10499

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AY/LSC/2014/0485**
Property	:	**10 Bernays Grove, London SW9 8DF**
Applicant	:	**Cranfield Investments Limited**
Representative	:	**Drakesfield Management Limited**
Respondent	:	**Ms Susan Johnson (Flat 1)**
Representative	:	**In person**
Type of application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal members	:	**Mr Jeremy Donegan (Tribunal Judge)** **Mr Neil Martindale FRICS (Valuer Member)**
Date and venue of paper determination	:	**04 December 2014** **10 Alfred Place, London WC1E 7LR**
Date of decision	:	**18 December 2014**

DECISION

Decisions of the tribunal

(1) The tribunal determines that the Respondent is not liable to pay any sum to the Applicant in relation to the advance service charge demand dated 15 August 2014.

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

(3) The application for an order that the Respondent pays the Applicant's costs is refused.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of interim (advance) service charges payable by the Applicant in respect of the service charge year ending 31 December 2014. The application concerns a service charge demanded 15 August 2014.

2. The application was dated 19 September 2014 and was received by the tribunal on 23 September 2014.

3. Directions were issued on 24 September 2014. These included provision that the application be dealt with on the paper track, without an oral hearing. None of the parties has objected to this or requested an oral hearing. The paper determination took place on 04 December 2014.

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

The background

5. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

6. The Applicant is the freeholder of 10 Bernays Grove, London SW9 8DF ("the Building"), which is in mixed use and consists of a commercial unit on the ground floor with three residential flats above. The Respondent is the leaseholder of Flat 1 at the Building ("the Flat").

7. The Respondent holds a long lease of the Flat, which requires the Applicant to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease are referred to below, where appropriate.

The lease

8. The lease was granted by Davstone (Holdings) Limited ("Lessors") to the Respondent ("the Tenant") on 21 December 1994 for a term of 125 years from 24 June 1994. The Tenant's proportion of service charge expenditure is defined at clause 7 of the particulars as:

One-third PROVIDED ALWAYS that in respect of the matters referred to in clause 5(5)(a)(i) (ii) and (iv) and 5(5)(c) hereof the Tenant's share of the Total Expenditure shall be [20.67%] per cent

9. Various definitions are set out at clause 1 of the lease, including:

(6) "the Accounting Period" shall mean a period commencing on the 1st day of January and ending on the 31st day of December in any year or such other period as the Landlord shall specify from time to time

10. The Lessors' covenants are to be found at clause 5 and include obligations to maintain and keep in good and substantial repair and condition the main structure of the Building. They also include the following obligation at clause 5(5)(k):

At their sole and absolute discretion if considered to be appropriate or necessary by them to set aside (when aside shall for the purposes of the Fifth Schedule hereto be deemed an item of expenditure incurred by the Lessors) such sum or sums of money as the Lessors shall in their sole and absolute discretion expect to incur in repairing replacing maintaining and renewing those items which the Lessors have hereby covenanted to repair replace maintain or renew or otherwise in complying with their obligations under this Clause 5 such sum or sums of money to be held by the Lessors upon trust for the Tenant and the other Flat Owners and to be applied solely in accordance with the provisions of this Lease

11. The detailed service charge provisions are at schedule 5 to the lease and include:

Paragraph 1(1)

"Total Expenditure" means the total expenditure incurred by the Lessors in any Accounting Period in carrying out their obligations

under Clause 5(5) of this Lease and any other costs and expenses reasonably and properly incurred in connection with the Building including without prejudice to the generality of the foregoing making a proper charge for their carrying out such obligations and: -

(a) the cost of employing Managing Agents (if employed)

(b) the cost of any Accountant or Surveyor employed to determine the Total Expenditure and the amount payable by the Tenant hereunder

(c) the cost of providing and carrying out any additional services and works in connection with the Building or the Common Parts as may be considered appropriate by the Lessors in their discretion and

(d) all other expenses incurred by the Lessors in and about the maintenance and proper and convenient running of the Building and the Common Parts and including (but without prejudice to the generality of the foregoing) any legal fees properly incurred by the Lessors in collecting the Service Charge and Interim Charge from the Tenant and any other of the Flat Owners and the cost and expense of any interest paid on any money borrowed by the Lessors to defray any expenses incurred by them and specified in this Schedule

Paragraph 1(3)

"the Interim Charge" means such sum to be paid on account of the Service Charge in respect of each Accounting Period as the Lessors or their Managing Agents shall specify at their discretion to be a fair and reasonable interim payment

Paragraph 3

(a) The first payment of the Interim Charge (on account of the Service Charge for the Accounting Period during which the Lease is executed) shall be made on the execution hereof and thereafter the Interim Charge shall be paid to the Lessors by half yearly payments in advance (in such proportions as the Lessors may require from time to time in their absolute discretion) on the First day of July and the First day of January in each year and in case of default the same shall be recoverable from the Tenant as rent in arrear

