FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BD/LSC/2025/0677**
Property	**:**	**10B Red Lion Street, Richmond, Surrey TW9 1RW**
Applicant	**:**	**Bruce Patrick Jennings**
Respondent	**:**	**Lexington Estates Limited**
Type of Application	**:**	**Liability to pay service charges**
Tribunal	**:**	**Judge Nicol** **Mr J Naylor FRICS FIRPM**
Date and Venue of Hearing	**:**	**28th July 2025** **10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**29th July 2025**

DECISION

The Applicant's charges arising from the buildings insurance premiums are reasonable and payable.

Relevant legislative provisions are set out in Appendix 1 to this decision.

Reasons

1. The Applicant is the lessee of a second-floor flat in a 3-storey terraced block with another flat on the first floor and commercial premises on the ground floor. The Respondent is the freeholder of this and a number of other buildings in the same terrace.

2. The Applicant challenges under section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") the reasonableness and payability of insurance rent which covers the buildings insurance premiums and the commissions paid from them:

Policy Year	Premium (excl. IPT)	Total Commission	Total Commission %	CIM Commission	CIM %	Sweetings Commission	SPM %
2019–2020	£7,602.85	£1,665.85	22%	£1,332.68	80%	£333.17	20%
2020–2021	£8,115.18	£1,788.44	22%	£1,442.77	81%	£345.67	19%
2021–2022	£8,926.70	£1,996.54	22%	£1,608.99	81%	£387.55	19%
2022–2023	£10,374.79	£2,338.07	23%	£1,883.24	81%	£454.83	19%
2023–2024	£11,649.64	£2,686.01	23%	£2,103.53	78%	£582.48	22%
2024–2025	£17,973.36	£4,100.43	23%	£3,280.34	80%	£820.09	20%
2025–2026 (forecast)	£19,086.25	£6,150.39	32%	£3,499.37	57%	£2,651.02	43%

3. The application was heard on 28th July 2025. The participants were:

- Mr James Sandham, counsel for the Applicant;
- The Applicant;
- Mr Jonathan Hird;
- Ms Ceri Edmonds, counsel for the Respondent;
- Ms Helen Blunt;
- The Respondent's witnesses:
    - Mr David Sweeting, director of Sweetings Property Management Ltd ("Sweetings"), the Respondent's managing agents
    - Mr Nick Mace, Commercial Risks Director of Clear Insurance Management Ltd ("CIM"), the insurance brokers used by Sweetings

4. The documents before the Tribunal consisted of a bundle of 754 pages and skeleton arguments from each barrister.

Other Issues

5. The Applicant sought to raise a number of other issues, including the parties' respective responsibilities for repairs under the lease. In particular, the Tribunal's directions of 27th March 2025 referred to an allegation that the Respondent had failed to make promptly a claim under the buildings insurance. However, the Tribunal can only deal with issues specified by Parliament in statute. The reasonableness and payability of charges arising from the insurance premiums is the only issue raised by the Applicant which is within the Tribunal's jurisdiction. This is not to say that the Applicant's other issues do not have a legal remedy. If they do, it is not available from this Tribunal.

Insurance

6. The Respondent levies no service charges in relation to the building based on their understanding that the lease places all repairing obligations on the lessees. However, the lease provides for the Respondent to arrange the buildings insurance and to charge the lessees an insurance rent to recover the cost of the premiums.

7. Mr Sweeting explained that he had been managing the property for over 30 years, originally for the previous owner and, when she passed away and her interest was purchased by the Respondent in 2010 or 2011, for them. The

insurer for the property at the time was Aviva and they continued to be so until the insurance was placed instead with AXA in 2025.

8. The insurance was placed through CIM. Founded in 2001, they are chartered insurance brokers, authorised and regulated by the FCA. They have over 1,000 employees in 35 locations across the UK and utilise the services of over 100 insurers. All staff members who deal with customers belong to the industry's professional body, the Chartered Insurance Institute, and must adhere to its Code of Ethics.

