case and the Internet.
17. The Property is a three storey Block of 7 Flats (the Block) constructed circa 2006 of brick elevations under a composition slate tile roof. The windows have upvc frames with double glazed units and the doors are upvc. The rainwater goods and facias are also upvc.
18. Internally the Communal Parts to the Block are an entrance lobby with stairs and landings. Access to the Flats is via an intercom system.
19. Externally there is a garden to the rear comprising a patio, lawn and shrubs. There is also a Bin Store and Cycle Store and Parking to the front of the Block.
20. The Block is situated in Chesterton, a suburb of Cambridge.

The Lease

21. A copy of the Lease was provided dated 2nd August 2005 which is for a term of 125 years from 1st January 2008 made between (1) Cloughmore Homes Limited (2) Robert Anthony James Price (“the Lease”).
22. The following are the relevant provisions of the Lease.
23. Clause 1.1 sets out the Definitions

The “Block” is defined as the land shown edged blue on Plot 2 together with the buildings erected thereon comprising in total 7 flats bin stores garden patio and parking spaces known as Flats 1 to 7 inclusive...

The “Communal Areas” are defined as those parts of the Block laid out as communal gardens patio footpaths private accessway and parking areas

The “Estate” is defined as the land comprised in the Title Number CB293704 on 239 March 2005 ...shown edged blue on Pan 2

The “Bin Store” being the bin store numbered 5 on Plan 2

The “Half-yearly Dates” are 1st July and 1st January.

The “Service Charge” is defined as the total costs of the services as are appropriate to the Property set out or referred to in the Fifth Schedule and in the Sixth Schedule

The “Service Charge Year” is defined as 1st July to 30th June or such other 12-month period which the Landlord chooses from time to time. The Landlord has changed the Service Charge Year to 1st January to 31st December.

24. Clause 3 Lessee’s Covenants with the Lessor

3.1 The Lessee hereby covenants with the Lessor as follows: -

3.1.3 To pay to the Lessor the Service Charge specified in the Particulars and as revised (being the Service Charge Adjustment and the Additional Contribution) in accordance with the provisions set out in the Fourth, Fifth and Sixth Schedules half yearly in advance on the Half-Yearly Dates ...

25. Clause 4 Covenants by the Lessor

4.1 The Lessor hereby covenants with the Lessee as follows: -

4.1.1 The Lessor will during the Term carry out the works and provide the services specified in the Fifth Schedule

Third Schedule

14 To pay the Lessor on demand all costs charges and expenses (including legal costs and Surveyor’s fees) which may be incurred by the Lessor or which may be come payable by the Lessor in respect of the preparation of a Schedule of Dilapidations or under or in contemplation of any proceedings in respect of the property under Section 146 and 147 of the Law of Property Act 1925...

26. The Fourth Schedule

1. The service charge shall be calculated by reference to the floor area of each property within the Block...

2. The Service Charge in respect of each Service Charge Year shall be computed not later than the beginning of June immediately preceding the commencement of the Service Charge Year and shall be computed in accordance with paragraph 3 of this Schedule. (As the Service Charge Year has been changed the charge should be computed no later than December.)

3. The Service Charge shall consist of a sum comprising

3.1 The expenditure estimated as likely to be incurred in the Service Charge year by the Lessor for the purposes mentioned in the Fifth Schedule together with

- 3.2 An appropriate amount as a reserve for or towards the matters mentioned in the Fifth Schedule as are likely to give rise to expenditure after such service Charge year being matters which are likely to arise either only once during the unexpired term or at intervals of more than one year during such unexpired term including such matters as the decorating of the exterior of the Block the repair of the structure thereof and the repair of the Conduits
 - 3.3 A reasonable sum to remunerate the Lessor for its administrative and management expenses in respect of the Block...
 - 4. After the end of each Service Charge year the Lessor shall determine the Service Charge adjustment calculated as set out in the following paragraph 4.1
 - 4.1 The Service Charge Adjustment shall be the amount if any by which the estimate under paragraph 3.1 of the Schedule shall have exceeded or fallen short of the actual expenditure in the Service Charge year
 - 6. The Lessor shall arrange for audited accounts for the Service Charge in respect of each Service Charge year to be prepared and shall supply to the Lessee a summary of such accounts
27. The Fifth Schedule - Purposes for which the Service Charge is to be Applied
- The provisions include:
- 1. The decoration, cleaning and repair of the structure and the maintenance of the grounds
 - 2. The decoration and repair of the common parts
 - 3. Payment of outgoings
 - 4. Employment of staff
 - 5. Payment of costs incurred in management by the Lessor
 - 6. Television signal
 - 8. Insurance
28. The Sixth Schedule - Grouping of Service Charge Expenditure
- 1. Building Insurance
 - 2. Maintenance of Communal Areas Bin Store and Cycle Store and private accessway
 - 3. TV Aerial (if any)
 - 4. Conduits
 - 5. Reserve fund for long term maintenance
 - 6. Management Fee
 - 7. Audit Fee
 - 8. Electricity

Hearing

29. A Hearing was held by video conferencing on 17th August 2021 which was attended by Mr Robert Price, the Applicant, and Mr John Price Director of the Respondent, representing the Respondent.

