FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AM/LSC/2024/0313**
Property	**:**	**Flats 1 – 9 Bastion House, Amhurst Road, London N16 7RG**
Applicants	**:**	**The leaseholders**
Representative	**:**	**Mr Csernus, in person and representing the other leaseholders**
Respondent	**:**	**(1) Bastion House (Amhurst Road) Management Company Limited** **(2) Farleigh Road Development Limited**
Representative	**:**	**Mr Goode and Ms Belsham, of Remus Property Services**
Type of application	**:**	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal members	**:**	**Judge Professor R Percival** **Mrs A Flynn MRICS** **Mr J Francis QPM**
Venue and date of hearing	**:**	**10 Alfred Place, London WC1E 7LR** **22 May 2025**
Date of decision	**:**	**4 June 2025**

DECISION

Decisions of the tribunal

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

(2) The tribunal makes orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of schedule 11 to the Commonhold and Leasehold Reform Act 2002 limiting the collection of the costs of these proceedings through the service charge or administration charges (if the lease so allows) to 25% of those costs.

The application

1. The Applicants seek determinations pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Applicants in respect of the service charge years 2022/23 and 2023/24. The service charge year is from 1 November to 31 October.

2. Internet resources for the legislation referred to in this decision, and resources for other sources of free legal information, are set out in the appendix to this decision.

The background

3. Bastion House is a purpose built block consisting of nine flats, on four floors. It completed in 2021. All nine leaseholders are parties to this application.

4. The Applicants hold long leases of their flats.

The leases

5. We were provided with the lease of flat 3. We understood that the other leases were in similar terms.

6. The lease is in tripartite form between the first and second Respondents and the tenant, in this case Mr Csernus.

7. The service charge is defined as the tenant's proportion of the service costs, the latter being the costs listed in part 2 of schedule 8 to the lease. The proportion in the lease we were provided with was 10.23%.

8. The tenant's covenants are contained in schedule 4. Paragraph 2.1 provides for an interim service charge payable in two equal instalments.

Reconciliation is provided for in paragraph 2.3 (deficit payable on demand, surplus credited against next year's interim payment). There is also provision for additional demands by the Management Company (paragraph 2.4(b).

9. The landlord's covenants are in schedule 6. By paragraph 4.1, the landlord covenants to procure insurance, and to serve on the tenant "full particulars" thereof. It charges the tenant's "insurance rent". The landlord covenants to provide information to the tenant (paragraph 4.2 (a) and (b)).

10. The Management Company covenants, in schedule 7, to undertake the operation of the service charge (paragraphs 1.2 to 1.5), and to provide "the Services" (paragraph 1.1). The Services, set out in part 1 of schedule 7, include repairing, cleaning, lighting and heating etc the retained parts and the common parts, including the fire safety provision, providing security etc (part 1 (a) (m)). Part 1 (n) is a sweeper clause relating to the provision of "any other service or amenity".

11. The Service Costs are defined in part 2 of schedule 7. They include, first, the cost of providing the Services, and in addition matters such as suppling utilities, complying with insurance requirements and laws. Part 2 (a)(vi) provides for a reserve or sinking fund. They also include the costs of managing agents, accountants, lawyers, reception and security staff; and insuring "the Estate". The title plans were not attached to our copy of the lease. They included a plan of the Estate, but the identification of "the Estate" played no part in the proceedings before us.

The hearing

Introductory

12. Mr Csernus appeared in person and represented the other eight Applicants. Both Respondents were represented by Mr Goode and Ms Belsham. Mr Goode largely spoke for the Respondent, except in relation to the management fees, when Ms Belsham did so. Mr Goode is a senior property manager, responsible for overseeing services in about 30 buildings. Ms Belsham is the area manager for Remus Property Management, and Mr Goode's line manager.

13. We record here that we were grateful for the conspicuously articulate, moderate and reasonable way in which both parties conducted the hearing before us.

