



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

**Case Reference** : **CAM/00JA/LSC/2021/0011**

**HMCTS** : **CVP**

**Property** : **Flat 24 Park House, 117 Park Road,  
Peterborough PE21 2TN**

**Applicant** : **Myles Broom**  
**Representative** : **Ms Penny Freeland**

**Respondent** : **RG (No.3) Securities**  
**Managing Agent** : **Warwick Estates**  
**Representative** : **JB Leitch, Solicitors & Ms Mattie Green of  
Counsel**

**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  
Mr G Smith MRICS FAAV REV**

**Date of Directions** : **30<sup>th</sup> March 2021**  
**Date of Hearing** : **30<sup>th</sup> June 2021**  
**Date of Decision** : **31<sup>st</sup> August 2021**

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**DECISION**

## **CORRECTION CERTIFICATE**

The Tribunal exercises its powers under Rule 50 to correct the clerical mistake, accidental slip or omission in its Decision and Reasons dated 31<sup>st</sup> August 2021.

I hereby certify that due to a clerical mistake, accidental slip or omission in the Tribunal's Decision dated 31<sup>st</sup> August 2021:

In paragraph 98:

“Warwick Estates,  
15<sup>th</sup> October 2020 £95.00,  
5<sup>th</sup> November 2020 £186.00 and  
JB Leitch”

is deleted and the total of “£1,197.86” is replaced by “**£916.98**”.

In paragraph 99 the reference to “£96.00” and “£186.00” is deleted.

In paragraphs 103 and 2 the total of “£1,197.86” is replaced by “**£916.98**”.

The corrections shown in bold in this Decision and Reasons are made on **2<sup>nd</sup> November 2021**.

**Judge JR Morris**

## **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 reasonable Service Charge payable by the Applicant to the Respondent for the year ending 31<sup>st</sup> December 2018 is £685.57 and for the year ending 31<sup>st</sup> December 2019 is £911.74.
2. The Tribunal determines that the Administration Charges of ~~£1,197.98~~ **£916.98** are unreasonable and not payable by the Applicants to the Respondent.
3. The Tribunal does not make 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.
4. The Tribunal is satisfied it is just and equitable to make an Order extinguishing the Applicant's 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**

5. The Application dated 7<sup>th</sup> August 2020 is for
  - 1) A determination of the reasonableness and payability of Service Charges incurred for the period 1<sup>st</sup> January to 31<sup>st</sup> December 2019 and 2020 ("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);
6. Directions were issued on 30<sup>th</sup> March 2021.
7. The Procedural Tribunal Judge identified the following issues:
1. The Service Charge incurred for the year ending 24<sup>th</sup> March 2019 and 2020 and for the costs to be incurred for the year ending 24<sup>th</sup> March 2021.
  2. Whether the works are within the Landlord's obligations and whether their cost is payable under the Lease
  3. Whether the costs of the works are reasonable in particular in relation to the nature of the works, the contract price and the supervision and management fee;
  4. Whether an order under section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the 2002 Act should be made;
  5. Whether an order for reimbursement of application and hearing fees should be made.

### **The Law**

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

### **Description of the Property**

9. 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. From the Lease, the Statements of Case and the Internet the Tribunal finds that Park House is a three-storey block of twenty-four self-contained purpose-built flats ("the Building") constructed circa 2017. The Estate consists of Park House together with a car park to the rear and a bin store and some parking spaces to the front. The front and rear car parks are bounded by some soft landscaping of shrubs. Access to the car park at the rear is via fob controlled electric gates. There are gates to each side of the Building giving access between the front and rear car parks. It is understood that these are padlocked. The car parking spaces are designated.
10. The Building has brick elevations under a flat roof with upvc doors and double-glazed windows and upvc rain water goods. The Access to the Flats is via a door entry system to a hallway from which rise stairs to the first and second floors. There is a lift to all floors.

### **The Lease**

11. A copy of the Lease was provided dated 12<sup>th</sup> October 2018 which is for a term of 250 years from 25 March 2016 and made between (1) Life Less Ordinary Limited (2) Myles Tommy Richard Broom and Brogan Ria Nicholson ("the Lease"). The Leasehold interest is registered at HM Land Registry under Title Number CB437394 on 31<sup>st</sup> October 2018. The Tribunal is informed the

Freehold interest was transferred from the original Freeholder and Lessor to the Respondent, RG Securities (no.3) Limited, whose title is registered at HM Land Registry under Title Number CB28003 on 20<sup>th</sup> August 2019, a copy of which was provided.