Evidence re Reasonableness of the Service Charge

30. The Tribunal considered each of the years in issue as follows.

Year Ending 31st December 2018

31. No Service Charge Demands were provided for year ending 31st December 2018.
32. The Service Charge Accounts for the Actual Costs of the Block dated 14th December 2018 for the year ending 31st December 2018 were provided:

Service Charge for year ending 31st December 2018		
Item	Description	£
1	Gardener	840.00
2	Plants	71.50
3	Window Cleaner	532.80
4	Buildings Insurance	718.34
5	Electricity	313.51
6	Stationery & Postage	25.00
7	Management Charge	2,000.00
8	Miscellaneous including light bulbs	350.00
	Total	4,851.15
	Unit Charge 1/7 th	693.02

33. Invoices were provided as follows:
- Gardening JJ Price for 12 months @ £70.00 per month £840.00
 - Window Cleaner ADC 60 – 62 Green End Road
 - VAT Return £115.20
 - VAT Return £302.40
 - 01/05/18 £115.20
 - 01/02/18 £115.20
 - Total £648.00
 - Buildings Insurance 11/08/19 - 01/09/19 £615.28
 - Electricity E-on
 - Reading 10544 – 13 April 2018 £49.77
 - Reading 10544- 13 July 2018 £49.69
 - Reading 10544 - 15 October 2018 £51.32
 - Reading 10544 – 14 January 2019 £49.69
 - £200.47

34. The Applicant identified in a Scott Schedule each of the items of the Service Charge disputed together with comments. The Respondent's Representative in turn made comments in response. Both parties also added to their comments

through their respective Statements of Case and oral submissions in the course of the hearing.

1. Gardener - £840.00

35. The Applicant stated that he did not believe a gardener was employed during 2018.
36. The Respondent's Representative provided an invoice to show that he had carried out the gardening work and said that it was impossible to maintain the lawns and shrub borders and prune the trees for this site in less than an hour a week at £16.00 which was the rate charged in Cambridge.

2. Plants - £71.50

37. The Applicant said that he required evidence that plants had been purchased for the Block.
38. The Respondent's Representative said the receipt was not available. He added that the plants are there to make the garden attractive and as a result the tenants to whom the Leaseholders let, stay.

3. Window Cleaner - £532.80

39. Applicant said that he required evidence of the expenditure by way of the invoices to show that the windows had been cleaned. The Applicant said that the Respondent owned 60-62 Green End Road and that the window cleaning was for that property, not 56 Green End Road
40. The Respondent's Representative provided VAT Returns for two sums of £115.20 (with corresponding receipts) however both Returns and invoices were for 60-62 Green End Road not 56 Green End Road. There was also a VAT Return of £302.40 which was also for 62 Green End Road. The Respondent's Representative said that he had drawn the attention of ADC Cleaning Services to the invoices being for wrong address and asked them to correct them but they had not done so. He said that they would have done both 60-62 and 56 Green End Road at the same time and just put the one address on the invoice. He said they were not very good at administration.

4. Buildings Insurance - £718.34

41. The Applicant said that he required evidence of the expenditure by way of the Insurance invoices.
42. The Respondent's Representative provided an invoice for £615.28 and said that the additional cost was for amendments to the policy regarding changes to the mortgage lender.

5. Electricity - £313.51

43. The Applicant said that he required evidence of the expenditure by way of the invoices for electricity.
44. The Respondent's Representative provided invoices for £200.47. He said the actual cost was £250.27 and that a credit would be given in the 2021 Accounts of £54.24.

6. Stationery & Postage - £25.00

45. The Applicant said that the item of Stationery & Postage should be part of the Management Charge.
46. The Respondent's Representative said that the cost of Stationery & Postage is 6 pence per week per flat which is reasonable.

7. Management Fees - £2,000.00

47. The Applicant stated that the charge of £285.00 per unit for management was excessive as the management is poor.
48. The Respondent's Representative stated that the Management Fees were for overseeing all of the contractors and services provided. It included regular attendances, overseeing the safety of the premises including inspections of communal and emergency lighting, carrying out minor repairs, removing the post for departed tenants and forwarding the same, communications with utility companies, liaising with the Council when bin collections are missed, regular removal of bottles and cans from the surrounding area of the bins, cleaning and sweeping the Bin Store and Bicycle Store and an average of four trips to the recycling centre annually to dispose of excess rubbish arising from tenants and to remove garden rubbish, shrub cuttings etc.. The Respondent said the charge equated to 2 hours per flat.

8. Miscellaneous - £350.00

49. The Applicant said that this appeared to be an unsubstantiated figure as there were only 5 communal lightbulbs in the Block.
50. The Respondent's Representative said that this cost included minor repairs which included replacement keys, cleaning materials, occasional garden tools, weedkiller, rubbish sacks, petrol for visits to the recycling centres. He said that the Applicant is only paying 80 pence a week to protect his investment.

Year Ending 31st December 2019

51. Copies of Service Charge Demands were provided as follows:
- 1) Demand together with a Summary of Tenants' Rights and Obligations dated December 2018 for the period 1st January 2019 to 30th June 2019 for £375.00

- 2) Demand dated June 2019 for the period 1st July 2019 to 31st December 2019 for £375.00

52. The Service Charge Accounts for the Actual Costs of the Block dated December 2019 for the year ending 31st December 2019 were provided:

Service Charge for year ending 31st December 2019		
Item	Description	£
1	Gardener	840.00
2	Plants	200.00
3	Window Cleaner	744.00
4	Buildings Insurance	732.00
5	Electricity	181.65
6	Stationery & Postage	25.00
7	Management Charge	2,000.00
8	Miscellaneous	400.00
	Total	5,122.85
	Unit Charge	731.84

