

Commonhold and Leasehold Reform Act 2002

The council is required by virtue of Schedule 11 paragraph 4(1) of the above Act to advise you of the following:¹

The Commonhold and Leasehold Reform Act 2002 provides that “an administration charge is only payable to the extent that the amount of the charge is reasonable”. An administration charge is defined by the 2002 Act as an amount of money payable as part of or in addition to any rent and which is payable directly or indirectly: -

- 1) For or in connection with applications for, or the grant of approvals under the Lease;
- 2) For or in connection with the provision of information or documents by the Landlord or another party to the Lease such as a management company;
- 3) In respect of the Tenant’s failure to pay sums on their due date to the Landlord or other party to the Lease;
- 4) In connection with an actual alleged breach of covenant under the Lease.

Administration charges can either be variable, this is where the Lease does not specify the amount of the administration charge, or they can be fixed, this is where the Lease states the sum or a formula for calculating the sum.

Liability to pay Administration Charges

You can apply to the Leasehold Valuation Tribunal (LVT) to decide whether or not an administration charge is payable and, if it is:

- 1) Who has to pay;
- 2) Who is to receive the payment;
- 3) How much is payable;
- 4) When it has to be paid; and
- 5) How it is to be paid

¹ If the Council failed to advise you of your rights and obligations in respect of Administration Charges you would be entitled to withhold payment of an administration charge demanded from you without becoming liable for any non-payment or late payment penalties under the terms of the Lease

You should note that you cannot make an application to a LVT in respect of an administration charge if: -

- a) It has been agreed or admitted by the Leaseholder (simply paying the amount is not to be taken as an admission or agreement of liability)
- b) It has been, or is to be referred to arbitration on the agreement of both the Landlord and Leaseholder, such agreement having been reached after the dispute about the Administration Charge has arisen (However, an arbitration clause or other clause providing for settlement of a future dispute regarding an Administration Charge contained in the Lease or any other agreement itself cannot prevent you from applying to the LVT)
- c) It has been decided by a court
- d) It has been decided by an arbitration tribunal under a post-dispute arbitration agreement

The jurisdiction of the LVT is not exclusive and is in addition to any jurisdiction of the Court.

Challenging the amount of a Variable Administration Charge

If you wish to challenge the reasonableness of a variable administration charge you can apply to the LVT. The sum determined as reasonable by the LVT then becomes the maximum the Council can recover from you.

Challenging the amount of a Fixed Administration Charge

You can challenge the reasonableness of the fixed sum or the formula used to calculate it by applying to the LVT to have the Lease varied. The LVT can, if it decides the charge or formula is unreasonable, order the Lease to be varied as you request or order such other variation as it thinks fit. The variation will change the Lease for the remainder of its term.