



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

Case reference	: HAV/40UC/LUS/2025/0002
Property	: Collingwood Court, Bridgwater, TA6 3TE
Applicant	: Collingwood Court RTM Company Limited
Representative	: RTMF Services Limited (Dudley Joiner)
Respondent	: Shebbear Properties Limited
Representative	: E&J Estates (Craig Thorne)
Type of application	: Right to Manage – Payment of uncommitted service charges S.94(3) Commonhold and Leasehold Reform Act 2002
Tribunal Members	: Tribunal Judge Elizabeth Bowden
Venue	: Havant Justice Centre Paper Determination
Date of Hearing	: 22 April 2026
Date of decision	: 07 May 2026

DECISION

Summary of Decision

- (1) The Tribunal determined that the accrued uncommitted service charge that should have been paid to the applicant on the date of acquisition is

£23,487.51, which is 58.77% of £39,965.14, the sum recorded in the December 2024 accounts as the Reserve Fund.

Introduction

1. The applicant seeks a determination pursuant to S.94(3) Commonhold and Leasehold Reform Act 2002 (CLRA 2002), regarding the payment of accrued uncommitted service charges payable to the applicant by the respondent. The application is dated 07 April 2025.
2. The matter relates to Collingwood Court RTM Company (“the RTM Company”).
3. The applicant is the RTM Company (the “applicant”). The applicant is represented by RTMF Services Limited (Dudley Joiner).
4. Shebbear Properties Limited (the “respondent”) is the freeholder of Collingwood Court, Bridgwater, TA6 3TE (“Collingwood Court”). The respondent is represented by E&J Estates (Craig Thorne).
5. The Tribunal had the benefit of a 68-page hearing bundle. Page references to the hearing bundle are [XX].

Background

6. On 27 December 2024, the RTM Company acquired the right to manage Collingwood Court. Collingwood Court is a block of 16 residential flats.
7. The applicant’s case is that, on the acquisition date, the respondent failed to provide service charge accounts for the years 2022, 2023 and 2024, and therefore the RTM Company was unable to determine whether any uncommitted service charges should have been transferred to the RTM Company on the acquisition date.
8. On 07 April 2025, the applicant filed an application seeking a determination of the amount of accrued uncommitted service charge funds held by the freeholder on the acquisition date (of its right to manage), which the respondent must pay the applicant under S.94(3) CLRA 2002.
9. On 04 November 2025, the Tribunal gave initial directions, including listing the matter for a case management hearing on 26 November 2025.
10. On 26 November 2025, the Tribunal recorded [31]:

- a. The Respondent had provided accounts for the years ending 24 December up to and including 2023, but not 2024.
- b. No Position Statements were provided.
- c. The Applicant provided a short email late on the morning of the hearing date. That did not amount to compliance with Directions by either party.
- d. That Mr Sadler-Coppard, for the respondent, indicated that the 2024 accounts would be extended to 26/27 December 2024 to align with the date of acquisition, and that this would be done by 10 December 2025.
- e. The parties raised the possibility of a challenge to service charges being brought within these proceedings. The Tribunal indicated a preliminary view that the Upper Tribunal had held that S.94(3) CLRA applications should be limited to the funds, and that any such challenge would pose timetabling issues.

11. The tribunal specifically recorded [32]:

10. However, I suggested- and maintained it to be the better approach- that if the Applicant does in the event have challenges, whether in respect of accounting or otherwise, on receipt of the accounts up to the Acquisition Date, it will need to express those further to its case as set out in the application itself (prepared without the benefit of up- to- date figures) and the Respondent respond to that. I was and am unable to identify how the Respondent can provide its case without there first being clarification of the Applicant's case.

11. As to whether the Applicant will decide to challenge any matters further on receipt of the Directions and as to whether the specific directions in respect of preparation of cases and matters thereafter will be relevant is a matter for the Applicant. Plainly if the Applicant decides not to, the other steps directed will not need to be followed. As to whether there is any determination which would be required from the Tribunal- and indeed as to whether there can be if the parties are agreed- I leave to a later time.

