

12208



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

**Case Reference** : **BIR/OOBY/LIS/2016/0032**

**Property** : **Flat 3, 8 Norton Street  
LIVERPOOL L3 8QA**

**Applicant** : **Mr A R Bloodworth**

**Representative** : **N/A**

**Respondent** : **Belltower Management Ltd**

**Representative** : **N/A**

**Type of Application** : **Service Charges s27A and  
Limitation of Costs s20C  
Landlord and Tenant Act 1985**

**Tribunal Members** : **Mr I P Taylor FRICS (Valuer Chair)  
Judge D R Salter**

**Date and venue of  
Hearing** : **22<sup>nd</sup> February 2017**

**First Tier Tribunal (Property Chamber)  
Centre City Tower  
5-7 Hill Street Birmingham B5 4UU**

**Date of Decision** : **25<sup>th</sup> April 2017**

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**DECISION**

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## DECISIONS OF THE TRIBUNAL

1. The Tribunal makes the determination as set out under the various headings in this Decision and as set out in the attached Scotts Schedule (Appendix 2). The Tribunal determines that the service charge for the Applicant should not exceed the following amounts;

|                         |         |
|-------------------------|---------|
| March 2007 - March 2008 | £450.97 |
| March 2008-March 2009   | £356.11 |
| March 2009 - March 2010 | £450.97 |
| March 2010 - March 2011 | £301.51 |

2. The Tribunal makes an order under Section 20C of the Landlord and Tenant Act 1985. ( see paragraph 81 below)
3. Relevant Statutory provisions are provided in Appendix 1. of this decision.

### The Application

4. On 17<sup>th</sup> August 2016, the Applicant, Mr Alan Bloodworth applied to the First-tier Tribunal (“the Tribunal”) for a determination under Section 27A of the Landlord and Tenant Act 1985 (“the Act”) for liability to pay, and for reasonableness of service charge levied for the periods ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011.
5. An Application under Section 20C of the Act 1985 was also submitted.
6. The matter was transferred from the Northern Panel to the Midland Panel of the Tribunal due to a potential conflict of interest of a Valuer member who sits on the Northern Panel.
7. Directions were served on 3<sup>rd</sup> October 2016 by the Regional Judge.
8. Further Directions were served on 7<sup>th</sup> November 2016 relating to service charge accounts and copy demands.
9. On the 28<sup>th</sup> November 2016 the Regional Judge directed that proceedings would be withdrawn against the first respondent named in the Application Derwent Lodge Estates Ltd.
10. On the 12<sup>th</sup> December 2016 Directions were served confirming withdrawal of proceedings against the first Respondent.

11. Following the above, a further Direction was issued on 5<sup>th</sup> January 2017 by the Regional Judge confirming that this matter was to be listed as an oral hearing, with no inspection, and with a time estimate of 2 hours.
12. The Hearing was set for 22<sup>nd</sup> February 2017.
13. Subsequent to the Hearing, Directions were issued by the Tribunal Chairman relating to further and better particulars requested during the Hearing.

### The Background

14. The Applicant, Mr Alan Bloodworth, is the lessee of Flat 3, 8 Norton Street, Liverpool, L3 8QA on a lease for a term of 99 years from 1<sup>st</sup> January 2001.
15. The service charge percentage is agreed at 2.31% by the Applicant.
16. The development is a mixed use building of residential and commercial properties. The Management Company, Belltower Management Ltd, the Respondent in this Application, is 100% owned by the lessees of the residential part of the building. Belltower Management Ltd currently instructs Central Property Management to carry out day-to-day functions of management, but declined to submit evidence as it was not instructed at the submitted times of issue. Belltower Management Ltd was unable to attend any suggested times for a Hearing and confirmed that it had no information relating to the relevant periods that would assist the Tribunal. Mr Ian James, Chartered Surveyor, who was the managing agent during the years in dispute, failed to submit evidence nor was he able to assist the Tribunal.
17. 8 Norton Street and 8 London Road, Liverpool forms a residential block of flats totalling 35 units (14 + 21) and a number of commercial units. The commercial element is owned by Derwent Lodge Estates Ltd which is no longer a party to the Application.

