FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	CHI/45UH/LSC/2022/0077 + CHI/45UH/LAC/2022/0008
Property	:	Flats 2– 7, Canterbury House, Broomfield Avenue, Worthing, West Sussex, BN14 7PL
Applicant	:	Jonathan Rollings and Karen Rollings (2) Aaron Muttitt and Sophie Elaina Muttitt (3) Lisa Jayne Trunks and Dean Anthony Trunks (4) Paul Evans and Kathryn Sarah Evans (5) Dehinga Mudith Anushka Kumara Silva and Rajenthini Silva (6) Tara Russell Goodchild (7)
Representative	:	Ms Alexandra Adam Gregsons Solicitors
Respondent	:	Assethold Limited
Representative	:	Ronni Gurvits Eagerstates
Type of Application	:	Determination of liability to pay and reasonableness of service charges and administration charges.
Tribunal Member(s)	:	Judge Tildesley OBE Mr C Davies FRICS Ms T Wong
Date and Place of Hearing	:	7 & 8 August 2023 Havant Justice Centre, Elmleigh Road, Havant PO9 2AL
Date of Decision	:	1 September 2023

DECISION

Summary of the Decision

1. The Tribunal determines that

    - The service charge payable for year ending December 2019 is £ 17,401.28 in place of the amount demanded of £22,633.24;
    - The service charge payable for year ending December 2020 is £205,399.78 in place of the amount demanded of £244,983.00;
    - The service charge payable for year ending December 2021 is £ 141,512.28 in place of the amount demanded of £157,858.66.

2. The Tribunal determines that the Applicants are liable to pay the following amounts which do not take into account payments already made:

    - **Jonathan and Karen Rollings** Flat 2 Liability at 10%: £1,740.13 (2019); £20,539.98 (2020); £14,151.23 (2021) total £36,431.33
    - **Aaron and Sophie Muttitt** Flat 3 Liability at 7%: £1,218.09 (2019); £14,377.98 (2020); £9,905.86 (2021) total £25,501.93
    - **Lisa and Dean Trunks** Flat 4 Liability at 6% from 6 July 2019: £537.78 (2019); £12,323.99 (2020); £8,490.74 (2021) total £21,352.50
    - **Paul and Kathryn Evans** Flat 5 Liability at 6%: £1,044.08 (2019); £12,323.99 (2020); £8,490.74 (2021) Total £21,858.80
    - **Dehinga and Rajenthini Silva** Flat 6 Liability at 8% from 28 June 2019: £789.49 (2019); £16,431.98 (2020); £11,320.98 (2021) total £28,542.46.
    - **Tara Goodchild** Flat 7 Liability at 5%: £870.06 (2019); £10,269.99 (2020); £7,075.61 (2021) total £18,215.67

3. The Tribunal determines that Lisa and Dean Trunks of Flat 4 are liable to pay administration charges of £150 plus VAT of £30 instead of £2,700 claimed.

4. The Tribunal determines that Dehinga and Rajenthini Silva of Flat 6 are liable to pay administration charges of £150 plus VAT of £30 instead of £2,700 claimed.

5. The Tribunal determines that it is just and equitable to make an order under section 20C of the 1985 preventing the landlord from recovering the costs of the proceedings through the service charge.

6. The Tribunal orders the Respondent pay the Applicants the sum of £11,090.40 in unreasonable costs within 28 days from date of this decision pursuant to rule 13(1)(b) of the Tribunal Procedure Rule 2013.

7. The Tribunal orders the Respondent to reimburse the Applicants with the Tribunal fees in the sum of £400 within 28 days from date of this decision.

Background

8. The Applicants are six of the nine long leaseholders at Canterbury House, Broomfield Ave, Worthing, West Sussex, BN14 7PL (the Property). The Respondent is the freeholder, managing the property through its sister company, Eagerstates Limited.

9. The Property is a mixed use development located in its own grounds on the corner of Rectory Road and Broomfield Avenue, Worthing West Sussex. It comprises four retail units at ground level fronting onto Rectory Road and nine residential flats at ground, first and second floor levels. Six Garages and a car park are located at the rear of the building with access from Broomfield Avenue.

10. The building was constructed in the 1950's - 60's with external cavity walls and a cut and pitched hipped tiled roof. Internally the floors are of concrete construction supported on an arrangement of internal load bearing walls. At the front elevation facing Rectory Road there is a full length canopy over the shop fronts and arrangement of balconies. Flats 1 and 2 have their own separate access whilst flats 3, 4, and 5 have a communal access from Rectory Road.

11. The canopy continues part way along the side elevation facing Broomfield Avenue until it meets the residential block for flats 6, 7, 8 and 9 which are located over three floors with a communal entrance and an arrangement of balconies over the first and second floors.

12. There are four three storey outriggers with flat roofs at the rear of the front and side elevations. The rear elevations are rendered. There also appears to be two metal fire escapes located at the back of the building.

13. On 28 June 2022 the Applicants applied for determination of liability to pay and the reasonableness of service charges for service charge years 2019, 2020 and 2021 pursuant to section 27A of the Landlord and Tenant Act 1985. They also made applications under section 20C of the 1985 Act and paragraph 5A schedule 11 of the Commonhold and Leasehold Reform Act 2002 to prevent the Landlord from recovering the costs of these proceedings either through the service charge or against the leaseholders direct.

14. On 29 July 2022 the Applicants made a further application for determination of the reasonableness of administration charges pursuant to paragraph 5 of schedule 11 of the 2002 Act. The Tribunal decided at the hearing on the 7 and 8 August that this application only applied to the leaseholders of Flats 4 and 6.

15. On 27 July 2023 the Applicants applied for an unreasonable costs order against the Respondent pursuant to rule 13(1)(b) of the Tribunal Procedure Rules 2013.

Chronology of the Proceedings

16. The chronology is set out below:

28 June 2022: Service charge application issued.
29 July 2022: Administration charge application issued.
14 October 2022: Directions Issued.
28 October 2022: Date by which Respondent was required to give disclosure of documents. No disclosure given.
2 November 2022: Application by Applicants for Case Management Order.
7 **November 2022**: Directions given.
14 November 2022: Date by which Respondent to give disclosure or to give reasons why they were objecting. No disclosure given.
15 November 2022: Application by Applicant for Case Management Orders.
22 November 2022: Directions for Case Management Hearing.
06 December 2022: First Case Management Hearing.
20 December 2022: Date by which Respondent to give disclosure. No disclosure given.
10 January 2023; Partial disclosure given.
17 January 2023: Second Case Management Hearing. Tribunal satisfied that the Respondent had not complied with the direction for disclosure and imposed an unless direction.
21 February 2023: Date by which Respondent to give disclosure with sanction for non-compliance. No disclosure given.
21 February 2023: Date by which R to give disclosure with sanction for non-compliance. No disclosure given.
20 February 2023: Respondent's application for further 4 days to comply.
22 February 2023: Respondent's application for an extension of 14 days and a delay to the CMH.
25 February 2023: Decision refusing Respondent's application.
27 February 2023: Disclosure given.
28 February 2023: Third Case Management Hearing, the Tribunal reserved its decision for 14 days on whether the Respondent should be barred from taking a further part in the proceedings. The Tribunal then proceeded to deal with the other matters. The Tribunal gave permission for the Applicant to instruct an expert witness, namely a suitably qualified surveyor to give an opinion on the works and the costs of those works. The Tribunal without prejudice to its decision on whether the Respondent should be barred from taking a further part in the proceedings set down an indicative time table for bringing the application to a hearing and gave the Respondent permission to appoint an expert.
3 March 2023: Notice to show cause for non-compliance with third party disclosure order.
8 March 2023: Partial disclosure given by third party.
10 March 2023: Application by Applicants for Case Management Order.
13 March 2023: Date by which written representations to be given. None given.

14 March 2023: Decision given re barring order. The Tribunal found that the Respondent's breach of the Unless direction was deliberate and serious and that the Respondent's explanation for non-compliance was unconvincing. The Tribunal considered that the Respondent's conduct merits a "barring" order. The Tribunal, however, was obliged to examine whether the sanction of barring is consistent with the overriding objective of 'dealing with cases fairly and justly having regard to all the circumstances. The Tribunal decided that this case was at very early stages the Applicant's case was not articulated and the Respondent has not been given the opportunity to respond to the Applicant's case. This was not a situation where the Tribunal has had material from both parties prior to the decision to bar the Respondent from taking a further part in the proceedings. The issues in the Application would involve an assessment of reasonableness which was not a concept that can be determined by fixed criteria but involves judgment. The Tribunal considers that if the Respondent was barred now from taking a further part in the proceedings the Tribunal was unlikely to meet the overriding objective of fair and just way of disposing of the proceedings. By permitting the Respondent to continue to take an active part in the proceedings, the Tribunal was not excusing the Respondent's failure to co-operate. The Tribunal has the sanction of an order of costs under rule 13(1)(b) which the Applicant may wish to consider at this stage rather than waiting to the end of the proceedings. Further although the Respondent has not met the various time lines, the Tribunal's active case management has ensured that the Respondent and the Surveyor involved with the works has provided substantial disclosure which would enable the Applicant to prepare its statement of case.

14 March 2023: the Tribunal set the timetable for the hearing. The Applicants to supply their statement of case by 9 May 2023. The Respondents to provide their statement of case 6 June 2023. By 28 March 2023 the parties to provide dates to avoid between 11 July to 25 July 2023.

21 March 2023: Application for Case Management Orders by Applicants for third party's failure to comply with Third Party Disclosure Order and Notice to Show Cause.

24 March 2023: Third party directed to respond by 28 March 2023.

27 March 2023: Third party substantially complied with disclosure order.

29 March 2023: Application for Case Management Orders by Respondent to change the hearing window and for an extension of time to nominate an expert.

3 April 2023: Date for nomination of expert by Respondent extended to 6 April 2023. Letter from Tribunal to parties informing them that the hearing will take place over two days in the period 3 to 5 July 2023.

10 April 2023: Directions refusing Respondent's application and requiring parties to provide availability 28 June to 5 July and 7 and 8 August 2023.

20 April 2023: Directions that hearing will take place on 7 and 8 August 2023.

26 April 2023: Respondent objects to hearing date. Tribunal requested the Respondent to provide a copy of the communication in which the Respondent previously objected to a date 31 July to 18 August generally and 7 and 8 August in particular. The Tribunal said it could identify the

Applicant asserting difficulties with dates during that period and requesting a September date and the Respondent expressing agreement to such a date but no more than that.

