

Midland Leasehold Valuation Tribunal

In the matter

of

Mr N Hartland (the Applicant)

and

Leabrook Lodge Limited (the Respondent)

and

the Applicant's application to the Leasehold Valuation Tribunal

for

a determination of liability to pay service charges under section 27A of the

Landlord & Tenant Act 1985

in respect of:

10 Meadowbrook Court, Twmpath Lane, Gobowen, Shropshire SY10 7HD

Background

On 23rd January 2006, the Applicant submitted an application to the Midland Leasehold Valuation Tribunal ("the Tribunal") for a determination of liability on his part to pay service charges under Section 27A of the Landlord & Tenant Act 1985 ("the Act") in respect of the subject property, 10 Meadowbrook Court, Twmpath Lane, Gobowen, Shropshire SY10 7HD.

The application relates to the service charge years (1st April to 31st March) 2003/4, 2004/5 and 2005/6, and the sole item in dispute in each year is the reasonableness or otherwise of the cost included in the service charge for the landlord's management charge.

With the agreement of both parties, it was decided that the case would be dealt with by means of written submissions alone, and in accordance with Directions then issued by the Tribunal, each side was invited to present their written case, and following exchange of those documents with the other party, they were then invited to submit their comments on each others' submission.

Introduction:

The subject property is held by the Applicant under a lease dated 25th September 1995 between Leabrook Lodge Limited and Mrs G. M. Bennett (2) for a term of 100 years from 1st April 1992 at a ground rent of £50 per annum for the first 25 years and thereafter increasing by £50 per annum every 25 years. The ground rent is payable on 1st April each year.

The lease provides, inter alia, for the payment by the lessee of a service charge which is defined as "*the sum to be paid for maintaining the estate as set out in part I of the Seventh Schedule hereto and shall include the maintenance of the common parts.*"

The Estate is defined as "*that part of the land now or formerly comprised in the property of the Lessor known as Meadowbrook Court Gobowen Shropshire and shown edged red on plan number 2 annexed hereto.*"

The Common Parts are defined as “*those parts of the Estate other than the Properties*”.

The Properties are expressed to be, “*the parts or some of them (as the context so requires) of the Estate demised or intended to be demised by the Lessor for individual occupation (and for the avoidance of any doubt excludes the Director of Health Care's premises but includes the demised premises) and 'property' shall have a corresponding meaning.*”

The service charge in Part I of the Seventh Schedule sets out those matters on which the service charge in any given service charge year (running from 1st April to 31st March) is to be based, and includes:

“*The total expenditure incurred by the lessor in performing its covenants and carrying out its obligations under the lease, and any other costs and expenses reasonably and properly incurred in connection with the estate, including :*

- *the cost of any accountant or surveyor employed to determine the total expenditure and the amount payable by the lessee, as well as all salaries and wages including those of employing a Director of Health Care and any Deputy Director of Health Care and any other person or persons that the lessor may employ in connection with the management of the estate;*
- *bank charges or interest on sums paid by the lessor and forming part of the total expenditure, and*
- *the Management Charge.”*

The Management Charge is then defined as “*the reasonable cost of the Lessor managing the Estate and supervising the Director of Health Care and any Deputy Director of Health Care*”.

The Management Charges included in the service charges for Meadowbrook Court were, in the relevant years, as follows:

2003/4: £548.59p (actual)

2004/5: £629.78p (actual)

2005/6: £633.32p (budget)

and it is these sums which are the subject of the application.

Submissions:

(1) The Applicant:

- a. Mr Hartland submitted that the practice of the Respondent of adding 22.5% of the total expenditure in any given service charge year to arrive at the overall service charge for that year was unreasonable and excessive.
- b. He cited as evidence in support of that contention financial details relating to four other developments which he considered to be broadly comparable, where he had analysed the management costs as constituting approximately 12%, 13%, 14% and 15% of the service charges respectively.
- c. He also indicated that although the use of a percentage for the calculation of management fees seemed to be common, it was in fact contrary to the Code of Practice produced by the Association of Retirement Housing Managers. In particular, the Code suggested that the preferred method of calculating management fees was as a cost per unit of accommodation rather than as a percentage of outgoings or income.

