FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference		**LON/00BK/LSC/2022/0053**
Property	**:**	**500 Clive Court, Maida Vale, London, W9 1SG**
Applicant	**:**	**Ms Maha Abdel-Mahmoud**
Representatives	**:**	**In person**
Respondent	**:**	**Clive Court (Maida Vale) Freehold Limited**
Representative	**:**	**Jeff Hardman of Counsel**
Type of Application	**:**	**s.27A Landlord and Tenant Act 1985 application for a determination to liability to pay and reasonableness of service charges**
Tribunal Members	**:**	**Judge Professor Robert Abbey** **Stephen Mason FRICS** **Alan Ring (Lay member)**
Date and venue of Hearing	**:**	**27 April 2023**
Date of Decision	**:**	**9 May 2023**

DECISION

Decisions of the tribunal

1. The tribunal determines that: -

   (i) the applicant's challenge to the 2019 service charges be struck out pursuant to Rule 9 (2)(a) and or 9(2)(c) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 2013 No. 1169 (L. 8) given that the First-tier tribunal has already determined that these sums are reasonable and payable. The applicant's challenge to the 2018 service charges be struck out pursuant to Rule 9(3)(c) and or Rule 9(3)(d) for the reasons set out below.

   (ii) The challenged service charges for 2021 are all reasonable and payable save for legal fees of £9700. These fees are unreasonable and not payable for the reasons set out below.

2. The applications pursuant to Section 20C of the Landlord and Tenant Act 1985 and Schedule paragraph 5A of the Commonhold and Leasehold Reform Act 2002 are dismissed.

The application

3. The applicant seeks and the tribunal is required to make a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") regarding the service charge payable by the applicant in respect of services provided for **500 Clive Court, Maida Vale, London, W9 1SG** (the property) and the liability to pay such service charge. Specifically, the items in dispute concern whether several service charges for 2018 2019 and 2021 are payable. All these service charges were specifically listed in the core trial bundle at pages 36 to 63 inclusive.

4. The applicant also seeks an order for the limitation of the respondent's costs in the proceedings under section 20C of the 1985 Act and an order to reduce or extinguish their liability to pay an administration charge in respect of litigation costs, under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act').

5. The property is a 2-bedroom flat in a purpose-built block. Clive Court is a substantial residential building comprising three interconnected blocks spread over 8 floors containing 154 flats in an

affluent part of London. The respondent says that it is recognized as a popular portered building along Maida Vale, close to Clifton Road and within a short walk of Regent's Canal.

6. The applicant has since 7 April 2000 been the registered proprietor of the leasehold interest in 500 Clive Court ('the Flat') pursuant to a lease dated 3 November 1988 and which commenced on 29 September 1985, and which is registered at HM Land Registry under title number NLG632306, ('the Lease'). The respondent has since 12 December 2018 been the registered proprietor of the freehold interest in Clive Court as a whole. The company is tenant owned. The main application concerns the service charges for charges relating to the property for the years 2018, 2019 and 2021.

7. According to the lease terms, the tenant must pay a proportion of the service charges raised by the landlord. The lease of the property provides that the respondent is liable to pay to the applicant service charges or management charges for a proportionate part of the sums expended by the applicant in carrying out services to the property and to the estate in which it is located. In relation to service charges the extent of possible charges is set out in the fourth schedule of the lease and covers all the kind of expenditure that might reasonably be anticipated in a lease of a flat in a large block including insurance building maintenance managing agent's fees and the cost of employing staff such as porters.

8. The relevant legal provisions are set out in the Appendix to this decision. Additionally, rights of appeal are set out below in an annex to this decision.

The hearing

9. The tribunal had before it an electronic trial bundle of documents prepared by the parties, in accordance with previous directions. The applicant represented herself and the respondent was represented by Mr Hardman of Counsel.

10. The tribunal did not consider that an inspection was necessary. However, the tribunal was able to access the detailed and extensive paperwork in the trial bundle that informed their determination. In these circumstances it would not have been proportionate to make an inspection given the current circumstances and the quite specific issues in dispute.

