FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**CAM/00KF/LIS/2024/0001**
Property	:	**667 - 673 London Road, Westcliff on Sea, Essex, SS0 9PD**
Applicants	:	**(1) Sandra Bartlett** **(2) One Diamond Limited** **(3) GM Decorating Limited**
Representative	:	**Sandra Bartlett, lay representative**
Respondents	:	**(1) Stamford Ground Rents Limited** **(2) Westleigh Properties Limited**
Representatives	:	**(1) Todd Harrison-Moore, Director** **(2) Kerry Coleman, in-house solicitor**
Type of application	:	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985**
Tribunal members	:	**First-tier Tribunal Judge K Gray** **Tribunal Member Mr G Smith**
Venue	:	**Remote hearing by CVP**
Date of hearing	:	**28 January 2025**
Date of decision	:	**24 February 2025**

DECISION

Decisions of the tribunal

(1) The tribunal determines that no sum is payable by the Applicants to the second Respondent in respect of the service charges demanded for the block insurance premiums relating to the property for i) the service charge year ending 31 December 2023 and ii) the service charge demands made "on-account" for the service charge year ending 31 December 2024.

(2) The tribunal makes the determinations as set out under the various headings in this Decision.

(3) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985 in light of the second Respondent's concession that the leases do not permit it to recover legal costs from the Applicants via the service charge.

(4) The tribunal determines that the Respondents shall pay the Applicants £330.00 within 28 days of this Decision by way of reimbursement of the tribunal fees paid by the Applicants.

The application

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by them in relation to block insurance premiums in i) the service charge year ending 31 December 2023 and ii) the service charge demands made "on-account" for the year ending 31 December 2024.

The background

2. 667 - 673 London Road, Westcliff on Sea, Essex (the property that is the subject of this application) is a mixed-use block comprising a commercial retail unit at ground floor level with two floors of residential flats above. Neither party requested an inspection of the property and the tribunal did not consider that any inspection was necessary, nor would it have been proportionate to the issues in dispute.

3. The Applicants hold long leases of their flats which require them to contribute towards the landlord's costs by way of a variable service charge. The specific provisions of the leases, which Ms Bartlett confirmed were all drafted in like terms, are set out in more detail below.

4. The first Respondent acquired the freehold interest in the property by way of a transfer dated 12 July 2022. Its predecessor in title had not sought to recover its costs of insuring the building from the second Respondent head lessee. However, once it became the owner of the

property, the first Respondent obtained its own insurance cover and has demanded payment of a proportion of the cost from the second Respondent, who in turn has passed on the cost to the Applicants and the other lessees in the property via their service charge.

5. The second Respondent is the head lessee of the property and is the Applicants' immediate landlord.

6. In the service charge years in question the first Respondent has paid the following premiums in respect of insurance cover for the property:

   (i) 23 June 2022 – 28 January 2023 - £3803.16.

   (ii) 29 January 2023 – 28 January 2024 - £7268.17.

   (iii) 29 January 2024 - 28 January 2025 - £6703.92.

The hearing

7. The first Applicant, Ms Bartlett, appeared in person. She also acted as lay representative for the other applicants, who did not attend the hearing. Ms Bartlett is the leasehold owner of Flat 671A London Road, Westcliff on Sea, Essex. The second Applicant is the leasehold owner of Flat 673A, and the third Applicant is the leasehold owner of Flat 673B.

8. The first Respondent was represented by Mr Harrison-Moore, a director of the first Respondent.

9. The second Respondent was represented by Ms Kerry Coleman, an in-house solicitor.

10. At the outset of the hearing, it was apparent that, despite paragraph 12 of the tribunal's directions dated 20 September 2024 stating that "*witnesses must generally be attending the hearing from the UK even if the hearing is remote*", Ms Bartlett had joined the hearing from her home in France. No permission had been granted to Ms Bartlett by the tribunal to give evidence from France and she had not obtained any consent from the French authorities to do so.

11. Mr Harrison-Moore and Ms Coleman confirmed that they did not intend to cross-examine Ms Bartlett. In those circumstances, the parties agreed that the Applicants' case could proceed on Ms Bartlett's written evidence alone and that therefore there was no requirement for her to give oral evidence during the hearing.

12. The tribunal heard oral evidence from Mr Harrison-Moore. He was cross-examined by Ms Bartlett. All parties were given the opportunity to and did make brief submissions before the hearing concluded.

