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

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| **Case reference** | **:** | **LON/00BF/LSC/2022/0030** |
| **Property** | **:** | **Belmont View, 7 Station Approach, Sutton SM2 6BW** |
| **Applicants** | **:** | **(1) The Leaseholders named on the application**<br>**(2) 7 Station Road RTM Company Limited** |
| **Representative** | **:** | **Ms C Tuplin, Pro-Leagle (Solicitors)** |
| **Respondent** | **:** | **Assethold Limited** |
| **Representative** | **:** | **Eagerstates Ltd (Managing Agent)** |
| **Type of application** | **:** | **Applications under s.27A Landlord and Tenant Act 1985; ss. 88(4) & 94(3) and Sch.11 Commonhold and Leasehold Reform Act 2002** |
| **Tribunal members** | **:** | **Judge N Hawkes**<br>**Mrs S Redmond BSc (Econ) MRICS** |
| **Date and venue of hearing** | **:** | **8 November 2023 by CVP Video** |
| **Date of decision** | **:** | **17 November 2023** |

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**DECISION**

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**Decisions of the Tribunal**

(1) No service charges or administration charges are payable by the Applicants to the Respondent.

(2) The Respondent shall pay uncommitted service charges in the sum of £37,655.06.to the Second Applicant.

(3) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of these proceedings may potentially be passed to the Applicants through any service charge.

(4) The Tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 extinguishing the Applicants' liability, if any, to pay an administration charge in respect of the Respondent's costs of these proceedings.

(5) The Tribunal makes an order under Rule 13(2) of Tribunal Procedure (First-Tier Tribunal)(Property Chamber) Rules 2013 requiring the Respondent to reimburse the Tribunal fees in the sum of £300 paid by the Applicants in respect of these proceedings.

## The application

1. The Applicants seek a determination under section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to whether service charges are payable and under Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as to whether administration charges are payable.

2. The Applicants also seek a determination under section 94(3) of the 2002 Act in respect of the amount of any accrued uncommitted service charges to be paid by the Respondent to the Second Respondent RTM company.

3. Further, the Applicants seek 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 the Respondent's litigation costs, under paragraph 5A of Schedule 11 to the 2002 Act.

4. These proceedings cover the period from the 2018/19 service charge year up until 1 February 2021, when the Second Respondent acquired the right to manage the Property. No service charges are potentially payable to the Respondent in respect of any period after the right to manage was acquired.

5. An inspection was not requested, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

6. The lengthy procedural history is familiar to the parties and will not be set out in full this decision. However, the Tribunal notes that, by a

decision dated 7 September 2023, the Upper Tribunal determined as follows (emphasis supplied):

*"Applicant: Assethold Limited*

*Property: Belmont View, 7 Station Approach, Sutton SM2 6W*

*Decision of the First Tier Tribunal (Property Chamber) dated 3 July 2023*

*Permission to appeal is REFUSED for the following reasons:*

*1.The applicant is the respondent in proceedings in the FTT for the determination of the reasonableness and payability of service charges.* ***It has been debarred from taking any further part in the proceedings*** *and permission to appeal that debarring order has been refused by both the FTT and the Upper Tribunal.*

*2.Since then a number of interlocutory orders have been made and I have had some difficulty in understanding what it is that the applicant now seeks permission to appeal. The orders made are as follows:*

*a.On 3 May 2023 the FTT made an order against the respondent that unless it disclosed certain documents the FTT might determine issues against it.*

*b. On 7 July 2023 the FTT refused permission to appeal the unless order made on 3 May 2023.*

*c.On 18 July 2023 the FTT made a further order in response to correspondence from the applicant; in that order it stated that it had already refused permission on 7 July to appeal the order of 3 May 2023.*

*3. The applicant's form T602 states that it seeks permission to appeal the decision of 3 July 2023, and that the date of the FTT's refusal of permission to appeal was 18 July 2023.*

*4. The T602 was not accompanied by grounds of appeal. They have now been provided and they state that the applicant seeks permission to appeal*

