FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00CX/LSC/2021/0077**
Property	**:**	**Apartment 145 The Gatehaus, Leeds Road, Bradford BD1 5BQ**
Applicant	**:**	**Mr. David Elsy**
Representative	**:**	**Mr. Omar Tahir**
Respondent	**:**	**OPW Ground Rents Ltd**
Representative	**:**	**Ms. Rebecca Ackerley**
Type of Applications	**:**	**Application for determination of liability to pay and reasonableness of service charges : s27A Landlord and Tenant Act 1985** **Application for determination as to liability to pay an administration charge: Schedule 11 Paragraph 5 of the Commonhold and Leasehold Reform Act 2002**
Tribunal Members	**:**	**Judge John Murray** **Aisling Ramshaw FRICS**
Date of Determination	**:**	**8 April 2024**

DETERMINATION

Determination

The Tribunal determines that

A. The Tribunal finds the service charges for the years under review being 2018,2019,2020 2021 and 2022 (with the exception of the management charges) reasonable.

B. The management charges for the service charge years 2018 and 2019 are reduced to £250, and for the service charge years 2020, 2021 and 2022 are reduced to £275.

C. The Tribunal makes no order under s20c Landlord and Tenant Act 1985

BACKGROUND

1. The Applicant issued an application dated the 27 September 2021 in relation to Apartment 145 The Gatehaus, Leeds Road Bradford, BD1 5BQ.
2. The application was for the Tribunal to consider the service charges for the years 2016,2017,2018,2019,2020 2021 and the future year 2022.
3. The application also sought an order under s20C to prevent the costs of the proceedings being recovered as part of the service charge.
4. The application further sought an order reducing or extinguishing the liability to pay a particular administration charge in respect of costs incurred in connection with these proceedings.
5. The dispute was said to be for £860,610.00 and the service charges that were to be challenged were for

   (a) Concierge and On Costs

   (b) Cleaning Costs

   (c) Security Costs

   (d) Fire safety and equipment costs

   (e) Lift maintenance costs

   (f) General repairs

   (g) Health and Safety

   (h) Insurance

   (i) Management fees

6. The Applicant confirmed that he wished to make applications under section 20C Landlord and Tenant Act 1985, and Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

DIRECTIONS HEARING

7. A directions order was made by a Tribunal Judge on the 1 June 2022.

8. The Applicant was directed to produce a statement of case within 21 days specifying in respect of each year concerned, the service charges or other items in dispute, with reasons, and the amount if any the Applicant was willing to pay, with space for the Respondent's comments, with documents in support and any statement of fact.

9. The Respondent was directed to send a statement in response within 21 days of receiving the Applicant's statement of case with comments on the Applicant's spreadsheet.

10. The Applicant was permitted to send a short supplementary statement in reply within 7 days of receipt of the Respondent's statement of case.

11. The parties were directed to agree a bundle for use at the hearing, in electronic format with guidance as to how it should be produced.

12. The matter was adjourned several times at the request of the parties as they endeavoured to reach consensus on various issues.

13. A directions hearing in October 2023 provided for the hearing to be listed to progress the long running application.

THE HEARING

14. A video hearing was arranged with the consent of the Parties. A direction had been made for an inspection of the premises, but this was not arranged prior to the hearing. The Tribunal was to consider, following the hearing of evidence, if an inspection would be required; the Tribunal determined after the hearing that as a new managing agent had been in place for some time, an inspection was not necessary.

15. At the hearing the Applicant was represented by Mr. Omar Tahir of Counsel. The Respondent was represented by Ms. Rebecca Ackerley of Counsel.

16. As a preliminary issue, the Applicant sought permission for a second witness statement as it was said to go to the root of matters. The Respondent objected to the same on the basis that the Applicant had had several months to file the same.