12. The original Lessor managed the Estate through Fresh Property Management Limited. The Respondent appointed Warwick Estates to manage the Estate (the Managing Agent).
13. The following are the relevant provisions of the Lease.
14. Tenant's Proportion 4.159%
15. By Clause 2 the Property is demised:
  - 2.1 The Landlord lets with full title guarantee the Property to the Tenant for the Permitted Use of the Term
  - 2.2 The grant is made together with the Rights, excepting and reserving the Reservations, and subject to the Third Party Rights.
  - 2.3 The grant is made in consideration of the Tenant paying to the Landlord the Premium (receipt of which the Landlord acknowledges) and so covenanting to pay the Landlord the following sums as rent:
    - (a) the Rent;
    - (b) the insurance Rent;
    - (c) the Service Charge;
    - (d) all interest payable under this lease; and
    - (e) all other sums due under this lease.
16. By clause 5 of the Lease the Respondent covenants as follows:

The Tenant covenants:

  - (a) with the Landlord to observe and perform the Tenants Covenants; and
  - (b) with the Fiat Tenants to observe and perform the Regulations
17. By the Fourth Schedule the Tenant covenants as follows:
  - 1.1 To pay the Rent to the Landlord in advance by two equal instalments on or before the Rent Payment Dates by standing order or by any other method that the Landlord from time to time requires by giving notice to the Tenant
  - 2.1 The Tenant shall pay the estimated Service Charge for each Service Charge Year in two equal instalments on each of the Rent Payment Dates.
  - 2.2 In relation to the Service Charge Year current at the date of this lease, the Tenant's obligations to pay the estimated Service Charge and the actual Service Charge shall be limited to an apportioned part of these amounts. such apportioned part to be calculated on a daily basis for the

period from the date of this Lease to the end of the Service Charge Year. The estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on the date of this lease and the remaining Rent Payment Days during the period heat the date of this lease until the end of the Service Charge Year.

- 2.3 If in respect of any Service Charge Year the Landlord's estimate of the Service Charge is less than the Service Charge, the Tenant shall pay the difference on demand. If in respect of any Service Charge Year the Landlord's estimate of the Service Charge is more than the Service Charge, the Landlord shall credit the difference against the Tenant's next theta/merit of the estimated Service Charge (and where the difference exceeds the next instalment then the balance of the difference shall be credited against each succeeding instalment until it is fully credited.
7. To pay on demand the costs and expenses of the Landlord including any solicitors: surveyors' or other professionals' fees, costs and expenses and any VAT on them) reasonably and properly incurred by the Landlord moth canny and after the end of the them) in connection with or in reasonable contemplation of any of the following:
- (a) the enforcement of any of the Tenant Covenants;
  - (b) preparing and serving any notice in connection with this lease under section 146 and 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided other than by relief granted by the court
16. To indemnify the Landlord against all liabilities, expenses and costs (including but not limited to legal and other professionals' costs), claims, damages and losses (assessed on a full indemnity basis) with any VAT thereon, suffered or incurred by the Landlord arising out of or in connection with:
- (a) any breach of any of the Tenant Covenants or
  - (b) any act/omission of the Tenant
18. By the Seventh Schedule lists the services and expenditure of the Service Charge as follows:

#### Part 1 The Services

The Services are:

- (a) Cleaning, maintaining, decorating, repairing and replacing the Retained Parts
  - (b) Heating the Common Parts
  - (c) Lighting the Common Parts
- Cleaning, maintaining, repairing and replacing in the Common Parts the following:
- (d) Furniture, fittings and equipment,
  - (e) Lifts and lift machinery,
  - (f) Security machinery and equipment including the closed-circuit television,

- (g) Fire prevention, detection and fighting machinery and equipment and fire alarms,
- (h) Refuse bins
- (j) Signage
- (k) Internal floor coverings
- (i) Cleaning windows.
- (l) Any other service or amenity that the Landlord may in its reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of the tenants and occupants of the Building

## Part 2 Service Costs

The Service Costs are the total of:

- (a) All of the costs reasonably and property incurred or reasonably and properly estimated by the Landlord to be incurred of:
  - (i) Providing the Services
  - (vi) putting aside such sum as shall reasonably be considered necessary by the Landlord (whose decision shall be final as to questions of fact) to provide reserved or sinking funds for items of more expenditure to be or expected to be incurred at any time in connection with providing the Service;
- (b) The costs, fees and disbursements reasonably and properly incurred of:
  - (i) managing agents,
  - (ii) accountants for preparation and audit and
  - (iii) any other person reasonably and properly retained by the Landlord to act on their behalf in connection with the building or services

## Hearing

19. A Hearing was held by video conferencing on 30<sup>th</sup> June 2021 which was attended by Mr Myles Broom one of the Applicants, Ms Mattie Green, Counsel for the Respondent and witness, Mr Barrie Vardon, Property Manager for the Respondent's Managing Agent.

## Service Charge

20. The Tribunal found on reading the Bundle that the issue was whether the Service Charge incurred for the years ending 24<sup>th</sup> March 2019 and 2020 and for the costs to be incurred for the year ending 24<sup>th</sup> March 2021 were reasonable and payable. The main matter of contention appeared to be the management fee and as part of this issue it was contended that the amounts of the Service Charge claimed were not correct.
21. It was confirmed that:
- The Respondent is the Freeholder and the Landlord is RG Securities.
  - Warwick Estates Property Management Limited are the Respondent's Managing Agents with regard to the provision of Services and to whom

the Service Charge including the Reserve Fund contributions are to be paid.

- Pier Management Limited are Respondent's Agents with regard to the Insurance and Ground rent and to whom payments should be made.