Decision

11. At the commencement of the hearing the respondent made an application under Rule 9 of The Tribunal Procedure (First-tier

Tribunal) (Property Chamber) Rules 2013 2013 No. 1169 (L. 8). Rule 9 says :-

> *Rule 9.—(1) The proceedings or case, or the appropriate part of them, will automatically be struck out if the applicant has failed to comply with a direction that stated that failure by the applicant to comply with the direction by a stated date would lead to the striking out of the proceedings or that part of them.*
>
> *(2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal—*
>
> *(a) does not have jurisdiction in relation to the proceedings or case or that part of them; and (b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.*
>
> *(3) The Tribunal may strike out the whole or a part of the proceedings or case if—*
>
> *(a) the applicant has failed to comply with a direction which stated that failure by the applicant to comply with the direction could lead to the striking out of the proceedings or case or that part of it;*
>
> *(b) the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly and justly;*
>
> *(c) the proceedings or case are between the same parties and arise out of facts which are similar or substantially the same as those contained in a proceedings or case which has been decided by the Tribunal;*
>
> *(d) the Tribunal considers the proceedings or case (or a part of them), or the manner in which they are being conducted, to be frivolous or vexatious or otherwise an abuse of the process of the Tribunal; or*
>
> *(e) the Tribunal considers there is no reasonable prospect of the applicant's proceedings or case, or part of it, succeeding.*

12. The tribunal heard representations on the Rule 9 application from both parties. The applicant asserted that she should be allowed the opportunity to challenge the service charges as listed in the application. The respondent asserted that this present application was not the applicant's first challenge to the service charges. By a claim

issued on the 19th of June 2020 the respondent claimed the sum of £10,128.46 in respect of unpaid service charges. The arrears related to the 2019 and 2020 service charges. Service charge years for this property run from the 1st of January to the 31st of December in each service charge year. On the 20th of July 2020 the applicant filed a counter claim which challenged, amongst other things, the 2018 service charge. Thereafter the respondent amended the claim to include interim service charges [but first two quarters of 2021.]?? The applicant filed an amended defence and counterclaim on the 11th of May 2021. To the assertions which she had already made the applicant added that the dispute related to service charges for the year 2018, 2019, 2020 and 2021. It should be noted that the applicant's defence and counterclaim were automatically struck out on the 18th of June 2021 due to her failure to pay the relevant fee for the counterclaim.

13. By a determination dated the 17th of December 2021 Tribunal Judge Hawkes sitting as a County Court Judge held that the entire sums for 2019 and 2020 were reasonable and payable by the applicant. In so doing, the decision of Judge Hawkes states at paragraph 38 that "The Respondent does not challenge the reasonableness and/or payability of any specific service charge items and we accept the evidence of Dr Namdar Baghaei-Yazdi that the service charge costs are reasonable." This witness is a director of the respondent who also gave evidence before this tribunal.

14. In the light of this determination the applicant's challenge to the 2019 service charges should be struck out pursuant to the Tribunal Rules and specifically the provisions of Rule 9 set out above given that the First tier Tribunal through the decision of Judge Hawkes has already determined that these sums are reasonable and payable. The tribunal has therefore struck out the challenge to the 2019 service charges as all these were clearly dealt with in the decision of Judge Hawkes from December 2021.

15. The tribunal then turned to the 2018 service charges and the Rule 9 application in respect thereof. The respondent says that the applicant's challenge to the 2018 service charges ought to be struck out pursuant to Rule 9 given that the applicant's counterclaim for 2018 was struck out for failing to pay the relevant court fee. In the decision by Judge Hawkes, referred to above, at paragraph 50 the Judge determined as follows :-

> "50. By order dated 21 May 2021, Judge Martynski, sitting as a District Judge, ordered (emphasis supplied):
> *"Unless by 4pm 18 June 2021 the Defendant:*
>
> *(a) Delivers (by email) to the Tribunal and to the Claimant an amended Counterclaim which;*

i. Sets out in full the legal basis for her Counterclaim and the claim for damages

ii. Contains a statement of value of the Counterclaim

(b) Confirms that she has paid to the County Court office at Central London the relevant fee for the Counterclaim