*a. "an appeal of a decision to refuse appeal dated 3 July 2023.*

*b.Appeal of an order and unless order dated 3 July 2023."*

*5.The grounds go on to argue that the respondent should not be required to disclose certain items. On that basis I take it that what the applicant seeks permission to appeal is the unless order of 3 May 2023. Permission to appeal that decision was refused on 3 July 2023 and on the basis that the applicant is out of time (his T602 was received on 31 July 2023); I gave an extension of time because the applicant may have thought that time ran from 18 July 2023.*

*6.The applicant also argues that the leaseholders in the FTT need to prepare their statement of case and that it must have the opportunity to respond; but since* ***the applicant is debarred form taking any further part in the FTT proceedings*** *that argument is irrelevant and there is nothing I can do in response to it.*

*7. As to the unless order of 3 May 2023 I refuse permission on the basis that there is no prospect of a successful appeal; the unless order was made in response to the difficulties the leaseholders are experiencing in putting their case together as a result of non-disclosure, and was a proportionate response to those difficulties. It was a case management decision, made in the discretion of the FTT, and with which the Tribunal will not interfere in the absence of an error of law or some other irrationality…"*

7. The Upper Tribunal refused a request for an oral hearing of the application for permission. It is clear from the Upper Tribunal's summary of the position that Assethold Limited has been debarred from taking any further part on these Tribunal proceedings.

## The hearing

8. The final hearing took place by CVP video on 8 November 2023. The leaseholders attended the hearing in person and the Applicants were represented by Ms Corinne Tuplin, Solicitor. The Tribunal heard oral evidence of fact from Mr Carlos Abreu.

9. As stated above, the Respondent was debarred from taking any further part on these Tribunal proceedings and no representative of the Respondent company attended the hearing.

## The Tribunal's determinations

10. Sections 47 and 48 of the Landlord and Tenant Act 1987 provide as follow (emphasis supplied):

*47.— Landlord's name and address to be contained in demands for rent etc.*

*(1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—*

*(a) the name and address of the landlord, and*

*(b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.*

*(2) Where—*

*(a) a tenant of any such premises is given such a demand, but*

*(b) it does not contain any information required to be contained in it by virtue of subsection (1),*

*then (subject to subsection (3)) any part of the amount demanded which consists of a service charge or an administration charge ("the relevant amount") shall be treated for all purposes as* ***not being due*** *from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.*

*(3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or (as the case may be) administration charges from the tenant.*

*(4) In this section "demand" means a demand for rent or other sums payable to the landlord under the terms of the tenancy.*

*48.— Notification by landlord of address for service of notices.*

*(1) A landlord of premises to which this Part applies shall by notice furnish the tenant with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant.*

*(2) Where a landlord of any such premises fails to comply with subsection (1), any rent, service charge or administration charge otherwise due from the tenant to the landlord shall (subject to subsection (3)) be treated for all purposes as* ***not being due*** *from the tenant to the landlord at any time before the landlord does comply with that subsection.*

*(3) Any such rent, service charge or administration charge shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of rent, service charges or (as the case may be) administration charges from the tenant.*

11. The Tribunal was provided with evidence (by way of the relevant demands) that, in respect of the service charge years 2018/19 and 2019/20, the demands identify the landlord's managing agents but do not contain the name and address of the landlord or an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenants.

12. Accordingly, (and having considered *Beitov Properties Ltd v Martin* [2012] UKUT 133 (LC) and the reference to *Beitov* in *Prempeh v Lakhany* [2020] EWCA Civ 1422), the Tribunal finds that the charges in respect of those service charge years are not payable.

13. Pursuant to section 21B of the 1985 Act, 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. If the landlord fails to comply with section 21B, the tenants are not liable to pay the service charges until such time it does.

14. By schedule 11 paragraph 4(1) to the 2002 Act, a demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges. If the landlord fails to include the summary of rights and obligations, the tenant may withhold payment of the administration charge which has been demanded.

15. In respect of the service charge year 2020/21, the Applicants rely upon evidence that no summary of tenants' rights and obligations was served with the demands for this year. The Tribunal accepts the Applicants' evidence and finds that the charges in respect of this service charge year are not payable.

16. The Applicants submit, in the alternative, that the demands for the service charge year 2020/21 do not contain the name and address of the true landlord or an address in England and Wales at which notices (including notices in proceedings) may be served on the true landlord by the tenants. The Applicants rely upon an official copy of the Register of Title for the Property, as at 4 October 2022. This records that, from 23 December 2016, the registered proprietor has been Belmont (Sutton) Living Limited and not the Respondent. The Tribunal having already found that no charges are payable, it is not necessary to determine this issue.

