



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

Tribunal case reference : CAM/33UH/LIS/2025/0008
CAM/33UH/LDC/2025/0686

County Court claim no : K90YX048

Property : The Old Laundry
23 St Georges
Wicklewood
Wymondham NR18 9PD

Applicant/Claimant : SGRA Limited

Representative : Benjamin Lowe, director

**Respondents (LIS)/
Defendants** : 1. Shaun Daly
2. Caroline Daly

Respondents (LDC) : All leaseholders

Type of applications : (1) Transfer from county court
(2) Dispensation

Tribunal : Judge David Wyatt
Mr G F Smith MRICS FAAV REV

Date : 11 December 2025

DECISION

Decision

- (1) The tribunal determines to dispense with all the consultation requirements in respect of the qualifying long-term agreement dated about 30 September 2022 with Scottish Power for the supply of electricity.
- (2) The tribunal determines that the service charges of £2,280 demanded from Shaun Daly and Caroline Daly on 10 December 2022 (for the 2023 service charge year) were payable by them to the Applicant by 24 December 2022.

- (3) The tribunal orders that Shaun Daly and Caroline Daly must by 24 December 2025 pay a further £227 to the Applicant (to reimburse the hearing fee paid by the Applicant to the tribunal).
- (4) The legal costs incurred by the Applicant in connection with these proceedings while they were in the 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 Respondents (solely because such costs are not payable under the terms of their lease).
- (5) The tribunal does not make any order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.
- (6) As arranged, the County Court case (K90YX048) is transferred back to the County Court at Peterborough to consider the remaining issues in these proceedings, which appear to be:
 - a. formal dismissal, if necessary, of the Defendants' counterclaim to £13,600 (which sought to reclaim service charge payments from 2016 to 2022) based on the findings we have made below;
 - b. the Defendants' counterclaim from November 2023 for "*Damages due to being forbidden to use the amenities at St George's by the directors – nominal £50 a month until permission granted. Currently 8 months = £400.*" The Applicant has responded in their reply and defence to counterclaim. The parties may wish to refer to Yorkbrook Investments v Batten [1985] 2 EGLR 100 and Bluestorm Ltd v Portvale Holdings Ltd [2004] EWCA Civ 289;
 - c. the Defendants' counterclaim to expenses of £1,786 said to have been incurred on behalf of the Applicant for periods from 2019 to 2023 and invoiced for the first time on 7 November 2023. The Applicant responded to this in detail in their reply and defence to counterclaim with annexures;
 - d. the claims to statutory interest on the unpaid service charges (and any sums awarded by the Court on the above counterclaims); and
 - e. the County Court fees and costs claimed by the opposing parties in respect of the proceedings while these were and are in the County Court.

Note

We cannot advise, but the remaining issues appear to involve risks for all parties. We suggest the parties consider seeking to reach agreement to enable them to dispose of these without further time and cost.

Otherwise, the County Court may need only to give directions for the parties to prepare for a final hearing to dispose of the remaining matters.

Reasons

Basic details

1. In 2004, the Applicant acquired the freehold title to the land known as St Georges in Wicklewood. 21 long leases of dwellings on the land are noted on the title, each granted during or after 1994 for a term of 999 years from 1988. We understand that the leaseholders each hold one of the 21 shares in the Applicant landlord. Benjamin Lowe is one of the four current directors.
2. On 27 April 2016, the Respondents purchased the lease of the Property, known as The Old Laundry at 23 St Georges. The First Respondent, Shaun Daly, was a director of the Applicant from November 2017 until April 2020.

Procedural history

3. On 11 October 2023, the Applicant issued proceedings in the County Court against the Respondents, seeking service charges of £2,280 for 2023 (plus statutory interest and costs).
4. On 26 November 2023 the Respondents produced a defence and counterclaim disputing the entire claim and seeking to counterclaim £16,575 (plus interest and costs).
5. In January 2024, the Applicant produced a reply and defence to counterclaim. On 9 December 2024, District Judge Evans sitting at the County Court at Peterborough ordered that the case be transferred to the tribunal. It appears papers arrived in February 2025 and were referred to the tribunal judiciary for directions on 27 May 2025.
6. On 12 June 2025, the tribunal gave case management directions, providing for the parties to exchange full case documents and the Applicant to produce the hearing bundle. The directions confirmed that in these proceedings the tribunal would determine:
 - a. payability of relevant service charges (as defined in section 18 of the Landlord and Tenant Act 1985 Act (the “**1985 Act**”)), where these were the subject of the claims in the County Court;
 - b. payability of any relevant administration charges (under Schedule 11 to the Commonhold and Leasehold Reform Act (the “**2002 Act**”); and
 - c. any application by the leaseholder(s) (if made) to limit the payment of any legal costs of the tribunal proceedings as part of the service charge, under section 20C of the 1985 Act, and/or to limit the payment of legal costs in connection with the tribunal proceedings as an administration charge, under paragraph 5A of Schedule 11 to the 2002 Act.

