

**[FOR USE WHERE PROPERTY FACTOR HAS IMPOSED  
UNFAIR ADMINISTRATION CHARGES]**

[YOUR NAME]  
[YOUR ADDRESS]  
[DATE]

**Recorded Delivery**

[PROPERTY FACTOR'S NAME]  
[REGISTERED ADDRESS]

Dear Sirs

**Penalty & unfair administration charges – request for refund [YOUR NAME, YOUR  
PROPERTY ADDRESS]**

I write with respect to the administration charges you have applied to my account. Over the last five years you have billed me [INSERT DETAILS of how much was charged] for administration charges.

I believe these charges represent an unfair penalty charge in terms of the *Unfair Terms in Consumer Contracts Regulations 1999* (SI. 1999/2083) (the 'UTCCR'). My contract with your company falls within the ambit of Regulation 5 of the UTCCR as I am a consumer.

Your administration charges constitute an unfair penalty under reference to paragraph 1(e) of schedule 2 of the said regulations:

*'Indicative and non-exhaustive list of terms which may be regarded as unfair*

1. Terms which have the object of effect of-

(e) requiring any consumer who fails his obligation to pay a disproportionately high sum in compensation'.

Reference is made to the following three cases from the Office of Fair Trading's Unfair Contract Terms Bulletin 21 (July to September 2002), issued in May 2003:

**OFT case 15 – Kids of Wilmslow Ltd.**

Clause 7 of the company provided for the supplier to charge interest on unpaid fees at an excessive rate above the bank base rate. Also unclear as to how the interest would be charged. The OFT amended the clause so interest was charged on unpaid fees at 3% per annum above the bank base rate. Further, an administration fee of £10 per letter sent concerning unpaid fees was deleted.

**OFT case 18 – Legal & General Franchising t/a Parker Estate Agents.**

A commission clause had the potential to allow the estate agent to charge a penalty fee for late payments. The OFT revised the clause to reflect the company's practice of charging 8% per annum or the current rate of county court interest on late payments.

**OFT case 4 – Dampcure-Woodcure/30Ltd.**

Clause 'W' had the potential to impose a high financial penalty of payment was not received within seven days of the date of invoice. The OFT revised same to make clear that interest will be charged at 4% above a high street bank rate per annum if payment not received within 7 days of the date of invoice.

Accordingly, you have been fairly compensated for any delay in the payment of your invoice by the imposition of compound interest rate charges.

On a separate note, I am of the view that your administration charges represent a penalty and are therefore irrecoverable at common law.

In the Scottish case of *Castaneda and Others v. Clydebank Engineering and Shipbuilding Co., Ltd.* (1904) 12 SLT 498 the House of Lords held that a contractual party can only recover damages for actual or liquidated losses incurred from a breach of contract.

Your charges do not reflect any genuine loss, instead they appear to represent a lucrative profit-making scheme. The charges applied to my account are not a reasonable pre-estimate of your loss in relation to my account.

Please refund these charges to my account within the next 7 days. I reserve the right to commence court proceedings without any further notice, and to seek an additional award for distress and inconvenience, together with legal expenses.

No further notice will be given before court proceedings are raised.

Yours faithfully

(signed)