



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

Case Reference	: CHI/00HN/LSC/2024/0099
Property	: Tiverton Court, 24 Marlborough Road, Westbourne, Bournemouth, BH4 8DH
Applicant	: John Harold Simmons and David Smyth-Olby (The Moss Trust)
Representative	: Mr M Davies, solicitor, Rawlins Davy Reeves
Respondents	: The lessees (see Appendix A)
Representative	: Mr M Freeman (Flat 7)
Type of Application	: Landlord and Tenant Act 1985 s.27A(3) (service charges)
Tribunal Members	: Tribunal Judge M Loveday Mr J Reichel MRICS Mr M Jenkinson
Date and venue of Hearing	: 24 March 2025, Poole Magistrates' Court
Date of Decision	: 2 April 2025

DETERMINATION

Introduction

1. This is an application under s.27(3) Landlord and Tenant Act 1985 to determine liability to pay service charges. The issue is whether, if the applicant landlord incurred repair costs, a service charge would be payable by the respondent lessees for these costs. The question turns on the tribunal's interpretation of the terms of the respondents' leases.

Background

2. The dispute relates to Tiverton Court, 24 Marlborough Road, Westbourne, Bournemouth, BH4 8DH, which comprises a 3-storey detached purpose-built residential block, containing 12 flats. There are four flats on the ground floors. These have patio style balconies sitting on the ground. The remaining eight flats have suspended balconies.
3. The block is described in a report of Mr S Welch MRICS of Winkle-Bottom Surveyors dated 1 September 2022 as follows:

“3.2 The block is believed to be of traditional construction, concrete framed, finished in fair faced cavity brickwork and render with a flat roof. There is a communal entrance in the middle of the block providing access to all 12 flats.

3.3 The 8 balconies on the first and second floors are formed from a cantilevered concrete slab finished in an asphalt waterproof membrane having various finishes. The balconies have a metal framed balustrade with 5 No. glass panels and timber handrails clad in PVCu, fixed back to the building. Three balconies have metal framed privacy screens, glazed (2 No. panes of Georgian wired/obscure glass), located between them.

3.4 The rainwater is taken from the balconies via internal rainwater outlets. All connected to downpipes that drain away below ground. 2 No. balconies have guttering around the edge of the balconies.

3.5 The 4 ground floor balconies are constructed from a solid base having various finishes.”

4. The tribunal inspected the block before the hearing. On inspection, it noted the following:
 1. Overall, the balconies on both the ground floor and upper floors were in a tired condition, although paragraph 5.1 of the surveyor's report concluded they were “structurally sound”.
 2. The ground floor balconies were of solid concrete, and appeared to have been constructed without any surface treatments. One balcony (Flat 2) was in what appeared to be this original condition. The remaining ground floor balconies had various types of tiles laid over the concrete. No damp membranes were visible, and any damp protection would be within the concrete itself.
 3. The upper floor balconies were also of concrete. The report notes that the balconies in all flats were finished with an asphalt waterproof membrane, and that in most flats, tiles had been laid over the asphalt. The tribunal inspected two first floor balconies, where a variety of

tiling could be seen. Where waterproof asphalt membranes were visible, these were between the concrete slabs of the balconies and the tiles.

