FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**BIR/00FN/LIS/2020/0038**
HMCTS	**:**	**CVP**
Property	:	**Apartments 12 – 19 Scraptoft Hall, Church Hill, Scraptoft, Leicester LE7 9TW**
Applicants (Tenants)	**:**	**Sophie Corlett & Jude Ryan (12)** **Leonie Foster (13)** **Sophie Corlett (14)** **Peter Bayley (16)** **Sophie Corlett & Jude Ryan (17)** **Andrew Hunter (18)**
Representative	**:**	**Sophie Corlett**
Respondent (Landlord)	**:**	**Blue Property Investment UK Limited**
Managing Agent	**:**	**Blue Property Management UK Limited**
Type of Application	**:**	**1) to determine the reasonableness and payability of Service Charges (section 27A Landlord and Tenant Act 1985) and Administration Charges (Schedule 11 of the Commonhold and Leasehold Reform Act 2002)** **2) for an order that the landlord's costs arising from the of proceedings should be limited in relation to the service charge (section 20C of the Landlord and Tenant Act 1985)** **3) for an order to reduce or extinguish the Tenant's liability to pay an administration charge in respect of litigation costs (paragraph 5A of Schedule 11 of the Commonhold and Leasehold reform Act 2002)** **4) for an order under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the reimbursement of costs & fees**
Tribunal	**:**	**Judge J R Morris** **Mr G S Freckelton FRICS**
Date of Application	**:**	**11th October 2020**
Date of Directions	**:**	**30th October 2020**
Date of Hearing	**:**	**22nd February 2021**
Date of Decision	**:**	**6th April 2021**

DECISION

Covid-19 Pandemic: Remote Video Hearing

This determination included a remote video hearing together with the papers submitted by the parties which has been consented to by the parties. The form of remote hearing was Video. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing/on paper. The documents referred to are in a bundle, the contents of which are noted.

Pursuant to Rule 33(2A) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and to enable this case to be heard remotely during the Covid-19 pandemic in accordance with the Practice Direction: Contingency Arrangements in the First-tier Tribunal and the Upper Tribunal the Tribunal has directed that the hearing be held in private. The Tribunal has directed that the proceedings are to be conducted wholly as video proceedings; it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing; a media representative is not able to access the proceedings remotely while they are taking place; and such a direction is necessary to secure the proper administration of justice.

CORRECTION CERTIFICATE

The Tribunal exercises its powers under Rule 50 to correct the clerical mistake, accidental slip or omission in its Decision dated 31st March 2021.

I hereby certify that due to a clerical mistake, accidental slip or omission in the Tribunal's Decision dated 31st March 2021:

In paragraph 1 of the Decision and paragraphs 296, 298 and 300 of the Reasons the apportionment percentages and related contribution amounts in the tables for Apartments 16, 17 and 18 should read as follows:

For the year ending 31st December 2018:

Apartment 16	12% **not** 11%	£454.56 **not** £416.68
Apartment 17	11% **not** 16.47%	£416.68 **not** £623.88
Apartment 18	16.47% **not** 11%	£623.88 **not** £416.68

For the year ending 31st December 2019:

Apartment 16	11% **not** 12%	£726.77 **not** £666.20
Apartment 17	11% **not** 16.47%	£666.20 **not** £997.48
Apartment 18	16.47% **not** 11%	£997.48 **not** £666.20

For the year ending 31st December 2020:

Apartment 16	11% **not** 12%	£492.53 **not** £451.48
Apartment 17	11% **not** 16.47%	£451.48 **not** £675.99
Apartment 18	16.47% **not** 11%	£675.99 **not** £451.48

In paragraph 13 of the Reasons the apportionment percentages in the table for Apartments 15, 16, 17 and 18 should read as follows:

Apartment 15	11% **not** 12%
Apartment 16	12% **not** 11%
Apartment 17	11% **not** 16.47%
Apartment 18	16.47% **not** 11%

The corrections shown in bold in this Decision and Reasons are made on **21st April 2021**.

Judge JR Morris

Decision

1. The Tribunal determines that the reasonable and payable costs by the Applicants to the Respondent for the years in issue are:

Apportionment of Reasonable Charge for year ending 31st December 2018				
Apartment	**Insurance Service Charge Proportion**		**Building Service Charge Proportion**	
Number	**%**	**Reasonable Amount Payable £**	**%**	**Reasonable Amount Payable £**
12	11	416.68	13.57	1,008.54
13	11	416.68	13.57	1,008.54
14	13.05	494.34	13.57	1,008.54
16	~~11~~ **12**	~~416.68~~ **454.56**	13.57	1,008.54
17	~~16.47~~ **11**	~~623.88~~ **416.68**	13.57	1,008.54
18	~~11~~ **16.47**	~~416.68~~ **623.88**	13.57	1,008.54

Apportionment of Reasonable Charge for year ending 31st December 2019				
Apartment	**Insurance Service Charge Proportion**		**Building Service Charge Proportion**	
Number	**%**	**Reasonable Amount Payable £**	**Contribution %**	**Reasonable Amount Payable £**
12	11	666.20	13.57	1,286.86
13	11	666.20	13.57	1,286.86
14	13.05	790.36	13.57	1,286.86
16	~~11~~ **12**	~~666.20~~ **726.77**	13.57	1,286.86
17	~~16.47~~ **11**	~~997.48~~ **666.20**	13.57	1,286.86
18	~~11~~ **16.47**	~~666.20~~ **997.48**	13.57	1,286.86

Apportionment of Reasonable Charge for period ending 7th September 2020				
Apartment	**Insurance Service Charge Proportion**		**Building Service Charge Proportion**	
Number	**%**	**Reasonable Amount Payable £**	**Contribution %**	**Reasonable Amount Payable £**
12	11	451.48	13.57	794.98
13	11	451.48	13.57	794.98
14	13.05	536.62	13.57	794.98
16	~~11~~ **12**	~~451.48~~ **492.53**	13.57	794.98
17	~~16.47~~ **11**	~~675.99~~ **451.48**	13.57	794.98
18	~~11~~ **16.47**	~~451.48~~ **675.99**	13.57	794.98

2. The Tribunal determines that the Arrears Administration Charges specified above are not payable by the Applicants to the Respondent or its Managing Agent.

3. The Tribunal makes an Order under section 20C of the Landlord and Tenant Act 1985 that the Respondent's costs in connection with these proceedings should not be regarded as relevant costs to be taken into account in determining the amount of any Service Charge payable by the Applicants.

4. The Tribunal makes an Order extinguishing the Applicants' liability to pay an administration charge in respect of litigation costs under paragraph 5A of Schedule 11 of the Commonhold and Leasehold reform Act 2002.

5. The Tribunal makes no order for costs or reimbursement of fees under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Reasons

Background

6. On 11th October 2020 the Applicants applied for:

   a) A determination under section 27A of the Landlord and Tenant Act 1985 as to whether the service charges to be incurred for the years ending 31st December 2017, 2018 2019 and 2020 are reasonable and payable.

   b) An order for the limitation of the Respondent's costs in the proceedings under section 20C of the Landlord and Tenant Act 1985.

   c) An order to reduce or extinguish the tenant's liability to pay an administration charge in respect of the litigation costs under paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

   d) An order under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for costs and the reimbursement of fees.

7. The Applicants stated that Apartments 12, 13, 14, 16, 17 and 18,("the Properties") are located at Scraptoft Hall ("the Building") which is a grade II listed building that was renovated and subdivided into 8 separate apartments by Scraptoft Hall Limited ("the Developer") who then sold leasehold interests in respect of each apartment to the Leaseholders ("the Leaseholders") including Sophie Corlett & Jude Ryan of Apartment 12, Leonie Foster of Apartment 13, Sophie Corlett of Apartment 14, Peter Bayley of Apartment 16, Sophie Corlett & Jude Ryan of Apartment 17 and Andrew Hunter of Apartment 18 ("the Applicants").

8. On or around 1st November 2017 the Developer sold the freehold of Scraptoft Hall to Blue Property Investment UK Limited ("the Respondent") who employed Blue Property Management UK Limited ("the Respondent's Managing Agent") to manage it.

9. In May 2020 the Leaseholders formed Scraptoft Hall RTM Company Limited ("the Right to Manage Company") which took over the management of the Building on 7th September 2020.

10. Directions were issued on 30th November 2020

The Law

11. The Law relating to these proceedings is set out in Annex 2 and should be read in conjunction with this Decision and Reasons.

The Leases

12. A copy of the Lease relating to Apartment 17 was provided which is dated 29th September 2017 between (1) Scraptoft Hall Limited ("the Landlord") and (2) Jude Sebastian Ryan and Sophie Louise Corlett ("the Tenants") for a term of 125 years from,1st July 2014. As stated above, the freehold was transferred to the Respondent on or around 1st November 2017.

13. This Lease is understood to be in like form to all the other Apartment Leases of the Building except that the apportionment of the Insurance Premium and Service Charge differ as follows:

Apartment Number	Insurance Service Charge Proportion %	Building Service Charge Proportion %
12	11	13.57
13	11	13.57
14	13.05	13.57
15	~~12~~ **11**	13.57
16	~~11~~ **12**	13.57
17	~~16.47~~ **11**	13.57
18	~~11~~**16.47**	13.57
19	14.48	5.01

14. The relevant provisions of the Lease are as follows:

15. Under Clause 3 the Tenant covenants:

    3.1.2 To pay the Service Charge in accordance with Schedule 5.

16. Under Clause 4 the Landlord covenants:

    4.1.2 To pay all costs in connection with utilities
    4.1.3 To maintain repair, redecorate and renew and replace the retained Parts and keep them in good and substantial repair at all times
    4.1.4 To keep the fixtures and fittings in good repair and working order and to renew them from time to time
    4.1.5 So far as practicable to keep the Common Parts clean and lit
    4.1.6 To keep the screen and partitions and the surrounds/frames of the windows in the Common Parts polished and to clean regularly
    4.1.7 To employ or engage such caretakers, managing agents, employees or contractors as the Landlord considers necessary for the performance and observance of its obligations under the Lease.

17. Under Clause 6 the Landlord covenants:
    6.1 To keep the Building insured

6.2 The insuring obligations in clause 6.1 are subject to any excesses and limitations imposed by the insurers and to the Tenant paying the Service Charge

18. Schedule 5

1.1 Defines "Management Costs" expenditure by the Landlord:

1.1.1 In the performance and observance of the obligations and powers on the part of the Landlord contained in this Lease…

1.1.2 In the payment of management expenses of the Estate, the administration expenses of the Landlord, the proper fees of surveyors or agents appointed by the Landlord in connection with the performance of its's obligations, duties and powers and with the apportionment and collection of those expenses and fees between and from the several parties liable to reimburse the Landlord for them …

1.1.3 In the provision of services, facilities, amenities, improvements and other works which the Landlord reasonably considers from time to time to be for the benefit of the estate and its tenants…

1.3 Service Charge means the aggregate of:

1.3.1 the Building Service Charge Proportion (percentage amount) of the Management Costs…

1.3.2 the Insurance Service Charge Proportion (percentage amount) of those Management Costs relating to the insurance of the Building

3. Service Charge estimate

Before or as soon as possible after, the start of each Service Charge Year the Landlord will prepare and send to the Tenant a fair and reasonable estimate of the likely total of the Service Charge for that Service Charge Year

4. Instalments in advance

4.1 The Tenant will pay the Service Charge in advance in two equal instalments on 1st January and 1st July in each year…

4.2 Within 14 days of being notified in writing of the amount of the estimated Service charge (or the relevant instalment of it) the Tenant will pay the amount due

5. Service Charge reconciliation

5.1 As soon as convenient after expiry of each Service Charge Year the Landlord shall prepare and submit to the Tenant a written summary ("the Service Charge Statement") setting out the Management Costs and showing how it is or will be reflected in demands for payment of the Service Charge and showing money in hand. The Service Charge Statement shall be certified by a qualified accountant as being in his opinion a fair summary …

5.3 A surplus of payment of the Service Charge in excess of the amount due from the Tenant shall be refunded or carried forward as the Landlord thinks fit. A shortfall in payments of the Service Charge below the amount due from the Tenant shall be paid by the Tenant and be due on demand

19. Amenity Areas and their maintenance are not part of this case as they are dealt with by Greenbelt Plan 4 Blue and Green Areas

Description

20. The Tribunal did not inspect the Building in which the Properties are situated due to Government restrictions and sets out the following description based upon the Statements of Case and documents annexed thereto and the Lease. The Building is an 18th Century Grade II* Listed (UID 1061724) country house built in 1723 with a rear wing built in 1896 converted into 8 Apartments. The Building is on five floors including a basement and roof dormer floor. The Building is constructed of stone under a slate roof with timber floors and sash windows. The internal walls are plastered and painted. There is a single open timber staircase rising from the hall to the landings off which are the Apartments. Apartment 12 and 13 are off the main hallway, Apartments 14 and 15 are off the first-floor landing, Apartments 16 and 17 are off the second-floor landing from which there is access to Apartment 18 which is on the third floor. There are stairs from the hallway to the basement where there are storage areas for the Tenants.

21. The six Apartments, 12 to 17 consist of 4 one-bedroom Apartments and 2 two-bedroom Apartments and Apartment 18 is a two/three-bedroom Apartment. The Internal Communal Area consists of a hallway open staircase to the landings on the first and second floors and access to the basement. Flat 19 (also referred to as the "Music Room") is a Victorian extension to the main Building. The External Communal Area consists of a paved path from which are steps to a paved area in front of the Building and which also leads to a car park.

22. The Building is set in grounds, part of which have been developed. The grounds are referred to in the Lease as the Amenity Area and are maintained separately by a company referred to in the Lease and called Greenbelt Group Limited. A separate service charge is levied for the Amenity Area and is not part of these proceedings.

The Service Charge Issues

23. The Application is for a determination of the reasonableness and payability of the Service Charge for the years ending 31st December 2017, 2018, 2019 and 2020 ("the years in issue"). The cost of the items of the Service Charge in issue are:
    1. Contractors
    2. Payability of Demands
    3. Insurance Premiums
    4. Accountants' Fees
    5. Cleaning and Caretaking
    6. Communal Electricity
    7. Emergency Lighting Testing and Report
    8. Fire and Health and Safety Risk Assessments
    9. Management Fees including Client Money Protection Insurance
    10. Window Cleaning
    11. Repairs and General Maintenance
    12. Legal Costs and Accounting and Management Hand Over Charges

24. The Tribunal noted that the preliminary paragraphs of the Applicants' Statement of Case raised a number of points which were responded to by the Respondent's Managing Agent in its Statement of Case, which the Tribunal comments on as follows:

a. It was apparent to the Tribunal from the comments made at the commencement of the parties' respective Statements of Case that they each felt aggrieved with the other's conduct. In the present case the Tribunal can only consider the conduct of a party in so far as it has a bearing on the reasonableness of the costs of the items of the Service Charge in issue and the Orders for which an application has been made.

b. The Applicants referred to 4 previous tribunal decisions. Previous First-tier tribunal decisions are not binding on later tribunals except, in certain circumstances e.g., in relation to findings of fact. Each case is determined on its individual facts and the evidence adduced.

c. Both parties alluded to alleged breaches of the Lease by the other. Reference was made to late or non-payment of Service Charges, failure to carry out repairs and failure to provide information following the formation of the Right to Manage Company. The determination of the Tribunal is limited to the Application for reasonableness of the cost and standard of Service Charge items for the years in issue, the Administration Charges and the Orders mentioned. The Tribunal cannot deal with other matters such as alleged breaches of Lease.

d. Both parties referred to Budgeted costs for past years. Whereas these may be helpful, the Tribunal's determination relates, wherever possible, to the actual costs incurred.

