



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

**Case reference** : **LON/00AG/LSC/2023/0333**

**Property** : **24A Alexandra Mansions, West End Lane, London NW6 1LU**

**Applicant** : **Alexandra Mansions Limited**

**Representative** : **Ms Kendya Goodman, counsel**

**Respondent** : **Mr Ashvinder Singh Brar**

**Representative** : **none**

**Type of application** : **Determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985**

**Tribunal members** : **Judge M Jones  
Mr S Mason FRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **13 March 2024**

**Date of decision** : **01 April 2024**

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**DECISION**

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## Decisions of the tribunal

- (1) The Tribunal determines that the sums payable by the Respondent as service charges in respect of Flat 24A, Alexandra Mansions, London NW6 1LU ("**Property**") for the following service charge years are as follows:

Service charge year	Amount Payable £
25/6/17 - 24/6/18	3,702.00
25/6/18 - 24/6/19	4,192.48
25/6/19 - 24/6/20	4,200.64
25/6/20 - 24/6/21	4,230.24
25/6/21 - 24/6/22	3,532.20
25/6/22 - 24/6/23	0
25/6/23 - 24/6/24	0

- (2) The proportion of the above service charges payable by the Respondent was correctly calculated in accordance with the provisions of the Lease and Variation, as defined below.
- (3) Insofar as may be necessary, the Tribunal determines that no sums are payable by the Respondent to the Applicant by way of administration charges.
- (4) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.
- (5) The Tribunal does not make an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.
- (6) The Tribunal orders the Respondent to reimburse the Applicant the application fee for this application, in the sum of £100 and the hearing fee in the sum of £200, to be paid by 19 April 2024.

- (7) In the event the Applicant seeks costs:
- (7.1) The Applicant file and serve a written application identifying the grounds on which costs are sought, a breakdown of the sums claimed, and including copies of any authorities relied upon, by 4 pm on Friday 19 April 2024.
  - (7.2) The Respondent file and serve a statement setting out his submissions in response to such application for costs, by 4 pm on Friday 10 May 2024.
  - (7.3) The application will thereafter be the subject of a paper determination, unless any party requests an oral hearing. Any such request must be made by 4 pm on Friday 17 May 2024.

### **The application**

1. The Applicant landlord seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“*the 1985 Act*”) and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“*the 2002 Act*”) as to the amount of service charges and (where applicable) administration charges payable by the Respondent in respect of the service charge years 2017, 2018, 2019, 2020, 2021, 2022 and 2023.

### **The hearing**

2. The Applicant was represented by Ms Kendya Goodman of counsel at the hearing.
3. The Respondent did not attend, but the Tribunal is satisfied that he was well aware of the hearing, not least by virtue of the fact that whilst it was proceeding, at 11.08 am on 13 March 2024 the Respondent sent an email regarding the matter to the case officer Mr Tancred, in response to an email sent to the Respondent by Mr Tancred dated 23 January 2024 chasing compliance with the directions previously given on 6 September 2023.

### **The background**

4. The Property which is the subject of this application is a third-floor flat in a mansion block.
5. Neither party requested an inspection, and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

6. The Applicant became the freehold proprietor of Alexandra Mansions, of which the Property forms part, on 26 July 1983.
7. The Respondent holds a long lease of the property dated 29 September 1969, for a term of 99 years from 24 June 1967 (“**Lease**”). The Respondent became the registered proprietor of his leasehold interest on 19 January 2010.
8. The terms of the Lease were varied by a Deed of Variation executed on 21 April 1986 (“**Variation**”) extending the term to 999 years, and which taken together with the Lease requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.
9. At all material times, Parkgate Aspen Limited (“**Parkgate**”) have been the managing agents of the lessor.

### **Procedural background**

10. The landlord’s application was dated and filed with the Tribunal on 31 August 2023.
11. The Tribunal gave directions on 6 September 2023, which were circulated to the parties. Those directions identified the issues to be determined as:
  - whether and to what extent service charges demanded for the years 2017-2023 inclusive are payable by the Respondent;
  - that the tenant’s proportion of service charge has been correctly calculated in accordance with the terms of the lease;
  - whether an order under section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the 2002 Act should be made;
  - whether an order for reimbursement of application/hearing fees should be made.
12. The directions provided for various procedural steps to be taken by the parties in preparation for the hearing, including for the Respondent to send to the Applicant by 27 October 2023 various documents, including a schedule detailing any challenges to the sums claimed by the Applicant and the basis for such challenges, a statement setting out the Respondent’s case if liability to pay was in issue, any witness statements of fact relied upon and alternative quotations, if available, for the provision of services and insurance at the property. The Respondent did

not do so, serving nothing prior to the hearing date to indicate whether he did, or did not agree with the various sums claimed.

