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FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/00CL/LIS/2013/0007**
Properties	:	**55 leasehold properties at Westoe Crown Village, South Shields listed in Schedule 1**
Applicant	:	**Three Rivers Housing Association Ltd**
Representative	:	**Mr J Holbrook (Counsel)** **Winckworth Sherwood Solicitors**
Respondent	:	**Various leaseholders (listed in Schedule 1)**
Representative	:	**(No representatives)**
Type of Application	:	**Application pursuant to Section 27A (and 19) of the Landlord and Tenant Act 1985**
Tribunal Members	:	**Mr S Moorhouse LLB** **Mr IR Harris BSc FRICS**
Date and venue of Hearing	:	**8 October 2013** **Kings Court, Earl Grey Way, North Shields, Tyne and Wear**
Date of Decision	:	**13 January 2014**

DECISION

(i) The Tribunal's decision is set out in Schedule 2 to this decision document, in the form of a table. The table represents the Tribunal's determination, by reference to individual budget headings, of whether under the terms of the shared ownership leases the Applicant is entitled to recharge reasonable costs to the Respondents.

(ii) With the agreement of the Applicant the Tribunal additionally makes an Order under section 20C of the Act that any costs incurred by the Applicant in respect of 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 Respondents for the current or any future service charge year.

REASONS

The Application

1. The application ('the Application') is made under section 27A (and 19) of the Landlord and Tenant Act 1985 ('the Act') in relation to the service charge year 1 April 2011 to 31 March 2012.

2. It is stated within the Application that the Applicant housing association seeks a determination that the service charges demanded from leaseholders are recoverable under the terms of the underleases and that the Tribunal is asked to determine the reasonableness of the charges if it considers that they are recoverable. The Application goes on to note that, following legal advice, the Applicant is concerned that the terms of the underleases do not contain provision as to recoverability of service charges and ground rent that enable them to recover these items and is concerned that the lease terms may have been incorrectly drafted.

3. The Applicant has granted shared ownership leases of each of the 55 properties listed in Schedule 1 to this decision document ('the Properties'). The Respondents, also listed at Schedule 1, are the current lessees. The

Applicant retains either a freehold or superior leasehold interest in each of the Properties and is the immediate landlord to each of the Respondents.

4. The Properties comprise flats within blocks and various types of houses.

Directions

5. Directions were issued to the parties on 22 July 2013 requiring the submission by the Applicant of a specified bundle of documents and inviting each Respondent to submit, in reply, a statement of case. The Applicant's bundles were submitted. None of the Respondents submitted a statement of case.

6. Following the hearing referred to below Further Directions were issued by the Tribunal. These included the following explanation:

   'Within its Application the Applicant sought a determination that the services charges demanded from leaseholders are recoverable under the terms of the various shared ownership leases. The Applicant went on to state that the Tribunal is asked to determine the reasonableness of service charges if it considers that service charges are recoverable.

   At the commencement of the hearing the Applicant sought to amend the scope of the determination to be made by the Tribunal. The Applicant requested that the Tribunal determine only a contractual entitlement and not determine whether the service charges are otherwise reasonable or payable.

   In the words of the Applicant, the Tribunal is requested to determine a contractual entitlement but not whether this has crystallised into a liability to pay or any issues arising under statute such as 'reasonableness' under Section 19 of the Landlord and Tenant Act 1985.

   The Tribunal therefore issues these Further Directions to provide the opportunity to the Respondents to make any comment they wish to make on this request and to raise certain additional matters arising from the hearing.'

7. The 'additional matters arising from the hearing' concerned the provision by the Applicant of some additional documents and included an invitation to the parties to make any representations they wished to make on the principle that errors in a document might be corrected by the process of construction, this principle having been referred to within a document submitted at the hearing by the Applicant but not specifically referred to in the course of the hearing.

8. The Applicant responded to the Further Directions. Only one set of Respondents chose to reply, namely Mr and Mrs Mitchell of 146 North Main Court. Their reply stated that they wish to record in writing that they do not want to make any further comments.

Inspection and Hearing

9. An inspection took place on 8 October 2013. This included external areas of the estate and communal areas serving flats. The inspection was followed by the hearing. The inspection and hearing were attended by Counsel for the Applicant, Mr Holbrook, and by an employee of the Applicant, Mr Wilkinson. No Respondents were present.

The Leases

10. The Applicant has identified 4 standard forms of shared ownership lease in use in relation to the Properties, referred to as Type 1 to 4 respectively. Types 1 and 2 are referred to by the Applicant as 'Eversheds underleases' and Types 3 and 4 as 'Dickinson Dees underleases' by reference to the law firms acting for the Applicant at the time of the particular shared ownership sales, although it is noted by the Tribunal that the term 'underlease' is not strictly accurate in those cases in which the Applicant is the freehold proprietor. The Applicant states that Dickinson Dees took over from Eversheds part way through one of the phases.

11. The Applicant identifies 3 kinds of provisions relevant to a determination of whether the Respondents are contractually liable to pay service charges. First there are specific provisions on the subject of service charges within each of the 4 shared ownership lease types (referred to by the Applicant and within this decision document as 'Specific Service Charge Provisions'). Second, there are provisions within all 4 shared ownership lease types relating to 'outgoings' (referred to as 'Sweeping Up Provisions'). Third, there are provisions within the Type 3 and 4 shared ownership leases requiring the leaseholder to 'reimburse' to the Applicant sums payable by the Applicant under its transfer of the particular Property and provisions within the Type 2 shared ownership leases that make reference to service charge provisions in 'the Headlease' (these provisions all being referred to as 'Reimbursement Provisions').

12. The Applicant has, prior to granting each of the shared ownership leases, taken a transfer of the relevant Property or entered into a lease. Two management companies have joined in each of these documents: an estate management company ('Westoe Community Development Trust Management Company Limited') and the residents management company for the relevant phase of the overall development (for example, for phase 3, 'Westoe Crown Village (Phase 3) Management Company Limited'). The estate management company and each of the residents management companies are managed by Kingston Property Services. The service charges that are in issue in this case are those charged to the Applicant by Kingston Property Services on behalf of its clients and recharged by the Applicant to the Respondents. The Applicant states that the only service charges it demands from the Respondents are those identified by Kingston

Property Services. There are no additional charges to cover any costs incurred by the Applicant itself.