Evidence

25. A hearing was held by video conferencing on 22nd February 2021 which was attended by Miss Sophie Corlett, a Leaseholder, representing the Applicants and Mr Simon Marlow of the Managing Agent and Mr Mark Phillips of the Landlord's Accountants, Blue Accounting UK Limited, representing the Respondent. Ms Leonie Foster, a Leaseholder, attended as an Observer.

Service Charge

26. The Applicants and the Respondent through its Managing Agent, each provided a Statement of Case together with various supporting documents.

Service Charge Prior to 2017

27. With regard to the period prior to 1st November 2017, when the Developer managed the Building, the Applicants stated that for the years ending 31st December 2016 and 2017 the Developer had demanded an estimated annual Service Charge of £5,818.80. It was stated that no Service Charge Accounts were produced and no balancing payments demanded or credited other than a credit balance of £960.00 which was transferred from the Developer to the Managing Agent on the sale of the freehold to the Respondent. This figure is shown as income in the Certified Service Charge Accounts for the year ending 31st December 2018.

28. The only known actual figures for the years ending 31st December 2016 and 2017 were the insurance premiums of £3,399.30 for 2016 and £3,510.90 for 2017, although, from the evidence adduced by the Respondent in respect of the Insurance, Cleaning costs, and the Management Fees, the Developer had provided some figures

and information on the "handover" to the Respondent and its Managing Agent. This information was not provided to the Applicants or the Tribunal other than the reference in the evidence regarding the Cleaning.

29. The Applicants submitted that the Service Charges for the year 2017 should not have been included in the accounts for 2018 for the following reasons:
    - The Lease states that the accounts should only relate to a period of 12 months.
    - The Leaseholders had paid the demand based upon the budget for 2017 which had previously been sufficient. No accounts were produced either for previous years or for the period up to the hand over from the Developer to the Respondent in September 2017 which showed neither a credit nor a debit.

30. In response the Respondent's Managing Agent stated that:
    - The 2018 accounts included the two months of November and December to avoid producing accounts just for two months of 2017.
    - There were outstanding costs for November and December 2017 at the time of the handover.

Tribunal Findings re Service Charge Prior to 2017

31. The Tribunal found that the sum of £960.00 is shown as income in the Certified Service Charge Accounts for the year ending 31st December 2018 and so credited to the Service Charge Account.

32. The Tribunal is of the opinion that it was for the Developer to provide accounts up to 1st November 2017 which should have shown any balancing credit or debit from the budget. In the absence of such accounts, it was for the Respondent's Managing Agent to provide a clear financial statement and information on the handover. The reasonableness and payability of the costs for 2017, are dealt with later in these Reasons.

Service Charge post 2017

33. The Applicants' Statements of Case provided a table which summarised the actual Service Charge costs for the years ending 31st December 2018 and 2019 which was supported by the Respondent's Certified Accounts. The Service Charge costs for the year ending 31st December 2018 were, as noted above, for 14 months as they also included the costs incurred for the period 1st November 2017 to 31st December 2017, the Respondent having purchased the freehold and appointed its Managing Agent from 1st November 2017.

34. In addition to the Certified Account for the years ending 31st December 2018 and 2019 the Respondent's Managing Agent also provided a Schedule of Expenditure annexed to which were the invoices for these years.

35. The Certified Accounts for the year ending 31st December 2020 have not yet been prepared however the Respondent's Managing Agent provided a Schedule of Expenditure annexed to which were the invoices for 2020 up to the date when the Right to Manage Company took over the management. It was agreed that the

Schedule of Expenditure for 2020 provided a basis upon which the Tribunal could make its determination for the period during 1st January 2020 to 7th September 2020.

36. The Applicants confirmed that the period in issue was from 1st November 2017 when the Respondent and its Managing Agent took over the management to 7th September 2020 when the Right to Manage Company took over the management.

37. From the Applicant's table, the Certified Service Charge Accounts, the Schedule of Expenditure and the Statements of Case the Tribunal set out the Service Charge costs incurred for the years in issue in tabular form below.

Actual Service Charge Costs	**2016 £**	**2017 £**	**2018* £**	**2019 £**	**2020* £**
Insurance					
Premium	3,399.30	3,510.90	3,788.00	8,684.00	4,104.38
Excess			300.00	300.00	
Balancing Charge for 2017			488.00		
Insurance Sub-Total	**3,399.30**	**3,510.90**	**4,576.00**	**8,984.00**	**4,104.38**
Service Charge					
Accountants Fee			426.00	445.00	325.00
Cleaning & Caretaking			2,034.00	2,022.00	1,348.16
Communal Electricity			922.00	558.00	417.74
Fire Risk Assessment			480.00	240.00	240.00
Management Fees			2,576.00	2,208.00	1,956.00
Repairs & General Maintenance			1,869.00	3,650.00	2,520.52
Health & Safety Risk Assessment			480.00	240.00	240.00
Window Cleaning			333.00	432.00	288.00
Emergency Lighting Testing			280.00	240.00	180.00
Render Repair Reserve			912.00		
Client Money Protection				12.00	12.00
Reinstatement Valuation				420.00	
Legal Fees					480.00
Service			**10,312.00**	**10,467.00**	**8,007.42**

Charge Sub-Total					
Total			**14,888.00**	**19,451.00**	**12,111.80**
Developer's Service Charge	**5,818.80**	**5,818.80**			
Additional Items					
AOV Smoke Vent				1,320.00	
Basement Ceiling & Wall Repairs				766.00	
Moving door Entry Test Unit				377.00	
Additional Items Sub-Total				**2,463.00**	
Total 2019				**21,914.00**	
*2018 = 1st November 2017 to 31st December 2018 2020 = 1st January 2020 to 7th September 2020					

38. The Applicants questioned why the balancing charges demanded were not itemised.

39. The Tribunal explained that an itemised budget based on the anticipated costs should be produced each year and demands issued accordingly. At the end of the year, accounts setting out the itemised actual costs should be provided. If the actual costs are more than the budgeted costs then a balancing payment is demanded if the costs are less, then a credit is given. It is good practice in the annual accounts to set out the budgeted amount for the year next to the actual cost and to set out the previous year's costs so that a clear comparison can be drawn.

40. The Items in Issue were dealt with as set out below. The written Statements of Case are summarised and followed by points raised at the hearing.

Contractors

41. The Applicants stated in written representations that when contracting out maintenance and management services the Respondent systematically appointed connected companies including: Blue Risk Management UK Limited ("Blue Risk") in respect of risk assessments, Blue Accounting UK Limited ("Blue Accounting") in respect of management accounts and Blue Property Maintenance UK Limited ("BP Maintenance") in respect of cleaning and regularly instructs the company for repairs. The Applicant also stated that the Managing Agent did not conduct market sounding or competitive tendering but awarded all business to their connected companies.

42. The Applicants were of the opinion that the charges of these companies were excessive and that the standard of wok was poor. In addition, they had found that information and documentation is not shared readily with the Leaseholders and is often incomplete and inconsistent.

43. In addition, the Applicants said that not to disclose to the Leaseholders that connected companies were contracted to carry out work was in breach of rules 2.3 and 10.1 of the RICS (Royal Institute of Chartered Surveyors) Code.

44. The Applicants' Representative confirmed the above at the hearing.

45. The Respondent's Managing Agent stated in written representations that the Managing Agent uses a variety of suppliers to complete the necessary works and carried out benchmarking exercises with contractor's and other managing agents to ensure the pricing of any work is competitive. It was stated that a number of invoices that had been provided were from external contactors.

46. The Respondent's Managing Agent said that it had provided information and documentation as required under the Lease e.g., annual income and expenditure summary. Under section 22 of the Landlord and Tenant Act 1985 a Leaseholder can inspect the accounts and invoices, which two Leaseholders from the Building did in 2020.

47. The Managing Agent confirmed these comments at the hearing.

Tribunal's Findings in respect of Contractors

48. The Tribunal found that the Applicants' representations with regard to the contractors employed by the Respondent were a general criticism based on their belief that the costs charged were unreasonably high. They did not in this instance amount to an issue upon which the Tribunal could make a determination. However, if the period in issue had been any longer the Tribunal would have expected evidence of benchmarking and that the companies are genuinely employed on an annual basis.

Payability of Demands

49. The Applicants submitted that the service charge demands up to and including 11th June 2019 did not comply with section 47 of the Landlord and Tenant Act 1987 as they did not state the name and address of the current Landlord. The Service Charge demands prior to 17th October 2019 do not comply with section 48 of the Landlord and Tenant Act 1987 as these demands do not provide the Leaseholders with a correct address for service of notices.

50. The Applicants submitted that the demands were invalid and that they should be reimbursed with the corresponding amounts. Alternatively, that they were not served within 18 months of the costs being incurred, contrary to section 20B of the Landlord and Tenant Act 1985 and that they should be credited with the costs that had been incurred 18 months or more before the demand. It was accepted that demands served after 17th October 2019 were compliant.

51. The Respondent's Managing Agent replied that the demands have been corrected and re-served and therefore are now payable. The Respondent's Managing Agent stated that their solicitors advised them that the Court of Appeal held in *Lindsey Trading Properties Inc v Dailhold Estates (UK) Pty Ltd*, that where Service Charge demands did not comply with sections 47 or 48 of the Landlord and Tenant Act 1987 the defect could be remedied by the demands being corrected and re-served whereupon they would be payable. It was added that *Rogan v Woodfield Building*

Services Ltd [1995] and *Staunton v Taylor* [2010] supported this view. It was also followed by a previous tribunal case LON/00AL/LSC/2010/0820 in which was stated at para [18]

The tribunal does not concur with Mr Southam's interpretation of section 47, subsection 2(a) which provides that where a tenant is given a service charge without the required information , those charges shall be treated for all purposes as not being due from the tenant to the landlord as any time before the information is furnished by the landlord by notice given to the tenant" The section does not say that in such circumstances those charges shall be treated as not having been demanded, and the tribunal finds no reason to interpret it in that way. It is satisfied that a demand without the Section 47 information is still capable of being a demand for the purposes of section 20B, even though the charges are not payable until the Landlord's name and address has been provided.

52. At the hearing the Tribunal stated that there had been recent case law on the point and the Tribunal would consider if there had been any re-interpretation of section 20B of the 1985 Act and request further representations if necessary.

53. On considering the written and oral evidence of the parties after the hearing the Tribunal noted that:

1. The estimated service charge demand for the whole period of 2018 was served on 5th February 2018. This was not compliant with Paragraph 4.1 of Schedule 5 which requires the estimated charge to be demanded in two six monthly instalments and demands were later re-served for two instalments as set out in 2. below.

2. The service charge demands served prior to 17th October 2019 were as follows:
   a) 8th March 2018 for Service Charge Period 01/01/2018 – 30/06/2018
   b) 1st March 2018 for Service Charge Period 01/07/2018 – 31/12/2018
   c) 22nd November 2018 for Damaged Render Repair
   d) 12th December 2018 for Service Charge Period 01/01/2019 – 30/06/2019
   e) 4th April 2019 for:
      £1,320.00 for the installation of Automatic Opening Vents to ventilate and extract smoke;
      £766.00 for repair to the Basement Ceiling and Walls;
      £377.00 for moving door entry test unit.
   f) 5th June 2019 for Service Charge Period 01/07/2019 – 31/12/2019
   g) 11th June 2019 for Insurance Charge Period 11/02/2019 – 11/07/2019

54. These demands incorrectly stated that the Landlord was Scraptoft Hall Limited and not Blue Property Investment UK Limited, contrary to sections 47 and 48 of the Landlord and Tenant Act 1987 and so not payable.

55. The Respondent's Managing Agent stated in both the paper submissions and at the hearing, that the demands had subsequently been re-served correctly (copies of which were on pages 508 to 514 of the Bundle). The re-served demands were dated when originally served, but the Tribunal could not find the re-issue date or dates and therefore asked the parties to confirm when they were re-served.

56. The Respondent's Managing Agent replied by email with an attachment of copies of re-issued invoices for Flats 12 and 17 ("the Attachment"), stating that the demands a) to f) above had all been re-issued on the 29th October 2020 and demand g) had been re-issued on 14th January 2021.

57. The Applicants responded saying that they had received copies of all service charge demands issued for the period 2018 - 2020 on 29 October 2020 but a number of the demands had been amended as follows (page numbers in brackets relate to the Attachment):

- 3 demands addressed to Apartment 17 dated 22/11/18 for Damaged Render Repair were each for different amounts - £123.76 (page 11), £92.29 (page 39) and £31.47 (page 47)
- 3 demands addressed to Apartment 12 dated 22/11/18 for Damaged Render Repair were each for different amounts - £123.76 (page 9), £92.28 (page 33) and £31.48 (page 45)
- 3 demands issued to Apartment 17 dated 11/06/19 for Insurance Charges were each for different amounts - £580.66 (page 27), £307.23 (page 31) and £273.43 (page 43)
- 4 demands issued to Apartment 12 dated 11/06/19 for Insurance Charges were each for different amounts - £580.66 (page 25), £307.22 (page 29), £273.44 (page 37) and £273.43 (page 43)

58. The Applicants conceded that all the demands a) to g) were amended to update the name of the freeholder and service address. The amended demands were all dated with the date of original issue of the corresponding demands and not with a date of re-service. These changes were said to be very misleading.

59. The Applicants submitted that the absence of a date of re-service, and the inconsistencies in the amounts of the demands themselves, meant that none of the demands had in fact been re-served.

60. The Respondent's Credit Control Manager stated that the system used at the time of invoicing, called Propman and now no longer used, auto generated duplicate invoices. So that when the invoices were re-issued the system generated three invoices, for example A and B and C. The first invoice is the charge and is on the tenant statement. The other two invoices are, added together, for the same amount. The Respondent's Managing Agent gave an example: the tenant statement for number 17 is £580.66 for insurance charges as per the re-issued invoice at page 27 of the Attachment. The invoices for £307.23 at page 31 and £273.43 at page 43 together add up to £580.66 and are duplicates. It was said that it is not known why the system did this. The Tribunal verified this noting that all three were numbered invoice 64.

61. The Applicants stated in written representations that an additional Service Charge demand had been levied in the year ending 31st December 2018 of £912.00 for Render Repairs but this work had not been carried out.

62. The Managing Agent stated that the payment had gone towards carrying out emergency works required at the time but the equivalent sum was subsequently deposited in a reserve fund.

63. The Applicants accepted that the amount had been deposited in a reserve fund but at the time of the Application the reserve had not been transferred to the Right to Manage Company.