### The Inspection

18. No inspection was carried out as provided by the Directions dated 5<sup>th</sup> January 2017

## The Issues

At the start of the Hearing the issues were identified as follows;

19. The payability and/or reasonableness of service charge for the years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011.
20. Whether the Tribunal should make an order under Section 20C of the Act.
21. The relevance of Section 20B of the Act in respect of which Directions were issued by the Tribunal Chairman subsequent to the Hearing.

## The Main Headings of Charge for the Accounting Periods 2008, 2009, 2010 and 2011

22. The Applicant submitted a Scotts Schedule which was the basis of his submission to the Tribunal.
23. It was apparent to the Tribunal that there was little research carried out by the Applicant and that much of the submission was based upon the Applicant's "considered opinion" rather than facts and evidence.
24. The Applicant's principal argument was in relation to the certificates of expenditure submitted by the Respondent's managing agents during the identified periods.

## Cleaning (2008, 2009, 2010, 2011)

25. The Applicant submitted that in each of these accounting years the cost of cleaning was considered "unreasonable". The Applicant was unable to explain this submission other than by reference to the cost of cleaning carried out in later years.
26. The Applicant was unable to submit comparable quotations nor was he able to identify specific issues other than that on one day in 2009 photographs were taken identifying rubbish and dirt in the common areas at the premises, but he was unable to confirm, or otherwise, the cycle of cleaning and if this was the state of these areas, as shown on the photographs, was present over a long period of time.
27. The Tribunal requested details of the duties of the cleaners during the years in question and, by way of comparison, the duties of the current cleaners but the Applicant was unable to provide this information.

28. The Tribunal pointed out to the Applicant that in respect of the accounting year ending March 2011 the Scotts Schedule provided did not match the actual expenditure reports but was based upon the Budget provided.
29. The Respondent failed to provide a submission.
30. The Tribunal considered all submissions and noted that there was no evidence that the cleaning had not been carried out nor that the cost was unreasonable and, therefore, determines that the stated expenditure under this heading appears to be reasonable and is allowable in full for each of the accounting years.

#### Key Holding (2008 & 2009)

31. The Applicant submitted for the accounting years ending 31st March 2009 and 31st March 2010 that this item was unsubstantiated, unreasonable and was not covered in the service charge provisions of the lease.
32. The Respondent failed to provide a submission.
33. The Tribunal considered this submission from the Applicant and the obligations in respect of the service charge within the Third Schedule of the lease and determines that this cost is not payable and should be deleted from the stated expenditure for these accounting years.

#### Lift Maintenance (2008,2009,2010 & 2011)

34. The Applicant submitted, for the accounting years ending 31st March 2008, 31st March 2009, 31st March 2010 and 31st March 2011, that there was no evidence that maintenance had been carried out and the expenditure cited for this maintenance was unsubstantiated. He indicated that he had not had sight of any contracts relating to maintenance of the lift.
35. The Applicant further stated that he had seen evidence of vandalism. However, the Applicant was unable to supply any evidence relating to this issue and confirmed that he was rarely on site and thus was unable to provide such confirmation.
36. The Respondent failed to provide a submission.
37. The Tribunal considered the submissions made by the Applicant and determines that the stated expenditure under this heading appears reasonable and is allowable in full for each accounting year determined as there was no evidence to the contrary.

#### Repairs (2008,2009,2010 & 2011)

38. The Applicant submitted that for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011, that there was no evidence of any repairs being carried out and, specifically, drew the Tribunal's attention to the issue of a broken rear door hinge which the Applicant had to repair on his own account.
39. The Applicant provided no specific evidence of disrepair (other than the rear door) nor, indeed, provided evidence of expenditure incurred for which no evidence of work was provided and confirmed that he was rarely on site and thus was unable to provide such confirmation.
40. The Respondent failed to provide a submission.
41. The Tribunal considered the submissions made by the Applicant and determines that the stated expenditure under this heading appears to be reasonable and is allowable in full for each accounting year as there was no evidence to the contrary.