53. Invoices were provided as follows:
- Gardening JJ Price for 12 months @ £70.00 per month £840.00
 - Window Cleaner ADC VAT Return for £242.40
 - Buildings Insurance 01/09/19 - 31/08/20 £3,992.46
 - Electricity E-on
 - Reading 10544 – 16 April 2019 £46.62
 - Reading 10544- 15 July 2019 £45.36
 - Reading 10544 - 15 October 2019 £46.37
 - Reading 10544 – 9 January 2020 £43.34
 - £181.69
54. The Applicant identified in a Scott Schedule each of the items of the Service Charge disputed together with comments. The Respondent's Representative in turn made comments in reply. Both parties also added to their comments through their respective Statements of Case and oral submissions in the course of the hearing.
- 1. Gardener - £840.00*
55. The Applicant stated that he did not believe a gardener was employed during 2019 to provide regular maintenance and sought evidence.
56. The Respondent's Representative provided an invoice for £840.00.
- 2. Plants - £200.00*
57. The Applicant said that he required evidence that plants had been purchased for the Block.
58. The Respondent's Representative provided emails dated 12th July 2021 which showed several raised beds with brick dwarf walls around a lawned area.

There are also a number of laurel and similar shrubs. No invoices were provided.

3. Window Cleaner - £744.00

59. Applicant said that he required evidence of the expenditure by way of the invoices to show that the windows had been cleaned
60. The Respondent's Representative provided a VAT Return for £302.40.

4. Buildings Insurance - £732.20

61. The Applicant said that he required evidence of the expenditure by way of the Insurance invoices.
62. The Respondent's Representative provided an invoice for £3,992.46.

5. Electricity - £181.65

63. The Applicant said that he required evidence of the expenditure by way of the invoices for electricity.
64. The Respondent's Representative provided invoices for relating to the Block for £181.69.

6. Stationery & Postage - £25.00

65. The Applicant and Respondent's Representative repeated the submissions made regarding the cost in 2018.

7. Management Fees - £2,000.00

66. The Applicant and Respondent's Representative repeated their submission made regarding the cost in 2018.

13. Miscellaneous - £400.00

67. The Applicant and Respondent's Representative repeated the submissions made regarding the cost in 2018.

Year Ending 31st December 2020

68. Copies of Service Charge Demands were provided as follows:
- 1) Demand dated January 2020 for the period 1st January 2020 to 30th June 2020 for £375.00
 - 2) Demand dated June 2020 for the period 1st July 2020 to 31st December 2020 for £375.00
69. The Service Charge Accounts for the Actual Costs of the Block dated December 2020 for the year ending 31st December 2020 were provided:

Service Charge for year ending 31st December 2020		
Item	Description	£
1	Gardener	1,200.00
2	Plants & Weed Killer	200.00
3	Window Cleaner	0.00
4	Buildings Insurance	776.13
5	Electricity	187.99
6	Stationery & Postage	25.00
7	Management Charge	2,000.00
9	Miscellaneous	500.00
10	Building Sinking Fund	1,000.00
	Total	5,889.12
	Unit Charge 1/7 th	841.30

70. Invoices were provided as follows:
- Gardening JJ Price for 12 months @ £100.00 per month £1,200.00
 - Buildings Insurance 01/09/20 - 01/09/21 £4,718.15
 - Electricity E-on
 - Reading 10544 – 30 April 2020 £55.94
 - Reading 10544- 15 July 2020 £38.81
 - Reading 10544 - 23 October 2020 £49.90
 - Reading 10544 –20 April 2021 £46.37
 - £191.02
71. The Applicant identified in a Scott Schedule each of the items of the Service Charge disputed together with comments. The Respondent's Representative in turn made comments in reply. Both parties also added to their comments through their respective Statements of Case and oral submissions in the course of the hearing.
- 1. Gardener - £1,200.00*
72. The Applicant stated that he did not believe a gardener was employed during 2020 to provide regular maintenance and required evidence of the expenditure by way of the invoices. A quote of £75.00 per month from Duncan Property Services & Co was provided to show that the annual cost should be £900.00.
73. The Respondent's Representative, said that he carried out the gardening work and charged approximately £16.00 per hour on the basis of an hour a week 5 - 6 hours a month to maintain the lawns and the shrubs throughout the year for 2018 and 2019. However, he had increased the rate in 2020 to £23.00 an hour in line with the rate in Cambridge for gardening. He provided invoices which he had raised for gardening.
74. The Respondent's Representative also included an additional written statement with photographs of the garden. The photographs showed a fairly large area of lawn to be cut, shrubs to be pruned and a raised bed with shrubs. He said that the garden required at least an hour a week throughout the year to be maintained.

2. Plants - £200.00

75. The Applicant and Respondent's Representative repeated the submission they had made in respect of the cost in 2018.

3. Window Cleaner - £0.00

76. There was no charge for window cleaning.

4. Buildings Insurance - £776.13

77. The Applicant said that he required evidence of the expenditure by way of the Insurance invoices but did not dispute the premium.

78. The Respondent's Representative provided an invoice for £4,718.15.

5. Electricity - £187.99

79. The Applicant said that he required evidence of the expenditure by way of the invoices for electricity.

80. The Respondent's Representative provided invoices for £166.91 relating to the Block.

6. Stationery & Postage - £25.00

81. The Applicant and Respondent's Representative repeated the submissions made regarding the cost in 2018 and 2019.

7. Management Fees - £2,000.00

82. The Applicant stated that the charge of £285.00 per unit for management was excessive as the management is poor.

83. The Respondent's Representative repeated the submission made in respect of the 2018 charge adding that it equated to 2 hours per flat.

8. Miscellaneous - £500.00

84. The Applicant said that he required evidence of the expenditure by way of the invoices for the miscellaneous items.

9. Building Sinking Fund - £2,500.00

85. The Applicant required evidence that the funds were kept in a Client Trust Bank Account as required by Section 42 Landlord and Tenant Act 1987.