- d. Mr Hartland acknowledged that evidence on a strictly comparable basis was not easy to find and for that reason he had consulted Age Concern to see if they were able to assist in any way. His letter to them of 24th June 2005 referred to the fact that he lived in a leased retirement home for which the service charge included a management charge fixed at 22.5% of all the other costs of the service charge. Age Concern responded in the form of a letter dated 11th July 2005 from their Sheltered Housing Adviser indicating that the figure recommended by the Housing Corporation for management fees in respect of 2005/2006 was £293 plus VAT per flat. It was stressed however that this was only a recommendation and that Age Concern did not have access to figures used by private management companies nor by registered social landlords. Nevertheless, it was suggested that, in general, such charges would be expected to be near the £293 plus VAT recommended. Mr Hartland compared this figure with the £633 charge by the Respondents for the year 2005/6.

(2) The Respondent:

- i. The Respondent's case was submitted by the company's solicitors, Messrs Gough-Scott and Thomas of Ellesmere, Shropshire.
- ii. In it they emphasised that their clients considered that the management charge made to the residents at Meadowbrook Court was more than reasonable and pointed out that this was not just an "ordinary development of flats" but was specifically designed to cater for senior citizens, with care facilities etc. They pointed out that the development included 60 bungalows, of which nine had leases in the same form as that of the subject property, while the remainder provided for the management charge to be at the rate of 22.5% of the total expenditure in any given service charge year.
- iii. Attached to the submission was the "Service Charge Budget" for the relevant years, together with an "Analysis of Income and Expend Audit" from 1997 when the development first opened, up to the projected budget for 2007. The Respondent's solicitors stressed that in the years 1997 to 2002 inclusive, the service charge had been in deficit but their clients had never charged those losses back to the residents. Whilst accepting that this did not cover the years to which the application related, in their view, it demonstrated that their clients were reasonable and did not wish to charge the residents any amount over and above that which they should be playing.
- iv. They also wished to stress that their clients had been very reasonable in dealing with the Budget Summary by agreeing with the residents that any major repair works such as drain repairs could be paid for from the Sinking Fund, which had the effect of keeping the repairs and maintenance contract down, with a corresponding saving in the service charge and therefore the management charge. Indeed, it was suggested that the fact that the management charge was based on a percentage of expenditure did not disadvantage the residents in any way because, in their view, if the charge was calculated as a fixed amount then it would work out to be the same or higher than the amount actually being charged.
- v. It was pointed out that the Respondents had kept the ground rent very low at only £50 per annum and that this had never risen. In addition, the management charge for the year ended March 2006 worked out at a unit price of £52 per month, which they felt was reasonable for the service the residents received.
- vi. It was explained in their submission that the management charge included mainly the cost of the Manager's (Roger Moreton) time which was estimated at 20 hours per week. This related to the preparation of all

the accounts for the development up to the point where they were ready for presentation to the accountants for formal audit; dealing with all the wages for the on-site staff; dealing with any employment issues relating to the staff; the "administration for maintenance" if required and ordering of any part or supplies needed for the development throughout the year; the maintenance and monitoring of any vacant properties; and dealing with the administration relating to the buyback provisions contained within the individual leases.

- vii. In addition, the Director of the Leabrook Lodge Limited, Derrick Dulson, spent approximately 5 hours per week dealing with matters related to Meadowbrook Court and also on ad hoc site inspections.
- viii. It was emphasised that the development has a built in nursing station, a communal lounge, a communal conservatory and a guest room - all for the benefit of residents. These buildings had been constructive at the sole cost of Leabrook Lodge limited and no rent was charged for them, even though the Respondents were aware that other companies in the area did make a charge for such facilities. Consequently, this represented a saving for the residents in terms of their service charge and therefore management charge. In addition, the Respondents did not (i) place any depreciation on these buildings; (ii) reflect any depreciation on these buildings in the service charge and (iii) reflect the cost of fixtures and fittings in these areas.
- ix. The nursing station is open 24 hours a day which enables care to be provided round-the-clock for those who may require it. In addition, the guest room is available for those relatives or friends who wish to stay with any of the residents.
- x. It was submitted that the Manager, Roger Moreton was very careful in procuring such services as insurance, window cleaning and gardening in order to ensure they were obtained at the most competitive price and maintained the service charge at a reasonable level. By way of example, it was explained that five different insurance brokers had been approached recently in order to obtain the best price possible for the requisite insurance cover.
- xi. In commenting on Mr Hartland's application, they referred to the suggestion that the management fee elsewhere was 12% to 15% of the overall service charge expenditure, but suggested that no evidence had been provided to support this. They considered the comparison to be unfair because it probably related to normal flats as opposed to a residential development specifically designed for senior citizens.
- xii. Enclosed with their submission was a copy of the accounts for Abraham Court, in Oswestry (one of the developments cited by the Applicant in his submission), in respect of which it was pointed out that a charge was made for the rental of the House Manager's flat. While that did not happen at Meadowbrook Court, equally no notional rental charge was made for any of the communal buildings such as the conservatory, the guest room and the communal lounge. In addition, it was pointed out that "Accounts Management" was charged as an extra amount at Abraham Court, which did not happen at Meadowbrook Court. If however, the two elements of the charges at Abraham Court were added together, then the overall management charges there worked out at just over 23.1% for the year 2004, and just over 22.8% for the year 2006.
- xiii. Finally, they stressed that Meadowbrook Court had won awards in the past for being such a good complex for senior citizens and good value for money.