13. The Applicant relied upon a witness statement dated 17 November 2023 of Mr Nissan Moradoff, a management surveyor employed by Parkgate. Exhibited to that statement was a substantial bundle of service charge estimates, service charge accounts and similar documents.
14. By the email sent during the course of the hearing, referred to at §3, above, the Respondent stated, *inter alia*:

*“We do not contest the amount owed to Parkgate-Aspen Limited and it is our intention to address payment in full. Unfortunately we had fallen behind in payments and when addressing Parkgate's representative we had suggested making a lump payment and agreeing a payment plan. We believe there has been a fundamental misunderstanding here as we were expecting Parkgate's representative to suggest the details of their desired payment schedule. Instead, I believe they were expecting me to get in touch directly with Parkgate Aspen to discuss.*

*“We would be like to re-engage Parkgate with immediate effect and address a lump payment and schedule a payment plan that works for both parties.”*

15. While noting that the Respondent cites family care needs as an explanation for his prior failure to communicate with the Applicant and/or the Tribunal, the Tribunal finds it most regrettable that he failed to engage with the proceedings in over six months since the directions were made, where the above concession, if made in a timely manner, would be highly likely to have obviated the need for the hearing, saving the Applicant's and the Tribunal's resources.

### **The Scope of the Tribunal's Jurisdiction on the Application**

16. The Tribunal is asked to determine the reasonableness under s.19 of the 1985 Act, and liability to pay service charges under section 27A of the 1985 Act for the above years for the Property by the Applicant. The Tribunal has not seen any evidence or observations from any other leaseholder, and this Decision should not be treated as binding any other leaseholder. The Tribunal has only considered those service charges and other charges that are mentioned in the application and the Applicant's witness statement. The Tribunal has not considered whether other charges that may have been levied against the Applicant are payable.
17. The Tribunal is also asked to determine whether any administration charges are (a) reasonable and (b) payable, under schedule 11 of the 2002 Act.

18. The Tribunal does not have power to consider a claim for repayment of ground rent, which is referred to in the successive service charge demands and accounts exhibited to the Applicant's witness statement. Ground rent is not a service charge or an administration charge. This does not mean the Tribunal disagrees or agrees with the Applicant. Parliament has not instructed the Tribunal to deal with disputes about ground rent and this issue will not be covered by this Decision.
19. The Tribunal has considered the witness statement of the Applicant, the application form and the various documents exhibited, and which formed the hearing bundle of some 252 pages. The Tribunal has also considered the contents of the Respondent's email of 13 March 2024, referred to above. The Tribunal was assisted by Ms Goodman's oral submissions, augmented by a helpful written skeleton argument.
20. The Tribunal has considered whether individual service charge costs were reasonably incurred, or services provided to a reasonable standard under section 19 of the 1985 Act. It also has power to determine whether sums are payable under section 27A of the 1985 Act, whether under the terms of the lease or by another law. Where a service charge may be payable before the relevant costs were incurred, under section 19(2) of the 1985 Act the Tribunal is also permitted to consider whether the amount charged in advance is reasonable.

### **Provisions in the Lease relevant to service charges**

21. Clause 3 of the Lease contains a series of repairing and maintaining covenants on the part of the lessor, including maintenance and decoration of common parts of the building, including water and gas pipes, sewers and drains, and to maintain the gardens. By clause 3(8) the lessor is required to insure the building against the usual risks, and further clauses permit the employment of a caretaker and managing agents.
22. Clause 3(14) of the Lease, as inserted by operation of the Variation, permits the lessor to create a reserve fund consisting of such sum as may in the opinion of the lessor or the managing agents be sufficient annual provision to cover repairs and renewals of a non-annually recurring nature, and for payments made out of the reserve fund to be credited towards the Maintenance Charges or Excess Contributions of contributing lessees, as defined in the Variation.
23. Clause 2(3)(i) of the Lease, as inserted by the Variation, requires the Respondent to make a payment on account of expenditure incurred, or to be incurred, or reserve to be set aside by the lessor in fulfilling its repairing, etc. obligations during the lessor's accounting period of 12 months in quarterly instalments, being such sum as the lessor or the managing agent shall specify on or before the 24<sup>th</sup> June in each year or so soon thereafter as possible at their discretion as being a fair and

reasonable payment on account of the lessee's share of the annual costs incurred, or to be incurred. This is defined as the "*Maintenance Charge*".