4. The original metal upstands and rails were rusting, and in places the rails were bowed.
 5. Many of the wired glass panels were cracked, particularly in the corners. In one case, it was evident that a bowed bottom rail was responsible for the cracking.
 6. As originally constructed, the metal upstands were seated within the concrete slabs of the balconies, as opposed to being bolted to the surface of the slabs. The upstands could not be removed without breaking out the concrete slabs. This arrangement was evident from the Flat 2 balcony where the original slab had not been tiled over and the upstands was plainly seated within the slab.
5. There is a headlease of the plot dated 4 December 1972, which requires the headlessee to “sufficiently uphold support and maintain repair paint empty amend and scour cleanse glaze and keep in good repair and tenantable repair the said buildings and premises”.
 6. There were originally underleases of each of the 12 flats, although in some cases, the leases have been extended under the Leasehold Reform Housing and Urban Development Act 1993. In any event, the applicant landlord holds the headlease, whilst the freehold is held by the Alice Ellen Cooper-Dean Charitable Foundation.
 7. The leases are in three basic forms. Details of the leases, together with the names of the relevant respondent leaseholders, are given in Appendix A. The material terms of each of the three lease types is given in Appendix B.
 8. The applicant wishes to carry out works but first needs to establish whether it is responsible for repairs to various parts of the balconies, and whether it may recover the relevant costs of works from the lessees by way of service charges. By an application dated 13 June 2024, the applicant sought the following determinations:
 - (a) Which party is “responsible under the respective underleases of the flats at the property for improvement, renewal, refurbishment, maintenance or repair of the external balconies at the Property”?
 - (b) If the tribunal’s determination is that the applicant is responsible for these items of work, whether the costs incurred in carrying out that work can be recovered as service charges from the respondents?
 - (c) If the tribunal's determination is that there are parts of the balconies which are the responsibility of the applicant to maintain, the applicant seeks a determination about where that responsibility begins and ends.
 9. Directions were given on 20 November and 16 December 2024. There are also two applications for a determination that the applicant’s costs should not be added to the respondents’ service charges under s.20C of the 1985 Act.
 10. At the hearing, the applicant was represented by Mr M Davies of the solicitors Rawlins Davy Reeves. The respondents were represented by Mr M Freeman of

Flat 7. The tribunal is grateful to both for their succinct and helpful submissions.

The applicant's case

11. Mr Davies relied on a skeleton argument dated 18 March 2025, and elaborated on this in oral argument. He submitted that in Sch.3 to each lease, the demised “Premises” included a “balcony”, but that the premises specifically excluded the “main structural parts of the building ... including the roof foundations and external parts thereof”. In essence, the top surface layer of the balconies formed part of the flats demised to each lessee, with the remaining structural parts below the top surface layer, the metal balcony upstands and rails and the glazed panels and privacy screens forming part of the landlord’s retained parts. All these balcony parts were either parts of the building “structure” or they were part of the building “exterior”. Mr Davies referred to *Arnold v Britton* [2015] UKSC 36 on interpretation of lease covenants, and to *Ibrahim v Dovecorn Reversions Ltd* [2001] EGLR 46, which involved a similar issue of determining the extent of balconies demised by flat leases. When asked by the tribunal, Mr Davies suggested that:
 - a. The tiling was not part of the structure or exterior. It had been laid by the leaseholders themselves in different styles.
 - b. The concrete was part of the “structure”. It was a continuation of the internal floor slab within the building.
 - c. The waterproof membrane was also part of the “structure”, because its function was to protect a structural part.
 - d. The metal upstands and rails were not “structure”. But they were part of the exterior” which was not demised to the leaseholders.
 - e. The glass panels and privacy screens were also part of the “exterior”.
12. As to the recoverability of the cost of repairing and maintaining the balconies, the landlord was obliged to repair and maintain the main structural parts and the exterior under Sch.7 to the Lease. The relevant costs of complying with this obligation could be included in the respondents’ service charges under para 22(1) of Sch.6. The applicant disputed the respondents’ interpretation of the proviso to para 4 of Sch.7. And the argument in relation to the s.20 consultation referred to below was premature.

The respondents' case

13. Mr Freeman also provided a helpful skeleton argument dated 17 March 2025. He submitted that Sch.3 made it clear the balconies themselves were part of the Reserved Property. In oral argument, he accepted that the concrete, waterproof membrane, metal upstands and rails, glass panels and privacy screens were retained by the landlord, whilst the tiles were part of the balconies demised to the tenants.