12. The Directions below therefore set an amended date for the 2024 accounts and provide for the other steps which may be required if there are challenges asserted to be within the scope of these proceedings which are to be pursued.

12. On 26 November 2025, the Tribunal re-timetabled the application and determined that a paper determination was appropriate. The issue of costs and reimbursement of Tribunal fees would be dealt with at the end of the final hearing, with submissions to be included with the parties' statements of case.
13. On 11 December 2025, as directed, the respondent provided the service charge accounts for the period from 24th December 2023 to the Acquisition Date.
14. On 07 January 2026, the applicant did not file a further statement of case.
15. On 28 January 2026, as directed, the respondent filed its statement of case.
16. On 06 February 2026, the applicant filed a reply, which, given there was no updated statement of case on 07 January 2026, may have been a surprise to the respondent.

The hearing

17. The case was listed on 22 April 2026 for paper determination. The Tribunal read the hearing bundle, which included the application form, the parties' statements of case, and service charge accounts for the years 2021, 2022, 2023 and 2024.

Clarifying the accounts in the bundle

18. The accounts in the hearing bundle 2021 [36], 2022 [46], 2023 [51], and 2024 [61] refer to Admiral's Quay and do not mention Collingwood Court once. The Tribunal sought clarity from the parties on 28 April 2026. The Tribunal asked:

The application is in relation to the property Collingwood Court, Bridgwater, Somerset, TA6 3TE, but the accounts in the submitted bundle refer to Admiral's Quay.

Please could I ask parties to either provide the Tribunal with the accounts for the subject property or to explain why the submitted accounts refer to Admiral's Quay.

19. The parties replied on 28 April 2026:

- a. Applicant's representative RTMF Services Limited's response was:

In answer to your enquiry, we have been advised that the estate known as Admiral's Quay is comprised of

Collingwood Court (16 flats) and Drakes Close (11 flats). Prior to RTM the estate was managed as a single entity, and the service charges were split between the properties. Since 2014 at least, the service charge contributions demanded from Collingwood Court have totalled 58.77% of the total costs.

It will be noted that paragraph 9 of the Applicant's Statement of Case uses the percentage of 58.77% to determine the amount of the refund due to the leaseholders of Collingwood Court in consequence of the insurance overcharge. As far as the Applicant is aware this percentage split is not disputed.

b. Respondent's representative E&J Estates's response was:

Up until the RTM handover date the property was part of the larger site which included 26 – 36 Drakes Close. The entire site was referred to by the managing agents as Admiral Quay.

20. The parties' replies did not provide the Tribunal with a clear answer. The applicants' assertion of a 58.77% proportion was in their reply [6], a document to which the respondent had not had an opportunity to respond. The Tribunal sought further clarification on **28 April 2026**:

Please confirm whether the document called 'Accounts to 31 December 2024' seen at [61-68] of the hearing bundle is the service charge account for ONLY the flats in Collingwood Court, Bridgwater, Somerset, TA6 3TE.

If the document called 'Accounts to 31 December 2024' seen at [61-68] includes service charges for other properties, do the parties agree on what proportion is attributable to Collingwood Court?

If they do agree on the proportion attributable to Collingwood Court, what is that proportion?

If they do not agree on the proportion attributable to Collingwood Court, what proportion do they say is attributable and why?

21. The parties replied on 05 May 2026:

a. Applicant's representative RTMF Services Limited's response was:

As neither we nor our client produced the accounts we are unable to provide the information requested. We can say that it was our client's assumption that the accounts covered Collingwood Court (16 flats) and Drakes Close

(11 flats). If that is correct, we are advised that the proportion that has been used in the past and not contested is 58.77% Collingwood and 41.23% Drakes. If the Respondent confirms that the accounts include both Collingwood and Drakes, the Applicant will not object if these proportions are used to calculate the amount of uncommitted funds due for transfer on the Acquisition Date.

b. Respondent's representative E&J Estates's response was:

1. The accounts are for more than just Collingwood Court and include 26 – 36 Drakes Way.

2. I believe the parties agree the split for Collingwood Court should be 58.77% and that is made up of the following breakdown (NOTE – Collingwood Court include 52 Anson Way).