7. Extensions of time were given after the parties agreed to mediate, but we gather the mediation was unsuccessful. The remaining elements from the procedural history/directions are noted below when dealing with the different parts of the case. Pursuant to the directions, the Applicant produced a hearing bundle of the case documents produced by the parties. Shortly before the hearing, Mr Daly produced a short supplemental electronic bundle of documents.
8. At the hearing on 4 November 2025 by video, the Applicant was represented by Mr Lowe, assisted by John Matthews (who was a leaseholder and had been a director between 2021 and 2023). Mr Daly represented himself and Caroline Daly (who attended for most of the hearing to observe). No witness statements were produced for the Respondents. Various leaseholders and others also attended the hearing to observe.

Lease

9. The Respondents' lease was granted on 30 April 1999 between lessor, maintenance company and previous lessees. It anticipated that each lessee of a dwelling on the Estate would have a share in, and the reversion would be transferred to, the maintenance company. It defines the "*Obligations*" as the obligations on the part of the lessor and the maintenance company "*...to repair and make available the Amenities and the Common Parts as herein set forth*".
10. In clause 2(i), the lessee covenants to pay "*...on demand such sum as the Lessor or the Maintenance Company ... may require for the purpose of maintaining repairing renewing and making available ... the Amenities and Common Parts and in accordance with the provisions of the Fourth Schedule*".
11. In clause 4(d), the lessor covenants (subject to clause 5) to "*...repair and maintain and keep available for the Lessee (in common with other occupiers...) the Amenities (once constructed) and the Common Parts...*", followed by a similar covenant from the maintenance company in clause 4(e). There are typographical errors in the lease, but it appears the Amenities are those set out in the Second Schedule:

*"Swimming Pool
Tennis Court
Communal television and radio aerials
Car Parking Spaces
Satellite Dish
Jacuzzi"*
12. Similarly, it appears the Common Parts are the areas described in the Third Schedule: "*The residue of the Estate including the roadways footpaths bins areas grassed areas private sewage treatment plant and other communal parts*".

13. The Fourth Schedule provides that “*Subject to the Lessee paying the service charge ... the Lessor shall repair maintain and make available to the occupants of the dwellings upon the Estate the Amenities [and] the Common Parts...*”. Paragraph (2) provides that the lessor may from time to time send a demand for payment “*of set sums as the Lessor shall require to enable it to carry out the obligations*”. Paragraph (3) provides for payment to be made within 14 days of the demand being made. Paragraph (4) provides that with a demand the lessor “*shall send full particulars showing how the amount required is calculated*” and “*shall at the request of the Lessee supply such particulars and verifications as the Lessee shall properly require*”. It confirms that, in calculating the sum required, the lessor is entitled to include sums required to establish a fund to provide “*adequate working capital*” and “*to enable any substantial expenditure which may be anticipated to be spread over a period of time*”.

Service charges claimed by the Applicant (for 2023)

14. On 10 December 2022, the Applicant delivered a service charge demand for £2,280 for the year from 1 January 2023. The accompanying “provisional” budget estimates potential costs for 2023 of £57,162 but service charge income of only £47,880 - because only 1/21st of that lower figure (£2,280) was being demanded from each leaseholder.
15. In their Defence and Counterclaim, the Respondents criticised this “*first-ever*” service charge budget/demand, saying that on the Applicant’s own figures the service charge should have been at least £2,722 per leaseholder to cover expected expenditure and “*were it not for the Section 20 considerations*” leaseholders should also be making a balancing payment towards a deficit of £6,019 from 2022 (~£286 each).
16. In his witness statement, Mr Matthews recorded that the demand followed a meeting in November 2022 which had been attended by Mr Daly throughout. Mr Matthews had explained the serious concerns about increased energy costs at that time, with the government cap on electricity prices ending in March 2023. He said the overwhelming view of the meeting was that there should be an interim increase to £2,280 (equating to £190 per month, instead of the previous £170 per month). He said it was made clear to the shareholders that there was no intention of running a deficit, so difficult decisions might have to be made about closing the swimming pool, jacuzzi and sauna - or increasing the service charge. As discussed at the hearing, the tribunal cannot advise but the Applicant may wish to review its approach and options for the future, by reference to the terms of the lease. We were glad to hear that managing agents have been appointed from 2024.
17. Pursuant to the directions, the parties exchanged a Scott Schedule of the individual estimated/actual costs for 2023 which were disputed by the Respondents. Before examining these individually, we will consider the dispensation application which was prompted by the arguments made by the Respondents in that Scott Schedule.