14. However, the respondents disputed that the applicant was under any obligation to repair in Sch.7 to the Lease which engaged para 22(1) of Sch.6. Mr Freeman observed that para 4 of Sch.7 to the Lease was subject to a proviso. Although the lessor was required to keep the Reserved Property in a good state of repair, the proviso stated that “nothing herein contained shall prejudice the Lessor’s right to recover from the Lessee ... any loss or damage ... caused ... by the negligence or other wrongful act or default of the Lessee or such other person”. Mr Freeman submitted that the proviso limited the obligation to instances where there had been “negligence or wrongful acts” by the respondents. There had not been any negligence or wrongful acts on the respondents’ part, and the state of the balconies was simply due to “natural wear and tear” for a building and balconies which were over 50 years old. It followed that the costs of the renewal and replacement of parts of the balconies in this instance falls to the applicant.
15. Mr Freeman also referred to a consultation carried out by the applicant under s.20 Landlord and Tenant Act 1985. There was a Notice of Intention under para 1 of Pt.2 of Sch.4 to the Service Charges (Consultation Requirements) (England) Regulations 2003 in relation to “Balcony Redecoration Works” dated 18 January 2023. The respondents suggested the recoverable charges should be limited to this redecoration work.

Discussion

16. There is effectively no dispute about the parts of the balconies retained by the applicant landlord as part of the “Reserved Property” in Sch.2 to the Lease. The concrete slabs forming the main part of the balconies, the original asphalt waterproofing on the upper floor balconies, the metal upstands and rails, the glazed balcony panels and the privacy screens are all either part of the “structure” or part of the “exterior” of the building. Indeed, the wooden handrails and the drainage are also included in the Reserved Property. The Tribunal itself considers there may be questions about whether the original asphalt surface treatments on the upper floor balconies should properly be categorised as part of the “structure” (as opposed to “exterior”) and whether the metal upstands are properly treated as part of the “exterior” (as opposed to “structure”). But given the agreement between the parties, and the fact the distinction between building “structure” and “exterior” is irrelevant for the purposes of this application, the Tribunal need not decide the point. In short, all these parts are retained by the landlord under Sch.2 to the Lease.
17. It is also accepted the surface of the concrete balconies at ground floor level, and the surface of the original asphalt treatment of the balconies at upper levels, together with the airspace above those original surfaces were demised to the

respondents under Sch.3 to the Lease. The Tribunal finds, as a fact, that the tiling which it observed on inspection was not part of the original balcony structure or exterior, and that they were installed by the leaseholders over time. The tiling did not therefore form part of the Reserved Property at the date of each lease. The tiling is therefore the only physical part of the balconies which falls within the areas demised to the respondents by Sch.3 to the Lease.

18. It follows from the above that under para 3 of Sch.6 of the Lease it will normally be the responsibility of each individual leaseholder to repair and maintain the tiled surfaces of their individual balcony. It also follows that any costs of repairing balcony tiles cannot ordinarily be added to the service charges payable by all the lessees.
19. This last finding is subject to an important exception. There is a general principle that a landlord's obligation to effect repairs carries with it an obligation to make good any consequential damage to demised premises: *McGreal v Wake* (1984) 13 H.L.R. 107; *Bradley v Chorley BC* (1985) 17 H.L.R. 305; *McDougall v Easington DC* (1989) 58 P. & C.R. 201. In other words, if the applicant needs to lift or break out balcony floor tiles to carry out repairs to the retained parts of the balconies, it may (in these limited circumstances) properly include the cost of making good those tiles in the service charges.
20. At the hearing, the main issue turned on the effect of the proviso to para 4 of Sch.7. In interpreting this, the Tribunal bears in mind the summary of principles set out by Lord Neuberger in *Arnold v Britton*:

“[15] When interpreting a written contract, the court is concerned to identify the intention of the parties by reference to “what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean”, to quote Lord Hoffmann in *Chartbrook Ltd v Persimmon Homes Ltd* [2009] UKHL 38, [2009] 1 A.C. 1101, para 14. And it does so by focussing on the meaning of the relevant words, in this case clause 3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of the natural and ordinary meaning of the clause, any other relevant provisions of the lease, the overall purpose of the clause and the lease, the facts and circumstances known or assumed by the parties at the time that the document was executed, and commercial common sense, but disregarding subjective evidence of any party's intentions. In this connection, see *Prenn* at pp 1384-1386 and *Reardon Smith Line Ltd v Yngvar Hansen-Tangen (trading as HE Hansen-Tangen)* [1976] 1 W.L.R. 989, 995-997 per Lord Wilberforce, *Bank of Credit and Commerce International SA (in liquidation) v Ali* [2002] 1 A.C. 251, para 8, per Lord Bingham, and the survey of more recent authorities in *Rainy Sky*, per Lord Clarke at paras 21-30”.
21. The starting point for assessing the meaning of para 4 of Sch.7 is to look at Sch.7 as a whole. It is immediately clear that Sch.7 is not primarily a service charge covenant. Those covenants are contained in Sch.6, where para 22 allows the

landlord to recover the costs of fulfilling its obligations in Sch.7, and indeed other costs not relating to Sch.7. Instead, it imposes a series of obligations on the applicant landlord, of which para 4 is merely one of the most important ones. Para 4 allocates responsibility for maintenance and repairs to the structure of the building.