64. The Applicants also stated that an additional Service Charge demand had been made in the year ending 31st December 2019 of:
£1,320.00 for the installation of Automatic Opening Vents to ventilate and extract smoke;
£766.00 for repair to the Basement Ceiling and Walls;
£377.00 for moving door entry test unit.
The Applicants submitted that the demands were not compliant with sections 47 and 48 of the Landlord and Tenant Act 1987 as stated above, and when the works were carried out, they were not of a reasonable standard.

65. The Managing Agent said that the demand had been re-issued and the money was used to carry out the works, although delayed due to a lack of funds, because Leaseholders withheld Service Charges.

Tribunal's Decision re Payability of Demands

66. Firstly, the Tribunal considered whether the Respondent was compliant with the Lease. Paragraph 3 of Schedule 5 of the Lease requires the Landlord at the start of each Service Charge Year to prepare and send to the Tenant a fair and reasonable estimate of the likely total of the Service Charge for the Service Charge year. By paragraph 4 the Tenant is to pay the Service Charge in advance in two instalments on 1st January and 1st July in each year.

67. Secondly, the Tribunal considered the statutory provisions regarding service charge demands. Under section 21B of the Landlord and Tenant Act 1985 a service charge demand must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges. In addition, under section 47 of the Landlord and Tenant Act 1987 the demand must state the name and address of the current Landlord under section 48 of the 1987 Act provide the Leaseholders with a correct address for service of notices. If any of these requirements are not met than the demand is not payable. However, if a compliant demand is subsequently served then the service charge becomes payable.

68. Thirdly, the Tribunal considered Section 20B (1) of the Landlord and Tenant Act 1985 which prevents a landlord from making a demand for service charges more than 18 months after they have been incurred. However, this is subject to Section 20B (2) which enables a landlord to preserve its position by telling the lessee in writing that costs have been incurred and that a demand will be made later.

69. The Tribunal then considered the effect of the legislative provision with regard to the present case. In doing so it referred to the following cases:
London Borough of Brent v Shulem B Association Ltd [2011] EWHC 1663 (Ch),
Johnson v County Bideford Ltd [2012] UKUT 457 (LC)
Westmark (Lettings) Ltd v Peddle and Others [2017] UKUT 449 (LC),
Skelton v DBS Homes (Kings Hill) Limited [2017] EWCA Civ 1139,
Cookson -v- Assethold Limited [2020] 115 (LC),
No.1 West India Quay (Residential) Ltd V East Tower Apartments Ltd [2020] UKUT 163 (LC).
Johnson v County Bideford Ltd [2012] UKUT 457 (LC)

70. The cases show that a demand must be compliant with the lease or it will not be a valid demand. A demand that is initially not compliant with the Lease must be re-served in its correct form within 18 months of the costs being incurred as stated in secton 20B (1) of the Landlord and Tenant Act 1985. For section 20B (2) to exempt the landlord from the effect of section 20B (1) the tenant must be notified in writing that those costs had been incurred and that s/he would subsequently be required under the terms of the lease to contribute to them by the payment of a service charge. This interpretation was confirmed in *London Borough of Brent v Shulem B Association Ltd* [2011] EWHC 1663 (Ch).

71. In *Johnson v County Bideford Ltd* [2012] UKUT 457 (LC) the then President of the Upper Tribunal at paragraph [10] distinguished between a demand that was not contractually compliant with the lease and that which was not statutory compliant. The distinction is that the lease with which Morgan J was concerned in *London Borough of Brent v Shulem B Association Ltd* did not allow for the defect to be retrospectively corrected. In contrast the omission of the information to be provided in sections 47(1) and 48(1) of the Landlord and Tenant Act 1987, can be remedied retrospectively by the landlord taking the action specified in subsection (2) of those sections. Namely, to re-serve the demand correctly. The tenant is protected to the extent that the payment demanded does not fall due until the demand is re-served correctly and therefore any late payment or similar action for arrears is not payable or ineffective. The re-service of the demands has the effect of validating the earlier demands, and the amounts payable.

72. The Tribunal then applied the principles, set out in the decisions, to the present case.

73. It was accepted by the parties that the demands of 5th February 2018 were not compliant with the Lease but that the subsequent demands a) to g) referred to above were compliant were compliant with the Lease. It was also common ground that the demands a) to g) were not compliant with sections 47 and 48 of the Landlord and Tenant Act 1987. It was further agreed that these demands were re-served with the correct landlord's name and an address for service of notices as required by sections 47 or 48 of the Landlord and Tenant Act 1987 and with a summary of rights and obligations under section 21B of the 1985 Act on 29th October 2020 for demands a) to f) and 17th October 2021 for demand g). It is also not contested that the demands were in duplicate by reason of the Respondent's accounting computer program and re-issued with the original dates.

74. The Respondent's Managing Agent submitted that notwithstanding any duplication or that they bore the original issue dates, they are fully compliant and the amounts demanded are payable.

75. The Applicants contend that to be properly served the demands should not only have the landlord's name and an address for service of notice but also bear the actual date when they are re-served and be unequivocal. The original date and the duplicate demands with different amounts vitiated the re-served demand.

76. Firstly, the Tribunal considered whether the re-served demands were invalidated by having the original date when they were served and not a re-service date on them.

77. It found that the legislation does not require demands to have a date of service and therefore was not a vitiating factor to their validity. The Tribunal did not find that

having the original date on the re-served demands was particularly confusing. It was apparent on the face of the document that it was a copy of a previous demand. As the Applicants appear to have paid the non-compliant demands, it might have been more confusing if the documents had carried fresh dates leading them to question the new demands. In the circumstances, an explanatory e mail from the Respondent's Managing Agent would have been helpful, but is not a requirement for validity.

78. Secondly, the Tribunal considered whether the duplication in the form of demands which split the sum invoiced into two amounts caused such confusion as to invalidate the demands.

79. The Tribunal found that what might be termed 'a correct version' of the 7 demands, a) to g) was sent to each Applicant. These 'correct' demands identified what it was for, namely an amount in advance for a particular service charge period or for works to be carried out. They also specified the amount that was payable. The additional demands might have caused some confusion but not such that it invalidated the 'correct' demands and could not have been dispelled by a request for an explanation by the Tenant to the Respondent's Managing Agent.

80. Therefore, the Tribunal determined that these demands were valid in form and service. They complied with sections 47 and 48 of the Landlord and Tenant Act 1987, stated the amount of the service charge and for what the charge was to be paid and were accompanied by a statement of rights and obligations and the re-service of the demands a) to f) on 29th October 2019 and g) on 17th October 2021, retrospectively remedied the defects of the earlier demands by virtue of subsection (2) of sections 47 and 48 of the Landlord and Tenant Act 1987, as held in *Johnson v County Bideford Ltd*.

81. The Tribunal determines that the demands a) to g) served on 29th October 2020 for demands a) to f) and 17th October 2021 for demand g) were valid and are payable subject to a determination as to reasonableness.

Insurance

Premium for 2017

82. In written representations the Applicants stated that they were charged a balancing payment of £488.00 for the insurance premium for the period 1st November to 31st December 2017. However, it was submitted that the Developer had paid the premium of £3,510.90 for the period 1st January 2017 to 31st December 2017 as shown on the Reich Group/AXA insurance certificate dated 22nd December 2016. The Leaseholders including the Applicants had already paid this premium in the Service Charge for 2017.

83. This was confirmed by the Applicants' Representative at the hearing.

84. The Respondent's Managing Agent said in written representations that the charge was for the insurance for the two-month period November to December 2017.

85. At the hearing the Managing Agent stated that the Insurance had been paid in instalments and when the Respondent took over, the instalments for November and December 2017 were still outstanding.

86. The Tribunal noted that no documentation had been provided either in the form of accounts prepared by the Developer on the transfer of the Building to the Respondent or invoices or similar evidence from the broker stating that that payments were made by instalments.

Premium for 2019

87. The Applicants said in written representations that the insurance was renewed for 2019 on 11th December 2018 at a premium of £3,446.40. However, in February 2019 the Respondent's Managing Agent obtained a Reinstatement Valuation which put the value of the Building at £4,830,000.00 from £2,055,000.00. This increased the premium to £9,368.00 subsequently reduced to £8,864.00.

88. The Applicants doubted that the Respondent's Managing Agent had tested the market with a view to finding a less expensive premium with the same level of cover. The Managing Agent refused at the time to provide any evidence of them or their Brokers having done so or that they or their Brokers had attempted to negotiate a reduced premium with the existing insurer.

89. The Applicants also questioned the need for obtaining a valuation mid-term and the payment of the premium by instalments and whether any additional costs were incurred in doing so.

90. In support of their submission that a less expensive premium could have been obtained for the same cover the Applicants referred to the insurance obtained for the period 2nd January 2020 to 1st January 2021 with Ecclesiastical Insurances at a premium of £5,385.46. When AXA were informed of this premium, they reduced their quotation to £6,056.40.

91. The Applicants said that the Respondent's Managing Agent was very reluctant to renew with Ecclesiastical Insurances and only agreed to do so due to the tenacity of the Leaseholders. The Applicants also noted that Ecclesiastical Insurances agreed to value the Building free of charge.

92. The Applicants submitted that the reason for the Respondent's Managing Agent's reluctance to place the insurance with another provider was because it obtained commission and noted that the budget document stated that "The Landlord or Managing Agent may receive a commission on Insurance". When asked about this the Applicant's Representative said that the Respondent's Managing Agent refused to disclose any profit-sharing arrangements notwithstanding paragrpahs 3.6 and 12.6 of the RCIS Code.

93. The Applicants submitted that a reasonable insurance premium for 2019 was £6,056.40 which was the amount that AXA would have reduced its premium to had negotiations taken place.

94. The Respondent's Managing Agent in reply said that the Building had been insured since 2015 and therefore a revaluation was due in 2019. Having obtained the revaluation in correspondence the Respondent's Managing Agent had said that it would be irresponsible not to insure the Building for the full reinstatement value.

95. With regard to the valuation fees the Respondent's Managing Agent referred to paragraph 1.1.2 of Schedule 5 of the Lease.

96. With regard to seeking to obtain cheaper quotation the Respondent's Managing Agent provided a letter from their Brokers, Reich, dated 17th November 2020 which referred to their attempt to obtain insurance for the 2020 renewal (page 550).

97. *"…this type of risk [carries] a much higher risk that a more "standard" residential risk. The property is a Grade 2 Listed, Converted Country house with timber floors. The listed status of a property increases the risk as insurers have a duty to reinstate to match, which can prove to be much more costly that using modern low-cost alternative.*

The insurers approached and their reasons for decline are noted below:
NIG – Converted Country House
RSA – Converted Country house
Travellers – Converted Country house and Floor construction
Ageas – Floor construction and Grade 2 Listed
Aviva – Converted Country House

We did manage to work with the existing insurers at the time AXA to provide a reduced rate for the renewal …"

98. With regard to the renewal of the Insurance for 2020 the Respondent's Managing Agent said that the Leaseholders had sought to obtain a quotation from AXA and Aviva both of which quoted a far higher premium than that obtained by the Respondent's Managing Agent's. It was said with regard to the current premium quoted by Ecclesiastical that it is common for companies to offer price reduction for new business.

99. In addition, the Respondent's Managing Agent referred to *Berrycroft Management Company v Sinclair Gardens Investments (Kensington) Ltd* [1996] EWHC Admin 50 and *Avon estates Ltd v Sinclair Gardens Investments (Kensington) Ltd* [2013] UKUT 0264 (LC).

100. Both parties confirmed their written representations at the hearing.

101. The Tribunal noted that there was a letter from the Broker informing the parties of the difficulty in obtaining a quotation for the property prior to renewal in 2020 and that a modest reduced premium had been offered by the existing insurers at the time but there was no evidence to show that the Brokers had gone into the market place to seek to obtain a reduced premium in 2019 after the revaluation.

Tribunal Decision re Insurance

Premium for 2017

102. The Tribunal was not satisfied with the arrangements for the payment of the 2017 premium. There was no evidence of payment by instalments but there was an invoice from the Broker for the full amount of £3,510.90 dated 22nd November 2016 for the period 1st January 2017 to 31st December 2017. The Tribunal could not see why a sum of £960.00 would be available on transfer if the insurance premium had not been paid in full.

103. The Tribunal therefore determines that the balancing payment for the Insurance Premium for the year 2017 of £488.00 is not reasonable or payable.

Premium for 2018

104. The Insurance Premium for the year ending 31st December 2018 of £3,788.00 was not in issue.

Premium for 2019

105. The Tribunal found that paragraph 1.1.2 of Schedule 5 of the Lease authorised the incurring and payment of re-valuation fees of £420.00, which in the knowledge and experience of the Tribunal are determined to be reasonable. The increase in the re-instatement value showed that one was due and the Tribunal did not consider that obtaining the valuation mid-term of a policy to be significant.

106. In considering whether the increased premium was reasonable the Tribunal considered the cases on the matter including those to which it had been referred by the Respondent's Managing Agent.

107. The case of *Havenridge Limted v Boston Dyers Limited* [1994] 49 EG 111 [hereafter *Haveridge*] concerned commercial leases and section 19 of the Landlord and Tenant Act 1985 had no application. The terms of the lease were of particular importance and reasonableness was held not to be an issue. For the purposes of these proceedings the case is authority a) for the landlord not having to obtain the cheapest premium and b) it being sufficient that the landlord obtains a premium that is representative of the market rate or that it has been negotiated at arms' length in the market place.

108. The case of *Berrycroft Management Company Limited v Sinclair Gardens Investments (Kensington) Limited* [1996] EWHC Admin 50 confirms for the purposes of residential leases the decision in *Havenridge* which related to commercial leases. It was held that provided the premium is not excessive and has been negotiated in ordinary course of business it will be found to have been reasonably incurred.

109. The case of *Forcelux Limited v Sweetman and Another* [2001] 2 EGLR 173 [hereafter *Forcelux*] although not specifically mentioned by the parties is relevant in that the Tribunal stated that the issue to be determined was whether the premium was "reasonably incurred". In making the determination the Tribunal identified at paragraphs [39] and [40], two questions to be addressed. First, whether the Landlord's actions were appropriate i.e., whether the proper procedure had been followed as mentioned above. Second, whether the amount charged was reasonable considering the evidence in answering the first question.

> [39] I consider, first, [the] submissions as to the interpretation of section 19(2A) of the 1985 Act, and specifically [the] argument that the section is not concerned with whether costs are 'reasonable', but whether they are 'reasonably incurred'. In my judgment, [that] interpretation is correct, and is supported by the authorities …. The question I have to answer is not whether the expenditure for any particular service charge item was necessarily the cheapest available, but whether the charge that was made was reasonably incurred.

[40] But to answer that question, there are, in my judgment, two distinctly separate matters I have to consider. First, the evidence, and from that whether the landlord's actions were appropriate and properly effected in accordance with the requirements of the lease, the RICS Code and the 1985 Act. Second, whether the amount charged was reasonable in the light of that evidence. This second point is particularly important as, if that did not have to be considered, it would be open to any landlord to plead justification for any particular figure, on the grounds that the steps it took justified the expense, without properly testing the market.

