

<b>Scott Schedule</b>						
<b>Disputed service charges year ended 31 December 2017</b>						
<b>Case reference</b>	<b>BIR/OOFN/LIS/2018/0071</b>			<b>Property - Alexandra House, Leicester LE1 1SQ</b>		
Item	Cost	Applicant's Comments	Respondent	Respondent's Comments	Applicant's Comments	Leave Blank for the Tribunal
General comments				abbreviations - AHMC = the 1st applicant, Peach = Peach Property Management Limited		
				references are to the new bundle of documents unless otherwise stated		
				AHMC has failed to comply with the lease		
				AHMC has failed to charge reasonable sums		
				AHMC has produced bogus documents, its credibility is questioned		
				The service charge accounts produced by AHMC are inadequate, as a minimum requirement they should identify the charges payable by the different groups of leaseholders, they are drawn up in a manner which is inconsistent from year to year and inconsistent with the budgets, the cost headings are inappropriate. Changes in accounting policies have not been disclosed nor explained. The accounts do not enable comparison of expenditure from one year to another or with the budget.		
				The information supplied by AHMC is unreliable.		
				No nominal ledger accounting records have been produced by AHMC, just some working papers and a selection of invoices, which may have been cancelled or amended. Credit notes have been omitted, accruals have not been reversed, prepayments have not been included. It appears that AHMC has been highly selective when presenting information, meaningless documents have been produced whilst meaningful documents have been omitted		
				Bank statements have not been produced, there is little evidence of actual payments		

				<p>There are a large number of errors all of which fall in AHMC's favour, statistically the likelihood of that occurring by chance is negligible. With the limited information available, it is highly likely that we are looking at the tip of an iceberg and there are many more errors which we have been unable to identify. There appears to be a lack of authorisation of service charge expenditure and a failure to reconcile suppliers accounts. The respondents ask AHMC to correct the errors so that the parties do not need to take up the time of the Tribunal. AHMC is not entitled to recover more than it has expended nor amounts exceeding a reasonable sum.</p>		
				<p>AHMC has disregarded the previous Tribunal decision, the Tribunal went to great length over a period of 7 days to explain the areas of overcharging to AHMC which has ignored those comments and has continued to overcharge</p>		
				<p>AHMC refused to allow inspection of documents on several occasions which would have enabled the parties to narrow down the issues for the Tribunal to consider</p>		
				<p>AHMC has failed to be transparent, it has failed to disclose transactions with Roxylight Group Companies and associated contractors and persons</p>		
				<p>AHMC has failed to disclose all costs incurred relating to the previous Tribunal case</p>		
General comments regarding this year only				<p>AHMC did not supply a copy of the accounts or the budget to some leaseholders</p>		
				<p>The budget for the year p523 is illegible</p>		
				<p>Mr A S Cook was a director of AHMC during the year. He was appointed by the developer Saxon Urban (Two) Limited, which was part of the Roxylight Group. Peach is also part of the same Group. Other directors are stated to have been appointed in April 2014 however Mr Cook had no authority to appoint directors because the members voted to remove him as a director in February 2014. None of the directors have declared their conflicts of interest to the leaseholders/members, who have not elected them.</p>		

				AHMC has failed to disclose details of the actual car park expenditure although it must possess that information otherwise it would be unable to disclose a deficit of £683 for the year on page 543. It is impossible for the respondents to reconstruct that figure from the limited information produced by AHMC. We have used our best endeavours to allocate the costs despite it not being our responsibility.		
				AHMC made some adjustments during the year relating to the previous Tribunal decision, AHMC is asked to explain where in the accounts the corresponding charges appear because it has not explained		
				Incorrect charges have been applied to some leaseholders during the year in respect legal fees		
				Companies House issued a notice to strike off AHMC on 18 April 2017.		
Other income	0		900	no details have been supplied by AHMC, which has applied interest and administration charges during the year, we have estimated income of £900 in accordance with the accounts for 2013. AHMC is stated to be a non profit making company therefore all income must be accounted for within the service charge accounts.	These do not fall within the Tribunal's jurisdiction under section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act").	The Tribunal's jurisdiction is limited to making a determination under section 27A of the 1985 Act as to liability to pay a service charge. Service Charge means amounts payable by a tenant in accordance with section 18(1). Under the terms of the Lease the service charge is "Tenant's Share of Expenses". Income received or receivable by the Management Company is neither a Service Charge item nor an Expense and therefore falls outside the jurisdiction of the Tribunal.
Deposit account interest	6		1170	AHMC has failed to produce any details, the inadequate interest indicates that monies are not being held correctly, we have estimated 1% based on the average reserve fund balance	These do not fall within the Tribunal's jurisdiction under section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act").	See above
sub total	6		2070			<b>£6</b>
Expenditure						
Rates and water	324		324			<b>£324</b>