Applicant's Reply to Respondent's submission:

- a. The Applicant considered that to achieve a budget deficit in the first year of the development called into question the competency of the management but to repeat that in the following five years was simply bad management. He also challenged the suggestion that the deficit had not been recovered from lessees in any of the relevant years on the basis that the 2001/2 the loss had in fact been charged back to the residents as demonstrated by the demand for payment of the relevant amount sent out by the Nurse/Care Manager Mrs J. Rogers on 31st March 2003 (copy supplied). As such it was suggested that if the deficit had been recovered once then perhaps it had been recovered for other years as well.
- b. The suggestion by the Respondents that the overall management charge on a comparable basis for Abraham Court was 23.1% was challenged as incorrect as it appeared to have been calculated on a selective basis ignoring the fact that in the case of Meadowbrook Court there would have to be included the accounting charges under the heading of "professional fees", in order to compare like with like. This produced a very different figure from that suggested by the Respondents and entirely supported the Applicant's case.
- c. In relation to the Sinking Fund, it was pointed out that the administration of this was mainly in the hands of the Residents' Association, and was not dealt with solely by the management of Meadowbrook Court. The Applicant also questioned what the Sinking Fund was for if it was not to be used for major repairs such as buried drains.
- d. The ground rent of £50 per annum was a contractual amount referred to on the first page the lease and was fixed as one of its terms. As such, it was hardly surprising that it had never risen since the rent review provisions which contemplated an increase did not take effect until 2017.
- e. Mr Hartland questioned the amount of time which Mr Dulson in particular was alleged to spend at the development, given that he had a good view from his bungalow of the only access to and from Meadowbrook Court and although he was aware of regular monthly visits by Mr Moreton, he had never seen Mr Dulson's distinctive car (with a personalised registration) at the development. He maintained that he knew the car well from seeing it parked outside Mr Dulson's business premises (also the registered office of Leabrook Lodge Ltd) situated some 2 miles away.
- f. It was pointed out that the original suggestion by the Respondents that over 90% of the bungalows at Meadowbrook Court had the later version of the lease in which the management charge was fixed at 22.5% was an exaggeration.
- g. Mr Hartland also questioned the administration charge which was said to include the buyback provisions in the leases. He accepted that there would be costs to be met in preparing a vacant bungalow for a new owner but that in his own case - as in the case of every other lessee he had spoken to about the subject at the development - the cost of that work had been met by the ingoing lessee. He went on to point out however that the lease provisions clearly provided the potential for Leabrook Lodge Ltd to make a considerable profit in such circumstances, and in support of that statement, he attached to his Response a copy of a web site page from "nethouseprices.com" showing that 53 Meadowbrook Court had been sold on 18th January 2005 for £69,750 (which he implied was the purchase of the property by the Respondents under the buy back provisions in the lease) and then resold on 3rd March 2005 for £132,500 (the onward sale to a new lessee) - a profit of some 90% in just over five weeks.
- h. He refuted the suggestion that no evidence had been provided to support the claim that management charges elsewhere for comparable developments were between 12% and 15%. He pointed out that in his letter to Mr Dulson of 28th May 2005 he had twice referred to similar schemes and management charges.
- i. In relation to the suggestion that no cost had been put on to the residents for all the fixtures and fittings in the communal buildings at Meadowbrook Court he pointed out in

2001 £6,000 had been charged to the residents for kitchen equipment and in the current year a request to the Respondents to assist with the purchase and installation of sun blinds in the communal conservatory had been refused, as a result of which the residents had paid £464 to have such blinds fitted.

