



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

Case reference	:	LON/00BG/LSC/2023/0098
Property	:	203 Cudweed Court, 2 Watergate Walk, London E14 9XH
Applicants	:	Dr Shoghik Hakobyan (Lead Applicant) and the eight leaseholders specified in Appendix 1
Representative	:	Camilla Whitehouse (Counsel, instructed under the Direct Access Scheme)
1st Respondent	:	Sovereign Network Houses (formerly Network Homes Ltd)
Representative		Katherine Traynor (Counsel) instructed by Winkworth Sherwood
2nd Respondent	:	Cudweed Management Company Limited
Representative	:	Simon Allison (Counsel) instructed by Irwin Mitchell (Solicitors)
Type of applications	:	Payability and reasonableness of service charges (section 27A Landlord and Tenant Act 1985)
Tribunal	:	Judge Robert Latham Antony Parkinson MRICS
Date and Venue of Hearing	:	15 and 16 April 2024 at 10 Alfred Place, London, WC1E 7LR
Date of decision		20 May 2025

DECISION

Decisions of the Tribunal

(1) The Second Respondent has conceded that certain refunds should be made to the Applicants in respect of electricity charges (see [21] below).

(2) Subject to this concession, the Tribunal finds that the service charges levied by the Second Respondent are reasonable (see [43] to [110] below).

(3) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985 against either the First or the Second Respondents.

(4) The Tribunal does not make an order for the refund of the tribunal fees which have been paid by the Applicants.

The Application

1. On 5 December 2022, Dr Shoghik Hakobyan (“the Lead Applicant”), issued this application for a determination under section 27A of the Landlord and Tenant Act 1985 (“the Act”) as to whether service charges are payable. The eight tenants listed in the Appendix 1, are parties to this application. The Applicants challenge the service charges payable over the period November 2019 to March 2023.
2. In this decision, we refer to the Bundle of Documents (1,973 pages) which was produced to the hearing. The Second Respondent also provided a Supplementary Bundle of invoices (95 pages).
3. Cudweed Court consists of 57 flats and is one of four blocks at 45 Millharbour, E14 9TR (“the Estate”). There are also commercial premises. There are a total of 138 flats. Twelve of the flats at Cudweed Court are held under shared ownership leases granted by the First Respondent. All the Applicants occupy their flats under such leases. There are also 36 flats which are let under social tenancies managed by the First Respondent.
4. The Applicants have no contractual relationship with the Second Respondent, a third party Management Company which is responsible for providing the services on the Estate under the headlease. However, under their underleases, the Applicants covenant to pay to the First Respondent the sums due to the “Superior Landlord under the Superior Lease”.
5. The First Respondent holds the leases in respect of 12 shared ownership flats under headleases, dated 31 July 2018, which grants it a term of 125 years from 31 July 2018. There are three parties to the lease, namely Michael John Hunt (“the Landlord”), the First Respondent (“the

Tenant”) and the Second Respondent (“the Management Company”). The Management Company covenants to provide the relevant services for the Estate.

6. This application has a complex and unfortunate history. The background to this application was a demand which the First Respondent had issued on 30 September 2022, demanding an additional charge of £1,366.47, premised on the fact that the actual expenditure for the year had exceeded the budgeted expenditure by 40%. The Lead Applicant considered that this increase was unjustified.
7. On 5 December 2022, the Lead Applicant issued this application for a determination under section 27A of the Act naming the First Respondent as the sole respondent. On 6 April 2023, the Lead Applicant issued a second application (LON/00BG/LAM/2023/0002) for the appointment of a manager pursuant to section 24 of the Landlord and Tenant Act 1987, naming the Second Respondent as the sole respondent. On 28 April 2023, Judge Latham set both applications down for a Case Management Hearing (“CMH”).
8. At the CMH on 30 May 2023, Judge Latham gave Directions. At this time the applicants were represented by Jobsons Solicitors. He joined the Second Respondent as a party to this application. He indicated that the application for the appointment of a manager was hopeless. In the light of this indication, the Applicants subsequently withdrew it. It was agreed to treat Dr Hakobyan as the Lead Applicant. The Directions provided for both First and Second Respondents to disclose all service charge demands issued to the Lead Applicant since 1 April 2019, the service charge accounts and budgets and any reconciliation between budgeted and actual expenditure.
9. Judge Latham set the matter down for a preliminary hearing on 25 September 2023 at which the jurisdiction of this tribunal to deal with the issues raised by this application would be explored. It was noted that the First and Second Respondents operated different financial years. An issue was whether these applicants could challenge the service charges incurred by the Second Respondent albeit that they had no contractual relationship with the Second Respondent. The Tribunal referred the parties to *Ruddy v Oakfern Properties Ltd* [2006] EWCA Civ 1389; [2007] Ch 335.
10. The parties subsequently notified the Tribunal that there were no jurisdictional issues to be determined and requested that the hearing be used as a further CMH. On 25 September, Judge Latham gave further Directions. These provided for the parties to prepare a Scott Schedule in respect of the service charge items in dispute and Statements of Case. The Directions provided that the Statements of Case should set out the relevant service charge provisions in the leases, including argument, if liability to pay be in issue.

11. On 12 October 2023, the Lead Applicant served her Statement of Case and an extensive Scott Schedule. The Statement of Case did not set out the relevant service charge provisions in her lease. Neither did she suggest that liability to pay was at issue.
12. On 31 October 2023, the First Respondent served their Statement of Case. This did not address the service charge provisions in either the headlease or underlease. The First Respondent noted that the challenge to the service charge items in the Scott Schedule was a dispute between the Lead Applicant and the Second Respondent. It would therefore be likely to adopt a “watching brief approach”.
13. On 31 October 2023, the Second Respondent served their Statement of Case. This addressed the terms of both the headlease and the underlease.

The Hearing (15 and 16 April 2024)

14. The Applicants were represented by Ms Camilla Whitehouse (Counsel) who has been recently instructed under the Bar’s Direct Access Scheme. Jobsons Solicitors were no longer acting for the Applicants. Ms Whitehouse was not responsible for the Bundle of Documents which was poorly indexed and difficult to navigate. She had been instructed at a late stage to argue a case which she had not pleaded. We did not permit her to raise any challenges to the reasonableness of the service charges which had not been raised in either the Scott Schedule or the Applicants’ Statement of Case. Dr Hakobyan gave evidence. She is a researcher in material science at Queen Mary’s University. She was accompanied by Ms Claudia Labruzzo who had also made a witness statement.
15. Ms Katherine Traynor (Counsel) appeared for the First Respondent instructed by Winkworth Sherwood. She stated that she only had a “watching brief”. She was accompanied by Ms Nicoy Musarurwa, the First Respondent’s Leasehold Property Manager. Ms Musarurwa gave evidence.
16. Mr Simon Allison (Counsel) appeared for the Second Respondent, instructed by Irwin Mitchell Solicitors. He was accompanied by (i) Mr Jamie Cozens, a director of Anglo Fortune Estate Management Limited (“Anglo Fortune”) who have managed the Estate since 1 October 2021; (ii) Mr Andrew Spalton, director of London Residential Management Limited (“LRM”) who managed the Estate prior to 1 October 2021, and (iii) Mr Simon Rebbetts, the Second Respondent’s Company Secretary. They all gave evidence.
17. All the Counsel provided Skeleton Arguments. We are grateful to them for their assistance in this difficult case. Ms Whitehouse was in a particularly difficult position having been instructed at a late stage under the Bar’s Direct Access Scheme to argue a case that she had not pleaded.