The Law

13. The relevant law is to be found at sections 19 and 27A of the Act, and at section 20C. Section 19 of the Act states:

Limitation of service charges: reasonableness

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

(a) only to the extent that they are reasonably incurred, and
(b) where they are incurred on the provision of services or the carrying out of works, only 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 adjustments shall be made by repayment, reduction or subsequent charges or otherwise.

14. Section 27A of the Act includes the following subsections:

Liability to pay service charges: jurisdiction

(1) An application may be made to a 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.

15. Section 20C of the Act includes the following subsection:

Limitation of service charges: cost 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 ..... tribunal.....are not to be regarded as

relevant costs to be taken into account in determining the amount of service charge payable by the tenant or any other person or persons specified in the application.

Scope of determination

16. The Applicant raised as an initial point at the hearing the scope of the determination to be made by the Tribunal. The Applicant requests that the Tribunal determine a contractual entitlement but not whether this has crystallised into a liability to pay or any issues arising under statute such as 'reasonableness' under section 19 of the Act. It is logical to consider this request at the outset.

Applicant's submission

17. Mr Holbrook states that the reason for requesting the Tribunal to determine this narrow issue is because the Applicant is concerned that some of its leases may not allow it to recover all of the types of charge set out in the Kingston Property Services accounts. He refers to the principle that the Tribunal should not take points of its own volition and states that the Respondents are not concerned as to the amounts of money they are being asked to pay.

18. Mr Holbrook goes on to explain that the shared ownership leases in question were drafted over a period of 2 years by 2 different firms of solicitors and that it is possible, if service charges are not recoverable, that negligence claims might follow. Mr Holbrook also comments that if issues of 'reasonableness' are to be addressed then his client will need to seek additional time to prepare and more time will need to be allocated for the hearing.

Findings

19. The scope of the Tribunal's determination shall be limited to the issue of whether, under the terms of the shared ownership leases, the Applicant is entitled to charge for service charge items identified in the schedules of charges prepared by Kingston Property Services. The reasons for this are as follows:-

20. No concerns have been raised with the Tribunal whatsoever by any Respondent in relation to the level of service charge or any other aspect of the case. The Respondents have been invited to comment on the Applicant's request to narrow the scope of the determination from that initially sought within its Application and no comments have been made, other than to record that there are indeed no comments. In these circumstances there is no basis for rejecting the revised scope of the Application.

21. As a consequence we will not consider whether the amount of any charge is reasonable and will not address whether there has been an invalid demand or any other failure to comply with legislation that might reduce the

Respondents' service charge liability. The issue of whether the Applicant is itself liable for the service charges identified by Kingston Property Services and therefore legitimately passing these on to its shared owners also falls outside the scope of our determination, with one qualification: the issue is touched upon when we come to consider the Respondents' contractual obligations under any Reimbursement Provisions within their shared ownership leases.

22. Having determined this preliminary point, the Applicant's submissions on the Specific Service Charge Provisions, the Sweeping Up Provisions and the Reimbursement Provisions and the related findings are now set out, followed by submissions and findings on the additional issue raised in the Tribunal's Further Directions of whether errors in a document might be corrected by the process of construction.

Specific Service Charge Provisions

Applicant's submissions

23. The Applicant's submissions on the Specific Service Charge Provisions refer, in the context of the Type 1 shared ownership lease, to the following obligation on the part of the leaseholder (referred to in this extract as 'the Tenant'):

'3(4) To contribute to a fair proportion to be assessed from time to time by the Landlord of:-

3(4)(a) The reasonable cost of repairing maintaining renewing and cleaning as the case may be of any boundary walls fences hedges and of any access roadways and footpaths and of any communal gardens or facilities shared by the Tenant with others (hereinafter together referred to as the communal facilities)

3(4)(b) The reasonable fees charges and expenses of the surveyor any accountant or other person whom the Landlord may from time to time reasonably employ in connection with the management and maintenance of the communal facilities including the computation and the collection of rent and the computation of and collection of other monies due from the Tenant hereunder and if any such work shall be undertaken by an employee of the Landlord then a reasonable allowance for such work'

24. In the Type 2 shared ownership lease the same provisions appear but under the clause reference 3(5), parts (a) and (b). In the Type 3 and 4 shared ownership leases the same provisions appear but they are numbered 3.4.1 parts (a) and (b) as part of a wider clause under the heading *'To contribute to common parts, reimburse sums payable under the Transfer and in respect of insurance'*. In some of the leases (including some of the Type 1 leases) the leaseholder is referred to as 'the Leaseholder' rather than 'the Tenant'.

25. Having highlighted to the Tribunal these particular provisions of the shared ownership leases, Mr Holbrook goes on to make a number of general points on the construction of documents by reference to the publication *'Commercial and Residential Service Charges'* by Adam Rosenthal and others. Mr Holbrook refers the Tribunal to the summary of 'canons of construction', first emphasising that interpretation concerns commercial reality and common sense and that caution needs to be used in applying particular rules: these should not detract from the overriding principles that are in place.

26. Mr Holbrook refers to the ejusdem generis principle, summarised within the publication as follows: *'Where a list of particular items, with common characteristics, is followed by more general words, the general words should be construed by reference to the preceding words and not as comprising things of a different nature.'* He highlights also the contra proferentem rule, summarising this as requiring, in the case of ambiguity, that the ambiguity be construed against the draftsman. Additionally reference is made to the case of *Gilje v Charlgrove Securities Ltd [2002] 1 EGLR 41* which, it is contended, supports the proposition that service charges fall to be construed restrictively in the sense that a landlord cannot require the tenant to contribute towards the costs of any particular service charge item unless the lease makes specific provision for it.