9. The Applicant's application challenged the insurance rent for each year from 2019 onwards. Mr Mace was tasked with looking at what had happened to the insurance for the property during that period. He explained that there are 3 possible approaches to the annual renewal. They could tender across the whole market but that could involve as many as 200 insurers and so an alternative was to go to a limited market where a select few insurers with whom CIM had a relationship would be asked to quote. This is what was done in 2024 when 3 insurers were asked to quote and two did so – the existing insurer, Aviva, provided the lowest quote and so the insurance was again placed with them.

10. The third option, which CIM used for each of the other years from 2019, is to return to the same insurer. Instead of testing the market, CIM relied on their own knowledge and experience of the market. In 2018 and 2019, they felt that Aviva's premium increases were within market tolerance. In 2020 and 2021, there were arrangements in place to address the fact that, due to COVID, commercial premises would often be vacant. Insurers would continue to provide full cover. It would have been disadvantageous to re-market the property because any new insurer would apply terms in the normal way, likely resulting in a significantly higher premium.

11. In 2022, with the lifting of the COVID restrictions and due to a number of other factors (including a reduction in the number of insurers, claims inflation and corrections for under-pricing), Aviva's terms reflected rate increases across the market. The increase of around 10% was within market norms.

12. In 2023, a revaluation exercise increased the building's declared value from £582,981 to £1,032,000, an increase of 77%, which of course fed through to the premium. Additionally, Aviva sought a 5% rate increase but CIM negotiated them down to nil.

13. The Applicant criticised the Respondent for not going to market each year or, at least, more often than they did. Mr Mace rejected this as inappropriate. He said that, if they went frequently to market, insurers would get tired of quoting without getting the business. The client would get a bad reputation and insurers would just stop quoting. Unlike domestic home insurance, the arrangements with the insurers were commercial contracts. A good relationship would allow CIM to negotiate better terms from time to time. Frequently changing from one insurer to another in search of a lower price every year would be counter-productive.

14. The biggest problem with the Applicant's case was that, despite being directed to do so in the Tribunal's directions, he had not sought or provided any

alternative quotes. He sought to rely on a report from Insurety Ltd but it consisted entirely of opinion and no permission had been sought or obtained to rely on expert evidence. Even if permission had been sought, it would have been refused because the report did not comply with the requirements for expert evidence under rule 19 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Tribunal took no account of the Insurety report.

15. The Applicant's case contained a contradiction. In his skeleton argument, Mr Sandham emphasised the point arising from *Waaler v Hounslow LBC* [2017] EWCA Civ 45; [2017] 1 WLR 2817 that the reasonableness of service charges must be judged not only on the rationality of the process by which the charge was made but also the reasonableness of the outcome. On the other hand, he had many criticisms of the rationality of the Respondent's decision-making progress but not a shred of evidence on what the outcome should be. The Tribunal pointed out that an irrational process is capable of reaching a reasonable decision, even if it is less likely. The Tribunal needs some basis for thinking the outcome is unreasonable but the Applicant had no evidence for that.

16. In any event, the Tribunal is satisfied that the Respondent's process for selecting the insurer was sufficiently rational. It did not involve market-testing for at least 5 years from 2019 to 2023 but the Respondent's explanation for that is reasonable. CIM relied on their own market knowledge and experience, as any professional would, in order to judge whether premiums were reasonable. There is no reason to think that they did not achieve a reasonable outcome.

17. In accordance with current practice, CIM revealed the commissions paid out of the insurance premiums to themselves and Sweetings. There were separate commissions paid on the buildings insurance and on the additional terrorism cover. Both increased significantly in the most recent year and, understandably, the Applicant queried why.