22. The Budgets were provided as follows:

Year ending 24 <sup>th</sup> March	2020	2020	2021	2021	2022	2022
	Car Park	Service Charge	Car Park	Service Charge	Car Park	Service Charge
Heads of Expenditure	£	£	£	£	£	£
Management Fee		7,650		7,416		7,416
Company Secretary Fee						
General minor Repairs	1,000	1,000	1,000	1,000	1,000	1,000
Sundries		50		150		150
Buildings Insurance		2,200				
Fire Equipment		500				
Electricity		1,000		3,500		4,000
Accountancy		1,000		1,030		1,030
Lift Repairs		1,200		1,200		1,200
Risk Management		500		533		533
Refuse & Bulk Item Removal		200	1,300	200	1,300	200
Cleaning		1,820		2,160		2,160
Garden & Grounds	1,000		1,000		1,000	
Gate Repairs	1,000		1,000		1,000	
Insurance Claims						
Insurance Valuation						
Electric Testing		250				
Professional Fees		100		750		750
Reserve Fund			500	1,500	750	1,750
Directors & Officers Ins.						
Accounts Certification				250		250
Emergency Lights		650		650		650
AOV Maintenance		250		285		285
Car Park Maintenance	150		500		500	
Lift Telephone		360		360		360
Emergency Service				180		180
Door Entry System				250		250
Lift Insurance		400		530		530
Insurance Valuation						
Total	3,150	19,130	5,300	21,944	5,650	22,694
Total inc car park		22,280		27,244		28,244
Reserve				2,000		2,500
Reserve per flat				83.34		104.17
Reserve per 6 months				41.67		52.09
Total less Reserve				25,244		25,744
Service Charge per flat		928.33		1,051.83		1,072.66
SC per 6 months		464.16		525.91		536.33



23. The Actual Costs were provided as follows:

Year ending 24 <sup>th</sup> March	2019	2020
Heads of Expenditure	£	£
Accountancy Fees	762	804
Accounts Certification		195
AOV Maintenance		
Buildings Insurance	1,268	1,552
Cleaning	980	1,410
Electrical Repairs	132	
Electricity Costs	2,038	4,802
Emergency Lighting		
Lift Insurance	800	
Fire Equipment		262
Garden & Grounds	224	1,675
Gate Repairs	709	396
Minor Repairs	1,235	1,448
Lift Repairs	1,140	233
Lift Telephone		656
Management Fees	7,500	7,354
Emergency Service		150
Pest Control	587	
Refuse & Bulk Removal	142	1,418
Risk Management	918	5
Sundries	102	670
Total	18,224	23,516
Amount received		22,908
Deficit		609.00
Tenant's Proportion (4.159%)	757.94	978.03

24. The following Demands were provided:

11<sup>th</sup> September 2019

Outstanding Balance £240.45

12<sup>th</sup> September 2019

Budget for year ending 24<sup>th</sup> March 2020

1<sup>st</sup> 6 months £461.59

18<sup>th</sup> February 2020

Budget for year ending 24<sup>th</sup> March 2019 was £21,880

Spend was £18,224.00

Only £8,534.00 collected

Due to shortfall in receipts of £9,690.00

Balancing Payment for year ending 24<sup>th</sup> March 2019 £403.63

11<sup>th</sup> March 2020

Budget for year ending 24<sup>th</sup> March 2021

Notification of debt

Notification of Reserve Fund  
 Reserve Fund (due 4<sup>th</sup> April 2020) £41.67  
 Service Charge (due 4<sup>th</sup> April 2020) £525.99  
 Reserve Fund (due 29<sup>th</sup> September 2020) £41.67  
 Service Charge (due 29<sup>th</sup> September 2020) £525.99

25<sup>th</sup> September 2020

Deficit for year ending 24<sup>th</sup> March 2020 £609.00  
 Balancing Payment for year ending 24<sup>th</sup> March 2020 £25.37

25. The following letter before action were made re administration charges:

13<sup>th</sup> November 2020  
 22<sup>nd</sup> November 2020

26. The following statement of Account was provided:

Date	Description	Debit	Credit	Balance
29/08/19	Opening balance	240.45		240.45
12/09/19	Service Charge Demand 29/09/19-24/03/20	461.59		702.04
30/09/19	Insurance Credit 2019		22.21	679.83
09/12/19	Service Charge Receipt		240.45	439.38
17/02/20	Yearend balancing charge 24/03/19	403.63		843.01
05/03/20	Reserve Fund 25/03/20-28/09/20	41.67		884.68
05/03/20	Service Charge Demand 25/03/20-28/09/20	525.99		1,410.67
05/03/20	Reserve Fund 29/09/20-24/03/21	41.67		1,452.34
05/03/20	Service Charge Demand 29/09/20-24/03/21	525.99		1,978.33
02/06/20	Service Charge Receipt		240.45	1,737.88
21/09/20	Year-end balancing charge 24/03/20	25.37		1,763.25
15/10/20	Admin charge	95.00		1,858.25
05/11/20	Admin Charge	186.00		2,044.25
04/02/21	Service Charge Receipt		525.99	1,518.26
04/02/21	Service Charge Receipt		525.99	992.27
04/02/21	Service Charge Receipt		400.00	592.27
15/02/21	Opening Balance adjustment		240.45	351.82
22/02/21	Reserve Fund	52.09		403.91
22/02/21	Service Charge Demand	536.41		940.32
22/02/21	Reserve Fund	52.09		992.41
22/02/21	Service Charge Demand	536.41		1,528.82

## **Applicant's Case**

27. The Applicants said in written representations confirmed at the hearing that they purchased the Property on 12<sup>th</sup> October 2018 and received an information pack which identified the Managing Agent as Fresh Property Management and the Developer as Life Less Ordinary Ltd. They said they made payments of £240.45 on 8<sup>th</sup> May 2019 for Service Charges, Ground Rent and Car Park expenditure.
28. It appeared to the Tribunal that the head of expenditure which the Applicant considered unreasonable was the Management fee. As part of this issue, it was contended that the amounts of the Service Charge claimed were not correct.
29. The Applicants said that the management was poor because:
- a) They had either received no information or the information was confusing.
  - b) They did not understand the charges that were made.
  - c) They had been denied access to the side of the building. The number of bins had been reduced.
  - d) The charge for management was excessive and that there were less expensive managers.

