



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

**Case reference** : **LON/00AJ/LVM/2024/0604**

**Property** : **19, King's Avenue, Ealing, London W5 2SJ**

**Applicant** : **Ms Patricia Ligertwood (Flat 3)**  
**Marshmade Limited (Freeholder)**

**Respondents** : **Mr Kingsley (Tribunal appointed Manager)**

**Type of application** : **Application to vary an Appointment of Manager order**  
**Deputy Regional Tribunal Judge**

**Tribunal** : **Martyński**  
**Mrs A Flynn MA MRICS**  
**Mr C Piarroux JP**

**Present at hearing** : **Mr Harris (Counsel for the Applicant)**  
**Mrs Ligertwood**  
**Mr Tym (Mrs Ligertwood's husband)**  
**Ms Tym (Proposed Manager)**  
**Mr Kingsley (Tribunal appointed Manager)**  
**Ms Zhang (Flat 2)**  
**Mr Sellars (Flat 4)**

**Date of hearing** : **7 February 2025**

**Date of Decision** : **19 February 2025**

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**DECISION**

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## **Decision summary**

1. The Applicant's application to vary the Management Order by the replacement of Mr Kingsley with Ms Tym is dismissed.
2. Mr Kingsley is directed to carry out the following tasks by no later than 42 days from the date of this decision:-
  - (a) Correct the description of the flat roof area with the current insurers
  - (b) Ensure that either there is a valid report in existence regarding the condition of the flat roofs or obtain such a report
  - (c) Once (a) and (b) are done, to obtain written confirmation that the insurance on the building is valid, and send that to the leaseholders
  - (d) Draw up a planned maintenance programme for the period of appointment as described in paragraph 49 of the Management Order dated 12 August 2024

## **The application**

3. This case concerns an application (made on 26 September 2024) to vary the Management Order made by the tribunal on 12 August 2024, by way of replacing Mr Kingsley, the current Manager appointed by the tribunal, with Ms Tym, the Applicant's daughter.

## **Background**

4. The subject building is a converted Edwardian house comprising five flats let on long leases. The freehold interest in the building is held by Marshmade Limited which is a leaseholder owned company. The leaseholders are;  
Mr Zawadi (flat 1)  
Ms Zhang (flat 2)  
Mrs Ligertwood (flat 3 and Applicant)  
Mr Sellars (flat 4)  
Mr Radford (flat 5)
5. There is a long history of disagreement between the leaseholders regarding the management of the freehold company and the building. One of those issues was the erection of a large shed and some decking in the garden. This, it appears, was organised by Ms Zhang with money for those items being paid to her by a previous managing agent from the landlord's funds. The Applicant appears to be of the view that the erection of the shed and decking constitutes a breach of covenant on the part of Ms Zhang.
6. On 21 November 2023 the Applicant issued an application ('the 2023 application') to the tribunal for the appointment of a Manager. The Manager proposed was Mr Tym, the Applicant's husband. During the course of the proceedings, another leaseholder, Mr Radford applied within those proceedings to appoint Mr Kingsley as the Manager.
7. The 2023 application came to a final hearing on 29 May 2024. The tribunal inspected the subject building prior to the hearing. The tribunal issued its final decision on 12 August 2024. The tribunal found that, due to the failings of

Management on the freeholder's part (which were not in issue), it was just and convenient to appoint a Manager. Unsurprisingly, the tribunal concluded that it would not be appropriate to appoint Mr Tym as Manager, given the obvious conflict of interest which that would entail. After hearing from Mr Kingsley, the tribunal decided to appoint him as the Manager of the building from 1 September 2024 to 31 March 2027.

8. Prior to the issuing of the tribunal's full decision, an issue arose regarding the buildings insurance which was due to expire. To deal with the issue, the tribunal made an Interim Order on 8 July 2024, that Order appointed Mr Kingsley as Manager and included the following provision;

Mr Kingsley must place appropriate building insurance for the Property at the earliest opportunity and ensure that the manager's interest is noted on the insurance policy.

9. Mrs Ligertwood was unhappy with the tribunal's interim decision and made an application for permission to appeal on the grounds that;

Mr Kingsley is not currently appointed as manager of the Property and he does not have the necessary knowledge so that he can accurately present a statement of facts to a potential insurer and he does not have the authority to obtain the information from interested parties.

The application for permission was refused by the tribunal on 15 August 2024.