27 April 2023: Application for Case Management Orders by Applicants for sanctions for Respondent's failure to nominate an expert.

3 May 2023: Directions that the Respondent must nominate an expert by 10 May 23 and dates for attendance at a meeting no later than 22 May 2023 with sanction for noncompliance.

9 May 2023: Application for a Case Management Order extending time for service of Applicants' case by three days.

10 May 2023: Applicants serve their case documents.

11 May 2023: Directions granting Applicants the one day required in the event.

2 June 2023: Application for Case Management Order by Applicants seeking an extension of time for exchange of experts' reports to 30 June 2023.

6 June 2023: Date by which experts' reports due to be exchanged.

7 June 2023: Directions extending experts' timetable.

13 June 2023: Application for Case Management Directions by Applicants for Respondent's failure to serve a statement of case or evidence.

14 June 2023: Tribunal invites Respondent to make submissions in response.

14 June 2023: Respondent apologises for the delay in providing the statement of case. The Respondent said it had proven difficult to do this from the documents provided by the Applicants which may be due to an oversight by all parties as the Direction did not provide for a Scott Schedule to be prepared as part of the Application. The Respondent then said the Applicants have provided a statement of case that simply refers to a list of disputed items but this simply has no details of the dispute. The Respondent stated that it was unsure how to respond to them considering there are no details at all on the statement of case. This means that we can make no comments to the dispute, as the dispute is not detailed. Please can the Tribunal review this and advise how we should proceed object to Applicant's compliance with directions.

16 June 2023: The Tribunal refused the Applicants' application for sanctions against the Respondent for failure to provide a statement of cases. Judge Dobson said this in response to the Respondent's comments about the Applicant's statements of case. "The Respondent had not made any application for an extension of time on the above (*service of statement of case*) or any other basis. The Respondent's representative is not a stranger to the Tribunal and I have no doubt is aware of the need to make applications if directions are required. The email of 14 June 2023 is not an application and will not be treated as one. The Directions of Judge Tildesley OBE did not, as the Respondent's representative notes, provide for a Scott Schedule to be prepared. It is reasonable to assume that it would have done so had Judge Tildesley considered that to be necessary. Equally, the parties could have agreed such if appropriate, much as that might have required the sort of level of co-operation about the issues that the over-riding objective requires rather than the level the parties have obviously demonstrated to date. As matters stand, the date for the Respondent to provide its case has passed. If the Respondent has provided no case, so be it. It was not strictly compelled to present a case.

That said, it now has none on which to rely. The Respondent could potentially be debarred and so prevent from participating at all. However, I consider that unnecessary. The sanction that having presented no statement case and supporting documents by the date required, the Respondent has no such to rely on is sufficient sanction.

20 June 2023: Date by which the experts are to meet on site. Respondent's expert says he cannot comply.

30 June 2023: Applicants serve their experts' report.

20 July 2023: Directions refusing the Applicant's application to reduce the hearing to one day. The Tribunal also noted that the Respondent had made no formal application to vacate the hearing.

27 July 2023: the Respondent applies to adjourn the hearing.

27 July 2023: The Tribunal refuses the Respondent's application to adjourn the hearing and gave the following reasons. "The hearing date of 7 and 8 August 2023 was fixed on 20 April 2023. The Respondent's representative has waited until 27 July 2023 to make an application to vary the hearing date and provide evidence that he was unavailable. The Tribunal notes that the booking was made in December 2022. The Respondent's representative has not provided a witness statement and his non-appearance at the hearing will not prejudice the Respondent's case. The Respondent is very familiar with Tribunal proceedings and is able to appoint another representative to present its case to the Tribunal. The Respondent has sought permission to submit a copy of the Applicant's expert report annotated with the comments of the Respondent's expert. As such it does not constitute a written report of the Respondent's expert. The Applicant's representative submits that if it is admitted, the Applicant's expert will not have time to deal with the comments and the hearing will have to be adjourned. The Applicant's representative points out that the Respondent's expert failed to make himself available to meet with the Applicant's expert within the timescale directed by the Tribunal and failed to prepare a report ready for exchange by 30 June 2023 even with that date being extended to accommodate him. The Tribunal refuses the Respondent's application.

28 July 2023: The Respondent seeks permission to appeal the decision made on 27 July 2023.

31 July 2023: Tribunal refuses permission to appeal and advises of right to apply to the Upper Tribunal. The Tribunal gave the following reasons:

i. The Tribunal took into account the history of the proceedings and refers to pages 3-175 of the hearing bundle. The application for determination of service charges was made on 28 June 2022. During the course of the proceedings there have been 16 sets of directions and a Third party disclosure order. Contrary to the Respondent's assertions of unfairness the Tribunal has given the Respondent considerable latitude. For example, the Tribunal cites paragraph 37 of its directions on 14 March 2023 where it said at page 98 of the bundle:

> "The Tribunal, therefore, finds that the Respondent's breach of the Unless direction was deliberate and serious and that the Respondent's explanation for non-compliance was unconvincing. The Tribunal considers that the

> Respondent's conduct merits a "barring" order. The Tribunal, however, is obliged to examine whether the sanction of barring is consistent with the overriding objective of 'dealing with cases fairly and justly having regard to all the circumstances".

ii. The Tribunal decided not to bar the Respondent but allow it to take an active part in the proceedings. Again on 16 June 2023 the Tribunal refused to bar the Respondent from taking a further part in the proceedings despite its failure to comply with directions regarding the provision of its statement of case.

iii. The Respondent has been aware of the hearing dates of 7 and 8 August 2023 since the 20 April 2023. Mr Gurvits, the Respondent's representative, knew then that he would not be able to attend the hearing but chose not to make a case management application to adjourn the hearing until 27 July 2023. The Tribunal relies on the Applicant's submissions dated 31 July 2023 which sets out the sequence of events for the fixing of the hearing dates.

iv. The Respondent did not comply with the direction regarding the service of an expert witness report by 30 June 2023. The Respondent has still not provided an expert witness' report. The Respondent's application is to admit the Applicant's expert report annotated with the comments of its expert. This does meet the requirements of expert evidence as laid down in rule 19 of the Tribunal Procedure Rules 2013.

v. The Tribunal is satisfied that its decision to refuse the Respondent's applications does not unduly prejudice the presentation of the Respondent's case. The Respondent's stated position is that the Applicant has not set out its case which was the Respondent's reason for not providing a statement of case. The Respondent is not barred from participating in the hearing. The Respondent can appoint another representative to asks questions of the Applicant's witnesses and make submission on why the Applicant has not established its case on the balance of probabilities. The Respondent has a substantial property portfolio and regularly appears before the Tribunal. It is not uncommon for the Respondent to appoint Counsel when it is before the Tribunal. Mr Gurvits is not a solicitor or barrister. He is an employee of Eagerstates which has other property managers who could represent the Respondent if it chooses not to appoint a legal person. Mr Gurvits is not a witness in these proceedings.

vi. The Tribunal takes into account that the Applicants are ready to proceed with the hearing. Counsel has been instructed, the hearing bundle has been served and the Applicants have taken time off work to attend the hearing.

vii. The Tribunal considers its decision to proceed with the hearing is consistent with the overriding objective. The Respondent is still able to participate in the proceedings, and further delay is avoided. The Tribunal has also not closed the door to the Respondent on making an application in person for an adjournment on the day of the hearing before the full Tribunal".

The Tribunal has exercised its discretion by having regard to relevant factors and disregarded irrelevant ones and its decision to refuse the Respondent's applications is within the ambit of reasonable outcomes".

17. The Tribunal relies on the chronology to demonstrate that it has given the Respondent numerous opportunities to participate in the proceedings which it has failed to take up. The Tribunal is satisfied that the Respondent has deliberately breached the directions, has not helped the Tribunal to further the overriding objective and not co-operated with the Tribunal generally.

18. The outcomes of the Respondent's conduct of the proceedings are that it failed to provide a statement of case, and did not supply a written report from an expert witness.

Hearing

19. The hearing took place on 7 and 8 August 2023 at Havant Justice Centre. Mr Andrew Brooke of Counsel represented the Applicants. Mr Jonathan Rollings and Mr Paul Evans, the leaseholders of Flats 2 and 5, were in attendance. Mr Stan Gallagher of Counsel represented the Respondent.

20. Mr Brooke applied for admission of the supplemental bundle comprising 65 pages which included copies of the applications and decisions since the service of the hearing bundle, and a small number of invoices which had not been in the hearing bundle. Mr Gallagher did not object. The Tribunal admitted the supplemental bundle. The principal hearing bundle comprising 517 pages had been filed and served in accordance with the directions.

21. Mr Gallagher stated that he had no instructions to apply for an adjournment of the hearing.

22. Mr Gallagher indicated that he wished to ask questions of the Applicant's expert witness, Mr David Smith MRICS, Chartered Building Surveyor and Structural Engineer, who had provided a report endorsed with the expert witness declaration dated 26 June 2023. The Tribunal enquired of the Applicant's Counsel whether Mr Smith was available and informed that he was on holiday. Mr Gallagher applied for Mr Smith's report to be struck out. The Tribunal refused the application pointing out that the directions required the experts to give their evidence by way of written report in accordance with rule 19(3) of the Tribunal Procedure Rule 2013. There had been no application from the parties for the experts to give their evidence in person.

23. Mr Jonathan Rollings gave evidence in relation to his witness statement dated 9 May 2023 and was cross examined by Mr Gallagher.

24. Mr Brookes had helpfully prepared a Scott Schedule itemising each item in dispute and giving page references for the invoices and for the evidence relied on including documentation. After hearing from Mr Rollings, the Tribunal with the consent of the parties, then proceeded to hear the parties' representations in turn on the items identified in the Scott Schedule. This was then followed by the Tribunal hearing the various applications in relation to costs including the rule 13(1)(b) application, and the parties' closing statement. The hearing lasted the full two days. The Tribunal reserved its decision and reconvened on 16 August 2023 to discuss the evidence.

25. During the hearing the Tribunal requested various documents which had been disclosed by the Respondent but not included in the bundle. The reason for the request was to ensure that the Tribunal had all the available evidence so as to enable the Respondent to receive a fair hearing. The parties did not object to the admission of the additional documentation. The documentation included the following: Eagerstates letter dated 11 December 2019 [11][1], colour photograph attached to the invoice on drains [19], colour photograph attached to the invoice on fire protection works [26], section 20 consultation on smoke alarms [27], reinstatement report for insurance [33], planned maintenance schedule [34] and audit report on electrical supplies [35 & 36].

