



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

Case Reference : **HAV/00HQ/LSC/2025/0651**

Property : **2 Horseshoe Court
13 Dean Park Road
Bournemouth
BH1 1HU**

Applicant : **Weida Qian**

Representative : **None**

Respondent : **Horseshoe Court Freehold Ltd**

Representative : **Burns Property Management & Lettings
Limited T/A Burns Hamilton**

Type of Application : **Determination of liability to pay and
reasonableness of service charges
Section 27A Landlord and Tenant Act
and orders pursuant to Section 20C of the
Landlord and Tenant Act and paragraph
5A Schedule 11 of the Commonhold and
Leasehold Reform Act 2002.**

Tribunal Members : **Mr I R Perry FRICS**

Date of Inspection : **None, determined on the papers**

Date of Decision : **15th August 2025**

DECISION

Summary of Decision

1. On 15th August 2025 the Tribunal determined that the service charges relating to balcony works are not payable as part of the overall service charge for Horseshoe Court. The costs relating to balconies are the responsibility of individual flat owners who have the benefit of a balcony.
2. Applications made in respect of Section 20C of the Landlord and Tenant Act and paragraph 5A Schedule 11 of the Commonhold and Leasehold Reform Act 2002 relating to the costs of this application are granted so that the costs of this application should not be included in the service charges levied against all leaseholders.

Background

1. The Applicant has made an application for determination of liability to pay and the reasonableness of service charges for the years 2024 and 2025. The total amount in dispute is £11,082.75.
2. The application was received on 24th March 2025.
3. The Applicant further seeks orders pursuant to Section 20C of the Landlord and Tenant Act and paragraph 5A Schedule 11 of the Commonhold and Leasehold Reform Act 2002.
4. The Property is a ground floor flat within a purpose-built block. The issue to be determined is whether the Applicant is liable to contribute to works to balconies in the block.
5. The Tenants, including the Applicant, each own a 1/12th share of the Freehold.
6. The Tribunal issued directions on 4th June 2025. Those Directions indicated a preliminary opinion that the application was likely to be suitable for determination on the papers.
7. There has been no objection from either party to this approach.
8. A bundle of papers has been submitted by the Applicant which runs to 212 pages. Any reference to the bundle will be made to the page number in square brackets [...].
9. The bundle contains a clear statement as to the Respondents position, including legal advice that it has obtained.
10. The Tribunal issued further Directions on 21st July 2025 confirming that as the issue in dispute requires a determination as to the lease provisions there is no need to hear further from either party and the matter can be determined on the papers with no need for a hearing.

The Law

Section 27A Liability to pay service charges: Jurisdiction

11. (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to—
12. (a) the person by whom it is payable,
13. (b) the person to whom it is payable,
14. (c) the amount which is payable,
15. (d) the date at or by which it is payable, and
16. (e) the manner in which it is payable.
17. (2) Subsection (1) applies whether or not any payment has been made.
18. (3) An application may also be made to a leasehold valuation 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—
19. (a) the person by whom it would be payable,
20. (b) the person to whom it would be payable,
21. (c) the amount which would be payable,
22. (d) the date at or by which it would be payable, and
23. (e) the manner in which it would be payable.

Section 20 Limitation of service charges: consultation requirements provides that where the lessor undertakes qualifying works with a cost of more than £250 per lease, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement dispensed with by the Tribunal. An application may be made retrospectively.

Section 20C Limitation of service charges: Cost of proceedings provides that 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 before a court [residential property tribunal or leasehold valuation tribunal [or the First-tier 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 Lease

11. The Lease for Flat 2 [13] defines ‘the building’ [14] as *“the block of flats known as Nos 1 to 12 Horseshoe Court 13 Dean Park Road Bournemouth Dorset and garages common parts and grounds comprised within the titles above mentioned.”*
12. ‘The property’ is defined [14] *“is the Flat and balcony (if any) known as Flat Number 2 Horseshoe Court, 13 Dean Park Road, Bournemouth on the ground floor of the building together with garage number two...”*

13. The Tenant is required to pay the service charge [15] *“calculated in accordance with the Third Schedule on the dates stated there”*.
14. The Landlord is required to provide the services listed in the Fourth Schedule for all the occupiers of the building [15].
15. The Third Schedule relates to the Service Charge [21] which comprises the Service Costs which is to be divided between the 12 flats and ‘Service Costs’ is defined as *“the amount the Landlord spends in carrying out all the obligations imposed by and in exercising all rights contained in this lease (other than the covenant for quiet enjoyment) and not reimbursed in any other way...”*.
16. The Fourth Schedule [22] sets out the ‘Services to be Provided by the Landlord’
 1. *Repairing the roof, outside, main structure and foundations of the building, the external window frames and the front door of the property.*
 2. *Contributing a fair proportion of the cost of repairing, maintaining and cleaning any building, property or sewers, drains, pipes, wires and cables of which the benefit is shared by occupiers of the building and occupiers of other property.*
 3. *Decorating the outside of the building, to include the garage blocks, when required and in any event at least once in every five years.*

