



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

**Case Reference** : **MAN/00CB/LSC/2017/0062**

**Property** : **61, Ashville Road, Prenton, Birkenhead  
CH43 8SA**

**Applicant** : **Breezedown Limited**

**Respondent** : **Mr.William Hilton**

**Type of  
Application** : **Landlord and Tenant Act 1985, section 27A  
Landlord and Tenant Act 1985, section 20C**

**Tribunal  
Members** : **Judge C.Wood  
Ms.S.Latham**

**Date of Decision** : **10 January 2023**

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**DECISION**

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**Order**

1. The Tribunal orders as follows:
  - 1.1 that consent under Rule 22(3) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 to withdrawal of the Applicant's application is not granted;
  - 1.2 that the costs as detailed on the attached schedule are reasonable and that the Respondent is liable to pay service charge in respect of them; and
  - 1.3 that it is just and equitable in all the circumstances to make an order under section 20C of the Landlord and Tenant Act 1985 limiting the right of the Applicant to charge as service charge costs incurred by it in respect of these proceedings to 90% of such costs.

## **The Application**

2. By an application dated 23 December 2021, (“the Application”), the Applicant sought a determination under s27A of the Landlord and Tenant Act 1985 as to the reasonableness and payability of service charges for the years 2019/20, 2020/21 and 2021/22.
3. In the Respondent’s Statement of Case, application was made for an order under section 20C of the 1985 Act.
4. Directions dated 11 April 2022 were issued pursuant to which the following documentation was received from the parties:
  - 4.1 Applicant’s Statement of Case and Supplementary Statement of Case (both undated) together with supporting documentation;
  - 4.2 Respondent’s Statement of Case, together with supporting documentation.
5. A remote video hearing took place on Thursday 27 October which was attended by Mr. David Malone and Mr.Neil Sood, directors of the Applicant, and by Mr. Hilton, the Respondent.
6. Following the hearing, the parties were advised that the Tribunal would inspect the Property on 15 November 2022 at or around 10:00.
7. The Property is a large 3-storey Grade 11 listed semi-detached Victorian property which has been converted into 7 flats arranged as follows: basement: Flat 1; 1/F :Flats 2 and 3; 2/F :Flats 4 and 5; and 3/F: Flats 6 and 7. The Respondent is the owner of Flats 3 and 7.
8. Mr. Hilton was at the Property when the Tribunal arrived but left before they started their inspection. Mr.Sood was also present at the Property. During its external inspection, Mr. Sood answered the Tribunal’s questions regarding the extent of the works comprised within the “s20 works” and pointed out to the Tribunal the CCTV system to the rear exterior of the Property and the location of a flowerbed where new loose gravel had been tipped. Mr.Sood pointed out the new consumer unit in the ground floor internal communal hallway.

## **Background**

9. The Application is the second application to come before the Tribunal involving the same parties and dealing with similar issues albeit in respect of different service charge years.
10. As with the previous application, both parties sought to bring before the Tribunal matters outside its jurisdiction in the context of an application under s27A of the 1985 Act.
11. As with the previous application, both parties provided inadequate supporting evidence of their claims. In furtherance of the overriding objective, at the conclusion of the hearing, further directions dated 27 October 2022, (“the Further Directions”), were issued for the production by both parties of specific further information within limited time periods.
12. Further written submissions were received from both parties pursuant to the Further Directions.
13. The Applicant’s further submissions included an application to withdraw the Application. This is dealt with in paragraphs 16 to 19 below.
14. Mr.Hilton’s further submissions focused on pointing out a discrepancy in the denomination of the accounts which he said made it difficult for him to reconcile the further information supplied by the Applicant with them.