14. The Tribunal proceeded by considering each item in the Scott schedule in turn. The issues were, accordingly, as set out under the following headings

(i) "All costs for 2023", which related to what Mr Csernus said was the failure of the Respondent to provide necessary documents to him, particularly in relation to the service charge year 2022/23;

(ii) Lift maintenance;

(iii) Building insurance;

(iv) Fire system maintenance;

(v) Gardening;

(vi) Cleaning;

(vii) Electricity; and

(viii) Management fees.

"All costs 2023"

15. This item related to what Mr Csernus said was the failure of the Respondent to provide documents, including the invoices and schedules used to generate the 2022/23 service charge.

16. Mr Goode's position was that the documents had been provided by Remus' accountancy team, albeit after the deadline given in the Tribunal's directions. Mr Csernus said that was largely true of other years but not 2022/23.

17. The entry in the column for landlord's comments in the Scott schedule said that "no request under Section 22 of the Landlord and Tenant Act 1985 was received from the applicants". Mr Goode did not know why the accurate position had not been set out there.

18. It was agreed that this issue did not raise a distinct issue relating to a service charge made that the Tribunal could address. We note, however, that, unlike Mr Goode's oral response to us, the text in the landlord's column was unhelpful and uninformative.

Lift maintenance

19. A charge of an estimated sum of £5,300 was made in the interim service charge for 2023/24. The actual charge was £698.76. The basis for Mr Csernus's objection was that an incorrect assessment of cost had been made by the company responsible for lift maintenance, which had informed the estimate.

20. Mr Goode explained that the maintenance company had informed the Respondent that the lighting in the lift shaft required replacing, as it adhered to a now-outdated national standard. This, it turned out, was wrong – the lift had been fitted to the correct, more recent standard from build. Mr Goode candidly volunteered that the issue had not been interrogated by Remus. The Respondent accepted that the interim service charge had been wrongly inflated, and that the surplus would now be credited to the leaseholders.

21. Given Mr Goode's explanation, there was now no issue before the Tribunal, and the relevant over-collection will be credited to the leaseholders' service charge accounts.

Building insurance

22. The building insurance was not secured for the same period as the service charge. Our understanding is that the issue before us is the cost of insurance from March 2024 to March 2025, and it is the contending figures for that period that were argued before us.

23. The premium figure provided by the Respondent was £6,126.40. The Applicant had sourced alternative quotations from a broker. He had, he told us, given the broker the coverage schedule used by the Respondent. We were provided with quotation schedules from the Applicant's broker, as well as that provided by the Respondent. The quotation relied on by the Applicants was for a premium of £3,815.35.

24. It is apparent to us, on the basis of the quotation schedules provided, that the figures were, broadly, properly comparable. They were for property owner's insurance, and took into account the same risks (subject to one aspect considered below). There were some small differences (such as small differences in excess figures), but not such as to invalidate the comparison. Both worked on the same declared value (ie the assessed cost of rebuilding, or reinstatement value).

25. Ms Belsham gave some evidence as to the system used by Remus to insure buildings managed by it. She told us that they used a broker to test the market ever year, and, she said, did so in the form of a block or portfolio approach. Our understanding of what is meant by an approach so described by a managing agent is that the agent's broker would negotiate a deal for the entire portfolio managed by the agent (or a multi-property sub-section of it) from a single insurer. The figures for each property were broken down and calculated on the basis of the risks associated with that property. However, Ms Belsham also said that for each individual building, including Bastion House, the agents would secure three separate quotations from different insurers. We are not clear how to reconcile these features of the evidence. However, we do not think it necessary to seek to do so. It is accepted that it may be reasonable for a landlord to secure insurance through an agent's block policy, but that it is appropriate to test the reasonableness of the

insurance by considering appropriate quotations for the relevant building considered separately.

26. We accept that the Applicants' quotations are appropriate, like-for-like comparators, subject to the features upon which Mr Csernus placed emphasis.

27. The key differences between the Applicant's quotation and that relied on by the Respondent were two fold, Mr Csernus argued.