Submissions

17. The Applicant provides a Witness Statement [6]. Put simply he avers that as his flat on the ground floor has no balcony he should not contribute to the costs of repairs to the balconies. That any balcony forms part of individual properties as defined in the respective leases and is not part of the structure or common parts.
18. The Applicant describes the works [7] which include removal and replacement of railings, concrete cutting to extract embedded railing fixings, waterproof membrane installation, screed layer modification, repointing of brickwork around balcony areas.
19. The Applicant refers to a case referenced in advice obtained by the Respondent, *Brittania Village (Nine) Residents Management Company Ltd (otherwise known as Western Beach Apartments) v Leaseholders (LON/00BB/LVL/2021/0008)*, in which the Tribunal held that such disputes must be resolved based on precise lease wording and the factual situation of each flat. He avers that in that case the issue involved a formal lease variation to address ambiguities in balcony maintenance responsibilities.
20. The Applicant provides advice from the Leasehold Advisory Service [39] whose opinion is that the lease “clearly demises the balconies (sic) to the flat owners.”
21. A witness statement from the Respondent [41] expresses the view that the balconies and railings form part of the Landlord’s responsibilities as they are outside and form part of the buildings structure, the floor being reinforced concrete and integral with the main structure.

22. The Respondent takes the view that the ground floor flats have a decked area which is used by the owners of the ground floor flats but which the Respondent would consider to be the joint responsibility of all 12 flats if and when repairs are necessary.
23. The Respondent includes title plans for flats 5 and 6 which shows the property boundary to flats with balconies is only that of the shell of the flat, along with the appropriate garage.
24. The Respondent includes a legal opinion [71] from a solicitor with Woodstock Legal Services who signs as Farrah, who confirms that the lease is contradictory, but suggests that where the balcony is part of the main structure (as suggested here by it being a concrete structure) which may affect the overall structural integrity of the building, then a court is more inclined to take a practical approach and make this the obligation of the freeholder.
25. The solicitor suggests that there is a risk that leaseholders may not have the necessary work done and lists a range of issues which might follow.
26. The Respondent also includes a Structural Engineers report detailing the necessary works, a Tender Report, Statement of Estimates, Shareholders Minutes and general correspondence relating to the proposed works.
27. The Respondent states that the only legal costs incurred by the freehold company was for the legal advice as provided by Woodstock Legal Services.
28. The Respondent has accrued other costs in respect of an engineer's report which fortunately diagnosed that the problem relating to the damage was caused by the railings deteriorating rather than any major structural issue., the provision of a tender report and the presumed oversight of the works.

Consideration and Determination

29. The Tribunal has considered the *Britannia* case where the applicant first asked the Tribunal to decide whether the landlord management company was responsible for remediation works to the balconies, and if so whether the cost of those works was recoverable from the leaseholders and if so, in order to expedite the repairs a Section 20ZA application was made so that the landlord, if responsible, could move quickly.
30. Whilst the Tribunal identified that there was an issue relating to the responsibility for works in the end the only matter decided by the Tribunal in the *Britannia* case was a variation of the leases in the building which effectively brought the responsibilities clearly into those of the Landlord and thereby divided the cost between all the flats in the block.
31. In this case the Landlord has not applied for a variation of the lease. The lease is quite specific in that if a balcony exists then it forms part of that property and is therefore not part of the block or building. When the Tenant purchased the property, he would have reasonably considered that as his flat does not have a balcony he would not be responsible for works to any balconies and, notwithstanding the title plans, those purchasers who acquired an upper floor flat

would or should have been quite clear that they would be responsible for the balcony attached to their flat.

32. The Tribunal has considered the extent of the works involved which seem to have arisen because of corrosion to the railings which has in turn affected the concrete of the balconies. There is no mention of any substantial works to the balconies which might have been regarded as structural works to the whole building.
33. For these reasons the Tribunal determines that the tenants of the ground floor flats are not jointly responsible with the tenants of the upper floors for the repair works to the balconies.
34. Notwithstanding the decision the Tribunal considers that the Landlord has been prudent in obtaining survey and engineers reports and in obtaining legal advice regarding the Tenant's financial responsibility. The Landlord has also reasonably employed professional assistance in overseeing the works which are surely to the benefit of all Tenants.
35. However, the Applicant has been proved correct in that he is not responsible for the cost of the balcony works and should not therefore share in the costs of these proceedings. Accordingly, the Tribunal grants the Tenant's Applications made in respect of Section 20C of the Landlord and Tenant Act and paragraph 5A Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

RIGHTS OF APPEAL

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. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.
5. Either party seeking to appeal a decision are referred to form RPPTA.