## **Reconciliation of invoices etc**

- 15.1 The discrepancy referred to by Mr.Hilton in his further submissions should have been apparent to him since, at least, the date of the submission of the Applicant’s hearing bundle (and possibly earlier) but there is no evidence that he had raised the issue previously with the Applicant.
- 15.2 It was, however, expressly raised by the Tribunal at the hearing, an explanation provided by the Applicant and, in the Tribunal’s view, satisfactorily resolved.
- 15.3 Accordingly, the Tribunal is not satisfied that the mistake in the denomination of the accounts prevented Mr.Hilton from submitting a further statement of case as permitted under the Further Directions.
- 15.4 The Tribunal therefore notes that Mr.Hilton did not avail himself of the exceptional opportunity afforded to him by the Tribunal to submit further evidence regarding reasonableness of the service charge costs in dispute in accordance with the Further Directions.

### **Application to withdraw**

16. By an application dated 7 November 2022, the Applicant sought the Tribunal's consent to the withdrawal of the Application.
17. The ground for the withdrawal application is stated to be the Applicant's misunderstanding of the extent of the Tribunal's jurisdiction within an application under s27A of the 1985 Act.
18. The Tribunal is unpersuaded by the Applicant's reasons for seeking withdrawal of the Application for the following reasons:
  - (1) in the course of the determination of the previous application, the Applicant was made aware of the Tribunal's jurisdiction in the context of a s27A application which should have ensured that such misunderstanding as now claimed by the Applicant would not occur;
  - (2) a reasonable director, having the previous experience of the Applicant's directors of identical tribunal proceedings, would not have misunderstood the extent of the Tribunal's jurisdiction; and,
  - (3) the Tribunal is aware that at least one of the Applicant's directors has some legal expertise/qualifications.
19. The Tribunal therefore determined not to grant consent under Rule 22(3) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2016 to the withdrawal of the Application.

### **The Law**

20. Section 18 of the 1985 Act provides:
  - (1) in the following provisions of this Act "service charge" means "an amount payable by a tenant of a dwelling as part of or in addition to the rent –
    - (a) which is payable directly or indirectly for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
    - (b) the whole or part of which varies or may vary according to the relevant costs.
  - (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
  - (3) For this purpose –
    - (a) "costs" includes overheads, and

- (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
21. Section 19 provides that –
- (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.
22. Section 27A provides that:
- (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 date at or by which it is payable, and
    - (d) the manner in which it is payable.
  - (2) Subsection (1) applies whether or not any payment has been made.
  - (3) .....
  - (4) No application under subsection (1)...may be made in respect of a matter which –
    - (a) has been agreed by the tenant.....
    - (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
23. In *Veena SA v Cheong* [2003] 1 EGLR 175, Mr. Peter Clarke comprehensively reviewed the authorities at page 182 letters E to L inclusive. He concluded that the word “reasonableness” should be read in its general sense and given a broad common sense meaning [letter K].
24. Section 20C of the 1985 Act provides as follows:
- (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...the First-tier Tribunal...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) ...
  - (3) The...tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

## **The Hearing**

### **Service charge expenditure not in dispute**

25. At the hearing, Mr.Hilton acknowledged that the following service charge items are not in dispute:

#### **2019/2020 service charge year**

Insurance

Electricity

Bank charges

ICO licence fee

Companies House fee

#### **2020/2021 service charge year**

Insurance

Electricity

Pest control

Bank charges

ICO licence fee

Companies House fee

#### **2021/2022 service charge year**

Insurance

Electricity

Bank charges

ICO licence fee

Companies House fee

Tribunal application fee

26. Mr. Hilton further acknowledged that, as all of these items had been agreed or admitted by him within s27A (4) (a) of the 1985 Act, the Tribunal had no jurisdiction to make a determination on them.

### **Service charge expenditure in dispute**

27. The parties confirmed that the following service charge items remained in dispute:

#### **2019/20 service charge year**

**£**

#### **Maintenance**

CCTV upgrades 350.00

Electrical works (including certification) and communal areas re-wiring 490.00

Payments to M Fennah for s20 works, painting and internal and external works including gardening 1675.20

Roof maintenance 160.00

|                        |         |
|------------------------|---------|
| Scaffolding - s20 cost | 2200.00 |
| Gardening              | 1748.00 |