### **a) *Communication***

30. They said they received the following  
10<sup>th</sup> September 2019 Demand for £702.04  
11<sup>th</sup> September 2019 Demand for £240.45  
25<sup>th</sup> October 2019 Demand for £679.00
31. The Applicants said that they did not know who Warwick Estates Property Management were, there was no explanation of the amounts or any introduction to their services. They said that they had had no communication, written or otherwise, with RG Securities since purchasing the property in October 2018 and were unaware therefore of any administration charges, interest and fees due to them. On acquiring the property they understood that Fresh Property Management were responsible for collection of monies for ground rent, car park costs and service charges which they paid in full in a timely manner.
32. The Applicant said, since the appointment of Warwick Estates, they had found communications and requests for money confusing and without explanation. A reserve fund had been charged for and a balancing payment demanded that was over and above the Service Charge. They said that they had not been informed at any time that the ground rent would be separated from the Service Charge and demanded as an independent payment and have never received a separate bill for this.

33. The Applicants said that they had paid ground rent for the Property to Warwick Estates but they have referred them to Pier Management Property Manager saying that "we do not collect ground rent or insurance premiums and I would refer you to Pier Management for these, as they would liaise with all lessees directly". The amount of £400 is with Warwick Property Management, which they acknowledge is for ground rent but will not refund it to us 'unless you direct us otherwise'.
34. They said they had contacted Pier Management in June 2020 via email to raise their concerns about the appointment of Warwick Estates, but they declined to action them unless there were "numerous complaints".
35. They said that dealings with Warwick Estates and JB Leitch have been confusing. They said that they believed they had paid the Ground Rent and Service Charges in full.
36. They said that contrary to the RICS code of conduct, as a management company, Warwick Estates, were not transparent and did not justify their expenditure, as they cannot keep to the expenditure within the limits of the 24 Leaseholders' contributions.

**b) High Service Charges**

37. The Applicants said that the Service Charge was very high.
38. With regard to the Reserve Fund the Applicants asked when will the re-decoration be carried out and shouldn't the tenants be consulted.
39. They also said they were not clear what insurance was being charged.

**c) Access & Bins**

40. They said that Warwick Estates have refused to provide a service until all tenants have paid their service charges. They have threatened fines for any overfilled refuse bins and restricted access to the building by padlocking both side entry points and denying entry to the rear of the building which is the only access to the refuse bins. They have reduced the number of commercial bins available to Tenants so there are only two for 24 flats who each pay council tax for services such as refuse collection.

**d) Excessive Management Charge**

41. The Applicants said that the charge of £300.00 a unit was excessive and provided alternative quotations from three other property management companies for management from:
  1. Urang £200 plus VAT per unit £4,800 plus £960 = £5760.00
  2. Residential Group Management £4,600 inc VAT (£191.66 per unit)
  3. Red Rock £4,896 - £170 plus VAT per unit

## Respondent's Case

42. The Respondent listed the sums disputed as follows:

	Period	£
Opening Balance	25/03/2019 - 23/09/2019	240.45
Service Charge Demand	29/09/2019 - 24/03/2020	461.59
Year End Balancing Charge	25/03/2018 - 24/03/2019	403.63
Reserve Fund	25/03/2020 - 28/09/2020	41.67
Service Charge Demand	25/03/2020 - 23/09/2020	525.99
Reserve Fund	29/09/2020 - 24/03/2021	241.37
Service Charge Demand	29/09/2020 - 24/03/2021	525.99
Year End Balancing Charge	25/09/2019 - 24/03/2020	25.37
Reserve Fund	25/03/2021 - 23/09/2021	52.09
Service Charge Demand	25/03/2021 - 28/09/2021	530.41
Reserve Fund	29/09/2021 - 24/03/2022	252.09
Service Charge Demand	29/09/2021 - 24/03/2022	536.41
Process Fee-Review and Reconciliation of Outstanding Payments	15 October 2020	295.00
Preparation and Processing of Arrears for Referral	05 November 2019	186.00

43. In written representations confirmed at the hearing by Counsel the Respondent's Solicitor said that any confusion on the part of the Applicants is not the fault of the Respondent nor can it justify the Applicants failing to make payment of charges due.
44. It was said that the Applicants' case comprised mainly of questions to the Tribunal. It was submitted that the Applicants had failed to raise a substantive service charge dispute.
45. The Applicants raise a number of questions with regard to ground rent but this is outside of the scope of the application and the jurisdiction of the Tribunal under Section 27A of the Landlord and Tenant Act 1985.
46. Management Fees are a recoverable service charge item under the Lease and the Respondent submitted that the management fees are fair and reasonable. The Managing Agent seeks to recover the costs of maintenance and management of the development each year. Charging less would not be reasonable/commercial. No evidence has been provided to indicate that what is charged is excessive.
47. The quotations supplied are not in fact comparable on assessment. They take the form of responses to generic queries on potential fees based upon basic information. There is no indication of the full scale of the development, including its full dimensions, how it is comprised nor indeed its needs each

year (for example by reference to previous years' service charge costs/accounts).