(b) If during any Accounting Period the Lessors consider in their discretion that the Interim Charge paid or payable for that Accounting Period is or may be insufficient for any reason then

the Lessors may by notice in writing to the Tenant require payment of a further Interim Charge of such amount as the Lessors or their Managing Agents shall specify at their discretion to be fair and reasonable Any such further Interim Charge shall be paid by the Tenant to the Lessors within 14 days of notice thereof being served upon the Tenant and in case of default the same shall be recoverable from the Tenant as rent in arrear

The issues

12. The sole issue to be determined by the tribunal is whether the Respondent is liable to pay a contribution to proposed major works at the Building that has been demanded by the managing agents, Drakesfield Management Limited ("Drakesfield").

13. The original demand from Drakesfield was dated 14 July 2014 and was addressed to the Respondent at the Flat. The amount of the demand was £14,965.06. Drakesfield then issued a revised demand dated 15 July 2014 for a sum of £13,679.83 ("the Revised Demand"). Again this was addressed to the Respondent at the Flat.

14. The application concerns the Respondent's liability to pay the Revised Demand. The narrative on the Revised Demand reads:

    Service Charge (External Cyclical Repairs & Redecoration) 90%

15. The tribunal were supplied with two bundles of documents; one containing the Applicant's statement of case and supporting documents and one containing the Respondent's statement of case and supporting documents. The tribunal were also supplied with a brief reply from the Respondent, a copy of the Upper Tribunal's decision in ***Garside and Anson v RFYC Limited and Maunder Taylor [2011] UKUT 367 (LC)*** and a commentary on the case from Forsters solicitors.

16. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

Service charge demand dated 15 August 2014 - £13,679.93

The Applicant's case

17. The Applicant's case was set out in a letter from Drakesfield to the tribunal dated 18 September 2014 that accompanied the application and a statement of case dated 18 November 2014 that was prepared by Mr Momshad Khan of Drakesfield.

18. Drakesfield were instructed by the Applicant in 2013, solely in relation to the proposed cyclical repair and redecoration of the exterior of the Building and the internal common parts. These works include proposed repairs to the roof at the Building.

19. Drakesfield instructed Peter Mountain Associates Surveyors and Building Consultants ("PMA") to carry out a survey of the Building and prepare a specification of works. PMA were appointed to act as contract administrator and supervising surveyors for the works.

20. Drakesfield served a notice of intention on the leaseholders on 20 September 2013, in accordance with section 20 of the 1985 Act. This was accompanied by a copy of the specification. Tenders were obtained and a statement of estimates was served on the leaseholders on 03 December 2013.

21. A revised statement of estimates was served on the leaseholders on 02 June 2014. This was in response to the leaseholders' request to amend the specification and to obtain a tender from their nominated contractor. The revised statement of estimates was accompanied by a copy letter from PMA to Drakesfield dated 29 May 2014, copies of the tenders and a tender comparison. PMA recommended that the contract be awarded to K&M Decorating Limited ("KMDL"), who has provided the lowest tender of £50,917.50 plus VAT.

22. Both the original and the revised statements of estimates were incorrectly headed "*Notice of Intention of Work in accordance with section 20 Notice of the Landlord and Tenant Act 1985 (As amended)*". An extract from the revised statement of estimates, setting out the anticipated cost of the works is set out below:

K&M Decorating Ltd	*£50,917.50*
Building surveyor's fee (Peter Mountain) @ 8.5%	*£4,327.99*
Drakesfield Management Fees @ 3.50%	*£1,782.11*
Drakesfield S20 Admin Fee @ £150 per unit	*£600.00*
	£57,627.60
Vat @ 20%	*£11,525.52*
Total	***£69,153.12***

23. Following service of the revised statement of estimates, Drakesfield issued demands to collect 90% of the anticipated cost of the works from

the leaseholders, with the remaining 10% to be paid on or near completion of the works. The leaseholders of Flats 2 and 3 have paid the demands for their flats and the Applicant has paid the contribution for the commercial unit on the ground floor. The Respondent is unwilling to pay the demand for the Flat in full but offered to pay 30% with the rest upon completion of the works.

24. The Applicant will become contractually liable to pay the full cost of the works once it signs a contract with KMDL. It contends that demanding 90% of the cost of the works in advance protects it and the leaseholders that have paid. The works are scheduled to last 8-10 weeks.

25. Following the commencement of these proceedings, the Respondent paid the sum of £4,559.97 to Drakesfield. This represents 30% of the Flat's contribution to the anticipated cost of the works. Payment was made on 27 October 2014. On the same date, the Respondent sent an email to Drakesfield explaining that the payment was made on an interim basis and as a gesture of goodwill. The email explained that she was *"..content to pay an appropriate balance in due course and in accordance with my lease when the works are done providing they are done to a reasonable standard as part of the final Service Charge account"*.

