FIRST-TIER TRIBUNAL PROPERTY CHAMBER
RESIDENTIAL PROPERTY

Case reference	:	**MAN/00CJ/LSC/2023/0085**
Properties	:	**Jesmond Park Estate, Newcastle upon Tyne, NE7 7BG**
Applicants	:	**The 41 Applicants listed in the Annex**
Applicants' Representatives	:	**Mr R Davidson, Ms G Finch, and Mr C Reed**
Respondent	:	**Wallace Estates Limited**
Solicitors for the Respondent	:	**Stevensons Solicitors**
Type of Application	:	**Landlord and Tenant Act 1985 - s27A and s20C Commonhold and Leasehold Reform Act 2002 – Sch 11 para 5A**
Tribunal Members	:	**Tribunal Judge L Brown, Ms J Bissett FRICS (Valuer Member)**
Date of Hearings	:	**18 and 19 June 2025**
Date Decision Issued	:	**11 February 2026**

DECISION

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1. In service charge year 2022/23 the Tribunal has decided certain adjustments are necessary as set out below.

2. No Order is made under section 20C Landlord and Tenant Act 1985 or regarding other matters of costs, save as mentioned in paragraph 91.

REASONS
The Application and the Hearing

3. By Application dated 17 October 2023 the Applicants applied to the Tribunal (the Application) under section 27A of the Landlord and Tenant Act 1985 ('the Act') for determination of whether certain service charges were payable by them for years 2022 – 2024 (inclusive). The 2023/24 year did not relate to actual amounts as they were not available.

4. The Applicants are categorised into A – as leaseholders of a house, and B – as owners of a Flat (see Annex).

5. The Respondent is the freehold owner of the site comprising the buildings, roadways, walkways and communal areas (the Estate) in which the Properties are located. The Applicants are long-leaseholders of residential premises of various types within the Estate. There are 85 dwellings on the Estate, being a mixture of houses and flats.

6. Day to day management of the Estate was carried out by Kingston Property Services Ltd (KPM) during the period 1 March 2022 to 10 August 2022, following when the Respondent changed its managing agent to Premier Estates Limited (PEL), which remains in that role.

7. The Tribunal made a number of directions and the Tribunal carried out an inspection of the Estate on 17 June 2025 in the presence of the Applicants' Representatives, Mr Stevenson and Ms Payne from the Solicitors for the Respondent and Mr P Tolley-Hall of PEL.

8. A hearing of this matter took place at Newcastle upon Tyne County Court on 17 and 18 June 2025. A number of the Applicants attended and the Applicants' Representatives took the lead on their behalf, although we also heard from some of the Applicants with comments arising from their witness statements, in particular Mr P Taylor regarding a leaking roof issue at 47 Wyncote Court. The Respondent was represented by Mr Stevenson. We heard evidence from Mr Tolley-Hall and Ms Berry (the latter limited to matters concerning insurance) and also from Mr Moores, Regional Operations Director from PEL

9. The documents that we were referred to were in a combined bundle of 2,324 pages from the parties, the contents of which we have recorded. In addition, we received lengthy written submissions from the parties following the hearing, and caselaw authorities. Helpfully, we also were presented with a Scott Schedule (attached), identifying the points at issue for determination by the Tribunal and the parties' respective positions. The Tribunal acknowledges the considerable amount of preparation undertaken by the parties for this case and for the production of hard copies of the hearing bundles.

10. Given the length of the proceedings, we had to be aware of certain changes on site and the issue, following the hearing, of the actual service charge figures for

2023/24. Further, in light of the many statements, representations, Skeleton Argument of the Applicant and submissions, it is not intended to record here all of the parties' arguments, but only persuasive evidence found by the Tribunal relevant to its determinations. We have deliberately kept this Decision as short as possible, without repeating at length the parties' evidence and submissions and the parties are referred to the documents identified here for background. We have taken account of case law presented to us, but found for proportionality that analysis of their principles was not necessary for this decision. Our summaries will not reflect every point made, but that does not mean we have ignored them or failed to evaluate them.

The Estate

11. From its inspection the Tribunal found that the Estate comprises a pleasant site of landscaped areas surrounding blocks, some containing houses and others of flats. There are walkways around the site, a roadway, parking spaces and bin stores. The Properties' addresses are Jesmond Park Court, Dene Court and Wyncote Court. There is one block (26-32 Jesmond Park Court) which is operated by a Right to Manage company (the RTM block), which is not within the Application.

The Principal Law for the Application

12. Section 18 of the 1985 Act states

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

(3) For this purpose—
(a)"costs" includes overheads, and
(b)costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19 of the 1985 Act states

Limitation of service charges: reasonableness

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

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

b. where they are incurred on the provision of services or the carrying out of works, only for the services or works or are of a reasonable standard: and the amount payable should be limited accordingly.