24. Clause 2(3)(ii) (as varied) specifies the procedure for notification of the Maintenance Charge, and for payment in quarterly instalments in the event of notification 28 days or more prior to the start of an accounting period, or otherwise 28 days after the date of notification.
25. Clause 2(3)(iii) (as varied) provides for an excess contribution to be paid by the lessee at the end of an accounting period ("*Excess Contribution*") upon the lessor or managing agent certifying any shortfall between the Maintenance Charge and the sums in fact incurred. In the event of a surplus being held, where the sums actually incurred fell below the sums collected by way of Maintenance Charge, the clause permits the lessor to accumulate the same and apply such sums against future expenditure.
26. By clause 2(2)(iv)(b), the Respondent was and is obliged to pay service charge calculated 2% of the total expenditure of the Applicant in compliance with its obligations.

### **Provisions in the Lease relevant to administration charges**

27. Neither the Lease nor the Variation contains provisions enabling the lessor to levy administration charges. This was confirmed by Ms Goodman, in response to a question from the Tribunal.

### **The Respondent's Position**

28. As summarised above, the Respondent provided no grounds to dispute the charges claimed, while by the email referred to indicated his agreement to all sums in issue.
29. The Tribunal has, nevertheless, carefully considered the sums charged for each of the years in question, in order to determine the issues on the application.

### **The Law**

30. Section 18 of the 1985 Act defines "*service charges*" and "*relevant costs*":
  - (1) *In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent—*

- (a) *which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and*
  - (b) *the whole or part of which varies or may vary according to the relevant costs.*
- (2) *The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.*
- (3) *For this purpose—*
- (a) *“costs” includes overheads, and*
  - (b) *costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.*

31. S.19 of the 1985 Act deals with limitation of service charges:

- (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.*

32. S.27A of the 1985 Act deals with the liability to pay service charges:

- (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.*

### **Decision**

33. Under the clauses identified above in the Lease, as modified by the Variation, the Respondent covenanted to pay a service charge to the Applicant, described in the Lease as a “*Maintenance Charge*”. Such sums were payable quarterly in advance at the rate demanded. Such sums are defrayed against the actual expenditure incurred by the Applicant in complying with its obligations under the Lease.
34. The Respondent is liable under the Lease to pay 2% of the overall costs to the Applicant of complying with its covenants in the Lease, and of employing managing agents.
35. Neither the Lease nor the Variation requires the accounts to be audited. The Maintenance Charges that have been demanded includes costs in respect of accountancy fees, bank charges, decoration, insurance, repairs and maintenance, employing a porter and managing agents, as shown in the accounts for the relevant years.

### **25 June 2017 to 24 June 2018**

36. Albeit that no accompanying covering letter has been produced in evidence, the Tribunal has been shown the service charge estimate for the year ending 24 June 2018, prepared by Parkgate. This is in markedly similar format to service charge estimates prepared for the year ending June 2017, and for subsequent years, and the evidence for those other years demonstrates that Parkgate was in the habit of sending out such estimates in June of each year. The Tribunal accepts, and insofar as is necessary finds, that the estimate was sent to the Respondent in or around June 2017. This estimated the Respondent’s 2% contribution to service charges and contributions to the reserve fund for the year to 24 June 2018 in the total sum of £3,702.
37. This was followed by applications for payment as follows:

	<b>Date</b>	<b>Description</b>	<b>£</b>	<b>Total £</b>
(1)	06/06/17	Service charges on account	575.50	
		Reserve fund	<u>350.00</u>	<b>925.50</b>
(2)	08/09/17	Service charges on account	575.50	
		Reserve fund	<u>350.00</u>	<b>925.50</b>
(3)	29/11/17	Service charges on account	575.50	
		Reserve fund	<u>350.00</u>	<b>925.50</b>
(4)	27/02/18	Service charges on account	575.50	
		Reserve fund	<u>350.00</u>	<b>925.50</b>
				<b>3,702.00</b>

