



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **LON/00BJ/LSC/2022/0383**

Property : **Various flats at 21 Plough Road,
London, SW11 2DE**

Applicant : **Robert Kettlewell and others**

Representative : **In Person, assisted by Mr Coyne acting
as a Mackenzie Friend**
**1.Plough Road Management Ltd,
represented by Bernadette Cunningham**

Respondents : **2.Thornsett South London Ltd,
represented by Harsha Parmar of
Thornsett Group Plc**

Type of application : **For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985**

Tribunal members : **Judge B MacQueen**
**Tribunal Member Sarah Phillips,
MRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **22 March 2024**

Date of decision : **28 May 2024**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines the amount payable for the service charges for the year 1 March 2021 to 28 February 2022 under the headings as set out in this decision.
- (2) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985 in light of the findings made by the Tribunal.
- (3) The Tribunal does not make an order under Schedule 11 paragraph 5A of the Commonhold and Leasehold Reform Act 2002 in light of the findings made by the Tribunal.

The Application

1. The lead Applicant, Robert Kettlewell, sought a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Applicant in respect of the service charge year 1 March 2021 to 28 February 2022. The Applicant also sought an order under s.20C of the 1985 Act that none of the landlord’s costs of the Tribunal proceedings may be passed to the lessees through any service charge, and an order under Schedule 11 paragraph 5A of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) that there was no liability to pay the landlord’s administration charge in respect of litigation costs.
2. The Tribunal received applications for other tenants to be joined to the proceedings. Joinder directions were made by the Tribunal on 15 September 2023, 4 October 2023, 4 December 2023 and 21 February 2024.

The Hearing

3. Robert Kettlewell (lead Applicant) appeared in person at the hearing accompanied by Mr J Coyne who acted as a Mackenzie Friend. Keith Nixon, who was joined as a party on 15 September 2023, also appeared in person.
4. Permission was granted at a hearing on 4 December 2023 for the Applicant to adduce expert evidence. Andrew Dewhurst was instructed by the Applicant on behalf of the majority leaseholders of 21 Plough Road to prepare a report, and he appeared at the hearing to give evidence.
5. The first Respondent (Plough Road Management Company) was represented by Bernadette Cunningham, and the second Respondent (Thornsett South London Ltd) by Harsha Parmar, employee of Thornsett Group Plc.

6. Plough Road Management Company Limited had appointed Town and City Management to manage 21 Plough Road at the request of the residents in March 2021. Peter Bigge, owner and managing director of Town and City, appeared at the hearing to give evidence.

The Background

7. The property, 21 Plough Road, which was the subject of this application, was a development of 69 flats built within the last ten years.
8. Neither party requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
9. The Applicants held long leases of the property which required the landlord to provide services and the tenants to contribute towards their costs by way of a variable service charge. The application was initially brought to the Tribunal by Robert Kettlewell of Flat 31. Included within the bundle was a copy of his lease, and this lease will be referred to below, where appropriate.
10. This matter was listed for hearing on 23 June 2023, however, the matter was adjourned until 4 December 2023 as the actual figures for the service charge year 1 March 2021 until 28 February 2022 were not available but were expected. The Tribunal therefore adjourned the hearing so that the Tribunal would have actual figures before it rather than estimated figures. The actual figures were not finalised until 24 November 2023 and were served on the Applicant Robert Kettlewell on 28 November 2023. The hearing on 4 December 2023 was therefore adjourned as there was not sufficient time for the case to be prepared on the basis of the actual figures.
11. The Tribunal therefore turned the hearing listed on 4 December 2023 into a directions hearing and case management directions were made, including for an amended schedule to be completed by the Applicants and Respondents to set out the issues in dispute. As stated above, additionally, permission was given for the Applicants to instruct an expert. The matter was adjourned for final hearing on 22 March 2024.
12. The parties were unable to agree a bundle of documents for the hearing and so each party submitted a bundle. The Respondent submitted a bundle of 573 pages and the lead Applicant submitted a bundle with two supplementary documents, which totalled 586 pages. The Respondent also submitted a report dated October 2023 undertaken by Andrew Dewhurst who had been appointed on behalf of the Applicants to inspect and provide a report.

The Lease

13. The property of the lead Respondent (Flat 31) was held under a lease dated 27 October 2016 for a term of 252 years (less 10 days) from 13 December 2013. The parties were Thornsett South London Ltd (1), Plough Road Management Company Limited (2) and Robert James Kettlewell (3). Robert Kettlewell's proportion of service charge liability was defined as follows:

1.93% of the Estate Costs as set out in Part A of Schedule 11
1.93% of the Block Costs as set out in Part B of Schedule 11
1.72% of the Parking Costs as set out in Part C of Schedule 11
2.76% of the Lift and Staff Costs as set out in Part D of Schedule 11
1.93% insurance contribution

14. The scope of each of the categories was as follows:

Part A – maintenance of estate communal areas including gardening, roads, kerbs and footpaths. Fence maintenance, cleaning of the estate communal areas, repair and replacement of any refuse storage bins, maintenance of service installations, lighting, party walls, public liability insurance, repairing fire alarms and security equipment within the estate, the cost of a reserve fund and incidental costs.

Part B – maintenance repair, renewal, replacement of the main structure of the block including the main structural parts of the balconies, communal doors, all service installations, fire alarms, security equipment, exterior decoration, common part decoration, cleaning and furnishings of common parts, cost of building insurance, window cleaning, television/satellite aerial provision, gate maintenance, provision of a reserve fund and incidental costs.

Part C – maintenance, replace and to keep in good repair and condition the car park, including repair and replacement of pipes, wires, cables and all other types of service installation and apparatus for the support of services to the car park, lighting that the management company thinks fit, the cost of a reserve fund and incidental costs.

Part D – maintenance, replacement and repair of lifts, emergency telephones connected to lifts, staff and concierge costs and provision of a reserve fund.

Part E – the cost of keeping accounts in relation to Parts A to D and serving the service charge certificate, compliance with statutory requirements, professional fees, enforcement costs, other services, or functions that the Management Company thinks fit for the benefit of the Dwellings, provision of a reserve fund, all other reasonable and proper expenses incurred by the Management Company in the convenient running of the Property including repair of inherent structural defects.

15. Under paragraph 19 of schedule 3 of the Lease, the tenant was to pay the insurance contribution which was defined as 1.93% in the particulars of the Lease.
16. The Estate Service Charge Costs were defined as moneys actually expended or reserved for periodical expenditure by or on behalf of the management company in carrying out the obligations in Schedule 11.
17. The Maintained Property was defined as the estate communal areas and gates to the estate, the car park, the main structure of the building, including the roofs, gutters, rainwater pipes, foundations, floors and all walls bounding individual dwellings therein and all external parts of the building including all structural parts of the balconies of the buildings together with all decorative parts and the structure and exterior of the internal common parts of the buildings which is intended to be managed by the management company for the benefit of the estate.
18. Service installations were defined as including services to and from the dwellings and any other buildings on the estate and shall include any equipment or apparatus installed for the purpose of such service or supply.
19. Paragraph 3 of Schedule 1 provided that the management company was a company formed with the object of maintaining the maintained property and to provide certain services. By paragraph 6 of Schedule 1, the landlord reserved the right to appoint a manager to act on behalf of the Management Company. Under schedule 3, the tenant covenanted to pay the tenant's proportion of the estate service charge costs.
20. By Schedule 5, the management company covenanted with the tenant to provide the management company obligations save that the management company may employ at its discretion a firm of managing agents. Management company obligations were defined under Schedule 11.
21. The Tribunal was not provided with a copy of any other leases relating to 21 Plough Road.

