FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BE/LSC/2018/0348**
Property	**:**	**Flat 1 & 3, 31 Wood Vale Forest Hill London SE23 3DS**
Applicant	**:**	**31 Wood Vale Management Limited**
Representative	**:**	**Mr Simon Canelle**
Respondent	**:**	**(1) John Riches – Flat 1** **(2) Marguerite O'Donoghue – Flat 3**
Representative	**:**	**N/A**
Type of application	**:**	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal members	**:**	**Judge Carr** **Mr D Jagger**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**20 January 2020**

DECISION

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Decisions of the tribunal

(1) The tribunal determines that the sum of £2,244 is payable by Ms O'Donoghue in respect of the service charges for the years 2010 – 2017. This comprises the following:

a. £1139.64 (12 months x £94.97) for 2014 – 15

b. £1,1014.36 for the year 2011-12 (12 months x £84.53).

(2) The tribunal determines that the sum of £ 3,359.72 is payable by Ms O'Donoghue in respect of the service charges for the 18 month period from March 2018 – September 2019. This comprises the following:

a. £2000 for the managing agents fees

b. £750 for the accountancy fees

c. £500 for legal fees

d. £45.86 bank charges

e. £54.86 for maintenance charges

(3) The tribunal determines that the sum demanded by the Applicant is payable by Mr Riches.

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

(5) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

(6) The tribunal rejects Ms O'Donoghue's application under Rule 13 of the Tribunal procedural rules.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Respondents in respect of the service charge years 2011 – 12 to 2018- 19 inclusive. .

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

The hearing

3. The Applicant was represented at the hearing by Mr Simon Canelle, who is not legally qualified and both the Respondents appeared in person. Mr Riches made very little contribution to the hearing. Ms O'Donoghue represented herself.

4. The hearing had been originally scheduled for Monday 18th March 2019 but the Applicant's then Managing Agent, who had initiated the proceedings, suffered a stroke in February 2019. Whilst he has recovered his health is not sufficient for him to continue as Managing Agent and his contract was terminated in March 2019.

5. At the commencement of the hearing Ms O'Donoghue made an application that the application be struck out. This was on the basis that the application was frivolous or vexatious or an abuse of process as no service charge demands had been served during the service charge years in dispute. The Applicant had failed to comply with s. 20B(1) of the Act. Ms O'Donoghue argued that the service of service charge demands which post-dated the application was a misguided and inappropriate effort to give substance to the application.

6. She further argued that the Applicant had also failed to comply with s.20B(2) in that she had received no notification in writing that costs were incurred.

7. Ms O'Donoghue referred the Tribunal to several cases but had neither the references nor the print out of the cases to hand at the Tribunal. The Tribunal found this surprising as she assured the Tribunal that she was a barrister. The Tribunal asked her to send copies of the authorities to it and to the Applicants by 6th December 2019.

8. Mr Canelle for the Applicant argued that the directors of the management company were lay people who had been bullied by Ms O'Donoghue who told them that she was legally qualified. He said that there was some information within the bundle which gave indications of the amount of service charges due. He also explained that he had served service charge demands following the Case Management Conference in an effort to regularise the service charge position.

9. The Tribunal thought very carefully about the application. It took into account that the fact that none of the parties were legally represented, that the Applicant is a lessee owned management company, that the Applicant admitted that it had not served service charge demands prior to 2019 and that one of the Respondent's, Mr Riches, had incurred considerable financial losses during the course of the period of the claim. There also appeared to be some evidence that there had been some communications about service charges between the parties that

might comply with the statutory requirements. On that basis the Tribunal determined to hear the application and reject Ms O'Donoghue's application for strike out.

The background

10. The property which is the subject of this application is a semi-detached Victorian house divided into four flats.

11. Photographs of the building were provided in the hearing bundle. This demonstrated a significant level of disrepair. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

12. The Respondents hold long leases of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

13. The Management Company comprises the lessees of each of the four flats who each have a share in the Management Company. The Management Company carries out the obligations imposed upon it by the lease and is entitled o demand from the lessees its costs in so doing.