Dispensation application - electricity contract

18. In their Scott Schedule for 2023, the Respondents sought to dispute several items on the basis that the consultation requirements applied but had not been complied with. These were new arguments and may not affect payability of service charges based on estimated costs. However, it appeared sensible for the tribunal to seek to deal with them in these proceedings to avoid dispute in future about the actual costs. The Applicant was warned in directions that if they wished to make any application for dispensation they should do so promptly, so that all matters could be considered at the same time.
19. The Applicant then applied for dispensation with the consultation requirements in respect of a qualifying long-term agreement with Scottish Power for the supply of electricity. On 25 September 2025, the tribunal gave directions providing for this application to be considered at the hearing already fixed for 4 November 2025, for all leaseholders to be notified and for any objection to be made by 10 October 2025.
20. Mr Daly then wrote that he consented to the dispensation application because *“it was the best deal we could have secured in a crisis”* but objected to the fact that this had happened. He wrote to the other leaseholders arguing that this was an example of informal management which was causing risks and serious problems, apparently inviting leaseholders to e-mail the tribunal office (only) in various ways under three of his four “options”, without referring clearly to the directions which the tribunal had given.
21. On 9 October 2025, the tribunal office received an e-mail from Susan McCormick, leaseholder of 8 St Georges. This seems to be objecting to an application which has not been made. It appears to be concerned about swimming pool works in 2022. Mr Daly had sent several e-mails asserting that the consultation requirements had not been complied with in relation to these works and making other allegations about funding of these works. In her e-mail, Susan McCormick objected that failure to consult was a deliberate plan to *“...fund the works in a manner that I believe is unfair and a breach of the lease. Historic service charge surpluses, which should have been returned or credited to the leaseholders who paid them, were used to fund these works.”* She argued that meant newer leaseholders made no financial contribution, only longer-term residents like herself. She said that lack of consultation had caused significant prejudice because proper consultation would have brought this to light. These arguments seem to follow those made by Mr Daly in his earlier correspondence. It appears Susan McCormick had been given ample notice of the hearing date and was provided with the joining instructions for the hearing, but informed the case officer that she would not be attending because of work commitments. We were satisfied that it was in the interests of justice to proceed in her absence.
22. At the hearing, Mr Daly said he was changing his position “again”. He alleged that the dispensation application had not been served on previous

leaseholders and complained that the Applicant had been unwilling to distribute his correspondence to the leaseholders. He said that was consistent with wider mismanagement; we had a discretion and should not grant dispensation. Reference was made to Daejan Investments Limited v Benson & Ors [2013] UKSC 14.

23. We are satisfied that it is reasonable to grant dispensation in respect of the electricity supply agreement and that we should do so. It is not unusual for energy supply offers to be subject to time limits which are not compatible with the consultation requirements. In any event, there was no evidence of any relevant prejudice. Mr Daly accepted that he could not evidence prejudice and had in fact picked the contractor and signed the relevant long-term agreement himself. The objection from Susan McCormick appears mistaken. Even if it was not, it gives no reason why compliance with the statutory consultation requirements (the Service Charges (Consultation etc) (England) Regulations 2003) would have made any difference.
24. In the circumstances, we are not satisfied that the Applicant can be criticised for not formally consulting on the electricity contract or declining to distribute Mr Daly's correspondence to leaseholders. Applicants may take a risk if they do not make any relevant previous leaseholders parties to a dispensation application, but we are not satisfied that this should prevent us from granting dispensation in relation to all current leaseholders. Accordingly, we grant dispensation in relation to the electricity contract, as set out above.