22. The Tribunal proceeded on the basis that 58.77% of the funds seen in the Admiral's Quay Accounts to 24 December 2024, seen at [61-68] are attributable to Collingwood Court.

The applicant's case

23. By its application, the applicant sought a determination of the amount of accrued uncommitted service. The Applicant says that the Respondent has not transferred to it the accrued, uncommitted service charges held by the freeholder on the acquisition date.

24. The applicant was to have received all the directed service charge accounts by 11 December 2025 and was to file its statement setting out its case by 07 January 2026. The applicant did not file a statement by the deadline.

The respondent's case

25. The respondent, who had filed all the directed service charge accounts by 11 December 2025 but had not received a statement of case from the applicant, filed its statement of case by 28 January 2026 as directed. The respondent stated there are no accrued, uncommitted service charges, and there was nothing to pay the applicant. The respondent argues that the applicant did not file its statement of case by 07 January 2026 and that the applicant has not challenged the accounting evidence.

26. The respondent has provided the service charge accounts. The date of acquisition is 27 December 2024. The respondent at the 26 November 2025 hearing told the Tribunal it would adjust its accounting period to the date of acquisition, which was 3 days after the end of the accounting period. The 2024 accounts have not, on their face, been adjusted to 27 December 2024.

27. The accounts were prepared in December 2025 and show that as of 24 December 2024, there was a surplus of £3,894.53 in the income and expenditure account [65] and net assets on the balance sheet were £39,965.14. The respondent said of the 2024 accounts:

These accounts confirm:

A deficit brought forward of £4,514.25.

Cash at bank (£6,404.87) outweighed by liabilities (£29,113.10).

No positive uncommitted fund existed as at the end of the accounting period immediately preceding the Acquisition Date.

Admirals Quay			
Balance Sheet as at 24th December 2024			
	Notes	2024 £	2023 £
Assets			
Cash at Bank	2	6,404.87	6,201.04
Service Charge Debtors		26,452.15	24,935.25
Other Debtors		17,789.78	9,852.47
Prepayments & Accrued Income		18,431.44	898.54
Deficit for the period		-	4,514.25
		<u>69,078.24</u>	<u>46,401.55</u>
Liabilities			
Supplier Creditors		310.00	687.00
Other Creditors		21,119.86	803.49
Surplus for the Period - CY		3,894.53	-
Service Charge Received in Advance		-	515.99
Accruals		3,788.71	3,700.75
		<u>29,113.10</u>	<u>5,707.23</u>
NET ASSETS		<u>39,965.14</u>	<u>40,694.32</u>
Represented by:-			
Contingency Fund	4	39,965.14	40,694.32
		<u>39,965.14</u>	<u>40,694.32</u>
.....			
For and on behalf of Firstport Limited			
Dec-25			

28. The 24 December 2024 accounts state that the Contingency Fund represents the net assets of £39,965.14. Note 4, concerning the contingency fund, says,

	£	£
4 Reserve Fund		
Balance Brought Forward		40694.32
Provision in Period		
Interest Received	479.90	
Contribution in the Period	<u>10000.00</u>	10479.90
Expenditure in Period		
S20 Billing	(1579.08)	
Scaffolding and Roof Inspection	(2940.00)	
Core Unit Replacement	(1680.00)	
Soil Pipe Repairs	(3030.00)	
Door Entry System	<u>(1980.00)</u>	(11209.08)
Balance Carried Forward		<u>39965.14</u>

29. As clarified on 05 April 2026, in the Admiral's Quay Contingency Fund, 58.77% (£23,487.51) is attributable to Collingwood Court.