Insurance	63321		57124	The working paper does not agree with the accounts. The E&J amounts require adjustment following the agreement to amend the commission, we have estimated a credit of £3500, charges by DJH and Peach should not be included under insurance, they relate to flats and are not service charge expenditure, the charges by Peach are unreasonable in any event	<p>Pursuant to clause 5 of the lease, the management company have covenanted to observe and perform the obligations specified in Schedule 8.</p> <p>Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 of Schedule 4.</p> <p>Paragraph 10 to Schedule 4 requires the applicant to pay all taxes, charges and outgoing payable in respect of the building communal areas or estate communal areas, which includes payment to the second applicant (as landlord) of the premiums paid by the second applicant in respect of the services set out in part 2 of the Schedule.</p> <p>Part 2 of the Schedule relates to buildings insurance, together with insurance of the estate communal areas.</p>	<p><b>£61145</b> Premises Insurance - £57746.56 (agreed). Lift insurance - £1758.70 (agreed) (page 2059) "Excess" – allow DJH Decorating Services - £940. Reduce Peach by 30% in respect of labour charges to £700.</p> <p>[Valet Insurance (pages 2057 and 2058) £5591.89 plus £63 (agreed)= £5655 - transferred to car parking.]</p>
Light and heat	14562		12742	The working paper does not agree with the accounts. In 2014, AHMC entered into a QLTA for 3 years without following the consultation procedure. AHMC has not allocated the costs in a consistent manner with the previous Tribunal decision.	<p>Pursuant to clause 5 of the lease, the management company have covenanted to observe and perform the obligations specified in Schedule 8.</p> <p>Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 of Schedule 4. Paragraph 10 to Schedule 4 requires the applicant to pay all taxes, charges and outgoing payable in respect of the building communal areas or estate communal areas or expenses which are not the responsibility of the leaseholders. Accordingly, such costs are recoverable pursuant to paragraph 10 to part 1 of Schedule 4 of the lease.</p> <p>The management company accepts that in 2013 the tariff was a business rather than residential tariff. However, the management company sought a refund which was received in later service charge years. The refund will therefore show in later accounts.</p> <p>The Respondent challenges the accounts and the documents supplied. The Applicant refers to page 571 showing Light and Heat at £14,990 and page 2060 – 2063 showing the expenditure as £14,990.43.</p>	<p><b>£12742</b> The Tribunal adopts the figure in the Accounts which is consistent with working papers at pages 2060 - 2063 (£14990)</p> <p>Total - £14990 Estate (85%) = £12742 Car Parking (15%) = £2249</p> <p>QLTA as noted in 2014 – Respondent's contribution capped at £100. Applies to Apartment 94 only - credit £4.</p>
Valet operative additional duties	3571		0	AHMC has not supplied a working paper. The allocation of the cost is inconsistent with the previous Tribunal decision.		<p><b>£21197</b> Wages and Social Security – not disputed in Scott Schedule Total - £84788 Estate (25%) = £21197 Car Parking (75%) = £63591</p>
						<p><b>£447</b> Employers pension Contribution – not disputed in Scott Schedule</p>