26. Drakesfield have informed the leaseholders that funds will not be paid to KMDL until PMA has inspected and approved the works. The leaseholders have been aware of the proposed works since 2012 and could have budgeted for their contributions. The Respondent's failure to pay the service charge demand in full is delaying the works, which are urgent (particularly the roof repairs).

27. In its statement of case, the Applicant refers to the interim service charge provisions at paragraphs 3 (a) and (b) of the fifth schedule to the lease. It also referred to paragraphs 17, 18 and 20 of the decision in ***Garside***, which set out some of the relevant considerations when determining whether service charges have been reasonably incurred. In that case the Appellant leaseholders successfully argued that the Leasehold Valuation Tribunal should have taken account of the financial impact of major works and considered whether to phase the works, when determining whether costs had been reasonably incurred.

28. The Applicant contends that it had no choice but to make this application, given the Respondent's non-payment. Further it seeks its costs pursuant to paragraph 1(d) of the fifth schedule to the lease, which it quantified in the sum of £1,415 including VAT and disbursements in its statement of case.

The Respondent's case

29. The Respondent's case was set out in her statement of case dated 06 November 2014 and her reply to the Respondent's statement of case dated 22 November 2014.

30. The former leaseholder of Flat 3 reported water leaks in her flat to the then managing agents, Parklands Management Limited ("PML") in an email dated 18 July 2012. She also suggested that the roof required repair. The leaseholders were eager to progress the necessary remedial works and obtained a surveyor's report upon the condition of the Building from Stephen Cooper of the Winter Partnership. The report identified various repairs that were required at the Building and the Respondent supplied a copy to PML, by email on 05 September 2012. The email invited PML to agree a schedule of works with Mr Cooper *"..to be carried out at the first opportunity in 2013"*.

31. Initially PML indicated that they were happy to instruct Mr Cooper. However the works were not progressed. It appears that this was due, at least in part, to a debate over the commercial leaseholder's liability to contribute to the cost of the works. In an email to PML dated 26 July 2013, the Respondent concluded *"We are no nearer getting the roof repaired than we were this last time last year and I lay the blame for this entirely at your door"*.

32. Drakesfield took over the management of the Building in September 2012 and then proceeded with he section 20 consultation. The scope of the works was finally agreed on 29 May 2014. The Respondent holds the Applicant responsible for the delayed commencement of the works. The leaseholders have been pushing to have the works done since July 2012.

33. The Respondent's contribution to the anticipated cost of the works is £15,199.92. Drakesfield demanded 90% of this sum (£13,679.93) in the Revised Demand. The Respondent made a payment on account of 4,559.97 on 27 October 2014. She accepts that the contribution to the works should be paid but states that the point in issue *is "..whether it is reasonable under the circumstances for the Landlord to demand payment in full as a condition of undertaking the works and without due regard to my ability to pay it"*.

34. The Respondent contends that it is unreasonable for the Applicant to demand 90% of the full cost of the works at this stage, having regarding to the service charge provisions in the lease, section 19 of the 1985 Act and the Upper Tribunal's decision in ***Garside***.

35. In relation to the lease, the Respondent points out that paragraphs 1(3) and 3(b) of the fifth schedule both use the words *"fair and reasonable"*.

She argues that these words should be accorded their ordinary meaning and it is neither fair nor reasonable for the Applicant to demand 90% before any works have been carried out.

36. The Respondent refers to section 19(2) of the 1985 Act, which limits interim (advance) service charges in the following manner:

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

The Respondent contends that a contribution of 30% (as opposed to 90%) is reasonable given that the works have not yet started and *"..it is anyone's guess when those works will start or end"*.

37. In relation to ***Garside***, the Respondent points out that the Upper Tribunal held that the term "reasonable" should be given a broad, common sense meaning and that *"..the financial impact of major works on lessees through service charges and whether as a consequence works should be phased is capable of being a material consideration when considering whether costs are reasonably incurred for the purpose of section 19(1)(a)"* (paragraph 14).

38. The Respondent suggests that the amount of the Revised Demand is exceptional and the demand should be treated in an exceptional way, by allowing her a reasonable time to pay it. She alleges out that no major works have been undertaken at the Building since 2000 and points out that in the intervening period the service charges have run at less than £1,000 per annum. The Respondent contends that given the level of the demand is unprecedented, it would be unreasonable for the Applicant to ignore the question of affordability. The sum demanded from the Respondent is substantially more than the sums demanded in ***Garside***, which were around £7,600 and £9,000 per flat.

39. The Respondent does not suggest that the works should be phased. Rather she contends that payments should be staged, given the amount of the demand. The Respondent also refers to the Applicant's failure to set up a reserve fund, which could have spread the cost of the works over several years.