14. The distinctive facts of this application, which the Tribunal have determined as a result of the evidence before it and the bundles provided, arise from the particular informality in the way that it has been managed. Mr Riches appears to be a reclusive personality who has been prepared to live in what can only be described as a level of squalor. Indeed the Applicant informed the Tribunal that Mr Riches has been so elusive since 2016 that on 2 occasions it has had to engage Enquiry Agents simply to communicate with him.

15. Nonetheless Mr Riches ensured that the insurance on the property was paid, at least until 2017. Other than that Mr Riches did not engage with the legal requirements for managing a leasehold property, and did not formally request contributions from the other lessees. This meant that over the years he has significantly overpaid his contributions to the costs of the property and he has allowed arrears to accumulate.

16. The overpayment of Mr Riches contrasts, the Applicant says, in particular with the contributions from Ms O'Donoghue. Since she purchased Flat 3 in 1990 she has contributed nothing until 2017. She does not even appear to have paid her ground rent. Part of the purpose of the Application has been to rectify this and clarify the obligations of the lessees. The hope is to place the property on an even keel which will

allow new managers recently appointed to manage the property effectively.

17. The absence of proactive management has had serious consequences for the property which is now in a state of considerable disrepair, in particular the roof of the building needs replacement and Mr Riches' flat requires significant refurbishment.

18. The current directors of the management company took over in 2016 - 2017 and attempted to put matters into order. At the recommendation of their solicitor they employed a manager, Mr Defries. Mr Defries proved useful in reviving the subsidence claim which Mr Riches had let lapse, but he is elderly and has been in serious ill health. Mr Defries made some attempt to restore legal order, but he made little progress before his appointment was terminated in March 2019.

19. The Tribunal notes that Mr Canelle, who is a friend of the current Directors and is acting on a voluntary basis, has made admirable efforts to clarify the issues and relevant documentation. However the documentation continues to be complex and at times opaque and it has proved difficult for the Tribunal to extract the necessary information about the payability and reasonableness of service charges over the years in question. It has done its best with the large amount and confused nature of the documentation provided to it.

The issues

20. At the start of the hearing the parties identified the relevant issues for determination as follows:

    (i) The payability and/or reasonableness of service charges for the years 2011 – 12 to 2018 – 19 inclusive; in particular:-

        a. Whether service charges are payable at all because of a failure to serve service charge demands or provide written notification as per s.20B of the Act.

        b. If service charges are payable, whether they are reasonable.

    (ii) These issues relate only to the service charges of Ms O'Donoghue. Mr Riches agreed the application against him and therefore there is no jurisdiction for the tribunal to make a determination on the sums owed by him.

(iii) The tribunal is also asked to determine a s.20 C application and an application from Ms O'Donoghue for a Rule 13 determination.

21. Having heard evidence and submissions from the parties - included submissions from Ms O'Donoghue received after the end of the hearing, and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

Are any service charges payable?

22. Ms O'Donoghue's starting point is that no service charges are payable because there were no communications between the management company and herself. She also argues that the case law suggests that if the Applicant is relying on s.20B(2) to justify its claim then the written communication should be sufficiently detailed and indeed precise.

23. She also made the point that Mr Riches could have sued her in contract for the monies that he paid out on her behalf. He failed to do so in time, and if a limitation period applies in contract law then it should also apply to service charges.

24. The Tribunal explained that the law is distinct when it comes to service charges and that the six year limitation period does not apply.

25. She further argued it was unfair that she was being targeted by the Management Company. Other people had not paid service charges, and indeed, by 2017 when Mr Riches decided he could no longer afford to pay the insurance cover, he was the only payer.

26. The Applicant argues that service charges should be payable because Ms O'Donoghue was fully aware that service charges were payable and that she knew for instance that the property had to be insured. It also argues that she was in agreement with the informal nature of the management of the property.

27. It argues that that she did receive certain information about service charges. It refers to two letters in particular to substantiate its claim.:

28. The first of these is a letter dated 11th October 2011 from Mr Riches which informed all the lessees that they would be required to pay insurance at £84.53 pcm.

29. Ms O'Donoghue agreed that the letter would be sufficient to comply with s.20B(2); however she argued that she did not receive the letter.