- j. In Mr Hartland's view, there appeared to be a degree of duplication in the duties performed by Mr Moreton and the Nurse/Care Manager Mrs J. Rogers, given that the latter's role include the supervision of all staff and a number of contractors as more particularly referred to in the Owner's Handbook for the development (the relevant extracts of which were enclosed with his response).
- k. Mr Hartland also contended that the communal buildings of similar schemes with which he had compared Meadowbrook Court were not rented to the residents and there was no provision for additional revenue such as this for the respondents provided for in the leases. The cost of these elements of the scheme would, in his opinion, have been calculated as part of the overall initial development cost and the selling price of the individual properties within the scheme. To attempt to retrospectively raise revenue from these assets without any relevant authority in the lease would be unfair and unreasonable.
- l. He also mentioned that whilst it appeared to be common practice in other schemes to set against the service charge any income from guest suites, this did not happen at Meadowbrook Court where the revenue generated by the guest suite did not appear in the service charge accounts and was therefore presumably retained by the Respondents.
- m. The fee structure for the management charge detailed in the Respondent's principal submission was also criticised for a lack of detail. Reference was made in that document to the ordering of parts and maintenance but in Mr Hartland's view the management time attributed to Mr Dulson was questionable, and in relation to Mr Morton, seemed to largely duplicate the responsibilities of the Nurse/Care Manager. As such it was difficult to reconcile the vague aspects of the structure to a system that invariably cost an amount which coincided with 22.5% of the total other expenditure. In his view, the management charge was simply accepted by the Respondents as being fixed at 22.5% regardless of whether it was right or reasonable.
- n. Mr Hartland submitted that his evidence supported the contention that the management charge fixed at 22.5% of total expenditure was far too high and it did not represent an amount which was reasonable -- as required under the terms of his lease. He had repeatedly asked Mr Dulson to explain why he regarded that percentage as being reasonable. In his letter to Mr & Mrs Hartland on 27th June 2005, Mr Dulson's final response had been uncompromising in stating that the management charge would never fall below the 22.5% which had been consistently charged for the previous 10 years.

Respondent's Reply to Applicant's submission:

- a. Mr Hartland had not, in the view of the Respondents demonstrated that the management charge of 22.5% of total expenditure was unreasonable.
- b. Ultimately, all the costs of the estate would be paid for by the residents via the service charge and most of those costs would be charged directly to the service charge account, with a smaller proportion -- those more involved in the management of the estate -- being accounted for separately before then being added to the total. The nature of Meadowbrook Court as a close care community meant that levels of personal care were provided to residents who required it and this involved expenses that other estates did not necessarily incur. Those expenses were permitted by the lease to be charged to the service charge. Additionally, certain expenses which might otherwise be charged directly to the service charge had to be split at Meadowbrook Court between the estate and care accounts, and it would be difficult to separate these on a precise basis. By way of example, the clerical and secretarial expenses of the Court Office were cited as being dealt with in this manner.

- c. The Respondents refuted the suggestion that the comparable developments referred to by the Applicant were in fact truly comparable, apart from the fact that they were all in the same general line of business. Abraham Court "is purely a block of retirement flats with a resident warden" and the Respondents believed that Fern Hill Lodge was similar judging by the total costs involved in running it. As such, neither of these developments would require the degree of management involved at Meadowbrook Court.
- d. It was emphasised that the estate costs highlighted by Mr Hartland ignored the accounting costs which, when included in the overall calculation, substantially reduced the effect of his comparison. This was dealt with in more detail in Annex A.
- e. So far as Lime Tree Village was concerned, the Respondents considered that it was unlikely to be reasonably comparable with Meadowbrook Court by virtue of its size and the number of units it contained. Again, the direct cost of administration in that case needed to be considered as part of the management charge. In commenting on the last of the comparables referred to by Mr Hartland, namely that operated by Hanover Housing Association, the Respondents pointed out that this was part of a charitable organisation where the costs were quoted at £5,559 in total for just 23 properties. There was therefore no reason at all, in their view, to consider this a comparison for Meadowbrook Court, especially as being a charity, the Respondents considered it more than likely that some of the overhead cost was deducted before the calculation was made.
- f. The Respondents felt that before they could comment on the recommended figure of £293 suggested by the Housing Corporation, they would need to see more detail as to how one figure could be arrived at for such a variety of circumstances as existed in the retirement market. There was a huge variation in the structure of organisations in the sector and this made it difficult to draw any reliable conclusions. They did not consider that Mr Hartland's examples demonstrated any degree of unreasonableness in the level of management charge at Meadowbrook Court. Indeed, if the figures were interpreted correctly then the Meadowbrook Court management charge was actually quite reasonable.
- g. It was pointed out that the Meadowbrook Court leases were initially drawn up prior to the introduction of the Code of Practice produced by the Association of Retirement Housing Managers. In the past, residents at Meadowbrook Court had not wished to pursue any alteration of the lease because of the anticipated legal costs. The suggestion that the method of calculating the management charge was open to abuse by excessive expenditure was strongly refuted, as if this had actually happened, then the service charge would have been much higher and would have been clearly noticeable to residents. In the view of the Respondents, the Applicant had not demonstrated this to actually be the case, and by reference to the charges made by another (substantial) operator in the sector, Retirement Security Limited, in respect of the 31 very sheltered housing schemes they ran in various parts of the country, the management charges at Meadowbrook Court were reasonable.
- h. In relation to the input by Mr Moreton and Mr Dulson on matters relating to Meadowbrook Court, it was explained that the development was only two miles from the main office where Mr Dulson and Mr Moreton worked. As such at this enabled Mr Moreton to be more involved in the day-to-day activities of the estate, notwithstanding the fact that the manager on the estate was Mrs J. Rogers, the Director of Health Care. Mrs Rogers duties involved overall charge of the estate and the staff, including responsibility for day-to-day control of everything from gardening to meal deliveries.
- i. Mr Moreton's role was in buying supplies, receiving all invoices, paying all bills, preparing the payroll, and the management and annual accounts. The cost of this was actually met from the management charge whereas on other estates it was dealt with as a direct cost to the service charge. Similarly, Mr Dulson was often able to attend matters on the estate personally because of the close proximity to the development of his normal office.
- j. The Respondents submitted that there was no merit in Mr Hartland's charges and that the various comparisons he had made had been shown to be flawed. In contrast, the Respondents had shown that despite the interaction of care expenditure with normal estate expenditure (which made accounting for the joint cost more difficult), it was