#### **Administrative Expenses**

|  |         |
|--|---------|
| David Malone - Charges relating to Court Case  | 1259.48 |
| David Malone - Charges relating to s20 process | 200.00  |
| Neil Sood - Charges relating to s20 process    | 200.00  |

#### **2020/21 service charge year**

##### **Maintenance**

|   |         |
|---|---------|
| CCTV upgrades   | 222.00  |
| Electrical works  | 419.00  |
| Payments to Neil Sood for Maintenance   |         |
| Miscellaneous works including external window works and ironmongery upgrades, gravel cost and delivery and dealing with waste drains issues | 881.98  |
| Payments to S Holgate for s20 works and door repairs  | 1022.38 |
| Payments to M Fennah for s20 works  | 300.00  |
| Gardening   | 1570.00 |

#### **Administrative Expenses**

|  |        |
|--|--------|
| David Malone - admin costs for 2020/21 | 300.00 |
|--|--------|

#### **2021/22 service charge year**

##### **Maintenance**

|   |         |
|---|---------|
| Payments to S&R Residentials (Neil Sood) for Miscellaneous works including inspection of property, alarm tests, fire extinguisher checks check grounds and drains, sorting post, organising cleaning. Maintenance works inc (i) checking valleys for debris and unblocking drains (ii) clearing drains, outlets and gulleys (iii) affixing mesh coverings to drains and outlets (iv) extending Waste and rain water pipes (v) filling in holes to prevent vermin (vi) companies house submissions and (vii) negotiating | 416.00  |
| Payment to S Holgate for new wheelie bins   | 82.00   |
| Gardening   | 1860.00 |

#### **Administrative Expenses**

|  |        |
|--|--------|
| David Malone - admin costs for 2021/22 | 300.00 |
|--|--------|

#### **Applicant's Submissions**

28. Mr. Sood made the following oral submissions regarding the service charge items in dispute:

##### 28.1 **2019/20 service charge year**

### **Maintenance**

- (1) the CCTV costs related to the upgrading of the system to provide 4 cameras and a new hard drive. This was in response to tenants' fears about anti-social behaviour around the Property;
- (2) the electrical works related to new cabling for the communal lighting system;
- (3) Mr.Fennah is the owner of Flat 2. He was also the contractor chosen under the s20 consultation process to undertake the remedial works to the gable end and the works to the front of the Property, ("the s20 works"). Although not included within the Applicant's bundle, there is an invoice from Mr.Fennah in respect of these works;
- (4) roof maintenance costs relate to works undertaken annually to eg clear gutters, fix loose tiles etc. There was some uncertainty as to who had undertaken these works;
- (5) the scaffolding relates to the s20 works. The contractor, Titan Scaffolding, was the cheapest quote obtained; and
- (6) the gardening costs relate to the external communal areas which are large and require regular maintenance. Frequency of visits reflect the seasons but during the spring/summer equates to 3 hours every 2 weeks at an average hourly rate of £17.50.

### **Administrative Expenses**

- (7) as a general comment, the Applicant said that the directors tried to undertake as much administrative/management duties for free but on occasions consider that it is reasonable to charge for their time. It is considered that an hourly charge out rate of £20 is reasonable for these services and that this is a preferable charging method than a percentage of annual expenditure.
- (8) in this year, this involved time spent by Mr. Malone dealing with an insurance claim with Aviva, Mr. Sood dealing with Scottish Power and both Mr. Malone and Mr. Sood spending time on the s20 works/consultation;
- (9) the Applicant acknowledged that they had received reimbursement for their costs and disbursements incurred in connection with their County Court proceedings against the Respondent and that this required an adjustment to the service charge calculation for that service charge year.

## **28.2 2020/21 service charge year**

### **Maintenance**

- (1) the CCTV costs relate to the addition of another camera and an upgrade to the hard drive;
- (2) there is no breakdown available for the electrical works;
- (3) the payments to Mr. Sood are for items of general maintenance;
- (4) the payments to Mr. Holgate and to Mr. Fennah each relate to the s20 works; and



- (5) the gardening costs are for the same gardener undertaking the same or similar works as for the previous year.