30. The Applicant says that it simply put the letter in her pigeonhole at the property. It says that Ms O'Donoghue did not make it easy for it to communicate with her. She did not let it have her postal address and when it communicated with her agents, her agents said that issues about service charges fell outside of their remit.

31. The Tribunal asked Ms O'Donoghue whether she had had to obtain permission to let out her flat. She told the Tribunal that she did not, as each letting was for less than three years.

32. The Tribunal checked the relevant clause of the lease which is at clause2 G of the lease. Ms O'Donoghue is correct in that an underletting of the whole of the demised premises is permitted for a period not exceeding three years at any one time but that permission is subject to 'arrangements being made to the Lessor's satisfaction for the observation and performance of all of the covenants on the Lessee's part and the conditions contained within the lease'. There is no evidence that this proviso has been complied with. The failure to comply with this proviso is a major cause of the current dispute and as the Tribunal pointed out at the hearing, it is for the Applicant to take legal advice on this matter.

33. There appears to have been no communication for the year 2012 -13, but the Applicant says it relies on the letter of 2011 to fulfil its s.20B(2) obligations.

34. In her submissions subsequent to the hearing Ms O'Donaghue concedes that in the service charge year 2014-15 she was informed by letter from Mr Riches that a sum of £94.97 pcm was required as her share of the insurance premium. She therefore agrees to pay the insurance charge for this year.

35. There was no further communication in connection with service charge figures until November 2017 when Mr Defries sent a schedule of expenditure for that year. This schedule included an amount for insurance for 2015 – 16 of £2915.60 (six months payment) and an amount for insurance of £6076.23 for the year 2016 – 17. It is quite difficult to tie these figures in with the schedule of service charges in dispute provided by the Applicant. There is no information other than this schedule provided to the Respondents. The tribunal does not consider that this was a form of communication that complied with s.20B(2) of the Act.

36. There was only effective communication of sums owing when new service charge demands were served on 1st September 2019. Therefore, until March 2018 there was no communication of sums due other than the letters referred to above.

The tribunal's decision

37. The tribunal determines that the service charges that are payable by Ms O'Donoghue in the years prior to the service of service charge demands on 1st September 2019 taking effect from March 2018 are limited to insurance payments for the years 2011 -12 and 2014 – 15. These total £1139.64 (12 months x £94.97) for 2014 – 15 and £1,1014.36 for the year 2011-12 (12 months x £84.53).

38. No documentation was provided other service charges demanded in those years and therefore no further service charges are payable for that time.

Reasons for the tribunal's decision

39. No valid service charge demands were served until 1st September 2019 . Therefore, for the period in dispute prior to March 2018 only service charges of which Ms O'Donoghue had been given written notification of within 18 months of them being incurred are payable.

40. On the facts presented to the Tribunal these are limited to the notifications presented in the letter of October 2011 and the letter of July 2014 which relate solely to insurance payments.

41. Ms O'Donoghue had no information in connection with bank charges, gardening charges, maintenance charges or any other charges and therefore no further monies are payable for those years.

The reasonableness of the service charges that are payable

42. The second issue relates to the reasonableness of the service charges demanded in September 2019. There is no argument about payability at this stage because the Respondent accepts that the service charges are validly served. However service charges are only payable for the 18 months preceding September 2019.

43. Ms O'Donoghue accepts that the insurance premiums for the period March 2018 – September 2019 are payable and reasonable. However she asks for her payment of £1500 made in 2016 and her monthly payment of £100 to be set off against her obligation.

44. Ms O'Donoghue argued that the charges levied by the managing agent Mr Defries were unreasonable because he was overpaid and he had very limited qualifications.

45. She also argues that the fees paid to the accountants are unreasonable. She argues that there was no need for an accountant to be employed;

the skills required to carry out the tasks are all well within the competence of a lay person.

46. Similarly she rejects the legal costs demanded by the Applicant. She does not consider it reasonable.

47. Ms O'Donoghue says that she has already paid the maintenance charges for 2017 – 18 and has had an acknowledgement of this.

48. She argues that the sum of £445 that she paid to Southwark Council in connection with the knotweed problem at the property should be set off against the maintenance charges demanded in 2018 – 19.