possible to rearrange the figures, and with the addition of the adjustment for rent (of the communal part) the resulting percentage was well within the lower end of the range suggested by Mr Hartland.

- k. The Respondents concluded by submitting that they had shown that when an apparently excessive management charge was included in the service charge, the resulting overall service charge was well within the scale which they would consider satisfactory. As such, they believed Mr Hartland had failed to demonstrate his case and that the complaint should be rejected.

Decision:

The application in this case centres on the reasonableness or otherwise of the management charge included in the Service Charge for Meadowbrook Court in each of the three years 2003/4; 2004/5; and 2005/6.

The Management Charge is defined in the lease of the subject property as:

“the reasonable cost of the Lessor managing the Estate and supervising the Director of Health Care and any Deputy Director of Health Care”

The Estate is defined in the recitals to the lease as:

“that part of the land now or formerly comprised in the property of the Lessor known as Meadowbrook Court, Gobowen, Shropshire, as shown edged red on plan number 2 annexed hereto.”

These clauses define the contractual scope of the areas for which a reasonable management charge can be included in the service charge payable by the Applicant.

In addition, there are statutory provisions to consider in the 1985 Act, which provides inter alia, under Section 19 (1) that:

“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.”

Section 27A(1) of the Act then provides that:

“An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable, and if it is, as to-

- a) the person by whom it is payable,***
- b) the person to whom it is payable,***
- c) the amount which is payable,***
- d) the date at or by which it is payable, and***
- e) the manner in which it is payable.”***

The parties in this case have put forward a considerable amount of evidence as well as argument and counter argument to justify or criticise the adoption of a given percentage of total expenditure as the appropriate management charge. Unfortunately, the financial details of the various other schemes which have been cited as comparables do not indicate the basis on which the charges

have been calculated or indeed whether they have been arrived at by reference to a percentage or unit cost. Consequently, the evidence of these other schemes is of only limited assistance in determining what does or does not happen in relation to management charges in the present context.

Certainly, the use of a percentage to calculate the management charge in this instance is inappropriate, not only because the lease clearly specifies the amount to be a sum which is 'reasonable' rather than any particular percentage, but also because it is a method which is not considered appropriate under either the Code of Practice produced by the Association of Retirement Housing Managers or the similar Code produced by the Royal Institution of Chartered Surveyors and approved by the Secretary of State under the terms of section 87 of the Leasehold Reform Housing and Urban Development Act 1993. This applies to properties where a service charge which varies according to the expenditure is payable and the landlord is not a public sector of authority or a registered housing association and provides that the Tribunal shall take into account any provision of such a code which appears to be relevant to the question under consideration when making its determination.