The Issues

22. At the start of the hearing the parties identified the relevant issues for determination as the reasonableness of service charges for 1 March 2021 to 28 February 2022.
23. In compliance with the Tribunal's directions, the Respondents produced a schedule at pages 110 to 134 of the bundle which set out the Applicants' and the Respondents' positions in relation to each service charge item in dispute. The lead Applicant, Robert Kettlewell, had previously

submitted a schedule and so on the day of the hearing time was given for him to check that all the points that were in dispute were included on the schedule. Robert Kettlewell agreed that this was correct and so the Tribunal has used the schedule on pages 110 to 134 as an agreed record of the issues in dispute. That schedule has therefore been reproduced under the various headings in this decision.

24. At the start of the hearing the Respondents noted that although they had provided a response to all of the items raised in the schedule by the Applicants, not all of the items were initially disputed by the Applicants when Robert Kettlewell first made his application. The Tribunal determined that it would deal with each item on the schedule on pages 110 to 134 because the directions made on 4 December 2023 (at paragraph 7 page 36 of the bundle) provided that the actual figures in the 2022 accounts should be used as the basis for a new schedule, and that for each itemised charge in the actual figures, the Applicant should identify whether the charge was accepted as reasonable or not. The directions further stated that for each item the Applicants alleged were unreasonable they should state their reasons and the Respondents should then respond in respect of each item that was challenged. This Tribunal took the view that this wording did not restrict the Applicant to the items that he had initially challenged and presumably the previous Tribunal had in mind that the actual figures may result in the Applicant wishing to make additional points. That being the case this Tribunal determined that each item on the new schedule (pages 110 to 134) should be determined by this Tribunal. There was no prejudice to either party as both parties had prepared for the hearing on that basis.
25. This Tribunal was greatly assisted by a spreadsheet (pages 159 to 161) that had been prepared by the Respondents which listed the category of work and the total charge and then gave the page references to the relevant invoices. The Respondents also included in the bundle the copies of relevant invoices and the final accounts were at pages 543 to 549.
26. For the avoidance of doubt, the amounts for the service charges that the parties provided to the Tribunal related to the charges for the block. The Tribunal therefore did not consider the apportionment as this would be a matter for the parties in accordance with the relevant leases.

Agreed Facts

27. The directions made on 4 December 2023 record at paragraph 10:

“In the course of the hearing, Mr. Kettlewell made it clear that the only issue in this case was the reasonableness of the sums charged. There was no issue as to whether the charges were payable under the terms of the lease or as to the service demands”.

28. The Tribunal therefore did not need to consider further the service charge demand or payability.

Items in Dispute

29. The Tribunal dealt with each issue identified in the schedule at pages 110 to 134 in the order of the schedule. For each item the Tribunal has reproduced the relevant section of the schedule and made its determination.

Gate Maintenance

30. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Gate	£10,892	<p>Not reasonable. Edmunds M&E were already engaged at £18,761.60 +VAT every year to cover maintenance of gates etc. All our security gates, especially the gates to our carpark are still failing and causing us big problems often. They were never fit for purpose. They have been damaged by their constantly failing 'engineers'. They were not even installed properly. These points were referred to in the survey which is already before the Tribunal. Clearly this is an issue which has caused great inconvenience to all occupants and as compromised the security of the building. In addition, the lessees have been asked to make mechanical insurance payments demanded which are demanded every year. The lessees are being charged for the contractors of the Respondents attending the premises on numerous occasions to fix what should have been correctly installed and maintained on previous occasions. The Respondents are charging the Applicants for this. Not only is there "double billing" but it is manifestly unreasonable and means that the Respondents are being rewarded for</p>	<ol style="list-style-type: none"> 1. The Applicant has not queried specific invoices as per the directions. He has queried the total amount of each line item. 2. There is a car part gate, as well as a number of pedestrian access gates. All are in constant use. Please find plan of all entrances attached to Bernadette Cunningham's witness statement. 3. Routine Preventative Plant Maintenance (PPM) is separate from call-outs, which may require attention outside of the scheduled maintenance visits. 4. For the costs towards Gate Maintenance during 2021/2022, the 2 largest invoices dated June and July 2021 respectively were one off costs to carry out repairs to the gate following attempted break in. There were no major issues since installation in 2016. 5. Engineering insurance (not mechanical insurance) payments are unrelated to gate maintenance. The Engineering Insurance Policy is part of the Health and safety regulations for lifts. 6. M&E is not the gate maintenance.

	<p>their own negligence. Please see out expert RICS Surveyor's report on these, Page 6. These same problems remain and have not changed since 2021. The same sort of extra billing for this appears each year, for many thousands of pounds. Unfortunately, Town and City & Thornsett refuse to respond properly and deal with our evidence on this – and throughout the year in question. Applicants have been accused of excessive and irrelevant communications. However, all that has happened is that on a number of occasions courteous enquiries have been made to the Respondents and they are still refusing to answer the legitimate questions that have been put to them. They have even tried to put the blame on the lessee, but no evidence has been provided to support this contention. The Applicants case is that all such charges are unjust, unfair and unreasonable because lessees are being charged for repairs and call out work which has only arisen because they have not initially addressed the repairing issues. As previously states, it would appear that the Respondent are thus making a profit from their own negligence and incompetence. We would pay the</p>	<p>7. We have responded to the surveyor report separately as part of Harsha Parmar's witness statement.</p>
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		previous year's figure of £427. Our submission is that this sum is just, fair and reasonable.	
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31. The Applicants' position can be summarised as stating that if the gates had been correctly installed and maintained, the charges in relation to the gates would not be as high. The Tribunal received a written report from Andrew Dewhurst, Bsc, MRICS MPTS who was instructed on behalf of the Applicants. Andrew Dewhurst also gave oral evidence to the Tribunal. At paragraph 10 of his report, Andrew Dewhurst detailed his findings in relation to the vehicle entrance gate automation system. In this report, Mr Dewhurst stated that regular failure of the gates suggested a defect in installation and recommended that the freeholder should have the geometry of the gates and automation checked. Additionally, Mr Dewhurst recommended that the concierge or other member of staff was trained so as to be able to open the gates manually.
32. The Respondents, through Harsha Parmar's witness statement, (page 156 of the bundle), stated that Paul Terry (MRICS), Development Manager at Thornsett, had considered Mr Dewhurst's report. In response, Mr Terry had confirmed that all the necessary sign-offs prior to occupation were completed and had stated that there was evidence that the gates and automated system had been tampered with/damaged. Additionally, Bernadette Cunningham in her witness statement (pages 104 and 105 of the bundle) included plans showing the number of doors to which this maintenance related. The Respondents' position was that this charge was therefore justified and reasonable.

Tribunal Determination – Gate Maintenance

33. In relation to the evidence presented by Andrew Dewhurst, the Tribunal noted that the issue before the Tribunal was the reasonableness of the charge for gate maintenance for the period 1 March 2021 to 28 February 2022. Mr Dewhurst's report followed an inspection on 24 August 2023. He therefore did not inspect the gates during the relevant service charge period.
34. Further, the Applicants submitted that the gates were not installed properly and that this was the reason why they failed. Andrew Dewhurst's evidence was that the regular failure suggested a defect in installation, however the Respondents' evidence was that the appropriate sign-off was obtained. The Applicants did not provide any further evidence to confirm that the gates had been incorrectly installed and did not state which invoices were not reasonable. The Tribunal therefore did not accept the Applicants' position.
35. The Tribunal considered the invoices that had been provided by the Respondent in relation to this service charge, and noted that the property had a large number of gates as set out in Bernadette Cunningham's statement. The Tribunal examined the invoices. In relation to the most expensive work, one invoice was for specialist remedial work to car park gates dated 7 June 2021 for £3,672.00 (page 163 of the bundle) and a further invoice dated 22 June 2021 for a specialist to attend site to

replace locking motors to the car park gates for £3,795.00 (page 164). The Tribunal accepted the Respondents' evidence that these invoices related to repairs that were necessary to the gate following an attempted break in and that there had been no major issues with the gates since the gates were installed. The Tribunal therefore found these invoices reasonable in relation to the work that was completed.

