



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

Case reference : LON/00AH/LSC/2024/0195

Property : 24 Lansdowne Court, Brighton Road,
Purley, CR8 2BD

Applicant : The Executors of Mr P J Weighell

Representative : Mr G Weighell

Respondent : Lansdowne Court Residents Association
Limited

Representative : Not represented

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 : Mr A Harris LLM FRICS FCI Arb
Mr S Mason FRICS

Venue : 10 Alfred Place, London WC1E 7LR

Date of decision : 24 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 an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the lessees through any service charge

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") [and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act")] as to the amount of service charges and (where applicable) administration charges payable by the Applicant in respect of the service charge years 2019 to 2024.

The hearing

2. No appearance was made in person for the Applicant who relied on the written evidence supplied. The Respondent was barred from presenting evidence and did not appear. Two Directors of the Respondent Company appeared in response to witness summonses. In the absence of the Applicant or a representative the tribunal did not question the witnesses as the Applicant would not have had the opportunity to respond. The witnesses were therefore released.

The background

3. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
4. The Applicant holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.
5. Lansdowne Court is a block of 54 flats with the applicants flat being held on a lease for a term of 969 years from 20 January 1967 with a ground rent and service charge payable. The lessee is responsible for a 1/54 share of the services listed in the lease. The freehold of the block is now owned by a resident's management company with each leaseholder being a shareholder in the company. The tribunal made a previous decision in July 2009 between the same parties and the tribunal noted at that time

that the Applicant had previously been a director of the Respondent. The tribunal also said

“The Tribunal also feels that the Respondent's actions in trying to recover costs via the service charge — whilst misconceived legally — seem to have been carried out in good faith, and that this is a situation which is very far removed from that of a private commercial landlord seeking to exploit its tenants.”

6. The tribunal agrees with that comment particularly where the shareholders of the company and the leaseholders are one and the same. The costs of running the building are paid by the residents and whether that is under the heading of service charge or a shareholders levy, the effect is the same. However the tribunal also agrees with the further comment of the 2009 tribunal that *“while that arguably affects the flavour of what the Respondent is trying to achieve it does not entitle the Respondent to disregard the terms of the lease in order to justify charging leaseholders for any expenditure incurred”*
7. The tribunal also notes that despite employing professional managing agents, the respondent was unable to supply even the most basic information in response to the directions of the tribunal. This resulted in the Respondent being barred from appearing and the two directors being summoned to appear.

Directions

8. The tribunal issued directions on 3 December 2024. On 22 January 2025 the tribunal gave notice that it was minded to bar the Respondent pursuant to rules 9(3), 9 (7) and rule 8 of the Tribunal (Procedure) (First-tier Tribunal) (Property Chamber) Rules 2013 due to non-compliance with the disclosure obligations. Amended directions were made on 20 February 2025 due to further non-compliance by the Respondent with the directions and the amended directions included a statement automatically barring the Respondents if there was any further default. Further directions were issued on 19 March 2025 for a hearing on 16 June 2025 on the basis of the Applicants documents. The Respondent was barred from contesting the proceedings but was still under an obligation to provide documents and information. The tribunal also issued witness summonses to Paul Harper and Garry Wells requiring them to attend the hearing to give evidence and to produce any records they had concerning the subject property.

The issues

9. The tribunal has considered all of the documents provided and has made determinations on the various issues as follows. The Applicant has presented evidence in the form of various heads of dispute in relation to

each of the years and has provided overall arguments on a number of issues related to those items.