Issues that were Agreed

18. On 1 October 2023, Network Homes Ltd became a subsidiary of the Sovereign Network Homes Limited. We amend the title of the First Respondent accordingly.
19. Jobsons Solicitors are no longer acting for the Applicants. Ms Whitehouse was only instructed under the direct access scheme to represent the Applicants at this hearing. Dr Hakobyan is the Lead Applicant. The Tribunal and the Respondents should serve any documents on Dr Hakobyan who is responsible for liaising with the other Applicants.
20. On 9 April 2024, Jobsons notified the tribunal that Abnishek Satsangi, (104 Cudweed Court) and on 15 April that Alessandro di Micoli (301 Cudweed Court) were withdrawing from the proceedings. On 15 April 2024, we consented to these withdrawals pursuant to Rule 22 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Tribunal Rules”). Mr Allison informed the Tribunal that the Respondents have settled the claim with Sarah Cooper (303 Cudweed Court). Ms Cooper is no longer a party to the group action.
21. The Second Respondent has agreed that a refund should be made in respect of the electricity charges passed down through the service charge. The reason for this is that the twelve shared ownership flats have been charged for electricity used by the gym to which the tenants have no access. The agreed refunds are £131.09 (Flat 201); £215.50 (Flat 202); £131.88 (Flat 203); £196.63 (Flat 204) and £215 (Flat 302).
22. The parties agreed the following:
 - (i) Both the sums payable by Applicants to the First Respondent pursuant to Clause 3.3 of the underleases and the service charges payable by the First Respondent to the Second Respondent under the headlease are “service charges” as defined by section 18 of the Act.
 - (ii) It would be open to the Tribunal to make an order under section 20C of the Act in respect of the cost of these proceedings against either the First and/or Second Respondents.
23. When the Tribunal analysed the service charge accounts maintained by the Second Respondent, it became apparent that this application may have been issued on a false premises. On 30 September 2022, the Lead Applicant had received a demand from the First Respondent for the payment of an additional service charge of £1,366.47 on the basis that the actual expenditure on attributable to her flat had been £4,754.79 rather than the budget figure of £3,388.32. However, an analysis of the service charge accounts did not indicate any such overspend. It rather

seemed to reflect the fact that in one year, the First Respondent had passed on three six monthly bills down to the Applicants, rather than two. The situation was confused by the fact that on 30 September 2021 the Second Respondent had changed that managing agents for the Estate and two sets of accounts were produced for the year for the periods 1 January to 1 October 2021 (LRM were managing agents) and 1 October to 31 December 2021 (when Anglo Fortune took over responsibility). The situation was further complicated by the fact the Respondents operate different financial years: (i) First Respondent: 1 April to 31 March; and (ii) Second Respondent: 1 January to 31 December.

24. The Tribunal determined the reasonableness of the service charges which are challenged by the Applicants in the Scott Schedule. On 22 April 2024, we issued a preliminary decision and gave further Directions with a view of considering the issue of the contractual liability to pay at a further hearing. This had seemed to us to be the substantive issue in dispute. In 2022, the First Respondent had charged three six monthly service charge bills to the Applicants. The substantive issue was whether they had been contractually entitled to do so. It also seemed to us that none of the Applicants had been obliged to pay any service charges for 2019, as the relevant demands issued by the Second Respondent had preceded the grant of their leases by the First Respondent. We were reluctant to determine the reasonableness of the service charge for 2019 which appeared to us to be a purely academic question.

The Appeal

25. On 2 July 2024, the Upper Tribunal ("UT") granted the First Respondent permission to appeal against our preliminary decision. Two grounds were pursued: (i) the FTT went wrong in raising the "Contractual Liability Issue" on its own initiative; and (ii) the Hearing was conducted in a way which was unfair and gave rise to the appearance of bias on the part of the FTT.
26. On 4 March 2025, the appeal was heard by Mr Justice Edwin Johnson, the Chamber President. On 8 April 2025, he allowed the appeal on both grounds. This decision is reported as *Sovereign Network Homes v Dr Hakobyan* [2025] UKUT 115 (LC). At [194] the President stated:

"By reason of my decision on Ground 1, I re-make these decisions of the FTT as a decision that the Applicants are not permitted to pursue a case on the Contractual Liability Issue in the Application. I remit the case to the FTT, with a direction to the FTT to issue its decision on the Reasonableness Issue and to deal with any other consequential matters arising from its decision on the Reasonableness Issue."

27. On 2 May 2025, the Tribunal reconvened to conclude our determination. We see our role as restricted to considering the reasonableness of the service charges which the Second Respondent has passed down to the First Respondent pursuant to the head lease. The service charge accounts have been provided for the years in issue, namely 2019-2022. We are therefore required to determine the reasonableness of the sums included in these accounts. The President (at [140]) held that we were right not to permit the Applicants to raise new issues which had not been raised in either the Scott Schedule of the Applicants' Statement of Case.

The Law

28. Section 18 of the Landlord and Tenant Act 1985 ("the Act") defines the concepts of "service charge" and "relevant costs":

"(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 estimate costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with matters for which the service charge is payable."

29. Section 19 gives this Tribunal the jurisdiction to determine the reasonableness of any service charge:

"(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."

30. The Supreme Court has recently reviewed the approach that should be adopted by tribunals in considering the reasonableness of service charges in *Williams v Aviva Investors Ground Rent GP Ltd* [2023] UKSC 6; [2023] 2 WLR 484. Lord Briggs JSC (at [14]) recognised that the making of a demand for payment of a service charge will have required the landlord first to have made a number of discretionary management decisions. These will include what works to carry out or services to perform, with whom to contract for their provision and at what price, and how to apportion the aggregate costs among the tenants benefited by the works or services. To some extent the answers to those questions may be prescribed in the lease, for example by way of a covenant by the landlord to provide a list of specified services, or by a fixed apportionment regime. But even the most rigid and detailed contractual regime is likely to leave important decisions to the discretion of the landlord. A landlord is contractually obliged to act reasonably. This is subject to this Tribunal's jurisdiction under the 1985 Act to determine whether the landlord has acted reasonably (see [33]).
31. In *Enterprise Home Developments LLP v Adam* [2020] UKUT 151 (LC) at [28], Martin Rodger KC, the Deputy President, restated the important principle that it is for the party disputing the reasonableness of sums claimed to establish a prima facie case.