48. For example, The Residential Property Management Group quotation is clearly based upon very basic information because in the "Additional Details" section it states "None Stated".
49. In addition, it was said that the fact a service could conceivably be supplied for less does not itself constitute unreasonableness. Lower fee offers with other managing agents usually lead to less servicing being delivered and at a lower quality. Reducing management fees risks hampering or even preventing the Respondent from being able to properly maintain or manage the development which would ultimately be detrimental to leaseholders.
50. It was also said that:
  - The burden of proving unreasonableness rests with the Applicants and that has not been discharged.
  - Balancing charges are applicable where the budget charges were not sufficient to cover actual liability where there had been underbudgeting, which can regularly occur as the needs of the Developments change year on year. These are shown by reference to the Budget and Actual Cost Accounts.
  - The fees of professionals, costs of repair and maintenance and cleaning costs, as well as the replacement of carpeting, are all items that come under the Service Charge provision of the Lease and so recoverable from leaseholders.
  - Insurance is charged in accordance with the Lease.
51. In summary the Respondent stated:
  - (i) All service charges are for services prescribed by the Lease.
  - (ii) There is no evidence of excessive charging that would indicate any unreasonableness.
  - (iii) The burden of proving any unreasonableness rests with the Applicants.
  - (iv) The Applicants do not dispute that the charges have not been properly demanded.
  - (v) Ground rent is not part of Section 27A.

## **Discussion**

### **a) *Communication***

52. At the hearing the Applicants confirmed that their main concern was the Management. Considering the matter chronologically, they said that they had received an information pack on 17<sup>th</sup> October 2018 which identified Life Less Ordinary as the Developer and Landlord and Fresh Property Management as the Managing Agent, the Insurance was with Covea and the Surveyor was RG

Surveying. They were told what the Service Charges, including Insurance, and Ground Rent were and that they were payable twice annually. They received a demand on 8<sup>th</sup> May 2019 for £240.45 which they understood to be in respect of the period 25<sup>th</sup> March 2019 to 28<sup>th</sup> September 2019 and paid it promptly.

53. In contrast the correspondence that followed was confusing. They referred the Tribunal to an email dated 5<sup>th</sup> February 2021 to Warwick Estates and JB Leitch which explained what they understood to be the position, which was as follows.
54. They said that on 12<sup>th</sup> September 2019 onwards they received correspondence from Warwick Estates which they had set out in their written representations. They said that they had not been informed that the Landlord had changed and received a demand for £240.45, a sum they had already paid. When they asked for clarification and further information, they said that they were told it was for them to prove they had paid the £240.45 which was being collected on behalf of Life Less Ordinary.
55. They said that with the demand for £240.45 was a demand dated 10<sup>th</sup> September 2019 for £461.59. They did not pay this because they believed they had already paid their Service Charge for period 25<sup>th</sup> March 2019 to 28<sup>th</sup> September 2019. In December 2019 they paid the second instalment of the Service Charge (which they believed included the Insurance and Ground Rent in the same way as the first instalment) for the period 29<sup>th</sup> September 2019 to 29<sup>th</sup> March 2020.
56. On 3<sup>rd</sup> December 2019 they received a letter from JB Leitch demanding £902.20 for Ground Rent, Administration Charges and Legal Fees because it was said that the Applicant had not paid Ground Rent. When the Applicants questioned further, they were told that JB Leitch were acting for Pier Management and not RG Securities. The Applicants found this confusing because the Service Charge account said the Landlord was RG Securities. They had not heard of Pier Management and did not know who they were in respect of the Property. The Applicants said that they had not received any demands for Insurance or Ground Rent and did not know to whom the premiums and rent should be paid or to whom they should make any complaints about the management.
57. The Applicants went on to say that with a letter dated 11<sup>th</sup> March 2020 from Warwick Estates they received demands for the Service Charge and a Reserve Fund to be paid in two instalments of £525.99 and £41.67 respectively. They said that they paid £240.45 in June 2020 as they thought that was the biannual amount to be paid for the Service Charge, Insurance and Ground Rent.
58. On 13<sup>th</sup> and 20<sup>th</sup> November 2020, they received letters from JB Leitch stating that they owed Service Charges of £1,763.25 (which included the Reserve Fund), Ground Rent of £400.00 and Insurance of £306.14. They tried to explain that they were not happy with the management and that they had paid £400.00 Ground Rent to Warwick Estates but had been told that as this was in arrears it had to be paid to JB Leitch.