17. The Tribunal considered the request and determined that the statement should be refused.

18. As a further preliminary issue, the Tribunal were invited by Counsel for the Respondent to dismiss the application relating to the service charge years 2016 and 2017 as this was prior to the Respondent acquiring the Building. The Respondent submitted that the Applicant should have added the Respondent's predecessor in title as a party to the proceedings.

19. The Tribunal had previously ruled on this point in conjoined proceedings numbered MAN/00CX/LAC/2018/0016 and MAN/00CX/LAC/2018/0060 when the previous freeholder Yorkshire Ground Rents Ltd had been added to the case, in light of them having the right to earlier service charges, which the Respondent had not acquired on transfer. In the circumstances the Tribunal could not determine the service charges for 2016/2017 which were not payable to the Respondent.

20. The Tribunal raised the issue of s20 Landlord and Tenant Act 1985 and whether the Respondent had consulted with leaseholders to appoint the Managing Agent. Ms. Whitehead the most recent managing agent did not have knowledge of this; directions were provided for the parties to exchange witness evidence on this point prior to the Tribunal reaching it's final decision.

THE LEASES

21. The Applicant is the leasehold owner of Apartment 145, The Gatehaus, Leeds Road Bradford BD1 5BQ

22. The Applicant covenanted to pay the service charge in Clause 3.1

23. "*The Tenant covenants with the Landlord*;

    3.1.1 to pay the Rent reserved by Clause 2 of this lease…

    3.1.2 to pay the Service Charge to the Landlord as additional rent…

    3.1.3 to pay the Landlord as additional Rent and within 14 days of written demand…a fair reasonable and proper proportion attributable to the premises of the costs incurred by the Landlord in insuring the Development and providing insurance cover against the other risks referred to in Clause 5 of this lease.

    3.1.4 to make all payments referred to in this sub-clause and all other payments due to the Landlord under this Lease without any deduction (except as required by law) or counterclaim and without exercising any right of legal or equitable set off"

24. Service Charge is defined within the Apartment leases as "*the monies payable by the Tenant for the provisions of services in accordance with Schedule 4*".

25. Schedule 4 sets out the Service Charge provisions. Parts B, C and D of Schedule 4 detail the services to be provided by the Respondent and to be paid by the Applicant.

26. Part A of Schedule 4 sets out how the service charge is to be paid by the Applicant, in particular;

27. Paragraph 3.1 "*The Tenant shall pay a provisional sum in respect of the Tenant's proportion for each Account Year to be determined by the Landlord…by equal instalments in advance…And…*

3.1.2 if it [the Tenant's Proportion] exceeds the provisional sum paid by the Tenant the excess shall be paid to the Landlord within 7 days of written demand…

3.2.2 when the Tenant's Proportion for each Account Year is fixed, if it is less than the provisional sum paid by the Tenant the overpayment shall be credited to the Tenant's account for the then current Account Year or if the Term has come to an end shall be repaid to the Tenant.

3.4 the Landlord may vary the Tenant's Proportion…"

28. the Applicant, pursuant to Paragraph 4.5 of Schedule 4 is to also contribute towards a reserve fund.

29. The Service Charge dates are defined as "*1st January, 1st April, 1 July and 1st October…*"

30. The Tenant's Proportion is defined as "*Tenant's Part 'B' Proportion means 1.42% (Building Common Parts* Costs)" and 0.7% (Platform Common Parts Costs)

31. The Insurance Premium is defined as "*the proportion of the insurance premium attributable to the Premises payable by the Landlord pursuant to clause 5 of the lease*". However the insurance premium is charged as a rent and does not form part of the service charge.

32. By way of Clause 4.2, subject to the Applicant paying the Service Charge the Respondent shall:

"4.2.1 keep the Building Common Parts and the Platform Common Parts adequately cleaned, repaired, decorated, maintained and (where necessary) replaced and renewed;

4.2.2 provide any of the other services set out in Schedule 4 that the Landlord reasonably considers necessary or appropriate at any time…"

33. By way of Clauses 3.14 and 3.16 the Applicant covenanted to pay administration fees:

34. Clause 3.14 "*To be responsible for and to indemnify, the Landlord against:*

3.14.1 all actions, claims, proceedings, costs, expenses and demands made against or incurred by the Landlord as a result of:

(a) any act, omission or negligence by the Tenant or any other occupier of the Premises or anyone at the Premises with the express or implied authority of any of them; or

(b) any failure to comply with its obligations under this Lease;..."