The Counterclaim will stand as struck out"

51. The Respondent then filed a N9B form which limited her Counterclaim to £5,856.25. She did not, however, confirm as directed at paragraph (b) of the order of Judge Martynski that she had paid to the County Court office at Central London the relevant fee for the Counterclaim. **Accordingly, the Counterclaim stands struck out."**

16. While this was a summary dismissal, it was apparent to the Tribunal that this was an example of how the applicant conducted her litigation. The refusal and failure to pay a court fee and to comply with a clear Direction amounted in our view to an abuse of the process. Actions, or indeed in this case, a lack of action, have consequences. And in this case, it had made the Tribunal determine that the applicant's challenge to the 2018 service charges should be struck out pursuant to the Tribunal Rules and specifically the provisions of Rule 9 set out above. The tribunal has therefore struck out the challenge to the 2018 service charges.

17. The tribunal then considered the remaining service charges for 2021. In that regard the Tribunal was mindful that in the case of *ASP Independent Living Ltd v Godfrey* [2021] UKUT 313 (LC) Judge Elizabeth Cooke affirmed at [7] that:

> *"It is well-established that where a lessee seeks to challenge the reasonableness of a service charge, they must put forward some evidence that the charges are unreasonable; they cannot simply put the landlord to proof of reasonableness "*

18. The tribunal looked at each challenged service charge item starting with porterage charges and in each case the block total charge is quoted in the heading.

Porterage £66,829

19. The applicant challenged this charge because "no job descriptions have been provided." In reply, the respondent stated that

porterage services have always been performed at the building. The block is presently served everyday by two porters on two shifts. Porters duties at Clive Court include monitoring CCTV to keep eyes on all parts, interior and exterior of the building, check in and checkout of all visitors, maintained log book of complaints, to be on call to investigate incidents such as leaks, fires, and other emergencies; Undertake physical inspection of the premises during their shift, escalating anything requiring action to the managing agents, help conduct the monthly fire alarm test, help with sundry tasks such as rubbish disposal if needed and being a welcoming and reassuring presence in the reception and to assist in the provision of safety and security.

20. Employment contracts for porters and their services were included in the bundle and were considered by the tribunal who are satisfied that there was a clear job description available thereby, and that there was no merit to the applicant's case with regard to Porterage charges. Accordingly, the tribunal finds the porterage charges to be reasonable and payable by the applicant to the respondent. The tribunal was also satisfied that these charges were properly chargeable and collectable under schedule four of the lease.

Porter administration £2,053

21. This is a comparatively small charge and the objection raised by the applicant was that the porters were on fixed term contracts as self-employed parties. The respondents made it perfectly clear that reporters were most certainly employees and were not self-employed. The tribunal was able to inspect in the Trial Bundle three contracts of employment. The tribunal found this objection to be vague and somewhat unparticularised and in the circumstances found the charge for porter administration to be reasonable and payable by the applicant to the respondent.

Temporary Staff £6,188

22. This was a charge for temporary staff when Porters were away on holiday. Once again, this objection raised by the applicant was somewhat vague. Her objection was that these charges were "not recoverable under the lease". The tribunal having found that porterage charges were a service charge recoverable under the terms of lease, it was then able to find that temporary staff covering porters on holiday must therefore also be recoverable under the terms of the lease. In these circumstances the tribunal finds this charge to be reasonable and payable by the applicant to the respondent.

Cleaning and yard staff £41,485

23. With regards to this service charge the applicant says that the charges are not reasonable and there has been no consultation. The respondent says that the present position is that one cleaner is employed from 7:00 AM to 2:00 PM everyday who undertakes several tasks including vacuum cleaning the carpeted areas on all eight floors. The respondent said that the corridor is 50 to 55 metres in length and has an average width of two metres. The cleaner also cleans the front and back entrance with water and mops the area. The cleaner cleans stairwells windowsills in the common areas and other cleaning tasks are performed on a regular basis such as dusting and polishing. This was said to be a rolling contract that did not amount to one that required consultation and the tribunal accepted this evidence. The tribunal could find no merit in the applicant's objection and found it to be vague and unsubstantiated. The respondent supplied detailed evidence supporting the carrying out of this service charge and consequently the tribunal finds this charge to be reasonable and payable by the applicant to the respondent.