						<b>£2273</b> Telephone – not disputed in Scott Schedule Total - £2598 Estate (87.5%) = £2273 Car Parking (12.5%) = £325
Post and stationery	392		0	The charges by Peach are unreasonable. VAT should not be applied to postage. No receipts from the post office have been produced.	Pursuant to clause 5 of the lease, the management company have covenanted to observe and perform the obligations specified in Schedule 8.  Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 of Schedule 4. Paragraph 10 to Schedule 4 requires the applicant to pay all taxes, charges and outgoings payable in respect of the building communal areas or estate communal areas or expenses which are not the responsibility of the leaseholders. Accordingly, such costs are recoverable pursuant to paragraph 10 to part 1 of Schedule 4 of the lease.  Further and/or alternatively, paragraph 6 to part 1 to Schedule 4 requires the applicant to provide, operate, maintain and renew any appliances or systems which it considers necessary for the safety and security of the occupiers of Alexandra House.  Further and/or alternatively, paragraph 14 to part 1 to Schedule 4 requires the applicant to generally manage, administer and protect the amenities of the building communal areas and the estate communal areas.  The post and stationery costs are incurred by Peach, and then re-charged to the management company. Given that Peach are VAT registered, the re-charge is subject to VAT.  The management company disputes the respondent's comments – all receipts have been provided at pages 2155 – 2158.	<b>£188</b> Peach invoice at page 2158 suggests purchase of stamps on 9/11/17 in the sum of £203.88. In fact, Mr Barton's document 2392 shows that this was in fact the purchase of euros at Fairford Post Office. Mr Petty confirmed this was a personal purchase at the hearing. Invoice 17/65 disallowed.
Hotel/travel	150		150			<b>£150</b>

Management fees	30500		4475	<p>The management is woefully inadequate, Peach failed to disclose its connection with the Roxylight Group, it has not complied with the RICS code of practice despite the lengthy explanations by the previous Tribunal, the system of charging is incorrect, insurance was charged separately, it has failed to issue valid invoices, multiple versions of invoices have been produced, Peach has been unable to explain adequately the expenditure included within the service charge accounts, it has not been transparent, it failed to allow inspection of the supporting documents, it has failed to produce valid year end certificates to leaseholders. It failed to follow the consultation procedure, unreasonable administration charges have been applied. Peach has failed to disclose details of all income and benefits it has received arising from the management. Peach breached the data protection act by disclosing (incorrect) personal information in the accounts p532. Peach has no authority for charging in advance, it has failed to repay the monies which the previous Tribunal found it had overcharged. The charge is unreasonable, a nominal sum of £25 per unit is proposed. Peach has now resigned, not before time, the members/leaseholders of AHMC voted to remove it in 2014.</p>	<p>Pursuant to clause 5 of the lease, the management company has covenanted to observe and perform the obligations specified in Schedule 8.</p> <p>Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 of Schedule 4.</p> <p>Paragraph 14 to part 1 to Schedule 4 requires the applicant to generally manage, administer and protect the amenities of the building communal areas and estate communal areas and, for that purpose, employ managing agents.</p> <p>The criticisms raised by the respondent are denied. It is denied that the management on the part of Peach has been inadequate. Any connection, or otherwise, with the Roxylight Group is irrelevant: the management company is a lessee owned and controlled management company and has chosen to employ the services of Peach as it's managing agent. The directors of the management company are lessees and, as a board of directors, have resolved to appoint Peach as their agent.</p> <p>It is disputed that the system of charging has been incorrect. Whilst there have been occasions in which insurance is shown as a separate charge, this practice is not uncommon within the industry.</p> <p>It is disputed that there has been a failure to allow inspection of supporting documents. The respondent has sought to exercise his rights under sections 21 and 22 of the 1985 Act. Most recently, the respondent failed to attend his appointment with Peach.</p> <p>It is disputed that the 2017 accounts disclosed a list of debtors. Document 532 which the Respondent refers to is in relation to 2013.</p> <p>It is accepted that Peach issue an invoice in advance of their services which is then paid monthly in arrears.</p> <p>It is also accepted that Peach have no reside as managing agent. Ray Petty, Estate Manager, retires at the end of July 2019. Given Mr Petty's involvement and experience with the building,</p>	<b>£21480</b>
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Repairs and renewals	22322		17370	The working paper does not agree with the accounts, works to flats is not service charge expenditure	<p>Pursuant to clause 5 of the lease, the applicant has covenanted to observe the obligations specified in Schedule 8.</p> <p>Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 of Schedule 4.</p> <p>Paragraph 1 to part 1 to Schedule 4 requires the applicant to keep the structural and external parts of the building, the building communal areas and the communal service media serving the building or estate in good and substantial repair and condition, renewing wherever necessary.</p> <p>Further and/or alternatively paragraph 2 to part 1 to Schedule 4 requires the applicant to (whenever reasonably necessary) paint, decorate or otherwise treat:</p> <ol style="list-style-type: none"> <li>1. the outside of the building;</li> <li>2. the building communal areas;</li> <li>3. the estate communal areas.</li> </ol> <p>Further and/or alternatively, paragraph 3 to part 1 to Schedule 4 requires the applicant to keep the building communal areas and estate communal areas clean and reasonably lit.</p> <p>The management company make every effort to make a claim against the buildings Insurance Policy for any internal repairs due to leaks etc., however, is the repair cost is lower than the Insurance Excess then the repairs are undertaken at the expense of the service charge.</p> <p>The difference represents an audit cost reallocation.</p>	<p><b>£23466</b></p> <p>Pages 2175 - 2178 onwards shows £22188.35. Add gate maintenance at page 2179 (£1278) = £23466 which is the figure that appears in the Accounts.</p> <p>Work to apartments in relation to insurance Excess allowed for reasons given previously.</p>
Lift maintenance	13822		13822			<b>£13822</b>
Lift insurance	1758		1758			Included in Insurance above (not a separate heading in accounts)
Lift telephone lines	2375		2375			Included in Telephone above (not a separate heading in accounts)
Cleaning	14567		14567			<b>£14567</b>
Water testing	984		984			<b>£984</b>
Fire alarm and fire risk assessment	10933		8220	per the working paper	The Respondent is not clear in its comments. The management company has supplied all documents.	<p><b>£10933</b></p> <p>ADT £8219 (page 2261), FRA £1405.32 (Salvum – page 2279) and smoke vent -£1308 (page 2280)</p> <p>This appear to be aggregate of two accounts headings – Fire Alarm and Fire Risk assessment)</p>
						<p><b>£564</b></p> <p>Lighting maintenance and bulbs and sundry expense headings in accounts – not challenged in Scott Schedule</p>
Dry riser maintenance	960		960			<b>£960</b>