38. Each such application for payment (as indeed all applications for payment in the evidence bundle) also contained a demand for payment of £6.25, being one quarter of the annual ground rent of £25. For the reasons explained in §18 of this Decision, the Tribunal has no jurisdiction to determine that aspect of the matter. On the reverse of each application is a summary of the tenants' rights and obligations.
39. The service charges for the year to 24 June 2018 were then examined and certified by Kybert Carroll Chartered Accountants, who circulated a final account for the year under cover of a letter dated 12 November 2018. Those accounts revealed a surplus of £17,263 for the year, which was retained as a reserve in accordance with the terms of the lease.
40. From the evidence provided, in the absence of any contrary representation from the Respondent, and indeed in light of the admission contained in his email of 13 March 2024, the Tribunal finds that under the terms of the Lease a service charge was payable by the Respondent to the Applicant. On the evidence presented, the sum of £3,702 claimed by the Applicant for the year to 24 June 2018 was reasonable in amount and properly incurred.

### **25 June 2018 to 24 June 2019**

41. An estimate for the year to 24 June 2019 was provided by Parkgate under cover of a letter dated 4 June 2018. While this does not contain an apportionment of the Respondent's individual contribution, the total estimated was £209,624, of which the Respondent's proportionate 2% contribution can be calculated as £4,192.48.
42. This was followed by applications for payment as follows:

	<b>Date</b>	<b>Description</b>	<b>£</b>	<b>Total £</b>
(1)	01/06/18	Service charges on account	548.12	
		Reserve fund	<u>500.00</u>	<b>1,048.12</b>
(2)	05/09/18	Service charges on account	548.12	
		Reserve fund	<u>500.00</u>	<b>1,048.12</b>
(3)	13/12/18	Service charges on account	548.12	
		Reserve fund	<u>500.00</u>	<b>1,048.12</b>
(4)	26/02/19	Service charges on account	548.12	
		Reserve fund	<u>500.00</u>	<b>1,048.12</b>
				<b>4,192.48</b>

43. The service charges for the year to 24 June 2019 were examined and certified by Kybert Carroll, who circulated a final account for the year under cover of a letter dated 11 December 2019. Those accounts revealed a surplus of £20,243 for the year, which was retained as a reserve in accordance with the terms of the lease.

44. From the evidence provided, in the absence of any contrary representation from the Respondent, and indeed in light of the admission contained in his email of 13 March 2024, the Tribunal finds that under the terms of the Lease a service charge was payable by the Respondent to the Applicant. On the evidence presented, the sum of £4,192.48 claimed by the Applicant for the year to 24 June 2019 was reasonable in amount and properly incurred.

### **25 June 2019 to 24 June 2020**

45. An estimate for the year to 24 June 2019 was provided by Parkgate under cover of a letter dated 24 June 2019. While this does not contain an apportionment of the Respondent's individual contribution, the total estimated was £210,032, of which the Respondent's proportionate 2% contribution can be calculated as £4,200.64.

46. This was followed by applications for payment as follows:

	<b>Date</b>	<b>Description</b>	<b>£</b>	<b>Total £</b>
(1)	25/06/19	Service charges on account	550.16	
		Reserve fund	<u>500.00</u>	<b>1,050.16</b>
(2)	09/09/19	Service charges on account	550.16	
		Reserve fund	<u>500.00</u>	<b>1,050.16</b>

(3)	03/01/20	Service charges on account	550.16	
		Reserve fund	<u>500.00</u>	<b>1,050.16</b>
(4)	19/02/20	Service charges on account	550.16	
		Reserve fund	<u>500.00</u>	<b>1,050.16</b>
				<b>4,200.64</b>

47. The service charges for the year to 24 June 2020 were examined and certified by Kybert Carroll, who circulated a final account for the year under cover of a letter dated 25 November 2020. Those accounts revealed a surplus of £6,496 for the year, which was, again, retained as a reserve in accordance with the terms of the lease.
48. From the evidence provided, in the absence of any contrary representation from the Respondent, and indeed in light of the admission contained in his email of 13 March 2024, the Tribunal finds that under the terms of the Lease a service charge was payable by the Respondent to the Applicant. On the evidence presented, the sum of £4,200.64 claimed by the Applicant for the year to 24 June 2020 was reasonable in amount and properly incurred.