26. The Tribunal wishes to record its gratitude to both Counsel for their constructive manner in which they conducted the proceedings.

Service Charges for 2019, 2020 and 2021

27. The Tribunal is required to determine the actual service charges for 2019, 2020 and 2021. The Applicant in its statement of case had identified which items of expenditure for the various years were disputed and had set them out in the Scott Schedule. The Tribunal's determination for each item together with its reasons are set out on the Scott Schedule which forms part of the decision. The Tribunal having regard to its determination then recalculated the service charges for the years in question which are recorded on Appendix 1. The Tribunal's calculations do not include payments made by leaseholders because it was not supplied with the necessary information.

28. The Tribunal considers it necessary to elaborate upon its reasons in certain respects.

29. Counsel referred to various authorities in their submissions. Mr Brooke relied on HHJ Rich's ruling in *Schilling v Canary Riverside* [Unreported 2005] LRX/26/2005 regarding the shifting of the evidential burden when the Applicant adduces evidence which until it is answered rebuts the evidence against which they are contending. Mr Gallagher relied on

[1] References are to the Item Number on the Scott Schedule

Waaler v Hounslow London Borough [2017] EWCA Civ 45 and *Assethold Ltd v Adam* [2022] UKUT 282 (LC) for the proposition that if a landlord chooses a course of action which leads to a reasonable outcome, the costs of pursuing that course will have been reasonably incurred, even if there was another cheaper, reasonable outcome.

30. The Tribunal's approach was to evaluate the evidence for each disputed expenditure item, have regard to the terms of the lease, to the statutory criteria of reasonableness in section 19 of the 1985 Act and to the authorities cited by Counsel, and where appropriate to apply its general knowledge and expertise. As a rule the Respondent's evidence comprised the invoice and on occasions supporting documents and or photographs. The Applicants in turn relied on the witness statement of Mr Rollings who had also provided alternative quotations from contractors and on the report of Mr Smith, the expert witness.

31. Mr Gallagher submitted that the Tribunal should treat Mr Smith's expert report with circumspection. Mr Gallagher pointed out that Mr Smith did not have high level access when he inspected the property. Also Mr Smith viewed the property when it was completed and would not have known the state of disrepair prior to the commencement of the major repairs. Mr Gallagher considered that Mr Smith understated the extent of the work undertaken, and that his report was short on balance and had the flavour of a loss adjuster. Mr Brooke disagreed with Mr Gallagher, arguing that Mr Smith had looked at the photographs in respect of the roof and that Mr Smith had talked with Mr Cope, the contract administrator and nominated expert witness for the Respondent. Mr Brooke added that Mr Gallagher challenge to Mr Smith's findings were derived from the annotated comments of Mr Cope to Mr Smith's report which the Tribunal had refused to admit in evidence.

32. The Tribunal found that Mr Smith had experience of over 40 years as Design Engineer and Building Surveyor and had concentrated on various aspects of building surveying for the last 25 years. The Tribunal accepts that Mr Smith had access to photographs in respect of the areas of the property that he could not view from the ground. The Tribunal decided that his report was measured and that there was no attempt on Mr Smith's part to exaggerate defects with the major works. This was reflected in the modest amounts he proposed as deductions. The Tribunal also places weight on his declaration that he understood his duties as an expert witness. Finally the Tribunal agrees with Mr Brooke's submission that Mr Gallagher's questions of Mr Rollings on Mr Smith's report should be disregarded because they were derived from Mr Cope's annotated comments .

33. The Tribunal deals next with the major works. The background facts are not in dispute. Mr Jarrett the previous freeholder decided to embark upon a major set of external repair and redecoration work to the Property. The then managing agent Trent Park Properties LLP on 7 April 2016 issued a section 20 Notice of Intention and prepared Pre-Construction Information for tender dates from August 2016. Various tenders were received and by March 2019 Lidbetter & Keith was selected as the preferred tenderer. According to Trent Park's estimation, the cost

of the major works would be £264,554 including VAT with a contingency £20,000. Trent Park collected payments on account (by way of interim charge) from the Leaseholders towards the costs of the major works which were included in the service charge account for 2018.

34. On 12 March 2019, the Respondent acquired the freehold from Mr Jarrett. The Respondent appointed its own project manager, Jacob Cope MRICS of JMC Surveyors and Property Consultants Limited, who was based in Manchester. The Respondent undertook its own section 20 consultation. The Tribunal understands that Lidbetter & Keith were not invited to tender. The contract was awarded to a company by the name of Collins. The major works commenced on 11 May 2020. The practical completion date was on 15 November 2020 and the final certificate was issued on 23 March 2021.

35. The Applicants complained that the major works overran by 13 weeks and that the costs of the project rose exponentially from an initial costing of £199,910 (excluding VAT) to £373,000.

36. The Applicants argued that there was no need for the Respondent to reinvent the wheel, and in their view the Respondent should have taken on the project agreed by the former freeholder.

37. Mr Gallagher, however, argued that it was reasonable for the Respondent to engage its own project manager to oversee the major work and that the Respondent was obliged to undertake a fresh section 20 consultation. Mr Gallagher pointed out that it was often more expensive to review a project done by someone-else than to embark upon a new one controlled by the Respondent. Mr Gallagher added that it appeared to him that the Respondent's contractors had completed the works to a reasonable standard, and that no credit had been given by the Applicants to the Respondent for completing a major works project during COVID.

38. After considering the facts the Tribunal concluded that the parties had exaggerated the scope of their disagreement. The impression given at first was that the parties had irreconcilable differences and that the only way to resolve the dispute was to come down in favour of one party. The Tribunal soon realised that the chasm between the parties was not vast. The actual amount in dispute was in the region of £50,000, and that the Applicants' concerns were primarily around the standard of the services provided. The Applicants accepted that there was a pressing need for the major works because the property had fallen into disrepair. The Applicants acknowledged that subject to the defects and instances of overcharging identified by Mr Smith the works had been completed to a reasonable standard.

39. The Tribunal considered that the points made by Mr Gallagher had merit and that it was reasonable for the Respondent to embark on its own major project. The Tribunal, however, found that Mr Smith's evidence on excessive charges, the below standard of consultancy services and specific jobs not being done had substance. Further although it was necessary for the Respondent to undertake its own section 20 consultation, the costs claimed for the consultation were not justified in

their entirety. In short the Tribunal is satisfied that it was possible to resolve the dispute without the necessity of coming down firmly on one side to the detriment of the other side's point of view.

40. The final topic under service charges concerns the proper construction of the terms of the lease. The Tribunal was supplied with a copy of the lease for Flat 2 which the Tribunal understands is representative of the terms of the other residential leases at the property. The specimen lease was dated 11 June 2015 and made between Buckland Housing Limited (the Landlord) of the one part and Jonathan Terrence Rollings and Karen Lorraine Rollings (the Tenant) of the other part for a term of 125 years from 29 September 2014 on payment of rent which included ground rent of £200 per annum doubling every 25th anniversary, the Lessee's contribution to the Service Charge, and the Lessee's contribution to the Insurance Premium.

41. 'Service Charge' is defined by clause 5(c) as including "such sums as shall be incurred by the Lessor in the carrying out or in procuring the carrying out of the covenants set out in the Fourth Schedule in accordance with the provisions of the Sixth Schedule (such expression shall where appropriate include the Interim Service Charge)".

42. Under paragraph 1 of The Third Schedule the Lessee covenants with the Lessor and the Flat Owners to pay the contribution of the Lessee to the Service Charge at the times and in the manner herein provided.

43. The Sixth Schedule headed "Interim Charge and Service Charge" sets out the terms of the service charge machinery:

> In this schedule the following expressions shall have the following meanings respectively:
>
> (a) "the Accounting Period" means the period commencing on the first day of January and ending on the thirty first day of December in any year.
> (b) "Total Expenditure" shall mean the total expended by the Lessor in any Accounting Period in performance of his obligations under Clause 6 of the Fourth Schedule hereto and any other costs and expenses reasonably and properly incurred by them in connection with the management of the Building.
> (c) 'the Interim Charge" means such sum as the Lessor or their duly appointed agents may reasonably specify as being fair and proper interim payment to be made by the Lessee on account of the Service Charge likely to be payable in respect of the Accounting Period to which such interim payment relates.
>
> 1. In this Schedule any surplus carried forward from previous years shall not include any sum set aside for the purposes of Clause 6(8) of the Fourth Schedule.
>
> 2. The first payment of the Interim Charge (on account of the Service Charge for the Accounting Period during which this Lease shall be executed) shall be made on the execution hereof being a proportion of the interim charge for the period from the date hereof until 31 December next and thereafter the Interim Charge shall be paid to the Lessor by equal payments in advance on the first day of January and the first day of July in each year and in case

of default the same shall be recoverable from the Lessee as rent in arrears.

3. If the Interim Charge paid by the Lessee in respect of any Accounting Period exceeds the Service Charge for the period the surplus of the Interim Charge so paid and above the Service Charge shall be carried forward by the Lessor and credited to the account of the Lessee in computing the Service Charge in succeeding Accounting Periods.

4. If the Service Charge in respect of any Accounting Period exceeds the Interim Charge paid by the Lessee in respect of that Accounting Period together with any surplus from previous years carried forward as aforesaid then the Lessee shall pay the excess to the Lessor within twenty eight days of service upon the Lessee of the Certificate referred to in the following paragraph and in case of default the same shall be recoverable from the Lessee as rent in arrears.

5. As soon as practicable after the expiration of each Accounting Period there shall be served on the Lessee by the Lessor a Certificate signed by the Lessor or a duly appointed officer or agent of the Lessor containing the following information:-

   (a) An account of the Total Expenditure for the Accounting Period
   (b) The amount of the Interim Charge paid by the Lessee in respect of Accounting Period together with any surplus carried forward from the previous Accounting Period
   (c) The amount of the Service Charge in respect of that Accounting Period
   (d) The amount of any excess or deficiency of the Service Charge over the sum mentioned in sub-paragraph (b) hereof.