22. The general words of para 4 provide an obvious and commonsense allocation of responsibility for the structure of the building. The Reserved Premises are retained by the landlord, and the landlord is therefore obliged to keep these parts in “good substantial and tenantable state of repair decoration and condition”. It must keep all fixtures and fittings therein and additions in the same condition and renew and replace “all worn and damaged parts”.
23. The words of the proviso must be read in that context. The reference to “the ... right to recover from the Lessee ... any loss or damage” is not a reference to para 22 of Sch.6 or to service charges at all. The proviso does not purport to limit the general words of para 4. Instead, it clarifies that the landlord’s repairing obligation does not prejudice its right to recover damages from third parties (including, but not limited to, any claims against leaseholders). It preserves the landlord’s cause of action against third parties for their “negligence or other wrongful act or default”. Taken as a whole, the clause means that the landlord is always primarily responsible for making good damage to the building, even if that damage was caused by the negligence or default of a leaseholder or third party. But that primary responsibility to repair does not prejudice the landlord’s right to seek damages from the relevant leaseholder or third party to pay for the costs of the remediation works. In the Tribunal’s view, this plain meaning is supported by commercial common sense. The respondents’ interpretation is that the proviso to para 4 limits the obligation in the rest of the covenant to circumstances where a lessee caused damage by negligence. But that would produce the surprising result that the parties would not have made any obvious allocation of responsibility for remedying deterioration in condition and damage to the building structure caused by other things, such as the “natural wear and tear” referred to by the respondents.
24. The Tribunal therefore considers that the proviso to para 4 does not affect the lessees’ liability to contribute to the costs of balcony repairs through para 22 of Sch.6.
25. As to the argument in relation to the Notice of Intention, this does not affect the present application under s.27A(3) of the 1985 Act. A s.27A(3) application is effectively prospective in nature and enables a landlord to incur costs if it chooses to do so. What is not known at present is precisely which works the applicant will carry out, what it will bill to the lessees and what further consultation it may undertake. The lessees therefore remain free to argue s.20 points in future, if they consider it appropriate.
26. There is no dispute that under para 22 of Sch.6 to each form of lease, the service charges may properly include the costs incurred by the applicant “in carrying out its obligations under the Seventh Schedule”. It follows that the Tribunal determines that if, the applicant landlord incurs repair costs in relation to those parts of the structure and exterior of the building balconies referred to above, a

service charge would be payable by the respondent lessees for these costs. It may not recover any costs of repairing the tiled surfaces of the balconies through the service charges (save for making good – see above).

s.20C of the 1985 Act

27. The two costs applications are made under s.20C of the 1985 Act. Section 20C provides:

“20C.— Limitation of service charges: costs of proceedings.

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or leasehold valuation tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

The parties made brief submissions about s.20C costs at the hearing.

28. The tribunal is conscious that s.20C of the 1985 Act is not a conventional costs jurisdiction, in that it is assumed the applicant landlord has a contractual right to its costs of the proceedings under the terms of the Lease. Moreover, the applicants have succeeded in full. There is nothing in their conduct of the proceedings that may be criticised, and indeed they have acted prudently in seeking guidance about a potentially controversial area of liability for service charges. The tribunal therefore makes no order for costs under s.20C of the 1985 Act.

Conclusion

29. If, the applicant landlord incurs repair costs in relation to certain parts of the structure and exterior of the building balconies referred to above, a service charge would be payable by the respondent lessees for these costs. Those parts are:

- a. The concrete slabs.
- b. The original asphalt finishes to the slabs at upper floor levels.
- c. The metal upstands and rails.
- d. The glazed panels and privacy screens.
- e. Other balcony parts such as wooden handrails and drainage.