10. The table below sets out the items challenged by reference to the amount shown in the annual accounts with the Applicant liable for a 1/54 share.

item		2019	2020	2021	2022	2023	2024
pre 2019	£3,021.00						
owed by respondent to service charge fund		£ 4,121.00	£11,457.00	£11,174.00	£15,175.00	£16,402.00	£17,110.00
advance application for payment		£ 1,750.00	£ 1,750.00	£ 1,750.00	£ 1,750.00	£ 1,750.00	£ 2,750.00
reserve fund (provision for future)		£10,503.00				£ 1,000.00	
document storage		£ 30.00					
other professional fees		£ 872.00	£ 360.00	£ 492.00	£ 1,840.00	£ 3,195.00	
H & S risk assessment		£ 1,962.00		£ 1,174.00			
administration fee		£ 221.00	£ 911.00	£ 473.00			
asbestos survey		£ 264.00	£ 36.00				
other management fees		£ 252.00		£ 613.00			
sundry expenses		£ 13.00	£ 10.00	£ 99.00	£ 8.00	£ 197.00	£ 25.00
FTT settlement				£ 4,213.00			
insurance claims					£15,349.00	£ 2,422.00	
postage and photocopying					£ 30.00		£ 54.00
legal and statutory fees							£ 4,574.00
	£3,021.00	£19,988.00	£14,524.00	£19,988.00	£34,152.00	£24,966.00	£24,513.00

The Applicant also sets out a number of arguments under general headings

Default and charges not proven

11. The Applicant reserves the right to inspect account records for every expenditure item and also until such time as an inspection is facilitated he is unable to agree any applications for payment are payable.
12. The Applicant also asserts it is the respondent's duty to supply strict proof that every service charge item claimed is chargeable under the terms of the lease, that the service was reasonable and that the costs incurred were also reasonable. He further asserts that the respondent has failed to verify expenditure is compliant with the terms of the lease and or statute and that the service charge summaries created by qualified accountants do not assess the validity of the charges within the terms of the lease or statute. Accordingly he is not liable to meet unproven demands for payment

The tribunal's decision

13. The tribunal does not accept this interpretation. The Upper Tribunal held in Enterprise Home Developments LLP v Adam [2020] UKUT 0151 (LC) at paragraph 28 that it is for the party disputing the reasonableness of sums claimed to establish a prima facie case. Where the sums claimed do not appear unreasonable and there is only limited evidence that the same services could have been provided more cheaply, the FTT is not required to adopt

a sceptical approach. This leaves the question of whether any item of expenditure is outside the service charge provisions.

14. The obligation on the Respondent to demonstrate that service charges are reasonable and payable only arises if the Applicant can establish that a prime facie case exists and this does not operate to give blanket right to refuse payment.

Charges not particularised

15. The Applicant states that the previously published annual accounts summaries is all the Respondent offers as evidence of service charges. The Applicant asserts it is lawful to withhold service charge payments until the Respondent discloses fully particularised expenditure accounts and facilitates the Applicant's inspection of the details of the same. Previous cases against the Respondent resulted in disclosure and examination of particularised expenditure accounts which led to awards being made against the Respondent. As a result of the Respondents record it is not unreasonable to require the Respondent to supply particularised proof of the legitimacy of their service charge claims.

The tribunal's decision

16. The tribunal does not agree with the applicant's assertions. As stated under the previous heading it is for the Applicant to establish a prima facie case that a service charge item is not reasonable or payable before the burden of proof switches to the Respondent.

Application for payment made before expenditure

17. The Applicant says that the service charge is ascertained in arrears as the lease requires that an account of service charge expenditure is produced at the end of the Respondents financial year.
18. Clause 2.(3)(ii)(a) provides that the amount of service charge shall be ascertained and certified by the lessor's auditors or accountants or managing agents... So soon after the end of the lessor's financial year is making practicable...
19. Clause 2.(3)(ii)(g) provides for a an account of the service charge payable to be provided after the expenditure has been certified giving credit for interim payments and showing the file balance payable or overpaid.
20. The lease provides that expenses and outgoings incurred by the lessor includes expenditure incurred in the year but also expenditure which is of a periodically recurring nature including any sums of by way of reasonable provision for anticipated expenditure.