#### Lift Phone Line (2008,2009,2010 & 2011)

42. The Applicant submitted, for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011, that this cost was excessive and unsubstantiated
43. The Applicant was unable to supply any information nor evidence to support his submission.
44. The Respondent failed to provide a submission.
45. During the Hearing, the Applicant accepted that this expenditure appeared to be reasonable and the Tribunal determines accordingly.

#### Fire Alarm (2008,2009,2010 & 2011)

46. The Applicant submitted that, for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 that the figure for fire alarm maintenance was excessive and unsubstantiated.
47. The Applicant provided no evidence that the cost incurred was unreasonable nor was he able to provide alternative quotations for this work.

48. The Respondent made no submissions.

49. The Tribunal considered the submissions made by the Applicant and determines that the stated expenditure under this heading appears to be reasonable and allowable in full for each accounting year as there was no evidence to the contrary.

Administration Fee (2008,2009,2010 & 2011)

50. The Applicant submitted that for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 the figure relating to an Administration fee was unsubstantiated and, moreover, that it was not covered by the service charge provisions of the lease.

51. The Respondent made no submissions.

52. The Tribunal considered the submissions made by the Applicant and determines that with the evidence submitted it was unclear what was covered by the Administration fee which had been charged and there was no obvious reason why a charge for administration fees should have been made. Accordingly, it determines that the cost of such fees is not allowable and should be deleted from the stated expenditure for each of these accounting years.

Management Fee (2008,2009,2010 & 2011)

53. The Applicant submitted that for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 the figure relating to management fees was excessive and unsubstantiated.

54. The Applicant was unable to supply any comparable quotations nor was he able to explain why he felt the management fees were excessive and unsubstantiated. The Applicant was only able to supply the current managing agents figure as evidence to support his case.

55. The Respondent made no submissions.

56. The Tribunal considered the submissions made by the Applicant and determines that the stated expenditure under this heading appears reasonable for the accounting years ending March 2008, and March 2010 but the years ending March 2009 and March 2011 appeared to be showing additional figures not relating to this heading and thus cannot be allowed in full. Accordingly, the Tribunal determines, that in each year, the management fee should not exceed £4,112.50 (including VAT).

Professional Fee (2008,2009,2010 & 2011)

57. The Applicant submitted that, for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 that the figure for Professional fees was excessive and unsubstantiated.
58. In this respect, the Applicant had presented annual service charge accounts together with the profit and loss workings from Belltower Management Ltd for the accounting year ending March 2011. However, they appeared to be different in every format and the Tribunal found it difficult to differentiate between them and to come to a conclusion on the real and conclusive expenditure incurred. Whilst in 2011 there was a clear heading of expenditure in the service charge accounts there was no such expenditure shown in the actual workings nor in the company accounts provided.
59. Following the Hearing the Tribunal issued further Directions to obtain information in this regard but no such information was supplied by either Party.
60. In the case of the other accounting years only the service charge accounts were provided.
61. The Respondent made no submissions.
62. The Tribunal considered the submissions made by the Applicant and determines that with the evidence submitted there was no compelling reason for the imposition of a charge for professional fees; a position compounded by the juxtaposition of the service charge accounts and the workings within the profit and loss accounts for the accounting year ending 31<sup>st</sup> March 2011. The Tribunal, therefore, determines that the total cost of such fees is not allowable and should be deleted from the stated expenditure for these accounting years.

Lift Insurance (2008,2009,2010 & 2011)

63. The Applicant submitted that for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 the figure relating to Lift Insurance was excessive and unsubstantiated. The Applicant could not provide any explanation for his submission.
64. The Respondent made no submissions.
65. The Tribunal considered the submissions made by the Applicant and determines that the stated expenditure under this heading appears to be reasonable and is, save for the accounting year ending 31<sup>st</sup> March 2010 when the Lift Insurance more than doubled for no apparent reason, allowable. Accordingly, the

accounting year ending 31<sup>st</sup> March 2010, the Tribunal limits this expenditure to £350.00 for the year.