110. The Tribunal also considered the more recent case of *Cos Services Limited v Nicholson and Willans* [2017] UKUT 382 (LC) [hereinafter *Cos Services*]. In that case His Honour Judge Bridge referred to *Waaler v Houslow LBC* [2017] EWCA Civ 45 in which the Court of Appeal referred to *Forcelux* paragraphs [39] and [40] and commented:

[33] It is true that the member considered the landlord's decision-making process. But the important point is that he did not stop there. He also tested the outcome by reference to what the cost of the cover was on the market. In other words, the landlord's decision-making process is not the only touchstone. The outcome was also "particularly important".

111. The Court of Appeal went on to analyse the concept of 'reasonably incurred' in section 19(1) of the 1985 Act, and stated –

[47] This is in my judgment a crucial point. If, in determining whether a cost has been 'reasonably incurred', a tribunal is restricted to an examination of whether the landlord has acted rationally, section 19 will have little or no impact for the reasons identified by the Court of Appeal in *Waaler*. I agree with the Court of Appeal that this cannot have been the intention of Parliament when it enacted section 19 as it would add nothing to the protection of the tenant that existed previously. It must follow that the tribunal is required to go beyond the issue of the rationality of the landlord's decision-making and to consider in addition whether the sum being charged is, in all the circumstances, a reasonable charge. It is, as the Lands Tribunal identified in *Forcelux*, necessarily a two-stage test.

[48] Context is, as always, everything, and every decision will be based upon its own facts. It will not be necessary for the landlord to show that the insurance premium sought to be recovered from the tenant is the lowest that can be obtained in the market. However, the Tribunal must be satisfied that the charge in question was reasonably incurred. In doing so, it must consider the terms of the lease and the potential liabilities that are to be insured against. It will require the landlord to explain the process by which the particular policy and premium have been selected, with reference to the steps taken to assess the current market. Tenants may, as happened in this case, place before the Tribunal such quotations as they have been able to obtain, but in doing so they must ensure that the policies are genuinely comparable (that they 'compare like with like'), in the sense that the risks being covered properly reflect the risks being undertaken pursuant to the covenants contained in the lease.

112. Applying those principles, the Tribunal noted that there was no evidence to show that the Brokers had gone into the market place after the revaluation to seek to obtain a reduced premium from that quoted by the then current insurers AXA or to attempt to negotiate a better premium with AXA itself which would be the proper action following such a substantial increase in the valuation.

113. In 2020 AXA was prepared to reduce the premium to £6,056.40 for the same cover in order to retain the policy. The Tribunal is of the opinion that the Broker could have negotiated the same or a similar premium if it had sought to negotiate with AXA in 2019 in respect of the new re-instatement value or if the Respondent's Managing Agent had instructed the Broker to do so as it should have done with such a change in valuation. If the Broker was able to obtain the premium of £6,056.40 in 2020 the Tribunal could not see why the same or similar premium could not have been negotiated in 2019 if the Broker had gone again into the market place.

114. The Tribunal therefore determines that the insurance premium of £6,056.40 to be reasonable and payable by the Applicants to the Respondent for the year 2019.

Accountancy Fees

115. In written representations the Applicants submitted that the Lease does not authorise accountancy fees to be part of the Service Charge. If the Applicants were wrong in this then it was submitted that the fees were not payable because there is a duplication of services in that the Respondent's Managing Agent and a connected Accountancy Company are carrying out the same accountancy tasks. The Applicants questioned why the Leaseholders were being charged for accountancy services as well as substantial management fees. The accounts are then passed to another company to certify the accounts.

116. The certification is not an audit. Beaumont Chapman confirmed that they review a sample of invoices and they are not required to check every item in the accounts. There is no reconciliation at the end of the accounts between the amounts received and the expenditure.

117. It was also said that the Developer did not charge for these fees and items are included in the service charges which are not authorised by the Lease.

118. In addition, the Applicants submitted that there should be no charge for the handover of accounts and therefore no charge for the year 2020.

119. In written representations the Respondent's Managing Agent stated that it was good practice to employ accountants and submitted that the Lease authorised the employment of an accountant under paragraphs 1.1.2 and 5.1 of Schedule 5 of the Lease. It was said that if Blue Accounting was not instructed then another company would be, as preparing the accounts and managing the Building are separate services.

120. With regard to the standard of accountancy it was said that Blue Accounting employ a qualified accountant to prepare the Service Charge end of year accounts which includes checking income and expenditure with invoices and other relevant information. Beaumont Chapman is an independent accounting firm that certifies the accounts have been prepared correctly based on a 21-point programme approved by the ICAEW.

121. By way of comparison on costs, reference was made to an email from Piers Wrangham of Alpha Housing Services who said they outsource their year end accounting to an accountant whose fixed costs are £540.00 including VAT but this is not for fully audited accounts. The Respondent's Managing Agent said that it uses a unit size charge which averages £356.23 per development.

122. Both parties confirmed their written representations at the hearing.

Tribunal Decision re Accountancy Fees

123. The Tribunal found that the Lease authorised the employment of an accountant under paragraphs 1.1.2 and 5.1 of Schedule 5 of the Lease. The Tribunal considered the evidence submitted by the Respondent's Managing Agent of comparable fees charged by Piers Wrangham of Alpha Housing Services and the independent certification by Beaumont Chapman. No alternative quotations were provided by the Applicants.

124. The Tribunal found that it is not unreasonable for a Respondent to engage an accountant in addition to a managing agent. The role of and related fees charged by the managing agent are considered under that heading in these Reasons. However, from the list of Duties provided it was apparent that the preparation of the Service Charge Accounts was treated as separate from the role of management and this is taken into account when determining the reasonableness of the management fee.

125. In the absence of evidence to the contrary and in the knowledge and experience of the Tribunal the Accountancy fees of:
£426.00 (£325.00 + Certification Fee of £100.80) for the year ending 31st December 2018 are reasonable, the extent to which the cost fees are payable will be determined later in these Reasons;
£445.00 (£325.00 + Certification Fee of £120.00) for the year ending 31st December 2019 are determined to be reasonable and payable by the Applicants to the Respondent.

126. The Accountancy charge of £325.00 for the hand over to the Right to Manage Company is not a service charge item but is chargeable as part of the proceedings relating to the Right to Manage and is subject to section 88 of the Commonhold and Leasehold Reform Act 2002.

Cleaning and Caretaking

127. The Applicants stated in written representations that the Schedule of Expenditure showed that a charge had been made for November and December 2017 when this had already been paid to the Developer. The Leaseholders said that there was no discernible difference between the standard of cleaning carried out by BP Maintenance at a cost of £2,022 for 2019 and the local cleaning lady who attended the Building until 2017 and who charged £1,800.00 per annum.

128. In the narrative of the invoices for cleaning there are overlaps between what is carried out by the cleaners and what is done by maintenance operatives, such as checking and reporting faults with the fire alarm and checking lighting (also carried out by BP Maintenance) and applying weedkiller to the grounds (which are attended to by Green Belt for the whole development).

129. The standard of cleaning is not reasonable in that the front porch has never been cleaned and as a result the stones have become slippery and have to be professionally cleaned. Also, if they are to check the lights then the lighting timers have not been adjusted for the seasons and the car park lights have been broken for a significant period of time and also are not adjusted for the seasons.

130. The Applicants provided alternative quotation from a company called "Shine" which offered fortnightly (26 per annum) cleans of corridors and stairways: disinfecting floors, bannisters, door handles, skirting boards, hoovering all areas and cleaning reachable internal windows at £40.00 per clean at a cost of £1,040 per annum.

131. The Respondent's Managing Agent said that it market tests their costs and these are regularly updated. The Cleaning and Caretaking Service includes fire safety checks in line with the ARMA guidance (copy provided) along with any quick light bulb changes or other items of repairs. The Applicant's alternative quotations do not include these services.

132. With regard to the charges for November and December 2017, the Respondent's Managing Agent stated that the Developer had incurred Service Charge costs which had not been demanded but which were passed to the Respondent on "handover".

133. The Schedule of Expenditure was provided 2017/18 together with Invoices which showed that cleaning took place every fortnight for 2.5 hours at the following cost:
November and December 2017 - £20.00 an hour plus £4.00 VAT = £60.00 per visit
£130.00 per month (2 x £130 = £260.00)
January to June 2018 - £20.00 an hour plus £4.00 VAT = £60.00 per visit
£130.00 per month (6 x £130.00 = £780.00)
July to October 2018 - £25.00 an hour plus £5.00 VAT = £75.00 per visit
£162.50 per month (4 x £162.50 = £650.00)
November and December 2018 - £20.00 an hour plus £4.00 VAT = £60.00 per visit
£130.00 per month (2 x £130 = £260.00)
The total cost of cleaning and caretaking for the 14-month period of 2017/18 was £1950.00.

134. An additional charge of £6.00 (£5.00 plus £1.00 VAT) per month = £84.00 for the 14-month period is made for applying weedkiller to the porch and paved area which is added to the monthly charge.

135. The total charge for the 14-month period 2017/2018 including applying weedkiller was £1,950.00 + £84.00 = £2,034.00.

136. The Schedule of Expenditure was provided for 2019 together with Invoices which showed that cleaning took place every fortnight for 2.5 hours at the cost of £25.00 an hour plus £5.00 VAT = £75.00 per visit, £162.50 per month which for the 12-month period totalled £1,950.00.

137. As for 2018, an additional charge of £6 (£5.00 plus £1.00 VAT) per month = £72.00 for the 12-month period is made for applying weedkiller to the porch and paved area which is added to the monthly charge.

138. The total charge for the 12-month period of 2019 including applying weedkiller was £1,950.00 + £72.00 = £2,022.00.

139. The Schedule of Expenditure was provided for 2020 together with Invoices which showed that cleaning took place every fortnight for 2.5 hours at the cost of £25.00 an hour plus £5.00 VAT = £75.00 per visit, £162.50 per month. For this shorter period of 8 months totalled £1,300.00.

140. As for previous years, an additional charge of £6.00 (£5.00 plus £1.00 VAT) per month = £48.00 for the 8-month period is made for applying weedkiller to the porch and paved area which is added to the monthly charge.

141. The total charge for the 8-month period of 2019 including applying weedkiller was £1,300.00 + £48.00 = £1,348.00.

142. At the hearing the parties confirmed their written statements. The also Applicants stated that the applications of weedkiller were ineffective and Tenants regularly pulled quite large weeds out from between the slabs and steps. The Respondent's Managing Agent confirmed to the Tribunal that the Fire Safety Check carried out related to the monthly functional test of the Emergency Lighting and that the annual 3 hours 'drop' test was a separate Service Charge item.

Tribunal's Decision re Cleaning and Caretaking

143. The Tribunal considered the reasonableness of BP Maintenance's charge for cleaning and caretaking. In doing so, account was taken of the area to be cleaned (which covered the hallway, staircase and two landings), the time taken, the frequency of the visits and the additional fire checks and changing accessible light bulbs when necessary. The Tribunal also took account of the overheads, including materials and insurance cover.

144. In the knowledge and experience of the Tribunal it found that the charge of £20 to £25 an hour plus VAT to be reasonable.

145. The Applicants stated that the standard was no better than their previous cleaner but there was no evidence to show that it was unreasonable.

146. The Tribunal noted that the Applicants had obtained a cheaper quotation. A landlord, managing company or their agents are not obliged to obtain the cheapest service but it must be reasonable value. The Tribunal found that the service provided by BP Maintenance was reasonable value for the work done. Companies may offer a cheaper price for a number of reasons including a low initial offer to secure the business or low administration and/or travelling costs. However, it does not mean that the cost of a more expensive service offered by another company is unreasonable.

147. The Tribunal considered the cost of the additional task of applying weedkiller to the front paved area. The Tribunal considered it necessary to ensure that weeds did not cause the slabs and steps to be displaced. The Tribunal found that in the knowledge and experience of its members the cost was reasonable. The application of weedkiller can only inhibit the growth of vegetation and the fact that Tenants weeded the front on occasion did not mean that the standard of weedkiller application was unreasonable.

148. With regard to the two months of November and December, the Applicants conceded that the previous cleaner's employment had been terminated and that BP Maintenance had been engaged. In the knowledge and experience of the Tribunal cleaning contracts are paid monthly and not in a single sum at the beginning of the contract therefore it found that Cleaning and Caretaking costs had been incurred for the latter two months of 2017.

149. The Tribunal therefore determines the Cleaning and Caretaking costs of:
£2,034.00 for the year ending 31st December 2018
£1,347.92 for the year ending 31st December 2018 and
£1,348.16 for the period ending 7th September 2020
to be reasonable and payable by the Applicants to the Respondent.

Communal Electricity

150. In their written statement the Applicants were of the opinion that the Respondent's Managing Agent had not obtained the best rates for electricity which they felt was compounded by the failure of BP Maintenance to reset the timer for the external lights, increasing electricity consumption.

151. The Respondent's Managing Agent said that the failure to reset the lights had not been reported.

152. At the hearing the parties confirmed their written statements.

Tribunal's Decision re Communal Electricity

153. No evidence was adduced to show that the electricity charges were unreasonable. A managing agent might be expected to check the electricity tariff every few years which in this instance would be 2021.

154. The adjustment of the lights is a matter for the manager and is considered in the management fees.

155. The Tribunal determined that the Electricity Charge of:
£922.00 for the year ending 31st December 2018
£558.00 for the year ending 31st December 2019 and
£417.00 for the period ending 7th September 2020
to be reasonable and payable by the Applicants to the Respondent.

Emergency Lighting Testing

156. In written representations the Applicants doubted that they were responsible for the cost of testing the emergency lighting. They also said that these tests had not been carried out prior to 2017 by the Developer so questioned why they were now necessary. In addition, the Applicants questioned why the Emergency Lighting Testing and the Fire Risk and Health and Safety Assessments were not charged for together at a cheaper rate. They noted that the Testing and the Assessment were carried out by connected companies and there was no evidence of any competitive tendering or market sounding.

157. The Respondent's Managing Agent stated that the definition of the Management Cost included costs such as the testing of the emergency lighting. It was said that the

emergency lighting test is a legal requirement. The cost is based on a unit charge of £25.00 plus VAT per flat. The total cost of £240.00 is paid to BP Maintenance in monthly instalments.

158. At the hearing the parties confirmed their written statements.

Tribunal Decision re Emergency Lighting Testing

159. Under the Fire Regulation Reform Order 2005 all emergency lighting systems must be tested as follows:
A monthly short functional test in accordance with BS EN 50172 / BS 5266-8. to ensure that they will automatically turn on when there's a power outage.
An annual test for the full rated duration of 3 hours. The emergency lights must still be working at the end of this test.
The result of the monthly and annual tests must be recorded and, if failures are detected, these must be remedied as soon as possible.

160. Therefore, the Lease authorises the testing of the Emergency lights by virtue of paragraph 1.1.1 of Schedule 5 of the Lease which states that:

"Management Costs" means expenditure by the Landlord:
1.1.1 in the performance of the obligations and powers on the part of the Landlord contained in the Lease or with its obligations relating to the Estate or its occupation and imposed by operation of law.