27. Finally, on the subject of general principles of construction, Mr Holbrook refers to the words of HH Judge Rich QC in the case of *Earl Cadogan v 27/29 Sloane Gardens Ltd* where he sets out what he believes to be the correct approach:

> *'(i) It is for the landlord to show that a reasonable tenant would perceive that the underlease obliged him to make the payment sought.*
>
> *(ii) Such conclusion must emerge clearly and plainly from the words used.*
>
> *(iii) Thus if the words used could reasonably be read as providing for some other circumstance, the landlord will fail to discharge the onus upon him.*
>
> *(iv) This does not however permit the rejection of the natural meaning of the words in their context on the basis of some other fanciful meaning or purpose, and the context may justify a "liberal" meaning.*
>
> *(v) If consideration of the clause leaves an ambiguity then the ambiguity will be resolved against the landlord as "proferror".*

28. Turning back to the specific wording of the shared ownership leases, the Applicant submits that the reference to *'others'* in the clause that is numbered 3(4)(a) in the Type 1 lease must be a reference to others on Westoe Crown Village. This means, in the Applicants submission, that all parts of the village are referred to here save for those parts that are specifically demised to an individual. The Applicant further submits that the word *'facilities'* must be construed in context and makes reference to

the cases of *Westminster City Council v Ray Alan (Manshops) Ltd [1982] 1 W.L.R. 383* and *R (Keating) v Cardiff Local Health Board [2006] 1 W.L.R. 158.*

29. The *Westminster* case, it is submitted, turned in part on the issue of whether a closing down sale could be regarded as being a 'facility' within the meaning of section 14 of the Trade Descriptions Act 1968. In holding that it could not, the High Court considered that the word 'facilities' in section 14 should be construed in the context of the two words preceding it (the phrase being 'services, accommodation or facilities'). Lord Justice Ormrod noted that the word facility 'is obviously of very wide meaning', that 'almost anything can be described as a "facility"' but that, since the Trade Descriptions Act was a penal statute, the court had to construe the word strictly.

30. In relation to the *Keating* case Mr Holbrook states that the meaning of the word 'facilities' was considered in the context of section 3(I) of the National Health Service Act 1977. Within that section the word appears at subsections (d) and (e) in the phrases *'such other facilities for the care of expectant and nursing mothers and young children....'* and *'such facilities for the prevention of illness, the care of persons suffering from illness.....'*, following on from references in subsections (a), (b) and (c) to hospital accommodation, other accommodation and medical, dental, nursing and ambulance services.

31. Mr Holbrook highlights the following words of Lord Justice Brooke and Lord Justice Arden respectively:

    Brooke LJ: *'its meaning will be derived from the context in which the word is used...It means "that which facilitates". Sometimes the word refers to tools, or accommodation, or plant, which facilitate the provision of a service. Sometimes it refers to an entire service provision like a laundry service, or the provision of a day centre, which facilitates the prevention of illness...'*

    Arden LJ: *'First in my judgement.....were correct to say that the use of the word "other" in section 3(I)(d) of the National Health Service Act 1977 is also an indication that the word "facilities" must include (at least) services and accommodation, which are the terms used in section 3(I)(a) and 3(I)(b). Moreover,.....I do not consider that it follows.....that it is a necessary implication of the use of the different term "facilities" that the term covers something different from, or narrower than, the term "services"'.*

32. In construing the word 'facilities', in the Applicant's submission, something must be being made available to be used (having regard to the *Westminster* case), the word must take its 'colour' from the preceding words (applying the ejusdem generis principle) and, in view of the words that follow, it must be something that is shared by a leaseholder with others.

33. Applying these principles to the service charge items identified in the schedules of charges prepared by Kingston Property Services, the Applicant submits that the word 'facilities' is not intended to refer to passageways and staircases. These things have to be provided in any communal block and they cannot be viewed as 'facilitating', because their nature is that they are necessary. Facility, it is contended, suggests an 'added extra'. As a consequence the cleaning of common parts and windows are not services that are covered by the Specific Service Charge Provisions.

34. The Applicant submits that car parks and bin stores are, however, facilities and are more akin to the examples given in the cases. The Applicant also suggests that it might be that all of the external grounds maintenance services are covered by the Specific Service Charge Provisions.

35. Having raised these points the Applicant identifies 20 individual budget headings and seeks a determination as to which of these are covered by the Specific Service Charge Provisions. Some of these are identified by the Applicant as items that might be considered to be incidental and necessary to other items.

36. The Applicant also submits that in the absence of any specified accounting period, timescale for submitting demands or provision dealing with payments on account it appears that the Applicant is entitled to specify an accounting period, demand sums from 'time to time' and seek money on account in respect of the costs of 'repairing maintaining renewing and cleaning'.

Findings

37. The Tribunal considers here the key issues relevant to the determination sought by the Applicant. Our detailed determination by reference to each of the 20 individual budget heads is then addressed later under the heading 'Determination'.

38. Our starting point is the meaning of the word 'facilities' in the clause referenced as 3(4)(a) in the Type 1 lease. The clause includes the words *'and of any communal gardens or facilities shared by the Tenant with others (hereinafter together referred to as the communal facilities)'.*

39. It is clear to us that the first use of the word 'facilities' in this clause is a reference to 'communal facilities'. Whether or not the word *'communal'* preceding the word *'gardens'* is intended to relate additionally to the word *'facilities'*, it is clear from the words that follow (*'shared by the Tenant with others'*) that the facilities in question must be of a communal nature. We agree with the Applicant's submission that 'others' must mean 'others on Westoe Crown Village'. We also consider that in the context of this clause, 'others' could not include 'others in the Tenant's household': the facilities must be 'shared' in relation to other properties on the estate.

40. The use of the term *'communal facilities'* to collectively define *'boundary walls fences hedges...access roadways and footpaths and...communal*

gardens or facilities' indicates that a wide interpretation is being given by the draftsman to the meaning of the word *'facilities'* where it appears for the second time in the clause in question. This might be of assistance as we seek to construe the word *'facilities'* where it appears for the first time: the broad interpretation later given to the same word is useful context which might, in the words of HH Judge Rich QC in the *Earl Cadogan* case, justify a liberal meaning. We would not however wish to take this too far. The fact that at its first appearance the word *'facilities'* forms part of a list that includes various boundary features, roads, paths and communal gardens might suggest that, where it first appears, the word is not intended to encompass all of these things.

41. The *Keating* case defines a 'facility' as 'that which facilitates'. In the context of that case it was clarified that a 'service' might be a facility or that 'accommodation which facilitates the provision of a service' might be a facility. In the *Westminster* case it was stated that the word facility is obviously of very wide meaning but it was interpreted very narrowly in that case in the context of penal legislation.