13. Ms Bartlett requested permission to rely on Policy Statement PS23/15 of the Financial Conduct Authority entitled "*Multi-occupancy building insurance Feedback to CP23/8** and final rules*". The Respondents did not object the admission of this document into evidence and we accordingly allowed the application so that we could consider all of the available evidence in the resolution of this dispute.

The issues

14. At the start of the hearing the parties agreed that the following issues remain in dispute and require determination:

    (i) Whether the cost of insurance as demanded is recoverable from the Applicants under the terms of their leases. There are four limbs to that challenge namely:

        a. whether the insurance premium has been correctly apportioned to the second Respondent and thereafter to the Applicants.

        b. whether the insurance policy selected by the first Respondent provides cover for risks not referred to in the leases.

        c. Whether an arrangement fee of £66.67 charged by the first Respondent is recoverable in each service charge year that is the subject of this application.

        d. Whether the demands for the payment of the insurance premium have been properly made in each service charge year that is the subject of this application.

    (ii) Whether the insurance premium has been reasonably incurred or is reasonable in amount in each service charge year that is the subject of this application.

    (iii) Whether an order under section 20C of the Landlord and Tenant Act 1985 ought to be made.

15. Having heard the evidence and the submissions from the parties and having considered all of the documents provided, the tribunal makes determinations on the various issues as follows.

The leases

16. The Applicants provided a copy of an underlease dated 27 November 1991 made between (1) Spurdown Investments Limited and (2) Susan Sales relating to Flat 671A London Road, Westcliff on Sea, Essex ("the Underlease"). Ms Bartlett confirmed that the Applicants' leases are all drafted in like terms.

17. The following are the material terms of the Underlease:

(i) By recital 1(b) "*the expression "the Building" shall mean the building 667/673 London Road, Westcliff on Sea Essex of which the demised premises form part*".

(ii) By recital 1(c) "*the expression "the headlease" shall mean a Lease dated the 3rd August 1984 made between Benfleet Furniture Warehouse Limited of the one part and the Landlord of the other part…*".

(iii) By recital 1(g) "*the expression "a fair proportion" shall mean one eighth or such other proportion as the Surveyor of the Landlord shall determine and such determination shall be binding on the parties hereto*".

(iv) By clause 2(9), the tenant is obliged to "*pay to the Landlord and keep the Landlord indemnified against a fair proportion of all costs charges and expenses whatever and wherever incurred and of all reserves made by the Landlord in carrying out its obligations under the Fifth Schedule hereto…and such amounts shall be certified in accordance with Clause 12 of the Fifth Schedule hereto*".

(v) By clause 2(10), the tenant is obliged on 1 January and 1 July in each year to pay an interim payment on account of the obligations under clause 2(9).

(vi) By clause 2(11), the tenant is obliged to pay a balancing service charge within 21 days of service of the notice referred to in paragraph 12 of the Fifth Schedule.

(vii) By paragraph 2 of the Fifth Schedule "*so far as practicable and possible the Landlord shall enforce the covenant on the part of the Superior Landlord contained in the Headlease to insure the building*

and keep it insured against the insured risks as defined in the Headlease and shall make all payments necessary for that purpose when the same become payable…"

(viii) By paragraph 10 of the Fifth Schedule "*the Landlord shall keep proper books of account of all costs charges and expenses whenever incurred in carrying out its obligations under this Schedule from the first day of July 1990 and an account shall be taken for the period to the Thirty first day of December 1991 and to the Thirty first day of December in every subsequent year during the continuance of this demise of the amount of the said costs charges and expenses incurred since the date of the last preceding account*"

(ix) By paragraph 11 of the Fifth Schedule "*the account to be taken in pursuance of the last preceding Clause shall be prepared and audited by a competent Chartered Accountant or firm of Chartered Accountants appointed by the Landlord who shall certify the total amount of the said costs charges and expenses…for the period to which the account relates and the amount due from the Tenant to the Landlord pursuant to Clause 2(9) hereof*"

(x) By paragraph 12 of the Fifth Schedule *"the Landlord shall within four months of the date to which the account provided for in Clause (10) of this Schedule is taken and certified under Clause (11) serve on the Tenant a copy thereof with a notice in writing stating the said total and proportionate amounts certified in accordance with the last preceding Clause*".

18. The second Respondent provided a copy of the headlease dated 3 August 1984 referred to in recital 1(c) of the Underlease ("the Headlease"). The following are the material terms of the Headlease:

(i) By recital 1(a), "*the expression "the Demised Premises" shall mean the First and Second Floor Flats hereby demised as are more particularly described in the First Schedule hereto…*".