59. On 4<sup>th</sup> February 2021 the Applicant said they paid the two instalments of £525.99 Service Charge and what they believed to be £400.00 Ground Rent.
60. The Applicants said that they had no idea that the Service Charge was so high or that the Ground Rent and Insurance were to be paid separately. The pack they received initially from Life Less Ordinary and Fresh Management said that it was all paid together.
61. Mr Vardon, the Property Manager, said that there was a website portal which enabled tenants to review documents, explained the various charges and enabled tenants to access their accounts. He said that all Leaseholders would have access to it. He said that he had only taken over as Property Manager recently and so could not give any further detail regarding the £240.95 that was initially demanded.
62. Counsel referred the Tribunal to the accounts that had been sent and the terms of the Lease under which they are payable.
63. The Tribunal outlined to whom it appeared payments were due i.e.
- Warwick Estates were to receive the Service Charge as Managing Agents
  - Pier Management were to receive the Insurance and Ground Rent as the agent for RG Securities, the Landlord.
64. In response to the Tribunal's questions Counsel said that the Ground rent may now be payable to E & M Ltd (Estate and Management Limited) and that the invoices said that the monies were collected on behalf of Pier Management Limited. Mr Vardon said that he could not help with regard to the payment of the charges.

**b) Excessive Service Charges**

65. The Applicants provided no alternative quotations or other information regarding the Service Charges.

**c) Access & Bins**

66. The Applicants said that the bins were insufficient and they were not always taken away by the council.
67. Mr Vardon said that the bins were provided by the Local Authority and therefore the number provided is dependent upon how many they assess are necessary. He said that general and recycling waste bins are provided. However, Tenants often do not distinguish between the bins in which they deposit their waste and mix general waste with that which is to be recycled in which case the waste collection operatives will refuse to empty those bins. There is then an additional charge to dispose of the mixed waste. In addition, he said that there is a problem with fly tipping. In answer to the Tribunal's questions, he said that although the car park at the rear of the Building where the bins are situated is enclosed, the wall is low, and non-residents drop items



over the wall which then have to be disposed of by the management. In addition, a recent problem has been that the gates are in need of repair.

68. The Applicant said that the gates to each side of the Building are locked denying pedestrian access to the car park at the rear. They felt this particularly as their flat is at the front of the Building and they would use the gates to access the car park.
69. Mr Vardon said that the gates were put in place and padlocked to prevent unauthorised access by non-residents depositing waste in the bins (exacerbating the 'over the wall' fly tipping problem) and behaving in an anti-social manner. Mr Vardon said that the locks were being changed to those with a combination and codes would be provided to the Tenants. When the previous Agents handed over the Building they had not upgraded the doors as they had agreed. Mr Vardon said that he had been sending out letters and intended to be more proactive in communicating with tenants.
70. The Applicants were critical of the hand over arrangements saying that the current managers should have exercised greater due diligence.

**d) *Excessive Management Charge***

71. The Applicant referred to their alternative quotations for management which were around £200 per unit rather than £300.00 which the Respondent was charging. In answer to questions the Applicants said that they had not provided budgets or specifically mentioned the lift when requesting quotations. They had given the address of the Building and so assumed the Agent would know where it is. With regard to information about the building and past budgets, the Applicants asked if Warwick Estates had asked for this information before taking on the Building.
72. Mr Vardon and Counsel for the Respondent said that the quotations had been based on limited information in that no budgets were provided and the lift had not been mentioned. If this information was known the Agents quotations might have been substantially higher. Also, they expressed doubt as to whether the Agents knew where the Building is and referred to the quotation from Residential Property Management Group's quote which referred to "Property Management, Spalding".

**Decision**

**a) *Communication***

73. The Tribunal considered all the evidence and submissions of the parties. The Tribunal found that on taking over the Building, the Landlord and its Agents, Warwick Estates and Pier Management and later its solicitors JB Leitch could have done far more to explain matters to the Applicants, as it was obvious, they did not understand the situation.
74. Developers tend to give the impression of a low service charge on first sales of flats. It is therefore important that when the freehold is sold on, the new

landlord or its agents make the Service Charge and Ground Rent arrangements clear as they may well be different from what the tenants have known previously, it may be the first time they have owned a flat. It is just good management and what the RICS would expect.

75. The Tribunal states the following for the benefit of the Applicants.
76. Leases for blocks of flats generally allow for three regular payments from tenants. First there is the Service Charge which is for the day to day running of the block in each year. Secondly there is the Insurance. This is usually demanded with the Service Charge but not always. In the present case it is apparently a separate payment. Thirdly there is the Ground Rent. The premium paid by a tenant is for the leasehold interest in a flat. The flat however rests on land that is owned by the freeholder who charges the rent for the use of the land. This is usually demanded separately from the Service Charge and Insurance. The Service Charge and Insurance are held on trust for the tenants (section 42 of the Landlord and tenant Act 1987). The Ground Rent, in contrast, belongs to the freehold landlord.
77. In this Lease, as is common in most leases, the Landlord or its Agent are able at the beginning of the year to demand an advance payment of the Service Charge based on a reasonable estimate of the costs to be incurred. This is paid into the service charge trust fund and used to pay for the services as they are performed by contractors. At the end of the year if the trust fund is in credit this is put towards next years' service costs. If it is in debit, because the services cost more than was estimated, then the Tenants must pay the balance. It is the actual cost that is charged.
78. Both estimate and actual costs must be reasonable. Estimates that do not cover the actual costs lead to high balancing payments. Estimates that more than cover the actual costs lead to large accruals, which may or may not be justified but must always be held in the trust fund for the Tenants' benefit. Where either estimates or actual costs are considered to be too high by Tenants and the matter cannot be settled between the Landlord and Tenant, then either may apply to the Tribunal for a determination as to what is reasonable.
79. In addition to the day-to-day Service Charge the Lease authorises the Landlord to set aside an amount in a Reserve or Sinking Fund in anticipation of future expenses, particularly for major works, with a view to reducing the burden of a large demand for example when the block requires re-decorating or re-roofing. There is no set date for this work to be carried out, it is work that will be required at some future time. Like the day-to-day Service Charge this amount must be reasonable, a genuine pre-estimate of work that will be required. Sometimes it is demanded as an item or "head of expenditure" of the Service Charge although in the present case it is treated as a separate payment. This also is kept in a trust fund.
80. With regard to the present case the Tribunal found as follows.