44. The service charge demands for the years in question followed the same format. The Tribunal refers to the Demand for 2021. This was on Eagerstates headed notepaper, addressed to the leaseholder, and dated 6 December 2021. The letter identified the address of the leasehold property and supplied the necessary details for the purposes of sections 47 and 48 of the Landlord and Tenant Act 1987. The Tenant's summary of rights and obligations was attached to the letter.

45. The letter supplied details of the "Accurate Service Charge Account for December 2020/2021" which set out the actual costs of each expenditure item with a short description of the item and gave a total for the service charge for that year. The letter then specified the percentage and the amount of the leaseholder's contribution, the amount received on account for December 2020/2021, and the current balance on the account. After this the details for the estimated service charge were given for December 2021/2022, the percentage and amount of the contribution by the leaseholder, the total amount payable by the leaseholder which included the amount payable by way of a balancing charge. At the bottom of the Estimated Service Charge Account was the words "Certified by EagerStates Ltd". The demand then states "Payment of this Account is due by the 24 December 2021".

46. Mr Brooke submitted that the demands for the interim charge and the service charges were invalid. Mr Brooke made the point that the demands did not cover the accounting period specified in the lease, namely 1 January to 31 December in any one year. All the demands

14

issued by Eagerstates related to the period December to December.

47. Mr Brooke acknowledged that the lease did not require the service of any prescribed document or demand before the interim charge becomes payable. Mr Brooke's argued that the demand for the interim charge was invalid because it required payment in full on 24 December, which was in conflict with the lease terms requiring payment in two equal instalments on the 1 of January and July.

48. Mr Brooke put forward the following grounds for his submission that the demand for the service charge was invalid:

> Paragraph 4 of the Sixth Schedule makes the payment of Service Charge conditional upon the service of the Certificate. The lessees then have 28 days to pay it. The Certificate is to be drawn up in respect of each Accounting Period (1 Jan - 31 December) after the expiration of the Accounting Period. The purported demands for payment of Service Charge on 2 December 2019, 7 December 2020 and 6 December 2021 were in breach of the lease because:
>
> > (i) the purported Certificates and demands were made before the expiration of the Accounting Period.
> > (ii) the purported Certificates ipso facto cannot have been in respect of each Accounting Period, as the Accounting Period had yet to expire.
> > (iii) the purported demands do not give the Applicants 28 days from the date of the demand to pay the Service Charge, let alone 28 days from the service of a validly served and prepared Certificate.

49. Mr Gallagher contended that the lease did not set down any requirements for a demand for an interim charge. The fact that the demand required payment in full by a specific date before the end of the accounting period did not go to the issue of validity but to the consequences of non-payment. Mr Gallagher argued that as "time was not of the essence" for the issue of a Certificate it was not a condition precedent for the issue of a demand for a service charge.

50. The Tribunal recognises that the method for demanding service charges adopted by Eagerstates by merging the two demands in one document had the advantages of informing leaseholders of the amount that they would pay in service charges for the coming year, and of providing Eagerstates with the necessary leverage to collect the funds at the earliest opportunity. The question, however, for the Tribunal is whether the method adopted by Eagerstates complied with the terms of the lease.

51. The Tribunal finds that the lease gives authority for the Respondent to demand an interim service charge, and that the lease establishes no conditions for such a demand. The Tribunal acknowledges that the provision of a budget for the coming year is to the benefit of the lessees and is not a requirement of the lease.

52. The Tribunal does not consider that the Respondent's specification that

the demand is for the period December to December rather than 1 January to 31 December affects the validity of the demands for 2019, 2020, 2021 and 2022 interim charges.

53. The Tribunal agrees with Mr Gallagher's assessment that the specification of payment in full by a specific date before the end of the accounting period did not affect the validity of the demand for the interim service charge. This does not mean that the Respondent can ignore the payment dates of the 1 January and 1 July as specified in the lease. In short the Respondent is only entitled to take action to enforce collection of the amounts due if a leaseholder does not pay by equal instalments of the amount due on 1 January and on 1 July in each accounting period.

54. The Tribunal, therefore, concludes that the demands for interim charges for 2019, 2020, 2021 and 2022 were valid. The Tribunal, however, advises the Respondent that the correct accounting period and the correct payment dates should be stipulated in future demands.

55. The Tribunal finds that the Respondent failed to supply a Certificate which complied with the requirements in paragraph 5 of The Sixth Schedule. The Respondent's addition of the words "Certified by EagerStates Ltd" to the combined demand did not amount to a Certificate within the meaning of paragraph 5.

56. The Tribunal is satisfied that paragraph 4 of The Sixth Schedule obliges the Lessor under the lease to issue a separate Certificate with the necessary information as soon as practicable after the end of the accounting period, and that it is a condition precedent for the demand of the balancing charge. The Tribunal acknowledges that time is not of the essence but that does not undermine the clear wording of paragraph 4 establishing that the provision of a certificate is a condition precedent for the demand of the balancing payment. Paragraph 4 states that

> "the Lessee shall pay the excess to the Lessor within twenty eight days of service upon the Lessee of the Certificate referred to in the following paragraph and in case of default the same shall be recoverable from the Lessee as rent in arrears".

57. The Tribunal holds that the issue of a certificate is a condition precedent for the issue of a valid demand for a balancing charge. In relation to the facts of this case it appeared that it only affected the demand for 2021 because in the previous years the amounts paid on account exceeded the actual service charge so there would have been no requirement to issue a demand for a balancing payment. Also it may be that as a result of the Tribunal's determinations of the service charges for 2019, 2020, and 2021 the requirement to issue a demand for a balancing payment may have been extinguished by the carry forward of previous year surpluses.

58. The final issue on the construction of the lease concerned whether the Lessor was entitled to recover the costs of cleaning the windows of the flats through the service charge.

16

59. Mr Brookes and Mr Gallagher agreed that doors, door and window frames (other than the external surface of such frames) and the window glasses are demised to the Lessees (paragraph 1 part 1 of the First Schedule).

60. The question is whether the Respondent could recover the costs for cleaning the windows under the sweeping up clause at paragraph 6(7) of the Fourth Schedule which stated:

> "(7) Without prejudice to the foregoing to do or cause to be done all such works installations acts matters and things as in the absolute discretion of the Lessor may be considered necessary or advisable for the proper maintenance safety amenity and administration of the Property including the abating of any nuisance of the Property".

61. The Tribunal took the view that the sweeping up clause could not be relied upon to carry out the lessee's covenant of cleaning the windows once every month (Regulation 17 of the Fifth Schedule).

Administration Charges

62. The Tribunal agreed at the hearing that the dispute regarding the administration charges applied only to those charges incurred by Mr and Mrs Trunks of Flat 4 and Mr and Mrs Silva of Flat 6.

63. The Tribunal's source of information on the administration charges was restricted to the statement of accounts exhibited at [464] and [468] which was a follows:

Flat 4
07/12/2020 Debit balance £2,620.54
15/03/2021 notice of proceedings £120.00,
interest £23.55
14/05/2021 interest £9.31
admin costs £360.00
DRA referral fee £216.00
DRA correspondence fee £474.00
03/06/2021 Payment received £2,020.54
28/07/2021 DRA lender correspondence £630.00
24/08/2021 admin costs £480.00
DRA claim processing fee £420.00
Flat 8
07/12/2020 Debit balance £3,414.04
15/03/2021 notice of proceedings £120.00,
interest £30.68
14/05/2021 interest £24.03
admin costs £360.00
DRA referral fee £216.00
DRA correspondence fee £474.00
03/06/2021 Payment received £2,614.00
28/07/2021 DRA lender correspondence £630.00
24/08/2021 admin costs £480.00
DRA claim processing fee £420.00

64. The Tribunal identified with the assistance of Counsel that the charges recorded as "Notice of Proceedings", "Admin costs", "DRA referral fee", "DRA Correspondence Fee", "DRA Lender Correspondence" and "DRA Claim Processing Fee" fell within the definition of administration charges in paragraph 1(1)(c) of part 1 of schedule 11 of the 2002 Act, namely:

> In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable directly or indirectly –
> (c) in respect of a failure by the tenant to make payment by the due date to the landlord or a person who is a party to his lease otherwise than as a landlord or tenant.

65. The Tribunal did not consider that interest constituted a variable administration charge because the rate is fixed by the terms of the lease. The Tribunal's adjudication does not extend to the interest, however, the amount of interest may have to be adjusted depending upon the outcome of the Tribunal's determination.

66. The amount in dispute is £2,700 for each leaseholder. The Tribunal has jurisdiction to determine the reasonableness of the administration charges.

67. The Applicants' case was that some of the Applicants have also been charged administration fees for debt collection for non-payment of service charges. The Applicants contended that none could be payable if the service charge accounts and demands being pursued were invalid. If the Tribunal determines that the demands for payment were valid the Applicants contend that they were excessive. The Applicants submitted that the Respondent was required to explain and justify each administration charge applied to the Applicants' service charge accounts for the period in dispute. Further the Respondent must disclose the terms of business agreed with its debt collectors and provide invoices for the charged made whether by the debt collectors or by Eagerstates Limited.

68. The Respondents supplied no information about the charges for collecting the outstanding service charge arrears. Mr Gallagher's submission was confined to the authority under the lease for recovering such costs which he said was catered for by paragraph 14(1) of the Second Schedule which states:

> 14. (1) To indemnify the Lessor on a complete indemnity basis against all actions costs claims demands expenses and liabilities including professional fees properly incurred by the Lessor in connection with all and every loss and damage whatsoever incurred or sustained by the Lessor as a consequence of all and every breach of any covenant or obligation on the part of the Lessee herein to be observed and performed…

69. The Tribunal doing the best it can with the information provided decides that the leaseholders of Flats 4 and 8 were in arrears of their service

18

charges. The Tribunal finds by referring to the terms of the lease that the amount due on 1 January 2021 was 50 per cent of the amount recorded, that was £1,310.27 (Mr and Mrs Trunks) and £1,707.02 (Mr and Mrs Silva). As there was no payment on 1 January 2021 the Respondent was entitled by virtue of paragraph 14(1) to incur costs in connection with the collection of the service charge.

70. The issue then is the reasonableness of the administration charges. The RICS Code at [7.8] requires managing agents to have an efficient system to monitor service charges received when due and those that go into arrears, and issue leaseholders with timely reminders. Further at [7.15] a managing agent can only recover administration charges that are provided for within the lease, and only to the extent that they are reasonable.