28. First, the Respondent's figure included a sum of £100,000 to cover the owner's contents losses. Both parties agreed that there were, in fact, no contents of the owner to be insured. There was some suggestion that it would cover otherwise uninsured carpets or even stair treads in the papers, but the Respondent did not seek to argue that separate cover for fixtures such as these was necessary before us.

29. We asked the parties what difference this cover would make to the premium. Neither said they could help us. However, considering the quotations provided by the Applicants afterwards, it appears to us that one did include this sum for contents, and the other did not, giving a difference in premium of £339.75.

30. The second feature relied on by Mr Csernus was the day-one uplift, that is, the common practice of assuming a higher reinstatement cost from the outset ("day one" of the insured period), on the basis that the costs of actual rebuilding, by the last day insured, would have increased; and/or, that rebuilding cost is necessarily uncertain, so some uplift to cover the uncertainty is prudent.

31. The percentage uplift set out in the Respondent's quotation was 50%. Mr Csernus argued, based on what he had been told by his broker, that that was a very high uplift, which might be appropriate for a complicated commercial building, or perhaps a much larger residential block, but it was inappropriate for a new-built nine flat block. The normal default uplift, if one were used at all, was 15%. The broker accordingly provided a quotation based on a 15% day-one uplift, to get to Mr Csernus' figure of £3,815.35.

32. Mr Goode, for the Respondent, said that he could not provide any justification for the higher uplift. He noted that he was not employed by Remus until a relatively recent date, so was unaware of any background considerations.

33. We accept the Applicants' evidence and his quotation. Even if we accept the basis of the Applicants' quotation, in terms of the owners' content risk and the day-one uplift, it may be that the reasonable range of costs would allow a somewhat higher premium than that shown in the

Applicants' quotation. But in the absence of any defence of the higher figure from the Respondent, we do not think it is appropriate for us to add some arbitrary sum to the Applicants' quotation to accommodate a theoretical same-basis but higher premium.

34. *Decision*: The reasonable sum for building insurance for the relevant period is ££3,815.35, not £6,126.40. It is for the parties to determine the effect on the relevant out-turn service charge figures of this determination.

Fire system maintenance

35. Mr Csernus provided alternative an alternative quotation on a per-visit basis of £250, as against £360 for the Respondent's contractor. He also argued from the amount charged in other blocks. He provided a figure for a larger, much older block, which, at £1,250 a year, was about the same or somewhat less than Bastion House for what, he said, would be a more expensive system to maintain.

36. Mr Goode explained that the current contractor visited four times a year to inspect the alarm panel and test the emergency lights and the smoke venting system, replacing batteries where necessary. Any issues were reported to Remus.

37. We do not think we can draw conclusions from the other block referred to by Mr Csernus without knowing more about what the system was and what the contractor did. We agree with Mr Goode that four visits a year was the appropriate frequency.

38. For the work described by Mr Goode, we conclude that the charge made was reasonable. There is no doubt a reasonable range of charge for this service, and it may be that the per visit costs provided by the parties represented that range. But we do not think that £300 excluding VAT is an unreasonable sum for a visit by the relevant specialist to conduct the tasks outlined by Mr Goode.

39. *Decision*: The charge of £360 including VAT four times a year for fire system maintenance is reasonable.

Gardening (2022/23 and 2023/24)

40. With the assistance of the parties, we were able to gain a good understanding of the size of the rooftop garden using the satellite view in Google Maps. It occupies a proportion, but not all, of the visible flat roof of the building. The gardening relates to a moderate number of planters around the perimeter and in the body of the garden area, which is not very extensive.

41. The gardening cost in the service charge for 2022/23 was £2,958.88. The figure given in the Scott schedule was that estimated for 2023/24, which was £2,250. The actual figure, now provided in the accounts for that year, was £2,193.60.

42. One element, as we understood it, was agreed. Part of the cost attributed to 2022/23 was for the removal of dead plants before the Applicants moved in. That this was the case, and that the development company had agreed to fund this element was agreed between the parties. We understood that to relate to an invoice for £712.80. We make a formal finding that this expenditure was not payable, thereby securing the agreement.

