



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

**TRIBUNAL**

**Case Reference** : **MAN/00BQ/LSC/2024/0239**

**Property** : **124 Abbey Road, Middleton, M24 6HQ**

**Applicant** : **Michael Smith**

**Respondent** : **Rochdale Boroughwide Housing**

**Type of Application** : **Landlord and Tenant Act 1985 s27A - Liability for Service Charges  
Commonhold and Leasehold Reform Act 2002 –Sch 11 para 5A  
Landlord and Tenant Act 1985 – s 20C**

**Tribunal Members** : **Judge J Stringer  
Tribunal Member A Davis**

**Date of Decision** : **12<sup>th</sup> May 2025**

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**DECISION**

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1. The amount of the service charge for the service charge year commencing 1<sup>st</sup> April 2024 is £8.61 per week (the “management charge” of £1.29 not being recoverable for the relevant year).
2. No part of the costs incurred by the Respondent in connection with these proceedings shall be recoverable through any service charge payable by the Applicant.
3. No administration charges in connection with these proceedings shall be recoverable from the Applicant.

**REASONS**

**Preliminary Matters**

1. The parties in the application and response forms, agreed to the appeal being considered on the papers without an oral hearing.

2. Having reviewed the written evidence and noted the parties' consent, the Tribunal concluded pursuant to Rule 31(2) of the Tribunal Procedure (FtT)(Property Chamber) Rules 2013 that it is able to decide the matter without a hearing.
3. In accordance with the *'Practice Direction from the Senior President of Tribunals: Reasons for decisions'*, this decision refers only to the main issues and evidence in dispute, and how those issues essential to the Tribunal's conclusions have been resolved.

### **Background to the application**

4. The Applicant is an assured, weekly periodic, tenant of 124 Abbey Road, Middleton M24 6HQ. The Respondent is his landlord. The Applicant's tenancy commenced on 15<sup>th</sup> December 2014. The property is let subject to a service charge, payable weekly, in addition to the rent. By way of an application dated 21<sup>st</sup> May 2024 the Applicant challenges the service charge payable for the service charge year from 1<sup>st</sup> April 2024, and seeks a determination as to whether service charges are payable and/or reasonable. The application includes a request for an order preventing costs incurred in connection with these proceedings being recovered as part of the service charge and an order reducing or extinguishing the Applicant's liability to pay a particular administration charge in connection with the proceedings. The application is opposed by the Respondent.

### **The Law**

5. The Tribunal has had regard to, and applied insofar as relevant, sections 18, 19, 20C and 27A of the Landlord and Tenant Act 1985 (LTA), and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

### **Evidence**

6. The Tribunal was provided with a 103-page bundle containing all the documents submitted to the Tribunal by the parties.
7. The Tribunal has carefully considered all the written evidence available at the hearing.
8. The following issues were identified for determination by the Tribunal, on the basis of the Applicant's application and statement of case, and the response:
  - a. Whether the service charge for the Applicant's property for the service charge year 2024 is payable and, if it is, the amount which is payable.