42. The Applicant suggests that the word 'facilities' is not intended to refer to passageways and staircases because they are necessary, not an 'added extra'. None of the authorities that have been put forward would, in our view, support a position that a facility cannot be an 'essential facility'. We consider that communal staircases and passageways are things which 'facilitate'. They are not owned by the individual leaseholders but are used by them to 'facilitate' access to their individual properties. They can therefore reasonably be described as 'facilities'.

43. This view would naturally extend to each and every part of a communal staircase or passageway. Thus the floors, ceilings, walls, windows, doors and any other parts of any communal staircases and passageways can reasonably be considered to form part of a 'facility'. The roof to a block of flats cannot - it does not form part of a staircase or passageway and, in our view, is not itself 'something that facilitates'.

44. Having reviewed the canons of construction referred to by the Applicant and the cases that have been cited we see no reason to limit the meaning of the word 'facilities' in the way that has been suggested by the Applicant. It follows that, under the clause in question, a fair proportion of the reasonable cost of repairing, maintaining, renewing and cleaning staircases and passageways (including their floors, ceilings, walls, windows and doors) shared by a leaseholder with others is payable by the leaseholder. Applying the approach set out by HH Judge Rich QC in the *Earl Cadogan* case we believe that a reasonable leaseholder would perceive that they are obliged under the terms of their shared ownership lease to pay towards the repair, maintenance, renewal and cleaning of the communal staircases and passageways that they use, that such a conclusion emerges clearly from the words used and that it would not be reasonable to read the clause in the unduly restrictive manner suggested by the Applicant.

45. Turning to the specific issue of window cleaning, we have found already that a fair proportion of the reasonable cost of cleaning windows to staircases and passageways shared by a leaseholder with others may be recharged to the leaseholder. There is no provision however within the Specific Service Charge Provisions entitling the Applicant to recover the cost of cleaning windows that belong to individual Properties.

46. We agree with the Applicant that bin stores are *'facilities shared by the tenant with others'*. Whether these take the form of a building or a fenced area, they 'facilitate' the disposal of rubbish.

47. We also agree with the Applicant's view that car parking areas are *'facilities'*. However these are only covered by the Specific Service Charge Provisions to the extent that they are *'shared by the Tenant with others'*. Therefore the repair, maintenance, renewal and cleaning of car parking areas that are not so shared, including those spaces allocated exclusively to individual properties, are not rechargeable to the Respondents under the terms of the Specific Service Charge Provisions.

48. The Applicant suggests that some service charge items such as cleaning materials, salaries of staff employed by Kingston Property Services, gardening materials and utilities might be considered to be incidental to other items. We agree with this suggestion to an extent. Materials used in the course of activities that are themselves rechargeable to the Respondents under the Specific Service Charge Provisions are also rechargeable, as are salaries to the extent that the staff concerned are engaged in the relevant activities. Utility costs associated with the maintenance, repair, renewal and cleaning of the communal gardens and communal facilities (as we have interpreted these) are rechargeable. However there is no right within the Specific Service Charge Provisions to recharge any ongoing utility costs associated with the communal facilities, such as the cost of communal lighting.

49. We have also considered the Applicant's contention that it is entitled to specify an accounting period (where this is not specified), to demand sums from 'time to time' and to seek payments on account.

50. Any demands raised by the Applicant in respect of repairs, maintenance, renewal or cleaning pursuant to the Specific Service Charge Provisions must relate to 'the reasonable cost' of these activities. There is no requirement that any such demands should be made in arrear: it is permissible to raise demands from 'time to time', or by way of monthly payments. It is also permissible for the Applicant to organise these charges by reference to an accounting period determined by the Applicant (in the absence of any express provision).

51. However if the Applicant cannot demonstrate that any demand it raises relates to 'the reasonable cost of repairing maintaining renewing and cleaning...', then contractual liability is open to challenge. As an observation, this might cause difficulties if for example the Applicant

wishes to demand service charges on account of costs that may or may not be incurred, or on account of costs that are not yet quantified.

Sweeping Up Provisions

Applicant's submission

52. The Applicant refers to the following provision within the Type 1 shared ownership lease:

    '3(2) To pay and discharge all existing and future rates taxes assessments and outgoings whatsoever now or at any time during the term payable in respect of the Premises or any part thereof or by the owner or occupier thereof...'

53. The same provision appears as clause 3(3)(a) in the Type 2 lease and as clause 3.2 in the Type 3 and 4 leases.

54. The Applicant raises the possibility that the words *"outgoings whatsoever'* in this clause may be apt to cover all of the items listed in the Kingston Property Services accounts: if a charge that the Applicant is liable to pay is not covered by the Specific Service Charge Provisions or elsewhere then it remains an outgoing in respect of the owner's premises (the owner being the Applicant). The Applicant goes on to quote a number of cases.

55. In *Re Cleveland's (Duke) Estate v Forester [1894] 1 Ch 164* at 175 it is stated: *'Outgoings... ought to be construed in the larger and popular sense as including every expense relating to the estate which, in the ordinary course of management, would require to be made in order to maintain the estate in a fit state to earn rent, or would be a proper deduction before ascertaining the new rent receivable as income.'*

56. The Applicant submits that in the case of *Stockdale v Ascherberg [1904] 1 KB 447*, where a lessor reconstructed drains at the request of the local authority this was covered by 'outgoings in respect of the premises' and refers to the following words of Collins MR: *'if a tenant makes an agreement in perfectly clear and unambiguous terms that he will bear all outgoings, I do not see how we can throw aside the plain meaning of the language used, and introduce some imitation of that meaning, which it would be very difficult, if not impossible to define'.*

57. The Applicant cites also *Warwickshire Hamlets v Olive Gedden [2010] UKUT 75 (LC)* where in relation to the phrase *'all outgoings whatsoever'* HHJ Huskinson said: *'I accept, of course, the well established principles.... that the word "whatsoever" is a word adopted by draftsmen to show that the greatest width is intended and to exclude an argument, based on ejusdem generis principles, that a restricted width should be placed upon the expression in question.'*

58. The Applicant then quotes from the publication referred to previously: 'Commercial and Residential Service Charges'. At paragraph 2.61 it is stated: *'courts are reluctant to allow costs to be recovered through a sweeping-up provision where they more naturally fall to be included elsewhere in a lease. Expenses may not be permitted to be recovered under a sweeping-up clause where provision has been made elsewhere in the lease for the type of expense sought to be recovered and the landlord is seeking indirectly to enlarge or broaden the scope of such express provisions'.*

59. Mr Holbrook submits in summary that the clause in question is not adequate to encompass service charges, these should be set out fully.