21. The applicant argues that the process resulted in a chargeable amount which varies and reflects differing expenditure made in each year. The Respondent does not follow the lease procedure but adopts collection in advance despite no lease provision for this.
22. The Applicant says a demand for a single fixed sum is sent to each tenant each year before the Respondents financial year end with the amount so charged remaining the same for several years at a time. This does not reflect differing expenditure each year. The annual certified account summary is not sent to tenants until after payment for the year has already been demanded. The Applicant asserts this is a fundamental breach of the lease. This means there is no process by which the Applicant can determine whether the costs are reasonably incurred for works of a reasonable standard as payment comes before works whereas statute strongly implies that the test of reasonableness requires the cost of works to be known before payment. The Applicant asserts he is not liable to meet demands for payment where an ad hoc sum is demanded from tenants before undisclosed work is undertaken.

The tribunal's decision

23. The tribunal does not accept this interpretation. Clause2(3)(ii)(e) provides that the “expenses and outgoings incurred by the lessor” includes not only expenses and outgoings incurred but also such reasonable part of all expenses which are of a periodically recurring nature by regular or irregular periods and including a sum or sums of money by way reasonable provision for anticipated expenditure. Sub clause (g) provides for interim payments to be taken into account when ascertaining the amount of the payment due from leaseholders. Clearly therefore anticipated expenditure is allowable always subject to the statutory test of reasonableness. Both actual and advance service charges can be challenged in the tribunal.
24. The tribunal finds that the advance application for payment items and reserve fund items are payable.

Expenditure accounts summaries very late

25. The Applicant argues that the length of time between demands for payment and production of certified annual accounts is usually more than one year. As a result of the demand for the next annual payment has already been made long before it relates to a summary of expenditure. The Respondent habitually demands annual service charge payments in advance of any expenditure records.
26. The Applicant agrees that the Respondents financial year runs from 26 March in one year to 25 March the following year. You would expect the summary of expenditure to be issued in April of each year.

27. Once the summary has been issued, section 22 of the Landlord and Tenant Act 1985 (the 1985 Act) allows leaseholders 6 months to give notice to the landlord requiring the landlord to afford reasonable facilities for inspecting accounts receivable or documents relevant to the matters which must be dealt with in a statement of account required to be supplied to him and to provide reasonable facilities for taking copies of or extracts from them. The landlord must comply with the notice within 21 days.
28. The Respondent has resisted all attempts to allow detailed inspection and only supplies a copy of the same certificated summary of expenditure for each section 22 request the applicant asserts he is not liable to meet demands for payment made months before any supporting accounts are produced let alone inspected.

The tribunal's decision

29. The tribunal does not agree with this interpretation. Section 22 does not give the right to withhold service charge payments.

Inadmissible legal fees

30. The tribunal previously determined that the Respondent's company legal fees are not recoverable via the service charge (LON/00AH/LSC/2009/0083 paragraphs 45 and 49). The Applicant alleges that some years ago the respondent sold the tenants a number of roof replacements which was subsequently judged to be unfit for purpose worthless. The cost was contested in the Croydon County Court where the Respondent lost. The legal fees incurred by the Respondent were believed to be substantial but have not been disclosed by the Respondent but it seems were added to the service charges. Only full disclosure can determine the issue.
31. The Respondent's corporate accounts for the years 2020, 2021, 2022, and 2023 include the statement "the company is presently incurring legal costs as a result of action taken by leaseholder which will involve county court proceedings. In order to fund the cost of defending this action, a cash call on members will be necessary, as the company has insufficient funds to do so"
32. The Applicant argues that no cash call on shareholders has been made which points to the legal fees being met from the service charge fund. The Applicant does not recognise the Respondent's legal fees as payable service charges.

The tribunal's decision

33. The tribunal accepts that in principle the Respondents legal fees are not recoverable in the service charge as there is no lease provision for them to be payable.