Electricity (2008,2009,2010 & 2011)

66. The Applicant submitted that for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 the figure relating to electricity was excessive and unsubstantiated.
67. The Applicant provided no evidence that the cost incurred was unreasonable.
68. The Applicant accepted that the electricity was necessary for the smooth running of the block and was covered by the service charge provisions in the lease.
69. The Respondent made no submissions.
70. The Tribunal considered the submissions made by the Applicant and determines that the stated expenditure under this heading appears to be reasonable and is allowable in full for each accounting as there was no evidence to the contrary.

Sinking Fund and Reserve Fund (2008,2009 & 2010 )

71. The Applicant submitted that for the accounting years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 the figures relating to Sinking Fund and Reserve Fund were excessive and unsubstantiated.
72. In this regard, the Tribunal noted that the lease within the Third Schedule Part 2 (B) (1.5) provides for the "*setting aside such sums of money.....as the Management Company may reasonably require by way of reasonable provision for future expenditure in complying with its obligations hereunder*".
73. The Respondent made no submissions.
74. The Tribunal considered the submissions made by the Applicant and determines that this item appears to be reasonable and is allowable in full for each accounting year determined as there was no evidence to the contrary. The Tribunal noted that these items are not items of expenditure and no money has been expended.

Section 20B of the Act 1985 (2008,2009,2010 & 2011 )

75. The Applicant provided written submissions on this following further Directions issued by the Tribunal Chairman subsequent to the Hearing. He submitted that the effect of Section 20B of the Act was that the Tribunal should disallow all

service charge items claimed more than 18 months following the date that the actual work relating to the item concerned was carried out and not 18 months after the invoice date.

76. On this point, the Tribunal found the Applicant's submission to be of limited assistance as it did not, specifically, assist with a cohesive assessment for conclusion as to what discounts should be applied and the amounts involved even though this had been requested in the Directions.

77. The Respondents made no submissions.

78. In the context of the application, or otherwise, following the submission of Section 20B the Tribunal considered *OM Property v Burr 2013* (EWCA Civ 479).

79. The Tribunal noted that The Master of the Rolls concluded;

80. *"on the conclusion that I have reached the tenant enjoys the protection that, subject to Section 20B(2), he is not liable to pay so much of a service charge as reflects costs incurred more than 18 months after an invoice is presented or payment is made by the landlord/management company. It is true that this provides less protection than if the tenant is not liable to pay so much of a service charge as reflects costs incurred more than 18 months after the service is provided or supply made"*

81. Additionally, guidance can be obtained from the reference to "Burr" in the later case of *Ground Rents (Regisport) Limited v Dowlen and others* (2014) UKUT 0144 (LC) where it was stated (in relation to "Burr") in paragraph 25 of Dowlen that:

*"The Court of Appeal (upholding the decision of the Tribunal (His Honour Judge Mole QC) held that as a matter of ordinary language a liability had to crystallise before it became a cost: that distinction between a liability and a cost was reflected in section 20B. The relevant costs were not "incurred" within the meaning of section 20B of the 1985 Act simply on the provision of services or supplies to the landlord or its management company, but only on the presentation of an invoice or other demand for payment or on payment being made".*

82. The Tribunal noted that the majority of the certified accounts submitted by the Applicants were not dated and therefore had to rely on the Applicant's main submissions to try and ascertain on what basis the 18 month rule might be applied.

83. Section 20B has no application where (a) interim payments on account of service charge are made by a tenant during the year (b) the actual expenditure for the year turns out not to be more than the total of the interim payments and (c) no demand for a balancing payment is made by the landlord.

84. Section 20B only applies where a demand for payment of a service charge is made where the cost or costs underlying that demand were incurred more than 18 months earlier than the date of the demand (see above when a cost is incurred) Where a demand made after the service charge year-end is for a balancing charge, however, it clearly does relate to costs already incurred. The balancing charges represent the amount by which the estimated expenditure fell short of the actual expenditure for the year concerned, that is to say, those costs incurred after the advance service charge payments had been spent. Thus, a tenant is not liable to pay any balancing charge (or part of the same) which represent costs which have been incurred more than 18 months prior to the demand. But, any service charges paid in advance (on account) are unaffected. Thus, in considering balancing payments it is necessary to ascertain when the advance payments were fully utilised and, as a result, when the costs underpinning the balancing payment began to be incurred.