(ii) By recital 1(b), "*the expression "the Building" shall mean the building of which the Flats form part being numbers 667 to 673 (odd numbers) London Road aforesaid*".

(iii) By recital 1(c), "*the expression "the insured risks" means the following risks included in the Policy of insurance effected under the terms of these presents namely:-*

(i) risks in respect of loss or damage by fire lightning explosion aircraft and other aerial devices or articles dropped therefrom earthquake riot and civil commotion and malicious damage storm or tempest bursting or overflowing of water tanks apparatus or pipes flood impact by road vehicles subsidence landslip and heave in the full rebuilding value thereof as advised by the Landlord's Surveyor for the time being of the Demised Premises including two years rent of the Demised Premises and Architects Surveyors and other professional fees and including expenses consequent upon rebuilding or reinstating

(ii) such other risks of insurance as may from time to time be required"

(iv) By recital 1(g) "The expression "*a fair proportion" shall mean sixty six per centum*"

(v) By clause 1, the head lessee is required to pay "*by way of additional rent a yearly sum equal to a fair proportion expended by the Landlord in insuring the Demised Premises in accordance with Clause 4(2) hereof such sum to be paid immediately upon demand thereof*".

(vi) By clause 4(2), the landlord covenanted "*to insure and keep insured the Building during the term hereby granted for the insured risks and to make all payments necessary for the above purpose within seven days after the same shall respectively become payable…*"

The tribunal's decision

19. The tribunal determines that no sum is payable by the Applicants in respect of the service charges demanded for the block insurance premiums relating to the property for the service charge year ending 31 December 2023 and on account for the year ending 31 December 2024.

Reasons for the tribunal's decision

Apportionment of the insurance premiums

20. The Applicants' challenge on this point is that the apportionment of the insurance premium between the residential flats and the commercial unit on the ground floor is unfair, as the ground floor shop occupies a larger area than the flats and presents a greater risk. They assert that, though the proportion of service charge payable is fixed in the Headlease, the Underleases provide for more flexibility in apportionment of service charges and the percentage of the premium charged to the lessees should be proportional to the risk that each part of the property poses.

21. Both Mr Harrison-Moore and Ms Coleman relied on the terms of the Headlease and the Underlease. They both asserted that the Headlease provides for a fixed apportionment of the costs of the insurance premium between the freeholder and the head lessee. As regards the apportionment of the cost of the insurance premium between the head lessee and the Applicants, the second Respondent has apportioned the costs equally between the leaseholders.

22. No party relied on the possible tension between clause 1 and clause 4(2) of the Headlease which requires the head lessee to pay "a fair proportion expended by the Landlord in insuring the Demised Premises in accordance with Clause 4(2)" but for the landlord "to insure and keep insured the Building" (emphasis added). As this issue was not raised by the parties in the statements of case and we did not hear any evidence that may have been relevant to the intentions of the original contracting parties, we make no determination on this issue. However, it may be that this is a matter that the parties, particularly the Respondents as parties to the Headlease, need to resolve or have determined.

23. In respect of the challenge that was raised by the Applicants, we do not agree with their submissions. The Headlease requires the Second Respondent to pay a fixed percentage (namely 66%) of the first Respondent's costs of insurance. There is no scope under the terms of the Headlease, absent agreement, for the second Respondent to pay a lower proportion of the insurance premium to reflect floor areas or risk.

24. As to the proportion of the premium that the Second Respondent then passes on to the Applicants under the Underlease, the Underlease provides for the Second Respondent's costs to be apportioned between the leaseholders. There is in our judgment no scope at that stage for there to be an assessment of the comparative floor areas of the commercial and residential parts of the building or the respective risks posed, because the premium has already been apportioned to the residential parts under the Headlease. The question is whether the lessees should each pay one eighth of the second Respondent's costs or some other proportion. It was not suggested by the Applicants that the proportion of the insurance premium properly allocated to the residential parts of the building should be divided between them anything other than equally.

25. For these reasons, we find that the insurance premium has been properly apportioned under the terms of the Headlease and the Underlease.

Insured risks

26. The Applicants' case on this point was that the insurance policies obtained by the first Respondent obtain cover for "employer's liability" and "landlord's property" but that this cover is not to the benefit of the residential lessees.

27. Mr Harrison-Moore's unchallenged oral evidence, which we accept, was that insurance cover for "employer's liability" and "landlord's property" was offered at no extra cost under the policies selected by the first Respondent and that insurance against these risks was a standard requirement of the first Respondent.