71. The Tribunal having regard to its general knowledge and expertise would expect a managing agent to have a system in place which involves the issue of two reminder letters, the first one at no cost but warning of potential costs of further action, followed by a referral to a solicitor or debt collection agency. The Tribunal would anticipate costs in the region of £50 plus VAT for the second arrears letter and £100 plus VAT for the referral to a debt collection agency or solicitor. The Respondent's costs of £2,700 for collecting the outstanding service charge when assessed against what the Tribunal would normally anticipate were excessive. Also as a result of the Respondent's failure to demand the correct amount in accordance with the lease, the payments by the leaseholders on 3 June 2021 would have cleared the outstanding amount with a balance in their favour when the next payment was due on 1 July 2021. This would have meant that the Respondent would have had to start the action afresh to collect the outstanding sums due.

72. The Tribunal decides that the charges incurred by the Respondent against Mr and Mrs Trunk and Mr and Mrs Silva after the 1 July 2021 were not warranted. The Tribunal is satisfied that an amount of £150 plus VAT of £30 is reasonable for the administration charges imposed in the period from 1 January 2021 to 30 June 2021. The Tribunal determines that Mr and Mrs Trunk, and Mr and Mrs Silva are each liable to pay administration charges of £150 plus VAT of £30 provided the Respondent had served a summary of the Tenant's rights and obligations (Administration charges).

Section 20C of the 1985 Act

73. The Applicants applied for an Order under section 20C of the 1985 Act that all or any of the costs incurred by the Respondent in 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 Applicant.

74. The Tribunal may make such Order as it considers just and equitable.

75. Mr Brooke accepted that the Respondent had the authority under the lease to recover the costs of these proceedings through the service

19

charge. Thus the Tribunal should not make an Order under section 20C lightly since its effect is to interfere with the parties' contractual obligations.

76. Both Mr Brooke and Mr Gallagher acknowledged that the making of an Order would be largely dependent upon the outcome of the Applicants substantive applications. The Applicants achieved a reduction of about £60,000 in service charges compared with the approximate sum of £75,000 in dispute. The Tribunal concludes that the Applicants have on the whole been successful with their application. The Tribunal also considers that the manner in which the Respondent conducted these proceedings is a relevant consideration for the making of the Order under section 20C. The Tribunal found that the Respondent had deliberately breached directions, had not helped the Tribunal to further the overriding objective and had not co-operated with the Tribunal generally. Finally the Tribunal notes that the application for a section 20C order was made by six of the nine leaseholders, and the remaining three leaseholders are entitled if they wish to do so to pursue their own application under section 20C of the 1985.

77. Given the above findings, the Tribunal is satisfied that it is just and equitable to make an order under section 20C of the 1985 Act preventing the Respondent from recovering the costs of these proceedings through the service charge.

Paragraph 5A of Schedule 11 of the 2002 Act

78. The Tribunal agrees with Mr Brooke's assessment that as these proceedings do not involve a breach of any lessee covenant, the Respondent is not entitled to recover its costs against a lessee under the contractual provision in the lease at paragraph 14(1) of the Second Schedule. In those circumstances it is not necessary for the Tribunal to consider the making of an Order under paragraph 5A. of schedule 11 limiting the recovery of litigation costs.

Unreasonable Costs Order under Rule 13(1)(b) of the Tribunal Procedure Rules 2013

79. The Tribunal may only make a costs order under rule 13(1)(b), "if a person has acted unreasonably in bringing, defending or conducting proceedings".

80. Rule 13(1) (b) requires there must first have been unreasonable conduct before the discretion to make an order for costs is engaged. The test for unreasonable conduct may be expressed in different ways: Would a reasonable person in the position of the party have conducted themselves in the manner complained of? or, Is there a reasonable explanation for the conduct complained of?

81. Mr Brooke relies on the chronology of the proceedings which is set out at paragraph 16 of the decision. Mr Brooke says that the chronology showed the following:

(i) The Respondent had repeatedly breached Tribunal directions.
(ii) The Respondent had breached Unless orders, and the Tribunal had found that those breaches were unjustified and deliberate.
(iii) The Respondent's failure to disclose, to put a statement of case, evidence, and to instruct an expert in time have hampered Applicants' ability to narrow their case, and the Tribunal's ability to dispose of it proportionately.
(iv) The Respondent's breaches have led to numerous applications by the Applicants (and directions from the Tribunal) intended to enforce Respondent's obligations. As a result, the Applicants have incurred significant additional costs, and the Tribunal's resources have been unduly taken up by these proceedings.
(v) The Respondent is a professional landlord, very familiar with the Tribunal and its rules.
(vi) As late as a week before the hearing, the Respondent tried to apply for an adjournment and for admission of the non-compliant evidence from its expert.

82. Mr Gallagher acknowledged that the chronology revealed that clear findings on the Respondent's conduct had been made but the majority of those related to disclosure. Mr Gallagher suggested the Respondent's explanation of not being able to respond to the Applicant's statement of case which simply consisted of a list of invoices was reasonable.

83. The Tribunal observes that this application was a straightforward application for determination of service charges and administration charges which the Tribunal would have anticipated to have completed it within 20 weeks from receipt of application. Instead the proceedings took over a year to come to a hearing. During the course of the proceedings there have been 16 sets of directions and a Third party disclosure order. The Tribunal is satisfied that this dispute has been prolonged unnecessarily due to the Respondent's conduct.

84. The Tribunal finds that the Respondent had repeatedly breached Tribunal's directions, and had deliberately breached an Unless Order for which the Respondent had no reasonable explanation. The Tribunal had more than sufficient grounds to bar the Respondent but decided to give the Respondent an opportunity to present its case. The Respondent spurned that opportunity. The Respondent's appointed expert did not comply with directions. The Respondent said that it could not respond to the Applicant's statement of case because it said nothing. The Respondent overlooked the fact that Mr Rolling's witness statement accompanied the Applicant's statement of case which set out the Applicant's evidence for disputing the various invoices listed in the Applicant's statement of case. The Tribunal, therefore, rejects Mr Gallagher's submission that the Respondent had a reasonable explanation for not supplying a statement of case.

85. The Tribunal observes that the Respondent is a professional landlord and regularly appears before the Tribunal. The Respondent is fully aware of its duty to help the Tribunal to meet the overriding objective and to co-operate generally with the Tribunal. In the Tribunal's view the chronology demonstrates that the Respondent has failed consistently to

discharge its obligations to the Tribunal with the result that the Applicants have been put to unnecessary expense and that the Tribunal scarce resources have been applied disproportionately to the management of this case to the detriment of other cases. The Tribunal is, therefore, satisfied that the Respondent's conduct of these proceedings has crossed the objective threshold of unreasonable conduct and that the Tribunal is now entitled to exercise its discretion on whether to make an Order for costs against the Respondent.

86. Mr Brooke contended that the seriousness and scope of the unreasonable nature of the Respondent's conduct justified an order for costs against it. The Applicants in their statement of case emphasised that the conduct of the Respondent had the effect of thwarting the progress of the Application over a lengthy period and placing a significant additional costs burden on them which they were struggling to bear.

87. Mr Gallagher argued that it was not necessary to make a costs order. The decision to proceed with the hearing was a sufficient sanction to admonish the Respondent for its conduct of the proceedings. In his view the Applicants could have chosen to have left the Respondent alone once they had produced sufficient evidence to establish their case. According to Mr Gallagher, litigants often took this pragmatic approach of not expending any more resources than strictly necessary when faced with a party who was unwilling to co-operate.

88. The Tribunal agreed with Mr Brooke's contention that the seriousness and scope of the unreasonable nature of the Respondent's warranted an order for costs.

89. The Applicants supplied a detailed breakdown of the costs which amounted in total to £11,090.40. The Applicants' application for costs was limited to those costs incurred directly on the Respondent's conduct referred to in the grounds in support of the Application for Rule 13 costs. It did not include costs which were less easy to separate from costs which would have been incurred in any event but were:

(a) The need to update costs estimates and obtain additional funds from the Applicants (As) to pay for those costs on three occasions.
(b) The numerous emails trying to arrange for the experts to meet in the absence of the Respondent (R) giving instructions to its own expert.
(c) The additional time incurred by counsel in preparing for the Rule 13 costs application.
(d) The constant updating of the diary with amended dates for compliance.
(e) Time costs of including all documents relating to the R's conduct in the final hearing bundle and supplemental bundle.
(f) Time costs which will be incurred acting in response to the Decision made.

90. Mr Gallagher made no substantive representations on the detailed breakdown of costs.

91. The Tribunal notes that the Upper Tribunal decision in *Willow Court Management Company (1985) Ltd v Alexander* [2016] UKUT 290 (LC) at paragraph 40 recorded that:

> "Unreasonable conduct is a condition of the FTT's power to order the payment of costs by a party, but once that condition has been satisfied the exercise of the power is not constrained by the need to establish a causal nexus between the costs incurred and the behaviour to be sanctioned".

92. The Tribunal, therefore, has a discretion on the quantum of costs and does not have to be satisfied that there is a causal connection between the costs claimed and the unreasonable conduct. The Tribunal has considered the detailed breakdown and decides to order the full amount claimed of £11,090.40.

93. The Tribunal order the Respondent to pay the Applicants' costs in the sum of £11,090.40 within 28 days from the date of this decision.

Reimbursement of Tribunal Fees

94. Mr Brooke applied for the Respondent to reimburse the Tribunal fees to the Applicants. Mr Gallagher made no substantive representations.

95. The Tribunal has a discretion under rule 13(2) of the Tribunal Procedure Rules 2013 to make an order for reimbursement of Tribunal fees. The Tribunal finds that the Applicants have largely been successful with their application.

96. The Tribunal, therefore, orders the Respondent to reimburse the Applicants with fees of £400 within 28 days from the date of this decision.