### **25 June 2020 to 24 June 2021**

49. An estimate for the year to 24 June 2021 was provided by Parkgate under cover of a letter dated 4 June 2020. While this does not contain an apportionment of the Respondent's individual contribution, the total estimated was £211,511, of which the Respondent's proportionate 2% contribution can be calculated as £4,230.22.
50. This was followed by applications for payment as follows:

	<b>Date</b>	<b>Description</b>	<b>£</b>	<b>Total £</b>
(1)	04/06/20	Service charges on account	557.56	
		Reserve fund	<u>500.00</u>	<b>1,057.56</b>
(2)	04/09/20	Service charges on account	557.56	
		Reserve fund	<u>500.00</u>	<b>1,057.56</b>
(3)	04/12/20	Service charges on account	557.56	
		Reserve fund	<u>500.00</u>	<b>1,057.56</b>
(4)	02/03/21	Service charges on account	557.56	
		Reserve fund	<u>500.00</u>	<b>1,057.56</b>
				<b>4,230.24</b>

51. The Tribunal notes the discrepancy of 2 pence between the proportionate share of global anticipated charges addressed in §49 of this Decision, but disregards the same as *de minimis*.
52. The service charges for the year to 24 June 2021 were examined and certified by Kybert Carroll, who circulated a final account for the year under cover of a letter dated 19 October 2021. Those accounts revealed a deficit of £12,724 for the year, which was applied against reserves in accordance with the terms of the lease, so that no call was made upon the Respondent for an Excess Contribution.
53. From the evidence provided, in the absence of any contrary representation from the Respondent, and indeed in light of the admission contained in his email of 13 March 2024, the Tribunal finds that under the terms of the Lease a service charge was payable by the Respondent to the Applicant. On the evidence presented, the sum of £4,230.24 claimed by the Applicant for the year to 24 June 2021 was reasonable in amount and properly incurred.

#### **25 June 2021 to 24 June 2022**

54. An estimate for the year to 24 June 2022 was provided by Parkgate under cover of a letter dated 21 June 2021. While this does not contain an apportionment of the Respondent's individual contribution, the total estimated was £235,479, of which the Respondent's proportionate 2% contribution can be calculated as £4,709.58.
55. This was followed by applications for payment as follows:

	<b>Date</b>	<b>Description</b>	<b>£</b>	<b>Total £</b>
(1)	24/06/21	Service charges on account	677.40	
		Reserve fund	<u>500.00</u>	<b>1,177.40</b>
(2)	31/08/21	Service charges on account	677.40	
		Reserve fund	<u>500.00</u>	<b>1,177.40</b>
(3)	02/12/21	Service charges on account	677.40	
		Reserve fund	<u>500.00</u>	<b>1,177.40</b>
				<b>3,532.20</b>

56. The bundle contained no documents, whether by way of application for payment or otherwise, demonstrating that any further sums had been demanded from the Respondent after the invoice dated 02 December 2021, covering the period 25 December 2021 to 24 March 2022.

57. In her oral submissions Ms Goodman confirmed that the Applicant made no applications for payment, and served no invoices or other demands upon the Respondent following that document, on the advice of its solicitors.
58. The service charges for the year to 24 June 2022 were, once more, examined and certified by Kybert Carroll, who circulated a final account for the year under cover of a letter dated 12 September 2022. Those accounts revealed a deficit of £16,835 for the year, which was applied against reserves in accordance with the terms of the lease, so that no call was made upon the Respondent for an Excess Contribution.
59. While the Applicant's agent provided a summary of anticipated expenditure for the year to 24 June 2022 on 21 June 2021, this did not contain a breakdown that can be identified as falling within the definition of "...such sum as the Lessors or their Managing Agents shall specify ... as being a fair and reasonable payment on account of the Lessee's share of the Annual Cost", within the meaning of clause 2(3)(i) of the Lease, as varied.
60. Subsequent applications for payment appear to the Tribunal to satisfy the requirements of notification to the Respondent of instalments of the Maintenance Charge in accordance with clauses 2(3)(i) and (ii) of the Lease, as varied, and thus triggering the obligation on the part of the Respondent to make payment.
61. Section 48 of the Landlord and Tenant Act 1987 ("**LTA 1987**") provides that no rent or service charge will be due from any tenant of premises which are or include a dwelling, which definition would include the Property, unless the landlord has served on the tenant a written notice giving the tenant an address in England or Wales at which notices (including notices in proceedings) can be served on the landlord by the tenant.
62. In *Dallhold Estates (UK) Pty Ltd v Lindsay Trading Properties Inc* [1994] EGLR 99, CA, the Court of Appeal held that this meant that rent was not due until the s 48 notice was served. As for rent, so as for service charges.
63. In addition to the above requirement, ss 46 and 47 of LTA 1987 impose requirements for rent and service charge demands addressed to residential tenants. Insofar as is relevant to this case, the requirements include that every demand must set out the name and address of the landlord. Unless a receiver or manager is administering the service charge under a court order (which is not the case here), no service charge will be payable on a demand which omits the above information until that information is supplied in writing (s 47(2) of the LTA 1987).