28. In their submissions, Mr Harrison-Moore and Ms Coleman also pointed to recital 1(c) of the Headlease which provides that the first Respondent may obtain insurance for such other risks as may from time to time be required.

29. We find that the First Respondent is entitled under the terms of the Headlease to obtain insurance cover for "employer's liability" and "landlord's property" if it considers that this is required. Whether the cost of obtaining such cover is reasonable may be a different matter, but given that no extra cost has been incurred, this is not an issue that we are required to determine.

Arrangement fee

30. We were provided with a demand made by the first Respondent of the second Respondent dated 8 June 2023 which is said to relate to the apportioned part of the insurance premium for the period 12 June 2022 to 28 January 2024. The total sum demanded was £7228.60 which included an arrangement fee of £66.67. Payment was required by 22 June 2023. We were not provided with the demand made by the first Respondent of the second Respondent in respect of the premium for the period 29 January 2024 to 28 January 2025, but Mr Harrison-Moore's witness statement of 2 October 2024 confirmed that an arrangement fee of £66.67 was demanded for this period also.

31. Mr Harrison-Moore accepted on behalf of the first Respondent that the Headlease did not provide for the first Respondent to demand an arrangement fee of the second Respondent and that the first Respondent did not press any argument that it was entitled to payment of this sum. Neither Ms Bartlett nor Ms Coleman demurred from that concession.

32. We accordingly find that, in so far as the sum of £66.67 has been passed on by the second Respondent to the Applicants, their proportion (which we calculate to be £8.33 each) is not payable by them.

Demands

33. We were provided with two sample demands made of the Applicants by the second Respondent. The first is dated 20 June 2023 and relates to insurance cover for the period 12 June 2022 to 28 January 2024. The sample demand is addressed to Mr and Mrs Ottley and is made in relation to Flat 671A. The total sum demanded is £903.58. Payment was required by 12 July 2023. The second demand is dated 14 August 2024 and relates to the insurance cover for the period 29 January 2024 to 28 January 2025. Again, the demand is addressed to Mr and Mrs Ottley and is made in relation to Flat 671A. The total sum demanded is £566.99. Payment was required by 4 September 2024.

34. The Applicants' challenge on this point is that the service charge demands were "late" and contained discrepancies. The particular discrepancy relied on is that the invoices raised by both Respondents are said to relate to cover provided from 12 June 2022 when the actual cover placed by the first Respondent began on 23 June 2022. However, an analysis of the demands and the policy certificates demonstrates that the sum demanded by the first Respondent on 8 June 2023 is an apportioned part of the total cost of the two premiums placed for the period 23 June 2022 to 28 January 2023 and from 29 January 2023 to 28 January 2024. It would appear that the reference in the demand to a policy beginning on 12 June 2022 is simply a mistake.

35. As to the lateness of the demands, we understood this to refer to a challenge to the ability of the second Respondent to demand service charges of the Applicants "in-year" as opposed to in accordance with the process of making interim and balancing charges provided for in the Underlease. As the point had been raised in a somewhat opaque manner in the Applicants' statement of case, we adjourned the hearing for 30 minutes in order to allow Ms Coleman to consider the Underlease and her client's position on the point. When the hearing resumed, Ms Coleman confirmed that she had had sufficient time to consider the matter.

36. Ms Coleman submitted that the Underlease permitted service charges to be recovered by way of ad hoc "in-year" demand because of the general requirement in clause 2(9) of the Underlease which provides for the Applicants to keep the second Respondent indemnified against their proportion of the landlord's expenditure.

37. We do not consider that, reading the Underlease as a whole, it can be construed in this way. This is because clause 2(9) of the Underlease provides expressly that the amounts payable under the indemnity are to

be certified in accordance with paragraph 12 of the Fifth Schedule. Paragraph 12 of the Fifth Schedule requires the landlord to serve the tenant with a notice in writing stating the total and proportionate amounts payable, those sums having been certified once an account has been taken at the end of the service charge year. Clause 2(11) of the Underlease then requires the tenant to make payment of any balance due within 21 days of service of the notice.

38. Though the service charge accounts for the year ending 31 December 2023 do include an entry for building insurance in the sum of £7229.00, we were not shown any demand for payment or credit made to the reserve fund following the taking of this account. The service charge budget for 2024 does not include any budgeted sum for insurance. In our judgment, clause 2(9) does not permit the second Respondent to make service charge demands of the Applicants during the service charge year, otherwise than in accordance with the express regime set out in the Underlease for making interim and balancing service charge demands.