**Administrative Expenses**

- (6) this again relates to time spent by Mr. Malone on “admin costs” but no greater breakdown available.

**28.3 2021/22 service charge year**

**Maintenance**

- (1) there is no breakdown of the £429 costs paid to S&R Residentials for general maintenance. It was stated that S&R Residentials is Mr.Sood’s residential maintenance company;
- (2) the payment of £82 to Mr.Holgate is the replacement cost for 2 wheelie bins; and
- (3) the gardening costs relate to similar works undertaken to the external communal areas during the service charge years.

**Administrative Expenses**

- (4) again these costs relate to the company secretarial duties undertaken by Mr.Malone.

**Respondent’s Submissions**

29. Mr.Hilton’s overriding challenge to the reasonableness and/or payability of the charges is rooted in the Applicant’s failure to respond to his requests for sight of invoices relating to the expenditure.
30. Mr. Hilton’s claim that he has been denied access to this information is disputed by the Applicant.

**30.1 2019/20 service charge year**

Mr.Hilton made the following points:

- (1) CCTV upgrades: he disputed that this was necessary or that it was in response to tenants’ concerns;
- (2) electrical works: he disputed that any electrical works to the communal areas were undertaken;
- (3) payments to Mr.Fennah: this is challenged on the basis that no invoice(s) for the works have been seen;
- (4) roof maintenance: he confirmed that there had been water ingress into one of his flats (Flat 7) in January 2019 which had required him to undertake repairs to the ceiling;
- (5) scaffolding: his objections are that: (a) it was a false economy not to put scaffolding up and undertake works all around the Property; (b) he was refused sight of the estimates received as part of the s20 consultation; (c) the quality of the works undertaken to the gable end is “disgraceful” and defective as seen in the photograph in Document 3 of the Respondent’s bundle; and (d) the s20 works only benefitted the flats at the Property

owned by Messrs Snood, Fennah and Holgate. Mr. Hilton confirmed that he had not responded with any observations within the s20 consultation process;

- (6) gardening: his challenge is not to the quality of the work undertaken but to the cost/frequency of work said to have been undertaken. Specifically he challenged both the reasonableness of the hourly rate (£17.50) and the need for fortnightly visits;
- (7) administrative expenses: he challenged that there has ever been agreement about a charge-out rate of £20 per hour for time spent by the directors on such matters.

### **30.2 2020/21 service charge year and 2021/22 service charge year**

Mr. Hilton's challenges to the costs in the 2020/21 and 2021/22 service charge years are fundamentally the same reasons for the same items of expenditure as in the 2019/20 service charge year.

### **Tribunal's initial response**

- 31. At the conclusion of the hearing, the Tribunal determined as follows:
  - (1) that the Tribunal wanted to undertake an inspection of the Property; and,
  - (2) that, despite both parties having been through the tribunal process previously to determine almost identical issues as those covered by the Application, neither party had provided satisfactory evidence to the Tribunal in support of their claims;
  - (3) in pursuance of the overriding objective, the Tribunal exceptionally afforded the parties a further limited opportunity to submit further evidence to the Tribunal as set out in the Further Directions.

### **Tribunal's Reasons**

The Tribunal's reasons for its determinations are as follows:

### **Production of invoices etc**

- 32. Section 22 of the 1985 Act affords a right to a tenant, on notice to the landlord, to inspect "accounts, receipts or other documents relevant to the service charge accounts, and to take copies of them". There is no evidence before the Tribunal that Mr. Hilton has made such a request to the Applicant to inspect and/or take copies of invoices etc in respect of the 2019/20, the 2020/21 accounts and/or the 2021/22 accounts. The only evidence made available by the Respondent was of his demands for production of documentation to him by the Applicant.