The Head Lease

32. The head lease in respect of Cudweed Court is dated 31 July 2018 (at p.60-107 and p.149-165). It is a tripartite lease between Michael Hunt (the "Landlord"); the First Respondent (the "Tenant") and the Second Respondent (the "Management Company") and grants a term of 125 years from 31 July 2018:
- (i) The Tenant, covenants with the Landlord and Management Company to pay the rents, consisting of ground rent, Insurance Rent (insurance being placed by the Landlord), and a Service Charge (Clauses 2.3 and 5.1.1, and paragraphs 1 and 2 of Schedule 4).
 - (ii) The "Service Charge" is defined by Clause 1.46 as being "a fair and reasonable proportion determined by the Landlord of the Estate Service Costs and the Tenant's Proportion of the Building Service Costs".
 - (iii) The "Estate Service Costs" is the cost of providing the Estate Services set out at Part 1 of Schedule 8 including the costs in Part 2 of Schedule 8 that relate to the Estate Services Costs.
 - (iv) The "Building Service Costs" is the cost of providing the Building Services set out at Part 1 of Schedule 8 including the costs in Part 2 of Schedule 8 that relate to the Building Services Costs.

(v) The Tenant's Proportion is set out at Schedule 9. The Management Company breaks down its expenditure under seven schedules in its service charge accounts. The following schedules are relevant:

(a) Schedule 1: Core Building expenditure which is apportioned between all the flats on the Estate. Flat 203 is charged 0.8052%;

(b) Schedule 2: Expenditure charged to the 12 shared ownership units. Flat 203 is charged 6.52%; and

(c) Schedule 5: Estate and Insurance expenditure. Flat 203 is charged 0.5622%.

We were told that these percentages were based on the net internal floor areas of the flats.

(vi) The other schedules are:

(d) Schedule 3: Expenditure relating to private residential (A);

(e) Schedule 4: Expenditure relating to private residential (B);

(f) Schedule 6: Expenditure relating to the 32 social rented units managed by the First Respondent at Dandelion Court and Dockweed Court;

(g) Schedule 7: Expenditure relating to 43 car parking spaces. The First Respondent are charged for 8 of these.

(vii) The service charge year is the calendar year. The Management Company covenants as soon as possible after the start of each service charge year, to prepare and send the Tenant an estimate of the service costs and a statement of the estimated service charge for that year (Schedule 7, paragraph 1(b)).

(viii) At Paragraph 1(f) of Schedule 7, the Superior Lease expressly recites the agreement that "it is intended that all costs expenses and liabilities incurred by the Management Company in relation to the Building shall be fully reimbursed by way of the Insurance Rent and Service Charge payable under this Lease and the lease of the other parts of the Building."

The Service Charge Accounts

33. The service charge accounts for 2018 are at p.166-174. The Estate had only just been completed and the expenditure is restricted to the period 6 July to 31 December 2018. In the Scott Schedule (at p.576), the

Applicants seek to challenge the cleaning costs of £3,600. The Second Respondent contends that 2018 is not a year in dispute in this application. We agree. Indeed, we note that the Lead Tenant's sub-lease (at p.109-148) is dated 31 October 2019. Neither the lead Applicant nor any of the other Applicants would have been liable for any service charge prior to the dates of their leases, including the demands issued by the Second Respondent for 2019.

34. The Service Charge Accounts for 2019 are at p.175-183. The relevant schedules are:

(i) Schedule 1 (Core Building Expenditure). Budget: £104,816; (ii) Actual Expenditure: £106,788.

(ii) Schedule 2 (Expenditure charged to shared ownership flats). Budget: £21,083; (ii) Actual Expenditure: £17,400.

(iii) Schedule 5 (Estate and Insurance). Budget: £97,134; (ii) Actual Expenditure: £90,793.

35. The Service Charge Accounts for 2020 are at p.184-202. The relevant schedules are:

(i) Schedule 1 (Core Building Expenditure). Budget: £86,012; (ii) Actual Expenditure: £114,300.

(ii) Schedule 2 (Expenditure charged to shared ownership flats). Budget: £16,350; (ii) Actual Expenditure: £17,700.

(iii) Schedule 5 (Estate and Insurance). Budget: £238,348; (ii) Actual Expenditure: £161,777.

36. The Service Charge Accounts for 2021 are somewhat more complicated as there was a change of managing agents. LRM prepared accounts for the nine month period 1 January to 1 October 2021 (at p.203-215). The relevant schedules are:

(i) Schedule 1 (Core Building Expenditure). Budget (for 12 months): £94,134; Expenditure (for 9 months): £96,450.

(ii) Schedule 2 (Expenditure charged to shared ownership flats). Budget (for 12 months): £15,350; Expenditure (for 9 months): £12,425.

(iii) Schedule 5 (Estate and Insurance). Budget (for 12 months): £226,464; Expenditure (for 9 months): £179,472.

37. Anglo Fortune prepared the accounts for the three months 1 October to 31 December 2021 (at p.898-909). No budget is provided. The accounts rather record: (a) The income demanded; (b) the expenditure; and (c) the surplus/(deficit):
- (i) Schedule 1 (Core Building Expenditure). (a) The income demanded: £21,527; (b) the expenditure: £9,274; and (c) the surplus/(deficit): £12,253.
- (ii) Schedule 2 (Expenditure charged to shared ownership flats). (a) The income demanded: £3,617; (b) the expenditure: £4,849; and (c) the surplus/(deficit): (£1,232).
- (iii) Schedule 5 (Estate and Insurance). (a) The income demanded: £50,375; (b) the expenditure: £39,418; and (c) the surplus/(deficit): £10,957.
38. The accounts for 2022 are at p.216-230. The relevant schedules are:
- (i) Schedule 1 (Core Building Expenditure): (a) Budget: £69,352; (b) Actual Expenditure: £67,500; (c) Surplus: £1,852.
- (ii) Schedule 2 (Expenditure charged to shared ownership flats): (a) Budget: £22,673; (b) Actual Expenditure: £21,360; (c) Surplus: £1,313.
- (iii) Schedule 5 (Estate and Insurance): (a) Budget: £326,972; (b) Actual Expenditure: £327,697; (c) Deficit: £725.