85. Therefore, the Tribunal determines that the following discounts should be applied to the relevant accounting years based upon Section 20B of the Act;

| Year End | Requested amount | Section 20B calculations |        |                                    |       |
|----------|------------------|--------------------------|--------|------------------------------------|-------|
|          |                  | Certified by Belltower   |        | Determined discount Re Section 20B |       |
| Mar-08   | £ 450.97         | £                        | 472.77 | £                                  | 21.80 |
| Mar-09   | £ 450.97         | £                        | 356.11 | £                                  | -     |
| Mar-10   | £ 450.97         | £                        | 465.17 | £                                  | 14.20 |
| Mar-11   | £ 415.00         | £                        | 301.51 | £                                  | -     |

## Conclusion

86. In conclusion, the Tribunal was disappointed that the Respondents failed to engage in this process, even though it was clear it had no information to present and the Tribunal was further disappointed that the managing agent who was responsible for the relevant periods, Mr Ian James, did not assist the Tribunal with any information whatsoever.

87. Based upon the determinations of the Tribunal, as set out at the outset of this Decision and the figures attached and calculated within the Scotts Schedule within Appendix 2, the Tribunal has calculated the final determined service charge to be paid by the Applicant for the years ending 31<sup>st</sup> March 2008, 31<sup>st</sup> March 2009, 31<sup>st</sup> March 2010 and 31<sup>st</sup> March 2011 as follows;

| Year End | Certified by Belltower | Tribunal Determined Discount | Tribunal determined for year | % determined payable by Flat 3<br>2.31% | Section 20 B Discount | Final Determined Service Charge |
|----------|------------------------|------------------------------|------------------------------|---|-----------------------|---------------------------------|
| Mar-08   | £ 22,522.91            | £ 2,056.68                   | £ 20,466.23                  | £ 472.77                                | £ 21.80               | £ 450.97 Mar-08                 |
| Mar-09   | £ 17,908.39            | £ 2,492.40                   | £ 15,415.99                  | £ 356.11                                | £ -                   | £ 356.11 Mar-09                 |
| Mar-10   | £ 21,959.30            | £ 1,821.87                   | £ 20,137.43                  | £ 465.17                                | £ 14.20               | £ 450.97 Mar-10                 |
| Mar-11   | £ 15,321.00            | £ 2,268.75                   | £ 13,052.25                  | £ 301.51                                | £ -                   | £ 301.51 Mar-11                 |

### **Application under Section 20C of the Act**

88. The Applicant also applied for an order under Section 20C of the Act. The Respondents made no submissions nor attended the Hearing. However, for the sake of good order, following submissions from the Applicant and taking into account its final determinations, the Tribunal makes an order that all of the costs incurred by the Landlord, if any, in connection with these proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of the service charge payable by the Applicants.

### **Appeal**

89. A party seeking permission to appeal this decision must make a written application to this Tribunal (Midland Panel) for permission to appeal. This application must be received by the Tribunal no later than 28 days after this decision is sent to the parties. Further information is contained within Part 6 of The Tribunal (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013 No. 1169).

Ivan Taylor FRICS – Valuer chair

## APPENDIX 1 - THE LAW

### THE LAW

#### **Landlord and Tenant Act 1985**

##### **Section 19 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 adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

##### **Section 27A Liability to pay service charges: jurisdiction**

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

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

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

(e) the manner in which it is payable.

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

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for 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-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 of an application under subsection (1) or (3).

(7) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.

### **Section 20 Limitation of service charges: consultation requirements**

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

- (a) complied with in relation to the works or agreement, or
- (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.