30. It may not generally recover any contribution to the costs of repairs to any balcony tiles through the service charges. The tiles are demised to the respondents as part of their flats, and it is the responsibility of the lessees to repair and maintain these tiles. However, the applicant may in limited circumstances recover the cost of making good any tiles through the service

charges, if the tiles have to be removed or damaged in order to carry out other balcony repairs.

31. The Tribunal does not make any order under s.20C Landlord and Tenant Act 1985.

Tribunal Judge Mark Loveday

2 April 2025

Appeals

- 1 A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 2 The application must arrive at the tribunal within 28 days after the tribunal sends to the person making the application written reasons for the decision.
- 3 If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
- 4 The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

APPENDIX 1: LEASES

Lease date					
04.12.72	Headlease	Term	Bundle page	Lease Type	Lessees
14.12.72	Common Parts lease	99 years from 24.06.71	29		
13.06.14	1	189 years less 10 days from 24.06.71		B	Alan Bound and J Bound
	2	<i>Headlease</i>		A	Nigel Chetland and K Chetland
19.05.17	3	189 years less 10 days from 24.06.71	41	B	Anne Julia Taylor
	4	<i>Headlease</i>		A	Peter Harrison and Debra Thomas
24.04.14	5	189 years less 10 days from 24.06.71		B	Leigh La Reservee
	6	<i>Headlease</i>		A	Margaret Williams
16.09.14	7	Exp. 24.06 2160	64	C	Alan Freeman and Elizabeth Freeman
08.06.18	8	189 years less 10 days from 24.06.71		B	(not parties)
15.01.10	9	24.06 2160		C	John Beare and J Oliveira
03.01.12	10	189 years less 10 days from 24.06.71		B	Margaret Poole
13.10.16	11	Exp. 24.06 2160		C	Sanjeevi Gaureesh
11.02.16	12	Exp. 24.06 2160		C	Emma Hawksworth

APPENDIX B: LEASE PROVISIONS

TYPE A LEASE

<i>Provision</i>	<i>Covenant</i>	<i>Bundle page</i>
Recitals	W H E R E A S: (1) In this deed unless the context otherwise requires:- (f) “The Premises” means the property hereby demised as described in the Third Schedule hereto including for purposes of obligation as well as grant the ceilings floors cisterns tanks sewers drains pipes wires ducts and conduits specified in the said Schedule	29
Clause 2	THE Lessee <u>HEREBY COVENANTS</u> with the Lessor that he will observe and perform the obligations on his part set out in the Sixth Schedule hereto	30
Clause 3	THE Lessor <u>HEREBY COVENANTS</u> with the Lessee that it will observe and perform the obligations on its part set out in the Seventh Schedule hereto	30
Sch.2	<p style="text-align: center;"><u>THE RESERVED PROPERTY</u></p> <p><u>FIRST ALL THOSE</u> the gardens pleasure grounds drives paths and forecourts forming part of the property and the halls and staircases landings and other parts of the buildings forming part of the Property which are used in common by the owners or occupiers of two or more of the Flats <u>AND SECONDLY ALL THOSE</u> the main structural parts of the buildings forming part of the Property including the roofs foundations and external parts thereof (but not the glass of the windows of the Flats nor the interior faces of such external walls as bound the flats) and all cisterns tanks sewers drains pipes wires ducts and conduits not used solely for the purpose of one flat and the joists or beams</p>	31
Sch.3	<p style="text-align: center;"><u>THE PREMISES</u></p> <p><u>ALL THAT</u> flat and balcony (if any) known as Flat Number 2 Tiverton Court Marlborough Road aforesaid being on the ground floor of the said block of flats. <u>TOGETHER</u> with the ceilings and floors of the said Flat <u>AND TOGETHER</u> with all cisterns tanks sewers drains pipes wires ducts and conduits used solely for the purposes of the said Flat but no others <u>EXCEPT AND RESERVING</u> from the demise the main structural parts of the building of which the said Flat forms part including the roof foundations and external parts thereof and joists and beams but not the glass of the windows of the said Flat nor the interior faces of such of the external walls as bound the said Flat <u>AND EXCEPT AND RESERVING</u> as in the Fifth Schedule mentioned</p>	31
Sch.6	<u>3. The Lessee</u> shall keep the Premises and all parts thereof and all fixtures and fittings therein and all additions thereto in a good substantial and tenantable state of repair decoration and condition throughout the continuance of this demise including the renewal	33