Emergency lighting maintenance	1908		1908			<b>£1908</b>
						Fire Risk Assessment included within heading of Fire Alarm above
Accountancy	2000		260	The service provided by the accountant and the cost remain unreasonable despite the comments made by the previous Tribunal, the service charge accounts are inadequate as described above, changes of accounting policies have not been disclosed, the accounts do not comply with Tech 03/11 . No auditors or accountants report has been issued to leaseholders. We propose £260 based on the charges of another accountant's charges to a management company for providing a full service at a similar size block of apartments.	<p>Pursuant to clause 5 of the lease, the applicants have covenanted to observe and perform the obligations specified in Schedule 8.</p> <p>Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 to Schedule 4.</p> <p>Pursuant to paragraph 14 to part 1 to Schedule 4, the applicant is required to generally manage and administer the estate, and for that purpose employ solicitors, accountants, auditors and/or other professional advisers.</p> <p>Further and/or alternatively, paragraph 16 to part 1 to Schedule 4 requires the applicant to comply with all statutory obligations relating to the management company.</p> <p>Pursuant to the terms of the lease, the management company is required to undertake an audit.</p> <p>The audit fees are within market norms.</p>	<b>£2000</b> Invoice from David Simon £2160 at page 2289.
Fall restraint system inspection	486		486			This does not appear as a heading in the Accounts
						<b>£79</b> Pest Control heading in Accounts – not challenged in Scott Schedule
Legal and professional fees	10713		10700	The working paper does not agree with the accounts	<p>There is an error in the Applicant’s Scott Schedule. The heading Legal and Professional fees should be nil, in accordance with the accounts at page 751.</p> <p>There should be a row headed Building Survey which is shown at pages 2292 – 2294.</p>	<b>£10700</b> See page 2292 which shows £10699.75 Building survey (2292-2294) – not disputed by Mr Barton at hearing [Confusingly Accounts show two headings “Building Survey - £10700” and “Legal and Professional Fees – 0” ]
Bank charges	305		0	the charges are unreasonable, AHMC has supplied no details of the £100 charge	<p>Pursuant to clause 5 of the lease, the applicant has covenanted to observe and perform the obligations specified in Schedule 8.</p> <p>Pursuant to paragraph 1 to Schedule 8, the applicant is obliged to provide the services set out in part 1 to Schedule 4.</p> <p>Paragraph 13 to Schedule 4 entitles the applicant to borrow money to enable it to meet its obligations under that schedule.</p> <p>The management company operate two accounts: general maintenance fund and reserve account (also referred to as maintenance levy fund).</p> <p>The bank charges relate to those accounts and are based on general usage. This is standard practice.</p>	<b>£274</b> As per pages 2295 – 2296. Reasonably incurred and supported by Nat West documentation.