161. In the knowledge and experience of its members the Tribunal determined that a reasonable charge of the 3-hour test is £120.00. It does not have to be undertaken by an electrician, although it is accepted that any light that fails the test or if a possible fault in the circuit is suspected it will need to be investigated and repaired by an electrician, as determined in respect of disputed Item 2 of Repairs and Maintenance referred to below.

162. The Tribunal determines that the 3-hour Emergency Lighting Test Charge of £120.00 per annum is reasonable and payable for the years ending 31st December 2018, 2019 and for the period ending 7th September 2020.

Fire and Health & Safety Risk Assessment

163. The Applicants again doubted that they were responsible for the cost of the Fire Risk and Health and Safety Assessments. They also said that the cost of the test had doubled when the Respondent took over the Building tests compared with the previous cost. Which had been £120.00 per annum for each test. They noted that the Assessments were carried out by a connected company, Blue Risk and there was no evidence of any competitive tendering or market sounding.

164. The Applicants were critical of the cost of the Assessment reports in that they had common sections which were taken from one and pasted in the other, which they considered should reduce the individual charge. In particular the Health and Safety Report for 2018 is a copy of the 2017 report.

165. In addition, the Applicants were critical of the Respondent's Managing Agent's failure to act upon the fire safety issues that were flagged up in the reports. In the 2017 Fire Risk Report stated that *"holes in the basement walls and ceilings need*

sealing" and that there was *"no smoke detection in place*". The first item was not dealt with until 2019 and no smoke detector was installed.

166. The Applicants were also critical of the Respondent's Managing Agent's failure to act upon the health and safety issues that were flagged up in the reports. In the 2017 Health and Safety Report stated that *"the cement at the top of some of the windows is falling off and is at risk of causing damage to property and causing injury to passers-by"*. Notwithstanding a call for funds (Render Repair Reserve of £912.00) the work has not be carried out.

167. The Applicants also questioned the number of Assessments in that one was carried out in 2017 and again in 2018, although the Respondent and its Managing Agent had only taken over the management in the last two months of 2017. The Applicants considered this to be double counting and referred to a previous decision where it was stated that a reasonable charge was £120.00 for each Assessment and that a reasonable frequency was every three years or even five years unless there were significant alterations.

168. The Respondent's Managing Agent said that a part of each report that describes the Building would be same. However, it was pointed out that section 19 which sets out the recommendations is different.

169. The reason for the delay in acting upon the Fire Risk Assessment was that the Respondent's Managing Agent approached the Developer to see if it was willing to complete any of the works, and a trace was also being undertaken through the Planning Department, who had signed off the works. In January 2019 a Leaseholder asked the Leicestershire Fire and Rescue Service to provide an opinion of the site. The Fire Service found the Building to be fit for purpose and habitable but there were a number of items which required action by a deadline and these were complied with.

170. With regard to the repairs the Respondent's Managing Agent said that there were insufficient funds to carry out the works.

171. At the hearing the parties confirmed their written statements.

172. At the hearing the Tribunal questioned the need for having a Fire Safety Risk Report and a Health and Safety Risk Report every year. The Respondent's Managing Agent agreed that two in 14 months might not be considered reasonable.

Tribunal Decision re Fire and Health & Safety Risk Assessment

173. The Tribunal found that pursuant to the Fire Regulation Reform Order 2005 and the Health and Safety at Work etc Act 1974 there was an obligation on landlords to carry out a periodic assessment the cost of which is authorised under paragraph 1.1.1 of Schedule 5 of the Lease.

174. In determining a reasonable charge for the Reports, the Tribunal took into account their length detail and the expertise needed to compile the particular Reports. It was of the opinion that the Fireproof UK Test Report compiled by Nigel Fox GIFireE on page 326, which had been commissioned by the RTM Company, was of better

quality than those of Blue Risk. In the knowledge and experience of its members the Tribunal determined that a reasonable charge for the Fire Safety Risk Reports and the Health and Safety Risk Reports was £120.00.

175. RICS (Royal Institute of Chartered Surveyors) Service Charge Residential Management Code (3rd edition). Paragraph 8.3 provides: -

"You should ensure that periodic risk assessments are carried out by competent persons at every scheme with common parts. The frequency of a formal review should form part of the risk assessment process but should be carried out whenever there are significant changes at the scheme."

176. The Code goes on to state that "First-tier Tribunals have been critical of some managers incurring costs on a regular basis by frequently procuring new risk assessments. Regular reviews do not necessarily entail producing a completely new risk assessment document. The extent of any review should be proportional to the risks identified and the complexity of the installations at each scheme." The Tribunal agrees with this view.

177. The Tribunal was of the opinion that it was reasonable to carry out an assessment for both Fire Safety Risks and Health and Safety Risks on the transfer of the Building to the Respondent. However, two Assessments in 14 months without good reason, such as a major change in the structure, is excessive, irrespective of the cost.

178. The Tribunal found that it was reasonable to carry out the Fire Safety Risk Report and Health and Safety Risk Report in 2018 at a cost of £120.00 each. During 2019 works were being carried out to bring the building up to Fire Safety standards by the installation of automatic opening vents to ventilate and extract smoke, the repairs to the basement ceiling and walls and the fitting of the moving door entry test unit, the quality of which was referred to by the Applicants and is considered under Repairs and Maintenance. Therefore, an assessment in that year and the following year of 2020 was unnecessary. The next assessment would be due in 2021.

179. The Tribunal determined that a Fire Safety Risk Report and a Health and Safety Risk Report in 2018 at a cost of £120.00 each to be reasonable and payable.

Management Fees

180. The Applicants noted that Schedule 5 paragraph 1.1.2 of the Lease authorised management fees to be charged.

181. The Applicants said that they were not clear what was included in the Management fee. They said they had been charged twice in 2017 in that they had paid a fee of £2,208.00, as in previous years, and had then been charged an additional £368.00 for November and December 2017.

182. The Applicants also considered the standard of management to be unreasonable. It was submitted that the issues with regard to the north gable, the front steps and the fire safety in the basement had not been addressed within a reasonable time. The standard of repairs overseen by the Respondent's Managing Agent were poor referring to work on the front step, a window repair, poor plastering following leak, sub-standard repairs to the front door and poor application of expanding foam in the basement.

183. It was stated that the accountancy charges should be included in the Management Fee.

184. The Applicants submitted that a reasonable fee would be £160.00 plus VAT per unit.

185. The Applicants added that the September charge was unreasonable as the Right to Manage Company took over management on 7th September 2020.

186. The Respondent's Managing Agent said that its fees are benchmarked regularly and are competitive at £230.00 plus VAT per unit. The Property Manager has tried to build a good relationship with the Tenants. On one occasion spending 6 hours with the Maintenance Engineer dealing with an infestation of flies having collected the keys to an Apartment from the Leaseholder's parent at the Leaseholder's request. The Leaseholder subsequently in the course of this dispute wrote to the Respondent's Managing Agent's Managing Director seeking the dismissal of the Property Manager. The Applicant's Representative refuted this latter point.

187. Another Leaseholder (who is not an Applicant) has received a considerable amount of assistance with regard to a three-year long dispute regarding Local Authority Building Control Warranty for which the Leaseholder has been very grateful.

188. A further Leaseholder who also is not an Applicant has acted as an intermediary between the Leaseholders and the Respondent's Managing Agent to avoid abusive complaints to the Property Manager.

189. The Respondent's Managing Agent said there had been difficulty in ensuring that the health and safety and fire risk issues were addressed due to a shortfall in funds because certain of the Applicants refused to pay the Service Charge.

190. At the hearing the parties confirmed the written statements of case.

191. In addition, the Respondent's Managing Agent explained in some detail the work that had been undertaken to support the Local Authority Building Control Warranty claim. In reply the Applicants' Representative said that the Respondent's Managing Agent had spent time in dealing with the Local Authority Building Control Warranty dispute rather than the management of the Building.

192. The Respondent's Managing Agent said that the work of the managing agent complements and does not overlap the work of the accountants. The Respondent's Managing Agent sent a copy of the Management Duties to the Tribunal which it said was available to all the Tenants via its website.

Tribunal Decision re Management Fees

193. As stated in relation to the Accountancy fees the Tribunal did not agree that accountancy was included in the management fee.

194. The Tribunal considered all the evidence adduced and found that there had been shortcomings in the management of the Building. In particular, there should have been better communication by the Respondent's Managing Agent to the Tenants

regarding the hand over from the Developer to explain the financial situation, as the Developer appears not to have provided any accounts.

195. The work on the front step, the window repair, the plastering following leak, the repairs to the front door and the fire risk work in the basement could have been dealt with more expeditiously and with better oversight. It should be part of the property managers' tasks to ensure that lights which are on timers are set correctly in accordance with the seasons.

196. The Respondent's Managing Agent failed to serve compliant service charge demands which has led to some confusion among the Applicants which could have been avoided by more competent handling and clearer explanations.

197. It was apparent that the Respondent's Managing Agent had been required to spend a substantial amount of time in dealing with the Local Authority Building Control Warranty claim to the detriment of the management of the Building. It is in the interests of the Respondent, as Landlord, as much as the Tenants generally, and those whose Apartments are affected in particular, to have the building defects remedied under the warranty. The Respondent should have contributed to settling the Warranty issues by designating and remunerating its own member of staff to deal with the matter, rather than place the onus on the Respondent's Managing Agent as part of its management duties and try to recoup all the expenditure incurred through the Service Charge. The Tribunal was of the opinion that the management suffered as a result.

198. The appointment of contractors does not appear to be arduous since it seems the Respondent appoints its own related companies as a matter of policy. With regard to several Service Charge items, including the appointment of linked companies, the Applicants referred to the RICS Code. The Respondent's Managing Agents in reply said that they did not belong to the RICS. The RICS Code is the standard by which managing agents are judged, whether or not an agent's personnel are members of the RICS. The Tribunal found in a number of respects, particularly communication with Tenants, that the standard was not met.

199. The Tribunal considered that any management undertaken in 2017 is adequately covered by the annual figure for 2018. The management for other years has been basic and, in the knowledge and experience of its members, that a charge of £216.00 per unit inclusive of VAT (£180.00 + £36.00 VAT = £216.00) is reasonable giving an annual figure of £1,728.00. The Tribunal found that as the Right to Manage company took over management on 7th September 2020 the charge for September should not be included in the Service Charge.

200. The Tribunal determines that a Management Fee of:
£1,728.00 for the year ending 31st December 2018,
£1,728.00 for the year ending 31st December 2019,
£1,152.00 for the period ending 7th September 2020 of 8 months.

201. The cost of £300.00 for the handover to the Right to Manage Company is not a service charge item but a charge to the Right to Manage Company subject to section 88 of the Commonhold and Leasehold Reform Act 2002.

Window Cleaning

202. The Applicants in written representations said that the window cleaning had been contracted out to a connected company without any evidence of competitive tendering. It was submitted that a reasonable cost would be £50.00 plus VAT per clean with six cleans a year totalling £360.00 per annum.

203. The Respondent's Managing Agent in written representations submitted that the window cleaning charge was good value and the site costs for this service have reduced since BP Maintenance took over the work. The charge has not been subject to a year-on-year index linked increase.

204. At the hearing the parties confirmed the written statements of case. In addition, the Applicant's Representative said that the invoices showed that not all the windows were cleaned every time. The Respondent's Managing Agent said that sometimes all the windows were not cleaned on a single visit. On some occasions it may not be possible to access a window, for example, because of where a vehicle was parked. However, the windows cleaners have always returned to clean the outstanding windows so that they all receive the requisite number of cleans a year. In reply to the Tribunal's questions the Respondent's Managing Agent confirmed that all the windows in the Building were cleaned both those of the apartments and those of the common areas.

Tribunal Decision re Window Cleaning

205. In the knowledge and experience of the its members and in the absence of evidence to the contrary the Tribunal found that the window cleaning cost was reasonable.

206. The Tribunal determined that the cost of Window Cleaning of:
£333.00 for the year ending 31st December 2018,
£432.00 for the year ending 31st December 2019,
£288.00 for the period ending 7th September 2020
to be reasonable and payable by the Applicants to the Respondent.

Client Money Protection Insurance

207. The Applicants objected to paying for the Client Money Protection Insurance at a cost of £12.00 per annum for 2019 and 2020,

208. The Tribunal found that this insurance is to the advantage of the Applicants. The Respondent's Managing Agent is not a member of the RICS and, therefore, it is not known whether or to what extent they have professional indemnity insurance which would protect client monies. The insurance should cover this risk for a modest premium and so is determined to be reasonable and payable.

Repairs and General Maintenance

209. The Applicants identified a number of specific invoices which they considered unreasonable. These are dealt with here in chronological order.

Invoices for 2018

1. *Invoices for light Bulbs*

Date	Invoices	Amount £
01/11/2017	41110	17.80
01/12/2017	41267	76.50
25/04/2018	42779	19.99
13/04/2018	42824	40.32
13/04/2018	42821	40.32
01/07/2018	43842	86.94
21/08/2018	44225	30.98
18/10/2018	45195	55.49
Total		**368.34**

210. The Applicants stated that the charges to replace light bulbs were exorbitant and unjustified. It was understood that the bulbs were replaced as part of the cleaning duties therefore labour should not be charged.

211. The Respondent's Managing Agent stated that £16.50 per unit over a 14-month period in 2017/18 was reasonable. Some of the bulbs were replaced due to an express request from a Leaseholder and so outside the cleaners' remit.

212. The Respondent's Managing Agent said at the hearing that where lights could only be accessed from ladders or where bulbs needed to be replaced between cleaning visits they could not be replaced by the cleaners. The work was undertaken by maintenance staff and a separate invoice raised. He said that they now take photographs of works to show what has been done.

2. *19/09/2017, Insurance Excess Leak in Apartment 19, £300.00, Invoice 40414*

213. The Applicants objected to this invoice because the work was carried out before the Respondent became the freeholder and was to Apartment 19 so should have been paid by the Tenant.

214. The Respondent's Managing Agent said that it had issued service charge demands in July 2017 and the work was an insurance claim and the amount was for the excess.

3. *10/11/2017 Draughtproofing Front Door, £86.58, Invoice 41129*

215. The Applicants submitted that the work covered by this invoice (page 602 of the Bundle) which related to draughtproofing around the front door was not of a reasonable standard.

216. The Respondent's Managing Agent said in written representations that it had not received any complaint about the repair. At the hearing the Respondent's Managing Agent added that people had been going in and out for 3 years since the repair and over than time the draughtproofing would inevitably become less effective. It was confirmed that it was the only door to the Building.

4. *01/05/2018 £48.00 Annual Call Out Charge, Invoice 47230*

217. The Applicants objected to paying the Annual call out charge of £48.00 on top of Management Fees.

218. The Respondent's Managing Agent said that this was a standard charge made by most property management companies and the Applicants had not objected to it before.