18. In his witness statement, Mr Mace explained that

    19. In 2025 CIM transferred the insurance to AXA Insurance plc under CIM's Underwriting Delegated Authority (DA). This includes a higher overall remuneration relating to specified additional services undertaken on behalf of the insurer. This provides the CIM Broking Team with a better service, in most cases lower premiums, more favourable terms and clearer documentation. From experience placing business through our DA's is far more beneficial to clients and negates potential service issues e.g. the late issuing of renewal terms in 2024 by Aviva.

    20. Noting that questions have been raised regarding the change in overall commission levels for the 2025/26 renewal, it is important to note that this is not like for like with previous years. Until this renewal, policies had been placed on the open market, whereas the AXA policy was arranged under a delegated authority agreement between CIM and AXA. This means that, in addition to the standard intermediary activities, CIM undertake additional work on behalf the insurer. This includes:

- assessing information regarding the subject of the insurance against criteria set by the insurer.
- calculating the premium based on the above using the insurer's own pricing structure.
- Identifying any specific terms, conditions, enhancements or restrictions the insurer requires.
- generating policy documentation on behalf of the insurer.

19. Mr Sandham asserted more than once that the Respondent's case was unexplained and unevidenced. On the contrary, the Tribunal is satisfied that Mr Mace's explanation is comprehensive and clear. For the reasons he gave, the commissions on each of property and terrorism increased 5%, giving an average commission for the entire premium of just over 32%. It is the Applicant's objection to this increase which is unexplained and unevidenced.

20. Mr Sandham pointed out that Sweetings were estimated to receive a much higher commission for the most recent year and queried whether the work they did justified it. However, Sweetings receiving a higher share of the commission makes no difference to the amount the Applicant has to pay. The Respondent has explained how the commission is compiled and the Tribunal is satisfied that it is reasonable. The fact that Sweetings get more of it is not to the point.

21. Each year, the insurers would provide a quote for the insurance of each building in the terrace. Sweetings would then divide that sum between the units in each building as it felt appropriate in consultation with the Respondent. In the case of the subject property, the split between the 3 units (one commercial and two residential) was equal until 2024. Mr Sweeting said that he and Mr John Jackson, the then senior director at the Respondent, noted the increased risk ascribed by the insurer to the cooking in the restaurant occupying the commercial premises and decided that a fairer split would be 25% for each residential unit and 50% for the commercial unit.

22. The Applicant asserted that this process was irrational. Mr Sweeting himself described it as "arbitrary" but it clearly was not. It was rough and ready but both Mr Sweeting and Mr Jackson took account of the change in the way the insurer estimated the risk in the commercial premises and their knowledge and experience of both building management and the particular property in order to achieve a re-apportionment which they felt was fair and equitable.

23. The Applicant argued that the split should be more heavily weighted in favour of the residential units but had no basis for that argument. On the other hand, Mr Sweeting pointed to the risks arising from the residential lessees' repairing obligations for the roof and other parts of the premises. While arguably not as significant as the fire risk created by the restaurant, it justified the residential lessees bearing a higher proportion of the premium than might be the case if they did not have such obligations.

24. The Applicant also argued that the change in the split demonstrated that the previous split had always been wrong. However, the Respondent has provided a clear reason for the change. That explanation not only justifies the change but

necessarily also explains why the change did not happen before, i.e. the insurer changed the way they measured the risk arising from the restaurant.

25. Based on the evidence put before it, the Tribunal is not satisfied that the Applicant has established that the insurance rent is unreasonable to any degree. It is therefore payable for each of the years challenged.

Name: Judge Nicol **Date:** 29th July 2025

Appendix 1 – Relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
   (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
   (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;
   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 20C

(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 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.

(2) The application shall be made—
   (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
   (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
   (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
   (c) in the case of proceedings before the Upper Tribunal, to the tribunal;

(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Section 27A

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
(a) the person by whom it is payable,
(b) the person to whom it is payable,
(c) the amount which is payable,
(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
(a) the person by whom it would be payable,
(b) the person to whom it would be payable,
(c) the amount which would be payable,
(d) the date at or by which it would be payable, and
(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.