Year Ending 31st December 2021

86. An Estimated Service Charge Demand dated 4th June 2021 for £400.00 was served with a letter dated 5th June 2021 for the period 1st July 2021 to 31st December 2021 but it did not appear to be accompanied by a Summary of Tenant's Rights and Obligations. No Estimated Service Charge for the period 1st January 2021 to 30th June 2021 was provided.

Decision re Reasonableness of the Service Charge

87. The Tribunal considered all the evidence and submission made by the parties in writing and orally.
88. The Tribunal firstly considered the Reasonableness of the Service Charges for each year and considered the payability of those charges.
89. The Tribunal noted that a number of invoices had been provided. The Respondent having provided this evidence it is presumed that these costs have been reasonably incurred and are reasonable in amount. The onus is therefore on the Applicant to show that the costs are unreasonably incurred or unreasonable in amount. This may be because the work was not done at all or was unnecessary or the cost is not commensurate with the quantity of work done or that the standard of the work was not reasonable. Where no invoices or evidence is adduced, the Tribunal makes its determination based on the balance of probabilities and its own knowledge and experience.

1. Gardener

90. The costs for the Years in Issue were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£840.00	£840.00	£1,200.00
Determined by Tribunal	£840.00	£840.00	£900.00

91. The Respondent's Representative provided invoices and stated that he charged approximately £16.00 per hour on the basis of an hour a week throughout the year for 2018 and 2019 but that the rate increased in 2020 to £23.00 an hour in line with the rate in Cambridge for gardening. The Applicant provided a quotation from Duncan Property Services & Co of £75.00 per month being £900.00 per annum.
92. The Tribunal found from the photographs of the garden that mowing the lawn, cutting back the plants and maintaining the raised beds would take, on average, at least an hour a week throughout the year. The Tribunal found in its knowledge and experience, fortnightly visits during the 32-week growing season would be required to maintain this garden. The Tribunal determined a charge of £840.00 per annum for 2018 and 2019 to be reasonable. The quotation from Duncan Property Services appeared to be on the low side for this particular garden. A landlord does not have to obtain the cheapest quotation and the annual charge is not excessive taking into account the area and work required to maintain this particular garden. The Tribunal

determined that the amount charged for a gardening for 2020 of £1,200 was reasonable.

2. Plants

93. The costs for the Years in Issue were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£71.50	£200.00	£200.00
Determined by Tribunal	£71.50	£75.00	£75.00

94. No invoices were provided and the Applicant questioned whether any plants had been purchased at all.

95. It was appreciated that Mr John Price wanted the garden to be attractive. It was accepted there had been some expenditure as it was apparent from the photographs that a raised bed had been constructed or repaired and shrubs planted. However, the Tribunal considered an annual sum of £200.00 was too much without the cost being accounted for. If retaining plants is a problem then advice should be sought to obtain robust perennial plants to avoid replacing plants each year. The Tribunal determined that without invoices a charge of £75.00 per annum was reasonable for the years in issue.

3. Window Cleaner

96. The costs for the Years in Issue for Window Cleaning were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£532.80	£302.40	£0.00
Determined by Tribunal	£302.40	£302.40	£0.00

97. The Tribunal found that for 2018 the two window cleaning VAT returns of £115.20 (with corresponding invoices) and the one VAT Return of £302.40 totalled £532.80 however the invoices and returns referred to 62 Green End Road which the parties agreed also belonged to the Respondent. Without confirmation from the contractor that these charges were actually for 56 Green End Road the Tribunal found that it had to make a determination on the balance of probabilities.

98. In making its determination it took account of subsequent years and noted that there was a charge of £302.40 in 2019 which merely stated Green End Road.

99. The Tribunal found that on the balance of probabilities the two invoices and Returns for £115.40 were, as marked, for 60-62 Green End Road.

100. With regard to the charge of £302.40 this would equate to a window cleaning charge of about £25.00 per month. In the Tribunal's knowledge and experience this would be a reasonable charge for cleaning the windows at 56 Green End Road. As this amount appears for both 2018 and 2019, on the balance of probabilities this related to 56 Green End Road and the Tribunal

determined it to be a reasonable charge for each year based on the evidence of the VAT Returns.

4. Buildings Insurance

101. The costs for the years in issue were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£718.34	£732.00	£776.13
Determined by Tribunal	£615.28	£732.00	£776.13

102. The Tribunal found that it was the responsibility of an individual Leaseholder to pay the charges made by an insurer when the Leaseholder causes the policy to be amended because of a change of mortgagee. Therefore, the charge for the insurance for 2018 should only relate to the premium and not include administrative costs for amendments for which the individual leaseholder should be invoiced.
103. The Tribunal found that the invoice for the insurance for 2018 was £615.28. Therefore, the additional sum of £103.06 was for amendments which should be invoiced to the individual Leaseholder and not the Service Charge.
104. With regard to 2019 the Respondent's Representative produced a broker's invoice for £3,992.46 and for 2020 an invoice for £4,718.15. Both were for block policies for the Respondent's holdings. However, no other information was provided and the apportionment of the block policy premium appeared to be made by the Respondent's Representative and managing agent rather the broker.
105. The Tribunal sets out below matters which a landlord should keep in mind when obtaining insurance.
106. An insurance policy must be compliant with the Lease. In obtaining insurance the landlord does not have to obtain the cheapest premium but it must be a premium that is representative of the market rate or that it has been negotiated at arms' length in the market place (*Havenridge Limited v Boston Dyers Limited* [1994] 49 EG 111 & *Berrycroft Management Company Limited v Sinclair Gardens Investments (Kensington) Limited* [1996] EWHC Admin 50)
107. A commercial landlord with a very substantial portfolio, may negotiate a 'block policy' for all a landlord's holdings rather than negotiating individual policies property by property as there are advantages of practicality for a landlord and more comprehensive cover for the Tenant (*Forcelux Limited v Sweetman and Another* [2001] 2 EGLR 173). However, so far as the apportionment between individual properties and their tenants within the portfolio is concerned, the policy should not mean that the premium is apportioned in such a way that tenants of high-risk properties pay less and tenants of low-risk properties pay more than if the premium were apportioned to take account of the relative risk of the respective properties. In other words, the Applicant should pay a premium that reflects the risk related to the Property.

