FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00BN/LSC/2022/0081, 0083-0091, 0099, 0104, 0118** **MAN/00BN/LSC/2023/0038**
Property	**:**	**Wessex Lodge, 16, The Beeches, Manchester M20 2FR**
Applicant	**:**	**Landmark (Bolton) Limited**
Respondent	**:**	**Various leaseholders (see Annex A)**
Type of Application	**:**	**Section 27A Landlord and Tenant Act 1985**
	:	**Section 20C, Landlord and Tenant Act 1985**
	:	**Paragraphs 5 and 5A, Schedule 11, Commonhold and Leasehold Reform Act 2002**
	:	**Rule 13, The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**
Tribunal Members	**:**	**Tribunal Judge C.Wood** **Tribunal Member S.Latham**
Date of Decision	**:**	**26 June 2023**

DECISION

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Order

1. The Tribunal orders as follows:

(1) drainage/guttering

(i) the costs of the RESCOM works prior to the water ingress to Apartment 8 are disallowed in full and the Respondents are not liable to pay them;

(ii) the costs set out in the RESCOM/Panad invoices of various dates between August-December 2019 are disallowed in full and the Respondents are not liable to pay them;

(2) general maintenance

(i) the cost of the gate repair is disallowed in full and the Respondents are not liable to pay it;

(ii) there is no provision in the Lease permitting the charging of rental for the two car parking spaces as service charge and the charges are disallowed in full and the Respondents are not liable to pay them;

(3) insurance

the insurance premiums for the 2018/19 and 2019/20 service charge years are reasonable and comprise relevant costs for the purpose of determining the amount of service charge in respect thereof, and the Respondents are liable to pay them:

(4) electricity

(i) to the extent that the service charges have been calculated on an "out of contract" tariff, they are not reasonably incurred;

(ii) in the absence of any other evidence, the Tribunal considers that the Respondents' proposed 2018 tariff is an appropriate starting point applicable for the 2018/19 service charge year increased by RPI of 2.6% for the 2019/20 service charge year to determine the amount of the service charges payable in respect thereof. Any amount charged in excess of these amounts is disallowed and the Respondents are not liable to pay it;

(5) legal and professional fees re: RTM process

(i) without prejudice to the Applicant's right to seek recovery of their fees under section 88 CLARA, the costs are disallowed in full as not properly incurred as service charge and the Respondents are not liable to pay them;

(6) insurance revaluation report

(i) the cost of the report is reasonable and the Respondents are liable to pay it;

(7) management fees

(i) having regard to the evidence of poor management on the part of RMG both in the day-to-day management of the Property/Estate as reflected in the Tribunal's determinations in paragraphs (1),(2),(4) and (5) above and in their record keeping, as evidenced in the conduct of the proceedings before the Tribunal, the management fees are reduced by 25% or each of the service charge years in issue;

(8) s20C of the 1985 Act

(i) it is just and equitable to grant the Respondents' application under s20C of the 1985 Act preventing the Applicant from charging any of its costs incurred in the proceedings before the tribunal as service charge.

(9) Paragraph 5A of CLARA

(i) it is just and equitable to grant the Respondents' application extinguishing any liability of the Respondents to pay administration charges in respect of the Applicant's litigation costs in respect of the proceedings before the tribunal.

(10) Paragraph 5 of CLARA

(i) the Applicant's application is adjourned sine die, with liberty to both parties to apply to the Tribunal for a determination.

Background

2. By a series of orders of various dates 14 claims were transferred to the Tribunal from the County Court and consolidated into one s27A application heard together at a hearing held on 20 April 2023.

3. Both parties were represented at the hearing as follows:

Applicant:

Landmark (Bolton) Limited – represented by Mr Jonathan Wragg of Counsel

Ms Amy Graham – Residential Management Group ("RMG")

Respondents:

Various as set on the attached annex - represented by Mr Peter Dixon of Counsel

Mr. Richard Burns – leaseholder of Apartment 14, Wessex Lodge.

4. There was some confusion at the hearing as to the number of cases that were transferred from the County Court. This was subsequently confirmed by the Tribunal and details of all the Respondents are set out in the Annex to this Decision.

Law

5. Section 27A(1) of the Landlord and Tenant Act 1985, ("the 1985 Act"), provides:

> *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.*

6. The Tribunal is "the appropriate tribunal" for this purpose, and it has jurisdiction to make a determination under section 27A of the 1985 Act whether or not any payment has been made.