Gardening and tree work £50,752

24. The applicant complains that no consultation has been carried out. She also believes that this charge should not arise because agreements have not been signed. She also says that the charges are unreasonable in amount. The respondent provided substantial supporting evidence to show that gardening works were carried out on a regular basis as well as one off tree works. The respondent said that there was no long-term qualifying agreement in place and the tribunal accepted the respondent's evidence in this regard. The tribunal also came to the determination that these costs are reasonable having regard for the size and complexity of the building and gardens. The tribunal noted that the work included rubbish collection, hedge trimming, grass cutting, bed digging, as well as leaf control. The applicant failed to provide any evidence by way of an alternative quotation for these services and in the circumstances the tribunal finds that these service charges are reasonable and payable by the applicant to the respondent.

General repairs and maintenance £79,955

25. The applicant complains in this regard that most of the invoices are for works carried out inside flats in the block and therefore not recoverable under the lease. In reply the respondent asserted that it is clear from invoices that the charges relate to damage to the common parts for which the leaseholders are required to contribute to via the service charge. Many of the problems covered by the invoices were clearly as a result of the escape of water throughout the building and we were told that there were significant problems in this regard. It seems that in practise where leaks occur which are caused by the communal pipes, the service charge will pick up the cost. This seems to include

communal pipes which are found within the demise of a flat. The respondent provided an example namely, where leaks are due to a blocked stack, they will be paid by the service charges.

26. The respondent also conceded that service charges will also absorb the costs of flat repairs if the defaulting leaseholder refuses to pay. This is done as a preventative step to ensure that damage is not caused to the wider building and to avoid the innocent lessee making insurance claims. Contractors will be called when leaks are reported then in order to mitigate damage to the building. The respondent contends that the applicant should be estopped by convention from taking this point namely that these costs might not be strictly recoverable. It seemed to the tribunal that given a prolonged acquiescence and unfairness involved in permitting the applicant to now resile from it, that the tribunal should hold that what has taken place over many years should be allowed. It would also appear that in the previous proceedings the applicant did not take the point now being raised. It is also the case that many of these invoices cover works that were clearly or properly within such a charge including repair to the roof, replacement of fire doors and dealing with communal radiators. In these circumstances the tribunal finds this charge to be reasonable and payable by the applicant to the respondent.

Non recoverable insurance claims £13,725

27. The tenant's comments were expressed thus, "Insurance claims for the year ending 2018 was stated in the accounts as £16,773.00. We cannot reconcile these figures". The respondent observed that "This cost relates to six separate leaks into flats 614, 407, 306, 210, 110, & 10. Unfortunately, the costs were not recoverable from the insurance company and therefore paid from the service charges. Bearing in mind the comments made with regard to general repairs and maintenance set out above it seemed to the tribunal that this was an appropriate expense. In these circumstances the tribunal finds this charge to be reasonable and payable by the applicant to the respondent.

Lift maintenance and repairs. £14,532

28. In summary, the applicant's objections are stated as "Unreasonable in amount and the works are not to an acceptable standard. Photographs have been submitted previously. There is no lift maintenance agreement provided." In response, the respondent observed that "The invoices speak for themselves. Plainly, the lifts need to be repaired and costs payable under the lease. The Applicant has provided nothing but a generalised complaint that takes a challenge no further forward". The Tribunal took time to go through the significant number of invoices supplied and was satisfied that this was in total a proper and reasonable expense and which could clearly amount to a service charge. The invoices related to the care and repair of the lift

mechanisms and could not be faulted. In these circumstances the tribunal finds this charge to be reasonable and payable by the applicant to the respondent.