### **Relevant evidence and the Tribunal's Conclusions on the Issues**

9. An increase in the service charge was notified to the Applicant by way of a letter from the Respondent dated February 2024; that letter notified the Applicant that the service charge for the year from 1<sup>st</sup> April 2024 would be £9.90.
10. The response to the application from the Respondent identifies that service charge (for the relevant year) includes the following elements and amounts:  
 Neighbourhood Estate Team (NET) - £4.33, a decrease of £0.07 from the service charge for the period 2023-2034;  
 Communal Electricity - £4.17, an increase of £2.53 from the service charge for the period 2023-2034;  
 Communal Services - £0.11, a decrease of £0.02 from the service charge for the period 2023-2034;  
 Management charge - £1.29 (and calculated as a fixed 15% of the NET, Communal Electricity and Communal Services charges for the year).
11. The response also states that the relevant elements of the service charge are calculated in the following ways:  
 Neighbourhood Estate Team (NET) – budgeted costs for the team are split between areas and properties within those areas to derive an individual cost per property.  
 Communal Electricity – budgeted costs, based on a) previous historic invoiced charges; b) known uplifts and; c) an adjustment equivalent to the difference in this element of the charge for a previous year (in the case of the 2024 service charge year the period applied is stated to be 2022-2023 – no explanation is provided as to why that year has been used, as opposed to the year 2023-2024) and the actual invoiced costs for that year (which can result in an increase or decrease to the year in question).  
 Communal Services – the process or methodology for arriving at this budgeted cost is stated to be the same as for the communal electricity charge.  
 Management charge – as referred to above, this is calculated as a fixed 15% of the NET, Communal Electricity and Communal Services charges for the year.
12. The applicant objected to the charges in the following way (as set out in his Statement of Case dated 5<sup>th</sup> March 2025):  
*“11. **Neighbourhood estate team.** The charge from £4:47 to £4: 33, this should be decreased further, to £3:50, I have resided in the property for over 10 years, the maintenance of the communal is put politely, a joke, a person comes around if you are lucky once a month and simply mops the area, the back garden has rubbish [see the photos discharged] albeit very little, that fan in this instance, has been there for over a year! from the same photo you can see the garden in the back of the property- lucky if it gets a haircut once a year- see the photos discharged to the tribunal dated: 27/05/2024.*  
*12. Taking the above issues into account, there have been additional photos discharged to the tribunal of RBH doing a good job outside other people’s property- this I have no problem with but it is the general maintenance of the communal area and what is hidden from the public is at the heart of the grievance.*

13. I wish to add, ironically enough I like the wild side and it should be allowed to grow- weed should not, RBH simply do not invest in simple shrubbery, that tenants, like myself would look after- Again here RBH has not responded to this issue, [the maintenance- not the shrubbery], I request the respondent's response should be seen in the negative. Put loosely, the application goes in the applicant's favour.

14. **Communal electricity.** I mentioned I discharged e-mail to the tribunal earlier- this increase is one that sticks out to me, hence I am sure of my conviction there has been a lettered entered into the tribunal about this increase], the increase from £1:86 to £4:17 is not justified on four grounds:1. The price of fuel has reduced.2. Second, the housing can change the time the communal lights switch on/ off through the timer, therefore reduce the cost, here there is only one light in the communal hall, therefore RBH themselves has not reduced the cost.3. Third, at an educated guess RBH buys their bulk fuel, this cost could be spread over the years, here simply using a 'regression analysis' will give you a forecast of cost using past periods, in doing so, will clearly see the increase is over twice the cost as the previous period. Again, RBH has not responded in justifying the increase, I request the respondent's response should be seen in the negative. Put loosely, the application goes in the applicant's favour.

15. **Communion services.** I believe the token of adjusting the cost from £0:18 to £0:11 does not justify the reduction at all there are 3 reasons for this conclusion:1. There is no maintenance done on the door entry at all, the state of the door entrance 'cover' has not been maintained for over 5 years.2. Just like any maintenance on the tenant's property, for instance, within the property, problems with the electric, an electrician would come out and fix the problem incurring a one-off charge which is absorbed by RBH, therefore the same principle should apply for the electrical communal service charge. Here at an educated guess RBH has about 800 communal flats therefore the current and projected cost of  $800 * £0:11p = £88:00$  per month,  $* 12 \text{ months} = £1,056$ .3. The RBH has a duty of care to all tenants to ensure the tenant is able to enter and leave the communal areas, therefore if a problem arise respective tenants will inform RBH of the problem. This is a clear case of ALL tenants being reimbursed for cost that should not have occurred. Again, RBH has not responded in justifying the increase, I request the respondent's response should be seen in the negative. Put loosely, the application goes in the applicant's favour.