The Tribunal's Determination

39. The parties have prepared a Scott Schedule of the service charge items in dispute (at p.576-600). This raises some 36 challenges to items included in the service charge years for 2019 to 2022. A number of items are challenged in more than one year.
40. Ms Whitehouse, Counsel for the Applicants, addressed the items challenged in a different order in her Skeleton Argument. We adopt the approach that she adopted. We have summarised the 25 items in dispute in the tables below which include the page references to the Scott Schedule.
41. In considering the service charge items in dispute, the Tribunal has had particular regard to the following:
- (i) The Scott Schedule (at p.576-600);
- (ii) The Applicant's Revised Statement of Case (p.375-493);

(iii) The Second Respondent's revised Statement of Case (at p.557-912)

(iv) The evidence of Dr Hakobyan and Ms Labruzzo for the Applicant;

(v) The evidence of Mr Cozens, Mr Spalton and Mr Rebbetts for the Second Respondent;

(vi) The Skeleton Arguments and submissions of Ms Whitehouse and Mr Allison.

42. Before we address the specific items which are challenged, we make a number of general observations:

(i) It is not the role of this Tribunal to carry out an audit of the service charge accounts. It is rather for the Applicants to establish a prima facie case that any service charges is unreasonable.

(ii) In their Scott Schedule, the Applicants challenge a number of items on the basis that the actual expenditure has exceeded that in the budget. The Second Respondent's response is "unclear what challenge is". This is repeated throughout the Scott Schedule. The Tribunal has faced a similar difficulty in identifying the substance of many of the Applicants' challenges.

(iii) The mere fact that the actual expenditure has exceeded the budget does not mean that the service charge is unreasonable. There are many items of expenditure, such as reactive repairs, which are difficult to estimate accurately. The Tribunal must rather focus on reasonableness of the actual expenditure.

(iv) Normally when a tenant challenges the reasonableness of a service charge, the Tribunal would expect evidence that the service in question could be procured more cheaply. The Applicants have adduced no such evidence.

(v) Overall, it seems that the budgets have been reasonable. In no year has the Second Respondent made any demand to the First Respondent for an additional charge to meet any shortfall.

(vi) The Second Respondent is required to allocate expenditure between the seven schedules, only three of which are relevant to these Applicants. Some of these items, such as staffing and cleaning, may be allocated to more than one schedule. The Second Respondent has a discretion as to how such expenditure is apportioned, subject to the requirement that it must act reasonably.

(vii) The Applicants complain that the Second Respondent has not provided a breakdown of all the expenditure items. In respect of a number of budget heads, the Applicants plead that the Second

Respondent is put to "strict proof" of an expenditure item and that they "require disclosure of each and every invoice in respect charge. Complaint is made that invoices had not been disclosed. It is not our role to carry out such an audit of the service charge accounts.

(viii) The Tribunal is satisfied that the Respondent has made disclosure of all relevant invoices. The Second Respondent has provided an electronic link with access to all invoices. The Second Respondent needed to seek an order for disclosure against LRM for the period when they were managing the Estate. The Second Respondent served some of these invoices late on 11 April 2024. We are satisfied that the extent of the disclosure provided by the Second Respondent is far in excess of what we would have considered proportionate, had the Tribunal been required to direct the extent of the disclosure that was required.

Item 1: Cleaning (Schedules 1 and 5)			
2019	2020	2021	2022
£34,315 (p.580)	£11,162 (p.590)	£25,574 (p.594)	No challenge
Budget: £26,208	£9,000	£24,500	

43. The Applicants challenge these charges on the following grounds:

(i) 2019: In the Scott Schedule, the Applicants complain that no breakdown has been provided for this cost. The expenditure was £8,107 above budget. There has been a lack of transparency. The Second Respondent is put to strict proof and disclosure is sought in respect of each and every invoice. Ms Whitehouse argued that no explanation had been provided as to why the cost had increased from £3,600 in the six months to 31 December 2018. She also complained that the services had not been provided to an adequate standard.

(ii) 2020: In the Scott Schedule, the Applicants complain that no explanation has been provided for the increase in the cost of the service. The Second Respondent is again put to strict proof and disclosure is sought in respect of each and every invoice.

(iii) 2021: In the Scott Schedule, the Applicants complain that the expenditure was £1,074 above the estimated expenditure. The Second Respondent is put to strict proof and disclosure is sought in respect of each and every invoice. Ms Whitehouse suggested that a reasonable sum would be £15,000 given that the service provided was not to a reasonable standard and there was a lack of competitive tendering.

44. The Applicants are not comparing like with like:

(i) In 2019, £34,315 was included in the service charge accounts for cleaning as a Schedule 1 (Core Building) expense; nothing was included as a Schedule 5 (Estate) expense.

(ii) In 2020, £24,804 was included in the service charge accounts as a Schedule 1 (Core Building) expense; whilst £11,162 was included as a Schedule 5 (Estate) expense. A footnote to the accounts noted that cleaning was carried out by staff employed by LRM. To ensure cleaners provide a high-standard competitive service, LRM benchmarked fees and performance against other contractors offering similar services.

(iii) In 2021, LRM who prepared the account to 1 October 2021, included £25,574 in the service charge accounts as a Schedule 1 (Core Building) expense, whilst £5,610 was included as a Schedule 5 (Estate) expense. Anglo Fortune did not include any additional charges for cleaning for the last three months of the year.

45. The Second Respondent contends that the charges are reasonable. In the Scott Schedule, the Second Respondent contends that the nature of the challenges are unclear. Invoices would be provided when these had been obtained from LRM. These were subsequently provided.
46. Mr Allison argued that whilst Dr Hakobyan's witness statement suggested that the standard of the cleaning has been poor, the complaint lacked detail. The Second Respondent had been unable to address this in evidence, as it had not been set out in the Applicant's Statement of Case.
47. At the hearing, the Tribunal made it clear that the Tribunal was not willing to allow the Applicants to raise new issues which had not been set out in the Scott Schedule. In their Scott Schedule, they had not challenged the quality of the service. The Applicants are not challenging the charge for 2022 when Anglo Fortune were managing the Estate. This challenge is therefore historic. In their Statement of Case (at p.381), the Applicants complain that the cleaning costs have increased each year with no adequate explanation provided. However, no such increase is reflected in the accounts. This rather reflects the manner in which the cleaning costs have been apportioned. Mr Allison notes that the cleaning costs in 2022 are now lower.
48. It is not the role of this Tribunal to carry out an audit of the service charge accounts. We are satisfied that the relevant invoices have been disclosed and that the sums have been properly incurred. The Second Respondent has had a discretion as to how the cleaning costs are apportioned between the difference schedules. No evidence has been provided that the cleaning service could be provided at a lower cost. The Applicants have not established a prima facie case that the costs have been unreasonable. We are satisfied that the sums disputed are reasonable.