Appendix One: Tribunal's Determination of Service Charges

	2018 to 2019	Tribunal		2019 to 2020	Tribunal		2020 to 2021		2021 to 2022
Insurance	£ 2,500.96	£ 1,822.00		£ 2,696.00	£ 2,696.00		£ 2,846.82	£ 2,846.52	
Common Parts Cleaning				£ 210.00	£ -		£ 630.00	£ -	
Major works				£ 205,636.27	£ 177,710.47		£ 134,080.00	£ 128,786.80	
Goddard Consulting				£ 2,205.00	£ 2,205.00				
JMC Fees				£ 21,528.70	£ 16,146.52				
Roof repair				£ 1,962.00	£ -				
Smoke Detectors Installation				£ 3,448.24	£ 720.00				
Repairs to the Property to comply with fire safety				£ 713.57	£ 713.57				
Drone survey				£ 265.32	£ 265.32				
Key cutting	£ 48.90	£ 48.90		£ 17.90	£ 17.90		£ 12.75	£ 12.75	
Window and gutter Cleaning							£ 1,512.00	£ -	
Window Cleaning	£ 300.00	£ -		£ 120.00	£ -				
Monthly testing of Fire and Safety							£ 332.64	£ 147.84	
6 Monthly testing of Fire and Safety							£ 732.00	£ 732.00	
fire Health and Safety assessment							£ 432.00	£ -	
Fire Health and Safety	£ 285.00	£ 285.00							
Drain Service	£ 255.00	£ 255.00		£ 510.00	£ 510.00		£ 1,528.50	£ 1,528.50	
Investigate Drainage Link							£ 180.00	£ 180.00	
Handyman for fire foam and fire silicone							£ 336.87	£ 336.87	
Waste removal							£ 300.00	£ -	
Gutter Cleaning	£ 456.00	£ -					£ 700.00	£ 700.00	
Bin cleaning							£ 216.00	£ 108.00	
Surveyors Fee	£ 3,540.00	£ 1,200.00							
Surveyors Fee Reinstatement Cost							£ 2,340.00	£ 1,200.00	
Syrveyor Fee PP Maintenance							£ 1,500.00	£ 840.00	
Aerial Tec	£ 474.00	£ 474.00							
Fire Health and Safety	£ 420.00	£ 334.00							
Asbestos survey	£ 486.00	£ 250.00							
Potholes in the car park	£ 160.00	£ 160.00							
Advanced Electrical Report							£ 1,800.00	£ 240.00	
Standard Electrical Report							£ 2,280.00	£ -	
Removing Buddleia Growth	£ 90.00	£ 90.00							
Fire Doors Repairs							£ 1,902.10	£ 1,231.00	
Fire door inspection							£ 350.98	£ -	
electrical Works	£ 222.90	£ 222.90							
Drain cover	£ 262.00	£ 262.00		£ 1,890.00	£ 1,890.00				
Accountant	£ 480.00	£ -		£ 600.00	£ 200.00		£ 630.00	£ 210.00	
Management fee	£ 2,620.00	£ 1,965.00		£ 3,180.00	£ 2,325.00		£ 3,216.00	£ 2,412.00	
Trent Park Fee Major works (previous LL)	£ 6,353.58	£ 6,353.58							
Trent Park Management Fee(previous LL)	£ 552.32	£ 552.32							
Freeholders Funds (previous LL)	£ 540.00	£ 540.00							
Rubbish Clearance(previous LL)	£ 216.00	£ 216.00							
Emergency fire Escape(previous LL)	£ 1,056.00	£ 1,056.00							
Insurance(previous LL)	£ 490.58	£ 490.58							
Valuation Fee (previous LL)	£ 152.00	£ 152.00							
Inspect fire escape (previous LL)	£ 252.00	£ 252.00							
Accountant (previous LL)	£ 420.00	£ 420.00							
Total	£ 22,633.24	£ 17,401.28		£ 244,983.00	£ 205,399.78		£ 157,858.66	£ 141,512.28	
Flat 2 On Account Service Charge			£ 31,604.60			£11,718.68			
Flat 2 Liability at 10%		£ 1,740.13			£ 20,539.98			£ 14,151.23	£ 36,431.33
Payments	£ 27,717.41		£ 6,150.51			£ 4,367.56			£ 38,235.48
Flat 3 Liability at 7%		£ 1,218.09			£ 14,377.98			£ 9,905.86	£ 25,501.93
Flat 4 Liability at 6% from 6 July 2019		£ 537.78			£ 12,323.99			£ 8,490.74	£ 21,352.50
Flat 5 Liability at 6%		£ 1,044.08			£ 12,323.99			£ 8,490.74	£ 21,858.80
Flat 6 Liability at 8% from 28 June 2019		£ 789.49			£ 16,431.98			£ 11,320.98	£ 28,542.46
Flat 7 Liabilty at 5%		£ 870.06			£ 10,269.99			£ 7,075.61	£ 18,215.67

APPENDIX 2

CHI/45UH/LSC/2022/0077 & CHI/45UH/LSC/2022/0008: Canterbury House, Broomfield Avenue, Worthing, West Sussex BN14 7PL : Scott Schedule

	Service Charge account ref.	Payee name (if applicable) and ref [bundle page]	Account Period	Invoice dates	amount	Applicants' case [bundle page/paragraph]	alternative amount offered (if any)	Respondents Case	Tribunal comments
1	Validity of Service Charge demand		2019 2020 2021	**[455-6]** **[457-8]** **[459-60]**		Demanded in breach of the provisions of the Lease: Incorrect Accounting period. No certificate		Time is not of the essence. Failure to produce certificate in the format required does not go to validity	Certificate Critical for the lawful demand of the balancing payment.Only affects the service charge demand for 2020/21 when a balancing payment was required.
2	Validity of Interim Charge demand / payability		2019 2020 2021	**[455-6]** **[457-8]** **[459-60]**		Demanded or purported to be payable in breach of the provisions of the Lease. Did not specify the payment dates		No formalities required for interim demands. Wriong payment dates do not go to valdity.	The wrong payment dates do not affect the valdity of the demand. The landlord, however, cannot enforce payment of the demand until after the the payment dates in the lease have passed.
3	administration charges			e.g. **[464]**, **[468]**		Related to the enforcement of the above.		Clase 14(1) of the lease indemnifies the landlord against all costs incurred as a consequences of breach of lease	Applies to Flats 4 and 6. Satisfied a breach. Administration charges excessive. Allow 1 arrears letter of £50 plus VAT & 1 Referral fee of £100 plus VAT.
Major Work									
4	Trent Park fee for External decorating (prev. L)	Trent Park Properties Ltd	2019	27.3.2019 **[361]**	£6,353.58	fundraising for the Major Work by previous landlord. 40 hours at £125 + VAT = £5,000 sufficient: **[191/14]** further, unreasonable to pay twice, namely Eagerstate's fee of £8,821.60 + VAT for the same task (included in 'Major Works as per s.20' costs in 2021, item 9 below).	£6,000.00		This fee relates to the agent of the previous landlord. The leaseholders have not objected to the fee and reasonablenss of the agent's costs. £6,353.58 reasonable. Issue of duplication dealt with in 9 below.
5	Surveyors to inspect and advise on required works	JMC	2019	17.9.2019 **[378]**	£3,540.00	Unreasonably incurred and excessive: - Much of work already done under previous landlord -Only need for review and update - Based in Manchester (travel costs, ability to supervise) **[192/18]**	£1,200.00	Reasonable for a new landlord to rely on its own managing agent and surveyor known to it. Often more expensive to review work done by others.	Unreasonable accept the leaseholders objections that much of the work had been done under the previous landlord .Decide that £1,200 reasonable.
6	Emergency Fire Escape Works (previous landlords)	JMC	2020		£21,528.70	Erroneous description in 2020 account. This is JMC's fee in respect of the Major Work. Reduce fee by 25% (£5,382.17) for poor service per expert report: **[243/6.7]** Further reflect item 7 costs reduction (if any) in 11% commission which is basis of item 6.	£16,146.52	As in 5 above. Much of the work was done during Covid. In those circumstances realistic to work from Manchester.	Tribunal accepts the evidence of the Applicant's expert witness. David F Smith FRICS that the quality of the contract administration carried by JMC was poor. There is no supporting documentation to evidence JMC having any direct control of the works, rather that they were being controlled by the main contractor. The documentation suggests that the repairs, the quality of the repairs and the rates were all dictated by the contractor. The appointment of a Manchester based administrator may explain that but their poor service ought to be reflected in a reduction in their charges. Decide that £16,146.52 reasonable. Tribunal makes no further deduction in the fee as a result of its decision in 7 below.
7	Collins major work as per section 20 works		2020		£205,636.27	Per expert report reduce by the following sums (+ VAT): - £6,363.50 roof tile overcharge: **[239/4.2.9]** - £9,905 unexplained increase from quote for wall tie replacement: **[241/6.2]** - £7,558 no brick tinting and limited repointing: **[239/4.3]** - £4,750 overcharged for unnecessary scaffolding: **[240/4.4] NB Deductions found by the Tribunal £23,271.50 plus VAT = £27,925.8**	£171,344.47	Counsel's challenge based on the Annotations to Mr Smith's report prepared by Mr Cope.The Tribunal had refused admission of the Annotated copy of the report.	The Tribunal accepts Mr Smith's expert evidence: 1,045 new tiles at £447.82 excessive: 800 tiles at £80 to £100 = £1,474 reasonable. No explanation for why the sum of £19,255 attributed to wall tie replacement was some £9,905 more than originally tendered: £9,350 reasonable. The Tribunal cannot find the justification for £7,558 deduction. Mr Smith recommends a deduction of £2,253 for the absence of tinting. Thus the Tribunal finds that £1,132 is reasonable rather than the £3,385 charged. The Tribunal accepts Mr Smith's opinion that scaffolding was not required for the rear and end elevations for the additional preliminaries. The Tribunal finds that £4,750 is reasonable instead of £9,500 for the scaffolding costs for the additional preliminaries. All the above sums require an addition of 20% VAT. The Tribunal determines £177,710.47 as reasonable for major works. Tribunal accepted A's Counsel submission that it was not entitled to have regard to Mr Cope's annotated comments.