	and replacement of all worn and damaged parts and shall yield up the same at the determination of the demise in such good and tenantable state of repair decoration and condition	
	<u>11. The Lessee</u> shall not make any alteration in the Premises or addition thereon without the written consent of the Lessor and Head Lessor or exhibit any notice in any window of the Premises and shall not cover in the balcony with glass or any other material	34
	<u>22. The Lessee</u> shall keep the Lessor indemnified from and against one twelfth part of (a) <u>all costs</u> charges and expenses (other than rent) incurred by the Lessor in carrying out its obligations under the Seventh Schedule hereto (b) <u>the fees</u> or other remuneration of any reputable firm of Estate Agents who shall be employed by the Lessor to manage the Property and (c) <u>the yearly</u> sum to be provided as a sinking fund mentioned in clause 9 of the Seventh Schedule hereto and fixed initially for the period from the date hereof to the twenty fourth day of June next at Fifty pounds per annum	35
	<u>23. The Lessor</u> shall be entitled to apply to the Lessee for and to receive from the Lessee quarterly advances on account of the Lessee's obligations under the last preceding clause	35
	<u>24. The Lessee</u> shall within twenty one days after the service by the Lessor on the Lessee of a notice in writing stating the proportionate amount (certified in accordance with clause 11 of the Seventh Schedule hereto) due from the Lessee to the Lessor pursuant to Clause 22 of this Schedule for the period to which the notice relates to pay to the Lessor or be entitled to receive from the Lessor the balance by which the said proportionate amount respectively exceeds or falls short of the total sum paid by the Lessee to the Lessor pursuant to the last preceding clause during the said period	36
Sch.7	<u>4. The Lessor</u> shall keep the Reserved Premises and all parts thereof and all fixtures and fittings therein and additions thereto in a good substantial and tenantable state of repair decoration and condition including the renewal and replacement of all worn and damaged parts <u>PROVIDED</u> that nothing herein contained shall prejudice the Lessor's right to recover from the Lessee or any other person the amount or value of any loss or damage suffered by or caused to the Lessor or the Reserved Property by the negligence or other wrongful act or default of the Lessee or such other person	37
TYPE B LEASE		
Recitals	W H E R E A S: (2) In this deed unless the context otherwise requires:- ... (f) "The Premises" means the property hereby demised as described in the Third Schedule hereto including for purposes of obligation as well as grant the ceilings floors cisterns tanks sewers drains pipes wires ducts and conduits specified in the said Schedule	45