5. *25/06/2018, Novate Solutions, Roof Repair £210.00, Invoice 3466*

219. The Applicants questioned the need for carrying out a repair to the roof only 4 months after a previous repair.

220. The Respondent's Managing Agent said that the repair was carried out under an insurance claim and the amount charged is the excess.

6. *01/06/2018, Norman & Underwood, Window Repair£198.00, Invoice 21*

221. The Applicants stated that the work carried out to the window of Apartment 19 should have been paid by the Tenant and not put on the Service Charge.

222. The Respondent's Managing Agent said that it was a defective window.

223. The Applicants agreed that the charge was reasonable.

7. *01/09/2018, Leak in Apartment 18, £42.00, Invoice 44461*

224. The Applicants objected to an invoice for £42.00 from BP Maintenance relating to work carried out in respect of a leak in Apartment 18 as they considered it should have been paid by the tenant of the Apartment.

225. The Respondent's Managing Agent said that a leak was reported and that it had to be investigated.

8. *01/12/2018 Front Step Repairs £154.87, Invoices 45605, 456-7, 45606(Credit)*
16/04/2018 Front Step Repair£384.00, Invoice 43820
07/04/2020 Front Step Repairs £1,995.00, Additional Service Charge Demand

226. The Applicants stated that an Additional Service Charge demand had been made in 2020 for repairs to the front steps. It was said that this was the third time the same steps had been repaired because the previous two repairs had not been of a reasonable standard. The Applicants submitted that they should not have been charged for the second and third repair because if the first had been done properly they would not have been necessary. The Applicants referred to two invoices one dated 16th April 2018 for £384.65 and another dated 1st December 2018 for £154.87, totalling £539.52 which they considered they should not have to pay.

227. In addition, the Applicants state that Mr Toon a stone mason quoted on 27th February 2020 to replace the stone insert which had been the subject of the second repair, with Ancaster stone at a cost of £1,660 plus £332.00 VAT, total £1,992.00. A Service Charge demand for this had been made and paid, but the Respondent's Managing Agent refused to use this money to pay for the work on the basis that

there were other arears to which the money would be paid to offset and therefore the work was not carried out.

228. The Respondent's Managing Agent said that the front steps had been repaired in 2018 as they were dangerous. There were not enough funds at the time to repair them in the original Ancaster stone and therefore a temporary repair using a cheaper alternative was used. An immediate temporary repair was necessary as the steps were hazardous. This temporary repair was later replaced using Ancaster stone. The final cost of the repair was over £2,000.00. The steps had previously been repaired by the Developer which is probably what the Applicants refer to as the first repair, and that the temporary and final repairs were what the Applicants refer to as the second and third repairs respectively.

Tribunal Decision re 2018 Repairs and General Maintenance Invoices

229. The Tribunal considered the Invoices and submissions of the parties determined as follows:

1. Invoices for Light Bulbs

230. The Tribunal accepted that lamps would need to be replaced by a contractor working at height which would incur additional cost and that lamps would need to be replaced at times other than on the cleaners' visits. No evidence was adduced of alternative costs for either the lamps themselves or for labour in replacing them. In the absence of evidence to the contrary the Tribunal the charge to be reasonable and paayble.

2. 19/09/2017, Insurance Excess Leak in Apartment 19, £300.00, Invoice 40414

231. The Tribunal accepted from the evidence of the invoice that a claim had been made against the insurance and that the £300.00 was the excess. In the absence of evidence to the contrary the Tribunal determined the charge to be reasonable and payable.

3. 10/11/2017 Draughtproofing Front Door, £86.58, Invoice 41129

232. No evidence was adduced to show that the draughtproofing of the front door three years ago was of an unreasonable standard and after three years use, some deterioration of the draughtproofing would be expected, it being the main door. The Tribunal determined the charge to be reasonable and payable.

4. 01/05/2018 £48.00 Annual Call Out Charge, Invoice 47230

233. In the knowledge and experience of its members the Tribunal found that the provision of a 24 hour call out is common. The convenience of the service balances the additional cost in this instance. No evidence was adduced to show that responses were not of a reasonable standard. Therefore, in the knowledge and experience of the Tribunal members the charge was determined to be reasonable and payable.

5. 25/06/2018, Novate Solutions, Roof Repair £210.00, Invoice 3466

234. No evidence was adduced to show that the roof repair was unnecessary. The Tribunal determined the charge to be reasonable and payable.

6. 01/06/2018, Norman & Underwood, Window Repair £198.00, Invoice 21

235. This was accepted as a Service Charge item by the Applicants.

7. 01/09/2018, Leak in Apartment 18, £42.00, Invoice 44461

236. The Tribunal accepted that the leak in Apartment 18 had to be investigated in case it affected the common parts or other apartments in the Building. The Tribunal determined the charge to be reasonable and payable.

8. 01/12/2018 Front Step Repairs £154.87, Invoices 45605, 456-7, 45606(Credit)
16/04/2018 Front Step Repair £384.00, Invoice 43820
07/04/2020 Front Step Repairs £1,995.00, Additional Service Charge Demand

237. The Tribunal was of the opinion that the step repair should have been carried out in the appropriate stone in December 2018. The raising of funds is a matter for a managing agent and the difficulty in doing so should not result in any repair that has to be redone because of it. The Tribunal found that the repair was not carried out to a reasonable standard until the repair in 2020 for £1,995.00. The Tribunal therefore determines that the cost of the earlier repairs amounting to £539.52 were not reasonable or payable.

Summary

238. The only cost for Repairs and Maintenance for 2019 that the Tribunal determines to be unreasonable is £539.52 for Item 8, the front step repair. The Tribunal determines that the other items are reasonable and payable by the Applicants to the Respondent.

Invoices for 2019

1. *01/02/2019 Redecoration £203.92,* Invoice 4649

239. The Applicants state that the work relates to a plaster repair on the top floor landing which is submitted not to be of a reasonable standard. (Photograph provided.)

240. The Respondent's Managing Agent said that the works followed a leak which would have been the subject of an insurance claim. The cost of repair was within the excess amount and therefore the work was carried out without claiming. It was difficult to blend the paint and there was a delay between carrying out the plaster work and painting.

2. *20/02/2019 Works to Apartment 15 £42.00, Invoice 48290*

241. The Applicants objected to an invoice for £42.00 from BP Maintenance relating to work carried out in respect of a leak in Apartment 15 as they considered it should have been paid by the Tenant of the Apartment.

242. The Respondent's Managing Agent said that a leak was potentially an insurance claim because it was from an external hopper but as the cost was below the excess no claim was made. Once it was reported it had to be investigated.

3. *11/02/2019 Arnold Electric £376.80, Invoice 50639*
18/03 2019 Arnold Electric £1,320.00, Invoice 50993

243. The Applicants said they understood the Arnold Electric invoice date 11th February 2019 (page 708 of the Bundle) related to the door entry system but had received a demand from BP Maintenance for this on 4th April 2019.

244. The Applicants stated that they understood the AOV Vent System and Door Access system covered by the Arnold Electric invoice dated 18th March 2019 (page 709 of the Bundle) had not been installed.

245. At the hearing the Respondent's Managing Agent stated that the work carried out by Arnold Electric was as stated on the Invoice and the Applicants had not been charged twice for any work.

4. *04/01/2019 Fire Retardant Foam £87.96, Invoice 46139*
06/03/2019 Fire Risk Work £650.54, Invoice 46709
06/03/2019 Fire Risk Repairs in Basement £817.04 Invoice 46488, 46708 Credit

246. The Applicants considered that the works relating to fire risk work in the basement on the BP Maintenance invoice dated 6th March 2019 for £817.04 (page 684 & 686 of the Bundle) should have been paid by the Developer. The Applicants said they were not clear why the work at a cost of £650.54, referred to Invoice on page 694 of the Bundle, was required in the basement as they had already paid for the AOV smoke vent (page 709 of the Bundle), ceiling and wall repairs (page 684) and fire-retardant foam (page 683).

247. In addition, they said that the fire risk work was not carried out to a reasonable standard (photographs provided at pages 209 and 2010 of the Applicant's Bundle) and was not overseen properly as the area was left in a poor state. It was also doubted that the correct materials were used.

248. The Applicants stated that when combined with other invoices relating to fire safety works the aggregate amount exceeds £250.00 per unit.

249. The Respondent's Managing Agent said that the work was to the Fire Officer's satisfaction and the site was cleared. Although it was conceded that it could have been tidier.

250. The Respondent's Managing Agent said that the Developer had paid the Leaseholders £650.54 on 11th November 2020 for this work which related to "Fire Officer and Gas Flue inspection hatch matters".

251. The Respondent's Managing Agent refuted that the Applicants had been charged twice for any work. The Developer had paid a contribution to the Applicants for the fire risk works carried out in the basement and refuted that they had not be carried out to a reasonable standard.

252. The Applicants questioned whether a contribution had been made but on looking through their own records subsequently agreed that the Developer had contributed a sum of £650.54 which had been paid directly into the Service Charge and so it did not appear in the accounts for this year.

5. *06/03/2019 Repairs to the Front Door £268.15, Invoice 46504*

253. The Applicants submit that the repair the works to the front door are not of a satisfactory quality (Photographs provided).

254. The Respondent's Managing Agent said the work included removing wooden panels from the warped door, which was not closing correctly. This was important as it is the main entrance door. The work included three visits to site and some of the photographs provided by the Applicants do not relate to the repair. The Respondent's Managing Agent said that the three visits were not because the work had not been done correctly the first time but because the work had to be done in stages.

6. *15/04/2019, Light Bulb replacement £46.96, Invoice 47884, 01/05/2019, £30.98 Invoice 48984*

255. The Applicants stated that the charges to replace light bulbs were exorbitant and unjustified as these were replaced as part of the cleaning duties therefore labour should not be charged.

256. The Respondent's Managing Agent stated that some of the bulbs were replaced due to an express request from a Leaseholder and so outside the cleaners' remit, being between visits. With regard to 2019 the Respondent's Managing Agent asked the Applicant to identify why the charges were excessive.

7. *01/09/2019, Completion Certificate £31.20, Invoice 11562*

257. The Applicants asked what the Completion Certificate related to and the Respondent's Managing Agent said that it was payment to Building Control for a Certificate as proof of Building Regulations Part B Fire Safety compliance.

8. *15/10/2019, Repairs to Steps £101.62, Invoice 52193*

258. The Applicants understood this to relate to the previous repairs to the front step. The Respondent's Managing Agent said that this was a minor repair not related to the previous repair.

Tribunal Decision re 2019 Repairs and General Maintenance Invoices

259. The Tribunal considered the Invoices and submissions of the parties and determined as follows:

1. <u>01/02/2019 Redecoration £203.92, Invoice 4649</u>

The photographs provided showed that the work was not well executed and this was conceded by the Respondent's Managing Agent. The Tribunal determined that the

work was not of a reasonable standard and in the opinion of the Tribunal would have to be done again. Therefore the whole charge was not reasonable or payable.

2. 20/02/2019 Works to Apartment 15 £42.00, Invoice 48290

260. The Tribunal found that the work related to a Common Part, namely a leak caused by the external rainwater hopper. The Tribunal therefore determined the charge to be reasonable.

3. 11/02/2019 Arnold Electric £376.80, Invoice 50639
18/03/2019 Arnold Electric £1,320.00, Invoice 50993

261. There was no evidence to question the invoices of Arnold Electric either in respect of the work carried out or the cost. The Tribunal determined the charge to be reasonable an payable.

4. 04/01/2019 Fire Retardant Foam £87.96, Invoice 46139
06/03/2019 Fire Risk Work £650.54, Invoice 46709
06/03/2019 Fire Risk Repairs in Basement £817.04 Invoice 46488, 46708 Credit

262. On examining the invoices for the Fire Risk Work the Tribunal found that the only two extant invoices were for the application of fire-retardant foam to the basement ceiling at a cost of £87.96 and for erecting fire-resistant studding and plaster board at a cost of £650.54. It was noted that the Developer had contributed £650.54 towards this work. The BP Maintenance invoice dated 6th March 2019 for £817.04 was credited back (page 684 & 686 of the Bundle). Therefore, the only amount paid by the Applicants for this work was £87.96 for the Fire-Retardant Foam and there was no evidence to show this to be unreasonable. The Tribunal accepted that the Fire Officer had approved the work and a Completion Certificate was issued by Building Control. The Tribunal therefore determined the charge to be reasonable and payable.

5. 06/03/2019 Repairs to the Front Door £268.15, Invoice 46504

263. The Tribunal could not discern from the photographs provided the quality of the repair as being reasonable or not. In the absence of evidence to show that the work is of an unreasonable standard the Tribunal determines that the charge is reasonable and payable.

6. 15/04/2019 Light Bulb Replacement £46.96, Invoice 47884,
01/05/2019 Light Bulb Replacement £30.98, Invoice 48984

264. As with 2018, the Tribunal accepted that lamps would need to be replaced by a contractor working at height which would incur additional cost and that lamps would need to be replaced at times other than on the cleaners' visits. No evidence was adduced to show that either the cost of the lamps themselves or the labour to replace them was unreasonable. In the absence of evidence to the contrary the Tribunal determined the charge to be reasonable and payable.

7. 01/09/2019 Completion Certificate £31.20, Invoice 11562

265. The Tribunal found that the payment was for a Building Control Certificate which was required as proof of Building Regulations Part B Fire Safety compliance. The Tribunal therefore determined that the charge was reasonable and payable.

8. 15/10/2019 Repairs to Steps £101.62, Invoice 52193

266. No evidence was adduced to show that these repairs to the front steps were unnecessary or not of a reasonable standard or cost. The Tribunal therefore determined that the charge was reasonable and payable.

Summary

267. The only cost for Repairs and Maintenance for 2019 that the Tribunal determines to be unreasonable is £203.92 for redecoration work.

Invoices for 2020

1. *01/01/2020, Repairing hole in Top floor landing ceiling £106.50, Invoice 52371*
01/01/2020, Applying plaster skim to ceiling £252.00, Invoice 52249

268. The Applicants objected to paying for the work of filling a hole on the top landing ceiling caused by a leak and to the application of a plaster skim to that ceiling on the basis that the work was not of a reasonable standard.

2. *09/03/2020 Emergency light flickering £303.96, Invoice 52416*
27/03/2020, Repair of failed Emergency Lights £117.37, Invoice 51887

269. The Applicants said that the cost of the invoice of £303.96 appeared to be grossly excessive to fix a "flickering light" and questioned what the invoice regarding the repair of lights for.

270. The Respondent's Managing Agent said that the invoices were self-explanatory.

271. In reply to the Applicants' question what the invoice regarding the repair of lights that failed the three-hour test was for, the Tribunal states that the Emergency Lighting Test requires the power for to all the main lights to be switched off. The Emergency Lights must then stay on for at least 3 hours. The person carrying out the test must be present for the whole three hours of the test and must log all the Emergency Lights that do not illuminate at all or for the full three hours. An electrician will then isolate the supply and replace the lights that have failed the test and re-test them.

3. *17/03/2020, Wired smoke alarm beeping £45.00, Invoice 53153*

272. The Tenants considered that the replacement of a battery was a routine job that should be included in the management fees.