17. Further, the Applicants state that the Respondent is not and has never been the legal owner of the freehold interest in the Property and that the registered estate in the freehold title was determined on disclaimer by the Treasury Solicitor on 28 February 2022, pursuant section 1013 of the Companies Act 2006 (see the official copy of the Register of Tile). They submit that the Respondent will therefore not be able, in the future, to serve valid demands. This is not, however, a matter which is currently before this Tribunal.

18. By reason of the Tribunal's findings which are set out above, no service charges or administration charges are payable by the Applicant lessees to the Respondent.

19. The Applicants state that total figure paid to Eagerstates is £37,655.06. This figure is broken down as follows:

    (i) 2018/2019 - £2,523.92

    (ii) 2019/2020 - £19,340.36

    (iii) Year ending 1 Feb 2021 - £15,790.78

20. Accordingly, having considered Part 2 of the Landlord and Tenant Act 1987, the Tribunal finds that uncommitted service charges in the sum of £37,655 fall to be paid by the Respondent to the Second Applicant RTM company.

## Additional observations

21. Having considered the relevant evidence and arguments, the Tribunal makes the following additional observations which, in light of the findings above, do not form part of the Tribunal's substantive determination.

22. If the Tribunal had not been satisfied that no service charges and/or administration charges were payable for the reasons set out above, the Tribunal would have made the following findings.

23. In respect of the year 2018/2019:

    (i) £1,170 was claimed in respect of insurance and brokers' fees. It is likely on the balance of probabilities that the insurance is invalid because, when cover was taken out on 23.11.18, the Property was unoccupied. However, the certificate states that the Property was occupied which is incorrect. Further, the Tribunal finds on the basis of the official

copy of the Register of Title that the Respondent was not the freehold owner of the Property at any material time. The freehold owner is not named on the policy. In all the circumstances, the Tribunal is not satisfied on the balance of probabilities that anything is payable in respect of these items.

(ii) As regards the British Gas electricity charges, the Tribunal allows the sum of £250 for this service charge item, doing our best on the limited evidence available (in the form of estimates) concerning the electricity costs over the period covered by this application. Any significant and unexplained short-term increases in the charges have been disallowed.

(iii) £70 was claimed for Car Park Signage. There is no invoice and no evidence that this work was carried out during the relevant period. Accordingly, the Tribunal is not satisfied on the balance of probabilities that this cost was incurred.

(iv) £105 was claimed for communal cleaning by the previous freeholder. On the basis of the oral evidence which was given by Mr Abreu at the hearing, the Tribunal is not satisfied on the balance of probabilities that any cleaning took place during this period. No invoice has been provided. Accordingly, the Tribunal is not satisfied on the balance of probabilities that anything is payable in respect of this item.

(v) An accountant's fee was claimed in the sum of £240. The Tribunal was referred to Schedule 7 part 2(1)(b)(1) of the specimen Lease which requires an audit. The Applicant's case is that no audit took place. Further, the invoice is addressed to the lessees rather than to the Respondent and there is no evidence that the Respondent has paid the invoice. The Tribunal might well have allowed something in respect of the accountant's work if a witness for the Respondent had been available to explain what had occurred and whether the invoice had been paid. However, as stated above, the Respondent is debarred from participating so there was no witness evidence in support of this charge. In all the circumstances, the Tribunal is not satisfied on the balance of probabilities that anything is payable in respect of this item.

(vi) The evidence of the Applicants was that very little if any work was carried out by the managing agents during this period and, on the basis of this evidence, the Tribunal would have allowed only a nominal sum of £50 in respect of the managing agents' fees.

24. In respect of the year 2019/2020:

(i) £1,205 was claimed in respect of insurance with a £50 broker's fee plus an Additional Insurance premium of £1,950.95. The Tribunal finds it likely on the balance of probabilities that the insurance policy is invalid because the true freehold owner has not been specified. Further, it is unclear on the limited evidence before the Tribunal what the additional insurance premium relates to. Accordingly, the Tribunal is not satisfied on the balance of probabilities that anything is payable in respect of this item.