7. The meaning of the expression "service charge" is set out in section 18(1) of the 1985 Act. It 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.*

8. In making any determination under section 27A, the Tribunal must have regard to section 19 of the 1985 Act, subsection (1) of which provides:

> *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 provision 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.*

9. "Relevant costs" are defined for these purposes by section 18(2) of the 1985 Act as:

> *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.*

10. There is no presumption for or against the reasonableness of the standard of works or services, or of the reasonableness of the amount of costs as regards service charges. If a tenant argues that the standard or the costs

of the service are unreasonable, he will need to specify the item complained of and the general nature of his case. However, the tenant need only put forward sufficient evidence to show that the question of reasonableness is arguable. Then it is for the landlord to meet the tenant's case with evidence of its own. The Tribunal then decides on the basis of the evidence put before it.

11. Paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, ("CLARA"), permits an application to be made to the Tribunal for a determination as to the reasonableness and/or payability of an administration charge. An "administration charge" is defined in paragraph 1 of Schedule 11.

12. Section 20C of the 1985 Act permits the Tribunal to order that the costs incurred by the landlord in connection with these 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 by any other person specified in the application for the order. The Tribunal may make such order as it considers just and equitable in the circumstances.

13. Paragraph 5A(1) of Schedule 11 permits the Tribunal to reduce or extinguish a tenant's liability to pay a particular administration charge in respect of litigation costs. "Litigation costs" is defined in paragraph 5A(3) of Schedule 11. The Tribunal may make such order as it considers just and equitable in the circumstances.

Evidence

14. Both parties submitted written statements to the Tribunal prior to the hearing in accordance with the Tribunal's directions.

15. The written submissions contained the following applications:

15.1 application under s27A of the 1985 Act

15.2 applications relating to costs under:

(1) s20C of the 1985 Act

(2) paragraph 5A of Schedule 11 to CLARA

(3) rule 13 (1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, ("the Rules")

16. Included in the written submissions is a copy of the lease for Apartment 14 as representative of all of the leases of the apartments of the Respondents, ("the Lease").

Hearing

17. The parties' oral submissions at the hearing are summarised as follows:

17.1 Drainage/guttering

Respondents

(1) The work required to be undertaken by RESCOM to Apartment 8 in April 2018 was as a result of their previous poor workmanship, including leaving a pipe disconnected which caused the water ingress to the Apartment;

(2) the two RESCOM invoices relating to remedial works at Apartment 8 for £840 in April 2018 and £201.60 in June 2018 should be disallowed on the ground that the works had not been carried out to a reasonable standard;

(3) this also resulted in the making of an insurance claim although the Respondents question why RESCOM was not required to remediate the damage and/or a claim made against RESCOM's insurers, particularly in view of the ongoing relationship between RMG and RESCOM;

(4) the guttering works carried out by various contractors as evidenced by 5 invoices between April – December 2019 were the result of the Applicant's failure to institute an effective maintenance programme which resulted in various incidents of water ingress to a number of Apartments and damage to the external walls;

(5) the Respondents acknowledged that some of these invoiced works had been of benefit to the Respondents and therefore sought a deduction of £868.27 from the total of £1374.27;

Applicant

(6) The Respondents' evidence does not demonstrate negligence on the part of the contractors involved;

(7) the Applicant is unable to cross-reference the amounts of the deductions sought with the invoices.

17.2 General repairs/maintenance

Respondents

(1) A repair to a communal gate undertaken in January 2020 was inadequately carried out and the repair lasted for less than 24 hours. The invoiced cost of £264 should be disallowed;

(2) the more significant issue for the Respondents is the inclusion in the 2018/19 service charge accounts under the heading "general maintenance" of rental charges paid to the Applicant for two additional car parking spaces;

(3) the Respondents' claim there is no provision in the Lease which entitles the Applicant to charge for these spaces;

Applicant

(4) The two additional car parking spaces were identified to the Tribunal on the (uncoloured) plan to the Lease;

(5) to the extent that these two parking spaces form part of the Estate, the Landlord is required to repair and maintain them in accordance with its covenant in paragraph 3 (d) of the Seventh Schedule to the Lease;

(6) further, in accordance with paragraph 10 (c) of the Seventh Schedule to the Lease the Landlord and/or its Managing Agents may "…add to…the services…" which, in this case, it has done by the provision of two additional car parking spaces.