35. Clause 3.16 "*To pay the Landlord on demand on a full indemnity basis all costs, charges and expenses (including solicitor's surveyors", bailiffs, and other professionals fees) Incurred by it for the purposes of, incidental to or in the reasonable contemplation of:*

3.16.1 the preparation of service of a notice under Section 146 and 147 of that Act even if forfeiture is avoided unless a competent court order otherwise;...

3.16.4 the enforcement or remedying of any breach of the Tenant's obligations under this Lease whether or not court proceedings are involved;...

3.16.6 the recovery of any monies due under this Lease

Together in each case (but not in the case of 3.16.3 and 3.16.5) interest at the Interest Rate from the date of expenditure by the Landlord to the date of repayment"

36. Clause 2.1 provides "*The Tenant hereby covenants with the Landlord that the Tenant will at all times during the said Term perform and observe the covenants provisions and stipulations set out in the Fourth Schedule and observe the Regulations set out in the Fifth Schedule*".

37. In the Fourth Schedule, at paragraph 1 the Tenant covenanted *to pay the Rent and the Service Charge on the 1st day of January in every year...*"

38. The Service Charge is defined as *"(subject always to the provisions of paragraph 9 of the Forth Schedule) the sum of £125,000 per annum and any increases in the Service Charge Review Provisions together with VAT as chargeable payable in consideration for the provision of the Services*".

39. The Service Charge Review Provisions are defined as "*the provisions for the review of the Service Charge in the Seventh Schedule*" [Seventh Schedule, paragraph 1.4 the Rent Review is every fifth anniversary, the first being 1st January 2012].

40. The Services are defined "*the services and items of expenditure set out in Clause 4 and the provisions of the insurance cover referred to in Clause 5*". The Respondent's obligations to carry out services listed within clause 4 are subject to the Applicant paying the service charge, as per clause 4.1.

41. By way of Clause 2.2 and the Forth Schedule, paragraph 3, the Applicant covenanted to pay administration fees:

42. Clause 2.2 "*The Tenant (with the object of affording to the Landlord a full and sufficient indemnity...) hereby covenants with the Landlord that the Tenant...will at all times hereafter duly observe and perform fulfil and keep*

the Subjections so far as aforesaid and will indemnity and keep indemnified the Landlord…from and against all actions cost claims demands and liability in respect of any future breach non-observance or non-performance of the same or any of them as far as aforesaid"

43. In the Fourth Schedule at paragraph 3 the Tenant covenanted to pay to the Landlord all costs, charges and expenses (including legal costs and fees payable to a surveyor) which may be incurred by the Landlord in connection with the recovery of the arrears of Rent and Service Charge and enforcing breaches of the Tenant's Covenants and the Regulations or for the purposes of or incidental to the preparation and service of any notice or proceedings under section 146 or 147 of the Law of Property Act 1925 notwithstanding that forfeiture may be avoided otherwise than by relief granted by the Court.

THE LAW

44. The relevant legislation is contained in of sections 19, 27A and s20C Landlord and Tenant Act 1985 and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 the relevant paragraphs of which read as follows:

s19 Limitation of service charges: reasonableness.

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise

s27A Liability to pay service charges: jurisdiction.

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to— .

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to— .

(a) the person by whom it would be payable,

(b) the person to whom it would be payable,

(c) the amount which would be payable,

(d) the date at or by which it would be payable, and,

(e) the manner in which it would be payable.