81. The Applicants purchased the Property from the Developer in 2018 who had led them to believe that the Service Charge (including the Insurance) and Ground Rent were £240.45 per half year, approximately £500.00 per annum. Payment of all sums was to be made to Fresh Property Management.
82. On 20<sup>th</sup> August 2019 the Developer sold the freehold to the Respondent. With the freehold came the role of Landlord and its rights and obligations under the Lease. The Landlord engaged Warwick Estates as its Managing Agent to manage the Building for which the Service Charge is levied together with the Insurance.
83. The Applicants should have been sent a notice informing the Tenants that there was a new Landlord, RG Securities. The Applicant should also have been informed that Warwick Estates were the new Managing Agents.
84. The Applicants should have been informed that payments would now be split:
  - Service charges payable to the Managing Agent, Warwick Estates and all service charge questions to be addressed to them;
  - A Reserve Fund would be established and demanded at the same time as the Service Charge and payable to the Managing Agent, Warwick Estates;
  - Insurance would be demanded by Pier Management who are the Landlord's Agent for this purpose; and
  - Ground Rent would be demanded by Pier Management who are the Landlord's Agent for this purpose and all questions regarding these matters were to be addressed to them and not Warwick Estates.
85. However, the Tribunal cannot be sure that the above division of payments is correct as it is not clear from the Respondent's Statements of Case. The statement on invoices that "All monies are collected on behalf of Pier Management" does not explain to whom they are payable save details of a bank transfer by which not everyone will wish or be able to pay.
86. In addition, that Agent should have provided a statement of the matters set out above, not because it is demanded by law, but because it is good management practice. The statement should be sent in hard copy at the beginning of their term of office. It should not be assumed that everyone has access to the internet or if they do, that they will know how to find relevant information. If there is a portal where all the information can be obtained then this should be clearly identified and how it can be accessed should be explained.
87. Looking at the documents that the Applicants were sent, there was an invoice for £240.45 which it appears from the entry in the running account dated 2<sup>nd</sup> February 2021 was accepted as having been paid. In addition, on the invoice was a sum of £461.59 based upon a revised calculation of the estimated Service Charge assessed by the previous landlord and its Agent. It is not clear from the letter of 18<sup>th</sup> February 2020 whether the balancing payment invoice of £403.63 with it, takes account of the revised calculation, presumably it does. The Tribunal appreciates the Applicants' confusion.

88. The Tribunal found that the Managing Agent's demands for payment were so confusing that it led to the Applicants failing to pay their charges because they did not understand what was being demanded. Therefore, the standard of management was not reasonable.

**b) *High Service Charges***

89. The Applicants did not provide alternative quotations or other information regarding the Service Charges to support their general statement that they are excessive. Therefore, in the absence of evidence to the contrary the Tribunal determines that all the Service Charges except the Management Fee, which is considered below, are reasonable and payable.

**c) *Bins and Access***

90. It was apparent at the hearing that the Applicants' reference to the problems with bins and access related to the Management Fee (which is dealt with below) and not a specific item of expenditure.

**d) *Management Fees***

91. In considering whether the Management Fee is unreasonable, the Tribunal has already made a finding in respect of the Managing Agent's communications and demands.

92. The Tribunal therefore went on to consider the issue of the bins and access. The Tribunal took account of the proximity of the Building to the city centre and appreciated the difficulties of keeping it secure. The Tribunal noted the purpose of the gates each side and that Mr Vardon, the relatively new Property Manager was finding ways in which to allow residents free access but prevent unauthorised entry. The Tribunal is aware that inappropriate disposal of waste by residents and fly tipping by non-residents is a constant problem for managing agents and one for which Tenants must bear some responsibility. The Applicants did not adduce any evidence to show that the Managing agent had failed significantly in its obligations.

93. The Tribunal noted the alternative charges provided by the Applicants. The Respondent is not obliged to find the cheapest managing agent. From its knowledge and experience the Tribunal found that agents will have made inquiries before quoting and that the quotations obtained were not unduly low and the tribunal was of the opinion that the Managing Agent's fees were high for Peterborough.

94. Taking into account its findings on the standard of management in respect of communication and demands for payment the Tribunal determines that a reasonable management fee for the Applicants for the years in issue is £200.00 plus £40.00 VAT.

95. As a result, the Tribunal determines that the reasonable Service Charge payable by the Applicant to the Respondent for the year ending 2018 is £685.57 and for the year ending 2019 is £911.74.