17.3 Insurance

Respondents

(1) The Respondents' claim that throughout RMG's period of management insurance premiums were higher than they needed to be because of the lack of a "proper approach to the market";

(2) as evidence of this, they cite an insurance quotation obtained by them in March 2020 for £9615.20 which included terrorism cover;

(3) the premiums obtained by the Applicant for 2018/19, 2019/20 and 2020/21 were all higher at £10,272, £16,331 and £13,757.83 respectively;

(4) the Respondents challenge the Applicant's claim that the increased premium in the 2019/20 service charge year was solely due to an adverse claims' history but, in any event, challenge the Applicant's decision to make an insurance claim because of poor workmanship by RESCOM;

(5) the Respondents also note that both before and after RMG's period of management, insurance premiums were significantly lower;

(6) the Respondents acknowledge that the Applicant was under no obligation to "shop around" to secure the cheapest cover.

Applicant

(7) The Applicant maintains that RMG was acting properly in making an insurance claim in respect of the water ingress issues at the building;

(8) there was no obligation upon RMG to seek redress from RESCOM, it was not open to them to claim from RESCOM's insurers directly, and it was for their insurers to decide if any claim should be pursued against RESCOM's insurers, which, in the event, they did not;

(9) the increase in the premium in the 2019/2020 service charge year is attributable to the then adverse claims history;

(10) a quotation obtained in March 2020 is of limited, if any, relevance to the situation which pertained in March 2019;

(11) the Applicant notes the Respondents' acknowledgment that it is not under any obligation to obtain the cheapest cover. The reduction in premiums since 2020 is a reflection of the improved claims' history.

17.4 Management fees

Respondents

(1) The Respondents claim that there have been issues with the management of the Property and Estate since RMG's appointment in 2018 including, without limitation, inadequate maintenance programmes, poor communication with leaseholders, and poor record-keeping;

(2) this poor record keeping is reflected in the repeated amendments which the Applicant has been forced to make to the amounts claimed from the Respondents during the course of the proceedings which, in many cases, have now been significantly reduced;

(3) as a result of their failures of management, the Respondents consider that management fees should be reduced by 10% for both of the service charge years in dispute.

Applicant

(4) The Applicant is unable to respond to the proposed reduction of 10% without understanding the reason behind its calculation;

(5) the Applicant accepts that there have been some mistakes made but rejects, in particular, that there was no maintenance programme in place or that communication with leaseholders was inadequate, and cites as evidence the engagement of multiple contractors to undertake services at the Estate and a number of meetings with leaseholders to listen to their concerns.

17.5 Electricity

Respondents

(1) The two years should be taken together as there was a significant increase in 2018/19 and a refund in 2019/20 but overall charges were significantly higher than they should have been;

(2) the reason for this was RMG's failure to arrange a long-term fixed tariff after taking over the management in April 2018, a point which is accepted by the Applicant;

(3) the Respondents contend that the correct rate should be the long-term tariff available in 2018 which would have meant a charge of £1289.17 for the two years.

Applicant

(4) The Applicant acknowledges that there was an overcharging in 2018/19 resulting from inadequate/incorrect information provided to them by the previous managing agents, and a delay in receipt of invoices until 4 months after their initial appointment in April 2018;

(5) this has been fully addressed by the payment of a refund as shown in the 2019/20 service charge accounts, as agreed in July 2020;

(6) the leaseholders were charged an "out of contract" rate for the period of RMG's management;

(7) the Applicant challenges the Respondents' calculation of electricity charges for the two years based on a tariff in 2018/19.

17.6 Legal and professional fees

Respondents

(1) The legal fees in the 2019/20 service charge year relate to legal fees incurred by the Applicant in the "right to manage" ("RTM") process;

(2) as the RTM process was initiated because of dissatisfaction with the Applicant's managing agents, it appears unreasonable to the Respondents that the Applicant should charge these fees to the leaseholders;

(3) there is a specific provision in CLARA which deals with the reasonableness of costs in a RTM process and it is perverse of the Applicant not to use it;

Applicant

(4) The only relevant question is whether the Lease permits the charging of these costs;

(5) the Applicant's costs are chargeable as service charge under each of paragraphs 9-11 of the Ninth Schedule to the Lease;

(6) the Respondents have not provided any grounds to support their claim that the costs are unreasonable;

(7) the Applicant's Counsel has no information as to why the Applicant had not pursued the RTM company for these costs but pointed out that there was no obligation to do so.