Reserve fund

34. The Applicant argues that a reserve fund does not appear to be catered for within the lease nor does the lease contain any agreement that additional sums may be charged for similar purposes. The lease already contains “reasonable provision for anticipated expenditure.” The Applicant accepts that surplus service charge payments remaining at the end of one year may be held in trust for the next year instead of returning them to tenants. The Applicant asserts that any such surplus is held in credit pro rata for contributing tenants and does not belong to the Respondent until it has been spent and accounted for as normal service charge expenditure.
35. The Applicant does not recognise charges for reserves as payable service charges.

The tribunal’s decision

36. The tribunal is of the view that while the lease could be clearer and does not use the term “reserve fund” it does provide for a reasonable provision for anticipated expenditure.
37. With any long lease, and particularly one of this length it must be expected that from time to time major repairs will be required. The lease allows for reasonable provision to be made, and it should be noted the lease provision for “reasonable provision” ties in with the statutory obligation under section 19 of the 1985 Act. The alternative would be that expenditure was be paid for by leaseholders in the year in which it arises which would no doubt cause financial difficulty to many leaseholders.
38. The requirement is that any funds collected for anticipated expenditure must be reasonable which in the view of the tribunal includes informing leaseholders what expenditure is anticipated but should be justified by, for example, a costed planned maintenance schedule or similar documents. Any major expenditure will be subject to the section 20 consultation process.

Payments for the Respondent’s business

39. The Applicant states that there is no lease based agreement for funding the Respondent’s own business activities by the service charge. A letter from the managing agents informed all tenants that the Respondent intended to raise such funds in future by annual cash call on the company shareholders but no cash call to place.

40. The Applicant argues that it seems probable from the annual service charge accounts that the Respondent is still ignoring past FTT determinations and inserting company administration costs into the service charge. The Applicant does not recognise such charges as payable service charges.

The tribunal's decision

41. The tribunal agrees that there is no provision in the lease for recovering costs solely attributable to the Respondent company which fall outside managing agents and accountancy costs.

Transferred to the Respondent's business

42. The Applicant argues that it can be seen from the Respondents annual service charge summary and corporate accounts that the Respondent has diverted funds from the service charge to the Respondents company bank account for unknown purposes but there is no process agreed within the lease elsewhere.
43. The Respondent's account summary record such transfers as being due from the limited company or due to the service charge. The total has been increasing each year from £4,121 in 2019 to £17,110 in 2024.
44. The ground rent income to the Respondent is £950 per annum so it is in no position to repay the debt let alone within one year as the company balance sheet states. Service charges have been inflated by the amounts transferred to the Respondent's business or the services supplied have been reduced by the same amount.

The tribunal's decision

45. The tribunal considers that the Applicant is conflating the service charge balance sheet and company balance sheets with the annual service charge. There is no evidence before the tribunal to show that service charges have been inflated or services reduced by these balance sheet entries.

Provision for future service charges

46. The arguments under this heading largely repeat the point made under the reserve fund heading will not be repeated here.

FTT settlement

47. In the county court case referred to above the Applicant states that the Respondent was judged to supply tenants with new roofing which was

unfit for purpose and the respondent was ordered to credit the applicant's service charge account with £4,213 in settlement.

48. The 2021 accounts show that figure as being charged to the service charge fund. The Respondent was the counterparty to the case not the Tenant's service charge fund so settlement should come from the respondent company funds instead.

The tribunal's decision

49. The tribunal accepts that the Applicant is technically correct although as the tribunal has pointed out previously as the shareholders are the leaseholders in the block, it is the same the people paying but under a different heading.

Insurance claims

50. The applicant argues that the service charge summary accounts for 2022 and 2023 show costs of insurance claims and it is for the Respondent to demonstrate why tenants are being asked to pay for insurance claims rather than the insurer. There is no mention of insurance claims being service charges in the lease.