64. Furthermore, s 21B of the 1985 Act, inserted by the 2002 Act requires any demand for service charges to be accompanied by a summary of the tenant's rights and obligations concerning service charges, using the wording prescribed in regulations. The tenant's obligation to pay is suspended until this requirement is satisfied. The current required wording is set out in the Service Charges (Summary of Rights and Obligations and Transitional Provision) (England) Regulations 2007 and the Service Charges (Summary of Rights and Obligations and Transitional Provision) (Wales) Regulations 2007.
65. It follows that the Respondent was under no obligation to pay any service charges that were not properly demanded of him by way of service of a demand that complied with the above statutory provisions.
66. From the evidence provided, in the absence of any contrary representation from the Respondent, and indeed in light of the admission contained in his email of 13 March 2024, the Tribunal finds that under the terms of the Lease a service charge was payable by the Respondent to the Applicant. On the evidence presented, the sum of £3,532.20 demanded by the Applicant for the year to 24 June 2022 was reasonable in amount and properly incurred.
67. Where no further demands were made, no further sums were payable by the Respondent.

#### **25 June 2022 to 24 June 2023, and 25 June 2023 to 24 June 2024**

68. The same principles apply to each of these service charge years, insofar as part of the year to 24 June 2024 has now elapsed. While estimates were provided in each case, on 27 June 2022 and on 5 July 2023, no applications for payment, invoices or other demands have been made of the Respondent for those years.
69. Where no demands were made, no sums are payable by the Respondent, as matters stand.

#### **Administration Charges**

70. While the directions and, indeed, Ms Goodman's skeleton argument referred to administration charges, none appear to have been charged to the Respondent.
71. Insofar as those references may be intended to presage some form of claim that the Respondent indemnify the Applicant in respect of its costs incurred in these proceedings, the Lease and Variation contain no provision for payment of administration charges, so that, insofar as they may be sought (and it is most unclear to the Tribunal what may be being sought under this head) such claim is unsustainable.

## **Refund of fees**

72. At the end of the hearing, the Applicant made an application for a refund of the fees that it has paid in respect of the application and hearing. In consequence of the outcome of this Decision and the Tribunal's findings it is just and equitable that such an order be made: the Applicant has substantially succeeded.

## **Application under s.20C and paragraph 5A of Schedule 11 to the 2002 Act**

73. The directions raise issues as to whether an order under section 20C of the 1985 Act and/or under paragraph 5A of Schedule 11 to the 2002 Act should be made.
74. The Respondent elected not to engage with the proceedings, and has advanced no submission to either issue. Accordingly, the Tribunal makes no Order under either statutory provision.

## **Costs**

75. At the conclusion of the hearing, Ms Goodman made an oral application for an order that the Applicant's costs of the hearing be paid by the Respondent.
76. This application had not been previously notified to the Tribunal or, significantly, to the Respondent. While a short summary of the grounds for the application was contained at §57 of Ms Goodman's skeleton argument, that document did not reach the Tribunal prior to commencement of the hearing.
77. The Tribunal considers it appropriate for the Respondent to be provided with full notice of the nature and grounds of the application for costs, and accordingly directs, if the application for costs is persisted in:
- 77.1 That the Applicant file and serve a written application identifying the grounds on which costs are sought, a breakdown of the sums claimed, and including copies of any authorities relied upon, by 4 pm on Friday 19 April 2024.
- 77.2 That the Respondent file and serve a statement setting out his submissions in response to the application for costs, by 4 pm on Friday 10 May 2024.
- 77.3 The application will thereafter be the subject of a paper determination, unless any party requests an oral hearing. Any such request must be made by 4 pm on Friday 17 May 2024.



**Name:** Judge M Jones

**Date:** 01 April 2024

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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

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

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

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

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).