10. In its final decision of 12 August 2024, the tribunal noted that Mr Tym proposed to pursue the issue of the shed and decking, whereas Mr Kingsley would not involve himself in the matter.
11. As stated above, the current application was made on 26 September 2024, just six weeks after the tribunal's final decision in the 2023 application. In her application, Mrs Ligertwood criticised various aspects of Mr Kingsley's management centred around, first, the position regarding insurance of the building and, second, Mr Kingsley's progress and attitude towards the maintenance of the building. Surprisingly, despite the tribunal's extensive comments in its decision of 12 August 2024 regarding the inappropriateness of appointing Mrs Ligertwood's husband as Manager due to the obvious issue of conflict of interest, in her application, the Applicant proposed her daughter as a Manager of the building.
12. Submissions on the application were made as follows:

Mr Kingsley -	opposed the application
Mr Radford -	opposed the application and stated that she was satisfied with Mr Kingsley's performance
Ms Zhang -	opposed the application and stated that he was satisfied with Mr Kingsley's performance
Mr Zawadi -	opposed the application and stated that he was satisfied with Mr Kingsley's performance
Mr Sellars -	was undecided, he considered that there were some shortfalls in Mr Kingsley's management regarding the insurance and list of works to the building

13. We note that Mr Sellars used the opportunity to respond to the application to criticise Mr Radford, Ms Zhang and Mr Zawadi regarding the previous management of the company. Mr Zawadi then submitted a further statement criticising Mr Sellars regarding company issues.

## **The evidence**

### *Mrs Ligertwood*

14. At the hearing, Mrs Ligertwood brought the tribunal up to date with her concerns regarding Mr Kingsley's management.
15. *Insurance:*
- (a) Whilst alleging that the premium was too high for the current insurance, Ms Ligertwood accepted that this was largely driven by the fact that there was a very large claim outstanding on the insurance which was yet to be resolved and she appeared to concede that this was not Mr Kingsley's fault.
  - (b) In a letter dated 11 August 2024, sent by email and copied to Mr Kingsley, Mr Tym had raised concerns regarding the insurance renewal made by Mr Kingsley, in that the insurance proposal stated that the flat roof area was no more than 20% (whereas it was in fact probably more than 50%), and that the insurance required an inspection of the flat roofs to confirm their condition and that this had not been done.
  - (c) In a letter dated 5 September 2024 to Mr Kingsley, Mrs Ligertwood said as follows;  
*"... I am concerned that the insurance you have put in place is invalid because it has been obtained by mis-description.....You have also failed to comply with a specific condition imposed by the insurer prior to the inception of cover."*
  - (d) The insurance proposal stated that there had been no claims in respect of subsidence (there had been such a claim in 2015)
  - (e) The insurance proposal stated that there were no signs of structural movement (there are clear signs of previous movement)
  - (f) The insurance proposal stated that previous insurance had not been cancelled or special terms involved, but Mr Kingsley had informed other leaseholders that no other insurer would insure given the large outstanding claim.
  - (g) The insurance proposal confirmed there had been no major change in the building, whereas in 2017 another leaseholder had converted the flat to open-plan.

As at the date of the hearing, Mrs Ligertwood had received no satisfactory response from Mr Kingsley and she was concerned that the insurance policy in place was compromised.

16. *Planned maintenance programme:* The Management Order of 12 August 2024 required the Manager to draw up a planned maintenance programme for the period of the appointment and send a copy of that to the leaseholders by 31 August 2024. This had not been done.

17. *Fire safety*: Mr Kingsley had obtained a report in early November 2024 which had detailed 'Priority 1' work which was required within 3 months. He had not arranged any of that work.
18. *Service Charge bank account*: The name on the account is 're Client Kings Avenue'. Mr Kingsley had been asked to confirm that this was a dedicated client account. There is a specific document that a bank can supply to confirm this. Mr Kingsley had not procured that document.
19. *Manager's insurance*: Mrs Ligertwood was concerned that, as Mr Kingsley was personally named as the Manager, did the insurance policy held by his company cover him?
20. *Other involvements*: Mr Kingsley has been involved with a number of companies over the years, some of which have closed down, this raises questions. These concerns were raised at the previous hearing when Mr Kingsley was appointed as the Manager.
21. *Company - v - individual*: The complaints procedure, PI insurance and membership of RICS Client Money Protection Scheme all relate to Mr Kingsley's company rather than to him personally.
22. *Membership level of RICS*: Mr Kingsley was an 'AssocRICS' which was an entry level qualification. The tribunal's practice statement requires that the proposed Manager should usually be able to show membership of a professional body at a level of seniority commensurate with the responsibilities of a Tribunal Appointed Manager.
23. *S.20 consultation*: The consultation notice issued by Mr Kingsley dated 25 October 2024 was lacking in detail.