49. The Applicant argues that it only appointed Mr Defries on the recommendation of its legal adviser and that, whatever his faults, he did revive the subsidence claim which enabled the subsidence. Whilst it accepts that the standard management fee would be considerably less than that paid to Mr Defries it argues that his work with the insurance company falls outside of the standard services provided by a managing agent and should therefore be rewarded accordingly.

50. It argues that the accountancy fees are high because of the terrible state of the accounts and that therefore the amount demanded is payable and reasonable.

51. It further argues that legal costs were made inevitable by the conduct of the Respondents.

52. It does not accept that the sum paid to Southwark Council in connection with the knotweed should be deducted from the maintenance charges as it had taken responsibility and expended monies to deal with the problem and it was inappropriate for Ms O'Donoghue to take the action she did.

The tribunal's decision

(7) The tribunal determines that the amount payable by the Respondent in respect of the 18 month period from March 2018 – September 2019 is £ 3,359.72 in respect of the service charges for the 18 month period from March 2018 – September 2019. This comprises the following:

a. £2000 for the managing agents fees

b. £750 for the accountancy fees

c. £500 for legal fees

d. £45.86 bank charges

e. £54.86 for maintenance charges

53. Ms O'Donghue has discharged her obligations as regards insurance as she has been paying monies in at £100 pcm for this.

54. There is to be no set off for the £445 which she paid to Southwark Council as this was not authorised by the Applicant. The tribunal accepts that Ms O'Donoghue has already paid the maintenance sum required for 2017 – 18. The sum owed for maintenance for this period is therefore not payable.

55. The sum owed for bank charges totals £45.86 being made up of £21.96 in 2017 – 18 and £ 23. 90 in 2018 – 19. Ms O Donoghue does not contest these sums.

Reasons for the tribunal's decision

56. The Tribunal has taken a broad brush approach to the reasonableness of the service charges which are the subject of the most recent 18 months period.

57. There was no argument about the reasonableness and payability of insurance premiums for the period March 2018 – September 2019. It is appropriate to set off against that total the sums of £100 pcm that Ms O Donoghue has paid to the Management Company. It is not appropriate to set off the sum of £1500 that she paid direct to the Insurance Company in March 2017. That was not the obligation imposed upon her under the lease. The obligation was to pay her share to the Management Company. In the opinion of the Tribunal Ms O'Donoghue cannot insist on adherence to the lease by the Applicant and not comply with the terms of the lease herself. However, as she has paid £100 pcm towards the insurance there is no further liability for insurance for this period.

58. A similar argument applies to the sum she has asked to be set off against the maintenance charges. It is not consistent with the lease for Ms O'Donoghue to initiate this sort of action. She should therefore pay her share of the maintenance charges for that period

59. The tribunal accepts the argument of the Applicant that Mr Defries acted over and beyond what could be expected of a standard management contract, that the accounts will have been very difficult to understand and manage and that legal fees were necessitated by the informal and inadequate management of the property and the intransigence of Ms O'Donoghue. It does not accept that everything charged for is reasonable however and it has therefore made an effort to

assess what would be reasonable charges for management, for accounts and for legal fees.

60. Ms O'Donoghue accepts her liability for the bank charges for the 18 month period.

Application under s.20C

61. At the hearing, Ms O'Donoghue applied for an order under section 20C of the 1985 Act. In the light of the particulars of this case the tribunal considers it is appropriate for all parties to bear their own costs in connection with the case and therefore it makes an order under section 20C of the 1985 Act, so that the Applicant may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.

Application under Rule 13

62. Ms O'Donoghue also made an application under Rule 13 that she be awarded punitive costs. Whilst there are many problems with the management of this property and the articulation of the application before the tribunal, the tribunal does not consider that those problems are solely the responsibility of the Applicant. Indeed the findings of the tribunal indicate that to some part there was substance to the claim of the Applicant. Therefore it does not make an order under Rule 13.

Name: Judge Carr **Date:** 20 January 2020

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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 Tribunal at the regional office which has been dealing with the case.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

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.

<u>Section 20</u>

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

(2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

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

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

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or 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.

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

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

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

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

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

Schedule 11, paragraph 2

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

Schedule 11, paragraph 5

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

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

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

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

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

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
 (a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject matter of an application under sub-paragraph (1).