108. In determining whether a premium is reasonably incurred there are two tests, firstly a landlord must show that its decision-making process is rational and secondly that the outcome is reasonable (*Cos Services Limited v Nicholson and Willans* [2017] UKUT 382 (LC) & *Waalder v Houslow LBC* [2017] EWCA Civ 45)
109. The Tribunal firstly considered Respondent’s process of placing its insurance. The Tribunal found that the Respondent instructed a broker who, on the balance of probabilities, has gone into the market place and obtained insurance at arm’s length. The Respondent had placed insurance for all its holdings under a block policy as it is entitled to do. It is not known whether it selected the lowest premium.
110. Secondly the Tribunal considered whether the outcome of the above process resulted in an excessive premium. The Tribunal found that, on the evidence it had available, it did not.
111. The Tribunal determined that the premiums for 2019 and 2020 as stated on the Account for Actual costs for those years are reasonable. In future years there should be evidence that the apportionment between properties has been calculated in consultation with the broker.

5. Electricity

112. The costs for the Years in Issue were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£313.51	£181.65	£187.99
Determined by Tribunal	£200.47	£181.65	£187.99

113. The total charges shown on the electricity invoices corresponded to the amounts stated on the Account of the Actual Costs for the year 2019 and 2020. In the absence of evidence to the contrary the Tribunal determined these to be reasonable. Invoices for £200.47 were produced for 2018. The Tribunal found that the invoices for all three years did not support the Respondent’s Representative’s statement that the actual costs were £254.24. The Tribunal therefore determined the charge of £200.47 to be reasonable.

6. Stationery & Postage

114. The costs for the Years in Issue were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£25.00	£25.00	£25.00
Determined by Tribunal	£0.00	£0.00	£0.00

115. The Tribunal found that the stationery and postage costs should be included in the Management Fees.

7. Management Fees

116. The costs for the Years in Issue were as follows:

Service Charge Amount	2018	2019	2020
Claimed	£2,000.00	£2,000.00	£2,000.00
Determined by Tribunal	£1,050.00	£1,120.00	£1,190.00

117. The Tribunal took into account the duties of the Managing Agent under the RICS code including:
- Maintaining records,
 - Arranging reports, surveys and risk assessments in accordance with statutory requirements,
 - Preparation of accounts,
 - Arranging and monitoring general repairs to the common parts,
 - Receiving and paying invoices,
 - Liaising with contractors, tradesmen etc.,
 - Preparing and serving service charge and ground rent invoices in accordance with statutory requirements,
 - Collecting service charges and ground rent and enforcing payment.
118. The Tribunal found that there were failings in the management. Whereas the Lease did not require the Estimated Service Charge Demands to be itemised this is good practice particularly in the present case. Since there were no certified or audited accounts as required by the Lease for any of the previous years the Leaseholder would not know on what the money demanded was to be expended.
119. There was no evidence of any designated Service Charge or Reserve account. The Respondent's Representative said that none existed as there were no sums to put in it. In this regard it appeared that the Respondent's Representative conflated his position as Director of the Respondent with that of his being a Leaseholder of 6 out of 7 of the Flats. The two are separate persons. The designated account should be in the name of the Respondent as trustee for the Leaseholders. All the Leaseholders should, including the Respondent's Representative, pay their estimated Service Charge contribution as apportioned in the Lease into the account. The Service Charge costs are then paid out of that account. It is there as a protection for all Leaseholders.
120. There were a number of invoices missing. Works were carried out and charged for without any record of what had been done.
121. No insurance certificates or policies were provided.
122. The photographs showed that there was some sorting of waste undertaken by the Respondent's Representative in his role as Managing Agent and the Tribunal took account of this.
123. The Tribunal is aware that until 2018 a far less formal approach was taken with regard to the management and according to the Respondent's Representatives, he paid all the costs. As soon as that arrangement changed in

2018, the Lease and the legislation needed to be strictly followed to avoid conflict.

124. The Tribunal determines that in its knowledge and experience a reasonable Management Charge for the standard of management carried out is £150.00 per unit for 2018, £160.00 per unit for 2019 and £170.00 per unit for 2020.

8. Miscellaneous

Service Charge Amount	2018	2019	2020
Claimed	£350.00	£400.00	£500.00
Determined by Tribunal	£150.00	£150.00	£150.00

125. It is for management to engage a contractor to carry out minor repairs, re-new letter boxes and re-new fittings to retain the bin store doors. If the Respondent's Representative as the Managing Agent is to carry these out, a clear costing must be provided in the form of an invoice. The Tribunal did not consider these to be minor repairs.
126. Garden tools, weedkiller and rubbish sacks are within the gardener's contract and should not be added on as miscellaneous
127. The removal and disposal of inappropriate waste needs to be clearly identified in order that the managing agent can keep track of what, when and how items are being disposed of. If as appears in this case it can be removed by the manager, then a charge is appropriate and should be invoiced. The sorting of waste is also an issue for a number of blocks. Fly-tipping of large items also need to be recorded, if possible, the disposer identified and the item removed and an invoice raised.
128. In the absence of invoices or other evidence the Tribunal determines an allowance of £150.00 for miscellaneous items to be reasonable.