17.7 Insurance revaluation

Respondents

(1) The Respondents' challenge is not to the carrying out of an insurance revaluation but to the cost of the Trevaskis report carried out by RMG (£2326.50 + VAT) as compared with the quotation obtained by the Respondents (£560 + VAT);

(2) the Respondents claim that the difference in cost is evidence of unreasonableness.

Applicant

(3) The Applicant questioned whether the comparison was truly "like for like";

(4) it is RMG's practice to obtain a quote based on a valuation of the property.

17.8 2020/21 service charge year

(i) The Applicant stated that, although service charge was demanded and/or collected by RMG for the service charge year 2020/21, it has now been or will be refunded in full. The Tribunal's determination is limited to the service charges years 2018/19 and 2019/20.

18. Costs-related applications

18.1 Section 20C

Respondents

(1) It is not just and equitable for the Applicant to charge their costs in these proceedings as service charge because the Applicant's conduct of the proceedings, as initially initiated in the County Court, reflect the "chaotic state" of the management accounts and RMG's poor record keeping which has meant that the total amount now sought to be recovered has reduced from £63,000 to £12,300. Much of this reduction is as a result

of concessions made by the Applicant in the course of the proceedings. However, the amount claimed to be due is now dwarfed by the costs which are in excess of £21,000.

Applicant

(2) The s20C application will fall to be determined by the Tribunal largely on how the substantive application is determined.

18.2 Paragraph 5A to Schedule 11 of CLARA

(1) The Applicant sought and was granted permission to make written representations on the paragraph 5A application within 14 days of the hearing, and to re-submit an amended Statement of Costs if considered necessary.

18.3 Rule 13(1)(b) application

(1) The Respondents elected to withdraw their application for an order under Rule 13 (1)(b) of the Rules.

(2) The Tribunal noted that this withdrawal was without prejudice to the right of either of the parties to make an application under Rule 13(5) within 28 days after the date on which the decision is sent to the parties.

18.4 Paragraph 5 to Schedule 11 of CLARA

(1) Directions were issued at the hearing as follows:

(i) permitting the Applicant, within 14 days of the hearing, to make written submissions identifying which charges it considered to be administration charges within paragraph 1(1) of Schedule 11 of CLARA, and as to the reasonableness and payability of such charges;

(ii) permitting the Respondents, within 14 days of receipt of the Applicant's submissions, to make written submissions in response; and

(iii) addressing the issues set out in paragraph 24.2(1) above.

(2) Written submissions were received by both parties (following an agreed extension of time for the Applicant to make their submissions).

Applicant

(3) The Applicant's submissions are summarised as follows:

Administration charges - paragraph 5 of Schedule 11 to CLARA

(i) The administration charges are those entitled "Client Admin Fee" (£160) (Column C) and the "PDC Instruction Fee" (£442) (Column D) on the exhibit ADB4 to the Applicant's Statement of Case;

(ii) the contractual right to charge these fees is in paragraphs 31 and 32(c) of Part II of the Sixth Schedule to the Lease which refers to "all costs charges and expenses which may be incurred by the Lessor or its Managing Agents in connection with the recovery of arrears of the Rent insurance rent and Service Charge";

(iii) the fact that these charges have been reduced during the course of these proceedings demonstrates that the charge is related to the amount claimed which appears to be a reasonable approach;

(iv) the fact of unpaid service charge demands will provoke a charge as it is reasonable for managing agents to spend time trying to resolve the issue behind non-payment and, if resolution is not possible, to refer the matter to a debt collection agency.

Litigation costs – paragraph 5A of Schedule 11 to CLARA

(i) the administration charges (as set out in (i) above) do not constitute "litigation costs" for the purposes of paragraph 5A;

(ii) any costs and disbursements claimed by PDC Law, (Columns E-G on the exhibit ADB4), do constitute "litigation costs" but are being claimed as contractual costs and not administration charges and do not therefore fall within paragraph 5A;

(iii) accordingly, it is not necessary to distinguish between litigation costs incurred in respect of the Tribunal proceedings and the County Court proceedings;

(iv) if they were to be charged as administration charges, this would be at the conclusion of the proceedings and it is assumed that any assessment of reasonableness would, like the determination of the s20C application, reflect the outcome of the substantive application;

(v) however, if the Tribunal is minded to consider these contractual costs as litigation costs for the purpose of a paragraph 5A determination, whilst the Applicant accepts the previous errors made, sufficient information was available by December 2022 to permit negotiation between the parties. The Respondents persisted in their claims that various charges were not payable making a hearing inevitable.