A more appropriate point at which to start in calculating a reasonable management charge is to take the unit cost on the basis of what has been described in the evidence as a "normal flat development" as there is a considerable number of such developments and evidence of the level of unit management charge is therefore more readily available to use for comparison purposes.

As neither party submitted to the Tribunal any particular evidence as to management charges for normal flat developments in the locality, the Tribunal (drawing on its own experience) considers this would be likely to be approximately £225 per unit (plus VAT) for a development of this size. For that figure, the manager would be expected to deal with external and structural repairs; external decoration; the administration of short and long-term reserve funds for decoration and major repairs; insurance; window cleaning; the employment of cleaning and other staff to deal with the communal areas; gardening contractors to look after the grounds; the placing of appropriate contracts; all elements of accounting and bookkeeping up to the point of providing appropriate information to the auditors for them to prepare annual accounts or an appropriate certificate; and compliance with any statutory requirements such as asbestos surveys and the care and use of information under the Data Protection Act. This list is not intended to be exhaustive as it would clearly vary from development to development, but it indicates the general areas which would be expected to be covered by a managing agent for this level of fee.

Using therefore £225 plus VAT i.e. approximately £265 as a start point, appropriate adjustments then have to be made for the particular circumstance of Meadowbrook Court and the ways in which it is similar or dissimilar from a normal flat development. Firstly, an amount needs to be deducted to reflect the fact that at 10 Meadowbrook Court, the lessee is responsible for the maintenance and repair of the demised premises rather than this being a matter reserved to the lessor, as would be the case with a normal flat development. (In that instance, the lessor would be responsible for carrying out the repairs and paying for them before then recouping the cost from the lessee via the Service Charge.) This often represents a significant area of work which would normally be the role of a manager or managing agent, and the fact that this does not apply at 10 Meadowbrook Court needs to be reflected in the amount of the management charge.

Conversely, there is no doubt that with the provision of particular facilities making the development suitable for retired lessees, there are additional matters which need to be taken into account in terms of the management of the estate as a whole. For instance, there are considerable communal areas which would not be found at a normal flat development. Such facilities of course necessitate additional works in respect of cleaning and maintenance, redecoration and heating etc., all of which carries with it the need for some degree of management input even though the actual cost of these services and the maintenance of these areas is passed on to the lessees directly via the service charge.

In addition, the definition of management charge in the present case also refers to the reasonable cost of supervising the Director of Health Care and any Deputy Director of Health Care (of whom no mention has been made in the submissions of the parties, and it is therefore assumed that there is nobody in that post at the present time). The question therefore arises as to what this involves at a practical level given that Mrs Rogers clearly has a considerable degree of autonomy in managing the development. From the evidence presented to the Tribunal it is clear that she has day-to-day control of virtually everything that happens on the site including (per the Owners

Handbook) the smooth running of the administrative procedures; seeing that current staff levels are maintained and suitable staff appointed; arranging all rotas for care, cleaning cooking and gardening; supervising and monitoring staff performance as well as all contractors; ensuring all alarm systems are regularly check and that the fabric of the buildings is kept in good repair; ensuring agreed budgets are adhered to and that all financial procedures are followed. In addition, it would appear that Mrs Rogers role extends to the financial aspects of the management of Meadowbrook Court given that notifications of the amount of service charge for any given year and arrangements for paying any shortfall appear to be issued by her.

This is a fairly comprehensive list and the degree of input required in the management of the estate from Mr Moreton and Mr Dulson is therefore likely to be relatively modest. Much of what Mr Moreton undertakes would fall within the scope of work which the manager or managing agent of a normal flat development would undertake within their fixed fee, although it is accepted that there needs to be a management input into the supervision of Mrs Rogers and the appropriate administrative and secretarial backup to support her.

Although it is suggested in the evidence submitted by the Respondent that costs associated with care form part of the overall service charge at Meadowbrook Court, the terms of the lease suggest that Care provision is a separate item of expenditure not forming part of the service charge and payable only by those who receive the appropriate care package. Furthermore, the definition of management charge does not include any reference to the provision of health care but simply the reasonable cost of the lessor managing the estate and supervising the Director of Health Care etc.

Taking these factors into account and adjusting for the appropriate deductions and additions detailed above, the Tribunal therefore determines that a reasonable management charge (as defined in the lease of the subject property) for each of the relevant years is as follows:

2003/4.....£330

2004/5 £340

2005/6 £350

A handwritten signature in black ink, appearing to read 'N. R. Thompson', with a large, sweeping flourish underneath.

N R Thompson
Chairman

Date: 1st. September 2006