### **Estimates for s20 works**

- 33. The Tribunal notes as follows:
  - (1) in the Respondent's email dated 6 November 2019 to the Applicant's directors, Messrs Sood and Malone, he requested sight of the estimates for the s20 works;
  - (2) the s20 consultation documents are in the Applicant's hearing bundle. The statutory notice of estimates dated 28 August 2019 contained brief details of the estimates

obtained. Paragraph 7 of the notice confirmed the relevant details for inspection of the estimates;

- (3) at the hearing Mr Hilton confirmed that he had not engaged with the s20 consultation process in that he had not made any observations and/or proposed alternative contractors. Further, it appears that he did not avail himself of the opportunity to inspect the estimates;
- (4) there was no obligation on the Applicant to provide copies of the estimates to Mr.Hilton in response to his request for the same in November 2019.

### **Reasonableness**

- 34. The Application was issued by the Applicant and, as such, the burden of proof is upon it to establish the reasonableness of the costs it has charged as service charge in the relevant years.
- 35. The Tribunal considered the Applicant's evidence in support of the Application up to the date of the hearing to be inadequate. In many respects, the Tribunal considered that the Applicant appears to have learnt very little from its previous experience of proceedings before the tribunal.
- 36. Likewise, the Respondent's defence to the Application appears to comprise substantially a complaint about the management of the Property by the Applicant. In particular, there was little evidence produced by the Respondent in support of his challenge to the reasonableness and/or payability of the items of expenditure upon which the service charges are calculated.
- 37. Both parties raised issues in their written submissions irrelevant to the Application. In some cases, these were the same issues which the Tribunal had made clear to them in its determination of their previous application were irrelevant to an application under s27A of the 1985 Act.
- 38. In order for the Tribunal to be in a position to make a determination of the Application, it afforded both parties a further exceptional opportunity to submit evidence. The Applicant took advantage of that opportunity by submitting some invoices supporting the expenditure in dispute. Limited further evidence was submitted by the Respondent and none which went to the issues of reasonableness and/or payability.

### **CCTV upgrades – 2019/20 and 2020/21 service charge years**

- 39. The Tribunal notes as follows:
  - (1) the sum of £840 was incurred in the 2017/18 service charge year for the purchase and installation of CCTV;

- (2) the Applicant's evidence is that £350 incurred in the 2019/20 service charge year for the "installation of a new CCTV system". It is unclear to the Tribunal why a new system would be required so soon after the first installation;
  - (3) the invoices from S&R Residentials relating to the works undertaken in April 2021 indicate that they were works to remedy the incorrect placement of the router;
  - (4) there is no evidence that the Applicant has requested either of the contractors involved in the installation of the system to undertake any remedial works and/or sought a refund.
40. On the available evidence, the Tribunal concludes that there has been some duplication of work as a result of initially defective works for which the Applicant appears not to have sought any redress from the contractor(s) responsible, either by way of remedial works or refund. The Tribunal therefore considers that the aggregate costs for the CCTV works over the two service charge years are not reasonable and are reduced by £222 in the 2020/21 service charge year.
41. The Respondent is liable to pay service charge in respect of the reduced costs.

**Electrical works – 2019/20 and 2020/21 service charge years**

42. The Tribunal notes as follows:
- (1) 2019/20: the Applicant has failed to provide an invoice for a payment of £50 to G Fogg and could only provide limited evidence of the works undertaken.
  - (2) 2020/21: the Applicant has failed to provide an invoice for a payment of £270 to Bright Sparks and could only provide limited evidence of the works undertaken;
  - (3) further there is no explanation why the amount charged (£419) is greater than the aggregate amount of the Bright Spark invoice (£270) and the S&R Residentials invoice (£120).
43. The Tribunal determines that where the Applicant has failed to produce evidence identifying the works undertaken, the service charge costs are to be reduced as follows:
- (1) the costs of £490 for the 2019/2020 service charge year are reduced to £440; and
  - (2) the costs of £419 for the 2020/2021 service charge year are reduced to £121.
44. The Respondent is liable to pay service charge in respect of the reduced costs.