#### *Mr Kingsley*

24. Mr Kingsley made a witness statement and attended the final hearing to give evidence and to be cross-examined. In his witness statement, Mr Kingsley stated; "*I consider that I have complied with the spirit of the Management Order*". The rest of Mr Kingsley's evidence (so far as it is relevant) is summarised as follows.
25. *Buildings insurance*: Mr Kingsley stated that he had renewed the insurance that was previously in force for the building and that he had dealt with all of the concerns raised by and on behalf of Mrs Ligertwood. As regards an obligation to have the flat roof inspected, this was an obligation to have the roof inspected annually, not at the outset of the insurance. Mr Kingsley made reference to having instructed someone to look at the roof and he produced an invoice for his work. This was not available to the tribunal and it appeared that no report regarding the condition of the roof generally was produced. As to allegations of signs of structural movement, Mr Kingsley stated that there were no such obvious signs.

26. As to the premium for the insurance, this was not high. Mr Kingsley said that he had spoken to a number of brokers. The problem was the outstanding very large claim on the insurance, this had put off other insurance companies being willing to quote. Mr Kingsley went on to describe the premiums payable on other properties in the area that he managed which demonstrated that the premium for this property was not unduly high.
27. *Flat roof area:* Mr Kingsley accepted that the description of the flat roof area as being up to 20% was probably an error. However, he stated that; “*my office has been in touch with brokers and received confirmation that the insurance remains valid*”. As to inspections of the roof, Mr Kingsley said that he had arranged for some work on the roof and so it had been inspected. However, he could not give details of that inspection, could not confirm that the inspection had resulted in a written report and did not have any documentation regarding that work.
28. *Bank account:* Mr Kingsley relied upon a letter that he had sent on 9 September 2024 confirming that the account was ringfenced.
29. *Planned maintenance:* Reference was made to the s.20 consultation notice that Mr Kingsley had issued. Mr Kingsley referred to a document dealing with planned maintenance that he said was sent to leaseholders on 16 January 2025, this was not in the bundle of documents before the tribunal. Furthermore, Mr Kingsley said that various works had in fact been carried out at the building.
30. Also, a full schedule of work had been drawn up for the whole building. This had been distributed to leaseholders in January 2025 who had been invited to comment. The schedule was in general terms but this was normal. The next stage would be to produce a specification of works which would contain the detail of the work to be carried out and this would then be put out to tender.
31. *Fire safety work:* Mr Kingsley explained that some work had been done, for example the emergency lighting, other work would be undertaken as part of the schedule of works.
32. *PI insurance:* Mr Kingsley stated that his insurance policy specifically named him as an individual.

#### *Ms Zhang*

33. In her evidence to the tribunal, Ms Zhang said that she was the only leaseholder currently living in the building. She had no concerns regarding the buildings insurance or with the planned maintenance programme. She considered Mr Kingsley to be competent and independent.

#### *Mr Sellars*

34. At the conclusion of the hearing, Mr Sellars stated that he was still undecided regarding the application, but that he leaned slightly more towards Ms Tym being appointed as Manager in place of Mr Kingsley.

### *Ms Tym*

35. Ms Tym had provided a witness statement in which she set out details of her qualifications (MRICS) and experience. That statement also set out details regarding her PI insurance, money protection guarantee and complaints procedure. She detailed her proposals as to what she would do on a hand-over of management and attached her proposed management plan to her statement. At paragraph 7 of her statement, she set out further comments under the heading; *"My comments in amplification of the Applicant's case"*, there then followed a number of comments echoing some of the complaints made by Mrs Ligertwood.
36. In response to cross-examination and questioning from the tribunal, Ms Tym, whilst acknowledging the potential conflict with her mother and father, maintained that she had a professional duty to remain independent and would not compromise that professional duty. She stated that she would draw a line over previous historical conflicts such as the shed and decking in the garden and that she would reach out to Ms Zhang in an attempt to build a positive relationship with her.
37. As to her experience (Ms Tym has never previously been appointed as a Manager by the tribunal), she is currently working for a local authority as a consultant and prior to that worked in residential development/management/acquisitions. Her only experience of the direct management of residential property was approximately five years ago.