Respondents

(4) The Respondents' submissions are summarised as follows:

(i) in the context of the Lease and Schedule 11 to CLARA, there is no purpose to the distinction drawn between "administration charges" and "contractual charges";

(ii) all of the charges in Columns C-F in exhibit ADB4 have been demanded from the Respondents;

(iii) all the charges therefore constitute administration charges;

Administration charges - paragraph 5 of Schedule 11 to CLARA

(iv) to the extent that it is determined that any of the charges in Columns C-G are not litigation costs, the Respondents request that they are determined pursuant to paragraph 5 of Schedule 11;

(v) as a result of the Applicant's acknowledgment during the course of the hearing that further adjustments have been or are to be made in respect of the 2020/21 service charge year, some of the amounts claimed to be due from the Respondents will be further reduced and/or extinguished. If the Applicant's position is accepted that the reasonableness of the charges is to be judged by reference to the amounts sought to be recovered/outstanding, this further concession should give rise to questions as to the extent to which they could have been reasonably incurred;

(vi) the amounts charged are, in any event, disproportionate to the amounts in dispute;

(vii) it was the Applicant's decision to issue proceedings without sufficient information to evidence the amounts claimed;

(viii) in the circumstances, the Respondents' persistence in challenging the Applicant's claims has been justified by the concessions which the Applicant has had to make.

Litigation costs – paragraph 5A of Schedule 11 to CLARA

(ix) the Respondents consider that either all of the costs are administration charges within paragraph 5, or, if there is to be a differentiation, then the costs in Columns C-D should be regarded as administration charges within paragraph 5 and the charges within Columns E-G should be regarded as litigation costs within paragraph 5A;

(x) the Respondents claim that their liability to pay these litigation costs should be extinguished or reduced to take account of the Tribunal's determination of the substantive application;

(xi) this application should extend to litigation costs incurred or to be incurred in relation to the various County Court claims.

Reasons

19. Drainage/guttering

19.1 The Tribunal accepts the Respondents' evidence as follows:

(1) that the damage caused to Apartment 8 was caused by works not carried out to a reasonable standard by RESCOM;

(2) that RMG's decision not to carry out the works recommended by Form in April 2019 resulted in further works being required between August – December 2019 which were not therefore reasonably incurred;

(3) that there was a failure to put in place a maintenance programme for the guttering at the Property.

20. General maintenance

20.1 The Tribunal accepts the Respondents' evidence that the repair to the entry gate was not carried out to a reasonable standard.

20.2 With regard to the charging of rental for two additional car parking spaces as service charge, the Tribunal notes as follows:

(1) the Applicant's claim that the charges are permissible under the Lease as expenditure under its maintenance and repair covenant in paragraph 3

of the Seventh Schedule to the Lease is contradicted by the invoices which specifically refer to "Yearly rent in advance";

(2) paragraph 10 (c) of the Seventh Schedule to the Lease refers to the addition, extension, variation or alteration to the "rendering of the services". It is to unreasonably strain the interpretation of the ordinary meaning of this paragraph of the Lease to claim that the provision of two additional parking spaces is the "rendering of a service" rather than the provision of additional facilities.

21. Insurance

21.1 The Tribunal notes as follows:

(1) there is limited evidential value in the Respondents' insurance quotation of the unreasonableness of the insurance premiums paid by the Applicant;

(2) the Respondents acknowledge that there is no obligation on the Applicant to obtain and/or select the cheapest quote;

(3) in view of the continuing relationship between the Applicant and RESCOM, it is surprising that the Applicant did not consider it appropriate to request them to effect the repairs at no or discounted cost prior to making an insurance claim;

(4) it is reasonable to assume that RMG, as experienced managing agents, will have understood the impact of a claim on future premiums;

(5) the Tribunal accepts that, once an insurance claim was made, it would not have been appropriate and/or possible for a claim to have been made by the Applicant against RESCOM's insurers;

(6) the Tribunal accepts that it is reasonable to assume that the difference in premiums before and after the 2019/20 service charge year is significantly related to the relevant claims history.

22. Electricity

22.1 The Tribunal notes as follows:

(1) whatever the circumstances which led to an "out of contract" tariff being payable, it was not reasonable for RMG to allow that situation to

continue for so long, even allowing for the refund adjustment in the following year;

(2) the Applicant confirmed that the final adjustments were not made until July 2020.