4. *01/05/2020, 12/06/2020, Installation of hard-wired smoke alarms Invoice 54733, 54734, 55300*

273. The Applicants said they were not clear what electrical installation these invoices related to and why the work needed to be completed; if there was a defect with the electrical system, in the first instance this should have been raised with the Developer, and in any event, this should have been identified and explained in Blue Risks' reports (which state "the electrical installations appear to be in good condition").

274. The Applicants said they were under the impression that there was no fire alarm at the property (as stated in the reports issued by Blue Risk and as such are at a loss as to why £180.00 was spent on completing a "6 monthly smoke alarm".

275. The Respondent's Managing Agent said that the work was to upgrade the smoke alarm system.

5. *01/05/2020, Nathan Harris, Decoration £185.00, Invoice B/F 15Scraptoft*

276. The Applicants submitted that as this invoice relates to an individual unit, it should not have been reimbursed and then passed on to the other leaseholders via service charge demands.

277. The Respondent's Managing Agent said that the work was as a result of a leak and potentially was an insurance claim but was below the excess. The Tenant of the flat arranged the decorator as the damage caused was in his Apartment.

6. *04/05/2020, Jet wash entrance £105.00, Invoice 52402*

278. The Applicants stated that whilst the leaseholders requested these works (as the steps were becoming a health and safety risk), they would like to understand what is behind the £105.00 that was charged as this seems expensive given the nature of the work; they would also like to understand why the front steps were allowed to become grimy and slippery and why BP Maintenance did not attend to this as part of their routine cleaning.

279. The Respondent's Managing Agent said that over time moss and lichen grows on any area of paving and can become slippery so needs to be power washed. He said that most householders with patios are aware of this and that it occurs irrespective of sweeping and applying weedkiller. He added that the cost was reasonable.

Tribunal Decision re 2020 Repairs and General Maintenance Invoices

280. The Tribunal considered the Invoices and submissions of the parties and determined as follows:

1. <u>01/01/2020, Repairing hole in Top floor landing ceiling £106.50, Invoice 52371</u>
<u>01/01/2020, Applying plaster skim to ceiling £252.00, Invoice 52249</u>

281. The Tribunal could not assess the standard of the work from the photographs provided. No evidence was adduced as to what was defective about the repair or what might be considered a reasonable charge. In the absence of such evidence the Tribunal determined the charge to be reasonable and payable.

2. <u>09/03/2020 Emergency light flickering £303.96, Invoice 52416</u>
<u>27/03/2020, Repair of failed Emergency Lights £117.37, Invoice 51887</u>

282. The tribunal found that both the invoices were for the repairs of the emergency lighting system. The first in respect of those that failed the three-hour test and the second for a defective lamp holder. Taking into account that work of this kind should be carried out by a qualified electrician the time it was likely to take as a three-hour test would need to be repeated the Tribunal determined that the charge was reasonable and payable.

3. 17/03/2020, Wired smoke alarm beeping £45.00, Invoice 53153

283. The Tribunal noted from the Invoice that the smoke alarm was wired to the main electricity and that the battery was a 'back up' in the event of a power failure. To change the battery the power should be turned off. If the alarm is in the ceiling appropriate access (ladder or steps) for working at height must be used which is beyond the role of the managing agent. The Tribunal determined that the charge was reasonable and payable.

5. 01/05/2020, 12/06/2020 Installation of hard-wired smoke alarms Invoice 54733, 54734, 55300

284. Under Building Regulations hardwired alarm smoke alarms are now required. The Tribunal found that the installation of the system and the periodic testing of it is reasonable. No evidence was adduced to show the cost or standard of the work was unreasonable, therefore, the Tribunal determined that the charge was reasonable and payable.

6. 01/05/2020 Nathan Harris, Decoration £185.00, Invoice B/F 15Scraptoft

285. In the absence of evidence to the contrary the Tribunal accepted that the work related to a leak form the Common Parts and was potentially an insurance claim. No evidence was adduced to show the cost or standard of the work was unreasonable, therefore, the Tribunal determined that the charge was reasonable and payable.

7. 04/05/2020, Jet wash entrance £105.00, Invoice 52402

286. In the knowledge and experience of the Tribunal members periodic jet washing of paved areas is sometimes necessary for safety reasons and justified for aesthetic reasons. The Tribunal did not find the cost excessive and therefore determines the charge reasonable and payable.

Summary

287. The Tribunal did not determine any of the costs for Repairs and Maintenance for 2020 to be unreasonable.

288. The onus is on the Applicants to show that the costs objected to have not been reasonably incurred. It is not enough to merely state that in their opinion the amount is excessive. Supporting evidence, such as alternative quotations, must be submitted.

Legal Costs & Management Hand Over Charge in 2020

289. The Tribunal noted that there were three costs relating to the hand over to the Right to Manage Company as follows:
12/08/2020, Legal Costs of £480.00 Invoice 245783
06/09/2020, Accounting Costs of £325.00 Invoice 1402
06/09/2020, Management Costs of £300.00, Invoice 11708

290. The Applicants states that Invoice 245783 regarding Legal Costs of £480.00 relates to the Right to Manage Claim. The Applicants were not aware of any legal actions, other than their Claim (which was submitted after the date of this invoice), and accordingly request this item to be removed as this seems to be an accounting error. In the event that this relates to the takeover of the management function by the Right to Manage Company the Applicants submit that this charge cannot be passed on to them under their leases in the form of a Service Charge.

291. In addition, they submitted that the "right to manage" is a straightforward process prescribed entirely by statute and that the Applicants would expect BPM's in-house legal function to be familiar with this and able to manage it without advice from a barrister and that as such this charge is "unreasonable".

292. The Applicants also stated that the accounting and management hand over costs of £325.00 and £300.00 respectively are unreasonable.

Tribunal Decision re Legal Costs, Accounting & Management Hand Over Charge in 2020

293. It appears to the Tribunal that these costs come within section 88 of the Commonhold and Leasehold Reform Act 2002 which states:

(1) A RTM company is liable for reasonable costs incurred by a person who is—
  (a) landlord under a lease of the whole or any part of any 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,

in consequence of a claim notice given by the company in relation to the premises.

(2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

(3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.

(4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by the appropriate tribunal.

294. Therefore, the charges are not part of the Service Charge but are a liability of the Right to Manage Company. A demand for these charges should be sent to the RTM

Company. Either party may then apply to the Tribunal in the event that the costs cannot be agreed.

Decision Summary

295. The table below sets out the costs determined to be reasonable for the year 2018.

Determination of Reasonable Charge for year ending 31st December 2018			
	Item	**Original Charge £**	**Charge determined reasonable £**
1	Accountants Fee	425.80	425.80
2	Cleaning & Caretaking	2,033.76	2,033.76
3	Communal Electricity	921.96	921.96
4	Fire Risk Assessment	480.00	120.00
5	Management Fees	2,576.00	1,728.00
6	Repairs & General Maintenance	1,869.15	1,329.63
7	Health & Safety Risk Assessment	480.00	120.00
8	Window Cleaning	333.00	333.00
9	Emergency Lighting Testing	280.00	120.00
10	Insurance Excess	300.00	300.00
	Total	**9,699.67**	**7,432.15**
	Building Insurance	**3,788.00**	**3,788.00**

296. The table below sets out the amount determined to be reasonable and payable by each of the Applicants for the year ending 31st December 2018.

Apportionment of Reasonable Charge for year ending 31st December 2018				
Apartment	**Insurance Service Charge Proportion**		**Building Service Charge Proportion**	
Number	**%**	**Reasonable Amount Payable £**	**%**	**Reasonable Amount Payable £**
12	11	416.68	13.57	1,008.54
13	11	416.68	13.57	1,008.54
14	13.05	494.34	13.57	1,008.54
16	~~11~~ **12**	~~416.68~~ **454.56**	13.57	1,008.54
17	~~16.47~~ **11**	~~623.88~~ **416.68**	13.57	1,008.54
18	~~11~~ **16.47**	~~416.68~~ **623.88**	13.57	1,008.54

297. The table below sets out the costs determined to be reasonable for the year 2019.

Determination of Reasonable Charge for year ending 31st December 2019			
	Item	**Original Charge £**	**Charge determined reasonable & payable £**
1	Accountants Fee	445.00	445.00

2	Cleaning & Caretaking	2,022.24	2,022.24
3	Communal Electricity	557.84	557.84
4	Fire Risk Assessment	240.00	0
5	Management Fees	2,208.00	1,728.00
6	Repairs & General Maintenance	3,650.00	3,446.08
7	Health & Safety Risk Assessment	240.00	0
8	Window Cleaning	432.00	432.00
9	Emergency Lighting Testing	240.00	120.00
10	Insurance Excess	300.00	300.00
11	Client Money Protection Insurance	12.00	12.00
12	Reinstatement Valuation	420.00	420.00
	Total	**10,767.08**	**9,483.16**
	Building Insurance	**8,684.00**	**6,056.40**

298. The table below sets out the amount determined to be reasonable and payable by each of the Applicants for the year ending 31st December 2019.

Apportionment of Reasonable Charge for year ending 31st December 2019				
Apartment	**Insurance Service Charge Proportion**		**Building Service Charge Proportion**	
Number	**%**	**Reasonable Amount Payable £**	**Contribution %**	**Reasonable Amount Payable £**
12	11	666.20	13.57	1,286.86
13	11	666.20	13.57	1,286.86
14	13.05	790.36	13.57	1,286.86
16	~~11~~ **12**	~~666.20~~ **726.77**	13.57	1,286.86
17	~~16.47~~ **11**	~~997.48~~ **666.20**	13.57	1,286.86
18	~~11~~ **16.47**	~~666.20~~ **997.48**	13.57	1,286.86

299. The table below sets out the costs determined to be reasonable for the year 2020.

Determination of Reasonable Charge for period ending 7th September 2020			
	Item	**Original Charge £**	**Charge determined reasonable & payable £**
1	Accountants Fee	325.00	0
2	Cleaning & Caretaking	1,348.16	1,348.16
3	Communal Electricity	417.74	417.74
4	Fire Risk Assessment	240.00	0
5	Management Fees	1,956.00	1,152.00
6	Repairs & General Maintenance	2,520.52	2,520.52
7	Health & Safety Risk Assessment	240.00	0
8	Window Cleaning	288.00	288.00
9	Emergency Lighting Testing	180.00	120.00
10	Client Money Protection Insurance	12.00	12.00
11	Legal Fees	480.00	0
	Total	**8007.42**	**5,858.42**
	Building Insurance	**4,104.38**	**4,104.38**

300. The table below sets out the amount determined to be reasonable and payable by each of the Applicants for the period ending 7th September 2020.

Apportionment of Reasonable Charge for period ending 7th September 2020				
Apartment	**Insurance Service Charge Proportion**		**Building Service Charge Proportion**	
Number	**%**	**Reasonable Amount Payable £**	**Contribution %**	**Reasonable Amount Payable £**
12	11	451.48	13.57	794.98
13	11	451.48	13.57	794.98
14	13.05	536.62	13.57	794.98
16	~~11~~ **12**	~~451.48~~ **492.53**	13.57	794.98
17	~~16.47~~ **11**	~~675.99~~ **451.48**	13.57	794.98
18	~~11~~ **16.47**	~~451.48~~ **675.99**	13.57	794.98

Administration Charges

301. The Applicants applied for a determination in respect of Administration Charges levied by the Respondent's Managing Agent as follows:

Apartment	**Date**	**Description**	**Charge £**
12	06/12/2019	Arrears Admin Charge	50.00
	24/01/2020	Arrears Admin Charge	50.00
	20/10/2020	Arrears Admin Charge	50.00
Total			**150.00**
13	05/12/2018	Arrears Admin Charge	50.00
	20/10/2020	Arrears Admin Charge	50.00
Total			**100.00**
14	06/12/2018	Arrears Admin Charge	50.00
	24/01/2020	Arrears Admin Charge	50.00
	20/10/2020	Arrears Admin Charge	50.00
Total			**150.00**
16	20/10/2020	Arrears Admin Charge	50.00
Total			**50.00**
17	06/12/2019	Arrears Admin Charge	50.00
	24/01/2020	Arrears Admin Charge	50.00
	20/10/2020	Arrears Admin Charge	50.00
Total			**150.00**
18	10/10/2020	Arrear Admin Charge	50.00
Total			**50.00**

302. These are charged by the Respondent's Managing Agent because of the additional cost incurred in claiming arrears of Service Charges for Tenants.

Determination as to the Administrative Charges (Arrears Administration Fee)

303. The Tribunal found that paragraph 1.1.2 of the Fifth Schedule included in the definition of Management Costs the Landlord's expenditure "in the payment of management expenses of the Estate, the administration expenses of the Landlord." However, these costs and expenses are only payable by all the Leaseholders under the service charge. The provisions do not enable the Landlord or its Managing Agent to make a charge to an individual Leaseholder for costs incurred in the collection of the individual leaseholder's service charge.

304. Therefore, the Tribunal determined that there was no authority in the Lease to levy an Arrears Administration Fee against an individual Leaseholder.

305. If there were a provision it would be variable and so must be reasonable. No indication is given as to what extra works over and above the normal duties and fees of the managing agent is involved in administering arrears.

306. The Tribunal found as stated earlier that there was confusion regarding the re-service of the demands. They were dated as the original demands and with the original payment due date. In addition, they were served in duplicate with one 'correct' full demand and two-part demands. Although the Tribunal did not consider this invalidated the demands nevertheless in the opinion of the Tribunal there was sufficient confusion to require explanation. The Tribunal therefore fond it unreasonable to seek to impose an arrears administration fee without giving a clear explanation of the demands and having set out a due date on previous demands, a new due date for the re-served demands.

307. The Tribunal determines that the Arrears Administration Charges specified above are not payable by the Applicants to the Respondent or its Managing Agent.

Representations re Section 20C & Paragraph 5A of Schedule 11

308. The Applicants Applied for an order under section 20C of the Landlord and Tenant Act 1985 that the landlord's costs arising from the of proceedings should be limited in relation to the service charge and for an order under paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 to reduce or extinguish the Tenant's liability to pay an administration charge in respect of litigation costs.

309. At the hearing the Applicants stated that the Respondent's Managing Agent refused to mediate. They said that there had been a lack of communication in that the expenditure schedules were not delivered in accordance with the Directions. Some of the information that was provided differed from that which was found when the accounts were inspected by the Applicants when they visited the office in February 2020. They said there had been a lack of information provided to support the Service Charge that had been made.

310. The Respondent's Managing Agent said that he had tried to build up a good relationship with the Leaseholders and had done so with two of the Tenants. He said that they had provided all the information that was available when requested.

311. Leases may contain provisions enabling a landlord to obtain the costs incurred in proceedings before a tribunal or court either through the service charge or directly from a tenant. Where the lease contains these provisions, the costs of the proceedings could be claimed by a landlord under either lease provision but not both. The difference between the two was referred to in the *Freeholders of 69 Marina St Leonards on Sea v Oram & Ghoorun* [2011] EWCA Civ 1258.