36. The Tribunal considered the other invoices provided under the heading of gate maintenance and also found these to be reasonable. These charges were:

6 month service to swing gate - £360 (page 162 of the bundle)

Repair to automatic swing gate - £360 (page 165 of the bundle)

Investigation in gates not opening properly - £429.00 (page 166 of the bundle)

Out of hours replacement bolt – £390 (page 167 of the bundle)

Out of hours call out - £234 (page 169 of the bundle)

Supplied 4 button RF key - £330 (page 171 of the bundle)

37. The Tribunal also accepted the evidence of the Respondent that there were two further invoices for increased voltage to lock on side gate £972 and excess on insurance £350.
38. The Tribunal accepted the evidence of the Respondent and found that the amounts charged were reasonable and related to work that the Respondents had carried out. The Tribunal therefore determined that £10,892.00 was payable and reasonable.

Building Insurance

39. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Building Insurance	£26,055	<p>Not Reasonable. It was Thornsett's choice of cheapest & most dangerous and highly flammable ACM Cladding that has roughly doubled this bill. Also, that they put items like 'Balcony Glass' onto this Insurance which should not be there, the shattered glass on balconies near the roof works are due to their drilling. As has been stated previously the Respondents are carrying out works on the structure of the building and the shattered glass was caused by their contractors. The cost of any such repair should be taken up by the respondents because their contractors caused the damage. They are still taking Commissions/extra payments for doing nothing for us with Insurance Co – see page 8/last page of final accounts Feb 2021. We questioned Bernadette Cunningham and her people about all this & they refused to explain properly. They never react to our evidence. They continue to take commissions for this expensive insurance, despite a ruling from the previous Tribunal where the presiding Judge told the Respondents specifically not to continue with this activity, which constitutes with this</p>	<ol style="list-style-type: none"> 1) Please see all the insurance information attached – including broker information. There were no alternative options available at the time as is clear from the Broker's Renewal Letter of 16/02/2021 (copy attached) 2) The cladding has been removed and Thornsett did all the work to secure government funding and obtain an EWS1 form. Unfortunately, in the interim, inflation has had a huge impact on all insurance premiums. 3) LRM were the previous managing agents. Town & City are the current managing agents. 4) Town and City do not take commission on placing the insurance. Confirmation email from Brokers attached. 5) Balconies are part of the structure of the building, and repairs fall under the building insurance. Extension works did not commence on the building until July 2021, after the date of the claim, and therefore unrelated.

		<p>activity, which constitutes unjust enrichment. Page 8 of Final Accounts – Feb’21: “Insurance Commissions – London Residential management is committed to being open and transparent with leaseholders as to how we manage your property and how your Service charge is spent. The statement below sets out where LRM acts as a supplier or receives income from the Service charge fund. London Residential Management Ltd receives a commission as a result of placing the insurances for the development. This covers administrative tasks such as checking the policy content is relevant to the development; the level of cover is appropriate and that the claims made under the policy are processed in a timely manner”. We leaseholders are prepared to pay the Insurance levels as were competitive before Thornsett’s problems put it up & before they excluded all but one Co. IN THE YEAR FEB 2019 THE ACTUAL FOR THIS CATEGORY WAS £13,106 FEB 2018 ACTUAL Building & Terrorism Insurance £11,716.</p>	
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40. Bernadette Cunningham confirmed in evidence to the Tribunal that London Residential Management were no longer the managing agent, and commission was no longer taken. The Tribunal accepted this evidence.

Tribunal Decision - Insurance

41. The Tribunal considered the letter of 16 February 2021 from St Giles Insurance and Finance Services Ltd (page 173 of the bundle) that confirmed that only Allied World was able to offer an insurance quote. The letter explained that quotations were difficult because of the cladding issue as well as the claims history. The Applicant did not provide any alternative quotations and his 2018 insurance quote comparison was too long ago to be taken into account. The Tribunal therefore found that the amount claimed for insurance was reasonable given that the quotation that was accepted was the only option available. The Tribunal therefore found £26,055 payable and reasonable.

Plant Maintenance

42. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments				
Plant Maintenance	£30,759	<p>Not reasonable. Invoices for their roof construction work and pipe works together with the continual water leaks are Thornsett's bills and should not be recharged back to the lessees. The new boilers and the supporting system should be in peak condition and not continually failing. Many lessees have experienced cold showers regularly. The lessees are being charged £18,000 a year, plus this "Plant Maintenance" sum for a constantly failing system? There has been no adequate explanation for the number of EDMUND invoices/bills. They are numerous and lack meaning or explanation – charging thousands of pounds for leaks and part on new boilers and private works. The figures claimed are unreasonable for modern, newly installed boilers. See Surveyor's Report Pages 7 & 8. Thornsett's roof work extensions, and their water leaks, were going on in the year to Feb'22. The Applicants agree to only to pay invoices which are lawfully due, reasonable</p>	<p>1) The applicant has not stated that there are specific invoices that he has an issue with. The applicant does not say which invoices he is prepared to pay and which are disputed.</p> <p>2) Where he states certain items should not be recharged to leaseholders we need to understand which invoices he is referring to.</p> <p>3) The building in 2021 was 6 years old, and maintenance and repairs are not unusual for equipment to remain efficient. Breakdown below:</p> <table border="1" data-bbox="1431 887 1841 1327"> <tbody> <tr> <td data-bbox="1431 887 1659 1070">BMS (electronic system to control plant equipment)</td> <td data-bbox="1659 887 1841 1070">£1,569.60</td> </tr> <tr> <td data-bbox="1431 1070 1659 1327">Boiler Repairs (3 number boilers required one off repairs, including a</td> <td data-bbox="1659 1070 1841 1327">£2,706.46</td> </tr> </tbody> </table>	BMS (electronic system to control plant equipment)	£1,569.60	Boiler Repairs (3 number boilers required one off repairs, including a	£2,706.46
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Boiler Repairs (3 number boilers required one off repairs, including a	£2,706.46						

		incurred, proportionate to the works or services carried out, fully explained and relevant.		new screen on one boiler	
				Booster	£360.00
				Generator (Backup power supply to support life safety systems. Costs include parts and maintenance)	£6,111.97
				LTHW system (Pump-set pushing water to all 69 apartments, required pump repairs and a routine chemical wash)	£1,991.52
				PPM (Planned preventative)	£9,857.39

			<table border="1"> <tr> <td>maintenance visits)</td> <td></td> </tr> <tr> <td>Pumps (ad-hoc repairs to various pumps in the plant room servicing the system)</td> <td>£2,709.12</td> </tr> <tr> <td>Plant related maintenance (General maintenance related to whole building, including firestopping, valve repairs, PSU valve replacement on level 3 riser, etc)</td> <td>£6,600.24</td> </tr> </table>	maintenance visits)		Pumps (ad-hoc repairs to various pumps in the plant room servicing the system)	£2,709.12	Plant related maintenance (General maintenance related to whole building, including firestopping, valve repairs, PSU valve replacement on level 3 riser, etc)	£6,600.24	
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Plant related maintenance (General maintenance related to whole building, including firestopping, valve repairs, PSU valve replacement on level 3 riser, etc)	£6,600.24									
			<p>4) As per the witness statements, Thornsett has made a contribution to the service charge equivalent to one year's service charge to each leaseholder.</p>							

			5) We have responded to the surveyors report separately.
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Tribunal Decision – Plant Maintenance

43. The Tribunal accepted the evidence of the Respondent as they had detailed the reasons for the expenditure in the table that they included with the schedule (above). The Tribunal found that invoices had been provided by the Respondent as set out at page 159 of the bundle. Additionally, the Applicants did not challenge any specific invoice and therefore the Tribunal found the amount claimed payable and reasonable.