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

18. Section 27A of the 1985 Act states

Liability to pay service charges: jurisdiction

(1) An application may be made to the appropriate tribunal for a determination whether service charge is payable and, if it is, as to
a. the person by whom it is payable,
b. the person to whom it is payable,
c. the amount which is payable
d. the date at or by which it is payable, and
e. the manner in which it is payable.

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

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

a. the person by whom it would be payable,
b. the person to whom it would be payable,
c. the amount which would be payable,
d. the date at or by which it would be payable, and
e. the manner in which it would be payable.

19. Within Schedule 11 of the Commonhold and Leasehold Reform Act 2002 is:
5A (1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.
*(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable***.**

Sub-section (3) confers jurisdiction upon the Tribunal regarding these proceedings and defines "*litigation costs*" as "*….costs incurred, or to be incurred, by the landlord in connection with proceedings….*" such as those before us.

The Leases

20. There are three types of lease affecting the Properties. All three types of lease state that the service charges are payable in arrears (although the Dene Court Leases specify that £50 should be paid in advance and any service charges over this amount

are to be paid in arrears). The terms of the leases and the service charge contribution apportionments were not in dispute.

21. The Tribunal was satisfied that there was no dispute concerning the respective obligations in this matter and in particular the Applicants' liability in principle for the charges which are the subject of the Application.

Evidence and submissions, Tribunal findings and Determinations

22. The Tribunal first considered the lease terms and found that the sums involved in this matter potentially are recoverable from the Applicants – which in principle was not in dispute, we found. The question was whether they individually were actually payable, were reasonably incurred expense and if so, whether each was reasonable in amount.

23. By reference to the Scott Schedule record of matters at issue the Tribunal makes the following findings and determinations regarding those matters which we were informed remained in dispute.

101 Demands for 2022/2023 Service Charge

24. The Applicants asserted that no valid demand for service charge had been issued, therefore no payment was due. The service charge year, as evidenced by leases, runs 1 April to 31 March.

25. By letter dated 19 July 2023 PEL advised leaseholders that notwithstanding the lease terms (paragraph 22), "*….this means of collection causes cash flow issues, with costs being incurred before service charge monies are collected. Not only has this caused issues with cashflow but also significantly contributed to delays in works being completed or instructed. To resolve this issue and with the agreement of the agent of the Freeholder of Jesmond Park, we will now be collecting service charges in advance of costs being incurred. This means of service charge collection is far more typical and ensures cashflow for the smooth running of the development."*

26. That letter went on to state *"We will be shortly issuing the service charge estimate for 1st April 2023 – 31st March 2024 and this will provide you with a full breakdown and explanation of the provisions for the next financial year.*

We are currently finalising the YE accounts for the period 1st April 2022 – 31st March 2023. These accounts will be issued with an invoice for your proportion of the costs incurred during this time. Should you contact us agreeing to pay your ongoing service charges in advance by direct debit, we will be open to allowing the levy amount for 2022-2023 to be paid over a number of instalments. We believe this is a sensible benefit of agreeing to pay the service charge in advance.

Should you be unwilling to pay your service charge in advance, the amount for 2022 2023 will become due in full on the invoice date."

27. On 29 September 2023 PEL sent to leaseholders a letter, stating "*Please find enclosed your copy of the accounts for Jesmond Park for the financial year ending 31st March 2023.*

These accounts provide you with important financial information showing income and expenditure of service charge monies for your development.

……

Each property owner will find enclosed an invoice with the amount depending on the schedules to which they contribute. If leaseholders are to participate with the forward payment of the service charge then we will be able to split this invoice across your service charge schedule.

…….

Should you agree to pay your ongoing service charges in advance by direct debit, we will be open to allowing the levy amount for 2022-2023 to be paid over a number of instalments. We believe this is a sensible benefit of agreeing to pay the service charge in advance……

If you do not agree to pay your service charge in advance, then please do find your invoice attached, which is due in full on the invoice date."

28. The Applicants pursued an argument relying principally upon Section 20(B)(2) of the Act. Section 20B states:

> *(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.*
>
> *(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.*

29. While in error (for which it apologised) settlement of the invoice enclosed on 29 September 2023 was chased in November 2023, the Tribunal was satisfied that by the notifications of that date from PEL the leaseholders were unambiguously informed that there would be service charges due for year ended 31 March 2023. Enclosed with that letter was an accountant certified certificate showing the total service charge, as is required by the leases (see the Sixth Schedule, clause 3 of a house lease, by way of example of the requirement). Invoices dated 1 November 2023 were then issued for the 2022/23 sums due. While the Applicants provided representations at length, the Tribunal was unable to find a basis to support their view that there had been a procedural deficiency so as to prevent recoverability of the 2022/23 charges.

30. Further, regarding charges for 2023/24, the Tribunal found that notification of liability to pay was issued to leaseholders on 30 September 2024 (described as a "Section 20b" notice), the certified accounts were issued on 6 November 2024 and the demands for payment are dated 2 June 2025. Therefore, no procedural deficiency was identified.