Disputed items in the Scott Schedule

25. As discussed with the parties, in view of the nature of these proceedings we need to determine what service charges were payable pursuant to the demand in 2022 (based on estimated, rather than actual, costs for 2023). To the extent we have jurisdiction to do so, in our findings below we also determine the final costs reasonably incurred to seek to avoid disputes about these in future.
26. In their Scott Schedule, the Respondents had sought to argue that various costs should be reduced "pro rata" because (from 29 March 2023) they had as "non-payers" been asked not to use the amenities (and/or the sauna and jacuzzi had been closed and the swimming pool maintained at a lower temperature to reduce energy costs). At the hearing, Mr Daly accepted that the service charge estimates/costs would not be reduced on this ground. This was the subject of the Respondents' separate counterclaim to damages.

Swimming pool items

Oil: £6,300/£5,425

27. The Respondents had asserted that this cost was limited to £100 per leaseholder because the consultation requirements had not been complied with in relation to the supply arrangements. For the first time

at the hearing, Mr Daly conceded that the Applicant had in fact moved from a previous supplier to individual deliveries, so section 20 of the 1985 Act did not apply. He had already opined that the estimated figure should have been higher, more like £9,000, to deliver usual heating of the pool.

28. For the purposes of section 19 of the 1985 Act, we consider that the estimated cost of £6,300 was reasonable. The actual cost of £5,425 was reasonably incurred and the consultation requirements did not apply to the supply arrangements.

Electricity: £19,107/£8,091

29. In their Scott Schedule, the Respondents said this was an “*extraordinary overestimate*” which suggested the actual cost must be the result of a credit from a different period. At the hearing, Mr Daly said instead that he accepted £19,107 had been a reasonable estimate, but it was extraordinary that the Applicant was demanding less than would be needed.
30. Mr Matthews had explained in helpful detail in his witness statement about the anticipated huge increase in energy costs and that as it turned out these had not been as high as expected. Mr Daly complained that accounts had never been produced and he had to make up the figure of £8,091 himself from the various interim income/expenditure statements produced by the Applicant for leaseholders. When asked, he was unable to explain why the Applicant’s financial statements at [197-201], which confirm total electricity costs of £8,091.37 for 2023, were insufficient. He explained his concerns that although these financial statements record the income and expenditure, and deficits, for each of 2022 and 2023, individual balancing payments/credits were not arranged.
31. For the purposes of section 19 of the 1985 Act, we consider that the estimated cost of £19,107 was reasonable in the circumstances. The actual cost of £8,091 was reasonably incurred and we have granted dispensation, as set out above, in respect of the relevant qualifying long-term agreement.

Pool maintenance: £4,152/£3,846

32. The Respondents argued that there was no consultation, so their contribution was limited to £100. They had produced no evidence that this was a qualifying long-term agreement. Mr Daly argued that this must be such an agreement “*by conduct*”, because it had been the “*same guy for six years*”.
33. As discussed at the hearing, this seemed to be based on mistaken assumptions. Continuing with the same service provider for a long time does not necessarily create a qualifying long-term agreement. Section 20ZA of the 1985 Act defines a qualifying long-term agreement as one “*entered into ... for a term of more than twelve months*”. The Respondents had made a similar argument about the gardener, but Mr Daly accepted they could be fired “*next week*”. There was no evidence of

any contractual minimum term. There was no challenge to reasonableness. We are not satisfied that the consultation requirements applied in relation to the pool maintenance arrangements. The Respondents' contributions are not limited as alleged.

Water, window cleaning and boiler service (£684/£476)

34. These items (£240/£135, £138/£151 and £306/£190 respectively) had been disputed but were agreed at the hearing.

Cleaning: £3,444/£2,452 and equipment repair: £2,436/£2,203

35. There was no challenge to reasonableness. The sole remaining ground of dispute was alleged failure to comply with the consultation requirements. For the same basic reasons described above in relation to the pool maintenance, we are not satisfied that the consultation requirements applied in relation to the cleaning or the equipment repair arrangements.
36. As with the other costs above, the cleaning costs figures match the estimate and the financial statements produced. The estimated equipment repair cost is from the estimate; Mr Matthews explained that as with the other costs it had been estimated by reference to the cost in the previous year. The total actual equipment repair costs are difficult to identify from the financial statements and the Applicant was unable to take us to anything which would exceed the £2,203 calculated by Mr Daly, so we have adopted his figure as the actual cost.