The applicant's case in reply

30. The applicant stated that, on reviewing the service charge accounts up to 24 December 2024, it disputes £76,513.23 across the 4 years.

31. The applicant stated there are £44,843.24 in accrued, uncommitted service charges, and that this sum should have been paid to it on the date of acquisition [6].

	Sum in dispute	Claimed
9a	<i>'payment made to new agent' not received by the applicant</i>	£9,000
9b	<i>Accounts for 2021 to 2023 also show a contribution of £10,000 per annum. This fund is held by the Respondent in a statutory trust. (s.42 L&TA 1987). The Applicant is entitled to 58.77% of this Fund, (£23,487.51) this being the portion of service charge contributions made by the Applicant.</i>	£23,487.51
9c	<i>Balance Sheet Breakdown identifies 'Buildings Insurance Paid by another site' in the sum of £21,023.88. The Income and Expenditure Accounts for 2024 show that Leaseholders had already paid £15,957.49 for Insurance. The previous year they paid £24,255 for insurance. There is a 'double accounting' error in this respect, and the Applicant is entitled to receive a credit and repayment of £12,355.73 (58.77% of £21,023.38).</i>	£12,355.73

	TOTAL	£44,843.24
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The Law

Commonhold and Leasehold Reform Act 2002 (CLRA 2002)

32. Duty to provide information:

93 Duty to provide information

(1) Where the right to manage premises is to be acquired by a RTM company, the company may give notice to a person who is—

(a) landlord under a lease of the whole or any part of the premises,

(b) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

requiring him to provide the company with any information which is in his possession or control and which the company reasonably requires in connection with the exercise of the right to manage.

(2) Where the information is recorded in a document in his possession or control the notice may require him—

(a) to permit any person authorised to act on behalf of the company at any reasonable time to inspect the document (or, if the information is recorded in the document in a form in which it is not readily intelligible, to give any such person access to it in a readily intelligible form), and

(b) to supply the company with a copy of the document containing the information in a readily intelligible form.

(3) A notice may not require a person to do anything under this section before the acquisition date.

(4) But, subject to that, a person who is required by a notice to do anything under this section must do it within the period of 28 days beginning with the day on which the notice is given.

33. Duty to pay accrued uncommitted service charges

94 Duty to pay accrued uncommitted service charges

(1) Where the right to manage premises is to be acquired by a RTM company, a person who is—

(a) landlord under a lease of the whole or any part of the premises,

(b) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

must make to the company a payment equal to the amount of any accrued uncommitted service charges held by him on the acquisition date.

(2) The amount of any accrued uncommitted service charges is the aggregate of—

(a) any sums which have been paid to the person by way of service charges in respect of the premises, and

(b) any investments which represent such sums (and any income which has accrued on them),

less so much (if any) of that amount as is required to meet the costs incurred before the acquisition date in connection with the matters for which the service charges were payable.

(3) He or the RTM company may make an application to the appropriate tribunal to determine the amount of any payment which falls to be made under this section.

(4) The duty imposed by this section must be complied with on the acquisition date or as soon after that date as is reasonably practicable.

Accrued Uncommitted Service Charges

34. The meaning of the expression “accrued uncommitted service charges” is defined in s.94(2) – it is a two-part definition.

- a. In stage 1 (94(2)(a) and (b)), is the aggregate of reserve funds, sinking funds, and other contributions otherwise carried over from previous years.

- b. In stage 2, the permitted deductions are sums required to meet the “costs incurred” before the acquisition date in connection with the matters for which the service charges were payable.