8	Goddard Consulting in relation to Major works		2020		£2,205.00	Not disputed — included to here to reflect overall figure.	£2,205.00		Agreed £2,205 payable
9	Major Works as per Section 20 notice	Eagerstates	2021		£134,080.00	Unreasonably incurred for landlord to charge a 2nd fee (£8,821.60 + VAT) for raising funds for Major Work, when previous landlord had already done so and charge (see above). Otherwise, project management by JMC.	£123,494.08	As in 5 above	The invoice is found in the supplemental bundle at 56. The Tribunal considers it necessary for Eagerstates to issue section 20 documentation so some duplication is necessary with the previous managing agent. Most of the funds for the major works had been collected by the previous landlord which means that Eagerstates will not have to carry out this aspect of the work. The Tribunal considers on balance that Eagerstates Fee should be reduced by 50 per cent to £4,.411 plus VAT = £5,293.20. The sum reasonable under this budget item is £128,786.80.
10	Insurance March 2019/2020	Axa: **[204]**	2019		£2,500.96	101 days of overlap with prev. L insurance (total of £6,725.98 paid in respect of it): **[202-203]** Therefore, overlap amount from previous insurance to be refunded (£2,087.08): **[191/13]** Counsel amended the amount of refund to	£1,822.00	The amount of £2,500.96 had been paid and was reasonable. Counsel suggested that the Respondent may have had difficulties altering its block policy arrangement to fit in with the expiry of the previous Landlord's policy.	The Tribunal agrees with the Applicants' submission that it should not have to pay twice for the insurance. Counsel's suggestion about block policy was speculative. Tribunal finds that the amount of £1,822 is reasonable.
11	Common Parts cleaning	Crystal Clean	2020	31.8.2020 **[383]** 14.10.2020 **[384]** 19.11.2020 **[385]**	£210.00	No evidence that cleaning carried out: **[192/21]**	£0.00	Counsel suggested it was implausible to issue an invoice without the work being done. Counsel said there was no evidence of complaint. Mr Rollings in cross examnation said they had complained and a letter was produced from Eagerstates.	Tribunal accepts Mr Rollings' evdience that there has never been any cleaning of the communal areas. One leaseholder has left deliberately items such as a leaf in the communal area and it stays there indefinitely. The letter from Eagerstates Limited dated 11 December 2019 confirmed that the cleaners had not been running as normal. No charge payable Tribunal disallowed £210.
12	Common parts Cleaning	Crystal Clean	2021	14.1.2021 19.1.2021 9.3.2021 31.3.2021 31.3.2021 13.5.2021 18.6.2021 5.10.2021 5.10.2021 **[395-403]**	£630.00	No evidence of cleaning carried out: **[194/28]**	£0.00	Counsel made the same submission as in 11 above.	Tribunal accepted Mr Rollings' evidence that no cleaning of the comunal parts had taken place. No charge payable. Tribunal disallowed £630.
13	window cleaning	ESY Services	2019	11.11.2019: **[362]**	£300.00	Unreasonably incurred: - based in N. London - only 2 communal window, rest demised - ought to be included in communal area cleaning. **[191/15]**	£0.00	Counsel suggested it was implausible to issue an invoice without the work being done. Counsel also referred to the pictures on the invoice which showed the contractors on the site cleaning the windows. Counsel contended that. The sweeping up clause applied	The Tribunal finds that the contractor cleaned all the windows at the property. The Tribunal accepts the Applicant's construction of the lease that the landlord is not entitled to recover the costs of cleaning the windows which form part of the demised premises. As there are only two windows at the property which belong to the communal areas the charge of £300 is unreasonable, and should be disallowed. If the Tribunal is wrong on the construction of the lease, the charge of £300 is reasonable.
14	window cleaning	ESY Services	2020	9.9.2020 **[386]**	£120.00	Unreasonably incurred: - based in N. London, only 2 communal windows, rest demised - no work carried out due to Major Work — 'attempted visit'**[193/22]**	£0.00	As in 13 above	As in 13 above except £120 unreasonable and disallowed
15	Window & Gutter Cleaning	ESY Services	2021	6.11.2021 **[429]** 6.11.2021 **[430]** 10.12.2020 **[432]** 6.11.2021 **[431]**	£1,512.00	2 invoices for gutter cleaning: unjustified and unlikely to have been carried out in view of major overhaul and alleged other cleaning. Further, no need for regular cleaning: **[197/38]** 2 invoices for window cleaning: dispute work carried out (see prev. comments re. window cleaning): **[197/39]**	£0.00	Counsel made the same submission as in 13 above in respect of the windows. Counsel relied on the invoices to substantiate that the works were carried out on the gutters. Counsel submitted that it was good practice to have the gutters cleaned regularly.	The Tribunal finds that it was not necessary to clean the gutters on the dates stated 10 December 2020 and 27 April 2021 so soon after the major works had concluded in November 2020. There are also no trees in the immediate vicinity which might necessitate regular cleaning. Tribunal disallows £912 for the gutters and £600 for the windows (see 13 above.

16	gutter cleaning	ESY Services	2019	11.12.2019: **[374]**	£456.00	Unreasonably incurred: no need to clean before whole replacement (Major Work) Unreasonable amount: excessive to instruct N. London firm. **[192/17]**	£0.00		Not allowed Unneccessary
17	Gutter Clearing & Repair	Management 2 Management	2021	4.11.2021 **[420]**	£700.00	Unreasonably incurred: - Dispute work actually carried out - Dispute need, since all rainwater work overhauled recently. - Excessive to instruct London-based firm **[197/37]**	£0.00	Counsel pointed out that the invoice indicated that the costs included repairs as well as cleaning. The invoice was accompanied by photographs which indicated that the work had been done	The Tribunal is satisifed that the work was carried out and that it was necessary. The work took place nearly 12 months after the sign off of practical completion of the major works.The Tribunal applying its general knowledge and expertise found that £700 was reasonable. There was no evidence to suggest that the charge was inflated.
18	Drain Service and Cleaning	Aquavo Ltd	2019	10.7.2019: **[364-5]**	£255.00	Unreasonably incurred: London based, bi-annual visits unnecessary Unreasonable standard: failure to install gully covers leading to subsequent issues. **[191/16]**	£0.00	Impausible that the work was not carried out. The costs were modest. Bi-annual not too frequent for drains	The Tribunal is satisifed that the work was carried out and that it was necessary. The property is of mixed use. Cleaning the drains twice a year is sensible management. The Tribunal applying its general knowledge and expertise found that £255 is reasonable. There was no evidence that the hourly charge included costs of travelling from London.
19	Block drains [sic]	Aquavo Ltd	2020	22.4.2020 **[391]**	£255.00	Unreasonably incurred: -no evidence of work carried out - picture not of Property. **[193/25]**	£0.00	As in 18 above	The Tribunal is satisifed that the work was carried out and that it was necessary. The property is of mixed use. Cleaning the drains twice a year is sensible management. The Tribunal applying its general knowledge and expertise found that £255 is reasonable. There was no evidence that the hourly charge included costs of travelling from London. The Tribunal took into account that the photograph did not appear to be the same as the property but on balance the Tribunal is satisifed that the works took place.
20	Drain reparir [sic], manhole covers etc.	Aquavo Ltd	2020	21.10.2020 **[394]**	£1,890.00	Unreasonably incurred and excessive: - no evidence of need to replace manhole covers- if drain repair, what happened to justify since previous drain visits. - Firm based in N. London. **[194/27]**	£0.00	As in 18 above. Counsel elicited in cross examination from Mr Rollings that the principal objection was the cost of the manhole covers. Mr Rollings had obtained a price of £250 for heavy duty covers.	The Tribunal is satisfied that the works were carried out. The principal dispute between the parties was the cost of the manhole covers. Mr Rollings had a quotation of £250 for heavy duty covers. The price charged by the contractor was £525 but that included the fitting. The Tribunal concluded that the cost of £525 was not beyond the realms of reasonableness. £1,890 allowed
21	Roof repair	LMQ	2020	27.11.2019 **[387]**	£1,962.00	Unreasonably incurred: - no evidence of work carried out or scaffolding erected. - impending Major Work to roof, necessity disputed. **[193/23]**	£0.00	Counsel relied on the invoice to substantiate that work must have been done	The Tribunal accepts Mr Rollings' evidence that those who were living at Canterbury House at the time have no recollection of any roof repair being carried out and certainly no scaffolding being erected. In November 2019 Mr Rollings pointed out that the landlord was tendering for the major works project which included works to the roof so it made no sense for the works to be carried out. The Tribunal was also not convinced by the photograph which accompanied the invoice which simply showed a ladder and no evidence of scaffolding. The substantial majority of the costs claimed was for scaffolding. The Tribunal finds on balance that the works were not carried out and disallows the sum of £1,962.
22	Waste Removal	Bee Green Disposal Ltd	2021	29.12.2020 **[435]**	£300.00	Unreasonably incurred: appears to be for debris clearance already included in Major Work costs Excessive: London-based firm instructed for small quantity of rubbish **[198/41]**	£0.00	Counsel relied on the invoice and the accompanying photograph which showed a substantial amount of rubbish to be cleared.	The Tribunal is satisifed from looking at the photograph and the timing of the works that this was debris associated with the major works. The costs of the removal should have been included in the costs for the major works. The Tribunal disallows the £300.
23	Bin Cleaning	BML Group Ltd	2021	8.11.2021 **[439]** 8.11.2021 **[441]**	£216.00	Unreasonably incurred: dispute it was carried out, dispute need for jet-washing 2 successive months. Excessive: firm from N. London, no need for 2 successive cleanings. **198/45]**	£0.00	Counsel pointed out that it was small amount, and that the property was mixed use of residential and commercial.	The Tribunal allows the payment for one cleaning. The Tribunal considers it unnecessary for the bins to be cleaned on a monthly basis. The charge of £108 is reasonable. No evidence that the contractors were including travel time in their costs.