43. Leaving the dead plants issue to one side, Mr Csernus' argument was that the cost was out of proportion to the much larger gardens at another block, De Beauvoir House, for which he had figures (£6,500 per annum). We do not think this comparison assists us greatly. We do not have detailed information on the gardens at the other property. And in any event, we would not expect the cost to have a straightforward linear relationship to the area of the gardens. There will necessarily be a fixed minimum charge to attend any garden, whatever its size. That minimum will be a larger proportion of the cost in respect of a smaller garden.

44. Mr Csernus also argued that the residents had either never or only very rarely seen a gardener attend. He had asked for attendance records, but the Respondent had said that there were none. Further, Mr Csernus' evidence was that the residents themselves cleaned up the garden and watered the plants on occasion, because it was necessary to do so.

45. The Respondent's account of the contracts does not appear to correlate with the sums charged (per month figures of £162.56 to June 2023; £177 to July 2024; £194.40 from August 2024). On this basis, the figure for 2022/23 should have been £2,024.92, and for 2023/24 £2,176.20 (which we note is only a small variation on that charged).

46. Mr Csernus provided two alternative quotations. One is for fortnightly visits at £75.00 a visit (giving an annual total of £1,950); and £105.00 per month (annually, £1,260). The first quotation only is dated, at 14 October 2024. Mr Csernus, in his written submissions, says that the residents would prefer a once-a-month visit. It is not clear to us how Mr Csernus arrived at his figure of £1,840.40 as the reasonable sum.

47. We accept Mr Csernus' evidence that the leaseholders have had to undertake some gardening/garden-tidying tasks.

48. The sum that Mr Csernus asks us to find reasonable is £1,840.40. This represents a monthly cost of £154.20 per month, as against the

Respondent's figure (at the relevant time) of £194.40. Mr Goode said that there had been a tendering process before this year's estimating process, in which alternative providers came in at a higher cost than the current contractor. He described the increased fee as an inflation increase. He added, however, that he accepted that it was a small space, and that it could be possible to get a better deal, which was something he would look at in the future.

49. On balance, considering our findings above and the size and simplicity of the gardening task, we agree with Mr Csernus that a reasonable fee would be at around the £150 a month mark, rather than nearly £200 a month. An increase of a third from the former to the latter persuades us that the current figure is outwith the reasonable range. It is also approximately in line with the alternative quotation provided by Mr Csernus (albeit on a fortnightly basis). This is the figure contended for by Mr Csernus in respect of both years.

50. *Decisions*:

(1) the cost of £712.80 for the removal of dead plants before the leaseholders were in place is not payable under the leases.

(2) The reasonable figure for gardening costs in both years is £1,850.

Cleaning (2022/23)

51. The cost of cleaning in 2022/23 was £2,977. The Respondent says in the Scott schedule that this was charged at £294.19 per month for the first part of the service charge year, then reduced to £173.70 in May 2023, when frequency of cleans was reduced. On this basis, the charge for a full 12 months in that period should have been £2,807.34 (assuming the whole of May 2023 was charged at the reduced rate).

52. At the hearing, Mr Csernus agreed that there was no issue as to the quality of the cleaning, but the cleaner had, in fact, been absent for two months, and no charge should have been made.

53. Mr Goode agreed that this had happened. His account was that there had been a complaint that cleaning was not being done at that time. The then property manager investigated, and found that there had been no attendance for that period. The cleaning company accepted responsibility and their contract was terminated. The new company took over in September 2023.

54. He said that the cleaning was now being done by another company, and they were doing a satisfactory job. Mr Csernus did not disagree.

55. The issue thus resolved itself into whether the cost of the two missed months was passed on in the service charge, or not. Mr Goode said he did not know whether it had been or not.

56. It seems clear from the calculation above that the two months' cost *was* included in the outturn figure. The account we have been provided with indicates that the missing two months would have been charged at the second, lower rate.