### **The tribunal's conclusions on the evidence**

#### *Mr Kingsley*

38. Our main concern regarding Mr Kingsley's evidence was in relation to the buildings insurance. Clear concerns had been raised in writing regarding the description of the flat roof as being no more than 20%. In his letter to Mrs Ligertwood dated 9 September 2024, Mr Kingsley stated; *".... you continue to state that insurance is invalid without providing supporting evidence to explain why."* Unfortunately, this response overlooked Mr Tym's letter of 11 August 2024 which stated; *"It is confirmed that the total area of flat roof equates to less than 20% of the total roof area which I believe is not the case."* Mr Kingsley's later response to that comment was; *"The only areas of flat roof are at the rear of the property where the extension is and on the top floor dormer windows."*
39. The application for a change of Manager, dated 26 September 2024, specifically relied on the issues raised in Mr Tym's letter. Mr Kingsley's formal response to the application in his witness statement of 2 December 2024 was; *"Any other issues now raised in relation to the insurance cover, were dealt with in my previous responses to the tribunal....."*

40. It was not until the final hearing before the tribunal that Mr Kingsley conceded that the flat roof area was more than 20%. He made vague and unconvincing responses on this point to the effect that he had confirmed with brokers that the insurance was valid and had received confirmation of this. We were struck that, despite knowing that this was a major criticism, Mr Kingsley had not produced definitive evidence that the insurance was valid despite the misdescription of the flat roof area.
41. We were less concerned with other aspects of the buildings insurance. As to the level of premium, Ms Ligertwood did not produce any evidence of alternative premiums that would be payable taking into account the large outstanding claim on the insurance. Mr Kingsley, in oral evidence, gave examples of other premiums that he was aware of (although not backed up with documentary evidence). We accept that Mr Kingsley's choice of insurers was severely hampered by the very large outstanding claim on the insurance. We did not consider that the subsidence point (which had been clarified) or the structural movement point (we accept Mr Kingsley's assessment on this point), were valid. As to changes in the building, Mrs Ligertwood's evidence on this was not entirely clear, in any event, Mr Kingsley could not possibly be criticised for not knowing about substantial internal changes to one of the flats that took place several years ago. As to insurance being declined by other insurers, we do not understand the point being made by Mrs Ligertwood. The issue appeared to be that other insurers were not interested in quoting for cover on the building given the outstanding claim on the existing insurance.
42. As to the inspection of the flat roof, the insurance policy obtained by Mr Kingsley states as follows:
- It is a condition precedent to liability that the weatherproof covering of flat roofs is inspected annually by a builder or roofing contractor.....The building or roofing contractor to provide a written advice....
- It seems to us that this term requires there to be in place a written record of an inspection that took place no more than 12 months previously. So, for example, it would not be necessary for an inspection and written record of that inspection to be arranged immediately on renewal of the insurance, so long as there was in existence such a record that was less than 12 months old.
43. Mr Kingsley's view, so far as we could understand it, was that it was not necessary to have the roof inspection in place straight away, so long as it was done within 12 months. This does not accord with our view as set out above. We were concerned that Mr Kingsley had not properly addressed the concerns raised by Mrs Ligertwood and we were far from convinced by Mr Kingsley's unsupported evidence of someone having done some work on the roof recently.

#### *Planned maintenance programme*

44. The Management Order issued by the tribunal in 2024 clearly set a requirement that the Manager must draw up a planned maintenance programme for the period of the appointment. This was not done. Instead, Mr Kingsley preferred to go about matters in his own way and in his own time. No matter how well Mr

Kingsley has in fact managed the maintenance of the building, he has ignored a clear direction in the Management Order.

45. We accept that Mr Kingsley has progressed the preparations for the general maintenance of the building (as described above) and that he has arranged a number of individual maintenance issues as listed in his witness statement. We reject criticism of the schedule of works that has been drawn up and accept that the detail of this will be contained in a specification of works. We accept that work regarding fire safety will be included within the planned maintenance works but would be concerned if there are urgent fire safety works identified that have not yet been addressed. The s.20 consultation notice that has been issued is certainly in the vaguest of terms. The statutory requirement is to; ‘describe, in general terms, the works proposed to be carried out’. It is debatable as to whether the s.20 notice has enough in it to meet this requirement.
46. We accept that it is overwhelmingly likely that the Service Charge account opened by Mr Kingsley meets all the necessary requirements, but why not just put the matter to bed and obtain the confirmation required by Mrs Ligertwood?
47. We are satisfied from looking at the insurance certificate that there is PI insurance in place that covers Mr Kingsley as the tribunal appointed Manager.