Clause 1	... AND ALSO PAYING by way of further or additional rents all sums of money payable by the Lessee to the Lessor under the provisions of the Sixth Schedule hereto at the times and in the manner stipulated therein	
Clause 2	THE Lessee hereby covenants with the Lessor that the Lessee will observe and perform the obligations on the part of the Lessee set out in the Sixth Schedule hereto	49
Clause 3	THE Lessor hereby covenants with the Lessee (so as to bind the Lessor of the Property for the time being but not so as to make the Lessor liable in respect of breaches which arise or continue during the subsistence of the Headlease or any renewal or replacement of it or whilst (if ever) the reversion immediately expectant on this lease is vested in someone other than Lessor) that subject to contribution payment by the Lessee in accordance with the provisions of this lease the Lessor will observe and perform the obligations on their part set out in the Seventh Schedule hereto PROVIDED that and it is hereby agreed that the Lessor shall in connection with the said obligations be at liberty to employ from managing the Property a member of any recognised body of a estate agents	49
Sch.2	THE RESERVED PROPERTY FIRST ALL THOSE the gardens pleasure grounds drives paths and forecourts forming part of the Property and the halls and staircases landings and other parts of the buildings forming part of the Property which are used in common by the owners or occupiers of the Flats AND SECONDLY ALL THOSE the main structural parts of the buildings forming part of the Property including the roofs foundations and external parts thereof (but not the glass of the windows of the Flats nor the interior faces of such external walls as bound the Flats) and all cisterns tanks sewers drains pipes wires ducts and conduits not used solely for the purpose of one Flat	52
Sch.3	THE PREMISES ALL THAT Flat and balcony (if any) being on the ground floor and known as Flat Number 3 Tiverton Court 24 Marlborough Road aforesaid which said Flat is for the purposes of identification only shown on the plan annexed hereto edged blue TOGETHER WITH the ceilings and floors of the said Flat AND TOGETHER with all cisterns tanks sewers drains pipes wires ducts and conduits used solely for the purposes of the said Flat but no others EXCEPT AND RESERVING from the demise the main structural parts of the building of which the said Flat forms part including the roof foundations and external parts thereof and joists and beams but not the glass of the windows of the said Flat nor the interior faces of such of the external walls as bound the said Flat and except and reserving as mentioned in the Fifth Schedule and secondly all that the garage known as Garage No.3 Tiverton Court aforesaid	53
Sch.6	3. The Lessee shall keep the Premises and all parts thereof and all fixtures and fittings therein and all additions thereto in a good substantial and tenantable state of repair decoration and condition throughout the continuance of this demise including the renewal	55

	and replacement of all worn and damaged parts and shall yield up the same at the determination of the demise in such good and tenantable state of repair decoration and condition	
	11. The Lessee shall not make any alteration in the Premises or addition thereon without the written consent of the Lessor and the Moss Trust or exhibit any notice in any window of the Premises and shall not cover in the balcony with glass or any other material	57
	22. The Lessee shall pay to the Lessor or as the Lessor may direct and shall keep the Lessor indemnified from and against one equal twelfth part of: (a) all costs charges and expenses incurred by the Lessor in carrying out their obligations under the Seventh Schedule (b) the fees or other remuneration of any reputable managing agents employed by the Lessor to manage the Property; and (c) the yearly sum to be provided as a sinking fund as mentioned in paragraph 9 of the Seventh Schedule hereto	59
	23. The Lessor shall be entitled to apply to the Lessee for and to receive from the Lessee quarterly advances on account of the Lessee's obligations under the last preceding paragraph hereof	59
	24. The Lessee shall within twenty one days after the service by or on behalf of the Lessor on the Lessee of a notice in writing stating the proportionate amount (certified in accordance with paragraph 9 of the Seventh Schedule hereto) due from the Lessee to the Lessor pursuant to paragraph 22 of this Schedule for the period to which the notice relates pay to the Lessor or as the Lessor may direct or be entitled to receive from the Lessor or as the Lessor may direct the balance by which the said proportionate amount respectively exceeds or falls short of the total sum paid by the Lessee to the Lessor pursuant to the last preceding clause during the said period	59
Sch.7	4. The Lessor shall keep the Reserved Premises and all parts thereof and all fixtures and fittings therein and additions thereto in a good substantial and tenantable state of repair decoration and condition including the renewal and replacement of all worn and damaged parts PROVIDED that nothing herein contained shall prejudice the Lessor's right to recover from the Lessee or any other person the amount or value of any loss or damage suffered by or caused to the Lessor or the Reserved Property by the negligence or other wrongful act or default of the Lessee or such other person	61
TYPE C LEASE		
Recitals	W H E R E A S: (3) In this deed unless the context otherwise requires:- ... (f) "The Premises" means the property hereby demised as described in the Third Schedule hereto including for purposes of obligation as well as grant the ceilings floors cisterns tanks sewers drains pipes wires ducts and conduits specified in the said Schedule	64