57. We conclude, first, that the figure for a whole year should have been £2,807.34, and, secondly, that £347.40 should be deducted.

58. *Decision*: The reasonable sum for cleaning in 2022/23 was £2,459.94.

Electricity costs

59. We took this item after management fees, below, at the hearing, but as it was agreed that its only significance was in relation to management fees, we interpose it at this point in this decision.

60. The initial problem identified by Mr Csernus was that the estimates provided by Remus to the electricity supply company were far too low. Given that there was no argument about the amount of electricity actually consumed, this issue did not make a difference to the service charges levied in respect of electricity consumption.

61. Mr Goode, first, said that making a first estimate in a newly built building was always difficult, and an initial mistake was understandable. Secondly, however, he agreed that had the proper arrangements for property management been in place, meter readings would have been taken at a much earlier stage and provided to Remus' energy supply broker, who would have forwarded them to the electricity supplier. This would have resulted in accurate past billing and better estimating.

Management fees

62. The management fee for 2023/24 was given in the Scott schedule as £3,614.

63. Mr Csernus made a series of criticisms of the management of the property. These included failures to properly interrogate issues, such as the non-performance of the cleaners and the under-estimation of the electricity fees; unresolved problems with facilities at the property (for example, the intercom/access arrangements) and failures to communicate with the leaseholders on a range of issues. Mr Csernus provided an emailed quotation by a managing agent called Unique Block Management Ltd for a per unit cost of £264.

64. Given the stance taken by the Respondent, we do not consider it necessary to adjudicate a series of individual issues.

65. Ms Belsham, speaking for the Respondent, said that it was agreed that there had been problems. Luke Zaiko had been the property manager up until February 2024. When he left, an assistant manager called Maddie Rosca was promoted to act as property manager in May 2024 but then shortly thereafter (in July) she left the employment of Remus. In August, a man called Nicholas was appointed, but was unable to perform the tasks of a property manager and was let go in October. Thereafter, Mr Goode had been caretaking the property, pending the appointment of a full time property manager. In February 2025, a property manager called Leah was appointed, and, Ms Belsham said, was making a positive impact now.

66. The upshot, on Ms Belsham's account, was that there had not been an experienced property manager successfully in place for about a year. Mr Belsham accepted that the result had been that the leaseholder-facing work of the managing agents had not been adequately performed for that period. This was not true, she emphasised, of the back-office functions, including paying invoices and operating the service charge accounts.

67. The Tribunal indicated to the parties its understanding of the normal range of fees on a per unit basis for small blocks in London, an understanding of a general nature not amenable to the disclosure of discrete pieces of evidence. We considered that the usual range would be from about £250 or £275 per unit up to about £400 per unit. We noted that the per unit figure at Bastion House was at that higher end figure, and Mr Csernus' was at the lower.

68. We do not consider that we can place much reliance on Mr Csernus' alternative quotation. Both it and that charged by Remus are within the reasonable range we identified. But we do not have sufficient information of either the relative track-records of Unique and Remus, or of the structure of the pricing (that is, if the functions covered by the per unit fee as opposed to a list of extras, were similar), to draw any very firm inferences.

69. A managing agent provides services to a freeholder, which the freeholder may pass on to the leaseholders, if the lease allows it to do so. One of the services that a managing agent provides to a freeholder is the management of relationships with the leaseholders. It is not the only element of the service provided by the managing agent, but it is a substantial one. Ms Belsham, realistically, agreed that the managing agent had fallen down in respect of this service for the relevant period. We also accept Ms Belsham's submission that other functions of the managing agent, which are also of very substantial benefit to the freeholder, continued to be performed.

70. Mr Csernus contested the management fee for 2023/24. We consider in principle that it would have been appropriate to reduce the per unit fee

for the relevant period, insofar as that fell within the 2023/24 service charge year (ie eight months). However, Mr Csernus' case was that £3,322 (the figure for 2022/23) would be a reasonable fee for the full year. We would have preferred to have reduced the per unit fee for the eight months during which there was not really an effective dedicated property manager in place by a greater amount than this. But Mr Csernus must be assumed to be agreeing with the figure he proposed, so we cannot go lower than that.