**Section 20 works - general**

45. At the inspection of the Property on 15 November 2022, the Tribunal noted the following:
- (1) the works done to the gable end of the Property as viewed from the ground appear to have been roughly finished;
  - (2) the internal communal areas show no apparent signs of damp and/or water ingress (although there is some evidence of peeling paint from what appears to be previous water ingress);

- (3) contrary to Mr.Hilton's submission at the hearing:
  - (a) the s20 works to the front elevation of the Property comprising the replacement of window frames appear to have benefitted Flat 3, (Mr.Hilton's flat on the ground floor of the Property) but not Flat 7, (his flat on the 3<sup>rd</sup> floor of the Property); and,
  - (b) the s20 works to the roof of the Property appear to have benefitted all of the flats at the Property affected by water ingress, including without limitation, both of Mr.Hilton's flats.
- 46. Based on its inspection and the evidence of the parties, the Tribunal considers that:
  - (1) the s20 works were reasonably incurred and the works carried out to a reasonable standard; and,
  - (2) the works to the gable end of the Property appear to have remedied the issue of water ingress. It is possible that a better finish could have been achieved but this appears to be essentially a matter of aesthetics;
  - (3) as shown from the s20 consultation documents, the scaffolding contractor chosen was significantly cheaper than the other quoted contractor;
  - (4) in response to Mr.Hilton's claim that the costs of the s20 works were not reasonable because it would have been more cost-effective for the Applicant to undergo more extensive works, the Tribunal notes that Mr.Hilton chose not to engage in the s20 consultation in which issues about the extent of the works could have been raised.

**Section 20 works – 2019/20 service charge year**

- 47. In the 2019/2020 Expenditure Overview submitted by the Applicant pursuant to the Further Directions, the aggregate amount of £1675.20 includes an amount of £516.80 stated to relate to "works over previous financial year but presented and paid in the 2019 [sic]/2022 financial year".
- 48. The Tribunal notes as follows:
  - (1) from the available evidence, it appears that these works were undertaken on various dates between 11 September 2018 and 17 April 2019;
  - (2) the date of first demand for payment of these amounts is unclear but it is reasonable to assume that, in respect of at least three amounts, this was more than 18 months after the costs were incurred. These amounts are £90, £40 and £30 which relate to works undertaken on 11 and 14 September 2018 and 11 October 2018.
- 49. In accordance with s20B (1) of the 1985 Act, the Respondent is not liable to pay these amounts and the amount of £516.80 is reduced by £160 to £356.80 with an aggregate reduced figure of £1515.20.
- 50. Together with the scaffolding costs which the Tribunal considers to be reasonable, the aggregate amount of the s20 costs for the service charge year 2019/2020 is £3715.20 and the Respondent is liable to pay service charge in respect of these costs.

**Section 20 works – 2020/21 service charge year**

51. The costs incurred to S.Holgate in relation to s20 works are reduced to £991.78 by reason of the Applicant's failure to produce an invoice for £31.38.

The Respondent is liable to pay service charge in respect of this reduced amount.

**Gardening - general**

52. The Applicant's evidence at the hearing regarding the frequency of visits and the charge-out rates is substantially supported by the invoices submitted by the Applicant pursuant to the Further Directions. The Tribunal therefore concludes that both the number of visits and the average hourly charge-out rate are reasonable.

**Gardening – service charge year 2019/20**

53. The Tribunal notes as follows:

(1) the amount of £1748 appears to include a duplication of costs paid to Mr.Fennah in the same year for works undertaken in 2019 and totalling £620; and,

(2) the Applicant has failed to provide an invoice for a further £348 of costs;

54. The aggregate costs are therefore reduced by an aggregate of £968 to £780.

55. The Respondent is liable to pay service charge in respect of this reduced amount.

**Gardening – service charge year 2020/21**

56. The Tribunal notes as follows:

(1) the invoices from Mr.Fennah for lawn cutting etc on various dates between 31 August and 1 November 2020 total £240, not £300 as appears on the Applicant's Overview for the year;

(2) there is no explanation why during July and August 2020 two gardeners were operating at the Property;

(3) there is also no explanation why payments are made through the third party of S&R Residentials to contractors, in this case, to Mr.G.Kenny for gardening works, why the underlying invoices have not been produced or why there are no receipts for the purchase of items like eg bags of gravel; and

(4) the Applicant has failed to provide any evidence of what £810 paid to Mr Maintenance relates.