24	Fire health & safety risk assessment	4site Consulting Ltd	2019	18.10.2019 **[379]**	£420.00	Unreasonable in amount: Essex firm instructed, alt quote (from 2023) **[216]** for £334.80. **[192/19]**	£300.00	Counsel contended that the costs were reasonable.	The Tribunal decides that the costs charged is excessive in the light of the alternative quotation supplied by the Applicant. The Tribunal decides that £334.80 is reasonable.
25	Fire Health & Safety risk assessment	4site Consulting Ltd	2021	22.12.2020 **[434]**	£432.00	Unreasonably incurred: unnecessary to have further full assessment so soon, reasonable to do every 3 years only. Excessive at any rate: alt quote **[216]** for £334.80. **[197/40]**	£334.80	Counsel argued that it was rational for the landlord to carry out a full fire risk assessment annually, particularly in the light of current concerns over fire safety.	The Tribunal agrees with the Applicants' understanding that it is not necessary to have full fire risk assessments every year. The published guidance for flats of no more than 3 storeys is a review every two years and a full risk assessment every four years. In the absence of the Landlord's explanation for an annual review, the Tribunal considered the work unnecessary. The amount of £432 disallowed.
26	Fire rated plasterboard, bolt latch, etc.	EFP Fire & Protection	2020	19.12.2019 **[389]**	£713.57	Unreasonably incurred and excessive: - no evidence of work carried out (fire board or new bolt latch). - appears only to relate to 2 fire notices. - N. London-based **[193/24]**	£20.00	Counsel stated it was implausible to submit an invoice if the works were not done.	The Tribunal is satisifed that the works were carried out. The Tribunal is not convinced by the Applicant's reliance on the photographs to demonstrate that the works were not done. The Tribunal determines that the costs are reasonable. The Tribunal allows £713.57.
27	Smoke Detectors Installation	EFP Fire & Protection Eagerstates Ltd	2020	15.5.2020 **[392]** 5.6.2020 **[393]**	£3,448.24	Unreasonably incurred and excessive: - no need shown for 5 further smoke detectors - further, alt quote **[228-9]** for £720. - further, no need for s.20 management fee if reasonable price had been obtained. **[193/26]**	£720.00	Counsel relied on the section 20 consultation to demonstate reasonableness of the costs.	The Tribunal examined the section 20 consultation. The Tribunal noted that the quotations were from firms in Ipswich and Finchley. The Tribunal notes that the one from the Finchley Firm was an estimate rather than a quotation. The Tribunal prefers the quotation supplied by the Applicants which was from a firm based in Crawley. The Tribunal determines £720 reasonable. In view of the amount claimed there would have been no need for the section 20 consultation.
28	Monthly Testing of Fire Health & Safety Equipment	EFP Fire & Protection	2021	23.6.2021 **[404]** 13.7.2021 **[405]** 25.8.2021 **[406]** 22.9.2021 **[407]** 27.10.2021 **[408]**	£332.64	Unreasonably incurred, excessive, substandard: - on each occasion (in disputed invoices) only a fraction of items tested - re: first 2 invoices, unreasonable to carry out 2 'monthly' tests within 2 weeks - Ipswich-based, unlikely work actually carried out for the price per visit (£30.80 + VAT).- other invoices constituting total appear to show full tests, therefore no objection. **[194/29-30]**	£147.84	Counsel submitted: modest sums and that frequency was a matter of judgment. It did not follow that the contractor travelled from Ispwich	Tribunal agrees with the Applicant's evidence that it is not reasonable to pay for a service when only one or two of the smoke alarms were tested. The Tribunal allows the costs of four visits when the invoice shows according to the Applicant all alarms tested. No evidence that the costs of travelling from Ipswich was included in the costs. The sum of £147.84 determined reasonable.
29	6-monthly Smoke Detector & Fire Door Service	EFP Fire & Protection	2021	30.11.2020 **[409]** 24.5.2021 **[410]** 4.11.2021 **[411]**	£732.00	Unreasonably incurred and excessive: - 2nd and 3rd invoice not carried out - duplicate with monthly tests (above) - Ipswich-based firm **[195/31]**	£237.60	Counsel contended that the works were carried out and the costs were reasonable	The Tribunal disagrees with the evidence of Mr Rollings who said that second and third invoices were a repeat without the recommended works being undertaken at a cost of £559.08 plus VAT. It would appear that the work recommended for the fire doors was on 6 July 2021. Therefore the second invoice was before the works whereas the third invoices was after the works were carried out . The Tribunal therefore finds that £732 was reasonable.
30	Fire Door Remedial Works	EFP Fire & Protection	2021	6.7.2021 **[412]** 2.8.2021 **[414]**	£1,902.10	1st invoice not carried out, appears to be an estimate which the 2nd invoice (at higher cost) purports to carry out. - Taken with previous and subsequent item, reasonably only to pay for one inspection and one repair only. **[196/32-33]**	£670.90	As in 29 above	The Tribunal considers that the invoices are unclear. It would appear tat the second invoice covers the costs of the two fire doors in the property and that the first invoice is a quote for one door. The Tribunal disallows the first invoice but allows the second invoice. The Tribunal considers that in any event £1,231 would be a reasonable cost for the repair of two fire doors than the £1,902 claimed.
31	Fire Door Inspection	Security Masters Ltd	2021	10.8.2021 **[416]** 21.10.2021 **[417]**	£350.98	Unreasonable incurred and unjustified in view of alleged fire door remedial work (EFP above) Further unjustified 2 visits within 10 days. Excessive: London firm instructed. **[196/34]**	£0.00	As in 29 above	The Tribunal agrees with the Applicant that there is no justification for two further visits to the property within a matter of two months to inspect the fire doors. Also on closer examination of the invoices it would appear that they do not relate to the property £350.98 disallowed.

32	asbestos survey	4site Consulting Ltd	2019	5.11.2019 **[380]**	£486.00	Unreasonable in amount: Essex firm, alt quote (2023) for £270 **[211].** **[192/20]**	£250.00	Counsel submitted that it was reasonable for the Landlord to use a contractor known to him. The fee was in the bounds of reasonableness.	The Tribunal prefers the quotation provided by the Applicant. It is from a local contractor and it also has its own laboratory facilities to test the asbestos. The Tribunal finds that £270 is reasonable.
33	Surveyor to prepare insurance resinstatement [sic] cost assessment	JMC	2021	22.10.2021 **[418]**	£2,340.00	Unreasonably incurred and excessive: - no need for inspection, simple calculation only - JMC familiar with Property due to Major Work - Alt quote **[226]**: £375+VAT (without visit), £562+VAT (with visit). **[196/35]**	£450.00	Counsel submitted that it was reasonable for the Landlord to use its own surveyor and that an inspection was necessary following the acquistion of the property by the Landlord. .	The Tribunal had before it a copy of the revaluation report which in the Tribunal's view was to the required standard. The Tribunal also considers that an inspection of the property is necessary particularly as the Landlord had recently acquired the property. The Tribunal, however, considers applying its general knowledge and expertise that the landlord's charge is excessive and the Applicant's quotation is too low. The Tribunal decides that £1,000 plus VAT is reasonable.
34	Surveyor to prepare pre planned maintenance schedule	JMC	2021	27.10.2021 **[419]**	£1,500.00	Unreasonably incurred and excessive: - unjustified JMC needed to visit from Manchester (due to familiarity) - Eagerstate could have carried out - Alt quote **[226]**: £437.50 + VAT. **[197/36]**	£525.00	Counsel submitted that the work was a complex piece of work, and that the costs were reasonable.	The Tribunal accepts the necessity of the works but considers applying its general knowledge and expertise that the costs of £1500 is too high and the Applicant's quotation too low. The Tribunal determines an amount of £700 pus VAT as reasonable.
35	Standard Electrical Audit Report	BNO London Ltd	2021	8.2.2021 **[437]**	£2,280.00	Unreasonably incurred: matters allegedly inspected fell outside L responsibility.	£240.00	Counsel said that contractors take different views.	The Tribunal accepted the evidence of the Applicant's contractor who said: "Having read through the report, I can immediately see that it is a visual inspection only of the incoming feeds to the flats. The main supply feeds, earthing, and fuse cut-outs are owned by and the responsibility of UK Power Networks, not the building owner or manager. Furthermore, it is not a requirement to have them inspected. In the event that an electrician were to Inspect these as part of an EICR (which assesses them as part of the whole installation) to include testing the fuse board and every circuit and outlet point. I would estimate that this would take no more than half a day and at a cost of £100 to £200 plus VAT. I stress that this would be for a full test and inspection.If the assessment was to determine a new landlord's supply then this would be undertaken by UK Power Networks, not the building owner or its private contractor". The Tribunal determines a sum of £240 as reasonable.
36	Advanced Electrical Audit Report	BNO London Ltd	2021	3.6.2021 **[438]**	£1,800.00	Further, excessive. Alt quote **[230]** for full test and inspection of fuse board and circuit: £200 + VAT. **[198/42-44]**			
37	Management fee March - December 2019	Eagerstates	2019	25.11.2019 **[443]**	£2,620.00	Substandard service: invalid SC demands, unnecessary expenditure, lack of scrutiny, in light of preceding: **[199/46-47]** The Applicant suggested a reduction of between 15% to 50%		Counsel argued that the Tribunal should assess the standard of the service provided as a managing agent not on how the managing agent has conducted the Tribunal proceedings. Counsel submitted that the the managing agent should be given credit for delivering a significant major work project to a reasonable standard during COVID.	The Tribunal considers that the fee charged by the managing agent which works at £250 per unt is reasonable. The Tribunal, however, finds that level of service provided for the day to day responsibilities of a managing agent was below the required standard. The Tribunal finds that the managing Agent has not provided the appropriate level of supervision and scrutiny of the landlord services to the property. Specific examples include cleaning, fire risk assessment and roof repair. The managing agent's supervsion of the major works project is not a relevant cosideration in respect of the standard fee because the agent receives an additional fee for that type of work. Also the Tribunal has found that the agent disregarded the terms of the lease in respect of the date of payment of the service charge. The Tribunal is satisfied that a 25 per cent reduction in the managing agent's fee is warranted for not providing a reasonable standard of service. The Tribunal determines a fee of £1,965 (2019); £2,325 (2020); and £2412 (2021).
38	Management fee 2019/2020	Eagerstates	2020	14.10.2020 **[444]**	£3,180.00			As in 37 above	
39	Management fee Dec 2020-2021	Eagerstates	2021	1.11.2021 **[445]**	£3,216.00			As in 37 above	
40	Accountant	Martin Heller	2019	2.12.2019 **[447]**	£480.00	Substandard and excessive: poorly detailed - not in accordance with lease terms - unreasonably to charge twice for 2019.- excessive price compared with Glazers (prev L's accountant see **[382]**) **[199/48-51]**		Counsel submited that the Accountant has drawn up accounts and the fee claimed was reasonable.	The Tribunal accepts the Applicants' evidence that they paid this fee of the former accountants in the 2018 service charge. The Tribunal disallows £480.
41	Accountant	Martin Heller	2020	7.12.2019 **[448]**	£600.00			As in 40 above	The Tribunal finds that the accounts received from the managing agent are simplistic and non compliant with terms of lease and recognised standards for service charge accounts (Tech 11/03). Tribunal reduces the fee to £200.

42	Accountant	Martin Heller	2021	6.12.2021 **[449]**	£630.00			As in 40 above	The Tribunal finds that the accounts received from the managing agent are simplistic and non compliant with terms of lease and recognised standards for service charge accounts (Tech 11/03). Tribunal reduces the fee to £210.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.