45. (4) No application under subsection (1) or (3) may be made in respect of a matter which—

(a) has been agreed or admitted by the tenant,

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(c) has been the subject of determination by a court, or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject of an application under subsection (1) or (3).

(7) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.

s20C Limitation of service charges: costs of proceedings.

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—

(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;

(b) in the case of proceedings before the First Tier Tribunal, to the tribunal;

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

Schedule 11 to the Commonhold and Leasehold Reform Act 2002

1 (1) 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—

(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,

(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,

(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or

(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—

(a) specified in his lease, nor

(b) calculated in accordance with a formula specified in his lease.

Liability to pay administration charges

5 (1) An application may be made to the appropriate tribunal for a determination whether an administration charge is payable and, if it is, as to—

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—

(a) has been agreed or admitted by the tenant,

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(c) has been the subject of determination by a court, or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

THE APPLICANT'S STATEMENT OF CASE

46. The Applicant provided a statement of case, and a witness statement, both dated 5 September 2022.

47. The Applicant stated he had purchased 145 Gatehaus on 9 June 2006 for the sum of £177500. As at June 2019, it was valued at no more than £50,000. He believed the reduction in value was in part due to mismanagement of the building. Service charges went up every year, along with the management charge, but nothing had improved.

48. The Owners Association had successfully applied for the Right to Manage, under the 2002 Commonhold and Leasehold Reform Act. He said the Owners

Association had gone out to get quotes from new agents, which were exhibited at pages 2-3 of his statement (these were not in the bundle).

49. The Owners Association had obtained quotes for services, all of which were according to the Applicant less than those charged by the Respondent.

50. They had appointed Advance Block Management "ABM" as the new agent for the site. The Applicant stated that the appointment of ABM had immediately seen a reduction in the service charge, and an increase in the level of repairs support and management of the building. The exact figures were not available he said as a result of the former agents Rendall and Rittner not providing them to ABM. ABM had found it very difficult to get information from Rendall and Rittner, describing it as like "pulling teeth".

51. The Applicant offered the sums as set out in the budget from ABM as being the fair and reasonable costs that the Respondent should have incurred.

52. He noted that in the accounts, there was a reserve of £81006, a surplus of £14361 and a reserve fund of £205747. Despite these sums, new carpets, which were required had not been obtained; managing agents fees had gone up by 15% for the block, and 179% for the car park.

53. He did not dispute there was a liability to pay a service charge but had not been provided with invoices. He said that the dispute related to the reasonableness of the charges, and whether the service, or lack thereof, was a breach of the terms of the lease.

54. In his witness statement he referred to a bundle of evidence showing the state of the building, with photographs showing the general poor upkeep and look of the building, referring to carpets, rubbish, security doors not shutting and human excrement. The common parts were said to be disgusting, and left in a poor state, with people sleeping rough in the building, drug dealing and prostitution. There were some emails in the bundle, but no photos.

55. The Applicant said that he had asked for invoices over the years, but never had responses from either managing agent, Braemar or Rendall and Rittner. He pointed out that charges had risen at prices much higher than inflation with-out any explanation or change of suppliers to get a more competitive rate.

56. The Applicant asserted that the costs of the service charge were unreasonable, and that the works and/or services were not to a reasonable standard, and in particular he objected to :

    (a) Concierge and On Costs

    (b) Cleaning costs

    (c) Security Costs

    (d) Fire Safety and equipment costs

    (e) Lift maintenance costs

(f) General repairs

(g) Health and safety

(h) Insurance

(i) Management fees

(j) Other costs referred to in the application were not mentioned in the statement of case or in his witness evidence: Electricity, Estate office, Door entry system , Water hygiene testing and cleaning, or service charges relating to the car park, which was said to be unusable. No evidence, other than general comment was before the Tribunal.

THE RESPONDENT'S STATEMENT OF CASE

57. The Respondent did not file a statement of case, but filed three witness statements from Property Team Manager Emma Utting of Rendall and Rittner, dated 20th July 2022, 5th October 2022 and 22nd December 2022.