Item 2: Lift Costs (Schedule 1)			
2019	2020	2021	2022
£11,298 (p.579)	£9,574 (p.586)	No challenge	No challenge
Budget: £6,100	£7,687		

49. This is a Schedule 1 (Core Building) expense. In the Scott Schedule, the Applicants complain that the actual expenditure has exceeded the budgeted expenditure without any explanation. The Applicants complain of a lack of transparency. They put the Respondent to strict proof. They require disclosure of each and every invoice. They also complain that there are two lifts in their building which are often out of service. This is confirmed by a series of emails dated between 30 November 2021 to 2 January 2023 (at p.386-392). It is to be noted that none of these relate to the service charge years in dispute. The Applicants suggest that a reasonable charge for 2019 would be £5,000 and £7,700 for 2020.
50. Mr Cozens accepts that there have been some problems with the lifts. However, he is only able to deal with the situation since Anglo Fortune took over the management of the Estate in October 2021. He states that there are two lifts in the Building. The lift maintenance is provided on an annual service contract, which is provided by PIP Lift Services Limited. The service contract includes a monthly service by trained field personnel. The monthly service consists of an inspection, clean, lubrication and then carrying out of any required repairs. He accepts that in the past there have been delays which have caused the lift to be out of action for more than a few hours. This has been as a result of difficulties in obtaining parts as a result of supply chain problems. He has checked the records. In 2022, there was no time when both lifts were out of use at the same time. He is unaware of any time when a fault was reported, that this was not addressed. Further, there was no time when both lifts were out of order.
51. In certain circumstances, a tenant may be able to assert the right to an equitable set-off (see *Continental Property Ventures Inc v White* [2007] L&TR 4). Mr Allison noted that these Applicants have no such right as they have no direct contractual relationship with the Second Respondent. All they can do is to argue that a service charge in any specific year should be reduced because of the poor quality of the service in that year.
52. The Applicants are only challenging the sums charged in 2019 and 2020. The Tribunal is satisfied that the accounts accurately reflect the sums that were expended. The fact that the actual expenditure exceeded that included in the budget, does not suggest that the actual expenditure was unreasonable. Lifts do break down, and unforeseen costs may be incurred. Indeed, it might be suggested that the sum included in the budget for 2020 was unrealistically low in the light of the actual expenditure in 2019. The Applicants have not established a prima facie case that the costs incurred in 2019 and 2020 were unreasonable. Neither is there evidence of any lift breakdowns during these years. We are satisfied that the sums disputed are reasonable.
- 53.

Item 3: Electricity Costs (Schedules 1 and 5)			
2019	2020	2021	2022
No challenge	£36,955 (p.583) £5,522 (p.589)	£25,472 (p.593)	£67,459 (p.599)
Budget:	£9,750 £1,430	£24,500	£54,227

54. The following sums are included in the service charge accounts for electricity:

(i) In 2019, £9,236 was included as a Schedule 1 (Core Building) expense; and £1,736 was included as a Schedule 5 (Estate) expense.

(ii) In 2020, £36,955 was included as a Schedule 1 (Core Building) expense; and £5,522 was included as a Schedule 5 (Estate) expense.

(iii) In 2021, LRM who prepared the account to 1 October 2021, £23,310 was included as a Schedule 1 (Core Building) expense; whilst zero was included as a Schedule 5 (Estate) expense. Anglo Fortune prepared the accounts for the last three months of the year: £2,162 was included as a Schedule 1 (Core Building) expense; whilst zero was included as a Schedule 5 (Estate) expense

(iv) In 2022, £67,459 was included as a Schedule 5 (Estate) expense; and zero as a Schedule 1 (Building) expense

55. The Applicants challenge these charges on the following grounds:

(i) 2020: The expenditure was respectively £27,385 and £4,092 above estimate with no explanation. The Second Respondent has failed to provide a breakdown of the costs. There is no evidence that the charge has been put out to tender. The Second Respondent is put to strict proof and required to disclose each and every invoice.

(ii) 2021: The expenditure was £15,522 above estimate with no explanation. The Second Respondent is again put to strict proof.

(iii) 2022: The expenditure was £13,232 above estimate with no explanation. The Second Respondent is again put to strict proof.

56. Ms Whitehouse accepted that the increase in charges represented an increase in the consumption electricity. However, no explanation had been provided for this increase. She also complained that the Applicants had been wrongly charged for electricity used by the gym and the parking area which they are unable to use.

57. The Respondent accept that there was a large increase in cost between 2019 and 2020. This is attributed to cost increases in the wholesale

energy market. The Second Respondent procures energy through an energy broker who goes out to the wholesale energy market to secure the best process. The most recent search of the market in 2024 resulted in significant reductions. However, these reflected wholesale market charges, albeit with a higher standing charge. In 2022, Anglo Fortune decided to allocate all the electricity costs to Schedule 1 (Core Building). Estate costs are apportioned across the Estate according to unit size. The Second Respondent suggests that this has resulted in a modest saving for the 14 shared ownership units. The Second Respondent notes that since 2023, the solar panels on the roof have been fully commissioned and that this has reduced the electricity costs.

58. There is a single meter for the communal development supply. The Second Respondent concede that the Respondents should not have been required to contribute to the electricity costs relating to the gym. It is agreed that the Applicants are entitled to refunds in respect of this (see [21] above).
59. The Tribunal has been concerned about the size of these charges. However, we must determine the case on the evidence before us. No evidence has been adduced to contradict the Second Respondent's evidence that the increases have reflected the movements in the wholesale energy market. The Applicants have adduced no evidence that the electricity supply could have been provided by another supplier at a lower cost. The Applicants have failed to satisfy the Tribunal that the charges are unreasonable.

Item 4: Legal & Professional Fees (Schedule 5)			
2019	2020	2021	2022
No challenge	No challenge	£11,274 (p.596)	No challenge
Budget:		£3,500	

60. The Applicants contend that the expenditure is £7,774 above estimate. No adequate explanation has been provided. The Second Respondent is put to strict proof. In the Scott Schedule, the Respondent states that some invoices have been supplied, but that further invoices were being sought from LRM. These have now been obtained and disclosed. The Second Respondent states that it is unclear as to the substance of the challenge. The Tribunal agrees. The Applicants have failed to establish a prima facie case that this charge is unreasonable.

Item 5: Internal Repairs (Schedule 1)			
2019	2020	2021	2022
£11,060 (p.578)	No challenge	£17,102 (p.594)	£7,267 (p.597)
Budget: £4,200		£5,000	£6,154

61. These are Schedule 1 (Core Building) expenses. The Applicants complain that the expenditure has exceeded the budget without any adequate explanation, namely by £6,860 (2019), £1,074 (2021) and £1,113 (2022).

2021 is the year in which the management responsibility passed from LRM to Anglo Fortune. The Second Respondent states that the invoices have been provided. They are unclear as to the nature of the challenge. Mr Allison points out that the reality is that reactive repair costs inevitably vary for year to year. It is impossible to predict in advance what the expenditure will be. The Tribunal agrees. The Applicants have failed to establish that any of the items charged as repairs have been unreasonable in cost or quality.