103 Service Charge Information Missing / Unexplained

31. In their submissions, the Applicants stated "*It is agreed by the Applicants that, at the dates of the Hearing 18th & 19th June, 2025, the great majority of the Service Charge information had been supplied.*" Their position was that it had taken until 3 December 2024 for the Respondent to produce expenditure accounts requested in October 2023. The Tribunal found that there was no matter in itself arising from this complaint (i.e. an expenditure) upon which it could make a determination under its Section 19 / 27A jurisdiction.

32. The Applicants argued that the Respondent had failed to be transparent. The Tribunal can only offer comment, that the concerns of the Applicants was systematic of a break-down in relationship between them and the Respondent's managing agents, which the parties expressed at the hearing they hoped to remedy. It was apparent to us that management of the Estate was made more complicated because it was not contractually possible under the leases for the managing agent to obtain funds in advance towards service expenditure, but only after the costs have been incurred, which inevitably affects cashflow. In addition, no reserve fund is in place.

106 Expenditure Invoices not supplied when requested (Accruals)

33. This Tribunal found this point to relate again to the Applicants feeling that there had been a lack of transparency. However, the Respondent was able to explain that certain charges arose from expense incurred but not paid within a relevant service charge year (an accrual) and we found that to be satisfactory. Of the Applicants' requests for documents, the Tribunal was not persuaded that there had been omission to prove payments for 2022 /23 or that proof of those relating to 2023/24 were pending or amounted to accrual sums. The Applicants are reminded of their right under Section 22 of the Act regarding request for provision of reasonable facilities for inspecting document supporting a service charge summary document issued under Section 21B.

Items 108 & 209 - No Legal Liability for extra charges

34. The Tribunal records that it found there is a wide-ranging provision within the lease, allowing for the Respondent to collect from the Applicants expenditure which is for "*….proper management, administration and maintenance of the estate….*" - clause l(d) of the Fifth Schedule of the house lease, and appearing similarly in the flat lease (clause 1(9) of the Seventh Schedule) and the Dene Court lease (clause 1(10) of the Seventh Schedule) ("sweep-up clause"). On reasonable interpretation, this is a provision giving the Respondent's managing agent a broad discretion, subject to the statutory checks and balances such as exercised through the Tribunal's jurisdiction.

35. The Applicants invited the Tribunal to look at the intention of the parties entering into the various leases upon their creation and to interpret the sweep-up clause provision restrictively so as to exclude liability upon them for "*bank charges, accounts preparation fees, emergency-out-of-hours, health & safety, fire alarm testing*". We understood the criticism extended to public liability insurance cost.

36. The Applicants invited the Tribunal to draw a distinction between leases as to specific items recoverable only under certain leases. However, the Tribunal took a purposive approach to interpretation. We found that the intention of the consistent wording was to confer on the Respondent the broad discretion we have referred to above. We found that none of the items to which the Applicants raised objections were unreasonably incurred. This is a large site, requiring attentive and responsive management. While the Respondent made certain concessions concerning court fees and fire alarm testing (the latter to be removed from "house" leaseholders), the fees at issue concerned bank and accountancy fees, which are normal costs arising from an estate management function and we found were reasonably incurred.

37. The Tribunal found in favour of the Respondent's justification for the emergency-out-of hours service, including *"….with reference to flat leases, the Landlord is responsible for maintaining fixtures, fittings and apparatus and it is therefore entirely reasonable, indeed necessary, for there to be a point of contact for the managing agents of the Respondent for 52 weeks a year 24 hours a day in the event of, for example, a water pipe serving several properties leaking and causing a major flooding problem."* We were in no doubt that it was a proper management provision and that the Applicants would have been upset if such responsiveness was not available.

38. As to public liability insurance, the Tribunal found risk arises from people and vehicle access to common areas, including footpaths and roadways on the Estate and is a reasonably necessary protection from possible claims. We found that placing of the insurance cover is a reasonably necessary requirement, which arises from proper management. There was no evidence of a competing cost for such cover and we had no persuasive reason before us to suggest the sums involved were unreasonable.

201 Allegation of leaking roofs causing unnecessary damage
305 - Failed Roof Repairs

39. The Applicants complained that the Respondent had not adopted a satisfactory roof inspection regime, had not responded timely or adequately to notifications of leaks, such repairs as were undertaken were unsuccessful, and in consequence there had been internal damage across blocks and individual premises. Mr Taylor in particular complained that there had been failure to repair the roof of his block either promptly or diligently after being notified repeatedly that the roof was leaking.

40. It was not disputed that the Respondent is responsible for upkeep of the roof of each block affected by the Application. The Applicants summarised the basis of their concerns as need for a "stitch in time", for the Respondent to be pro-active.