*Mrs Ligertwood*

48. The evidence before us gives the impression that Mrs Ligertwood and Mr Tym, having failed to convince the tribunal to appoint Mr Tym as Manager, were set on removing or causing problems for Mr Kingsley from the outset. We note that;
  - (a) There was an attempt to appeal the tribunal’s decision to make an interim appointment of Manager, in that application for permission to appeal, Mr Tym wrote; “*he does not have the necessary knowledge of the property to enable him to accurately present a statement of material facts to potential insurers*” We have not seen any evidence of an attempt to assist Mr Kingsley in the task of insurance. The letter from Mr Tym to Mr Kingsley dated 5 September 2024 is aggressive in tone and simply points out the alleged failings in the insurance.
  - (b) It is difficult to characterise the disabling of the plugs in the communal area by Mrs Ligertwood, without informing Mr Kingsley, and then refusing to supply Mr Kingsley with the invoice for the work, as anything other than an aggressive act designed to hamper the management of the building. Mrs Ligertwood defends her actions on the basis that the sockets were run off her electrical supply, however, that had been the case for a number of years and Mrs Ligertwood did not take any action regarding this before Mr Kingsley’s appointment.
  - (c) Whilst, as we have described above, some of Mrs Ligertwood’s criticisms of Mr Kingsley were legitimate, others were not; these include references to other businesses operated by Mr Kingsley (which had been raised at the previous hearing leading to Mr Kingsley’s appointment), Mr Kingsley’s PI insurance, and issues regarding his office address.
  - (d) The current application to remove Mr Kingsley was made just six weeks after the date of the tribunal’s full decision to appoint him. There is no evidence

before us that indicated that Mrs Ligertwood and Mr Tym accepted the tribunal's decision with good grace or that they made any serious attempt to work with Mr Kingsley for the benefit of the building as a whole.

### *Ms Tym*

49. Ms Tym maintained her stance as to her independence in the face of numerous questions during the course of the hearing. She was candid regarding her previous experience and appeared genuine in her professed intention of rebuilding relationships at the building. In the circumstances, she did all she could to further her parents' cause. However, that in itself is the problem, she was furthering her parents' cause. Whilst trying to maintain that she was fully independent, as noted above, she filed a witness statement with a paragraph heading; "*My comments in amplification of the Applicant's case*", that is not a statement to inspire confidence in her independence.
50. Aside from the issue of independence, Ms Tym has no experience of being a tribunal appointed Manager, either directly or indirectly and has very little experience of this type of property management.

### **Conclusions**

51. The tribunal has three options open to it as follows:
  - (a) Dismiss the application
  - (b) Vary the Management Order and to replace Mr Kingsley with Ms Tym
  - (c) Bring the Management Order to an end

### *Appointing Ms Tym as Manager*

52. We consider that in the context of this building and its history, the issue of conflict is an insurmountable hurdle for Ms Tym. Her parents clearly have very strong views about the building to the extent that they have issued two sets of proceedings and have threatened legal action in respect of the shed and decking. Even if she were able to remain independent in the face of pressure from her parents, professional conflict includes the perception of bias. We do not see how, in the circumstances of this case, Ms Tym could escape the perception of bias in her management.
53. Further, Ms Tym's lack of experience rules her out as a potential Manager.
54. Finally, there is the fact that there is no consensus regarding the appointment of Ms Tym amongst the leaseholders, in fact it is hotly contested between them.

### *Ending the Management Order*

55. This is clearly not an option. Section 24 (9A) of the Landlord and Tenant Act 1987 states that the tribunal shall not discharge an order unless it is satisfied that the discharge will not result in a recurrence of the circumstances which led to the order being made. There is nothing to suggest that the leaseholders could manage the building in the absence of a tribunal appointed Manager and it is clear that

there remains a considerable level of dispute between the leaseholders, even in their responses to this application as noted earlier in this decision.

### *Dismissing the application*

56. The only viable option is for the Management Order to continue with Mr Kingsley as Manager.
57. Mr Kingsley is an experienced Manager with other tribunal appointments. He has considerable experience in the direct management of residential property. Mr Kingsley is making progress in the maintenance of the building.
58. We have noted, what we believe to be, some failings on the part of Mr Kingsley in his management. However, we bear in mind that Mr Kingsley took over management in the face of intransigent opposition from Mrs Ligertwood and Mr Tym who gave the appearance of wanting to make life difficult for him. That is not to excuse the failings that we have found. The tribunal appoints Managers in cases where there are difficult circumstances, persons taking on such management roles must expect that they will have to face hostile leaseholders. We do not understand Mr Kingsley's approach to the issues he faced. He was defensive and appeared to brush off the concerns that were raised. Mr Kingsley should have met the issues raised head-on, he should have got to the bottom of the insurance issues straight away, he should have acknowledged that he had failed to produce the planned maintenance programme and either produced one, or to set out a proposal assuring the leaseholders that the absence of such a plan was compensated for by his actions in making plans for the maintenance.
59. We are however satisfied that Mr Kingsley is actively managing the building and has put into place actions that will result in the building being properly maintained.
60. To address the issues discussed above, we think it reasonable to direct Mr Kingsley to deal with the insurance and planning issues at the building.

### **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).