(ii) As regards the British Gas electricity charges, the Tribunal apportions the sum of £300 to this period doing its best on the limited evidence available regarding the electricity costs over the period covered by this application.

(iii) £1,509.80 was claimed in respect of common parts cleaning. Mr Abreu gave evidence that he saw cleaners on a couple of occasions but that the common parts were not cleaned often and/or were not cleaned effectively. He gave evidence that the lessees therefore took steps to keep the common parts clean and he described having to hoover the area outside his flat. The Tribunal accepts this evidence and finds on the limited evidence available that a reasonable charge for the cleaning is £200.

(iv) £1,509.80 was claimed in respect of common parts gardening. Mr Abreu gave evidence, which the Tribunal accepts that this service was not provided. Accordingly, the Tribunal finds that nothing is payable in respect of this item.

(v) £1,500 was claimed in respect of common parts window cleaning. Mr Abreu gave evidence, which the Tribunal accepts that this occurred occasionally but that the window cleaning extended beyond the common parts so that window cleaning was carried out to the demised premises. On the basis of Mr

Abreu's oral evidence, the Tribunal finds that a reasonable charge for this work is £500.

(vi) Common parts carpet cleaning. The Tribunal accepts the evidence of Mr Abreu that this never occurred. Accordingly, the Tribunal finds that nothing is payable in respect of this item.

(vii) As regards charges in respect of drain servicing and cylinder replacement, the Tribunal is not satisfied on the evidence available that this work was carried out. Accordingly, the Tribunal finds that nothing is payable in respect of these items.

(viii) £1,560 was claimed for emergency works to safeguard a damaged wall, £250 is claimed in respect of an insurance excess and £2,100 is claimed for surveyors for insurance purposes. Mr Abreu did his best to piece together what these charges might relate to but he was not in a position to do more than speculate and the Tribunal is not satisfied on the basis of the limited evidence available that these charges are reasonable or payable.

(ix) £324 was claimed for descaling drains. The Tribunal is not satisfied on the limited available evidence that this occurred. Accordingly, the Tribunal finds that nothing is payable in respect of this item.

(x) £948.37 was claimed for Door Entry Intercom call out and repair. Mr Abreu gave evidence, which the Tribunal accepts, that someone was sent to change the intercom pin but that this work was unnecessary. Accordingly, the Tribunal finds that nothing is payable in respect of this item.

(xi) £696 was claimed to erect a wall for additional protection. The Tribunal is not satisfied that this charge is recoverable under the terms of the leases. Further, the Tribunal is not satisfied on the limited available evidence that these costs were reasonably incurred. Accordingly, the Tribunal finds that nothing is payable in respect of this item.

(xii) In the absence of any report or explanation, it is unclear how a charge for "Site Consulting for FHS equipment assessment paid invoice £420" lies with an EFP H&S service in the sum of £346.80 which was

invoiced the following month. This is described as '1st service takeover' and appears to indicate that no works were reported as required other that a 'call point needed by main door. Quote to follow'. Doing its best on the available evidence, the Tribunal allows the sum of £346.80 but not the sum of £420. The sum of £300 (Item (25)) is disallowed because it is an estimate and there is no invoice. £720 JMC is also disallowed because it is not clear what defects were investigated.

(xiii) £480 was claimed in respect of accountant's fees. For the reasons given above, the Tribunal is not satisfied that these are payable.

(xiv) £2,592 was claimed in respect of management fees. The Tribunal accepts the Applicants' evidence that the standard of management was very poor and reduces these fees £600.

(xv) £2,500 was claimed in respect of a reserve fund. No planned maintenance plan has been disclosed (although an uncosted planned maintenance plan schedule was invoiced for on 2.10.20). The Tribunal is not satisfied on the basis of the limited evidence available that anything is payable in respect of this item.

25. In respect of the year 2020/2021:

(i) As regards the British Gas electricity charges, the Tribunal allows the sum of £220 for this service charge item, doing our best on the limited evidence available (in the form of estimates) concerning the electricity costs over the period covered by this application.

(ii) As regards, common parts cleaning, common parts carpet cleaning, gardening, and window cleaning, we accept Mr Abreu's evidence that the situation was the same as in the previous year. Accordingly, the Tribunal's determinations would have been the same.