General Maintenance - External

44. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
General maintenance Ext	£1,108	The Applicants position is that this sum is not reasonable, No invoices have been produced by the Respondents Although Thornsett and T&C have this on their list no evidence has been provided as to what this sum is for. We questioned this and they only said that it was for "external Maintenance." Thornsett builders do not clean up properly after their works on our roof, and they endanger us with bits of concrete, wood & other work materials falling on us & our balconies. We clean up more than they do. The Respondents [<i>Applicants</i>] position is that this sum is not due.	<ol style="list-style-type: none"> 1) All invoices have been produced to the applicant for scrutiny. None of the invoices relate to building extension works taking place on the roof. 2) The applicant has not queried individual invoices.

Tribunal Decision – General Maintenance External

45. The Tribunal accepted the Respondents' evidence that none of the invoices related to building extension work taking place on the roof. Additionally, the Tribunal accepted that the invoices that the Respondents had produced as set out at pages 218 to 220 of the bundle and found that the charge made was therefore reasonable.

Management Fees

46. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Management Fees	£15,596 +vat @20%=18,715	<p>This figure is unreasonable. Over 21 days no response all through the year in question. Even when we point out that refusing to respond within 21 days is breaking the law they still do not respond. The new manager, Brett T, has also failed on this- despite our building being open for all muggers, thieves or worse to walk into our homes. They ignore us totally. See surveyor's Report page 6. Why should we pay for them enabling Thornsett to do whatever they like, when it puts us in danger? They demand money unreasonably and deliberately manipulate service Charge bills upwards. Total SC Expenditure £137,024 To Feb 2018. Total SC Expenditure now £291,777 Head of T&C, Peter Bigge, writes to The Tribunal that all his charges are based on LRM's SC billing. So why has his SC billing risen so much? He refuses to respond to my emails on this for well over 21 days at a time. This is expressly against the terms of the</p>	<ol style="list-style-type: none"> 1) Please note management fees were not part of the applicant's original items of service charge being queried. This has been added on to the applicants list of queries. 2) Town and City (the current managing agents) were selected by residents to take over from the previous managing agents LRM. Fees would have been negotiated by the residents before the selection process was complete. 3) T&C charge £244 per apartment per year for management - this is on the lower end of what others in the industry charge. There are 69 residential units in the building. 4) The applicant emails continually and has not paid his service charge since occupying his property. 5) The applicant does not seem to understand that the managing agents (both the previous company LRM and the current company Town & City) are entirely separate entities to Thornsett and PRMCL. 6) Town & City based their original starting budget on LRM's last year billing-which is usual when taking over a building. All

		lease and in breach of the duty of care owed to all lessees.	costs across the whole of the UK have gone up in last few years.
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Tribunal Decision – Management Fees

47. There was clearly a difficult relationship between the lead Applicant and the Respondents, however this did not provide a reason for management fees that were properly charged not to be paid.
48. The Tribunal noted that the figure shown in the accounts at page 545 of the bundle was £15,596. However, the amount the Applicant sought was £18,715, the difference being VAT. The invoices for management fees were found at pages 221 to 224 of the bundle.
49. Additionally, the Tribunal accepted the evidence of Harsha Parmar at page 145 of the bundle that the appointment of Town and City Management was at the request of residents. Further, Harsha Parmar on behalf of the Respondents confirmed in her statement that the management charge was for the management of 69 properties and equated to £271 per property per year. Although not supported by evidence, Harsha Parmar stated that the current market rates for management fees averaged between £300 - £350 per property.
50. In light of all of this, and using its expert knowledge and experience, the Tribunal found that £18,715 was payable and reasonable.

Accountancy Fees

51. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Accountancy Fees (3,133) Other pro fees (£4,100) office expense (3,842) Legal & Pro fees (1,125)	Total=12,200	None of these charges are reasonable. The Applicants have seen no invoices. The totals do not add up correctly And, once again, again, these figures have been newly added and are totally unexplained. They also charge increasing amounts to send threatening emails & letters to us demanding only full payment – going up to £250 + vat extra for sending the bill to their solicitor. We would only pay a very small % here & only if relevant invoices are shown. The Applicants can see no reason why they should pay these unreasonable admin and office costs their failed systems that have put us all in danger throughout this year 21/22.	<ol style="list-style-type: none"> 1) Please note none of these items were on the applicant's original list of service charge queries. Again, he has not queried specific invoices. 2) The Applicant is querying invoices for chasing his unpaid debts. If he paid his service charge, the managing agent would not need to chase him for payment and incur solicitor fees for doing so.

Tribunal Decision – Accountancy Fees

52. Although this charge was entitled accountancy fees, it actually included legal and professional fees, other professional fees and office expenses as well as the accountancy fee. The lead Applicant did not point the Tribunal to any specific amount that he was challenging.
53. The Tribunal considered the invoices at pages 225 to 230 and found the amount charged for accountancy fees was reasonable, namely £3,133. Additionally, the Tribunal found the amount charged for the detailed review of handover information and significant work for £4,100 was also reasonable.
54. Regarding office expenses, the Tribunal disallowed the invoice at page 225 for £67.87 as this was dated 6 November 2020 and therefore fell outside the relevant service charge period. Additionally, within the Respondents' spreadsheet for this category was a charge from Dayco Property Maintenance which was described as investigation blockage for £186, for which no invoice was provided. The Tribunal was not satisfied that this was an office expense and so this amount was also disallowed. In terms of legal fees, there was an invoice dated 27 January 2020 from PDC law for £205. The Tribunal disallowed this amount because that was outside the relevant period.
55. The Tribunal has therefore allowed the following items:

Accountancy Fee - £3,133

Professional Fee - £4,100

Office Expense - £1,500

£76.75

Legal Costs - £920

Total - £9,729.75

Landlord's Supply- Electricity

56. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Landlord's supply-Electricity	9,964 (B) 1,293 (A) 647 (car park) 647 (Staff/ Lifts) = 12,551	<p>These figures are totally unreasonable. The Respondent have an unpaid Electricity bill for £34,000 which has incurred extra penalty fees. The lessees should not pay their extra fees. The Surveyor's Report (Re Thornsett builders) has provided evidence that the contractors for the Respondents have been stealing our electricity from communal areas at the expense of the lessees for their rood works. Photographic evidence has been provided. See Surveyor's Report Page 5. Now they are also taking our Electricity from our 7th Floor wiring box. Their wires go out of our box and up to their rood works. The lessees have been information that stealing electricity is a Criminal Offence and this has happened throughout the building works carried out by the Respondents including the period 2021/22. This used to be around £4,000 which we would pay as this is reasonable.</p>	<ol style="list-style-type: none"> 1) Please note none of these items were on the applicant's original list of service charge queries. Again, he has not queried specific invoices. 2) Please also note that works to the extension (roof) did not commence until July 2022, outside the period disputed in this Tribunal. 3) Please further note that Thornsett's contribution of 1 year of service charge costs would include the cost of landlord electricity. Contributions commenced in September 2021, therefore before the building works almost a year before the works actually started. 4) Tenant also disregards the nationwide increase of utilities including electricity costs. Nether we nor the managing agents control price increases of utilities.