Lift refurbishment £30,000

29. The applicant observed that the amount expended was unreasonable and the works were not to an acceptable standard. The applicant simply made this assertion without any supporting evidence. There was no lift engineer's report from her or a surveyor's report. The respondent stated that "Due to the lift constantly breaking down and entrapments of residents a lift consultant was appointed who recommended a new controller to be fitted as the lift equipment was obsolete and unreliable; the technology was outdated and 30 years old. The new control system gave a further 20 years serviceable lifespan. The lift consultant tendered and the cheapest quote accepted. All leaseholders were made aware of this." The Tribunal took time to go through the invoices supplied and was satisfied that this was in total a proper and reasonable expense and which could clearly amount to a service charge. The invoices related to the refurbishment and repair of the lift mechanisms and could not be faulted. In these circumstances the tribunal finds this charge to be reasonable and payable in 2021 by the applicant to the respondent.

Plumbing repairs. £8,380

30. This is a comparatively small charge and the objection raised by the applicant was that the amount was unreasonable. The respondent observed that it could not find a reason why these fees should be capped simply because the landlord has, for the purposes of its accounts, created a separate category for plumbing repairs. These covered unblocking the forecourt drain; clearing downpipes; clearing rainwater pipes; fixing hoppers etc and generally unblocking drains. The tribunal agreed with this view. There was nothing unreasonable about the claim. It was supported by detailed invoices and as such is both reasonable and payable.

Insurance terrorism £6,585

31. In this regard the applicant said "Unreasonable in amount. There was no charge in the 2020 accounts, What is the level of risk of a terrorism attack to the building. Has a risk assessment been carried out." In response the respondent stated that "The statement from the leaseholder that this was not included in 2020 is wrong. The new accountant preferred to show these in individual item lines in the 2021 accounts. The insurance is necessary as most buildings in London are high risk building and has this cover." The tribunal agrees with the respondent. Terrorism insurance is an appropriate risk to insure, certainly in Central London, and was an item of cover taken up in

previous years but not shown separately. In these circumstances the tribunal finds this charge to be reasonable and payable in 2021 by the applicant to the respondent.

Insurance -building £272,413

32. The applicant asserts that the cost of insurance was unreasonable and that the costs were dramatically higher than the previous year. In reply the respondent said that it is obliged to insure the building pursuant to paragraph three of the 4th schedule of the lease. A landlord need not shop around to find the very cheapest insurance so long as the insurance is obtained in the market and at arm's length, the premium will generally be a reasonable one. The respondent made it clear that for 2021 only one insurer out of eight was willing to insure Clive Court. While the recent claims history of Clive Court includes the one made on the 7th July 2021 in respect of the boiler room and reception flooding, which involved a high pay out for the insurers, the main problem is that a few leaseholders have bypassed the managing agents and negotiated claims with the insurer and loss adjusters directly. The respondents suspect that some of these claims may be hugely exaggerated. There were three or four big claims last year with over £1,000,000 paid out over eight years. Moreover, the rebuild cost of the block has been re calculated which increased the premium. The discrepancy for 2020, that is to say being lower, was because a saving was gained by moving the policy from one insurance company to another. In these circumstances the tribunal finds this charge to be reasonable and payable by the applicant to the respondent.

Legal fees £9,700

33. The block total for these fees amounted to £9700. The applicant said she was under no obligation to contribute to this, and that legal fees were assessed by the tribunal. In reply the respondent said that these costs relate to the previous tribunal proceedings. Whilst the court did assess those costs and ordered the applicant to make payment, this left a shortfall. The landlord avers that it is entitled to recover the balance of the legal fees though the service charge. The tribunal does not agree. The tribunal made a determination as to the amount of legal fees to be paid by the applicant in regard to the previous hearing and as such the respondents cannot have two bites of the cherry i.e., another opportunity to do something, in this case seek costs again. Judge Hawkes made a very careful determination with regard to costs and this tribunal believes that any further claim from the same source would be unreasonable. Accordingly, these costs are not payable.

Payroll fee £500

34. This is a very small amount, (£500 for the whole block). The respondent says that this sum is incidental to the employment of staff and is recoverable under the Fourth Schedule to the lease. The tribunal agrees and determines that the total is reasonable and payable.