23. Legal and professional fees

23.1 The Tribunal notes as follows:

(1) the Tribunal dismisses the Respondents' claim that because of the circumstances in which the RTM process and costs were incurred, by which the Tribunal believes is meant relevant leaseholders' dissatisfaction with the management of the Property and Estate, the costs should not be regarded as having been reasonably incurred. The Tribunal notes that, in many, if not the majority of, cases, it is dissatisfaction with management that leads to a RTM process being initiated but that does not preclude the landlord from recovering reasonable costs incurred in the process;

(2) the Tribunal accepts that, whilst there may not be an obligation on the Applicant to recover their costs from the RTM company under section 88 CLARA, the issue for determination is whether costs have been properly incurred. It is the case that there may be a mismatch between the number of "qualifying tenants" involved in the RTM process and RTM company and the leaseholders as a whole who are liable for service charge. For that reason, the Tribunal considers it to be perverse and therefore unreasonable not to recover the costs from those who are properly to be regarded as liable for them under section 88 CLARA;

(3) the Tribunal does not accept the Applicant's claim that such costs would be recoverable under paragraphs 9 and 10 of the Ninth Schedule to the Lease;

(4) to the extent that the costs are "fees payable to…any Solicitor", the Tribunal accepts that they fall within the compass of paragraph 11 of the Ninth Schedule to the Lease but that does not mean that they are "reasonably incurred" for the reasons set out in paragraph (2) above.

24. Insurance revaluation

(i) There is no evidence that the approach adopted by RMG is unreasonable and the costs are allowed accordingly.

25. Management fees

25.1 The Tribunal notes as follows:

(1) in respect of all of the issues raised above, the Tribunal has found, to a greater or lesser extent, failings in the management of the Property/Estate by RMG;

(2) the Tribunal also accepts the Respondents' claim that the Applicant's conduct of the proceedings is a reflection of the poor record-keeping/account management by RMG;

(3) whilst the Tribunal encourages negotiation wherever possible between parties, it does not accept the claim made by the Applicant that, having provided the Respondents with documentation in December 2022, there was any obligation on the Respondents to negotiate or to cease their interrogation of the charges/costs charged by the Applicant;

(4) as a consequence of the evidence of failings in management/poor record-keeping, the Tribunal considers that it is appropriate to order a significant reduction in the management fees charged in the relevant service charge years.

26. s20C and paragraph 5A

(i) In view of the Tribunal's determinations set out above, the Tribunal does not consider it to be just and equitable that the Applicant's costs incurred in the proceedings before the Tribunal should be charged as service charge or as administration charges, and the Applicant's right to recover the same is extinguished accordingly;

(ii) for the avoidance of doubt, "litigation costs" under paragraph 5A relate only to costs incurred before the Tribunal;

27. paragraph 5

(i) The Tribunal accepts the Applicant's position that an indication of reasonableness is that these charges are proportionate to the amounts owed;

(ii) unless and until the Tribunal is notified of the amounts owed, having regard to the orders contained in this decision, the Tribunal is unable to make any determination of reasonableness and/or payability under paragraph 5;

(iii) pending such notification, the Tribunal adjourns sine die the application under paragraph 5, with liberty for either party to apply to the Tribunal for a determination.

Tribunal Judge C Wood
26 June 2023

Annex A List of Cases

Mr Christopher Marmion	MAN/00BN/LSC/2022/0081	Apartment 23
Mr Ian Abott	MAN/00BN/LSC/2022/0083	Apartment 28
Mr Philip Townend	MAN/00BN/LSC/2022/0084	Apartment 2
Mr S Emery & Ms T Smith	MAN/00BN/LSC/2022/0085	Apartment 7
V Mirchandani	MAN/00BN/LSC/2022/0086	Apartment 17
Ms S Parlane	MAN/00BN/LSC/2022/0087	Apartment 25
Mr R Bulman	MAN/00BN/LSC/2022/0088	Apartment 4
Mr J Howells	MAN/00BN/LSC/2022/0089	Apartment 19
Mr A Smith	MAN/00BN/LSC/2022/0090	Apartment 12
Mr R Burns	MAN/00BN/LSC/2022/0091	Apartment 14
Ms K Handman	MAN/00BN/LSC/2022/0099	Apartment 3
Mr V Mirchandani	MAN/00BN/LSC/2022/0104	Apartment 18
Ms H Quinn	MAN/00BN/LSC/2022/0118	Apartment 26
Mrs S Levin & Mr A Levin	MAN/000BN/LSC/2023/0038	Apartment 22