Item 6: Heating and Hot Water			
2019	2020	2021	2022

62. The Applicants have not included this challenge in the Scott Schedule. It is rather raised in the Applicant's Statement of Case. They complain of the level of charges which they are required to pay both in respect of the tariff set by Barkantine and the rates charged by Switch 2. The Lead Applicant does not identify the charges which she disputes or the sums that she would be willing to pay.
63. The Second Respondent argues that this is not a service charge within the jurisdiction of this Tribunal. Schedule 10 of the head Lease relates to the District Heating system. Mr Allison highlighted the following provision where there is a direct agreement (emphasis added):

“The provisions of this Tenth Schedule shall only apply in circumstances where and to the extent and for such time from time to time as the Landlord or an affiliate of the Landlord has not entered into a DHS Services Agreement with a DHS Supplier and in the event that any such agreement between Landlord and DHS Supplier shall cease or determine for any reason then the provisions of this Schedule shall apply until such time as the Landlord or an affiliate of the Landlord has entered into an alternative DHS Services”

64. The Lead Applicant referred us a demand which she had received from Switch 2, dated 30 December 2022 (at p.487), which states that they are acting on behalf of the Second Respondent in providing the billing and metering service for heating and hot water. The letter refers to a significant increase in the tariff which will be payable from 30 January to 31 March 2023 and from 1 April 2023. The initial increase includes the full benefit of the Energy Bill Relief Scheme.
65. The Second Respondent argues that this is not a service charge within the jurisdiction of this tribunal. Barkantine Heat and Power (“Barkantine”) is the nominated ‘DHS Supplier’ under a ‘DHS Services Agreement’ as defined in the Superior Lease. It is Barkantine that provides the District Heating Services to the Estate. The provision of the District Heating Services is not a service provided by the Second Respondent specified in

Schedule 8 to the Superior Lease. Barkantine manages and operates the District Heating System (as dictated by the London Borough of Tower Hamlets and demanded by them as a condition of the grant of planning permission). Switch2 provides metering and billing services, instructed by the Second Respondent as affiliate of the Landlord. They are not sums paid pursuant to the terms of the Applicants' leases, nor are they sums paid pursuant to the Superior Lease.

66. Mr Cozens accepts that "technically" the Second Respondent 'signs off' on the tariffs charged by Switch 2, as affiliate of the Landlord who (via Facilitas, a related company) instructs Barkantine to run the system. However, the tariffs are based upon the unit prices set by Barkantine, which in turn are based upon the basis of running the district heating plant including anticipated gas costs. The system is cost neutral and neither the Landlord nor the Second Respondent takes a profit from its operation.
67. The unit rates set by Barkantine and Switch 2 differ because Switch 2 bill each flat based upon the individual unit consumption which is measured at the HIU. Barkentine produces heat centrally and there are significant losses across the system, for instance heat loss from the large network of pipes. The efficiency of the system is typically around 50% which Mr Cozens states is slightly better than that average. Because the entire cost of running the system must be recovered according to consumption across all those using it, the unit cost charged by Switch 2 is elevated to account for those system losses.
68. The issue for this Tribunal is what remedy, if any, the Applicants might have if they consider that the heating and hot water supplied to their flat by a monopoly supplier is unreasonably high. Is this a "service charge" as defined by section 18 of the Act? This is not a service which is either provided or charged by their landlord (the First Respondent). The applicants have no contractual relationship with either the Second Respondent or the Superior Landlord. The Tribunal has not been provided with a copy of the DHS Services Agreement. Arguably, this might be a long term qualifying agreement.
69. The Tribunal concludes that it is not necessary for us to make a finding on this complex issue on which we have not heard full argument. This should have been raised in the Applicant's Scott Schedule. Although it is raised in their Statement of Case, the Lead Applicant does not identify the charges which she disputes or the sums that she would be willing to pay. No evidence has been adduced as to what sums would be reasonable.

Item 7: Landscaping (Schedule 5)			
2019	2020	2021	2022
-	-	-	-

70. This is not an issue that the Applicants have raised in their Scott Schedule. In their Statement of Case, they complain that they pay £700 per month for landscaping. Either no works have been carried out or the standard of service has been extremely poor. They provide photographs (at p.404 - 405) which were taken in March 2002.
71. Mr Cozens explains that the landscaping costs for the Estate covers mowing the lawns, maintaining flowers and shrub beds, leaf clearance, litter picking and replanting. The landscaping service is provided every two weeks which equates to 25 visits per year. The total landscaping cost is £6,180.00 per annum for 2023. This is apportioned so that shared ownership properties, which are owned by the Applicants are responsible for £595.99 per year in total between them. Once this is apportioned to each shared ownership property within the Estate, each shared equity property is responsible for, on average approximately £49.67 per year per unit as their contribution to the landscaping costs. 25. The landscaping service is provided by Hedge Ranger Ltd. The cost of their service was renegotiated in 2024 a price reduction was agreed. The cost of this service in 2022 was £8,100. Mr Cozens considers that Hedge Rangers Ltd are a good contractor that Anglo Fortune have used for a number of years and across their wider portfolio. They have received no other complaints about the standard of their work. There is an estate manager at the Estate every day and a member of senior management from Anglo Fortune attends the Estate every 4 weeks to ensure the performance of contractors is up to standards and the Building is being effectively managed and maintained. The contract is at p.713-714. A number of visit sheets (with photos) are provided at p.695-711.
72. We accept the evidence adduced by the Second Respondent. We are satisfied that this service has been provided and that the cost has been reasonable. Had there been complaints about the quality of the service, we would have expected to see evidence of contemporaneous complaints. We allow this item.

Item 8: Staff Consumable (Schedule 1)			
2019	2020	2021	2022
£8,945 (p.577)	£7,761 (p.588)	No challenge	No challenge
Budget: £2,300	£5,108		
In the Scott Schedule, the Applicants wrongly refer to the expenditure in 2020 as being £2,2363 and the overspend as £837.			

73. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £6,645 (2019) and £2,653 (2020) without any adequate explanation. The Second Respondent has now provided the invoices from LRM. There is no challenge to any individual invoice. The Applicants have not established a prima facie case that the charges are unreasonable.