(2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

- (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
- (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—

- (a) an amount prescribed by, or determined in accordance with, the regulations, and
- (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection 5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

**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 a demand for payment of the service charge is served on the tenant, then (subject to subsection 2) the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

**Section 20C 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.

## SCOTTS SCHEDULE

## Appendix 2

(note Respondent 1 withdrawn 12 December 2016)

Note Applicant took possession of the Flat on 20/8/07. Service charges estimate were paid in full pro-rata for this accounting year.

| Item                | Value (£) | Reason for Applicant's dispute   | Respondent 2 observations | First-tier Tribunal use  | Discount   |
|---------------------|-----------|--|---------------------------|--|------------|
|                     |           |  | (Belltower Management)    |  | determined |
| 1 cleaning          | 318       | Unreasonable charge, no evidence of cleaning. Dne off high charge (31/3/08) unsubstantiated. The Landlord (Respondent 1) has also been paid £1606 in respect of caretaking/cleaning. |                           | See enclosed decision for determination for each heading of this Scotts Schedule | £0.00      |
| 2 key holding       | 411.42    | Excessive and unsubstantiated. See Management Fee item. The Landlord (Respondent 1) has also been paid separately £1606 in respect of caretaking/cleaning.                           |                           |  | £411.42    |
| 3 lift maintenance  | 117       | No evidence of maintenance and unsubstantiated.  |                           |  | £0.00      |
| 4 repairs           | 2978.51   | Excessive and unsubstantiated. No evidence of work been carried out. Lock repairs properly chargeable against Reserve Fund.  |                           |  | £0.00      |
| 5 UIR phone line    | 387.4     | Excessive and unsubstantiated.   |                           |  | £0.00      |
| 6 fire alarm        | 940       | Excessive and unsubstantiated (2017 demand is £500). The Landlord (Respondent 1) has also been paid £1739 separately in respect of fire precautions.                                 |                           |  | £0.00      |
| 7 admin fee         | 940       | Excessive and unsubstantiated  |                           |  | £940.00    |
| 8 Management fee    | 4112.5    | Excessive and unsubstantiated. (Demand for year 2017 is £3,600).   |                           |  | £0.00      |
| 9 professional fees | 705.26    | Excessive and unsubstantiated  |                           |  | £705.26    |
| 10 UIR insurance    | 370       | Excessive and unsubstantiated (2017 demand is £270).   |                           |  | £0.00      |
| 11 electricity      | 1311.62   | Excessive and unsubstantiated  |                           |  | £0.00      |
| 12 Sinking fund     | 3000      | Excessive, major items for replacement not identified  |                           |  | £0.00      |
| 13 Reserve fund     | 3000      | Excessive, major items for maintenance not identified  |                           |  | £0.00      |
|                     |           |  |                           |  | £0.00      |
|                     |           |  |                           |  | £2,058.68  |

22,522.91

£2,058.68

Flat 3, 8 Norton St, Liverpool - Belltower Management Service Charge Declared Expenditure, 1 April 2008-31 March 2009.

(note Respondent 1, withdrawn 12 December 2016)

Note service charges were paid by Applicant in advance in full for this accounting year.

| Item                | Value (£) | Reason for Applicant's dispute   | Respondent 2 observations | First-tier Tribunal use |
|---------------------|-----------|--|---------------------------|-------------------------|
| 1 cleaning          | 2940      | Unreasonable charge, no evidence of cleaning. One off high charge (31/3/09) unsubstantiated. The Landlord (Respondent 1) has also been paid £1485 in respect of caretaking/cleaning. |                           | £0.00                   |
| 2 key holding       | 413       | Excessive and  |                           | £411.00                 |
| 3 lift              | 2500      | No evidence of   |                           | £0.00                   |
| 4 repairs           | 2514.73   | Excessive and  |                           | £0.00                   |
| 5 Lift phone line   | 373.25    | Excessive and unsubstantiated.   |                           | £0.00                   |
| 6 fire alarm        | 815.45    | Excessive and unsubstantiated, alarms already installed (2017 demand is £500). The Landlord (Respondent 1)   |                           | £0.00                   |
| 7 admin fee         | 881.25    | Excessive and unsubstantiated.   |                           | £881.25                 |
| 8 Management fee    | 4845.7    | Excessive and unsubstantiated. (2017 demand is £3,600).  |                           | £733.20                 |
| 9 Professional fees | 466.03    | Excessive and unsubstantiated.   |                           | £466.05                 |
| 10 IIR insurance    | 351       | Excessive and unsubstantiated (2017 demand is £270).   |                           | £0.00                   |
| 11 electricity      | 1312      | Excessive and unsubstantiated  |                           | £0.00                   |
| 12 Sinking fund     | 750       | Excessive, major items for replacement not identified.   |                           | £0.00                   |
| 13 Reserve fund     | 750       | Excessive, major items for maintenance not identified.   |                           | £0.00                   |
|                     | 17,908.39 |  |                           | £0.00                   |