Reserve

129. The Royal Institute of Chartered Surveyors in its guidance to Residential Managers commends the establishment of a Reserve Fund. Where major works are required, it benefits both landlords and tenants to have a fund out of which deposits can be paid and from which the tenants' contribution to the full cost of the work under the service charge can be off-set in part or in full. Such fund should be based on a genuine pre-estimate of the costs likely to be incurred following a survey of the property.
130. Here the Lease authorises a reserve fund and a survey and estimate of costs should be prepared. In the meantime, the Tribunal determines that the sum of £1,000 which is just over £140.00 per annum per unit, was reasonable and payable on proof of a designated trust account.

Summary of Decision

131. The following costs are determined by the Tribunal to be reasonable for the years in issue (the figures in bold are those that have been determined):

Service Charge				
		2018	2019	2020
Item	Description	£	£	£
1	Gardener	840.00	840.00	1,200.00
2	Plants	71.50	75.00	75.00
3	Window Cleaner	302.40	302.40	0.00
4	Buildings Insurance	615.28	732.00	776.13
5	Electricity	200.47	181.65	187.99
6	Stationery & Postage	0	0	0
7	Management Charge	1,050.00	1,120.00	1,190.00
8	Miscellaneous	150.00	150.00	150.00
9	Reserve			1,000.00
	Total	3,229.65	3,401.05	4,579.12
	Unit Charge	461.37	485.86	654.16

Payability

132. The Applicant submitted that he had not received any Demands for Service Charges other than those that were included in the Bundle. Those that he had received he said were defective in that they did not comply with the Lease and so he submitted were not payable.
133. In addition, he said that he had not been provided with the Accounts for the Actual Costs incurred until 7th May 2021 and suggested that the Accounts had only been prepared for the Tribunal hearing. He referred the Tribunal to correspondence he had with a Mr Sinclair of Sinclair Taylor, a debt recovery agency which consisted of a series of seven letters between 17th February to 4th May 2021 in which the Applicant requested a copy of the accounts. The Applicant said that these were provided on 7th May 2021.
134. The Respondent's Representative said that he had sent the Applicant the accounts every year. He said that all the Demands and Accounts of the Actual Costs for each year in issue, which included Demands that had been sent, were in the Bundle.
135. The Tribunal asked the Respondent's Representative whether there were any other documents or anything in writing which informed the Applicant that the Service Charge costs had been incurred for any of the years in issue. He said that so far as he was aware there were not, everything was in the Bundle.
136. The Respondent's Representative said that the Applicant was well aware of the costs incurred. The Respondent's Representative said that he had paid for all the outgoings on the Property until 2018. He then asked the Applicant to pay the Ground Rent and Service Charge and the Applicant has as a result sought to avoid paying.

Decision re Payability

137. If Service Charge costs are not demanded within 18 months of their being incurred then under section 20B of the Landlord and Tenant Act 1985 they are not payable. If a Demand is defective then the cost being demanded is not payable. If the defect is not remedied by the Demand being re-served correctly within 18 months, then it may not be payable under section 20B depending on the defect.
138. Demands may be defective for two main reasons. Firstly, because they are not compliant with legislation and, secondly, because they are not compliant with the Lease.
139. The legislative requirements are that a service charge demand must under section 47 of the Landlord and Tenant Act 1987 state the name of the current Landlord, under section 48 of the 1987 Act must provide the Leaseholders with a correct address for service of notices and under section 21B of the Landlord and Tenant Act 1985 must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges. If any of these requirements are not met then the demand is not payable until it is subsequently served in compliance with the legislation. The section 20B time limit does not apply to demands which are defective due to non-compliance with these requirements because the legislation itself provides the penalty, namely that they are not payable until served correctly.
140. Applying this to the present case the Tribunal looked at the Demands that had been served as provided and referred to above. The Tribunal found that all the Demands provided for the years in issue complied with sections 47 and 48 of the Landlord and Tenant Act 1987. It was not clear how many complied with section 21B of the Landlord and Tenant Act 1985. A summary of tenants' rights and obligations was only annexed in the Bundle to the Summary Demand dated June 2020 which demanded the estimates in arrears for 2019 and 2020. However, this summary of rights and obligations was not valid as the print was too small and illegible. The Demands would therefore all have to be re-served to be compliant with section 21B.
141. The Tribunal then considered whether they were served in accordance with the Lease. A demand must be compliant with the lease or it will not be a valid demand. In *London Borough of Brent v Shulem B Association Ltd* [2011] EWHC 1663 (Ch) it was held that a demand that is initially not compliant with the Lease must be re-served in its correct form within 18 months of the costs being incurred as stated in section 20B (1) of the Landlord and Tenant Act 1985, unless the Lease provides otherwise. For section 20B (2) to exempt the landlord from the effect of section 20B (1) the tenant must be notified in writing within 18 months that those costs had been incurred and that the tenant would subsequently be required under the terms of the lease to contribute to them by the payment of a service charge. Section 20B (2) only applies to costs incurred, not to be incurred. This interpretation was confirmed in *Johnson v County Bideford Ltd* [2012] UKUT 457 (LC). The then President of the Upper Tribunal at paragraph [10] distinguished between a

demand that was not statutorily compliant and one that was not contractually compliant with the Lease. The distinction is that sections 47 and 48 of the Landlord and Tenant Act 1987 and 21B of the Landlord and Tenant Act 1985 allow for retrospective correction. With regard to a lease, it depends on the terms of the lease whether retrospective correction is allowed. If the terms do not, then section 20B applies.