Item 9: Health & Safety Testing (Schedule 1)			
2019	2020	2021	2022
£3,367 (p.580)	No challenge	No challenge	No challenge

74. Ms Whitehouse informed the Tribunal that the Applicants are no longer challenging this item.

Item 10: Building Management Systems (Schedule 5)			
2019	2020	2021	2022
£20,283 (p.581)	No challenge	No challenge	No challenge
Budget: £1,000			

75. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £19,283 without any adequate explanation. The Second Respondent replied that invoices would be provided when these have been disclosed by LRM. These have now been disclosed.
76. This is a substantial increase in expenditure over budget. The Applicants suggested that there was an element of double charging. The Second Respondent stated that this charge relates to Switch 2 services, namely the reading of bills and billing. This is now subsumed in the charge made by Switch 2 to the individual tenant. The relevant invoices have been disclosed. No individual invoice has been challenged. The Applicants have not established a prima facie case that the charges are unreasonable.

Item 11: Telephone Charges			
2019	2020	2021	2022
No challenge	£5,500 (p.584)	£3,844 (p.593)	No challenge

77. In the Scott Schedule, the Applicants complained that invoices had not been provided. A full breakdown is provided at p.1836-7. A summary of the invoices is at p.1558. Ms Whitehouse informed the Tribunal that the Applicants are no longer challenging this item.

Item 12: Fire Equipment Maintenance (Schedule 1)			
2019	2020	2021	2022
No challenge	£3,960 (p.585)	£204 (p.595)	No challenge
Budget:	£400	-	

78. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £3,560 (2020) and £204 (2021) without explanation. Disclosure of each and every invoice was required.
79. The Second Respondent has now disclosed the relevant invoices. No individual invoice has been challenged. The Applicants have not established a prima facie case that the charges are unreasonable.

Item 13: Heat Interface Unit (Schedule 1)			
2019	2020	2021	2022
No challenge	£11,509 (p.585)	No challenge	No challenge
Budget:	£10,000		

80. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £1,509 without explanation. The Lead Applicant further complains that she was left with no heating for nearly two months in 2022.
81. The challenge relates to the service charge in 2020 when LRM were managing the Estate. Briggs and Forester were providing the maintenance service. The invoices have been disclosed.
82. Dr Hakobyan, the Lead Applicant, complains that she had no heating between mid-September and mid-November 2022 because of a broken pump. Mr Cozens accepts that Brigg and Forster had failed to service this unit. On 4 October 2022 (at p.1120), he chased them up. The Estate Manager needed to chase them up again on 26 October (p.1123) and 7 November (1126). The Second Respondent then arranged for another contractor, MVP, to complete the work. Mr Cozens accepts that Briggs and Forster had “neglected their contractual duties”. The contract to service the units has now been place with MVP who have subsequently changed their name to Elite Heat Limited.
83. The Applicants make no criticism of the quality of the service in 2020, the year in which the service charge is challenged, The Tribunal accepts that the charge for this year is reasonable.
84. As noted above (at [51]), the Lead Applicant has no right to an equitable set-off as she has no direct contractual relationship with the Second Respondent. Whilst Dr Hakobyan could have sought to argue that her service charge for this item should have been reduced in 2022 because of the of the quality of the service, she has not sought to do so. Mr Allison notes that the Second Respondent withheld 50% of the payment due to Briggs and Forester because of the poor quality of the service that was provided in 2022.

Item 14: Staff Costs (Schedule 2: shared ownership)			
2019	2020	2021	2022
No challenge	£16,356 (p.587)	No challenge	No challenge
Budget:	£15,000		

Item 15: Staff Costs (Schedule 5: estate and insurance)			
2019	2020	2021	2022
No challenge	£54,933 (p.588)	No challenge	No challenge
Budget:	£50,3678		

85. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £1,356 (Schedule 2) and £4,555 (Schedule 5) without explanation. The Applicants complain of a lack of transparency. The Second Respondent is put to strict proof and disclosure is sought of each and every invoice.
86. In her argument, Ms Whitehouse stated that the Applicants were no longer taking the point that the actual expenditure had exceeded the budgeted expenditure. The concern was rather that the Schedule 5 staff expenditure had increased from £3,249 in 2019 (p.189) to £66,166 in 2022 (p.221).
87. Mr Spalton (at p.1130) explained that LRM employed a total of nine staff between 20 August 2018 and 30 September 2021. He denied that any of the pay awards had been excessive. He noted that from December 2018, a ruling by HMRC had required them to add 20% VAT to staff costs.
88. Mr Cozens stated that the staff costs now include 4 concierge (two night and two day time) and an Estate manager. Staff costs had increased slightly in 2024 due to pay rises that were given to the staff at the beginning of 2023 to reflect the cost-of-living increases. The staff had not had a pay rise since 2018. They were awarded a 10% pay rise based on inflation. The salaries now paid to the staff are still within the standard market rate for those roles. The staff cost total was £209,700 in 2022 compared with £224,808 in 2023. The staff costs also include VAT, employers NI contribution, payroll costs, pension contribution and a 12.5% management fee charge by Anglo Fortune. Staff costs are apportioned across those schedules that benefit from the staff, namely Schedule 2 (shared ownership); Schedule 3 (private residential) and Schedule 5 (estate). In 2022, shared ownership leaseholders are responsible for £23,828.13 of the total staff costs in 2022 which equates to approximately £1,986 per property per year.
89. The tribunal notes that this challenge is restricted to the period when LRM were managing the Estate. Whilst the Applicants complain of excessively high staff costs, they do not identify with why they are said to be high with respect to the provision made at the Estate, nor what alternative cost they would suggest would be reasonable to incur and on what basis. The Tribunal is satisfied that the charges are reasonable.

Item 16: Dry Riser Maintenance (Schedule 1)			
2019	2020	2021	2022
No challenge	£126 (p.590)	£236 (p.595)	No challenge

90. The Applicants complain that no provision was made for this in the budget. The Second Respondent is put to strict proof that this expenditure was incurred. Disclosure of each and every invoice is required.

91. Invoices have now been provided. These are modest charges. We are satisfied that they are reasonable.

Item 17: Engineering Insurance (Schedule 5)			
2019	2020	2021	2022
No challenge	£2,167 (p.591)	No challenge	No challenge
Budget:	£1,598		

92. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £569 without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required.

93. Invoices have now been provided. The Applicants have established no prima facie case that this charge is unreasonable.

Item 18: Radio Hire			
2019	2020	2021	2022
No challenge	No challenge	£3,557 (p.592)	No challenge

94. Ms Whitehouse informed the Tribunal that the Applicants are no longer challenging this item.

Item 19: CCTV (Schedule 5)			
2019	2020	2021	2022
No challenge	No challenge	£3,617 (p.596)	£400 (p.599)
Budget:		£900	£270

95. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £2,717 (2021) and £130 (2022) without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required.

96. Invoices have now been provided. The Applicants have established no prima facie case that these charges are unreasonable.

Item 20: Intercom Servicing (Schedule 1)			
2019	2020	2021	2022
No challenge	No challenge	No challenge	£2,744 (p.597)
Budget:			2,022

97. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £722 without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required.