Challenging service charges under s.94

35. When s.94 of CLRA 2002 came into force, it is right to say that there were concerns regarding interpretation and whether s.94 was to be an accounting exercise or had scope to allow the service charge accounts to be put right, i.e. permitting challenges to service charge items.
36. The Upper Tribunal in OM Ltd v New River Head RTM Co Ltd [2010] UKUT 394 (LC); [2011] 1 E.G.L.R. 97 (“OM Ltd v New River Head RTM Co Ltd”) held that the scope of s.94 was strictly limited. The Upper Tribunal decided that s.94 was limited to imposing an obligation on the landlord (or third-party management company or manager) to pay to the RTM company whatever “uncommitted” sums that it actually held on the acquisition date, i.e. the sums held in the bank accounts operated by or on behalf of that person that are not committed to fund the payment of costs that have been incurred.

37. HHJ Mole QC (as he was then) held:

23. The words of section 94 (1) are deliberately limited. The payment of accrued uncommitted service charges is confined to those accrued uncommitted service charges ‘held by’ the landlord or manager on the acquisition date. The natural meaning of those words is that what has to be paid is what the landlord or manager has actually got; not what he was entitled to have but failed to get or had at one stage but does not have now. Quite how broadly “held-by-him” should be interpreted in any particular case will depend upon the facts of that case. In dealing with an argument that appears to have troubled the LVT, I would have little hesitation in deciding that such charges were “held by him” within the section in a case where a manager had for his own reasons, dishonest or not, decided to put the service charges in cash in a box under his bed. That will be a matter for the LVT to determine under section 94 (3). Nor am I concerned that, as the LVT said, “one can easily imagine devices by which managers who were in similar positions to the respondent could reduce assets to avoid payment to a RTM.” Managers could lawfully and properly reduce the payment by making sure they used the accrued service charges to make sure they had paid their suppliers what they owed them by the acquisition date. There would be nothing wrong with that. Apart from that, it is difficult to see how managers could lawfully and honestly, bearing in mind their position as trustees, reduce the

payment. Indeed it is difficult to see why a rational and honest manager would wish to do so.

24. The sums must have been paid “by way of service charges”. Those underlined words, to my mind, are there to make it plain that there is to be no argument so far as the payment is concerned about whether or not the charges are in fact justifiable and reasonable service charges; if they were paid ‘by way of service charges’ they are service charges for the purpose of section 94.

25. They also have to be uncommitted service charges, so if they have been paid or committed to a particular management debt or function they do not fall within section 94.

26. Such a simple and limited objective, which does not seek to introduce new procedures or rights, seems to me to be eminently workable.

38. At the end of para 27:

...As the payment to the RTM company of service charges in respect of costs incurred before the acquisition date is expressly ruled out by the statute, it is highly unlikely that Parliament can have intended that repayment of service charges in respect of costs incurred before the acquisition date should be made to the RTM company.

39. And at 28 and 29 (**emphasis supplied**):

28. The relationship of the management company and the tenants and the rights that have arisen between them up to the acquisition date, are preserved. If a tenant succeeds in demonstrating to the County Court or the LVT that service charges paid or demanded are unreasonable, he will recover his payment for himself or successfully resist a claim against him for any payment. **The Act gives the RTM company no power, still less a right, to take over a tenant's claim or take over the defence of a claim properly made against a tenant.** That does not involve the duplication of proceedings; it keeps things as they are.

29. Given my conclusion on the first issue, the second issue, whether the LVT has the right to award interest, becomes somewhat academic. However, in my judgment, it is impossible to spell a power for the LVT to award interest out of the words of section 94(2)(b). On the contrary, the words in that provision “any investments which represent” sums paid by way of service charges “and any income which has accrued on them” make it plain to my mind that Parliament only intended interest that has actually accrued on such

investments to be transferred to the RTM company. Nor, in the absence of any specific statutory power to do so, does the LVT have an inherent power to award interest.

Findings and Reasons

40. Having read the evidence and submissions from the parties and considered all the documents provided, the Tribunal has made the following determinations on the issues.