Tribunal Decision – Landlord’s Supply Electricity

57. The Tribunal accepted the evidence of the Respondents that the work to the roof did not commence until July 2022, therefore the Tribunal was not considering any allegations made by the Applicants in relation to the taking of electricity for roof work. The Tribunal was considering the service charge period 1 March 2021 to 28 February 2022 only.
58. Thornsett told the Tribunal that they had paid all the service charges for all residents, including communal electricity, from September 2021 which was the period six months into the service charge year the Tribunal was considering. The Respondents stated that this was shown as a credit at page 545 of the bundle “£90,000 – Freeholder Contribution”.
59. The Tribunal accepted the evidence of the Respondents that they did make this contribution to the service charge from September 2021 and that this credit was shown in the accounts. However, the Tribunal was not able to reconcile the invoices provided with the amount the Respondents claimed. The invoices within the bundle at pages 231 to 259 appeared to add up to £9,402.66 but these included a penalty fee for unpaid bills which the Tribunal did not find reasonable to pass on to tenants. Additionally, the invoices covered the time that the Respondent had said that they paid the service charges (from September 2021). Given that the service charge year ran from March 2021 to 28 February 2022 and the landlord was paying the service charge for one year from September 2021, the service charge should therefore only be for electricity for the period 1 March to 31 August 2021- 6 months.
60. The Tribunal therefore used its own expertise to calculate the amount of electricity payable for 6 months (1 March 2021 to 31 August 2021) under parts A, B, C and D and found that the amount payable for landlord’s supply electricity for the service charge year March 2021 to 28 February 2022 was £6,300. The Tribunal reached this amount by comparing the 2021 actual amounts, the budget amounts and the actual for 2022. In reaching this decision, the Tribunal discounted penalty fees for unpaid bills and took into account the landlord contribution that was made for 6 months of the year.

Window Cleaning

61. The parties’ positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Window Cleaning	1,344	Not reasonable. See concierge (Kris) email saying that Town & City have never produced any window cleaning. LRM agents did it last time. Our windows are filthy (due to Bernadette C's roof works) & have been for years. She refuses to respond. Where are the invoices? No ext window cleaning happened in this year in question & since then. They constantly cover our windows in builders' filth & dirt, but refuse to clean and make good. No payment here.	<ol style="list-style-type: none"> 1) Please note none of these items were on the applicant's original list of service charge queries. Again, he has not queried specific invoices. 2) There was one clean carried out during the period queried, and took place before the scaffolding works were fully installed. Scaffolding was required to remove the cladding and it was thought not unreasonable not to clean the windows whilst the scaffolding was in place.

62. The relevant invoice was dated 24 July 2021 (page 260 of the bundle). The invoice was described as for quarterly window cleaning to all accessible external apartment windows, all outward facing balcony glazing and all communal windows inside and out.

Tribunal's Decision – Window Cleaning

63. The Tribunal found that the charge for window cleaning was reasonable. The Tribunal accepted the evidence of the Respondent that the windows were cleaned once during the relevant period and that this was prior to the scaffolding for the cladding removal works being erected. The Tribunal accepted the evidence of the Respondent that it was not reasonable to clean the windows more than once given the scaffolding that was then in place.

64. The Tribunal therefore found the amount of £1,344 reasonable.

Fire Equipment Maintenance

65. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Fire equipment maintenance	6,056	<p>The Applicants say that this figures is not reasonable. It is unclear what was maintained and when. In addition the previous bill was £1,500. Invoices adding up? Our AOV fire windows are all turned off/not working. What is the point of a big increase in Fire EM spend if they are not working & could add to the spread & danger of a fire? Why, despite saying that it would be sent around later summer, have T&C withheld our latest Fire & safety Report? Did it fail our building & what dangers are we vulnerable to again? They and all Bernadette C's team refuse to answer our emails. Add dumping more danger on us to the totally unreasonable charges. They must pay for putting us in danger to fire spreading etc.</p>	<ol style="list-style-type: none"> 1) Again the applicant has not queried particular invoices. 2) The amount in question relates to maintenance and testing of life support systems – fire alarms, vents, fire extinguishers, etc, and a one off cost of £2, 289.60 to reinstate balustrades to all the windows to prevent danger to life. The balustrades were previously removed when the windows were boarded up upon the instruction of the fire service prior to cladding remediation works.

Tribunal Decision - Fire Equipment Maintenance

66. The Tribunal accepted the evidence of the Respondents that the amount charged included the testing of life support systems, fire alarms, vents, and fire extinguishers. The Tribunal also accepted the Respondents' evidence that the balustrades were removed when the windows were boarded up following instruction from the fire service prior to the cladding remediation work. The one-off cost of £2,289.60 to reinstate the balustrades to all windows was therefore reasonable.
67. The Tribunal also accepted the evidence of the Respondents that the charge did not relate to AOV fire windows. The Tribunal considered the invoices that related to this expense (page 261 to 280), and noted that the Applicants did not provide the Tribunal with any alternative quotes.
68. The Tribunal therefore found the charges relating to fire equipment reasonable.

Door Entry - Access Security System

69. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Door entry – access security system	5,593	<p>Not reasonable. These doors have never worked properly. Not fit for purpose. They fail continually. See Surveyor's report, Pages 3 & 4, items 2 & 3. They should be paying us compensation for all our parcels stolen & for endless risks to our safety and security.</p> <p>Despite the many warnings and our front door being open to all criminals, they continued to badly botch jobs here...demanding over & over more money for their incompetence & unprofessionalism. The same applies to our back doors too. Any criminal can get in there & straight into our homes, as all the doors are broken and not working properly. Sometimes all at the same time. This happened over & over as soon as Thornsett builders were using these doors from 2020, not before then. Why pay the same bill over & over if it's never reliable & secure? We do not offer to pay anything for these dangers to our lives & our homes solely of Thornsett's making & responsibility.</p>	<ol style="list-style-type: none"> 1) Please note none of these items were on the applicant's original list of service charge queries. Again, he has not queried specific invoices. 2) We have responded separately to the surveyors report. 3) Bernadette Cunningham's witness statement includes plans showing the number of doors included under this line item. 4) No managing agent takes responsibility for parcels – residents should have them delivered to their apartment and they sign for them, or arrange an alternative safe place for collection.

70. At the hearing, Bernadette Cunningham told the Tribunal that doors installed in the neighbouring property (Fowler Close) were not having the same issues as the doors at the Property.

Tribunal Decision - Door Entry - Access Security System

71. The Tribunal found this amount reasonable. In reaching that decision, the Tribunal considered the invoices (at pages 280 to 297 of the bundle).
72. The Tribunal considered the report of Andrew Dewhurst (pages 3 to 4 of his report) and noted his comments that the pedestrian entrance door failing suggested that the doors were not of an adequate quality or robust enough and that this should be a freeholder charge. However, the Tribunal accepted the evidence of Harsha Parmar on behalf of the Respondents (page 156 of the bundle) whereby she confirmed that the door was installed to the necessary standards, but had been subjected to mistreatment and damage.
73. Whilst this was clearly a live issue between the parties, the Tribunal was considering the reasonableness of the charge. The Tribunal therefore considered the invoices provided by the Respondent, and noted that the Applicant did not raise any objection to a specific invoice.
74. The Tribunal accepted the evidence given by Bernadette Cunningham that there were a number of doors to which this item related and noted that the Property had 69 flats. The Tribunal therefore found that the costs were supported by invoices and payable under the lease and were reasonably incurred.