**Submissions Re Administration Charges**

96. Counsel for the Respondent said that the Administration Charges were payable directly by the Tenant under Paragraph 7 (a) or (b) of Schedule 4 or Paragraph 16 (a) or (b) of Schedule 7 of the Lease and through the Service Charges under Paragraph 1(b)(iii) of Part 2 of Schedule 7. The Respondent stated that fees and costs, where the Applicants fail to pay charges due under the lease are recoverable under the Lease.

97. These include rent and service charges, and cover the costs of having to pursue them such as preparing and sending out statements and letters by way of reminder or threatening enforcement and ultimately referral of the account to solicitors.

**Decision Re Administration Charges**

98. The Tribunal found the Administration Charges claimed to be as follows:

~~Warwick Estates:~~

~~15<sup>th</sup> October 2020 £95.00~~

~~5<sup>th</sup> November 2020 £186.00~~

~~JB Leitch:~~

13<sup>th</sup> November 2020

Re: Service Charges

Administration Fees £281.00

Legal Costs £306.00

Re: Ground Rent

Administration Charge £239.98

Re Insurance:

Legal Costs £90.00

Total ~~£1,197.98~~ **£916.98**

99. The Tribunal considered the Administration Charges and Legal Costs in respect of the Service Charges. Having found the Managing Agent’s communications confusing and the management and demands for payment unsatisfactory, the Tribunal determines the Administration Charges of ~~£95.00, £186.00,~~ £281.00 and £306.00 to be unreasonable and not payable by the Applicants to the Respondent.

100. The Tribunal considered the Administration Charges in the form of Legal Costs in respect of the Insurance. The Applicants said that they had not received any Demands for Insurance and none were produced by the Respondent. In addition, the Tribunal found that the Insurance was tainted with the same confusion as the Service Charges. As stated, it should have been made clear that these were being demanded separately from the Service Charge. The Tribunal is still not clear whether these amounts are to be paid directly to Pier Management as Agent for the Respondent or to Warwick Estates. The Tribunal determines the Administration Charges in the form of

Legal Costs of £90.00 to be unreasonable and not payable by the Applicants to the Respondent.

101. The Tribunal was of the opinion that although the amount and enforcement of the payment of the ground rent is outside its jurisdiction the reasonableness and payability of any administration charge levied for non-payment of the ground rent is within its jurisdiction.
102. The Tribunal considered the Administration Charges in respect of the Ground Rent. The Applicants said that they had not received any Demands for Ground Rent and Insurance and none were produced by the Respondent. The Tribunal found that on the balance of probabilities taking into account the manner in which demands were made, none were served. From JB Leitch's letters these amounts are to be paid directly to Pier Management as Agent for the Respondent. However, it was obtuse of Warwick Estates to refuse to hand over to Pier Management the £400.00 paid by the Applicants knowing that these funds were for the Ground Rent. The Tribunal determines that the Administration Charges of £239.98 are unreasonable and not payable by the Applicants to the Respondent.
103. The Tribunal determines that the Administration Charges of ~~£1,197.98~~ **£916.98** are unreasonable and not payable by the Applicants to the Respondent.
104. The Tribunal is of the opinion that all the Administration Charges could have been avoided if in accordance with good management the Managing Agent had explained the situation, thereby avoiding what was, for the Applicants, a confusing correspondence.

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

105. The Applicants 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.
106. 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.
107. 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.

108. 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.
109. 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 Paragraph 1 (b) (iii) of Schedule 7 did enable the Respondent to include legal costs in the Service Charge in respect of these proceedings.
110. Secondly the Tribunal considered whether the Lease contained a provision allowing the Landlord to claim its legal costs directly from the Tenant Applicants. It was of the opinion that Paragraph 7 or Paragraph 16 of Schedule 4 of the Lease is authority for the Landlord to claim its legal costs in the proceedings against the Applicants.
111. The Tribunal then considered whether it would be just and equitable to make an order under section 20C of the Landlord and Tenant Act 1985. In doing so the Tribunal took account of *Plantation Wharf Management Ltd v Fairman & Ors* [2019] UKUT 236 (LC) where it was held that an order under section 20C, if any order was made, could only apply to the Applicants.
112. The Tribunal found that there were 24 Flats in the Building. As a result, the Tribunal was not satisfied that it would be just and equitable to exempt the Respondents from paying a share of legal costs included in a Service Charge resulting from proceedings in which they were the only Tenants involved. Therefore, the Tribunal does not make 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.
113. The Tribunal then considered whether it would be just and equitable to make an order under paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. The Tribunal considered the conduct of the parties and the outcome of the proceedings.
114. Essentially, the Applicants' Case was that they considered the Management Fees unreasonable because the Managing Agent's demands for payment were so confusing that they failed to pay their charges because they did not understand what was being demanded. The Tribunal found that their claim was justified.
115. The Respondent's Statement of Case was predominantly a repeat of extracts from the Lease and reasons why under the Lease Service Charges are payable. It was pointed out that the Applicants' case was a series of questions but the

Respondent did not seek to engage with those questions and explain matters to the Applicants, if they had the Tribunal is of the opinion that it would not have come to a hearing.

116. The Applicant is entitled to question the standard of the Management Charge and the Tribunal found it wanting.
117. Therefore, the Tribunal is satisfied it is just and equitable to make an Order extinguishing the Applicant's 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.

8. Schedule 11 of the Commonhold and Leasehold Reform Act 2002
- 5A Limitation of administration charges: costs of proceedings
- (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.