39. It follows that, on the evidence before us, no proper demand has been made of the Applicants in respect of the sums expended by the second Respondent in paying for its share of the insurance premiums demanded of it by the first Respondent.

40. In those circumstances, the sum payable by the Applicants in respect of insurance premiums in the service charge year ending 31 December 2023 and the service charges demanded "on-account" for the year ending 31 December 2024 is £nil.

41. Ms Coleman pointed out that, should the Tribunal find that no proper demand for the insurance premiums had been made, there was nothing to prevent the second Respondent from making a fresh demand in accordance with the provisions of the Underleases. We make no determination in respect of demands for service charges that have yet to be made, however in light of Ms Coleman's indication that the premiums were likely to be the subject of a further demand, we deal with the only other issue between the parties, namely the reasonableness of the premiums, below.

Reasonableness

42. All parties agreed that the applicable principles relating to the reasonableness of insurance premiums are set out in ***Cos Services Limited v Nicholson*** [2017] UKUT 382 (LC), namely that:

    (i) It is not necessary for the landlord to show that the insurance premium sought to be recovered from the tenant is the lowest that can be obtained in the market.

(ii) However, the Tribunal must be satisfied that the charge in question was reasonably incurred.

(iii) In doing so, it must consider the terms of the lease and the potential liabilities that are to be insured against.

(iv) It will require the landlord to explain the process by which the particular policy and premium have been selected, with reference to the steps taken to assess the current market.

(v) Alternative insurance quotations relied on by the tenant must be genuinely comparable in the sense that the risks being covered properly reflect the risks being undertaken pursuant to the covenants contained in the lease.

(vi) It is necessary for the landlord to satisfy the Tribunal that invocation of a block policy has not resulted in a substantially higher premium that has been passed on to the tenants of a particular building without any significant compensating advantages to them.

43. Mr Hamilton-Moore's written evidence did not deal with these points in the detail required. However, he provided further information during the course of his oral evidence when answering the Tribunal's questions and in response to questions put to him by Ms Bartlett.

44. In his oral evidence, Mr Hamilton-Moore explained that the policy selected by the first Respondent was a block policy, however the insurance broker employed by the first Respondent had obtained quotations from 5 large insurance firms and that the first Respondent had selected the lowest premium provided by those firms. Though the policy is a block policy, the first Respondent reviews every individual premium payable to ensure that it is not obviously excessive. The broker managed to negotiate a reduction in the premium for the 2024/25 policy. Mr Hamilton-Moore said that his experience was that insurance premiums for residential properties were increasing and that some insurers were no longer offering cover for residential premises. As to the property itself, he said that the flats in the property were large 3 double bedroom units which have a higher rebuild value than smaller units, and that this has increased the premium. His written evidence was that the building had a history of break-ins which had also increased the cost of cover.

45. The above evidence was unchallenged by Ms Bartlett, who focussed in her cross-examination on the commission taken by the first Respondent

under each policy, which Mr Harrison-Moore said was 30% in relation to the June 2022 policy, 25% in relation to the January 2023 policy and 16.5% for the January 2024 policy. Mr Harrison-Moore stated that the commission was charged in order to reflect the freeholder's expenses in dealing with meetings, correspondence, enquiries, invoices and administration relating to insuring the property on the lessees' behalf, as well as a payment to the insurance broker. He said that the first Respondent had dealt with numerous enquiries regarding the insurance at this property, and had negotiated with multiple insurers to get the best price. He could not tell the Tribunal how much of the commission percentage charged was paid to the insurance broker. He accepted, in response to a question from Ms Bartlett, that the broker engaged by the first Respondent in the service charge years in question was known for selecting policies with high commission fees. His evidence was that the first Respondent was now using a different insurance broker, and that the commission charged would be 15% from now on.

46. Ms Bartlett asked Mr Harrison-Moore about the alternative quotations that she had provided in the Applicant's hearing bundle. Mr Harrison-Moore pointed out that these quotes are not like-for like cover. He said that the flats in the subject property were much larger than the flats insured under the comparative quotes, which resulted in a larger premium because of increased rebuild values.

47. We found Mr Harrison-Moore to be a credible and helpful witness. He gave his evidence in a clear and straightforward manner and was largely unshaken in cross-examination. We accept his unchallenged evidence that the first Respondent has tested the insurance market in the service charge years in question by approaching 5 different insurers for quotes, and that it has selected the lowest premium from the quotations received.