General Maintenance – Internal

75. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
General Maintenance - Internal	6,479	<p>Not reasonable. David H emails what goes into this, but only totalled £3k with some wrong invoices. Where do their relevant invoices add up to this total?</p> <p>Bin store doors have never been fixed properly and are now damaged by them. See our expert Survey page 3, item 1. Our light bulbs & many electrics never work properly.</p> <p>They were not installed & not fitted correctly.</p> <p>See Surveyors Report – page 4, item 4.</p> <p>We would pay about £2,000 for this category.</p>	<ol style="list-style-type: none"> 1) Again the applicant has not raised comments on specific invoices making it very difficult to argue. 2) The bin store in question is the ground floor bin store dedicated to social housing, where the handle broke. In addition, a secure safety plate was installed to the pedestrian gate on Plough Road preventing access to the 'push exit' button from the outside.

Tribunal Decision – General Maintenance (Internal)

76. The Tribunal accepted the evidence of the Respondents. The invoices to which the service charge related were set out in the bundle at pages 298 to 312 and the Tribunal found the amounts to be reasonable. This was because they related to general maintenance and within the invoices the work was specified in detail. The Tribunal found this work and the cost of it reasonable. The Tribunal noted that the Applicants did not challenge a specific amount on any of the invoices.
77. The Tribunal also accepted the evidence of the Respondent that the bin store to which the charge related was the ground floor bin store where a handle had broken. The Tribunal therefore did not consider further Andrew Dewhurst's report (page 3 item 1) as this was not relevant to this issue.
78. The Tribunal therefore found that this charge was reasonable.

Heat Interface Units (HIU) Maintenance

79. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
HIU Maintenance	37,479	<p>Not reasonable and massively increased due to Thornsett not installing our HIUs with the correct parts-eg. Without Cleaning Units. Therefore, they clog up = more cold showers and no hot water etc. They will keep clogging up until Thornsett installs fully functioning HIUs.</p> <p>See surveyors Report Page 7. Their invoices on these do not add up & are often wrong too. We would only pay the original cost (set before they started clogging up) of about £4K.</p>	<p>Actual spend was £37,479, of which Thornsett contributed £22,000. The leaseholders spent £15, 479 which was the original budget amount. Please see Harsha Parmar witness statement for information on this.</p> <p>In addition, Thornsett also spent another £16, 744 (a total of £38, 744) in arranging for the hot water system to be restored to every apartment which it was.</p>

80. At the hearing, Keith Nixon, who had provided a statement at pages 447 to 448 of the bundle also gave oral evidence regarding HIU maintenance. In particular, Keith Nixon confirmed that he had been told by a plumbing engineer that a reasonable figure for an annual service would be £75 per year per flat. Additionally, Keith Nixon reiterated what he had said in his statement that the HIUs had not been installed to the manufacturer's specification and each flat should have had a separate filter attached.
81. The Tribunal also considered paragraph 14 of Andrew Dewhurst's report in which he stated that he had been advised that a maintenance engineer had reported that the problem was that there were deficiencies in the original installation and, if this was the case, the cost should have been with the freeholder. The Tribunal noted that Andrew Dewhurst did not provide any specific expert opinion, instead he reported what he had been told. The Tribunal therefore attached little weight to this.
82. The Tribunal also considered the evidence of Harsha Parmar, particularly her witness statement at pages 146 to 154 of the bundle. Harsha Parmar's evidence can be summarised as confirming that the remediation works recommended totalled around £19,436, but lack of funds had meant that Town and City were unable to action the work. This being the case, in January 2021 Thornsett were approached for a loan to assist. Thornsett had made a loan of £22,000 to PRMCL. This meant that £37,479 was paid but the landlord's contribution was £22,000.
83. Whilst outside the relevant period, Harsha Parmar confirmed that by June 2022 the issue was still not resolved and so the original commissioning engineers had completed a review and found that parts within the HIUs required replacement. Some of this work included work that should have been completed using the loan previously given. The cost for these works was £16,744, which Harsha Parmar confirmed was not passed on to leaseholder.
84. The Tribunal sought further clarification from the Respondents as to the nature of the loan as in the annual accounts (page 548 of the bundle) £22,000 was shown as a loan from freeholder rather than a credit. The Respondents confirmed only that the loan had not been demanded back to date.

Tribunal Decision - Heat Interface Units (HIU) Maintenance

85. Whilst it was clear that the HIU had caused significant issues, the Tribunal reminded itself that its jurisdiction in this matter was to assess the reasonableness of the charge for the service charge year 1 March 2021 to 28 February 2022.

86. The Tribunal did not find that the charge of £37,479 was reasonable given the evidence it had heard from both parties that the HIU were not working as they should. The budget amount for this charge was £15,000. The Respondents' evidence to the Tribunal, as set out at paragraph 11 - 14 of the Respondents' skeleton argument, was that the total cost paid in the accounts for HIU maintenance was £37,479, however the landlord contribution was £22,000.00 meaning that £15, 479 was said to be the cost to the leaseholders. The Respondents stated at paragraph 12 of their skeleton argument as follows:

“Therefore, in total Thornsett have paid £22,000 + £16,744 to replace this heating and hot water issues. This does not include Thornsett management or staff to manage these issues. Hopefully, this shows the Tribunal that Thornsett are a proactive landlord working and paying to resolve issues. It should also demonstrate that the cost passed onto the leaseholders for this line item have been reasonable as the bulk of the cost has been borne by the original developer”.

This position appeared to be at odds with the evidence given to the Tribunal at the hearing that the £22,000 was actually paid by way of a loan. It was therefore not clear whether or not this loan would be repaid and whether this would be payable by the tenants.

87. The Tribunal focused on the issue before it which was the reasonableness of the amount charged rather than the financial arrangements of the Respondents, and found that a reasonable amount for this service charge that should form part of the service charge to leaseholders was £15,479. This took into account the problems with this system that the Respondents had identified in their evidence, and which the Applicants also described. Whilst the precise arrangements of the loan were not clarified to the Tribunal, the Tribunal found that £15,479 was a reasonable charge for HIU maintenance for the relevant service charge and this therefore meant that the cost of this loan should not be passed on to leaseholders in future years.

Water Hygiene Testing

88. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Water hygiene testing	4,650	<p>The Applicants believe that this sum is unreasonable. The previous year's total was £1,470. Where are the invoices adding up to this total?</p> <p>Haus management actual quote for similar issue was £558.</p>	<ol style="list-style-type: none"> 1) The applicant did not raise this in his original application. 2) Again the applicant has not raised comments on specific invoices making it very difficult to argue.

89. At page 161 of the bundle invoices which totalled £1,876.16 rather than £4,650 were included. The Respondents noted in the margin to the table that the “invoices do not match”. The Respondent confirmed that this was most likely because the charges were within invoices from Edmund Service Ltd where multiple charges were made on the same invoice.
90. The Tribunal noted that the service charge accounts at page 545 of the bundle showed that the actual charge for the service charge year end for water hygiene testing was £1,470 and that the 2022 budget was £1,400. The Respondents did not provide an explanation for the increase to £4,650.
91. The Tribunal noted that throughout the bundle the annual charge for water disinfection and hygiene was shown as £4,152.06, excluding VAT (page 193 of the bundle was an example of this). The invoices gave a monthly total of £346.01 (excluding VAT). The Respondents’ figures showed a monthly charge of £415.37 (page 161 of the bundle) which appeared to be the monthly amount of £346.01 plus VAT. However even if the Tribunal took the £415.37 figure and turned this into an annual figure, the total would be £4,984.44. The Tribunal was therefore unsure as to how the annual charge of £4,152.06 had been arrived at.
92. The Tribunal therefore used its expert knowledge of monthly amounts charged and found that monthly disinfection and hygiene testing was a reasonable charge and that £346 per month was a reasonable amount for that service.

The Tribunal therefore found that the annual charge of £4,152 was reasonable.