Findings

60. Applying the principle in the *Forester* case it appears to us that service charges that affect a superior title (as is the case here) can potentially be construed as outgoings payable in respect of a property. We also accept that the use of the word *'whatsoever'* indicates an intention to apply a broader meaning to the term *'outgoings'* than would otherwise be applied.

61. If we apply the words of HHJ Huskinson in *Warwickshire Hamlets* to the present case, the word *'whatsoever'* might intentionally have been applied by the draftsman to counter an argument under the esjudem generis principle that the word *'outgoings'* must be construed in the context of the preceding words and therefore have a meaning associated with the sorts of liabilities mentioned there, namely rates, taxes and assessments.

62. Whilst we accept that there may be an intention to construe the word *'outgoings'* relatively widely, we note that the clause as a whole is concerned generally with the issue of rates and other taxes. In this context common sense would suggest that the addition of the words *'any other outgoings whatsoever'* is intended to capture other items of this nature, whatever they may be. It seems to us to be inappropriate to attribute a meaning to the words *'any other outgoings whatsoever'* which is at odds with the context of the clause in which they appear.

63. We note that in the Type 3 and 4 leases the clause in question is preceded by the sub-heading 'To Pay Rates'. Often legal documents include a clause to the effect that sub-headings are irrelevant to the interpretation of the words that follow, however this is not the case here. In relation to the Type 3 and 4 leases the sub-heading strengthens the view we have expressed in the preceding paragraph.

64. The reference the Applicant makes to the publication *'Commercial and Residential Service Charges'* endorses our view that words should be interpreted in the context in which they appear - it seems unlikely that a clause concerning rates and taxes is intended to extend to service charge items when all 4 lease types make specific provision for the payment of service charges. After all, having drafted specific provisions that dictate what may or may not be charged by way of service charge it would be

illogical for the draftsman to then undermine these specific provisions with one that is more general.

65. Returning to the words of HH Judge Rich QC in the *Earl Cadogan* case referred to earlier, we must consider whether a reasonable leaseholder would perceive that the reference to outgoings would oblige him to pay service charges and whether such a conclusion emerges clearly and plainly from the words used. We do not consider that it does.

66. We find therefore that the Sweeping Up Provisions, as we have defined them, do not entitle the Applicant to charge to the Respondents service charge items identified in the schedules of charges prepared by Kingston Property Services.

Reimbursement Provisions

Applicant's submission

67. The Applicant refers to the following clause that appears in the Type 3 and Type 4 shared ownership leases:

'3.4.2 to reimburse the Landlord on demand the sums payable by the Landlord under the Transfer'

68. Parts (a) and (b) of the preceding clause 3.4.1 have been considered in the context of the Specific Service Charge Provisions. Part (c) of the preceding clause 3.4.1 reads *'for the avoidance of doubt, it is hereby agreed and declared that the provisions of sections 18 to 30 Landlord and Tenant Act 1985 shall apply to the provisions hereof'.*

69. The Type 3 and 4 shared ownership leases state *'Transfer....Means the transfer of the premises dated.....(1) George Wimpey Limited (2) Three Rivers Housing Association Limited'.* The Applicant submits that the 'Transfer' is the headlease which, amongst other things, requires the Applicant to pay the 'maintenance charge'.

70. The Applicant goes on to refer to clause 3.28 in the Type 3 and 4 shared ownership leases. This is as follows:

'3.28 To observe freehold covenants

To observe and perform all covenants and conditions contained in the Transfer and the Landlord's freehold title and to indemnify the Landlord against any costs claims or demands arising from their breach or non-observance, and in particular (but without prejudice to the generality of this clause) to reimburse any sums payable by the Landlord under the Transfer.'

71. The Applicant submits that clauses 3.4.2 and 3.28 cannot be intended to include all amounts, this would be contrary to common sense. The clauses do not offer the required clarity, they are not consistent with the clarity

offered by clause 3.4.1 of the same leases and are inconsistent with the style of the leases.

72. The Applicant submits that it is also significant that clause 3.4.1(c) in the same leases brings into play the Act, purporting to apply these statutory provisions to sub-clauses (a) and (b). The Applicant suggests that it is significant that the draftsman does not seek to apply the statutory provisions to clause 3.4.2. Mr Holbrook goes on to say that clause 3.4.2 does not specify at all what it is intended to cover. The machinery is draconian in that payment is 'on demand'. Having regard to all of these points the Applicant suggests that clause 3.4.2 cannot be intended to relate to any ongoing charges.

73. Mr Holbrook also states that it should not be assumed that there is a specific intention behind clause 3.4.2, it could have been inserted out of an abundance of caution, however the construction of the clause has to be objective.

74. With regard to clause 3.28 of the Type 3 and 4 leases, the Applicant submits that the ejusdem generis principle should be applied to the phrase *'to reimburse any sums payable by the Landlord under the Transfer.'* Following this principle, it would be inappropriate to construe the phrase in a way that is inconsistent with the kind of item referred to in the first part of the list.

75. Referring to the words of HH Judge Rich QC in *Earl Cadogan* the Applicant submits that a reasonable tenant would not understand that this provision could require that the landlord is reimbursed for service charge payments and that this would not emerge as a clear and plain conclusion from the wording of clause 3.28.

76. The Applicant cites the case of *Melzak v Lilienfeld [1926] Ch. 480* as authority that there can be exceptions to the rule that contractual obligations in a headlease can be passed on to an undertenant. These exceptions would include circumstances where the terms are unusual or unusually onerous or where the tenant did not have an opportunity to know the terms.

77. The Applicant refers also to paragraph 2.61 of the publication *'Commercial and Residential Service Charges'*, mentioned previously in the context of Sweeping Up Provisions. Provision has already been made in the leases for the type of expense sought.