57. In the absence of any satisfactory evidence in support of these costs, the Tribunal determines that the Applicant has failed to establish the reasonableness of the costs paid in respect of gardening services to S&R Residentials and to Mr. Maintenance. The costs of gardening services are reduced by £1250 accordingly to £498.

58. The Respondent is liable to pay service charge in respect of the reduced amount.

**Gardening – service charge year 2021/22**

59. The Tribunal determines that, in view of the evidence of the costs incurred in respect of gardening services, the costs of £1860 for gardening services are reasonable and the Respondent is liable to pay service charge in respect of them.

**Payments to David Malone – 2019/20, 2020/21, 2021/22 service charge years**

60. The Tribunal notes that Mr. Malone is a director of the Applicant.
61. It is unclear to the Tribunal if the work undertaken by Mr. Malone is in his capacity as a director or in some sort of managing agent capacity. In either case there is no evidence of any agreement by the Applicant relating to the basis of payment for such services/terms and conditions of such appointment.
62. In the 2021/22 Expenditure Overview, the payment of £300 to Mr. Malone is stated to be for company secretarial services. The Tribunal notes that the Company Secretary is Mr. Sood and not Mr. Malone.

**Payments to Mr. Sood- 2019/20 and 2020/21 service charge years**

63. To the extent that the work undertaken by Mr. Sood has been invoiced by his company, S&R Residential, it appears that this work is undertaken in the capacity of a managing agent rather than as a director or the Company Secretary of the Applicant.
64. In respect of payments made to Mr. Malone, Mr. Sood and/or to S&R Residential, the Tribunal acknowledges that there will be an element of management work required to be done by the Applicant for which it is proper that persons undertaking that work are remunerated. The issue for the Tribunal is the lack of transparency of the terms upon which such works are being undertaken. On the basis of the information provided, however, it appears that such services are being provided at an hourly rate of £[20] per hour which, for professional management and/or company secretarial services, the Tribunal determines is reasonable.
65. The Respondent is liable to pay service charges in respect of these amounts.

**Section 20C of the 1985 Act**

66. It appears to the Tribunal that a lack of trust on the part of the Respondent as to the way in which the Property is being managed by the current directors of the Applicant is at the core of both applications which have been made to the Tribunal. The Tribunal understands how some of the Respondent's concerns may have arisen whilst for some tenants the use of contractors owned by the directors and/or other tenants at the Property may be regarded as both expedient and cost-effective, it may also give rise to concerns about a lack of independent scrutiny and monitoring.
67. Such concerns appear to have been given further legitimacy by the Applicant's refusal to produce invoice/receipts evidencing expenditure to the Respondent. Whilst it is acknowledged in this Decision that there is no legal right on the Respondent's part to

the production of invoices, it appears to the Tribunal that the Applicant might have been able to satisfy some/all of the Respondent's concerns by demonstrating greater transparency in its dealings, an approach which might have avoided the parties once again being involved in proceedings before the Tribunal.

68. In noting these concerns, the Tribunal is not suggesting malfeasance on anyone's part.
69. Where a tenant is unhappy with the management of their property, there are legal remedies available to them eg to seek the appointment of a new manager. The Respondent has not sought to pursue any such remedies. To date, he has sought to express his dissatisfaction by withholding payment of service charge. In the present case, he has produced little or no evidence supporting his defence that the service charges in dispute were unreasonably incurred.
70. Further at the hearing the Respondent made significant admissions of reasonableness that could have been made at a much earlier date in the proceedings.
71. In the event, the Tribunal has substantially found for the Applicant in their Application. However, as a result of failures to provide adequate evidence supporting expenditure, findings of lack of reasonableness have been made as set out in this Decision.
72. In the circumstances, the Tribunal considers that it is just and equitable to make an order under s20C limiting the right of the Applicant to charge any costs incurred in these proceedings as service charge to 90% of such costs.