71. *Decision*: The reasonable cost of management fees for 2023/24 is £3,322.

Applications for additional orders

72. The Applicants applied for an order under section 20C of the 1985 Act that the costs of these proceedings may not be considered relevant costs for the purposes of determining a service charge; and an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 extinguishing any liability to pay an administration charge in respect of litigation cost in relation to the proceedings. Mr Csernus declined to apply for an order for the reimbursement of the application and hearing fees, under Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, rule 13.

73. Insofar as the orders under section 20C and paragraph 5A are concerned, we consider these applications on the basis that the leases do provide for such costs to be passed on either in the service charge or as administration charges, without deciding whether that is the case or not. Whether the lease does, in fact, make such provision is, accordingly, an open question should the matter be litigated in the future.

74. An application under section 20C is to be determined on the basis of what is just and equitable in all the circumstances (*Tenants of Langford Court v Doren Ltd* (LRX/37/2000). The approach must be the same under paragraph 5A, which was enacted to ensure that a parallel jurisdiction existed in relation to administration charges to that conferred by section 20C.

75. Such orders are an interference with the landlord's contractual rights, and must never be made as a matter of course.

76. We should take into account the effect of the order on others affected, including the landlord: *Re SCMLLA (Freehold) Ltd* [2014] UKUT 58 (LC); *Conway v Jam Factory Freehold Ltd* [2013] UKUT 592 (LC); [2014] 1 EGLR 111. We have not been provided with any evidence as to the first Respondent's access to fund (but note that the lease makes provision for the leaseholders to be members). But the clear evidence

was that the primary economic actor on the Respondent's side was the second Respondent. We heard evidence in relation to the role of a director of the second Respondent (Mr Goldsmith), and were told that the Applicants were negotiating to buy the freehold.

77. The success or failure of a party to the proceedings is not determinative. Comparative success is, however, a significant matter in weighing up what is just and equitable in the circumstances.

78. In the circumstances, both parties have had some success, but the clear preponderance, both numerically and in financial terms, is with the Applicants. In these circumstances, we consider it appropriate to make an order limiting the collection of fees by the Respondent as service charges or administration charges to 25%.

79. *Decision*: The Tribunal orders

(1) under section 20C of the 1985 Act that the costs incurred by the Respondent in proceedings before the Tribunal are only to be taken into account in determining the amount of any service charge payable by the Applicant to the extent of 25% of those costs; and

(2) under Commonhold and Leasehold Reform Act 2002, schedule 11, paragraph 5A that the liability (if any) of the Applicants to pay litigation costs as defined in that paragraph be extinguished except to the extent of 25%.

Rights of appeal

80. 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 London regional office.

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

82. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

83. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge Professor R Percival **Date:** 4 June 2025

APPENDIX: SOURCES FOR FREE LEGAL MATERIALS

Legislation

The legislation referred to in this decision may be found at:

https://www.legislation.gov.uk/ukpga/1985/70
https://www.legislation.gov.uk/ukpga/2002/15/contents

Case Law

The dedicated website for Upper Tribunal (UT) cases, which are binding on this Tribunal, is:

https://landschamber.decisions.tribunals.gov.uk/Aspx/Default.aspx

The search engine does not allow for free text searching. Sufficient information to use the provided search engine (such as the date of the case or the parties names) may be available via a google search.

Alternatively, the official National Archive website is at:

https://caselaw.nationalarchives.gov.uk/

This has a better search engine, but does not contain UT decisions before 2015, and there may be gaps in its provision thereafter.

The National Archive website can also be used for finding cases in higher courts, including those referred to in UT decisions.

Alternatively, many UT decisions, and most other important cases in all courts, are available on:

https://www.bailii.org/ .

Bailii stands for British and Irish Legal Information Institute. It is a charity that has published free caselaw for many years, and has in some cases loaded up earlier case law.