PV Cells

93. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
PV Cells	1,489	Not reasonable as they have been taken off our roof due to Thornsett's roof works-building new flats on top of us. Who benefits from the electricity made by these solar cells. We will not pay for this as we do not see any evidence of it being for us. In the Lease it states that PV cells or solar panels are not allowed here. We will not pay for this.	The applicant did not raise this in this original application.

94. At the hearing, the lead Applicant reiterated his position as set out in the schedule and confirmed that it was his view that the PV cells did not need maintenance.
95. The Respondents took the Tribunal to the invoice from Evoenergy at page 384 of the bundle which was for an annual inspection. The invoice was dated 19 January 2022 and was for £1,326. The Respondents also confirmed that the PV cells needed cleaning. In answer to the Applicant's objection that the PV cells were removed because of building works, the Respondents confirmed that this did not happen until mid-2022, which was outside the period the Tribunal was considering.

Tribunal Decision – PV Cells

96. The Tribunal accepted that this charge was reasonable. The Tribunal was satisfied that the PV cells needed annual maintenance and cleaning and that £1,489 was a reasonable charge for this work. The Tribunal accepted the Respondents' evidence that the PV cells were removed after the service charge period the Tribunal was considering.
97. The Tribunal therefore found the amount of £1,489 reasonable.

Car Park Emergency Lights

98. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Car Park Emergency Lights	562	Not Reasonable.. as at 2/1/2024 we are in darkness there in our car park & have been for months, with light failure. See photos.	1) Emergency light testing is a Health and Safety requirement.

Tribunal Decision – Car Park Emergency Lights

99. At the hearing the lead Applicant reiterated his position as set out in the schedule and told the Tribunal that there were no emergency lights. The Respondents confirmed that there were lights in the car park and this charge was shown in the accounts as “emergency light testing”. The Respondents confirmed that this testing was a necessary health and safety requirement, but accepted they had not been able to produce an invoice relating to the category “car park emergency lights” (page 161 of the bundle).
100. The Tribunal was not satisfied that this charge was reasonable. The lack of invoice for this work and the Applicant’s evidence that the car park was in darkness meant that the Tribunal found that this charge was not reasonable. The amount of £562 was therefore disallowed.

Car Park Telephone

101. The parties’ positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Car Park Telephone	1,092	<p>Not payable. The Respondents have admitted this should not be there & done nothing about it.</p> <p>There are no telecoms in our car park.</p> <p>Another example of even when they realise or are shown a problem, they still do not fix it or sort it out. Having done nothing, they then demand full payments.</p> <p>How can this have made it to Final Accounts: Why did none of their people – accountants and directors etc- correct the obvious mistake? This leads us to think that it is deliberately left there. No real invoices=no payment.</p>	<ol style="list-style-type: none"> 1) No invoice has been queried. 2) The telephone service actually refers to the data line from the Electric Vehicle charging stations in the basement car park.

102. At the hearing, the Respondents confirmed that this heading should actually be renamed “telephone lines” rather than “car park telephone”. At page 546 this charge was shown in the accounts as “telephone - £1,092”.
103. The Respondents confirmed that the relevant invoices were at pages 385, 386, 387, 388. At pages 385 to 386 was an invoice from Communication Solutions UK for July 2021 for an amount of £19.88, and at pages 387 to 388 an invoice from the Cloud network for July 2021 for the amount of £66.30. The Respondents told the Tribunal that this was one month of invoices and these needed to be multiplied by 12 to get the yearly figure.

Tribunal Decision – Telephone

104. The Tribunal considered the invoices and was satisfied that this charge related to the lift line and call charges from this line as set out in the invoices. The Tribunal also accepted that the receipts shown in the bundle related to one month only and so it was entirely expected that there would be variation to the monthly amount depending on the number of calls made in each month. The Tribunal therefore accepted the evidence of the Respondents and found that the amount of £1,092 as shown a page 546 of the bundle under the heading “telephone” was reasonable.
105. Whilst not an issue brought before the Tribunal, the Tribunal noted that within the accounts at page 545 was a charge for “Telecom lines -£538”. This was not raised by either party; however, the parties may want to clarify what this charge related to in order to ensure that it is not now covered within this renamed heading “telephone”. Telecom lines appeared as a part B costs in the final accounts whereas telephone appeared as a Part C car park cost. However, given the Respondents had confirmed that £1,092 did not relate to the car park, the parties should seek to clarify this.

Staff Cost

106. The parties’ positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Staff Cost	42,228	<p>The Applicants believe that this figure is unreasonable. Bernadette C said that there was a 20% increase due to new laws that she added in. But this used to be at £32K. neither are we paying for unneeded training. Nor for concierge cover on bank holidays etc (eventually agreed by David H).</p> <p>The concierge still does not make sure that we are protected & that jobs are done properly. For example, the lessees have been charged for "carpet cleaning" which has never been carried out or if it has never done properly & our security doors and gates are never fixed properly. They are just damaged some more. Eg. TWICE his toilet had to be replaced. He should be making sure that we do not have to pay over & over for incompetence & bad jobs. See how many failures throughout this new build still happening over & over again in our Surveyor's Report. Eg. Many bikes, parcels & our property stolen or damaged on his watch with CCTV. Most of us leaseholders have had to accept nig pay cuts through the pandemic & now</p>	<ol style="list-style-type: none"> 1) This line item was no part of the applicant's original application regarding service charge line items. 2) The applicant gives no detail on why they think this is unreasonable. They have not queried any particular invoices. 3) See invoices on concierge wages. When he is on annual or sick leave, a temporary replacement is installed. Their costs are supplementary to the concierge costs. 4) The concierge does not do the carpet cleaning 5) I am sorry that applicant's pay has been cut but I am not sure that is relevant to the argument about what the concierge is paid. The concierge has been in post since the building opened in 2016. I am not aware of any other leaseholders complaining about him.

		<p>onwards.. so why should T&C demand pay rises?</p> <p>We would pay relevant Staff Costs at the level they were a few years ago +20%. @Staff Costs 32,000 + 20% =38,400.</p>	
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Tribunal Decision – Staff Costs

107. The Respondents provided invoices for these costs at pages 389 to 415 for staff who covered concierge duties. In terms of reasonableness, the Tribunal noted that the Applicants did not provide any comparative information or detail as to why they said that the staff costs were unreasonable. The Tribunal therefore accepted the Respondents' evidence and found that the staff charges were reasonable.

Salary Administration Fees

108. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Salary Admin Fees	2,861	The Applicants position is that this figure is not lawfully due. There has been no adequate explanation or invoice as to what exactly this figure is for. This element of the service charges appears to have just been added on in a rather arbitrary fashion. Is this a salary? Or a payment to "administer" a salary. The applicants position is that this fee is not rechargeable unless a satisfactory explanation is provided.	<ol style="list-style-type: none"> 1) This line item was not part of the applicant's original application regarding service charge line items. 2) The applicant has not stated which invoices he is querying.

Tribunal Decision – Salary Administration Fee

109. The Tribunal accepted the evidence of the Respondents that this charge was for paying wages and other duties such as finding temporary staff to cover leave.
110. The Tribunal was satisfied that this was a reasonable charge and found that the 10% charge was a usual commercial arrangement.