Accrued Uncommitted Service Charges

41. The respondents' accounts to 24 December 2024 do not appear to extend to the date of acquisition, i.e. 27 December 2024. The Tribunal finds that the 24 December 2024 accounts reflect the respondent's accounting position as at the date of acquisition because:

- a. The respondent informed the Tribunal at the 26 November 2025 directions hearing that the 2024 accounts would go to the date of acquisition.
- b. The 24 December 2024 accounts were prepared almost a year after the accounting period ended. Therefore, all income and expenditure for the 2024 accounts, including up to the date of acquisition, would have been known.

42. The Admiral's Quay accounts dated up to 24 December 2024 show that £39,965.14 is allocated to the 'Contingency Fund'. The Contingency Fund, according to note 4, is the 'Reserve Fund'. Between the Reserve Fund information on [67] and the income and expenditure account detail on [65], the sum of £39,965.14 in the Reserve Fund takes into account cash at bank, liabilities, and interest. In the Admiral's Quay Contingency Fund, 58.77% (£23,487.51) is attributable to Collingwood Court

Challenging service charges

43. There is no application under s.27A of the LTA 1985 by either the applicant or any tenants challenging the service charges.

44. The applicant failed to file a statement of case with the evidence it relied on by 07 January 2026, as had been directed on 26 November 2025.

45. Once the respondent filed its statement of case on 28 January 2026, as directed on 26 November 2025, the applicant then replied. Even though permission to reply was limited (as set out below), the applicant challenged the accounting evidence and included a costs application:

“The Applicant may send a concise reply to the Respondent’s case addressing any matters raised by the Respondent not dealt with already in the Applicant’s case.”

46. In the applicant’s reply paragraph 9 [6], the respondent’s accounting is challenged as follows:

- a. 9a. If the applicant is right that the ‘new agent’ is the applicant, the respondent has admitted that £9,000 should have been sent to the applicant. If the applicant has not received the £9,000, this is a matter that the applicant and the respondent need to address between them.
- b. 9b. Note 4 [67] sets out that the £10,000 contribution is taken into account in the Reserve Fund. The applicant is asking the Tribunal to adjust the accrued uncommitted service charge to what it ‘should’ be.
- c. 9c. Is an allegation of double-counting that would have occurred before the date of acquisition. If any sums are to be recovered, this is for the leaseholders. The applicant is asking the Tribunal to adjust the accrued uncommitted service charge to what it ‘should’ be.

47. Dealing with the applicant’s general challenge to £76,513.23 of service charges. The applicant stated (**emphasis supplied**):

*5. The Applicant has reviewed these accounts and has calculated there are cost items in the 4-year accounts totalling £76,513.23 which are disputed. For example, £6,617 for fire and smoke detection equipment that does not exist and other maintenance charges which have no supporting invoices and which **the Applicant says are for works not performed or services not provided. The consequence of all these unsupported costs is that leaseholder’s service charge funds are diminished by £76,513.23.***

6. The Applicant accepts that following the Upper Tribunal Decision in ‘OM Ltd and New River Head RTM Co Ltd [2010] UKUT 394 (LC), the Tribunal has limited discretion regarding the scope of s.94 and acknowledges this may restrict the Tribunal’s consideration of the disputed items referred to above. The Applicant’s position is that River Head was wrongly decided on this issue and wishes to reserve its position to argue this point in the event the issue comes before the Upper Tribunal on appeal.

48. The applicant, in its reply, is asking this Tribunal to adjust the accrued uncommitted service charge to what it ‘should’ be.

49. The Tribunal found that it cannot adjust the accrued uncommitted service charge to what it 'should' be as per the Upper Tribunal's binding decision in OM Ltd v New River Head RTM Co Ltd.

50. The Tribunal found that the RTM Company cannot bring or take over a tenant's claim or take over the defence of a claim properly made against a tenant. At paragraph 28 in OM Ltd v New River Head RTM Co Ltd, HHJ Mole QC held that CLRA 2002 did not give an RTM company either the power or a right to take over a tenant's claim or take over the defence of a claim properly made against a tenant.