(iii) As regards, electrical repairs, maintenance works, FHS Repair works; costs associated with cladding, door entry system inspection, cylinder works, roof safety line, drains clearance, and decorating works,

the Tribunal is not satisfied on the limited evidence available that the costs were reasonably incurred or that the sums were properly invoiced or that the invoices were paid. Accordingly, the Tribunal finds that nothing is payable in respect of these items.

(iv) EFP invoice £282.60 concerns the supply and installation of safety signage. This may relate to an undisclosed report dated 21.2.20. However, there is no reference to signage in the first service report of March 2020. The Tribunal disallows this item on the basis that there is insufficient evidence. EFP invoice £350.40, 30 October, relates to '6 monthly smoke detector check, emergency lighting check and fire door service report'. A first service takeover report was prepared on 25.3.20 and there appears to have been some duplication of the matters in the first report. The smoke ventilation system that was passed in the first report is now suggested to be in generally poor condition and in need of attention. A full inspection was not carried out because of a failure on the part of the manager to provide keys. In all the circumstances, the Tribunal allows the sum of £175 in respect of these items. The Security Masters invoice for £604.80 appears to relate to the requirements of the second EFP report on the basis of a visual inspection only since the original keys had not been provided by the agent. This item is disallowed on the basis that there is no conclusive evidence that this work was required. The purpose of the Mekdem roof survey is unclear and there is no explanation as to why it was commissioned so close to the transfer of the right to manage. In all the circumstances, this item is disallowed.

(v) £1,178.40 was claimed in respect of gutter clearance. Mr Abreu accepted that this had occurred but he considered the work to be unnecessary. The Tribunal is not satisfied on the evidence that anything is payable in respect of this service charge

(vi) As regards the accountant's fee, the management fee, and the reserve fund, the Tribunal's determinations would have been the same as in the previous year.

(vii) Mr Abreu gave evidence, which the Tribunal accepts, that no emergency number was provided, and the

Tribunal is therefore not satisfied that the fee for the emergency line is payable.

(viii) There is no evidence before the Tribunal concerning the nature of the work which lead to a handover fee of £400 and the Tribunal is not satisfied on the extremely limited evidence available that this sum is reasonable or payable.

(ix) As regards the surveyors' fees and related expenses, the external wall review and intrusive survey, the Tribunal was informed that the survey had not been disclosed, and that the external wall review was carried out post the right to manage. Without having sight of the survey, the Tribunal is not satisfied that the fees are reasonable or payable. In addition, any works which post-date the right to manage are not potentially payable. £1,170 is claimed for Preventative Maintenance Schedule prepared by JMC. The schedule is uncosted and was invoiced 2.10.20. The Tribunal finds that it was unreasonable to incur this cost at this stage of RTM process.

**Applications concerning costs**

26. Having considered the degree of success of the Applicants and as well as the procedural history which is referred to in the decision of the Upper Tribunal dated 7 September 2023, the Tribunal makes the following determinations:

(i) The Tribunal determines that it is just and equitable to make an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of these proceedings may be passed to the Applicants (if that is potentially possible) through any service charge.

(ii) The Tribunal determines that it is just and equitable to make an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 extinguishing the Applicants' liability, if any, to pay an administration charge in respect of the Respondents' costs of these proceedings.

(iii) The Tribunal makes an order under Rule 13(2) of Tribunal Procedure (First-Tier Tribunal)(Property Chamber) Rules 2013 requiring the Respondent to

reimburse the Tribunal fees paid by the Applicants in respect of these proceedings.

**Name:** Judge N Hawkes **Date:** 17 November 2023

## Rights of appeal

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

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the Regional Office which has been dealing with the case.

The application should be made on Form RP PTA available at https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber
The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

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

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

## Appendix of relevant legislation

### Landlord and Tenant Act 1985 (as amended)

### Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
   (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
   (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

### Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

### Section 27A

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,
   (d) the date at or by which it is payable, and

(e) the manner in which it is payable.

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

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

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

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

**Section 20C**

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

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

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

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

**Schedule 11 to the Commonhold and Leasehold Reform Act 2002**

5A (1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.
(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.