48. Though we have sympathy with the fact that the Applicants appear to have faced great difficulty in obtaining an alternative insurance quotation for the subject property, we do not consider that the alternative quotations that they supplied in respect of other properties are properly comparable. We accept Mr Harrison-Moore's evidence that the flats in the subject property are unusually large and attract a greater premium as a consequence. We also note that the other insured properties appear to have different risk profiles to the subject property as not all are mixed-use premises.

49. We accordingly find that the first Respondent has taken reasonable steps to assess the insurance market when placing the three policies referred to above and has selected a reasonable premium after doing so.

50. As to the commissions paid to the first Respondent and its insurance brokers, we accept Mr Harrison-Moore's evidence and find that the first Respondent carries out work to negotiate and administer the insurance

policy, including i) meeting and corresponding with the broker; ii) negotiating or instructing the broker to negotiate a reduction in premiums; iii) reviewing the premium to ensure that it is not excessively high; and iv) corresponding with the leaseholders and the second Respondent about the policy, including making demands for payment. We also accept that the first Respondent would be required to carry out some claims handling work if a claim on the insurance policy were to be made.

51. However, in our judgment Mr Harrison-Moore's evidence did not justify the commissions of between 16.5% and 30% charged by the first Respondent in the service charge years in question. Mr Harrison-Moore candidly accepted that the insurance broker engaged by the first Respondent in the service charge years in question charged high commissions and that the first Respondent had engaged a different broker because of this. He was unable to say how much of the commission was shared with the broker. He did not suggest that the administration work involved in placing and managing the policy had reduced or become less costly in the current service charge year, but the first Respondent has nevertheless been able to reduce the commission to 15% now that a new broker has been appointed. For these reasons, in our judgment, the insurance commissions of between 16.5% and 30% of the total premium in the service charge years in question are not reasonable and/or have not been reasonably incurred.

52. In coming to our decision on a reasonable commission fee, we have considered the Financial Conduct Authority document produced by the Applicants and referred to above. We have also considered the rules appended to the FCA document, which are said to have come into force on 31 December 2023. However, these rules appeared to us to place restrictions on the activities of insurance brokers rather than on freehold owners of residential property. Mr Harrison-Moore was not asked by Ms Bartlett whether, when placing the policies referred to above, he had received any of the information that is now required to be disclosed by insurance brokers under the new FCA rules. Mr Harrison-Moore said that he would expect to receive this information when placing the 2025 policy but that the 2024 policy was placed before the new rules came into effect.

53. In our judgment and doing our best with the available evidence, a reasonable commission fee for the policies placed in the service charge years in question is 15%, being the commission fee that the first Respondent now charges under the new rules. Ms Bartlett did not suggest that 15% was an unreasonable commission - rather she said that the fact that the first Respondent had reduced its commission in the current service charge year was because of the new restrictions imposed by the Financial Conduct Authority requiring greater transparency by insurance brokers in the charging of commission. In our judgment, a commission of 15% would properly compensate the first Respondent for

the work that it is required to do to manage and administer the policy, whilst also allowing for a sum to be paid to the insurance broker.

54. Accordingly, we determine that a reasonable insurance premium for the service charge years in question, including a 15% commission fee, is:

(i) 23 June 2022 – 28 January 2023 - £3,364.33 (66% of which is £2,220.46).

(ii) 29 January 2023 – 28 January 2024 - £6,686.72 (66% of which is £4,413.23).

(iii) 29 January 2024 - 28 January 2025 - £6,617.60 (66% of which is £4,367.62).

Application under s.20C and refund of fees

55. At the end of the hearing, the Applicants made an application for a refund of the fees that they had paid in respect of the application and hearing. Having heard the submissions from the parties and taking into account the determinations above, the tribunal orders the Respondents to refund any fees paid by the Applicants within 28 days of the date of this decision. This is because the Applicants have been the successful party, and though the deduction to the insurance premiums set out above is relatively modest, the evidence upon which the Tribunal has reached its conclusions was not provided by the first Respondent before Mr Hamilton-Moore's oral evidence, despite the parties being directed on 20 September 2024 to give full details of the policies placed and services provided for the income received.

56. In the application form the Applicants applied for an order under section 20C of the 1985 Act. Ms Coleman confirmed that the Underlease does not permit the second Respondent to recover such costs from the Applicants through the service charge. Accordingly, an order under section 20C is not required, though the Tribunal would have made such an order for the same reasons as have been set out in the paragraph immediately above.

Name: Judge K Gray **Date:** 24 February 2025

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).