41. The Applicants represented that by the time PEL took over, only the roof over 15/23 Wyncote Court had been replaced and 6 of the 8 blocks on the Estate had

experienced leaking roofs. "*The Applicants say that proactive, planned management should have been undertaken that would have entailed;*

(i) Periodic surveys of the roofs of the flats
(ii) Consideration being given to the routine replacement of the roofs every 25 years or so, subject to survey.
(iii) Prompt and effective repairs of leaking roofs immediately after they have been reported. and that these simple precautions would have eliminated inteior [sic]*damage, crucially without the adverse consequences of greatly increased future buildings insurance premiums."*

42. In reality, the argument concerned internal repair work to 47 Wyncote Court and insurance excess charges each of £500 for claims relating to the same flat and 21 Wyncote Court. The Tribunal has noted that the Respondent conceded these sums were not recoverable through the service charge and therefore should be excluded from the reconciliation account.

43. The Tribunal found equal merit in the arguments of both parties: the Applicants that there should be pro-active inspection and planned replacement of roof coverings; the Respondent that a Condition of a Roof Report would be expensive and a more proportionate process it decided to adopt was to carry out ad hoc repairs until it was uneconomic and ineffective to repair and that replacement was required. We found no independent professional evidence from the Applicants that work on or inspection of any roof had been done earlier, the cost would have been less overall. However, the Tribunal was presented largely with an "in principle" dispute, not one remaining which concerned actual expenditure. In this situation we found there was no decision for which we were empowered to make a determination.

44. Regarding the costs of actual roof repairs the Applicants alleged these had been unreasonable as they had failed, and they sought removal of service charge in 2022/23 of £4,663 (see Appendix 53 to the Applicants' Statement of Case).

45. The Respondent accepted that not all repairs had been effective and it agreed to remove the cost of poor workmanship regarding 4-6 Jesmond Park Court. We heard that the roof above those premises had now been replaced and the costs will fall in 2024/25 (and for which retrospective dispensation from consultation requirements had been sought from the Tribunal in separate proceedings). The cost of the renewal of the roof at Dene Court has been the subject of a consultation exercise and will fall into 2024/25.

46. As to 8-16 Jesmond Park Court, roof leaks continue and a consultation process was in place for necessary works arising.

47. The Tribunal had before it no independent evidence to contradict the representation of Mr Tolley-Hall summarised in the Respondent's submissions that certain roof repairs may become ineffective – because "*….the precise point of the leak could not be ascertained for certain given that the water would not necessarily fall completely vertically and could travel horizontally before penetrating the internal areas."* We agreed a failed repair does not mean it was neither appropriate in the first place as an attempt to limit greater costs, such as full replacement of a roof

(bearing in mind the absence of a sinking fund, which otherwise may ease the financial burden for such major works), or was undertaken negligently.

48. The Tribunal would have to infer from the Applicants' representations and evidence of subsequent works becoming necessary to deal with the same roof leak potentially to find in favour of the Applicants in respect of the three charges itemised in their Appendix 53. We found that patch-repairs were a reasonable approach undertaken by the Respondent, in the absence of a survey of one or more of the affected blocks. We were unable to infer that a point had been reached prior to incurring the three charges in 2023 at issue by when the Respondent should have been on notice that such attempt at remedy had become unreasonable. Nor was there persuasive evidence before us that the charges related to works undertaken negligently. In consequence we found against the Applicant's claim in respect of item 305.

202 – Charges for Work not Done

49. The Respondent agreed to withdraw a charge of £78 for attempted gate repairs.

203 - Cost of Electricity?

50. The dispute here was not well explained in evidence. In submissions, the Applicants set out *"No explanation or evidence was offered in evidence by Premier as to why the cost of electricity consumption for the lighting of the external Managed Areas allegedly more than doubled in one year of Premier's management compared to the cost in the other year of Premier's management. The cost had remained at around the level claimed for the 2022/23 year (circa £1,000pa) in the previous years beforehand."*

51. 203 as recorded on the Scott Schedule, concerns footpath repairs (see later).

52. To the extent that the Tribunal was able to identify the Applicants' concern regarding electricity, we found no unreasonableness in light of the Respondent's evidence that in 2022/23 the cost of electricity (for communal areas) was £949, which rose to £2,049 in 2023/24.

204 — Alleged lack of competitive tendering

53. Through the proceedings, the Respondent "…*accepted that there was not the required consultation for the roof works to 39 to 49 and 1 5 to 21 Wyncote Court and that the charges in excess of £250 per Leaseholder should not be payable under the service charge. The relevant amounts are:*

39-49 Wyncote Court - GB Roofing Invoice 797682 - 2,262 reduce to £l,500
15-21 Wyncote Court - GB Roofing Invoice 838103 dated 20/09/23 - £2,886 reduce to £l,OOO.

It is accepted therefore that the total sum of £2,648 should be deducted from the service charge liability under this heading".

54. On the wider point of when or if tendering was required, that is not for the Tribunal to determine on the facts of this case, other than how it may affect

management charges similar to arguments concerning 205, below. The Tribunal comments that from its expertise, unless there are formal consultation requirements (such as a Section 20 consultation for major works), our attention was not drawn to a legal obligation on a managing agent to undertake competitive tendering for works. While charges can be challenged through proceedings such as these before us, how an agent selects contractors and their pricing is a matter for the agent – and who then may be required to explain and justify its decisions, through the Tribunal's assessment jurisdiction regarding incurring of charges.