Determination

51. The Tribunal determined that the accrued uncommitted service charge that should have been paid to the applicant on the date of acquisition is £23,487.51, which is 58.77% of £39,965.14, the sum recorded in the December 2024 accounts as the Reserve Fund.

Application for costs

52. The applicant applies for its costs under Rule 13. The applicant stated in its reply:

The Applicant submits the Respondent has acted unreasonably. It was almost a year late in producing the accounts to the Acquisition Date. The earlier accounts were up to 4 years overdue. In consequence the Applicant has incurred costs as follows: -

a. Tribunal application fee: £114.00

b. RTMF fee for attending CMH and preparing Statement of Case £840.00

53. The Respondent did not address costs in their statement of case, most likely because the applicant had not filed its statement of case by the deadline and only set out its application in its reply.

54. The applicant has succeeded in its s.94 application, namely by obtaining a determination of the accrued uncommitted service charge, but it has failed in its attempts to challenge elements of the service charges.

The Rules

55. Rule 13

13.— Orders for costs, reimbursement of fees and interest on costs

(1) Subject to paragraph (1ZA), the Tribunal may make an order in respect of costs only—

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings;

(6) The Tribunal may not make an order for costs against a person (the “paying person”) without first giving that person an opportunity to make representations.

Case Law

56. The Upper Tribunal in the case of Willow Court Management Company (1985) Ltd v Alexander [2016] UKUT 290 (LC) set out a systematic approach to applications made under the rule, which should be adopted as follows:
57. At the first stage, the question is whether a person has acted unreasonably. This involves applying an objective standard of conduct to the facts of the case. If there is no reasonable explanation for the conduct complained of, the behaviour will be properly adjudged to be unreasonable.
58. At the second stage, the Tribunal should consider whether, in the light of the unreasonable conduct, it ought to make an order for costs or not.
59. If the Tribunal considers that it ought to make an order for costs, the question is what the terms of that order should be.
60. In Willow Court Management Company (1985) Ltd, the UT held that Rule 13(1) (b) should both be reserved for the clearest cases and that in every case it will be for the party claiming costs to satisfy the burden of demonstrating that the other party's conduct has been unreasonable. The UT also stated that, when considering whether a costs order ought to be made, all the circumstances of the case should be taken into account.

Findings

61. Has the respondent acted reasonably? The application was brought because the respondent was late producing the service charge account. As frustrating as this was, there is no evidence to justify making a finding that this was unreasonable.
62. At the case management hearing in November 2025, the 2024 accounts were still outstanding despite a Tribunal direction to produce them 10 days before. There was no explanation for that. Objectively, the failure to produce the 2024 accounts by the November 2025 hearing was unreasonable. The respondent produced the 2024 accounts by 11 December 2025, as directed, albeit that these do not appear to be up to 27 December 2024, as the respondent's representative indicated they would be.

63. Having found that the respondents' conduct in failing to produce the 2024 accounts by the case management hearing in December 2025 was unreasonable, the Tribunal needs to consider whether to make a costs order, and, in doing so, must consider all the circumstances of the case. The Tribunal found that both parties failed to comply with directions. Objectively, the applicant's failure to produce its statement of case by 07 January 2026 was unreasonable. The Tribunal also notes that tribunal time was taken up with the applicant's challenge to specific service charges, even though it had not filed an updated statement of case, and it was aware of the Upper Tribunal decision in OM Ltd v New River Head RTM Co Ltd.

Determination

64. This is not the 'clearest of cases.

65. In the circumstances of this case, the Tribunal declines to order the respondents to pay the applicants' costs. If the Tribunal had considered making a costs order, the respondents would be invited to make representations.

Name: Tribunal Judge Elizabeth Bowden **Date:** 27 April 2026

RIGHTS OF APPEAL

1. A written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.