Fire extinguisher maintenance: £55/£0

37. It was agreed this estimate was reasonable and but no actual cost had been incurred for 2023.

Waste treatment plant items

Contract maintenance £1,800/£1,200, repairs and maintenance: £1,000/£1,510

38. Mr Daly suggested these were not actual costs, only payments on account, and needed to be combined so were subject to "the section 20 cap". These were arrangements with Binder to maintain and pump out the waste treatment plant. Again, there is no evidence to suggest that this was a qualifying long-term agreement and we are not satisfied that it was. Mr Daly wanted the costs aggregated but also wanted them further broken down to identify separate costs in relation to repair of the pumps. We consider that the total estimate of £2,800 was reasonable. We are not satisfied that the consultation requirements applied and we consider the costs of £2,710 were reasonably incurred.

Electricity £3,100/£1,980

39. This was disputed on the same grounds as the electricity cost for the pool. The same findings apply, for the same reasons as explained above.

Environment Agency £980/£890

40. The Respondents had disputed this, asking why the estimate was more than the historic fee, but agreed it at the hearing.

Other items

Contract maintenance £8,900/£8,748

41. The Respondents said the gardeners had increased their prices by over 50% and no attempt had been made to find an alternative supplier over 20 years. At the hearing, they said the Applicant had kept within budget by having the gardeners visit less often and for fewer hours. They also alleged that the contractors had been instructed not to mow the area outside only their front door. That was denied; at the hearing Mr Daly could say only that he thought the grass had not been mowed for about three months. The Applicant said they had two leaseholders not paying service charges and had been trying to balance the books, so had reduced the service by half a day, and the gardener was still doing an adequate job.
42. Ultimately, the Respondents produced no real evidence showing any grounds maintenance below a reasonable standard and produced no alternative quotation to show that the costs were outside a reasonable market range. We consider the estimated cost was reasonable. The actual cost was reasonably incurred and we are not satisfied that it is limited by the consultation requirements.

Gutter cleaning £500/£0

43. The Respondents (and, very fairly, Mr Lowe, in disagreement with Mr Matthews) said they thought this type of expense could not be recovered under the terms of the lease, at least as an estimated cost.
44. Having heard from the parties at the hearing about clause 3(g) of the lease, we agree that the cost of cleaning the gutters of the individual dwellings cannot be included in the general service charge. Clause 3(g) is a separate covenant by the lessee with the lessor and with each of the other lessees to pay a proper proportion of the expense of various matters, including “...cleansing ... all ... gutters ... belonging to or used or capable of being used by the Lessee in common with the Lessor the Lessee or occupiers of any other part of the Estate...”. That seems to allow recovery of expenses incurred in cleaning gutters shared between dwellings (or shared between the dwelling and common areas) from the leaseholders of those dwellings.
45. Based on the case put by the parties at the hearing, we determine that the estimated cost was not payable. Ultimately, no such cost was incurred. However, that is not to say that some gutter cleaning for the amenities, for example, might not fall within the general service charge provisions for maintenance; we express no view on that.

Pest control £125/0

46. It was agreed this was a reasonable estimate, but as it turned out no cost needed to be incurred.

Tennis court £0/£20

47. Mr Daly was unhappy that the estimate did not expect any specific expenditure on the tennis court (he plays tennis) when new benches had been requested, but agreed the £20 was reasonably incurred.

Trees/plants £600/£219

48. These were not disputed.

Bin cleaning - £250/£0 and general sundries - £300/£1,198

49. These were queried, with the Respondents asking for more detail. The Applicant had responded that the first item was deferred due to the shortfall in service charge income and details of the latter were given in the regular income and expenditure reports to leaseholders. There was no real dispute about this at the hearing, with Mr Daly repeating the same argument as if it had not been answered. We consider the total estimate of £550 was reasonable. No adequate case has been put to dispute that the total general expenses of £1,198, which seem proportionate to the site and overall costs, were reasonably incurred.

Health and safety – consultancy support - £793/£858

50. The Respondents had queried this and suggested it was “arguably” a management company expense, but at the hearing Mr Daly did not dispute it. The corresponding service charge was payable.

Insurance - £1,656/£1,696

51. The Respondents had queried inclusion of the directors’ and officers’ insurance premium. The Applicant had responded that the premium of £190 was part of the reasonable overhead and administrative and/or insurance costs permitted by the lease. At the hearing, Mr Daly said he did not have a strong view on this. We agree with the Applicant; a modest insurance cost of this type is within the scope of the service charge provisions in the lease, which anticipated a leaseholder-owned landlord. We consider the full costs were payable through the service charge.