[note Respondent 1 withdrawn 12 December 2018]

Note service charges were withheld by Applicant for this accounting year pending proper substantiation of earlier years demands.

|  | Item                | Value (£) | Reason for Applicant's dispute                          | Respondent 2 observations<br><br>(Bellflower) | First-Tier Tribunal use |         |
|--|---------------------|-----------|---|---|-------------------------|---------|
|  | 1 cleaning          | 2967.5    | Unreasonable charge, no                                 |   |                         | £0.00   |
|  | 2 key holding       | 0         |   |   |                         | £0.00   |
|  | 3 lift              | 3200.98   | No evidence of  |   |                         | £0.00   |
|  | 4 repairs           | 4712.95   | Excessive and   |   |                         | £0.00   |
|  | 5 lift phone line   | 348.3     | Excessive and unsubstantiated.                          |   |                         | £0.00   |
|  | 6 fire alarm        | 0         |   |   |                         | £0.00   |
|  | 7 admin fee         | 881.25    | Excessive and unsubstantiated.                          |   |                         | £881.25 |
|  | 8 Management fee    | 4112.5    | Excessive and unsubstantiated. (2017 demand is £3,600). |   |                         | £0.00   |
|  | 9 Professional fees | 940.62    | Excessive and unsubstantiated.                          |   |                         | £940.82 |
|  | 10 Lift Insurance   | 720.3     | Excessive and   |   |                         | £0.00   |
|  | 11 electricity      | 2575      | Excessive and unsubstantiated. (2017 demand is £1300).  |   |                         | £0.00   |
|  | 12 Sinking fund     | 750       | Excessive, major items for replacement not identified.  |   |                         | £0.00   |
|  | 13 Reserve fund     | 750       | Excessive, major items                                  |   |                         | £0.00   |
|  | Balancing           | 92.28     | Supplementary demand                                    |   |                         | £0.00   |

21,959.30

£1,821.87

Flat 3, 8 Norton St, Liverpool - Belltower Management Service Charge Demand  
 1 April 2010-31 March 2011. Items disputed and Respondent 2 observations.  
 (note Respondent 1 withdrawn 12 December 2016)

| Item                | Value (£) | Reason for Applicant's   | Response (Belltower) | First-tier Tribunal use |         |
|---------------------|-----------|--|----------------------|-------------------------|---------|
| 1 cleaning          | 3000      | Unreasonable charge, no evidence of proposed cleaning. The Landlord (Respondent 1) has also been paid £1826 in respect of caretaking/cleaning. (2017 demand is |                      |                         | £0.00   |
| 2 key               | 0         |  |                      |                         | £0.00   |
| 3 lift              | 3000      | Excessive and  |                      |                         | £0.00   |
| 4 repairs           | 800       | Unsubstantiated.   |                      |                         | £0.00   |
| 5 Lift phone        | 400       | Excessive and  |                      |                         | £0.00   |
| 6 fire alarm        | 850       | Excessive and  |                      |                         | £0.00   |
| 7 admin fee         | 881.25    | Excessive and unsubstantiated.   |                      |                         | £881.25 |
| 8 Management fee    | 4750      | Excessive and unsubstantiated. (2017 demand is £3,600).  |                      |                         | £637.50 |
| 9 Professional fees | 750       | Excessive and unsubstantiated.   |                      |                         | £750.00 |
| 10 Lift insurance   | 350       | Excessive and unsubstantiated.   |                      |                         | £0.00   |
| 11 electricity      | 1500      | Excessive and unsubstantiated.   |                      |                         | £0.00   |
| 12 Sinking fund     | 0         |  |                      |                         | £0.00   |
| 13 Reserve fund     | 0         |  |                      |                         | £0.00   |

16,281.25

£2,268.75