Clause 1	... AND ALSO PAYING by way of further or additional rents all sums of money payable by the Lessee to the Lessor under the provisions of the Sixth Schedule hereto at the times and in the manner stipulated therein	66
Clause 2	THE Lessee hereby covenants with the Lessor that the Lessee will observe and perform the obligations on the part of the Lessee set out in the Sixth Schedule hereto	67
Clause 3	THE Lessor hereby covenants with the Lessee (so as to bind the Lessor of the Property for the time being but not so as to make the Lessor liable in respect of breaches which arise or continue during the subsistence of the Headlease or any renewal or replacement of it or whilst (if ever) the reversion immediately expectant on this lease is vested in someone other than Lessor) that subject to contribution payment by the Lessee in accordance with the provisions of this lease the Lessor will observe and perform the obligations on their part set out in the Seventh Schedule hereto PROVIDED that and it is hereby agreed that the Lessor shall in connection with the said obligations be at liberty to employ from managing the Property a member of any recognised body of a estate agents	67
Sch.2	THE RESERVED PROPERTY FIRST ALL THOSE the gardens pleasure grounds drives paths and forecourts forming part of the Property and the halls and staircases landings and other parts of the buildings forming part of the Property which are used in common by the owners or occupiers of the Flats AND SECONDLY ALL THOSE the main structural parts of the buildings forming part of the Property including the roofs foundations and external parts thereof (but not the glass of the windows of the Flats nor the interior faces of such external walls as bound the Flats) and all cisterns tanks sewers drains pipes wires ducts and conduits not used solely for the purpose of one Flat	70
Sch.3	THE PREMISES ALL THAT Flat and balcony (if any) being on the ground floor and known as Flat Number 7 Tiverton Court 24 Marlborough Road aforesaid which said Flat is for the purposes of identification only shown on the plan annexed hereto edged blue TOGETHER WITH the ceilings and floors of the said Flat AND TOGETHER with all cisterns tanks sewers drains pipes wires ducts and conduits used solely for the purposes of the said Flat but no others EXCEPT AND RESERVING from the demise the main structural parts of the building of which the said Flat forms part including the roof foundations and external parts thereof and joists and beams but not the glass of the windows of the said Flat nor the interior faces of such of the external walls as bound the said Flat and except and reserving as mentioned in the Fifth Schedule and secondly all that the garage known as Garage No.7 Tiverton Court aforesaid	71
Sch.6	3. The Lessee shall keep the Premises and all parts thereof and all fixtures and fittings therein and all additions thereto in a good substantial and tenantable state of repair decoration and condition throughout the continuance of this demise including the renewal	73

	and replacement of all worn and damaged parts and shall yield up the same at the determination of the demise in such good and tenantable state of repair decoration and condition	
	11. The Lessee shall not make any alteration in the Premises or addition thereon without the written consent of the Lessor and the Moss Trust or exhibit any notice in any window of the Premises and shall not cover in the balcony with glass or any other material	75
	22. The Lessee shall pay to the Lessor or as the Lessor may direct and shall keep the Lessor indemnified from and against one equal twelfth part of: (a) all costs charges and expenses incurred by the Lessor in carrying out their obligations under the Seventh Schedule (b) the fees or other remuneration of any reputable managing agents employed by the Lessor to manage the Property; and (c) the yearly sum to be provided as a sinking fund as mentioned in paragraph 9 of the Seventh Schedule hereto	77
	23. The Lessor shall be entitled to apply to the Lessee for and to receive from the Lessee quarterly advances on account of the Lessee's obligations under the last preceding paragraph hereof	77
	24. The Lessee shall within twenty one days after the service by or on behalf of the Lessor on the Lessee of a notice in writing stating the proportionate amount (certified in accordance with paragraph 9 of the Seventh Schedule hereto) due from the Lessee to the Lessor pursuant to paragraph 22 of this Schedule for the period to which the notice relates pay to the Lessor or as the Lessor may direct or be entitled to receive from the Lessor or as the Lessor may direct the balance by which the said proportionate amount respectively exceeds or falls short of the total sum paid by the Lessee to the Lessor pursuant to the last preceding clause during the said period	77
Sch.7	4. The Lessor shall keep the Reserved Premises and all parts thereof and all fixtures and fittings therein and additions thereto in a good substantial and tenantable state of repair decoration and condition including the renewal and replacement of all worn and damaged parts PROVIDED that nothing herein contained shall prejudice the Lessor's right to recover from the Lessee or any other person the amount or value of any loss or damage suffered by or caused to the Lessor or the Reserved Property by the negligence or other wrongful act or default of the Lessee or such other person	79