142. The Tribunal then compared the requirements of the Lease with the Demands actually served. Paragraph 3 of the Fourth Schedule states:

The Service Charge shall consist of a sum comprising

- 3.1 The expenditure estimated as likely to be incurred in the Service Charge year by the Lessor for the purposes mentioned in the Fifth Schedule together with
- 3.2 An appropriate amount as a reserve...
- 3.3 A reasonable sum to remunerate the Lessor for its administrative and management expenses in respect of the Block

143. The Tribunal found that there was no obligation in the Lease to itemise the estimate and that a lump sum Demand that was sufficient.

144. No evidence was adduced that any Demand had been made for an estimated Service Charge in 2018. The first Demand, for which there was evidence of a Demand, was in respect of the Service Charge Account for the Actual Costs dated 14th December 2018 but which the Applicant said he had only received on 7th May 2021 prior to the Hearing.

145. The evidence that was adduced to show that estimated Service Charges had been demanded only related to 2019 and 2020 which was as follows:

Year ending 31st December 2019

- 1) Demand dated December 2018 for the period 1st January 2019 to 30th June 2019 for £375.00
- 2) Demand dated June 2019 for the period 1st July 2019 to 31st December 2019 for £375.00

Year ending 31st December 2020

- 1) Demand dated January 2020 for the period 1st June 2020 to 30th June 2020 for £375.00
- 2) Demand dated June 2020 for the period 1st July 2020 to 31st December 2020 for £375.00

146. Further Demands were served in the form of the Service Charge Account for the Actual Costs incurred for the years ending 31st December 2019, dated December 2019, and 2020 dated December 2020 but which the Applicant said he had only received on 7th May 2021 prior to the Hearing.

147. The Tribunal noted the correspondence between Mr Sinclair of Sinclair Taylor, the Respondent and the Applicant between 18th January 2021 and 4th May 2021. The Tribunal could see no reason for the Applicant to ask for this information if it had been provided earlier. Based on this evidence the Tribunal found that the Service Charge Accounts of the Actual Costs incurred for the years ending 31st December 2018, dated 14th December 2018, 2019, dated December 2019, and 2020 dated December 2020 were not served on the Applicant until 7th May 2021.
148. No evidence was adduced to show that a Summary of Tenants' Rights and Obligations, as required by Section 21B of the 1985 Act had been served with the Service Charge Account for the Actual Costs for 2019 and 2020.
149. The Tribunal found that the Respondent did not demand the Service Charge for the year ending 31st December 2018 until 7th May 2021 which is more than 18 months after the costs in that year were incurred. Therefore, the Tribunal determined that pursuant to section 20B of the 1985 Act the Applicant is no longer liable to pay these costs.
150. The Tribunal found that the Demands served by the Respondent for the Estimated Service Charge costs and the Actual Service Charge costs for the years ending 31st December 2019 and 2020 did not comply with section 20B of the 1985 Act in that they were not accompanied by a valid Summary of Tenants' Rights and obligations. Therefore, the Tribunal determined that they were not payable until a compliant Demand was served.

Decision as to Reasonableness and Payability

151. The Tribunal determines that the Service Charge for the year ending 31st December 2018 is not payable by the Applicant to the Respondent pursuant to section 20B of the Landlord and Tenant Act 1985 because there is no evidence that a Demand has been served within 18 months of the costs being incurred.
152. The Tribunal determines that the Service Charge of £485.86 is reasonable and payable by the Applicant to the Respondent for the year ending 31st December 2019 when properly demanded.
153. The Tribunal determines that the Service Charge of £654.16 is reasonable and payable by the Applicant to the Respondent for the year ending 31st December 2020 when properly demanded.

Administration Charges

154. No evidence was adduced as to Administration Charges for non-payment or late payment. However, as the Tribunal has determined that:
 - the Applicant is not liable for the Service Charge for the year ending 31st December 2018 because there is no evidence that a Demand has been served within 18 months of the costs being incurred (section 20B Landlord and Tenant Act 1985); and
 - the Service Charges for the years ending 31st December 2019 and 2020 are not payable by the Applicant to the Respondent because the

Demands were not served with a valid Summary of Tenants' Rights and Obligations (section 21B Landlord and Tenant Act 1985); Any Administration Charges are not reasonable or payable.

Submissions Re Section 20C & Paragraph 5A of Schedule 11

155. The Applicant applied for an order under section 20C of the Landlord and Tenant Act 1985 that the landlord's costs arising from the proceedings should be limited in relation to the service charge and for an order under paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 to reduce or extinguish the Tenant's liability to pay an administration charge in respect of litigation costs.
156. The Applicant stated that he had not received any estimated or actual accounts of the Service Charges. As he was liable for the Service Charges, he said he wanted to know what the costs were and to see the invoices. He said that before he had a meeting with the Respondent's Representative to discuss the Service Charges, he wanted to know what the costs were. The Respondent's Representative had all the information and he felt he would be at a disadvantage to discuss or agree anything without knowing all the facts. There would have been no need to come to the Tribunal if he had been given the information he requested.
157. The Respondent's Representative said that he had never asked for the accounts before 2018 because the Respondent's Representative had always paid everything. It is only now that he has been asked to pay that the Applicant has asked to see the accounts and invoices. The Respondent's Representative said the Applicant had only asked to see the documents once he knew that the Respondent's Representative intended to pursue the matter. The Respondent's Representative said he had offered to meet and discuss matters but the Applicant had refused even after he had received all the information he had requested. The Respondent's Representative said that the matter could have been sorted out without a tribunal application.