205 Use of non-local contractors alleged to be pushing up costs

55. The Applicants criticised PEL using contractors not locally based, suggesting travel and vehicle costs, for example, would increase overall charges. They compared costs from contractors engaged by KPS to those of PEL - £72,000 versus £137,000. Mr Tolley-Hall from PEL explained that suppliers are chosen from a national panel of approved contractors, selected for competency, reliability and price – which often is discounted because of volume of instruction (the Respondent instructs PEL to manage 56 of the sites it owns). The Respondent represented that the programmes of works were not the same between service charge years, so the costs between contractors was not a good measure and PEL is not required to consult under the terms of its contract with the Respondent.

56. The Tribunal found no persuasive evidence of a like-for-like comparison which took into account the variables that permit for a genuine comparison to establish value for money. More particularly, the detail of the Application did not identify a specific service charge amount which was being challenged; we found that the complaints were generalised and could go to management charges only (see later).

206 Garden work costs

57. Year–on-year increase of costs for landscape maintenance was in dispute. The Applicants presented that sums as rising from £7,099 in 2021/22 to £12,161 in 2023/24 and anticipated for 2023/24 to be £15,024. They stated there had been no corresponding increase in the quality of work and there had been no consultation with leaseholders about the costs and options. Photographs were presented in support of the allegation of poor quality work and also gave as an example inadequate work to repair a site gate. The Applicants wanted the fee to be capped at the 2021/22 sum, adding RPI annually.

58. The Respondent's position was that when PEL took over management it determined that additional works were required to keep the grounds at a reasonable standard, which increased the number of contractor visits. "*In September 2024, Premier re-tendered the garden maintenance as it was not satisfied with the standard of work provided by the previous contractor and as well as its conduct towards Premier. A result of this re-tender is that the costs for garden maintenance are £1, 162/month*" (Respondent's Statement of Case).

59. While the Tribunal found on inspection that the grass had been cut recently, the clippings had not been picked up. The Applicants suggested the grass had not been cut for two months and 2 days before the inspection.

60. Mr Tolley-Hall provided in his statement:

"*Prior to PEL taking over management of the Estate, Envirocare Residential Solutions Ltd were the gardeners. When PEL took over management, Mill Gardens Ltd were instructed - I have reviewed saved correspondence regarding the grounds maintenance and understand new gardeners were appointed because their costs were less than Envirocare….. The quote provided by Envirocare Residential was £11,344.92 plus VAT (£13,613.90), Wolveston declined to quote and Mill Gardens quoted £10,080 plus VAT (£12,096.00)*

Mill Gardens' fees went up to £15,120.00 per year (£12,600 plus VAT) in 2023/2024 due to an increased specification…….

I was unhappy with the gardening work undertaken by Mill Gardens because they did not undertake all of the work which my team instructed them to complete and in 2024/2025 the work was retendered…….New gardeners, Countrywide Grounds Maintenance ("Countrywide"), were employed at a cost of £11,620 plus VAT (£13,944) a year.

Countrywide were chosen over Ground Control as they appeared to understand the development better after meeting with Ewelina [PEL's local site manager] *and PEL has an existing relationship with them. Although Ground Control were cheaper than Countrywide, they were a new company who we did not have a relationship with, so we decided to appoint Countrywide on this basis. It is my view that one contractor being cheaper does not mean they are the best choice as the standard of work can reflect the price paid."*

61. From the entirety of the evidence the Tribunal found that in 2022/23 it was likely that an increase in work was required, upon PEL reviewing the quantity of work to keep the landscape reasonably tidy and kempt. While Mill Gardens were appointed, their work was not satisfactory, as identified by Mr Tolley-Hall, but the price charged was £1,540 (net of VAT) less than that of the new contractors for 2024/25. On a balance of probabilities, to reflect that the quality of work was unsatisfactory, but wider in scope than had been undertaken by Envirocare, the Tribunal determined that the annual sum attributable to gardening charges should be reduced to reflect poor quality, by £1,200 plus VAT in 2022/34 and 2023/24.

208 Buildings' Insurance Cover

62. The Applicants represented that the placing of buildings insurance should have been subject to competitive tendering, because the Insurer (Albanwise Insurance Services Limited) shared directors with the Respondent and the level of premium (£21,948 in 2023/24).

63. It was explained by the Respondent that Albanwise is its in-house insurance broker. Insurance has been placed with Zurich. The Tribunal found the written (including a statement of truth) and oral evidence of Ms Berry reliable. She is a Director of Albanwise. Miss Berry assured that there was no financial connection between the insurer, the Respondent, or any company linked with the Respondent. Commissions and a Work Transfer fee of 5% of the premium, excluding tax, are recovered only by Albanwise. She explained that the Respondent's instruction "…i*s to*

place insurance cover with a reputable insurer with an adequate credit rating" and brokering (potentially moving insurer) would only occur if "*…the terms offered by the current insurer were unreasonable*", to avoid the insured appearing as a greater risk.