Professional fees£12,420

35. In this regard the applicant merely says that these fees are not recoverable under the lease. In reply the respondent stated that these mostly relate to fees incurred by the agent in performance of its obligation to manage the building and will be recoverable pursuant to the Fourth Schedule of the Lease. Examples are section 20 costs; costs for lift survey. The tribunal agrees with the respondent and determines that the total is reasonable and payable.

Management fees £45,421

36. The applicant objects to these fees as she says there was no consultation and the amount is not reasonable. The respondent says that this is a very difficult building to manage. The building is blighted by repair difficulties, leaks and insurance difficulties. Staff and contractors need to be managed. Furthermore, the contract with the agents did not exceed 12 months in duration and so no consultation was required. It was calculated that this charge per flat was £294.94 per annum. The applicant failed to provide any comparison or quote for management. The tribunal from its own experience of similar management fees was of the view that this particular management charge was both reasonable and payable.

37. It did seem to the tribunal that the respondent has tried its best to properly respond to the challenges made by the applicant. However, the applicant has failed to provide any detailed information as to the reasons she believes the work was not carried out or not carried out to a proper standard and provided no evidence to support her assertions for the respondent to deal with. For example, she objected to the insurance premium but failed to provide any alternative quotes.

38. This pattern of challenge and explanation was repeated throughout the schedule. The applicant appears to have disputed all work carried out which the respondent believes to be unreasonable. The respondent's position is that the applicant has failed to put forward any evidence or reasoning as to why she believes the charges in question to be unreasonable. Her approach does have the appearance of a *de facto* audit of the landlord, The applicant made a wide ranging challenge to the accounts by challenging each accounting heading, in many instances without any evidence to support the challenge. Her claims have in almost all cases been completely without merit. Indeed, she has been successful in just one comparatively small item.

39. Therefore, the challenged service charges for 2021 are all reasonable and payable save for legal fees of £9,700. These fees are unreasonable and not payable for the reasons set out above.

40. The applicant also seeks Orders pursuant to Section 20C of the Landlord and Tenant Act 1985 and Schedule 11, Paragraph 5A of the Commonhold and Leasehold Reform Act 2002 in the applicant's favour. In this regard, it is the tribunal's view that it is both just and equitable not to make an order pursuant to S. 20C of the Landlord and Tenant Act 1985.

41. Having considered the conduct of the parties, their written submissions and taking into account the determination set out in the decision set out above, the tribunal determines that it is not just and equitable for an order to be made under section 20C of the 1985 Act that the costs incurred by the respondent in connection with these proceedings should not be taken into account in determining the amount of any service charge payable by the tenant.

42. With regard to the decision relating to s.20C, the tribunal relied upon the guidance made by HHJ Rich in *Tenants of Langford Court v Doren Limited* (LRX/37/2000) in that it was decided that the decision to be taken was to be just and equitable in all the circumstances. The tribunal thought it would be just to allow the right to claim all the costs as part of the service charge.

43. The s.20C decision in this dispute gave the tribunal an opportunity to ensure fair treatment as between landlord and tenant in circumstances where costs have been incurred by the landlord and that it would be just that the tenant should have to pay them.

44. As was clarified in *The Church Commissioners v Derdabi* LRX/29/2011 the tribunal took a robust, broad-brush approach based upon the material before it. The tribunal considered all relevant factors and circumstances including the complexity of the matters in issue and all the evidence presented. The tribunal also considered all oral and written submissions before it at the time of the original hearing. Bearing in mind the complete lack of detail from the applicant and the fact that the respondent has almost completely succeeded before the tribunal it seems right, appropriate and proportionate for there not to be an order under s20c as well as pursuant to Schedule 11, Paragraph 5A of the Commonhold and Leasehold Reform Act 2002.

Name: Judge Professor Robert Abbey **Date:** 9 May 2023

Appendix of relevant legislation and rules

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.

Landlord and Tenant Act 1985

20C 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

ANNEX - RIGHTS OF APPEAL

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