58. Ms. Utting confirmed that the Respondent had purchased the head leasehold title for the development in or around May of 2018 and consequently the years 2016 and 2017 should not be considered as part of the application.

59. She also stated that the Tribunal had considered the service charges in an earlier decision (MAN/00CX/LAC/2018/0016 and MAN/00CX/LSC/2018/0060) and determined that charges for years under review (2014,2017, 2018 and 2019) in those applications were reasonable.

60. The Tribunal was asked to take that decision into account in an attempt to deal with the current application at a proportionate cost. She recounted the lease terms, and the mechanisms of distributing budgets and then accounts.

61. The second witness statement (5th October) was effectively the Respondent's statement of case, with the other two statements dealing with preliminary and jurisdictional issues.

62. Ms. Utting stated that the comparisons provided by the Applicant for years 2019 and 2020 were just figures and not actual costs. She pointed to where the challenged costs were chargeable, and said that the costs had been incurred and paid for.

DISCUSSION OF SPECIFIC SERVICE CHARGES RAISED

63. The Tribunal considered the points raised by the Applicant in his statement of case and heard submissions from both the Applicant and Respondent at the hearing.

Concierge and On costs

64. No detail was provided as to these objections other than generic concerns about the state of the building, vandalism etc.

Cleaning costs

65. No detail was provided as to these objections other than generic concerns about the state of the building, vandalism etc.

Security costs

66. No detail was provided as to these objections other than generic concerns about the state of the building, vandalism etc.

Fire safety and equipment costs

67. The Applicant stated that these items were broken, damaged and unserviceable and not repaired for long periods of time. Smoke sensors were pulled off and hanging down. Things improved when there was security, but there were still problems with smoke alarms not being repaired; items would be reported, but not quickly.

68. Ms. Utting for the Respondent stated that Property manager were expected to visit once a month and do a report; she said that she visited regularly; she was obliged to by the Fire Risk Assessment, and any enforcement notices would be held against them. This would be prioritised.

Lift maintenance costs

69. The Applicant asserted that the lift compartment looked like they were used to remove car parts. There was filth on the floors, and bags of rubbish would be left inside. They were consistently breaking down – they were generally not maintained. Ms. Utting said the vandalism fly tipping and damage was caused by the occupants, not the agents.

70. The Applicant did not think the repairs were done properly, but only patched up so would break down again. He said he was not party to this to see what lift engineers did, but he was from an engineering background and had formed this opinion. He also owned an apartment in Leeds which had nowhere near the problems that the Gatehaus had which he estimated were five times as frequent as his Leeds apartment.

71. Ms. Utting said it was not fair to make that comparison given the location of the Gatehaus and the problems the particular scheme had.

General repairs

72. The Tribunal was told that the Building has had a number of issues. There was a very large insurance claim at one point going back to the original development. The fabric of the building has degraded quickly. Ms. Utting said

that general repairs are reactive but have only been charged for as carried out. The other managing agent has given a general figure for repairs, based on previous years expenditure.

Health and Safety

73. The Applicant confirmed that he had no particular comment to make about health and safety .

Insurance

74. The Applicant said that the building was difficult to insure but they had got some alternative quotes which were a third of the price the Respondent had charged. He said that the quotes were not in the bundle, as they had been provided with an oral quote. He was concerned the Respondent may have taken a commission .

75. Ms. Utting confirmed that their Insurance department went out to tender. She could not say whether the Applicant would have a like for like quote. Their commission would have been declared and disclosed.

76. Ms. Ackerley on behalf of the Respondent pointed out that under the lease the main buildings insurance is not a service charge, (it is charged as a rent) so the FTT does not have jurisdiction. The Tribunal agreed with that position.

Management Fees

77. The Applicant stated that the building had been mismanaged over years, and had management not been transferred to the RTM Company it would be derelict by now.