64. Dealing with specific criticism of unnecessary cover, Miss Berry stated that terrorism cover is needed to provide the full cover for fire, which is the lease provision to be fulfilled. Further, she outlined the claims record of the Properties, affecting premiums (paragraph 7 of her statement). She provided evidence, which we found persuasive because of her expertise in insurance matters, which was not challenged by the Applicants, that the assertion of inflated insurance cost when compared with that for the RTM block was unsustainable because the amount of cover was insufficient when considered against reinstatement cost, as identified by Ms L Levy, Assistant Estates Manager of Simarc Property Management Limited, operator of many freeholds nationally, in an email to Mr Taylor dated 9 May 2024, having regard to a Reinstatement Cost Assessment report arising from a survey on the Estate on 20 March 2024 by Cardinus Risk management Limited.

65. Insurance costs of themselves do not necessitate a section 20 consultation process (with which the Applicants were familiar), as they are not "qualifying works", unless there is a qualifying long term agreement, which on the facts before us with annually renewing insurance cover would not apply.

66. We acknowledge that it is almost impossible for a leaseholder to provide cogent evidence to support an allegation that a buildings insurance premium is excessive, without access to specialist input. The Applicants would need to make out a prima facie – which we understood meant in this context, as apparent from evidence – that the insurance cost was not reasonably incurred. However, we found no persuasive reason to doubt that the insurance here provided cover that did not unreasonably exceed that envisaged by the leases, had been obtained from the market at arm's length and that commissions followed as would be normal with no direct benefit to the Respondent. We found that the comparable evidence presented by reference to the RTM block carried little weight, because it concerned a cost for an under-insured block.

67. Therefore, the Tribunal found that the insurance costs presented to us as at issue were both reasonably incurred and reasonable as to amount.

301 — Gate Repair Failure

68. This concerns works to the wooden gate from the site to Newton Road, repaired and now requiring use of a different key for access to that for a second gate accessing off the Estate. The cost of the repair was added into 2022/23 in the sum of £1,648. The Applicants consider it to be of poorer functionality than it was before the works, the Respondent states it has been repaired to a reasonable standard.

69. Having inspected the gate and heard evidence of the works involved, using its expertise the Tribunal determined that the cost of material and labour likely would be around the sum involved. However, we found the quality of repair unsatisfactory, with timber reused and only a new lock fitted. We found that the work likely has not extended the lifespan of the gate. Therefore, we determined that the sum reasonably

recoverable should be commensurate with the work actually carried out, which we determined would be one half of the sum claimed, i.e. £824.

302 Roadway surfacing repair

70. The Tribunal learned from the evidence of the Respondent that works had been identified as necessary and it was originally proposed that roads would be tarmaced, at a cost of about £32,000. PEL sought quotes and approached the contractor offering the cheapest quote, FRS Surfacing. It then was agreed by PEL for the Respondent that the repairs would be by way of "tar and chip, which was cheaper than tarmac. In its Statement of Case it was stated "*….this method of repair was deemed reasonable for to the type of development – the development is a private 1960 development in the northeast, which has considerable difference to a luxury development in Mayfair, London."*

71. Mr Tolley-Hall explained that tar and chip was used effectively to repair "B" country roads. In the FRS invoice of 30 November 2023 the works are described (in so far as understood to refer to the roadways) as "Resurfacing" – the cost attributable being £8,900 plus VAT. The invoice shows a separate item for "Minimum Patch and Pothole Repairs", for which the cost appears as £2,000 plus VAT. The same contractor also undertook at the same time "Resurface Works to Path Ways" (see below). - £6,600 plus VAT.

72. The Respondent submitted that "The primary purpose of the work was to remove potholes, and it is therefore accepted that the work was of reasonable standard because the work achieved that purpose."

73. The Respondent also submitted "*It is accepted that at 18 months after the work was done, other potholes are reappearing, but this does not in itself render the previous work of unreasonable standard, taking into account the heavy usage on the roadway, some of which was to some extent witnessed at the Tribunal's visit*." Further, "*….the Tribunal is invited to accept that the cost of the work was reasonable albeit the Respondent is prepared to accept that the original amount claimed in respect of the road work should be reduced by £600 because of the fact that the relevant contractor did not (as it contracted to do) cut round and re-seal the potholes*."

74. The Applicants identified that their *"….principal claim about the deficiency of the roadway resurfacing is that immediately upon laying, the vast majority of the stone chippings never adhered to the roadway (as intended) and lay loose as a skid hazard. The Applicants agree that some of the stone chippings did adhere to the road but this does not alter the fact that the vast majority did not*." Their evidence was that a number of residents swept up 1,000kg of loose chippings, without which the underside of vehicles would have been damaged when driving over the roadway.