78. The Applicant additionally refers to a provision that appears only in the Type 2 shared ownership lease. This provision reads as follows:

'7(1) In this Clause the following expressions have the following meanings-

(a) "Account Year" means a year ending on the 31 March

(b) "Specified Proportion" means the proportion as specified in the Particulars

(c) "the Service Provision" means the sum computed in accordance with sub-clauses (4), (5) and (6) of this clause

(d) "the Service Charge" means the Specified Proportion of the Service Provision

(e) "the Surveyor" means the Landlord's professionally qualified surveyor and may be a person in the employ of the Landlord

7(2) The Leaseholder HEREBY COVENANTS with the Landlord to pay the Service Charge during the term by equal payments in advance at the times at which and in the manner in which the rent is payable under the Headlease.'

79. The Applicant submits, in relation to this clause that it appears to be incomplete but may have some legal force.

Findings

80. It is unclear to us what clause 3.4.2 in the Type 3 and 4 leases is intended to achieve. The clause requires the leaseholder to *'reimburse.... the sums payable by the Landlord under the Transfer.'* The transfer document referred to is the deed under which the relevant property is transferred to the Applicant. For present purposes we will leave aside the issue of whether in the case of the Type 3 and 4 leases the Applicant's interest is indeed freehold or leasehold.

81. We have reviewed a sample deed of transfer (and a sample headlease). The transfer deed obliges the Applicant to pay all sorts of sums. Some of these are of a one-off nature, such as the premium paid on purchase and the sum that might subsequently become payable pursuant to an agreed 'overage' arrangement. Some of these sums, including service charges, are of an ongoing nature.

82. The Applicant argues that the clause cannot refer to items of an ongoing nature. Whilst the arguments raised by the Applicant support this interpretation, we cannot see that the clause could be intended to require the leaseholders to make 'one off' payments, for example to reimburse to the Applicant the price they paid on the purchase of their interest (in addition to paying the premium due under the terms of the shared ownership lease).

83. We find that the meaning of clause 3.4.2 of the Type 3 and 4 leases is unclear. Applying again the words of HH Judge Rich QC in *Earl Cadogan* a reasonable tenant would not perceive that the clause obliged him to make the payment sought and such a conclusion could not emerge clearly and plainly from the words used.

84. Turning to clause 3.28 of the Type 3 and 4 leases, applying the ejusdem generis principle to the phrase *'to reimburse any sums payable by the Landlord under the Transfer'* the Tribunal is required to construe these words in the context of an obligation on the part of the leaseholder to perform all covenants and conditions in the transfer and indemnify the Applicant against any costs, claims or demands arising from their non-observance. Whilst it can be argued that a covenant to make service charge payments would fall within the wording of this clause, it can also be argued that the clause appears to be intended to cover freehold covenants such as restrictions on use. The fact that service charges are covered more specifically in a separate section of the shared ownership lease supports the latter view.

85. As submitted by the Applicant, it would be inappropriate to allow expenses to be covered under a provision of this nature when specific provision has been made as to what may or may not be charged to the leaseholder. We agree also with the Applicant's submission that a reasonable tenant would not understand that this provision could require that the landlord is reimbursed for service charge payments and that this would not emerge as a clear and plain conclusion from the wording of clause 3.28.

86. Turning to clause 7 in the Type 2 shared ownership lease, we agree that this clause is incomplete. Sub-clause 7(1)(c) makes reference to sub-clauses (4), (5) and (6) of the same clause, however these do not exist. As a consequence, the obligation to *'pay the Service Charge'* at clause 7(2) obliges the leaseholder to pay a proportion of something which is not identified.

87. Accordingly we consider that clause 7 does not oblige the relevant leaseholders to pay for service charge items identified in the schedules of charges prepared by Kingston Property Services.

88. There is one key consideration relevant to the Reimbursement Provisions that we have not addressed, namely that a leaseholder would only be obliged to make service charge payments to the extent that the Applicant is itself liable for these under the terms of the relevant transfer or headlease. In view of our findings on the interpretation of the Reimbursement Provisions we do not need to consider the terms of the transfer documents and headleases.

Correction of errors

Applicant's submission

89. The Applicant made supplementary submissions in response to the following Further Direction issued by the Tribunal:

'The parties shall submit to the Tribunal any comments they may wish to make on the following. Within the hearing the Applicant made reference

to an extract of a document headed 'Commercial and Residential Service Charges'. Paragraph 2.26 of the document reads:

'Where the words used by the parties do not reflect their actual agreement, the court addresses this problem by reading the agreement so it does reflect what the parties intended to say. There is no doubt that a court can correct such errors by a process of construction and that this process (i.e. the process of 'correcting mistakes') is simply part of the process of construction itself. In correcting an error, the court is not seeking to enforce the underlying agreement behind the contract but the contract itself.'

The Applicant made no submission within the hearing in relation to this part of the extract, hence submissions are invited in relation to this part of the extract and its relevance to the present proceedings.'

90. The Applicant submits that this process of construction has its limits, making reference to the words of Lord Justice Brightman in *East v Pantiles (Plant Hire) Ltd [1982] 2 EGLR 111.* Brightman LJ summarises the court's powers of intervention by saying that the principles would apply where a reader with sufficient experience of the sort of document in issue would inevitably say to himself: "Of course X is a mistake for Y".

91. The Applicant refers also to the following words of Lord Bingham of Cornhill in *Homburg Houtimport BV v Agrosin Ltd (The Starsin) [2004] 1 AC 715: 'I take it to be clear in principle that the court should not interpolate words into a written instrument, of whatever nature, unless it is clear both that words have been omitted and what those omitted words were.'*

92. Citing the *East v Pantiles* case again the Applicant refers to two conditions Brightman LJ says must be satisfied in order to correct a mistake as a matter of construction: there must be a clear mistake on the face of the instrument, and it must be clear what correction ought to be made to cure the mistake.

93. The Applicant refers also to examples of mistakes that have been corrected by the courts, these being a mistaken reference to a party and a case in which a provision did not make sense as a consequence of 'sloppy drafting'.

94. The Applicant goes on to submit that it cannot deploy the principles referred to to its leases for a number of reasons. First there is no clear mistake on the face of the instrument having regard to background and context - each of the three types of clause in the leases (specific, sweeping up and reimbursement) is coherent and capable of making sense without alteration. Second, the only basis for claiming that the clauses do not establish what the Applicant hoped they would establish is the Applicant's desire to be able to fully recover the relevant charges, but this is a desire that is not apparent on the face of the instrument.