Bank charges £102/£104

52. The Respondents had said this was a management company expense, but could not explain why. It is normal for banks to charge for maintaining accounts of this type and this falls within the overhead/administrative expenses permitted by the lease. Mr Lowe confirmed that since 2024 managing agents have been appointed and hold the service charges in

their client account. Ultimately, Mr Daly confirmed these bank charges for 2023 were agreed.

Companies House £13/£26

53. We do not need to make a finding about this because Mr Lowe agreed it was not payable through the service charge and would simply be paid from ground rent receipts. The ultimate cost was only £13, not £26, because a duplicate charge was later refunded.

Legal: £500/£5,034

54. The Respondents disputed payability through the service charge, amongst other grounds. The Applicant argued the costs of “*professional services*” were recoverable and pointed to the value and seriousness of the counterclaims made by the Respondents. At the hearing, we referred the parties to 89 Holland Park Management Limited v Dell [2023] EWCA Civ 1460 and the authorities mentioned in it. These emphasise that although general words may be sufficient they must be very clear if they are to include the landlord’s legal costs of litigation and the categories of recoverable cost described in the lease may give the best indication of the types of expenditure intended to be included.
55. In this lease, paragraph (4) of the Fourth Schedule provides for inclusion of the costs of repairing and making available the amenities and common parts, “...*Reasonable overhead expenses and administrative expenses and the costs of employing professional services agents full time employees and insuring...*” and a fund for working capital and to spread anticipated substantial expenditure (as noted above). We do not consider these clear enough to include legal costs of litigation of this type and it was not suggested that the estimated or actual costs were in relation to anything other than the anticipated and then actual litigation with the non-paying leaseholders.

Office sundries £100/£13 and miscellaneous £200/£106

56. The Respondents had suggested these were management company expenses. The Applicant said they were service charge expenses. The headings refer to office sundries, stationery, locks and miscellaneous costs. These are proportionate and the types of overhead, administrative and other expenses permitted by the lease. We consider they are payable.

Gratuities £65/£65

57. It was agreed these (paid to the postman and the like at Christmas) were payable from the ground rent receipts, not through the service charge.

Conclusion

58. The relevant figures are set out in the Schedule to this decision for ease of reference. However, the calculation is simple. The Respondents had disputed or queried almost every item in the estimate totalling £57,162.

59. The only reductions by agreement or by us total £1,078, leaving total estimated costs of £56,084. The demand sought only £2,280 (still substantially less than 1/21st), so the full amount set out in the demand was payable.
60. The Respondents had disputed the claim that the demand was payable within 14 days after the demand was delivered. They had been unable to justify their assertions that a longer period was required by the 1985 Act. The authority to which they referred does not assist them, because the demand did not specify a notice period. Mr Daly did not dispute that the demand was valid under the terms of the lease and complied with section 21B of the 1985 Act. We accept the Applicant's evidence that the demand was delivered by hand on 10 December 2022 and their case that under paragraph (3) of the Fourth Schedule to the lease the £2,280 demanded was payable by the Respondents within 14 days of the demand being made, so by 24 December 2022.

2016 to 2022 service charge payments without demands/accounts

61. The Respondents had sought to counterclaim £13,600 (as 80 payments of £170 per month from May 2016 to December 2022) on the grounds that they said no valid demands, budgets or accounts had been produced.
62. In their reply and defence to counterclaim, the Applicant noted that no cause of action or real particulars had been given. They said payments had been made for six years without objection, so the Respondents were taken to have agreed the relevant matters. They had referred to earlier authorities and were referred to C&A Gorrara Ltd v Kenilworth Court Block E RTM Co Ltd [2024] UKUT 81 (LC).
63. The case management directions required that, if the Respondents wished the tribunal to determine payability of individual service charges for any of these previous years, schedules in a specified form (Scott Schedules) must be produced identifying each disputed item and setting out their case on it for each year. The Respondents did not produce any such Schedules (other than their Scott Schedule for 2023, considered above). At the hearing, Mr Daly agreed that arguments (which were not part of the Respondents' counterclaims) made about swimming pool works in 2022 said to have been carried out without formal consultation were not relevant; the Respondents were not questioning individual items.
64. Instead, in their case documents, the Respondents sought to pursue their counterclaim to these historic service charge payments based on their broad allegations of a lack of formal demands and accounts. They said no valid demands were made. They criticised the documents produced as accounts, emphasising that any leaseholder wanting to sell would need to produce the last three years' accounts. The case management directions had warned that in view of the alleged agreement the Respondents may need to set out any contemporaneous dispute notified about the matters complained of in relation to the earlier service charges. They did not. Instead, they argued that they could not be said to have agreed the past

service charges, Mr Daly having during their time as leaseholders “...questioned every penny of leaseholder’s money spent...” and initiated changes to multiple suppliers.