40. The Respondent did not advance any form of counterclaim or suggest that she has suffered any losses arising from the delayed commencement of the works, which could be set off against the service charge claim.

41. The Respondent also gave details of her attempts to resolve the dispute and the reasons why the leaseholders of Flats 2 and 3 had paid the demands for their flats.

The tribunal's decision

42. The tribunal disallows the amount of the Revised Demand, in full.

Reasons for the tribunal's decision

43. The Respondent does not challenge the need for the works, the scope of the works or the anticipated costs. Rather her challenges all relate to the timing of her payments.

44. The tribunal's starting point was to consider whether an advance contribution to the work is contractually payable under the terms of the lease. The Applicant relies on paragraphs 1(3), 3(a) and 3(b) of the fifth schedule to the lease. Clearly the sum claimed in the Revised Demands is not an "Interim Charge", as set out in paragraphs 1(3) and 3(a) in that it relates solely to the proposed works rather than being an advance contribution to "Total Expenditure". Further it was not expressed to be payable on either of the specified payment dates (01 January or 01 July).

45. The tribunal then went onto consider whether the sum claimed in the Revised Demands is a "Further Interim Charge" for the purposes of paragraph 3(b). Such a charge can be demanded where the Applicant considers that the Interim Charge is or may be insufficient and gives written notice to this effect to the leaseholders. There was no evidence before the tribunal as to the amount of the Interim Charges demanded on 01 January and 01 July 2014 or whether the Applicant had considered the sufficiency of these charges. Further there was no evidence that the Applicant had given written notice of a Further Interim Charge to the Respondent. The Revised Demand certainly does not amount to written notice, as it does not refer to the Interim Charges or any decision to raise a Further Interim Charge. The same is true of the earlier demand dated 14 July 2014 or the emails that accompanied the demands. Furthermore both demands specifically seek contributions to the proposed works rather than Total Expenditure.

46. For the reasons set out at paragraph 45, the tribunal concluded that the advance contribution to the works is not a Further Interim Charge. The Applicant does not rely on any other provisions in the lease and the tribunal could not identify any contractual basis for demanding such a contribution. It follows that the Respondent is not liable to pay the Revised Demand.

47. Having determined that there is no contractual obligation to pay the demand, there was no need for the tribunal to consider the various different arguments advanced by the Respondent. However it is worth pointing out that the decision in ***Garside*** makes it clear that a leaseholder cannot avoid liability to pay his/her service charges simply on the grounds of hardship. At paragraph 20, HHJ Robinson stated "*If repair work is reasonably required pursuant to the relevant lease then the lessee cannot escape liability to pay by pleading poverty*". The Respondent should heed this statement, as the tribunal may well have come to a different decision had the service charge been demanded correctly. It is also worth pointing out that clause 5(5)(k) of the lease specifically allows the Applicant to establish a reserve fund for the maintenance and repair of the Building. The Applicant may wish to seek professional advice on whether it would be appropriate to include a substantial reserve provision for the proposed works in the service charge accounts for the year ending December 2014.

Application under s.20C and costs

48. In her statement of case the Respondent applied for an order under section 20C of the 1985 Act. Taking into account the decision set out above, the tribunal determines that it is just and equitable in the circumstances for such an order to be made so that the Applicant may not pass any of its costs incurred in connection with the proceedings before the tribunal through the Respondent's service charge. The application has failed and the Respondent should not have to pay any part of the Applicant's costs in pursuing the application.

49. In its statement of case the Applicant sought an order for costs against the Respondent. It refers to paragraph 1(d) of the fifth schedule of the lease but this is concerned with the Applicant's ability to recover various expenses, including legal fees, from the service charge account rather than an individual leaseholder.

50. The circumstances in which the tribunal can make an order for costs are extremely limited. This case does not fall within the ambit of rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. Further, as explained at paragraph 48 it would not be appropriate for the Respondent to pay any part of the Applicant's costs given the substantive application has failed. Accordingly the application for a costs order is refused.

Name: Tribunal Judge Donegan **Date:** 18 December 2014

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 20

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

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

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

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

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

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

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

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

Section 20B

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

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

Section 20C

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

not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

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

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

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Rule 13

(1) The Tribunal may make an order in respect of costs only –
  (a) under section 29 (4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
  (b) if a person has acted unreasonably in bringing, defending or conducting proceedings in –
    (i) an agricultural and land drainage case,
    (ii) a residential property case, or
    (iii) a leasehold case; or
  (c) in a land registration case.

...

(7) The amount of costs to be paid under an order under this rule may be determined by –
  (a) summary assessment by the Tribunal;
  (b) agreement of a specified sum by the paying person and the person entitled to receive the costs ("the receiving person");
  (c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an

application to a county court; and such assessment is to be on the standard basis or, if specified in the costs order, on the indemnity basis.