312. The provision enabling a landlord to claim its costs through the service charge might be seen as collective, in that a tenant is only liable to pay a contribution to these costs along with the other tenants as part of the service charge. Under section 20C of the Landlord and Tenant Act 1985 a tribunal may, if it is satisfied it is just and equitable, make an order that a landlord's costs, either in part or whole, cannot be re-claimed through a service charge.

313. The provision enabling a landlord to claim its costs directly from a tenant might be seen as an individual liability, whereby a tenant alone bears the landlord's costs of the proceedings. Under paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 a tribunal may, if it is satisfied it is just and equitable, make an order that a landlord's costs, either in part or whole, cannot be re-claimed directly from the tenant.

314. The first issue is whether the Lease contains either or both of these provisions enabling the Respondent to claim its costs in respect of these proceedings through the Service Charge or directly from the Applicants.

315. The Tribunal examined the Lease. With regard to the service charge the Tribunal considered paragraph 1.1 of Schedule 5 of the Lease. This is the definition of Management Costs which relates to the Landlord's expenditure in the performance and observance of the obligations and powers in the Lease, the payment of the management and administration expenses and the provision of services, facilities, amenities and improvements and other works. The Tribunal is of the opinion that this is not specific enough to include the costs incurred in these proceedings.

316. With regard to individual liability Clause 3.1.18 states that the Tenant is liable to pay the Landlord all cost, fees, charges and disbursement and expenses incidental to an application for a consent or license and for the preparation of a notice under section 146 or 147 of the Law of property Act 1925. The Tribunal found that the Clause did not cover these proceedings.

317. Notwithstanding there being no provision in a lease, for the avoidance of doubt, a tribunal is able to make an order under section 20C of the 1985 Act and paragraph 5A of Schedule 11 of the 2002 Act if it is satisfied that it is just and equitable to do so. In deciding whether or not to do so the Tribunal considered the conduct of the parties and the outcome and nature of the proceedings.

318. With regard to the conduct of the parties in respect of these proceedings, the Tribunal is of the opinion that the Respondent's Managing Agent is in a position of strength in that it holds all the information and the potential to communicate that to the Applicants. The Tribunal found that there were points at which if information had been communicated the issues would have been reduced even if the proceedings were not avoided. In particular there must have been some form of accounts and information regarding the state of the services on the handover from

the Developer in 2017 which should have been shared with the Tenants, but was not. The Tribunal is of the opinion that it is not enough merely to put information on the Managing Agents web site and expect Tenants to access it without guidance. The Tribunal noted that in preparing their case the Applicants did not appear to know the Managing Agents FAQs (frequently asked questions) such as the Managing Agents Duties, what balancing payments were, what service charge items they could expect and what certain items of the Service Charge entailed. A particular gap early in the proceedings was the late arrival of the Schedules of Expenditure for each year, together with the invoices. Earlier production of these to the Applicants might have clarified matters and reduced the issues and made the hearing more productive.

319. The issue of payability and the distinction between the effect of contractual and statutory requirements in respect of demands and the effect of section 20B of the Landlord and Tenant Act 1985 has been the subject of a number of cases over the past 10 years making it incumbent upon managing agents to avoid the problem by ensuring they are correctly served, which is ultimately to the advantage of landlords and tenants. This issue was justifiably raised by the Applicant. Other issues were justifiably raised included the Developer's responsibility for the fire risk works, the insurance and risk assessments. Both parties have incurred costs and the Tribunal considers it just and equitable that each bears their own costs.

320. The Tribunal therefore finds it is just and equitable to make an Order under section 20C of the Landlord and Tenant Act 1985 that the Respondent's costs in connection with these proceedings should not be regarded as relevant costs to be taken into account in determining the amount of any Service Charge payable by the Applicants.

321. It also makes an Order for the same reasons extinguishing the Applicants' liability to pay an administration charge in respect of litigation costs under paragraph 5A of Schedule 11 of the Commonhold and Leasehold reform Act 2002.

Rule 13 Application

322. The Applicant made an application for costs and reimbursement of fees rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

323. Neither party made representations.

324. The Tribunal starts from a position that its jurisdiction is one in which costs are generally not awarded. The only exception being where a party has acted unreasonably. The Civil Procedure Rules do not apply to tribunals including the provisions relating to cost.

325. In relation to an Application under Rule 13 a tribunal applies the three-stage test in *Willow Court Management Company (1985) Limited v Mrs Ratna Alexander; Ms Shelley Sinclair v 231 Sussex Gardens Right to Manage Limited; Mr Raymond Henry Stone v 54 Hogarth Road, London SW5 Management Limited* [2016] UKUT 290 (LC), LRX/90/2015, LRX/99/2015, LRX/88/2015 considering:
    (i) Whether the Respondent had acted unreasonably, applying an objective standard;
    (ii) If unreasonable conduct is found, whether an order for costs should be made or not;
    (iii) If so, what should the terms of the order be?

326. The Tribunal also took into account the meaning of "unreasonable" in *Ridehalgh v Horsefield* [1994] Ch. 205 which dealt with a wasted costs order, the principles of which we consider apply in this case:

> *"Unreasonable" means what it has been understood to mean in this context for at least half a century. The expression aptly describes conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case, and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But conduct cannot be described as unreasonable simply because it leads in the event to an unsuccessful result or because other more cautious legal representatives would have acted differently. The acid test is whether the conduct permits of a reasonable explanation. If so, the course adopted may be regarded as optimistic and as reflecting on a practitioner's judgement, but it is not unreasonable.*

327. The Tribunal must first consider whether the Respondent *acted unreasonably in bringing, defending or conducting proceedings*. The Respondent was of the opinion that the service charge was payable and that the costs challenged were reasonable. The Tribunal's determination shows that the Respondent was justified in defending the challenges even if it was not successful on all issues. The Respondent also answered the points raised by the Applicants and although the Tribunal has been critical of the discovery of documents by the Respondent's Managing Agents sufficient material was produced for the Applicants to reply and the Tribunal to make its determination.

328. Therefore, the Tribunal determines that the Respondent has not *acted unreasonably in bringing, defending or conducting proceedings* and makes no order under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for costs.

329. The Tribunal then considered the application for the reimbursement of fees and referred to *Cannon & Another v 38 Lambs Conduit LLP* [2016] UKUT 371 (LC) which held that such reimbursement was not subject to the unreasonableness of a party.

330. The Tribunal found that the issues raised by the Applicants would not have been settled without them coming to the Tribunal. Therefore, the Tribunal makes no order for the reimbursement of fees.

Judge JR Morris

APPENDIX 1 - RIGHTS OF APPEAL

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

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

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

APPENDIX 2 – THE LAW

The Law

1. The relevant law is contained in the Landlord and Tenant Act 1985 as amended by the Housing Act 1996 and Commonhold and Leasehold Reform Act 2002.

2. Section 18 Landlord and Tenant Act 1985
   (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, improvement 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 of which the service charge is payable.
   (3) for this purpose
      (a) costs include 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 period

3. Section 19 Landlord and Tenant Act 1985
   (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period-
      (a) only to the extent that they are reasonably incurred; and
      (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.
   (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

4. Section 20B Limitation of Service Charges: time limit on making demands
   (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 the demand for payment of the service charge 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.

5. Section 21 Request for summary of relevant costs.
   (1) A tenant may require the landlord in writing to supply him with a written summary of the costs incurred—

(a) if the relevant accounts are made up for periods of twelve months, in the last such period ending not later than the date of the request, or

(b) if the accounts are not so made up, in the period of twelve months ending with the date of the request,

and which are relevant costs in relation to the service charges payable or demanded as payable in that or any other period.

(2) If the tenant is represented by a recognised tenants' association and he consents, the request may be made by the secretary of the association instead of by the tenant and may then be for the supply of the summary to the secretary.

(3) A request is duly served on the landlord if it is served on—

(a)an agent of the landlord named as such in the rent book or similar document, or

(b)the person who receives the rent on behalf of the landlord;

and a person on whom a request is so served shall forward it as soon as may be to the landlord.

(4) The landlord shall comply with the request within one month of the request or within six months of the end of the period referred to in subsection (1)(a) or (b) whichever is the later.

(5) The summary shall state whether any of the costs relate to works in respect of which a grant has been or is to be paid under section 523 of the Housing Act 1985 (assistance for provision of separate service pipe for water supply) or any provision of Part I of the Housing Grants, Construction and Regeneration Act 1996 (grants, &c. for renewal of private sector housing) or any corresponding earlier enactment and set out the costs in a way showing how they have been or will be reflected in demands for service charges and, in addition, shall summarise each of the following items, namely—

(a) any of the costs in respect of which no demand for payment was received by the landlord within the period referred to in subsection (1)(a) or (b),

(b) any of the costs in respect of which—

(i) a demand for payment was so received, but

(ii) no payment was made by the landlord within that period, and

(c) any of the costs in respect of which—

(i) a demand for payment was so received, and

(ii) payment was made by the landlord within that period,

and specify the aggregate of any amounts received by the landlord down to the end of that period on account of service charges in respect of relevant dwellings and still standing to the credit of the tenants of those dwellings at the end of that period

(5A) In subsection (5) "relevant dwelling" means a dwelling whose tenant is either—

(a) the person by or with the consent of whom the request was made, or

(b) a person whose obligations under the terms of his lease as regards contributing to relevant costs relate to the same costs as the corresponding obligations of the person mentioned in paragraph (a) above relate to.

(5B) The summary shall state whether any of the costs relate to works which are included in the external works specified in a group repair scheme, within the meaning of Chapter II of Part I of the Housing Grants, Construction and Regeneration Act 1996 or any corresponding earlier enactment, in which the landlord participated or is participating as an assisted participant.

(6) If the service charges in relation to which the costs are relevant costs as mentioned in subsection (1) are payable by the tenants of more than four dwellings, the summary shall be certified by a qualified accountant as—
(a) in his opinion a fair summary complying with the requirements of subsection (5), and
(b) being sufficiently supported by accounts, receipts and other documents which have been produced to him.

6. Section 21A Withholding of service charges
(1) A tenant may withhold payment of a service charge if—
(a) the landlord has not provided him with information or a report—
(i) at the time at which, or
(ii) (as the case may be) by the time by which,
he is required to provide it by virtue of section 21, or
(b) the form or content of information or a report which the landlord has provided him with by virtue of that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under that section.
(2) The maximum amount which the tenant may withhold is an amount equal to the aggregate of—
(a) the service charges paid by him in the period to which the information or report concerned would or does relate, and
(b) amounts standing to the tenant's credit in relation to the service charges at the beginning of that period.
(3) An amount may not be withheld under this section—
(a) in a case within paragraph (a) of subsection (1), after the information or report concerned has been provided to the tenant by the landlord, or
(b) in a case within paragraph (b) of that subsection, after information or a report conforming exactly or substantially with requirements prescribed by regulations under section 21 has been provided to the tenant by the landlord by way of replacement of that previously provided.
(4) If, on an application made by the landlord to the appropriate tribunal, the tribunal determines that the landlord has a reasonable excuse for a failure giving rise to the right of a tenant to withhold an amount under this section, the tenant may not withhold the amount after the determination is made.
(5) Where a tenant withholds a service charge under this section, any provisions of the tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

7. Section 21B Notice to accompany demands for service charges
(1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.
(2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
(3) A tenant may withhold payment of a service charge, which has been demanded from him if subsection (1) is not complied with in relation to the demand.
(4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(5) Regulations under subsection (2) may make different provision for different purposes.

(6) Regulations under subsection (2) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8. Section 27A Landlord and Tenant Act 1985

(1) An application may be made to a leasehold valuation 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.

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

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

(4) No application under subsection (1) or (3) may be made in respect of a matter which –
   (a) has been agreed or admitted by the tenant,
   (b) has been or is to be referred to arbitration pursuant to a post arbitration agreement to which the tenant was a party
   (c) has been the subject of a determination by a court

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

9. 20C Landlord and Tenant Act 1985

Limitation of service charges: costs of proceedings.

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or leasehold valuation tribunal or the First-tier Tribunal, or the Upper Tribunal, or in connection with arbitration 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 any other person or persons specified in the application.

(2) The application shall be made—
   (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to the county court;
   (aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
   (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;

(ba) in the case of proceedings before the First-tier Tribunal, to the tribunal;
(c) in the case of proceedings before the Upper Tribunal, to the tribunal;
(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to the county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

10. Schedule 11 Commonhold and Leasehold Reform Act 2002 relating to reasonableness of Administration Charges

1 Meaning of "administration charge"

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
(a) specified in his lease, nor
(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

2 Reasonableness of administration charges

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

3

(1) Any party to a lease of a dwelling may apply to a tribunal for an order varying the lease in such manner as is specified in the application on the grounds that—
(a) any administration charge specified in the lease is unreasonable, or
(b) any formula specified in the lease in accordance with which any administration charge is calculated is unreasonable.

(2) If the grounds on which the application was made are established to the satisfaction of the tribunal, it may make an order varying the lease in such manner as is specified in the order.

(3) The variation specified in the order may be—
(a) the variation specified in the application, or
(b) such other variation as the tribunal thinks fit.
(4) The tribunal may, instead of making an order varying the lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified.
(5) The tribunal may by order direct that a memorandum of any variation of a lease effected by virtue of this paragraph be endorsed on such documents as are specified in the order.
(6) Any such variation of a lease shall be binding not only on the parties to the lease for the time being but also on other persons (including any predecessors in title), whether or not they were parties to the proceedings in which the order was made.

5 Liability to pay administration charges

(1) An application may be made to a tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.
(3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.
(4) No application under sub-paragraph (1) may be made in respect of a matter which—
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
(a) in a particular manner, or
(b) on particular evidence,
of any question which may be the subject matter of an application under sub-paragraph (1).

5 A Limitation of administration charges: costs of proceedings
(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.
(3) In this paragraph—

11. Landlord and Tenant Act 1987

47 Landlord's name and address to be contained in demands for rent etc.

(1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—
  (a) the name and address of the landlord, and
  (b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.

(2) Where—
  (a) a tenant of any such premises is given such a demand, but
  (b) it does not contain any information required to be contained in it by virtue of subsection (1),

then (subject to subsection (3)) any part of the amount demanded which consists of a service charge or an administration charge ("the relevant amount") shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or (as the case may be) administration charges from the tenant.

(4) In this section "demand" means a demand for rent or other sums payable to the landlord under the terms of the tenancy.

48 Notification by landlord of address for service of notices.

(1) A landlord of premises to which this Part applies shall by notice furnish the tenant with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant.

(2) Where a landlord of any such premises fails to comply with subsection (1), any rent, service charge or administration charge otherwise due from the tenant to the landlord shall (subject to subsection (3)) be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord does comply with that subsection.

(3) Any such rent, service charge or administration charge shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of rent, service charges or (as the case may be) administration charges from the tenant.

12. Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Orders for costs, reimbursement of fees and interest on costs

13. (1) The Tribunal may make an order in respect of costs only—
  (a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
  (b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—
    (i) an agricultural land and drainage case,
    (ii) a residential property case, or

(iii) a leasehold case; or
(iv) in a land registration case.

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on an application or on its own initiative.