65. The Applicant had then made a case management application querying pursuit of the counterclaims in the tribunal. On 5 September 2025, further directions were given confirming that the tribunal could seek to consider such counterclaim to the extent that it may be set off against the 2023 service charges claim, to decide what service charges are payable and help narrow the issues. The Applicant then produced their case documents in answer. Mr Lowe said in his witness statement, and it was not disputed, that the Applicant had prepared income and expenditure statements during each financial year. These were updated and sent to all leaseholders regularly during each year. Examples, from 2022, were produced. Further, Mr Daly was a director of the Applicant from November 2017 to April 2020, when he and the other directors approved those statements.
66. At the hearing, Mr Daly told us that he had started to “moan” about the accounts ever since he was a director, and the formal demands had been made for 2023 only because he had insisted on this. He did not identify any cause of action for the claim to a refund of all service charge payments made, save for his earlier reference to section 21 of the 1985 Act and the new assertion in the final reply from the Respondents that the payments had been made based on a mistake of fact. At the hearing, Mr Daly could only say that mistake was that they had been provided with the information they were entitled to.
67. We are not satisfied that the Respondents have demonstrated any right to claim back their historic service charge payments. It appears there was no change to the arrangements complained of (i.e. the lack of formal demands and any further accounting documents beyond those provided) between 2016 and 2022. Mr Daly was a director between 2017 and 2020, as noted above. Even after that, as Mr Lowe said, Mr Daly was actively involved in management matters, helping with projects such as the electricity contract he signed for the Applicant in September 2022.
68. Mr Daly did not take us to any evidence of any dispute about the lack of formal demands until this dispute was raised in the defence and counterclaim in late 2023.
69. Similarly, we were not taken to any real evidence of historical disputes about a lack of accounting information sufficient to show how the service charges were being spent.
70. The minutes of an AGM and owners meeting in November 2020 note an expected deficit of £4,000 that year, with no plan to change the service charge payment of £170 per month. They note the aim to keep a “*healthy reserve in the bank - £10K is a ballpark figure – but the balance will fluctuate with expenditure*”. They note a suggestion from Mr Daly that the 2019 accounts do not “*tally*” and an answer that in fact they do

balance with the bank account. Minutes from 27 January 2022 describe presentation of an analysis of the last three years' service charges, with Mr Daly taking on the task of reclaiming VAT overcharged by a supplier. A long e-mail from Mr Daly on 26 May 2022 notes that he has spent a long time seeking to create "*proper*" accounts for the preceding three or more years, with difficulties. However, its substantive comments on the accounting relate to other matters, such as providing for depreciation and any bills received but not yet paid.

71. On the cases and evidence produced, we consider that the Respondents probably are to be taken to have agreed payment of the relevant service charges without formal demands based on the financial information/involvement provided.
72. If that is wrong, we are not satisfied that the Respondents can simply reclaim their payments. Mr Daly had relied on section 21B of the 1985 Act, but as discussed at the hearing this provides that a tenant "*may withhold payment*" of a service charge if the demand is not accompanied by the prescribed summary of rights and obligations. It does not follow that all sums paid without the summary must be refunded. Similarly, we are not satisfied that the relevant payments were based on any mistake of fact as alleged. It appears the Respondents were at least sufficiently involved, made their payments without formal demands and had information about how the service charge money was being collected and spent.
73. Accordingly, we are not satisfied that there was any right to set off these historic payments against the service charges payable for 2023 (as determined above).
74. We note the Respondents' concerns that individual credits and balancing charges were not applied each year. The lease provisions about this may be unclear, which may leave the general provisions in section 19(2) of the 1985 Act; no real case was made about this. The Respondents produced none of the accounting information for the preceding years (before 2022). Moreover, this was not their counterclaim and they made no cogent case that the deficits shown in the 2022 and 2023 financial statements, and so any amount(s) which they might ultimately owe (or which might ultimately be owed to them), are wrong, save for the minor adjustments recorded in this decision for 2023.
75. Similarly, we note the Respondents' arguments that the historic approach was unfair because any surplus from long-term leaseholders might have funded costs for newer leaseholders. However, this was a hypothetical argument with no actual particulars or evidence, let alone evidence of any substantial accrued sums. Similar assertions were made in connection with the swimming pool works, where it seems the costs were not very substantial (less than the estimated electricity costs for 2023). The Respondents also made the opposing argument (that demanding lower service charges than potential expenditure meant future leaseholders might pay for costs incurred by previous ones).