16. **Management charge.** It is unclear what these charges refer to, still, I object the increase from £0:97 to £1:29- I have explained within the e-mail dated: 02/04/2024, there has been two instances of where management has failed- these two instances too many, the bins and to fix the fob [a key to gain entry via the communal door], the fob took 3 weeks to address- RBH admitted they were wrong, the second involved bins within the communal area. management simply do not discuss any changes that is going to affect the tenants within the community, for instance the change in bins, management argue they did discuss the change with tenants, 9 tenants from 10 tenants where not contacted, so I object to the increase, I believe this cost should be

*reduced or scrapped for the said reasons. Again, RBH has not responded in justifying the increase, I request the respondent's response should be seen in the negative. Put loosely, the application goes in the applicant's favour".*

13. The contractual provisions in relation to service charges are set out in the tenancy agreement dated 8<sup>th</sup> December 2014, which states, in the handwritten front sheet: "The services which we provide, for which you pay the service charge are: comm elect...comm serv...estate caretaker...grdn maint..."; Clause 2.2(b) of the full tenancy agreement terms and conditions provides that the Respondent may change, remove, or introduce new services subject either to written agreement between the parties, or notice from the Respondent to the Applicant and a consultation process.
14. In relation to the specific aspects of the service charge challenged by the Applicant the Tribunal finds:
  - a. Neighbourhood Estate Team (NET) charge – the Tribunal accepts, on the basis of the available information as to what these services comprise, that this is in effect a conflation of the contractual provision relating to "*estate caretaker*" and "*garden maintenance*". The Applicant does not suggest that the relevant services are not being provided but challenges the reasonableness of those charges having regard to the standard of the service (that is, by section 19(1)(b) LTA). In circumstances where: it is not challenged that services are being provided; that that the Respondent will accordingly be incurring costs in relation to those services; and the Respondent's evidence as to the calculation of that charge on a per property basis is, the Tribunal find, on a reasonable and rational basis; the Tribunal finds that the charge is not unreasonable in amount. Further, in the absence of more detailed, specific evidence as to the frequency and/or standard of works done to the communal/estate areas the Tribunal is not satisfied that the costs claimed are not of a reasonable standard. Accordingly, the charges are allowed as claimed by the Respondent;
  - b. Communal electricity – the Applicant does not suggest that communal electricity charges are not being incurred. The Applicant's objections are based not on evidence (of, for example, "*bulk fuel*" costs) but speculation. In addition, the objection on the basis of decreasing fuel prices fails to have regard to the method of calculating the current years charge, that is, by reference to actual costs in preceding years, and the Tribunal find this to be a reasonable and rational method of calculating current year charges, and will, in any event, result in any notional overpayment being accounted for in subsequent years. The Tribunal find the communal electricity charges neither unreasonably incurred, nor, in the absence of specific evidence as to the level of consumption having regard to the service provided (that is, lighting for the communal areas) liable to be reduced on the basis that the service is not of a reasonable standard.

- c. Communal services –this charge is incurred on the same basis as the communal electricity charges, and, for the reasons given in relation to the communal electricity charges, the Applicant’s challenge is rejected.
- d. Management charge – for a service charge to be payable (in accordance with section 18 LTA) it must be payable pursuant to a provision of the lease. If the charge is not identified in the lease, or the lease as properly amended, then it is not recoverable. There is no reference in the lease to a management charge being an element of the service charge, nor is there any evidence that the lease has been amended pursuant to clause 2.2(b) to add a management charge to the service charges for which the Applicant is liable. There is no evidence as to whether, or for what period, the Applicant has paid the management charge without objection. In the absence of such evidence, and in circumstances of the Applicant challenging his liability to pay the management charge for the year 2024, the Tribunal find that management charges are not recoverable service charges for the service charge year from 1<sup>st</sup> April 2024.

### **Order under section 20C of the Landlord and Tenant Act 1985**

15. The Applicant applies for an order under section 20C of the Landlord and Tenant Act 1985. His application has been successful, in part. Whilst the Tribunal note that the tenancy agreement does not appear to permit the recovery of litigation or other legal costs. However, to the extent, if at all, that the terms of the tenancy may enable the Respondent to recover costs related to this application, a s20C order is made to prevent it, the Tribunal being satisfied that it would be just and equitable to do so in circumstances of the Applicant having been at least partially successful. The lease also does not appear to include any provision for recovery of administration charges in respect of litigation costs, but, for the avoidance of doubt, an order prohibiting recovery of any such administration charges is also made, pursuant to paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

J Stringer

Tribunal Judge

12<sup>th</sup> May 2025