95. Third, it is not clear what correction should be made - it is not possible to read any clause and say 'obviously the parties intended the clause to read

as X even though it states Y'. Fourth the problem presented by the leases is that when they were drafted items that should have been included in the service charge provisions were not included - the correct approach is to construe the clauses judicially not to determine what the lease should say.

96. Fifth, if the doctrine of construing a document to correct a mistake were deployed in the present case it is difficult to see what limits could reasonably be imposed on the court's ability to construe leases by effectively rewriting them.

Findings

97. Whilst we note the Applicant's submissions concerning the limits the courts have applied to the correction of errors by a process of construction, the first issue to be addressed is this: is it the case that the words used by the parties do not reflect their actual agreement? If so, subject to the various limitations that have been determined by the courts, the problem can be addressed by reading the agreement so that it does reflect what the parties intended to say.

98. Pursuant to Further Directions the Applicant has submitted to the Tribunal a sample set of the documentation that would have been issued to the purchasers of the Properties prior to any legal commitment being made. The only reference within any of these documents to a requirement to pay service charge takes the form of an 'Estimate of Annual Service Charge' included within a list headed 'Property Details and Charges'.

99. There is no evidence therefore that the Applicant advised its purchasers within its sales brochures and related documentation of the arrangements for the provision of services. For example the purchasers may not have known that the estimate of service charge given at the time of sale related to costs that the Applicant was itself obliged to pay, over which it had limited control (and not to services the Applicant would itself be providing as landlord).

100. It may be that purchasers' solicitors may have reached this conclusion from their investigation of the title documents and advised their clients, or that the Applicant's staff or agents explained the arrangements verbally. However we cannot assume from what we have seen that at the time the shared ownership leases were entered into the overall service charge arrangements were clear to purchasers.

101. There is therefore no evidence that there was any 'actual agreement' between the Applicant and each of its purchasers as to the service charge items that should be recoverable under the terms of the shared ownership leases, that differed from the wording within the shared ownership leases. Accordingly there is no basis for the Tribunal to correct any perceived error in the wording of the shared ownership leases through the process of construction.

Determination

102. The Tribunal has found that the Sweeping Up Provisions and the Reimbursement Provisions do not entitle the Applicants to charge items within the Kingston Property Services schedules to the Respondents, and that any shortcomings in the wording of the shared ownership leases concerning service charges cannot simply be corrected as 'errors' in the process of construction.

103. What remains therefore is for the Tribunal to apply its findings on the Specific Service Charge Provisions to 20 specific 'budget headings', the Applicant having requested that the Tribunal determine which of these headings (drawn from the overall schedules provided by Kingston Property Services) are covered by such provisions.

104. The 20 budget headings fall within the categories 'Cleaning & ground maintenance', 'General repairs / maintenance contracts', 'Insurance' and 'Utilities'. A number of headings (notably 'Management Fee', 'Reserve Fund' and headings within the category 'Legal and Professional') appear on the schedules of service charges prepared by Kingston Property Services but are not included within the 20 budget headings identified by the Applicant. As such these fall outside the Tribunal's determination.

105. We have set out our determination in the form of a table. This is attached as Schedule 2 to this decision document. The table represents the Tribunal's determination, by reference to individual budget headings, of whether under the terms of the shared ownership leases the Applicant is entitled to recharge reasonable costs to the Respondents.

106. We note that there is no service charge for the service charge year 2011/2012 in relation to some of the 20 budget headings identified by the Applicant and that in some cases the budget heading appears not to be applicable to this particular development. This is reflected in Schedule 2.

107. In relation to the budget heading 'Buildings insurance', whilst we have applied the Specific Service Charge Provisions identified by the Applicant and made a determination accordingly, we note that there are additional provisions within the shared ownership leases that address specifically the issue of insurance.

Costs

108. With the agreement of the Applicant the Tribunal makes an Order under section 20C of the Act that any costs incurred by the Applicant in respect of 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 Respondents for the current or any future service charge year.

Schedule 1

	Name	Address
1.	Miss H Smith	36 Brass Thill Way, Westoe Crown Village, South Shields NE33 3NY
2.	Mr G H Wilson	40 Brass Thill Way, Westoe Crown Village, South Shields NE33 3NY
3.	Mr S Bruce	42 Brass Thill Way, Westoe Crown Village, South Shields NE33 3NY
4.	Ms Gillian Lewis	33 Sea Winnings Way, Westoe Crown Village, South Shields NE33 3NE
5.	Mr D Winscombe	37 Sea Winnings Way, Westoe Crown Village, South Shields NE33 3NE
6.	Mr B & Mrs M Mohamed	39 Sea Winnings Way, Westoe Crown Village, South Shields NE33 3NE
7.	Mr M Hollins	41 Sea Winnings Way, Westoe Crown Village, South Shields NE33 3NE
8.	Miss S Sorino & Mr S Payton	43 Sea Winnings Way, Westoe Crown Village, South Shields NE33 3NE
9.	Mr A Thompson	37 Baltic Court, Westoe Crown Village, South Shields NE33 3NT
10.	Mrs L Webster	97 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
11.	Mr D Jenks	99 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
12.	Mr G & Mrs S Wilding	101 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
13.	Mr C Stone & Ms H Renwick	103 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
14.	Mrs P Purvis	105 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
15.	Mr S Thompson	107 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
16.	Mr S Griffiths	111 Greenside Drift, Westoe Crown

	Name	Address
		Village, South Shields NE33 3ND
17.	Mr M Curtis & Ms J Thorburn	113 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
18.	Mr S Cottoy	115 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
19.	Mr J Ellwood & Ms M Lister	117 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
20.	Mr A & Mrs A Hall	119 Greenside Drift, Westoe Crown Village, South Shields NE33 3ND
21.	Mr N & Mrs J Campbell	1 North Main Court, Westoe Crown Village, South Shields NE33 3NX
22.	Mr M Oliver & Miss S Humble	5 North Main Court, Westoe Crown Village, South Shields NE33 3NX
23.	Mr K Puttock & Mrs A Ward	39 Baltic Court, Westoe Crown Village, South Shields NE33 3NT
24.	Mr B Sinclair	41 Baltic Court, Westoe Crown Village, South Shields NE33 3NT
25.	Mrs R Hunter	45 Baltic Court, Westoe Crown Village, South Shields NE33 3NT
26.	Miss K Storey & Mr I Flood	16 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
27.	Mr S Wood & Ms C Fada	66 North Main Court, Westoe Crown Village, South Shields NE33 3NX
28.	Mr G Martin & Ms D Lewis	68 North Main Court, Westoe Crown Village, South Shields NE33 3NX
29.	Mr M Banks	70 North Main Court, Westoe Crown Village, South Shields NE33 3NX
30.	Mr S & Mrs L Lukose	72 North Main Court, Westoe Crown Village, South Shields NE33 3NX
31.	Miss R Grimes & Mr T Martin	74 North Main Court, Westoe Crown Village, South Shields NE33 3NX
32.	Miss C Wilkinson	76 North Main Court, Westoe Crown Village, South Shields NE33 3NX