Electric Vehicle Maintenance

111. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Electric Vehicle Maintenance	334 + 130 =464	Nowhere in our Lease does it say that this can be charged to us in Service Charges. The previous concierge managed better without any extra gadgets and vehicles. No payment	<ol style="list-style-type: none"> 1) This line item was not part of the applicant's original application regarding service charge line items. 2) This is for the electric vehicle that brings the bins up the ramp from the bin store to street level for collection. There has always been a vehicle to bring bins to the street. 3) Amount in the accounts = £334

Tribunal's Decision - Electric Vehicle Maintenance

112. The lead Applicant's position was that the charge for use and maintenance of an electric vehicle was not within the lease, however the lead Applicant did not elaborate as to why he had reached this conclusion. The Respondents stated that the electric vehicle was used by the concierge to bring bins up a ramp from the bin store to street level. As the Applicant questioned the payability of this charge the Tribunal considered the terms of the lease, and in particular schedule 11 (pages 90 to 93 of the bundle) and found that this cost was payable. Paragraph 4 of Part D provided for the cost of employing staff or a concierge service and paragraph 6 allowed for "any other proper costs and expenses in connection with the matters set out in part D of schedule 11". The Tribunal therefore found that providing an electric vehicle so that the concierge could collect and return bins to the store fell within this. Additionally, paragraph 8 of Part E of schedule 11 provided for:

"All other reasonable and proper expenses (if any) incurred by the Management Company and/or the Landlord :

9.1 in and about the maintenance and proper and convenient management and running of the Maintained Property in particular but without prejudice to the generality of the foregoing expenses incurred in rectifying or making good any inherent structural defect in the Maintained Property..."

113. The Tribunal therefore found that the charge for the maintenance of the electric vehicle fell within the terms of the lease and therefore was payable. The Tribunal then considered if this amount was reasonable and determined that it was. This was because the Tribunal accepted the evidence of the Respondent that the electric vehicle was used to bring bins up a ramp from the bin store to street level for collection. The Tribunal found that it was not appropriate for a concierge to manually drag bins up ramps and so the electric vehicle was an effective solution. The Tribunal accepted the Respondent's evidence that a vehicle to move bins had been available to the concierge since 2016.
114. The Tribunal therefore found that £334 was reasonable.

Training

115. The parties' positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Training	2,160	<p>The Applicants position is that this sum is unreasonable and not covered in the lease. The concierge, Kris, is a nice guy and very helpful. However, he is an employee of the Respondents and is unable to address the numerous failings, deficiencies and dangerous lack of security cause by the negligence of the Respondents.</p> <p>He can only do basic admin jobs. Nothing has improved since the original security problems were highlighted some time ago. As things stand the building is still very insecure and this is extremely worrying to all residents. In addition, this is not mentioned in the lease.</p>	<ol style="list-style-type: none"> 1) This line item was not part of the applicant's original application regarding service charge line items. 2) Concierge was provided H & S training including first aid.

Tribunal Findings - Training

116. The lead Applicant stated that concierge training was not within the terms of the lease. The Tribunal considered schedule 11, Part D, paragraph 4 which confirmed that “the cost of employing staff or a concierge service” fell within the terms of the lease and that paragraph 6 provided for “any other proper costs and expenses in connection with the matters set out in this part “D” of schedule 11. The Tribunal therefore found that concierge training fell under the terms of the lease. However, the question for the Tribunal was whether these costs were reasonable.
117. At page 161 of the bundle, the Respondents set out the invoices to which the training costs related. The total amount was shown as £2,160; however, three invoices were provided which totalled more than £2,160:

Cledor training for concierge	-	£ 360.00 (allocated to salaries)
First aid course	-	£1, 158.00
Legionella & COSHH	-	£2,160.00

Within the service charge accounts (page 546 of the bundle) staff training was not set out as a separate budget line, but instead the relevant budget line was “staff costs – salaries and consumables”. This total was given as £46,228. The schedule showed staff costs as £42,228 (page 130 of the bundle). However, it was not clear how the £4,000 difference was made up. It could have included £2,160 for training or it could have been the £2,861 which was shown in the schedule for Salary Admin Fee of £2,861.

118. At the hearing the Tribunal sought clarification as to what the £2,160 related to. Peter Bigge, Owner and Managing Director of Town and City Management Limited, confirmed that this charge did relate to legionella and COSHH training.
119. The lead Applicant told the Tribunal that in his opinion, it was not the job of the concierge to be training in first aid and water safety. Peter Bigge told the Tribunal that as a good employer it was right that staff were trained appropriately.
120. The Tribunal considered the invoice that related to this charge (page 420 of the bundle). The legionella training was a 2 day training cost and the COSHH training was a 1 day course. The Tribunal did not find the charge of £2,160 for training reasonable for two reasons. Firstly, it was not possible to see within the service charge accounts the amount that had been charged under this heading within the annual accounts given that staff costs were described as “staff costs – salaries and consumables”. Additionally, the Tribunal did not find that two days of

legionella and 1 day of COSHH training for a concierge was a reasonable charge to pass on through a service charge. This was borne out by the fact that the sum of £4,650 was included in the annual accounts for “water hygiene testing” (page 545 of the bundle) which was for monthly water disinfection and hygiene testing. It was therefore not reasonable for leaseholders to pay for a company to complete monthly water hygiene checks as well as paying for a concierge to attend a two day training course.

121. The Tribunal therefore disallowed the amount of £2,160 for training.

Unfair Charges

122. The parties’ positions were set out in the schedule below. Additionally, the parties expanded on their respective positions in their witness statements and at the hearing.

Item	Cost	Tenant's Comments	Landlord's Comments
Unfair Charges	£50.00 1 st letter £65.00 2 nd letter £85.00 File Review £250.00 Solicitor referral	Although not mentioned in the initial application and mindful of the fact that this item is outside the building period the Applicants would like to draw the attention of the Tribunal to an undated communication from the Respondents stating that these costs will be applied to future service charge demands for late receipt of service charge payments. The Applicants position is that these charges are unreasonable and not referred to in the lease. The Applicants further accept that the Tribunal may not be able to rule on this matter or may not have the competence to do so but they would like to bring this matter to its attention.	<ol style="list-style-type: none"> 1) The applicant has been in arrears for a number of years and continues to ignore letters and requests for payment. The amounts queried are for the applicant's non-payment of service charge over 8 years. This does not appear unreasonable given the circumstances and longevity of the debt. 2) This is helpful as it demonstrates that the applicant will just keep bringing Tribunals to avoid payment.

Tribunal Findings – “Unfair Charges”

123. The Tribunal did not have jurisdiction to consider this matter as the application related to service charge costs payable for the period of 1 March 2021 to 28 February 2022.

Summary Table of Tribunal's Findings

Item	Amount Awarded by the Tribunal
Gate Maintenance	£10,892
Building Insurance	£26,055
Plant Maintenance	£30,759
General Maintenance (External)	£1,108
Management Fes	£18,715
[Accountancy] Professional services Fees	£9,729.75
Landlord's Supply electricity	£6,300
Window Cleaning	£1,344
Fire Equipment Maintenance	£6,056
Door Entry Access	£5,593

General Maintenance (Internal)	£6,479
HIU Maintenance	£15,479
Water Hygiene Testing	£4,152
PV Cells	£1,498
Car Park Emergency Lights	£0
[Car Park] Telephone	£1,092
Staff Costs	£42,228
Salary Admin Fee	£2,861
Electric Vehicle Maintenance	£334
Training	£0
Unfair Charges	Not relevant to this application.

Application under s.20C and refund of fees

124. The lead Applicant made an application for a refund of the fees that he had paid in respect of the application/hearing. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal did not order the Respondent to refund any fees paid by the Applicant.
125. In the application form, the lead Applicant applied for an order under s.20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal determined that it was not just and equitable in the circumstances for an order to be made under s.20C of the 1985 Act.
126. The Tribunal did not make an order under Schedule 11 paragraph 5A of the Commonhold and Leasehold Reform Act 2002 in light of the findings made by the Tribunal.

Name: Judge B MacQueen

Date: 28 May 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).