75. The Tribunal spent time inspecting the roadways. Our observation, relevant to item 302 (and 303 and 304, see below) was that the works undertaken to the roads and paths had not been completed to a reasonable standard. The following defects were observed:

- A tar and chip layer was applied over uneven paving slabs without prior corrective levelling, leaving the surface irregular and introducing further defects.
- Manhole covers were sealed in place with tar and chip, obstructing access.
- Loose chippings were present across both the road and path surfaces. It was identified that these could be projected by lawnmowers, presenting a potential hazard. The same loose chippings were also the source of visible dust generated by domestic and commercial vehicles travelling along the street, indicating inadequate surface binding.

These observations demonstrate that the works did not remedy pre-existing defects, introduced new hazards and failed to meet an acceptable standard. The overall quality of the works was poor and unsatisfactory.

76. We were informed that FRS will not return to site to undertake remedial work or under the terms of the guarantee it provided, nor is it economic for the Respondent to take action to compel their re-engagement.

77. The Tribunal found that there will be a cost to remedy the defects. That charge is not before us. The Tribunal determined that the standard of the works was very poor. The works were unreasonable. In the circumstances we determined that none of the charges should be recoverable through the service charge.

303/304 Roadside Footpath and Footpath Repairs Defective

78. The works at issue were undertaken by FRS at the same time as item 302. It charged £6,600 plus VAT. We were informed that the purpose of the resurfacing of footpaths was to remove trip hazards. The Respondent stated "*It is acknowledged that the quality of the works is not 100% however the tripping hazards have been removed."* (Statement of Case). It represented that the works had improved the Estate, although conceded "*…that in one area near 15-21 WC, more tar was spread on the paving slabs in other areas. This means that the area is approximately 2cm higher*" but that the area is not frequently walked over. In addition, it accepted that some drain covers had *"….been partially covered by the coating however this is not a practical problem – a contractor with the correct tools is still able to remove the covers."* The Respondent proposed a credit to the Applicants of £1,350 (inclusive of VAT).

79. The Applicants recorded that there had been efforts by certain residents to assist PEL before the works were commissioned, providing a trip hazard survey, alternative quotes for the paths and sharing the British Standard Design Code for footpaths.

80. The Tribunal repeats its findings above. We found the work to the footpaths to be of a poor standard. Although we did not count them, we were content to accept as credible, in light of our observations, the Applicants' statement that there remained on the pathways after the resurfacing 12 trip hazards exceeding 1 inch. The Tribunal determined that the works were unreasonable and that none of the cost for items 303 and 304 should be recoverable through the service charge.

207 - Management Fees Not Justified/ Excessive

81. The leases do not provide a mechanism for calculation of a charge for management of the Properties. The Respondent submitted that for the service charge year ending 31 March 2023, an individual house leaseholder is charged for management fees between £51.63 and £63.06 and a Flat owner at Dene Court is charged £361.43 per annum. The Applicants argued that this information did not correspond with that provided to them, of £224 per house owner and £361.43 for 14 flats. They objected to paying such sums, because of poor management, submitting *"The deficiencies are both in the managerial administration, in the control / planning of the work and in its execution by sub-contractors."*

82. We learned that management of the road and footpaths repairs was a separate fee. In isolation, the Tribunal found that while PEL had engaged reasonably about obtaining estimates for the work, control and management of the work carried out was deficient, as borne out by the poor quality of the resurfacing. It also was unable to procure remedial work for the defective outcomes we have highlighted above. In consequence, we found the management of that contract was unreasonable and that the management charges arising specific to it were not reasonably incurred and should be removed from the 2022/23 service charge.

83. As to the overall management otherwise, information about PEL's contractual obligations to the Respondent were of little assistance because the contract presented did not begin until 1 December 2024 and did not appear to relate to all of the Properties. We had to review the agent's work by reference to the evidence and submissions of what was done. We found that the Estate has no particular features or needs making it an extraordinary category of site to manage. We found that there is an administrative and budgeting complexity arising from having to collect service charges mainly in arrears, there being no reserve fund and calculation or leaseholder apportionment liability for the service charge depending on the rateable value of each domestic unit. We accepted the evidence of Mr Tolly-Hall about the day-to-day activities undertaken. The Applicants made a series of criticisms, particularly in respect of poor record-keeping, meaning many of the documents in support of service charges were only produced to the Applicants through these proceedings. They alleged the fee had risen by 114% between KPM and PEL. We noted the Respondent's acknowledgement of a failure occurring regarding consultation for certain major works.

84. While the Applicants invited the Tribunal to follow guidance from The Property Institute on fixing management fees, based on a percentage of service charge expenditure, the Tribunal preferred to use its own expertise applied to the evidence, having regard to the Estate, number of premises and work undertaken. In the absence of lease specification, the Tribunal determined that a reasonable fee for 2022/23 would be:

Per House £75 plus VAT
Per Flat £250 plus VAT

These sums are to be apportioned according to the rateable value scheme applicable under the leases.

We record the Respondent agreeing to waive any late payment charges for the service charges (paragraph 23 of its Statement of Case).

However, our decision was that in 2023/24 those sums should be reduced by 15%. Clear difficulties as recorded in their Statement of Case were faced by the Applicants in obtaining supporting documents for the service charge (and see above re 103). Taking account of accruals and late production of invoices by suppliers does not mitigate from ambiguous or deficient explanation to queries reasonably posed by leaseholders and we found no proper explanation supplied by the Respondent. Further, confusion was caused by communication of information concerning proposed advance collection of service charges; it was expressed as an option for leaseholder, but was capable of being regarded as a demand for payment.

There was inadequate supervision of the gate repair.

85. Although in their Statement of Case the Applicants made representations concerning bank charges and accountancy and legal fees, alleging these were not payable under the leases. This point was not repeated before us or in submissions, but for completeness we record our view that reasonably incurring such expenditure would fall within the "sweep-up" provision referred to above. No persuasive representations were received that any of those sums were unreasonable as to amount and we make no determination upon them.

General Damages

86. The Applicants pursued a claim for damages because of deficiency of repairs & maintenance to the Estate. The Tribunal dismissed that element of the Application. The Tribunal in general is slow to offer such a remedy, particularly when adjustments to service charge sums are involved, favouring Applicants. We received no evidence of specific loss suffered by any individual Applicant arising from a breach of the Respondent's lease obligations or otherwise. We did not need to proceed to consider issues of causation of loss. The Applicants have been partially successful and we found that outcome to reflect the claims pursued generally.

Concluding remarks on service charges.

87. Save where we have identified revisions to sums recoverable as service charges in the two years at issue, it is a consequence of our determinations that all other service charge sums in those years are reasonably incurred and as to 2022/23, reasonable in amount. As to the 2023/24 amounts, we understood that actual figures have become available, but were not before us in the proceedings. Other than as identified above, we make no determination upon the sums which may be involved, as the Application necessarily could only be based upon estimates at the time it was issued.

Issues of costs

Section 20C

88. The Applicants included in the Application a request pursuant to section 20C 1985 Act preventing the Respondent recovering any costs of these proceedings through the service charge.

89. Whether the leases allow, in principle, the Respondent to include the costs of these proceedings in the service charge is a matter of interpretation, on which we received no submissions. However, both parties made written submissions on whether the restrictive order referred to in the previous paragraph should be made. While the Respondent set out efforts to provide answers to the Applicants' questions before the proceedings began, we found a lack of transparency regarding the paperwork supporting the service charges before the proceedings. However, we were satisfied that the Respondent had not behaved improperly or unreasonably in the proceedings itself. The proceedings have proved to be a necessary action for the Applicants to obtain the transparency of explanations and documents to which we have had to refer in making our determinations. The Applicants have been partially successful. However, inability to recover the costs of these proceedings would be a significant prejudice to the Respondent. Taking all matters into account we found it was not just and equitable to make a Section 20C order.

Rule 13

90. In its Skeleton Argument, the Applicants suggested a costs award should be made in favour of the Applicants under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Rule permits an award of costs "*…if a person has acted unreasonably in bringing, defending or conducting proceedings…*" - Rule 13(1)(b). The representation was not amplified upon and we found no persuasive basis to suggest that the Rule was engaged for making of any order.

Paragraph 5A of Schedule 11

91. The Application included a claim for an order reducing or extinguishing liability to pay and administration charge on respect of litigation costs. The Respondent did not present a claim for costs, but as the matter was made live by the Applicants, so that there is no prejudice, within 14 days of issuing of this Decision the Respondent may apply to the Tribunal with particulars of any claim against the Applicants regarding costs which may engage the Tribunal's powers under this statutory provision and seek directions arising, which the Tribunal will consider.

Tribunal Judge L Brown
3 February 2026

Annex of the list of Applicants

1. Elizabeth Williams
2. Madeline van Zwanenberg
3. Aidan Johnson
4. Anne Palmer
5. Rob & Amanda Davidson
6. Pat Allcorn
7. Colin Reed
8. Kunal & Sirisha Karkera
9. John & Diane McNab
10. Robyn (& Heather) Creighton
11. Martin Sharman
12. Tom Schofield
13. Simon Donald
14. John & Debbie White
15. Nicki Hornby
16. Camilla Fox
17. Stuart McLeod
18. Gill (Lydia & Tom) Reeve
19. Amanda & Rob Davidson
20. Jack Johnson Taylor
21. Ben Mawhinney
22. Emma & Matthew Hurst
23. Guy Rintoul
24. Cameron Horton & Naomi Mercer
25. Reina Cohen
26. John Sadler
27. Gillian & Gerry Lynch
28. Kathleen Kirkwood
29. Sam (& Charlotte) Baker

30. Rachel Bowman
31. Gill Finch
32. Jim (& Kirsty) Gillow
33. Seamus Allen
34. Simon Johnson
35. Simone Nelson
36. Gary (& Katherine) Liddle
37. Jackson Liu
38. Kevin Summersall
39. Naomi Kenneth
40. Stephen & Deborah Bown
41. Loveena Sreedharan