The tribunal's decision

51. In the absence of any justification tribunal finds that cost of insurance claims are not a payable charge.
52. The lessor covenants to keep the building insured against specified perils and unless the amount payable under any claim is irrecoverable by reason of default by the lessee the landlord covenants to apply such insurance money in rebuilding or reinstating the building and to make any deficiencies out of the lessor's own money.

Disputed service charges for the year before 25 March 2019

The tribunal's decision

53. The tribunal determines that the amount payable in respect of pre-2019 service charges is £3,021.00.

Reasons for the tribunal's decision

54. The Applicant argues that pre-2019 service charges are statute barred under the Limitation Act as the claim is more than 6 years old. In its 2009 decision the tribunal held that the limitation period was 12 years and this tribunal agrees with that decision for the reasons given and in

the absence of a prime facie case to challenge any of those items holds that the charges are payable. As this is an item on the Applicant's account it is payable in full and not subject to a 1/54 apportionment.

Health and safety risk assessment

55. The applicant disputes service charge payments in 2019 £1,962 and in 2021 of £1,174.

The tribunal's decision

56. The tribunal determines that these amounts are payable.

Reasons for the tribunal's decision

57. The lease places the lessor under an obligation to repair and maintain the building and common parts. In order to comply with that obligation the lessor must also comply with its legal obligations to residents arising under various Acts and regulations.

Asbestos survey

58. The Applicant disputes items of £264 in 2019 and £36 in 2020 under this heading.

The tribunal's decision

59. The tribunal determines that these amounts are payable.

Reasons for the tribunal's decision

60. There is a statutory obligation on the owners to maintain an asbestos register to ensure the health and safety of contractors working on site and any directly employed staff. As the landlord is under an obligation to maintain the building it must comply with the statutory requirements and maintenance of an asbestos register is a cost of repairing the building.

Items not payable

61. For the reasons given above, or lack of evidence, administration fees, other management fees, sundry expenses, FTT settlement, insurance claims, postage and photocopying, legal and statutory fees, document storage, and other professional fees are not payable.

Balance sheet entries

62. The balance sheet entries are outside the scope of the service charge and not within the tribunal's jurisdiction.

Overall outcome

63. The table below shows the overall outcome of this determination with the Applicant being responsible for paying 1/54th of the payable items.

item		2019	2020	2021	2022	2023	2024
Payable items							
pre 2019	£3,021.00						
advance application for payment		£ 1,750.00	£ 1,750.00	£ 1,750.00	£ 1,750.00	£ 1,750.00	£ 2,750.00
reserve fund (provision for future)		£10,503.00				£ 1,000.00	
H & S risk assessment		£ 1,962.00		£ 1,174.00			
asbestos survey		£ 264.00	£ 36.00				
	£3,021.00	£14,479.00	£ 1,786.00	£ 2,924.00	£ 1,750.00	£ 2,750.00	£ 2,750.00
1/54th		£ 268.13	£ 33.07	£ 54.15	£ 32.41	£ 50.93	£ 50.93
Items not payable							
administration fee		£ 221.00	£ 911.00	£ 473.00			
other management fees		£ 252.00		£ 613.00			
sundry expenses		£ 13.00	£ 10.00	£ 99.00	£ 8.00	£ 197.00	£ 25.00
FTT settlement				£ 4,213.00			
insurance claims					£15,349.00	£ 2,422.00	
postage and photocopying					£ 30.00		£ 54.00
legal and statutory fees							£ 4,574.00
document storage		£ 30.00					
other professional fees		£ 872.00	£ 360.00	£ 492.00	£ 1,840.00	£ 3,195.00	
	£ -	£ 1,388.00	£ 1,281.00	£ 5,890.00	£17,227.00	£ 5,814.00	£ 4,653.00
Items outside the service charge							
owed by respondent to service charge fund		£ 4,121.00	£11,457.00	£11,174.00	£15,175.00	£16,402.00	£17,110.00

Application under s.20C

64. In the application form, the Applicant applied for an order under section 20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.

Name: A Harris

Date: 24 June 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).