Decision re Section 20C & Paragraph 5A of Schedule 11

158. Leases may contain provisions enabling a landlord to obtain the costs incurred in proceedings before a tribunal or court either through the service charge or directly from a tenant. Where the lease contains these provisions, the costs of the proceedings could be claimed by a landlord under either lease provision but not both. The difference between the two was referred to in the *Freeholders of 69 Marina St Leonards on Sea v Oram & Ghoorun* [2011] EWCA Civ 1258.
159. The provision enabling a landlord to claim its costs through the service charge might be seen as collective, in that a tenant is only liable to pay a contribution to these costs along with the other tenants as part of the service charge. Under section 20C of the Landlord and Tenant Act 1985 a tribunal may, if it is satisfied it is just and equitable, make an order that a landlord's costs, either in part or whole, cannot be re-claimed through a service charge.

160. The provision enabling a landlord to claim its costs directly from a tenant might be seen as an individual liability, whereby a tenant alone bears the landlord's costs of the proceedings. Under paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 a tribunal may, if it is satisfied it is just and equitable, make an order that a landlord's costs, either in part or whole, cannot be re-claimed directly from a tenant.
161. First the Tribunal considered whether the Lease contained a provision allowing the Landlord to claim its legal costs through the Service Charge. The Tribunal was of the opinion that it did not paragraph 5 of the Fifth Schedule refers to the Tenant's liability to pay costs incurred in management by the Landlord however there is no reference to include legal costs in respect of these proceedings.
162. Secondly the Tribunal considered whether the Lease contained a provision allowing the Landlord to claim its legal costs directly from the Tenant Applicant. The only provision which enables the Landlord to claim legal costs in court proceedings from the Tenant is in paragraph 14 of the Third Schedule. However, this refers to an action in connection with or contemplation of preparing or serving a section 146 or 147 Notice under the Law of Property Act 1925, which this is not.
163. Notwithstanding its opinion that the Landlord was not able to claim its legal costs in the proceedings before the Tribunal, the Tribunal considered whether it was just and equitable to make an order under section 20C of the Landlord and Tenant Act 1985 or paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. The Tribunal was of the opinion that improved management could have remedied most of the issues and that each party should be responsible for its own costs. In this case, if there were a proviso whereby the Respondent could recover its costs, making an order would provide that result. Therefore,
 - 1) The Tribunal makes an Order under section 20C of the Landlord and Tenant Act 1985 that the Respondent's costs in connection with these proceedings should not be regarded as relevant costs to be taken into account in determining the amount of any Service Charge payable by the Applicants.
 - 2) The Tribunal makes an Order extinguishing the Applicants' liability to pay an administration charge in respect of litigation costs under paragraph 5A of Schedule 11 of the Commonhold and Leasehold reform Act 2002.

Judge JR Morris

APPENDIX 1 - RIGHTS OF APPEAL

1. If a party wishes to appeal the decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal 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 for 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 2 – THE LAW

The Law

1. The relevant law is contained in the Landlord and Tenant Act 1985 as amended by the Housing Act 1996 and Commonhold and Leasehold Reform Act 2002.
2. Section 18 Landlord and Tenant Act 1985
 - (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, improvement 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 of which the service charge is payable.
 - (3) for this purpose
 - (a) costs include 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 period
3. Section 19 Landlord and Tenant Act 1985
 - (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period-
 - (a) only to the extent that they are reasonably incurred; and
 - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.
 - (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.
4. Section 21A Withholding of service charges
 - (1) A tenant may withhold payment of a service charge if—
 - (a) the landlord has not provided him with information or a report—
 - (i) at the time at which, or
 - (ii) (as the case may be) by the time by which, he is required to provide it by virtue of section 21, or
 - (b) the form or content of information or a report which the landlord has provided him with by virtue of that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under that section.

- (2) The maximum amount which the tenant may withhold is an amount equal to the aggregate of—
 - (a) the service charges paid by him in the period to which the information or report concerned would or does relate, and
 - (b) amounts standing to the tenant's credit in relation to the service charges at the beginning of that period.
 - (3) An amount may not be withheld under this section—
 - (a) in a case within paragraph (a) of subsection (1), after the information or report concerned has been provided to the tenant by the landlord, or
 - (b) in a case within paragraph (b) of that subsection, after information or a report conforming exactly or substantially with requirements prescribed by regulations under section 21 has been provided to the tenant by the landlord by way of replacement of that previously provided.
 - (4) If, on an application made by the landlord to the appropriate tribunal, the tribunal determines that the landlord has a reasonable excuse for a failure giving rise to the right of a tenant to withhold an amount under this section, the tenant may not withhold the amount after the determination is made.
 - (5) Where a tenant withholds a service charge under this section, any provisions of the tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.
5. Section 21B Notice to accompany demands for service charges
- (1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.
 - (2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
 - (3) A tenant may withhold payment of a service charge, which has been demanded from him if subsection (1) is not complied with in relation to the demand.
 - (4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.
 - (5) Regulations under subsection (2) may make different provision for different purposes.
 - (6) Regulations under subsection (2) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
6. Section 27A Landlord and Tenant Act 1985
- (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 arbitration agreement to which the tenant was a party
 - (c) has been the subject of a determination by a court
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

7. 20C Landlord and Tenant Act 1985

Limitation of service charges: costs of proceedings.

- (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 First-tier 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 the 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;
 - (ba) in the case of proceedings before the First-tier Tribunal, to the 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 the 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.

Limitation of administration charges: costs of proceedings

- 5A(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, and
 - (b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings.