FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00BS/LSC/2023/0059**
Property	**:**	**9,13, 20, 93 and 142, Victoria mill, Houldsworth Street, Reddish SK5 6AR/SK5 6AX**
Applicants	**:**	**Keith Barton** **Nora Magee** **Yasmin Shariff** **Trevor and Elaine Procter**
Representative	**:**	**Keith Barton**
Respondent	**:**	**Houldsworth Management Company Limited**
Representative	**:**	**Property Management Legal Services**
Type of Application	**:**	**Landlord and Tenant Act 1985 – section 27A** **Landlord and Tenant Act 1985 – section 20C**
Tribunal Members	**:**	**Tribunal Judge C Wood** **Tribunal Member S Latham**
Date of Decision	**:**	**22 October 2025**

DECISION

Order

1. In respect of the service charge year ended 31 December 2019, the Tribunal orders as follows:

1.1 The following expenditure has been reasonably incurred as service charge and the Applicants are liable to pay the related service charges:

(a) Lifts: 2 telephone lines and call-out charges.

(b) Window cleaning: additional window clean.

(c) HR fees.

(d) Administration fees.

(e) On-site costs save as limited under paragraph 1.2 (a) of this decision.

(f) Site management costs save as limited under paragraph 1.2 (a) of this Decision.

(g) Security save as limited under paragraph 1.2 (a) of this Decision.

(h) Electricity.

(i) Health & Safety.

(j) Landscaping save as limited under paragraph 1.2 (a) of this Decision.

(k) Professional fees save as limited under paragraph 1.2 (b) of this Decision.

(l) Accountancy fees.

(m) Provision for water rates.

(n) General maintenance save as limited under paragraph 1.2 (c) of this Decision.

1.2 The following expenditure has not been reasonably incurred as service charge and the Applicants are not liable to pay any service charges in relation thereto:

(a) Any expenditure/costs on and/or in relation to the car-parking spaces including, without limitation, expenditure in respect of on-site costs, site management costs, security, landscaping, general maintenance and the Maintenance Fund.

(b) The litigation costs in relation to the s116 Companies Act 2006 Court of Appeal proceedings.

(c) All expenditure which relates to the repair to/redecoration of individual apartments.

1.3 The annual management fee payable by each of the Applicants has not been reasonably incurred and is reduced by 10% in each case. The Applicants are liable to pay the reduced amounts.

2. The Tribunal determines that it is just and equitable in the circumstances to make an order in favour of the Applicant under section 20C of the Landlord and

Tenant Act 1985, ("the 1985 Act") limiting the Respondent's charging of any costs of these proceedings as service charge to 80% of those costs.

Background

3. By an application dated 14 April 2023, the Applicants sought a determination under s27A of the Landlord and Tenant Act 1985, ("the 1985 Act"), of the reasonableness of, and liability to pay, certain service charges for the service charge years 2016 – 2021 (inclusive).

4. As the service charges in dispute were substantially the same in respect of each of the service charge years, the parties agreed that the Tribunal would make an initial determination in respect of the service charge year ended 31 December 2019.

5. Following this determination, the parties would be given the opportunity to inform the Tribunal to what extent (if at all) they wished to pursue and/or defend the Application in respect of the other service charge years.

6. A remote hearing was held on 3 March 2025 at which the following parties attended/were represented remotely and in person:
Keith Barton for himself as Applicant and as representative for the other Applicants:
Nora Magee
Yasmin Shariff
Trevor & Elaine Procter
Houldsworth Village Management Co. Limited, Respondent
Paul Atkins)
Catherine Johnston)
Martin Gilder)
Represented by Ms Cassandra Zanelli, Property Management Legal Services

7. The hearing was adjourned by reason of an issue being raised resulting from the change of ownership of the wider estate since the grant of the Applicants' leases and to give the parties an opportunity to make further representations.

8. The parties agreed that the matter should proceed as a paper determination following receipt of further representations from the parties.

9. The parties were subsequently notified that a paper determination was scheduled to take place on 22 October 2025.

Law

10. Section 27A(1) of the 1985 Act provides:

An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to-

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

11. The Tribunal is "the appropriate tribunal" for this purpose, and it has jurisdiction to make a determination under section 27A of the 1985 Act whether or not any payment has been made.

12. The meaning of the expression "service charge" is set out in section 18(1) of the 1985 Act. It 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.

13. In making any determination under section 27A, the Tribunal must have regard to section 19 of the 1985 Act, subsection (1) of which provides:

Relevant costs shall be taken into account in determining the amount of a service charge payable for a period-

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

(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

14. "Relevant costs" are defined for these purposes by section 18(2) of the 1985 Act as:

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.

15. There is no presumption for or against the reasonableness of the standard of works or services, or of the reasonableness of the amount of costs as regards service charges. If a tenant argues that the standard or the costs of the service are unreasonable, he will need to specify the item complained of and the general nature of his case. However, the tenant need only put forward sufficient evidence to show that the question of reasonableness is arguable. Then it is for the landlord to meet the tenant's case with evidence of its own. The Tribunal then decides on the basis of the evidence put before it.

16. Section 20C of the 1985 Act permits the Tribunal to order that the costs incurred by the landlord in connection with these proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or by any other person specified in the application for the order. The Tribunal may make such order as it considers just and equitable in the circumstances.

Evidence

Applicants' submissions

17. At the hearing on 6 March 2025, Keith Barton, as the Applicants' representative, made the following concessions:

(1) The treatment of VAT in respect of service charge expenditure: he accepted that there was no obligation on the Respondent to register for VAT by HMRC and he also accepted that the managing agent, LivingCity Management, ("LivingCity"), is not recovering the VAT charged. The charging of VAT is reasonable.

(2) Lift maintenance: the charge of £5667 (plus VAT) for annual inspections of the 2 lifts is reasonable.

(3) Window cleaning: the charge of £1620 (incl VAT) for 2 x cleans per annum is reasonable.

18. The grounds for disputing the following service charge expenditure are summarised as follows:

(1) Lift maintenance: (a) unreasonable call out costs and (b) costs associated with 2 telephone lines. With regard to (a), there is evidence of unnecessary call-outs being made; with regard to (b), there is no need for 2 telephone lines.

(2) Window cleaning: the costs of a 3rd clean which was the result of dust/dirt from the works at an adjoining building site; reimbursement should have been sought from the developer.

(3) In respect of the following service charge expenditure, the expenditure should be apportioned to reflect expenditure on the car park for which the Applicants are not liable under their Apartment Leases: concierge, site management overheads, security, electricity, Health & Safety, landscaping, general maintenance and management fees.

(4) In respect of the following service charge expenditure, the Respondent has charged additional "hidden management fees" and/or has failed to disclose commission received by it, its managing agent, LivingCity or by other associated and/or related companies: concierge, cleaner, site management overheads, security, Health & Safety, and general maintenance.

(5) Management fees: there has been no consultation regarding a QLTA entered into with LivingCity and charges are capped at £100 per leaseholder; the services are inadequate; and the fees should be apportioned as set out in (3) above.

(6) Professional fees: expenditure has been incorrectly charged as service charge expenditure including the Respondent's costs in relation to proceedings involving Mr Barton.

(7) Accountancy fees: the accounts are non-compliant with technical standards and/or the provisions of the Apartment Lease.

(8) Water rates: in the absence of an invoice from United Utilities and an acknowledgement that any recovery of past charges is limited to 6 years prior to the 1st invoice, it is unreasonable to continue to accrue amounts by way of service charge.

(9) Reserve fund: a distinction should be made between the general reserve fund and the reserve fund for the car park; the reserve fund has been incorrectly used eg to pay legal fees and the freeholder's contributions to service charges; the amount collected is unreasonable and there is an element of "double-charging" with the contributions made to the Maintenance Contribution Fund under the Sixth Schedule of the Apartment Lease.

(10) Reserve and maintenance fund: there has been insufficient information provided regarding these funds and of the use of the reserve fund.

(11) Apportionment: the Respondent has admitted that the apportionment (based on floor area of apartments) is not "a fair and reasonable proportion" of total expenditure; has failed to explain the origin of the matrix upon which the apportionments are made; and has failed to explain how expenditure is apportioned in respect of areas not accessible to the Applicants.

Respondent's Submissions

19. The Respondent's submissions are summarised as follows:

(1) With regard to the issue of the car park, there is a misunderstanding on the Applicants' part as to the mechanisms for charging relevant service charge expenditure under the Apartment Lease and the Car Park Lease; that all of the service charge expenditure in relation to the concierge, site management overheads, security, electricity, Health & Safety, landscaping, general maintenance and management fees has been properly incurred and charged to the Applicants and no apportionment is required in respect of the car park.

(2) There are no "hidden" management fees. No commissions have been paid to itself, LivingCity or any other associated and/or related company and no failure to disclose commissions paid.

(3) All of the service charge expenditure has been properly incurred in accordance with the relevant sub-clause of clause 4 and/or paragraphs of Part 1 of Schedule 3 of the Apartment Lease.

(4) There are no QLTAs requiring consultation.

(5) There is no "double charging" as between the Reserve Fund (in respect of which contributions are sought by way of service charge annually in accordance with the Apartment Lease) and the Maintenance Fund Contribution (where the liability to make a contribution only arises on the disposal of an apartment as set out in the Sixth Schedule of the Apartment Lease. The formula for calculation of the amount of the contribution is set out in the Sixth Schedule).

(6) Information regarding the balance standing to, and the application of funds in, the reserve fund is set out in the accounts.

(7) The accounts are prepared in accordance with the terms of the Apartment Lease and are expressly stated to be in compliance with the relevant technical standards.

(8) The Respondent denies that it has made any admission that the apportionment is not "fair and reasonable". It has provided the Applicants with the information

in the form of a matrix setting out how the apportionments are made as between the various apartments which it is satisfied is "fair and reasonable" as required under the Apartment Lease.

Reasons

20. General

20.1 The Tribunal notes as follows:

(1) The Applicants have repeatedly failed to particularise their challenges to the service charge expenditure eg by making statements that costs are unreasonable without providing any objective evidence to support their claims. In such cases and as appropriate, the Tribunal has relied on its own knowledge and experience in determining the reasonableness or otherwise of costs.

(2) The Applicants' claims of failures of compliance/breaches of obligation by the Respondent with legislation, the RICS Code and/or the Apartment Lease also frequently lack any supporting evidence to explain the basis of the claim/the circumstances which have raised a suspicion in the Applicants' minds.

21. Liability for Maintenance Charge in respect of the car parking spaces

21.1 In accordance with directions issued following the hearing on 6 March 2025, the Respondent's representatives sent to the Applicants and to the Tribunal copies of office copy entries to confirm statements made by them at the hearing regarding changes in the ownership of the Property and the external areas including the car parking spaces. The Tribunal notes that the title plans were not provided which would have been helpful.

21.2 The Tribunal notes as follows:

(1) In or about March 2016, Blackcroft Properties Limited acquired the freehold to "the Estate" (as defined in the Apartment Lease) which includes "the Building" (also defined in the Apartment Lease) and the external areas including the land over which the Car Park Leases have been granted.

(2) In or about May 2019, Adriatic Land 3 Limited acquired the freehold of the Building.

(3) As far as the Tribunal is aware there has been no variation in and/or amendment to the Apartment Lease as a result of the changes in ownership of the freehold titles set out above.

21.3 The Apartment Lease provides as follows:

(1) The "Maintenance Charge" is defined as "a fair and reasonable proportion of the aggregate of the sums spent or to be spent by the Management Company on the various matters specified in Parts 1 and 2 of the Third Schedule…" which include all costs incurred in and about "the repair maintenance decoration cleaning lighting security carpeting and running of the Estate Common Parts and the Building Common Parts".

(2) The definitions of the Building Common Parts and the Estate Common Parts include all parts of the Building and of the Estate "…not comprised in the Leases".

(3) "Leases" are defined as "all the leases of apartments and of the car parking spaces…"

21.4 The Car Park Lease provides as follows:

(1) The "Maintenance Charge" is defined as "a fair and reasonable proportion of the aggregate of the sums spent or to be spent by the Management Company specified in the Third Schedule of the Apartment Lease….insofar as the same relates to the Property".

(2) "Property" is defined as the car parking space to which the lease relates.

22. <u>Determinations regarding the Applicants' liability for expenditure on the car parking spaces as Maintenance Charge</u>

22.1 The Tribunal finds as follows:

(1) The definitions of Building Common Parts and Estate Common Parts in the Apartment Lease expressly exclude the apartments and the car parking spaces.

(2) Any costs incurred in respect of the apartments and/or car parking spaces is not expenditure permitted to be incurred by the Management Company under the Third Schedule of the Apartment Lease and is not chargeable as Maintenance Charge.

(3) To the extent that the Maintenance Charge for the service charge year ended 31 December 2019 includes any expenditure on services provided to the car parking spaces, it is disallowed. This includes, without limitation, any costs incurred in respect of the following on the car parking spaces: concierge, site management overheads, security, electricity, Health & Safety, landscaping, general maintenance and management fees.

22.2 The Tribunal also finds as follows:

(1) The definition of Maintenance Charge in the Car Park Lease appears to be based on an incorrect assumption that the Management Company can incur costs in respect of car parking spaces under the Third Schedule of the Apartment Lease and then charge it as Maintenance Charge in respect of the car parking space under its Car Park Lease.

(2) Notwithstanding the apparent absence of any contractual basis for the collection by the Respondent of Maintenance Charge in respect of the car parking spaces (including, without limitation, as part of the Maintenance Fund), to the extent that it has been collected, it should be distinguished from the Maintenance Charge collected from leaseholders under the Apartment Leases.

23. Lift maintenance

23.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under clause 4(6) and paragraph 6 of Part 1 of the Third Schedule of the Apartment Lease.

(2) It accepts the Respondent's evidence as follows:

(a) There is a need for 2 telephone lines, 1 for each lift.

(b) There is a limit to which the Respondent can control the use of the in-lift phone as it is accessible to all users of the lifts not only its staff members.

(c) It is reasonable for a concierge/caretaker to call out specialist lift engineers where a fault has been identified, even where it may subsequently be deemed to have been a "false alarm".

23.2 Having regard to the above, the Tribunal finds that the costs for the 2 lift telephone lines and the call-out charges are reasonable.

24. Window cleaning

24.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under clause 4(3)(a) and paragraph 6 of Part 1 of the Third Schedule of the Apartment Lease.

(2) It was reasonable for the Respondent to have arranged for an additional clean as a result of the dust/dirt from the adjoining building site. The Applicants have failed to establish that there was any legal liability upon the developer of the adjoining site to meet these costs, either directly or by way of reimbursement.

(3) The costs for the additional window cleaning are reasonable.

25. "Hidden" fees and undisclosed commissions

"Hidden" fees

25.1 The Tribunal finds as follows:

(1) It understands the Applicants' reference to "hidden fees" as it appears that the Respondent's explanation of the HR and administration fees charged by LivingCity on costs incurred in respect of concierge, cleaner, site management overheads, security, Health & Safety, and general maintenance has only been made in response to these proceedings.

(2) The HR fee of 10% in respect of the on-site staff costs and administration fees of 20% in respect of the administration of the purchase/invoicing of on-site costs are reasonable.

Undisclosed commissions

25.2 The Tribunal notes that:

(1) This refers to the Applicants' claims of a payment related to the use of an energy broker by the Respondent and/or the receipt of commissions by the Respondent and/or LivingCity.

(2) There is a difficulty for the Respondent in proving a negative.

(3) The Respondent's witness, Paul Atkins, in his first witness statement (which includes a statement of truth) provides information regarding his qualifications, his membership for over 25 years of the Royal Institution of Chartered Surveyors, ("RICS"), and that LivingCity has full accreditation with RICS and the Association of Residential Managing Agents, ("ARMA"). He also refers to the obligation under the RICS Service Charge Residential Management Code to make disclosure of all other income/benefits received by a management company arising out of its management in the year end service charge accounts. There are no such entries in the 2019 Service Charge Accounts.

25.3 The Tribunal finds that:

(1) The Applicants have not provided any evidence to support their claims which appear to be founded on a suspicion that such payments/commissions are likely to have been made.

(2) Having regard to the matters set out in paragraph 25.2 (3) above, the Tribunal finds that, on the balance of probabilities, there is no evidence of any payment by the Respondent to the energy broker and/or the receipt of commissions by the Respondent and/or LivingCity.

26. On-site staff

26.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under paragraph 3 of Part 1 of the Third Schedule of the Apartment Lease.

(2) The Respondent has provided satisfactory evidence/explanation of the costs incurred in the employment of the on-site staff (2x concierges and 1x cleaner at the Property).

(3) The costs are reasonable save for any costs which relate to the car parking spaces which are disallowed.

27. Site Management Costs

27.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under paragraph 3 of Part 1 of the Third Schedule of the Apartment Lease.

(2) The Respondent has provided satisfactory evidence/explanation of the site management costs.

(4) The costs are reasonable save for any costs which relate to the car parking spaces which are disallowed.

28. Security

28.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under clauses 4(1)(c), 4(2) and 4(6) of the Apartment Lease.

(2) The Respondent's claim that all costs relating to the car park are payable by the Applicants under the Apartment Lease reflects their apparent misunderstanding of the interaction between the Apartment Lease and the Car Park Lease set out in paragraph 22.2 above of this Decision.

(3) Clause 4(6) of the Apartment Lease requires the Respondent to maintain in good working order and, where necessary, replace "…gates doors and card entry systems serving the Property the Estate Common Parts and the Building Common Parts and the Building…" which includes the vehicular and pedestrian gates and the fob entry system to the Building.

(4) The Applicants have not produced any evidence to support their claim that the frequency of breakdowns and/or repairs to the vehicular gate is greater than it is reasonable to expect.

(5) The costs which relate to the vehicular and pedestrian gates and the fob entry system to the Building are reasonable.

29. Electricity

29.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under clause 4(9) of the Apartment Lease.

(2) It accepts the Respondent's evidence that, as no agreement lasts for more than 12 months, there is no qualifying long-term agreement, ("QLTA"), which required the Respondent to undertake a consultation exercise. Accordingly, the costs are not limited as the Applicants claim.

(3) The Respondent's delay until December 2021 in arranging for the issue of a credit note by the electricity supplier in respect of invoices for the period from 19 October 2019 – 30 April 2020 is a management issue and is dealt with under the heading "management fees" in paragraph 38 of this Decision.

(4) The invoices provided by the Respondent cover the period from January – May 2019. These evidence costs of c£9500. No explanation is provided for the lack of invoices for the rest of the service charge year. The amount in the 2019 Service Charge Accounts is £18349. This appears to be commensurate with the evidenced costs for the 1st 5 months.

(5) In any event, the Applicants' claims appear to be limited to the Respondent's failure to address the charging of incorrect tariffs by the energy supplier rather than any claim as to the reasonableness of the costs themselves.

(6) The electricity costs are reasonable.

30. Health & Safety

30.1 The Tribunal notes as follows:

(1) This is an example of the general point made by the Tribunal in paragraph 20.1(1) of this Decision regarding challenges to costs on the basis that they are "unreasonable" without the Applicants further particularising their claim and/or providing any independent evidence to support their claim(s) of unreasonableness.

(2) The Respondent has provided invoices to support the costs incurred under this heading although there appears to be a discrepancy between the total of the invoices (£12950.44) and the amount in the 2019 Service Charge Accounts (£13578).

30.2 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under paragraph 12 of Part 1 of the Third Schedule of the Apartment Lease.

(2) The discrepancy between the total invoiced costs and the amount in the 2019 Service Charge Accounts is to be regarded as de minimis in the overall context (although the Tribunal would expect the Respondent to reconcile this expenditure against actual invoices in future years, as necessary/appropriate).

(3) In the absence of any evidence to the contrary, the costs are determined to be reasonable.

31. Landscaping

31.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under clause 4(4) of the Apartment Lease.

(2) By stating that all landscaping costs are payable by the Applicants under the Apartment Lease, it is again unclear if the Respondent understands the need to distinguish between landscaping expenditure on the "Estate Common Parts" which is recoverable as service charge and landscaping expenditure (if any) on the car parking spaces which is not.

(3) The invoices provide no information as to whether any services were provided to the car parking spaces.

(4) To the extent that any expenditure does relate to the car parking spaces it is disallowed.

(5) In the absence of any evidence to the contrary, the costs (as adjusted in accordance with (4) above) are determined to be reasonable.

32. Professional fees

32.1 The Tribunal finds that:

(1) "sundry fees" are chargeable as Maintenance Charge under paragraph 2 of the Third Schedule of the Apartment Lease and are limited fees paid to 3rd party professionals "in connection with the carrying out of….obligations under this Lease" by the Respondent.

(2) "litigation costs" incurred by the Respondent "…in bringing or defending any actions or proceedings against or by any person whomsoever" are recoverable as Maintenance Charge under paragraph 9 of the Third Schedule of the Apartment Lease.

(3) The issues raised by the Applicants regarding VAT and "hidden fees"/commissions have already been dealt with in this Decision.

(4) The Applicants have not particularised and/or provided any independent evidence to support their claims that the fees paid to Bollington or the secretarial fees are unreasonable.

(5) In the absence of any evidence to the contrary, these costs are determined to be reasonable.

32.2 With regard to the litigation costs in respect of the s116 application made by Keith Barton, the Tribunal finds that:

(1) Contrary to the Applicants' claim that these costs should be met by the freeholder of the Property, the costs are recoverable as Maintenance Charge under paragraph 9 of the Third Schedule to the Apartment Lease.

(2) The supporting invoices/documentation provided by the Respondent include documentation relating to a payment of £15000 from the Respondent to Keith Barton.

(3) In the absence of any explanation of this payment by the Respondent, it is reasonable to conclude that this is a payment required and/or agreed to be made by the Respondent in the proceedings in the Court of Appeal where their appeal was dismissed.

(4) Whilst the failure of the appeal per se does not necessarily indicate any unreasonableness on the Respondent's part in pursuing it, the Respondent has not provided any evidence supporting its decision to pursue the appeal eg counsel's opinion on the merits of the appeal/likelihood of success.

(5) In the absence of such evidence, all costs involved in making the appeal including, without limitation, the payment of £15000 to Keith Barton (if the Tribunal has correctly concluded that this relates to these proceedings) are determined to be unreasonable and are not recoverable as service charge.

33. <u>Accountancy fees</u>

34.1 The Tribunal notes that:

(1) Clause 6(2) and (3) of the Apartment Lease requires the Management Company to prepare and notify the leaseholder "as soon as reasonably practicable" after 1 August in each year of the estimated costs expected to be incurred by the Management Company as Maintenance Charge expenditure in the service charge year to begin on the 1 January next occurring; to keep

accounts of such expenditure and "as soon as reasonably practicable" after the end of the service charge year, to notify the leaseholder of the actual expenditure incurred and make any necessary adjustment as a result of any difference between the estimated and actual expenditure.

(2) The Service Charge Certificate dated 1 June 2020 for the service charge year ended 31 December 2019, ("the Certificate"), contains a statement by Haines Watts that the accounts are not audited and have been prepared "having regard to TECH 03/11 Residential Service Charge Accounts".

34.2 The Tribunal finds that:

(1) Accountancy fees are chargeable as Maintenance Charge under paragraph 2 of Part 1 of the Third Schedule of the Apartment Lease.

(2) The Certificate satisfies the requirements on the Respondent to notify leaseholders of the actual service charge expenditure incurred in the service charge year ended 31 December 2019.

(2) With regard to the Applicants' objections to the accountancy fees:

(a) contrary to the Applicants' claim, Haines Watts were clearly involved in the production of the Certificate.

(b) The Applicants have failed to produce any evidence to support their claims that the accounts are "unsatisfactory…do not comply with TECH 03/11 or the lease…" and/or that the accounts have not been "properly approved".

(c) There is no requirement under the Lease for audited accounts (although the Tribunal notes that the costs of audited accounts is permissible under paragraph 10 of Part 1 of the Third Schedule to the Lease).

(d) There is no challenge to the reasonableness of the costs per se.

34.3 In the absence of any evidence to the contrary, the accountancy costs are determined to be reasonable.

35. <u>Water Rates</u>

35.1 The Respondent's failure to regularise the invoicing of water charges with the water authority is addressed in paragraph 38 of this Decision (management fees).

35.2 The Tribunal finds that:

(1) Water charges are chargeable as Maintenance Charge under paragraph 4 of Part 1 of the Third Schedule of the Apartment Lease.

(2) In the absence of an invoice for the water charges, it is reasonable for the Respondent to collect an amount in anticipation of such charges being invoiced in the future. The amount charged is modest and presumably reflects the uncertainty as to the extent of backdating permissible by the water company.

35.3 The amounts charged for anticipated water charges are determined to be reasonable.

36. General Maintenance

36.1 The issues regarding the charging of VAT, alleged "hidden charges", any expenditure on the car parking spaces and the Respondent's failure to address the issue of water ingress in a timely manner are dealt with in paragraphs 17(1), 25, 22 and 38 of this Decision.

36.2 The Tribunal finds that, as claimed by the Applicants, there are a number of invoices which relate to repairs to/redecoration of individual apartments. The information available from the invoices is very limited. The Respondent has not provided any satisfactory explanation as to why these repairs are not the responsibility of the individual apartment owner/another apartment owner or why, where it relates to eg water ingress from the Building Common Parts, it was not considered appropriate by the Respondent to make an insurance claim.

36.3 In the absence of a satisfactory explanation by the Respondent why costs on repairs to/redecoration of individual apartments are to be regarded as service charge expenditure, they are determined to be unreasonable and are not recoverable as service charge.

37. Maintenance Fund

37.1 The Tribunal notes that:

(1) The establishment of a maintenance fund by the Respondent is permitted under paragraph 11 of Part 1 of the Third Schedule to the Apartment Lease.

(2) The sum chargeable to the leaseholder is "such sum as the Management Company shall determine as desirable to be set aside in any year towards a reserve fund to make provision for expected or unexpected future substantial capital expenditure including….decoration of the Estate Common Parts and the Building Common Parts and those parts of the Property and the Building for which the Management Company has responsibility".

(3) The Applicants also claim that:

(a) There has been an element of "double-charging" of leaseholders for Maintenance Fund contributions.

(b) There has been a misuse of the Maintenance Fund eg to pay legal fees.

(c) The Maintenance Fund is being used for maintenance of the car parking spaces.

37.2 The Tribunal finds that:

(1) Maintenance Fund contributions are chargeable as Maintenance Charge under paragraph 11 of Part 1 of the Third Schedule.

(2) The aggregate amount of £45000 charged as the Maintenance Fund contribution for the 2019 service charge year is reasonable having regard to the nature of the Property and the number of leaseholders.

37.3 The amounts charged for the Maintenance Fund contributions are reasonable.

38. <u>Management fees</u>

38.1 The Tribunal finds as follows:

(1) The costs are recoverable as Maintenance Charge under paragraphs 2 and 10 of Part 1 of the Third Schedule of the Apartment Lease.

(2) The agreement entered into between the Respondent and LivingCity relating to the management of the Property is not a QLTA requiring consultation. The management fees are not limited to £100 per leaseholder.

(3) The Applicants have sufficiently established issues of concern regarding the management of the Property as follows:

(a) The Respondent's failure to understand the need to exclude all expenditure incurred in respect of the car parking spaces from expenditure recoverable as service charge payable by the Applicants.

(b) The delay in addressing the issue of incorrect billing by the energy supplier in 2019 and receiving the appropriate credit note.

(c) The delays over many years in addressing/satisfactorily remedying the causes of water ingress from the roof of the Building.

(d) The Respondent's lack of transparency about the charging of HR fees and administration fees by LivingCity in respect of on-site costs/staff which it appears were only disclosed during the course of these proceedings.

(e) The continuing failure to regularise the position with the water authority including to failure to establish the liability for the past years and to establish regular invoicing going forward.

(f) The Respondent's failure to understand its contractual position under the Apartment Lease and the Car Park Lease regarding the charging and collection of Maintenance Charge in respect of the car parking spaces.

38.2 In view of the issues set out in paragraph 38.1 (3)(a)-(f) above, the Tribunal finds that the management fees are not reasonable and should be reduced by 10%.

39. Associated Issues related to the Maintenance Fund

39.1 The following matters do not fall within the Tribunal's s27A jurisdiction but, for the sake of completeness, the Tribunal finds as follows:

(1) The claim of "double-charging "with regard to the Maintenance Fund, (paragraph 37.1 (3)(a)), is a reflection of a misunderstanding by the Applicants of the contractual obligation of a leaseholder as set out in the Sixth Schedule of the Apartment Lease to make a contribution to the Maintenance Fund on the sale of an apartment.

(2) The purposes for which the Maintenance Fund may be used are set out in paragraph 11 of Part 1 of the Third Schedule of the Apartment Lease and would not include the payment of legal fees incurred by the Respondent.

(3) For the reasons set out in paragraph 22 of this Decision, the Maintenance Fund cannot be used in respect of the car parking spaces.

40. Apportionment

40.1 The Tribunal notes that:

(1) The definition of "Maintenance Charge" in clause 1 of the Apartment Lease provides that it is "a fair and reasonable proportion of the aggregate sums spent or to be spent by the Management Company…" on service charge expenditure.

(2) The Respondent has provided information regarding its process of apportionment based on the respective floor areas of each of the apartments at the Building.

40.2 The Tribunal finds that:

(1) The Applicants have not provided any evidence to support their claims that the basis of the apportionment matrix ie the square footage of individual apartments is incorrect and/or that the apportionment matrix includes areas other than the apartments.

(2) An apportionment on this basis is a common feature in developments of this kind.

40.3 The Respondent has acted reasonably in making its apportionment on the basis set out in the apportionment matrix.

41. Section 20C of the 1985 Act

41.1 Having regard to its determinations, the Tribunal finds that it is just and equitable in the circumstances to make an order limiting the Respondent's recovery of its costs incurred in these proceedings as service charge to 80% of those costs.