					<p>The Respondent challenges the £100 charge, however, there is no charge of £100 in the Bank Charges 2017 accounts. All documents have been supplied.</p> <p>The Bank Charges fees are within market norms.</p>	
Transfer to reserve fund	21500		0	<p>AHMC is not operating the reserve fund correctly, it has failed to make adjustments in accordance with the previous Tribunal decision, it is therefore carrying forward the incorrect balance, it has failed to supply details of a separate bank account, it has failed to disclose details of expenditure which has been deducted from the reserve fund, it has failed to justify the contributions as requested, the respondents are unable to accept the charge until the fund is operated correctly.</p>	<p>Pursuant to clause 3.1.2, each leaseholder has covenanted to observe and perform the tenant's obligations specified in parts 1 and 2 of Schedule 6.</p> <p>Paragraph 2 to part 1 to Schedule 6 requires each leaseholder to pay their share of the expenses to the applicant calculated and payable as specified in part 1 of Schedule 5.</p> <p>Part 2 to Schedule 5 entitled the applicant to invest such payments on deposit.</p> <p>Further and/or alternatively, paragraph 2 to part 2 to Schedule 5 entitles the applicant, at its discretion, to place or invest such sums as a reserve. Reserve is defined in the recitals (at clause 1.1.18) as being anticipated future expenditure which the applicant decides it would be prudent to collect on account of its obligations in the lease.</p> <p>The respondent does not appear to be challenging the management company's ability to collect a reserve fund, nor does the respondent appear to be challenging the reasonableness of the funds collected. These are the only two matters within the Tribunal's jurisdiction under section 27A and 19 of the 1985 Act.</p>	<p><b>£24000</b> As shown in Accounts for year ended 31<sup>st</sup> December 2017</p>
Transfer to maintenance levy fund	11815		0	not permitted by the lease	As above.	<p><b>£6490</b> Figure taken from Accounts for year ended 31<sup>st</sup> December 2017 The Management Company is to credit the excess to the Tenant's next payment of the Tenant's Share of Expenses (paragraph 3.5.2.2 of Schedule 5 Part 1).</p>
sub total	229268		148225			<b>£230693</b>
net estate expenditure	229262		146155			<b>£230687</b>
						<p><b>ESTATE EXPENDITURE</b> <b>Total £230687</b> Apartment 53 - £1036 Apartment 58 - £1201 Apartment 60 - £1030 Apartment 65 - £1249 Apartment 94 - £1385 -£4 = £1381 Apartment 117 - £1138</p>

car park expenditure				AHMC has failed to disclose car park expenditure for the year and is therefore in breach of the terms of the lease. It obviously possesses the information otherwise it would be unable to disclose a surplus of £492 for the year on page 561. It is not for the respondents to calculate amounts on behalf of AHMC but we have used our best endeavours to do so.		
Electricity	1785		1785			<b>£2249</b>
Wages and social security	81664		0	The working papers do not agree either with the accounts or with the wages records, the allocation of costs is unreasonable, charges by Bristows are not supported and are not accepted		<b>£63591</b>
Insurance	4899		4899			<b>£5655</b>
Cleaning	952		952			<b>£952</b>
Miscellaneous	639		0	AHMC has not supplied a working paper		<b>0</b>
						<b>£325 - telephone</b>
sub total	89939		7636			Total £72772 1.25% payable by Apartments 58, 65 and 94 = £910
Total	319201		153791			<b>TENANT'S SHARE OF THE EXPENSES</b>  <b>Apartment 53 - £1036</b> <b>Apartment 58 - £2111</b> <b>Apartment 60 - £1030</b> <b>Apartment 65 - £2159</b> <b>Apartment 94 - £2291</b> <b>Apartment 117 - £1138</b>