78. Maintenance was not carried out, water was coming through the roof, fire doors being left open to vandalism and garage spaces left empty and unusable. Leaseholders would arrange meetings with the Managing Agents, and the Applicant remembered a meeting with the Managing Director of Agents Braemar, and trying to get a plan in place. There was a substantial sinking fund that seems to have evaporated.

79. The RTM company are now moving forward, building up sinking fund and getting things done. They are talking to ABM on a weekly basis to keep an eye on progress.

80. The Respondent confirmed that the Agents Rendall and Rittner do not have a standard fee, the charges depend on the building but they average out at £185 - £250 plus VAT per annum.

THE DETERMINATON

81. The Tribunal had already dealt with a case at the Gatehaus before, (MAN/00CX/LAC/2018/0016 and MAN/00CX/LSC/2018/0060) and in that case, (heard in November 2021) had taken evidence from Managing Agent Mr. Tom Dugdale of Rendall and Rittner.

82. Mr. Dugdale had told the Tribunal in his evidence that the Gatehaus was a difficult block, with anti social behaviour, fire safety issues, etc. It was "rife "with issues such as prostitution when Rendall and Rittner took over management of the building. He said that that he had gone "above and beyond" with the work done on the block; the building was not well designed nor executed. They had arranged for works to fire stopping and fire doors, compartmentation and emergency lighting; supervision of this work was included in management fees, and no extra charge had been made for this service.

83. In that case, the Tribunal did not interfere with the service charges, as there was insufficient evidence to persuade it to do so.

84. That would not prevent the Tribunal coming to a different conclusion, based upon different evidence.

85. However, similarly in this case, aside from the evidence of the disappointment with the building, the substantial problems with it, the costs of attending to vandalism and faulty construction, did not amount to evidence that the services charged for had not been delivered.

86. The budget produced by the managing agents for the RTM Company ABM was just that – a budget. It may have been pitched deliberately low to secure the work; similarly it may have been that they are indeed a more efficient organisation able to deliver a better service for less cost; but until they actually charge for the works, it is not possible to determine whether they are realistic.

87. The Respondent did produce the invoices, and the accounts had been certified by accountants in accordance with the lease. There was insufficient direct evidence to find other than that the service charges on the whole – with the exception of the management charges - are reasonable, and payable.

88. The management charges are however dealt with separately in this judgement.

89. Having reviewed the management charges, and the submissions made by the parties in relation to s20 Landlord and Tenant Act 1985, the Tribunal determines that there is no evidence to support that the agreement in place with Braemar was not a Qualifying Long Term Agreement, and/or that any necessary consultation had taken place. The costs had risen higher than inflation, with no evidence the management was improving. Taking into account both factors, the Tribunal reduces the costs for 2018 and 2019 for management would be reduced to £250 in total for each year.

90. The Tribunal accepts that the managing agent agreement with Rendall and Rittner produced in evidence - whilst not executed, nor accompanied by any evidence that replacement agreements had been entered into - was, on the balance of probabilities evidence that the agreement was for a term of less than twelve months and consequently not caught by s20, and statutory consultation was not necessary.

91. Turning to the charges for management, the Tribunal observed that the management costs have increased exponentially from 2018 to 2020. Whilst the Tribunal recognizes that the building is difficult to manage, the evidence from the Applicant is that the building was not always well managed, and the Tribunal heard no evidence that the management of the Building had improved over time.

92. By service charge year 2022 the management charges had increased from a total of £250.60, to £360.67; a rise of £110.07 in a four year period. There was no explanation for such a rise, given there was no evidence that service was improving, and it was far in excess of inflation over the same cumulative period. The Tribunal determines that management charges for the service charge years of 2020, 2021 and 2022 should be reduced to £275 for each year.

93. The Tribunal has reduced management charges but finds other service charges reasonable and payable. In the circumstances the Tribunal makes no order under s20C Landlord and Tenant Act 1987.

J Murray
Tribunal Judge

8 April 2024