	Name	Address
33.	Miss J Carlson	78 North Main Court, Westoe Crown Village, South Shields NE33 3NX
34.	Mr D Pinder & Ms L Hardy	80 North Main Court, Westoe Crown Village, South Shields NE33 3NX
35.	Mr D & Mrs C A Mitchell	146 North Main Court, Westoe Crown Village, South Shields NE33 3NX
36.	Ms Brown & Mr Cornell	148 North Main Court, Westoe Crown Village, South Shields NE33 3NX
37.	Mr & Mrs Walton	150 North Main Court, Westoe Crown Village, South Shields NE33 3NX
38.	Mr Shields	152 North Main Court, Westoe Crown Village, South Shields NE33 3NX
39.	Mr Jackson	154 North Main Court, Westoe Crown Village, South Shields NE33 3NX
40.	Miss Brown & Mr Lynn	156 North Main Court, Westoe Crown Village, South Shields NE33 3NX
41.	Mr & Mrs Burlett	26 Sea Way, Westoe Crown Village, South Shields
42.	Mr C & Ms A Girdlestone	30 Sea Way, Westoe Crown Village, South Shields
43.	Ms G Bradshaw	24 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
44.	Mr D & Mrs M Cave	25 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
45.	Ms P Wood	26 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
46.	Mr N & Mrs M Braviner	27 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
47.	Mr G & Mrs A Symonds	28 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
48.	Mr S & Mrs S Robinson	29 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
49.	Mr M & Mrs J Fisher	30 Hutton Row, Westoe Crown Village,

	Name	Address
		South Shields NE33 3NU
50.	Mrs O Graham	31 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
51.	Ms F Forrest	32 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
52.	Miss A Jones & Mr S Mann	33 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
53.	Mr H Navabi & Mrs S Hashemi	34 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
54.	Mr B & Mrs J Carcary	35 Hutton Row, Westoe Crown Village, South Shields NE33 3NU
55.	Miss P A Trewick	7 North Main Court, Westoe Crown Village, South Shields NE33 3NX

Schedule 2

The Tribunal's determination, by reference to individual budget headings, of whether under the terms of the shared ownership leases the Applicant is entitled to recharge reasonable costs to the Respondents

BUDGET HEADINGS	THE REASONABLE COST OF THE FOLLOWING MAY BE RECHARGED:-
Cleaning & ground maintenance	
Window cleaning	Cleaning of windows to communal parts, but not to individual Properties
Internal cleaning	Internal cleaning of communal areas
Waste disposal	Repair, maintenance, renewal and cleaning of communal facilities, including bin stores, but not any waste disposal charges that may be incurred
External grounds maintenance	Maintenance of communal gardens, boundary walls, fences, hedges, access roadways and footpaths, bin stores and car parking areas (save for parking spaces exclusively allocated)
Additional landscaping	Repair, maintenance, renewal and cleaning of communal garden areas
Cleaning materials	Cleaning materials, to the extent that they are utilised in cleaning that is itself rechargeable, e.g. cleaning of windows to common parts or the internal cleaning of communal areas
In-house staff salaries	In-house staff salaries to the extent that the staff are engaged in activities that are themselves rechargeable. (There is also express provision at sub-paragraph (b) within the Specific Service Charge Provisions for the recovery of 'a reasonable allowance' if work were to be undertaken by an employee of the Applicant)
Gardening materials	Gardening materials used in repairing, maintaining and renewing communal garden areas
General repairs / maintenance contracts	
Responsive repairs	Responsive repairs to: communal facilities (including communal stairways & passageways and their floors, ceilings, walls, windows and doors, and including bin stores and car parking areas (save for parking spaces exclusively allocated)), communal gardens, boundary walls fences hedges & access roadways and footpaths
Fire alarm equipment & emergency light testing	Both of these maintenance items, to the extent that they relate to communal facilities (such as communal staircases and passageways)

BUDGET HEADINGS (cont.)	THE REASONABLE COST OF THE FOLLOWING MAY BE RECHARGED:-
Fire risk assessment & 10 year landlord electrical testing	Both of these maintenance items, to the extent that they relate to communal facilities (such as communal staircases and passageways)
Health & safety inspection	Health & safety inspections of: communal facilities (such as communal staircases and passageways, bin stores and car parking areas (save for parking spaces exclusively allocated)), boundary walls fences hedges and access roadways and footpaths and, communal gardens
Water maintenance	Any water maintenance required in relation to communal facilities (although there are no charges for the year 2011/2012 and this item does not appear to be relevant to this development)
Scheme security	The maintenance of any communal facilities such as CCTV or communal security alarms (although there are no charges for the year 2011/2012 and this item does not appear to be relevant to this development)
KPS maintenance staff	Staff costs incurred by Kingston Property Services to the extent that the relevant staff are engaged in activities that are themselves rechargeable
Light bulbs	Light bulbs used in relation to communal facilities (such as communal stairways and passageways, bin stores and car parking areas (save for areas exclusively allocated)) and in relation to access roadways and footpaths and communal gardens (these being a maintenance expense)
Insurance	
Buildings insurance	(Buildings insurance costs are not chargeable under sub-paragraph (a) or (b) of the Specific Service Charge Provisions identified by the Applicant, however it is noted that there are additional lease provisions dealing specifically with the issue of insurance)
Utilities	
Electricity	Electricity consumed in relation to the cleaning, maintenance, repair or renewal of communal facilities (such as communal stairways and passageways) but not electricity consumed to light or heat such facilities.
Gas	(It appears that the only utility charge is electricity)
Water rates	(It appears that the only utility charge is electricity)