98. Mr Allison referred us to the three invoices for £2,022 (p.1856), £162 (p.1858) and £560 (p.1860) which total £2744. The first item was the

standard maintenance contract on which the budget had been based. The two additional invoices related respond to additional faults. The Applicants have established no prima facie case that these charges are unreasonable.

Item 21: Communal TV Maintenance (Schedule 1)			
2019	2020	2021	2022
No challenge	No challenge	No challenge	£2,382 (p.598)
Budget:			£500

99. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £1,882 without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required.
100. The Respondent reply that the invoices have been supplied. The Tribunal is satisfied that the Applicants have failed to establish a prima facie case that these charges are unreasonable.

Item 22: Window Cleaning (Schedule 1)			
2019	2020	2021	2022
No challenge	No challenge	No challenge	£8,363 (p.598)
Budget:			£7,300

101. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £1,033 (sic) without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required. Ms Whitehouse argued that the quality of the service had been inadequate.
102. The Respondent reply that the invoices have been supplied. The fact that the actual cost exceeded the budget does not indicate that the charges have been unreasonable.
103. The Tribunal is satisfied that the invoices reflect the sums that have been expended. The Applicants have not adduced any sufficient evidence that the service has been inadequate. We are satisfied that this charge is reasonable.

Item 23: Water Pump Maintenance (Schedule 5)			
2019	2020	2021	2022
No challenge	No challenge	No challenge	£2,902 (p.599)
Budget:			£2,000

104. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £902 without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required.

105. Mr Allison responded that five invoices have been disclosed which conformed the sums that had been expended. The Applicants have established no prima facie case that these charges are unreasonable.

Item 24: Parking Gates and parking Charges			
2019	2020	2021	2022

106. This is not a charge which is raised in the Scott Schedule. In their Statement of Case, the Applicants complain that the parking gate was broken for a number of months between November 2022 and March 2023. They rely on an email, dated 16 February 2023 (at p.393). They complain that the gate was not repaired within a reasonable time and that the service has been poor.
107. The Respondent address this in their Statement of case (at p.565-566) and in the evidence of Mr Cozens (at p.1111). It is accepted that the gate was out of order for a number of months. The problem was caused by a failure of the motherboard. There were delays in sourcing the necessary parts. During the period that it was not operative, the gate was manually operated by the Estate manager/concierge.
108. The Tribunal deals with this matter briefly. Mr Allison argues that this is a claim for disrepair. The Applicants have no right of equitable set off. In so far as there is any challenge to the cost of these works (which would be a Schedule 7 car parking charge), these were incurred in 2023 which is not a year which is challenged in these proceedings (see invoices at p.679-682).
109. In their Statement of Case, the Lead Applicant also complains that the cost of her parking space was increased from £130 to £150 per month in September 2023. The Second Respondent replies that the Applicants have no right to a parking space under their leases. It is therefore not a service charge within the jurisdiction of this Tribunal. We agree.

Item 25: Health & Safety (Schedule 5)			
2019	2020	2021	2022
No challenge	No challenge	No challenge	£955 (p.600)
Budget:			£786

110. In the Scott Schedule, the Applicants complain that the expenditure has exceeded the budget by £169 without explanation. The Second Respondent is put to strict proof. Disclosure of each and every invoice is required.
111. The Respondent reply that the invoices have been supplied. The Tribunal is satisfied that the Applicants have failed to establish a prima facie case that these charges are unreasonable.

Costs and Tribunal Fees

112. The Second Respondent has conceded that the Applicants are entitled to a partial refund of the service charges which they have paid for electricity (see [21] above). Apart from this, the Applicants have failed in their challenge that the service charges levied by the Second Respondent have been unreasonable. We therefore make no order for the refund of the tribunal fees paid by the Applicants.
113. The Applicants also make an application for orders against both the First and Second Respondents under section 20C of the 1985 Act. This section permits the Tribunal to “make such order on the application as it considers just and equitable in the circumstances” in respect of any of the costs of the proceedings that the “landlord” may be able to pass on to its tenants through the service charge account. It is not necessary for this Tribunal to make a finding as to whether it would be open to either Respondent to pass on its costs through the relevant leases. However, the parties agreed that it was open to make an order against either Respondent if we considered it just and equitable to do so.
114. When the Tribunal concluded its hearing on 16 April 2024, our preliminary view was that (i) we should not make an order against the Second Respondent as the application had failed; but (ii) we should make an order against the First Respondent. We had been minded to make an order against the First Respondent because we had been concerned that there had been a lack of transparency. The Applicants had issued these proceedings in the belief that there had been a 40% increase in the cost of the services in 2022. In fact, this increase charged by the First Respondent did not reflect any such increase in the service charge, but rather that the First Respondent had passed down three six monthly bills in one year, rather than two (see [6] and [23] above). This application was therefore issued on a misunderstanding which could have been avoided had the true situation been explained by the First Respondent. Service charge disputes differ from other civil litigation in that there is a continuing relationship between the parties after any dispute has been resolved. It is therefore important for this tribunal to seek to identify the substance of the dispute and address the same to avoid any future litigation. We noted that the Applicants had had the benefit of legal advice but believed that they had not been well served by their solicitor who had prepared the Scott Schedule. We were mindful of Lord Woolf’s Report “Access to Justice” which highlighted the complexity of housing law and the difficulties of those of limited means securing quality legal advice.
115. However, we are satisfied that we must review our preliminary view in the light of the decision of the Upper Tribunal. The President has held that we were wrong to raise the issue of liability to pay. The fact that the Applicants may not have been served well by their legal advisers was not a ground for the Tribunal to intervene to secure equality of arms in seeking to determine the case “fairly and justly”. Their remedy is rather

against their legal advisors, presumably in negligence (at [129]). The President accepted that there may be further litigation in respect of the issue of liability to pay, but not by these applicants in respect of the service charges payable for the years in dispute (at [152]).

116. In the light of this judgment, we are satisfied that we should make no order under section 20c against either Respondent. We agree with the President that this is a most unfortunate case. Substantial cost have been incurred. This could have been avoided had there been greater transparency.

Judge Robert Latham
20 May 2025

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 **by e-mail** 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).

Appendix: Parties to the Application

Abnishek Satsangi, 104 Cudweed Court;

Claudia Labruzzo and Gantcho Beltchev, 204 Cudweed Court

Kendra Semple and Angel Laguillo Chiva, 302 Cudweed Court

Sebastian Weschler and Ewa Jodlowska, 201 Cudweed Court;

Dr Shoghik Hakobya, 201 Cudweed Court;

Kendra Semple, 302 Cudweed Court

Applicants who have withdrawn from the proceedings

Abnishek Satsangi, 104 Cudweed Court;

Alessandro di Micoli, 301 Cudweed Court

Applicant who has compromised her claim against the Respondents

Sarah Cooper, 303 Cudweed Court