Section 20C/paragraph 5A/tribunal fees

76. We understand that, on 29 August 2025, Mr Daly sent to the tribunal office an e-mail attaching an application form under section 20C of the 1985 Act and paragraph 5A of Schedule 11 to the 2002 Act. It appears that, contrary to the case management directions, Mr Daly failed to copy this to the Applicant, so they were unaware of it. He did not include the form in his supplemental bundle, but it is simply an application form with the details of the parties, giving no substantive grounds. At the hearing, since Mr Daly told us when asked that he had sent in this application form, we allowed him to make his application orally.
77. Mr Daly said the matter could have been resolved but the Applicant had behaved unreasonably; the Respondents were unhappy about the amenities. He accepted that the Respondents had been mistaken about qualifying long term agreements and it would have been better if they had paid under protest, applying if need be to the tribunal.
78. It seems to us that the Applicant's letter of 29 March 2023 (informing the Respondents that in view of their non-payment of service charges they were not "*permitted*" to use the amenities) was a mistake. However, we had no real evidence and were given conflicting arguments about this; the Respondents seemed to say this "ban" was reversed on the advice of the new managing agents but Mr Daly also told us at the hearing that he still was not using the facilities, although his sons and wife had a "*couple of times*". Further, as agreed with the parties, the damages claim about this will be a matter for the County Court, so we make no findings about it or the expenses claim made by the Respondents.
79. The Applicant did not act unreasonably in these tribunal proceedings. It seems the Respondents refused to pay service charges which they should have paid and then attempted to pursue a range of disputes. In any event, the Applicant has been entirely (or almost entirely) successful on the matters which the parties were asking the tribunal to deal with in these proceedings. In the circumstances, we will exercise our discretion under rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to order the Respondents to reimburse the tribunal hearing fee paid by the Applicant (no other fees were paid in the tribunal proceedings; claims to County Court fees are for the Court to decide).
80. In the circumstances, if the legal costs of these proceedings could contractually be recovered through the service charge, we would not make an order under section 20C of the 1985 Act in favour of the Respondents. However, in view of our findings above about payability under the terms of the lease, it appears just and equitable to make such order simply to avoid any risk of dispute between the parties about these costs in the later service charge year(s). No particular administration charge in respect of the costs of these proceedings has been identified, so we make no order under paragraph 5A of Schedule 11 to the 2002 Act. This does not preclude another such application if such charge is sought, but the points noted above should be kept in mind.

Remaining matters

81. As agreed with the parties, who had not yet prepared their evidence in respect of the other counterclaims, the remaining matters will need to be decided by the County Court if the parties cannot agree them. For the last time, we encourage the parties to step back from the difficulty of their relationship, take a realistic approach and attempt to resolve the remaining matters by agreement.
82. We transfer the case back to the County Court at Peterborough, noting the matters set out at the start of this decision.

Judge David Wyatt

11 December 2025

Rights of appeal

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

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

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

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

Schedule

Item	Estimated cost	Actual cost
Pool items		
Oil	£6,300	£5,425
Electricity	£19,107	£8,091
Pool maintenance	£4,152	£3,846
Water, window cleaning and boiler service	£684	£476
Cleaning	£3,444	£2,452
Equipment repair	£2,436	£2,203
Fire extinguisher	£55	£0
Waste treatment plant items		
Contract maintenance	£1,800	£1,200
Repairs and maintenance	£1,000	£1,510
Electricity	£3,100	£1,980
Environment Agency	£980	£890
Other items		
Contract maintenance	£8,900	£8,748
Gutter cleaning	£0 (-£500)	£0
Pest control	£125	£0
Tennis court	£0	£20
Trees/plants	£600	£219
Bin cleaning	£250	£0
General sundries	£300	£1,198
Health and safety consultancy support	£793	£858
Insurance	£1,656	£1,696
Bank charges	£102	£104
Companies House	£0 (-£13)	£0 (-£26)
Legal	£0 (-£500)	£0 (-£5,034)
Office sundries	£100	£13
Miscellaneous	£200	£106
Gratuities	£0 (-£65)	£0 (-£65)
Total adjustment	(£1,078)	