



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

Case reference : **LON/00AJ/LBC/2025/0612**

Property : **Flat 6, 48 Kenilworth Road, London, W5
3LH**

Applicant : **Redgate Residents Association Limited**

Representative : **Ms Thompson (solicitor)**

Respondent : **Mr Eugene Losowski-Gallagher**

Representative : **In person**

Type of application : **An allegation of breach of covenant:
Section 168(4) Commonhold and
Leasehold Reform Act 2002**

Tribunal members : **Judge Tueje
Ms S Beckwith MRICS**

**Date and Venue of
hearing** : **1st September 2025
10 Alfred Place, London WC1E 7LR**

Date of decision : **13th November 2025**

DECISION

Decisions of the tribunal

- (1) The Tribunal finds that the Respondent has breached clauses 3(18), 3(24), and paragraph 5 of the Fifth Schedule of the Lease for the reasons set out below.

- (2) The Tribunal finds that the Respondent has not breached clause 3(9) or paragraph 4 of the Fifth Schedule of the Lease for the reasons set out below.

Introduction

1. The Applicant, Redgate Residents Association Limited, is the freehold owner of Flat 6, 48 Kenilworth Road, London, W5 3UH (“Flat 6”). The HM Land Registry title number is MX3777000, and an office copy entry confirming its title, registered on 5th April 2017, is in the bundle.
2. The Premises comprise a converted second-floor flat within a block of six flats (the “Block”).
3. The leaseholders of Flats 1 to 4, 48 Kenilworth Road are shareholders in the Applicant company.
4. The individuals involved in the allegations relevant to these proceedings are:

Mr Mr Eugene Losowski-Gallagher, referred to as “the Respondent”

Mr Ray Gallagher, the Respondent’s father, who occupies Flat 6, “Mr Gallagher”.

Ms Susie Pover the leasehold owner of Flat 2, 48 Kenilworth Road, W5 3UH (“Flat 2”) since around 23rd November 2023.

Ms Fiona Bonner the leasehold owner of Flat 4, 48 Kenilworth Road, W5 3UH (“Flat 4”) since around December 2019.

Ms Romina Rosa Marina Venura Jimenez, Ms Bonner’s predecessor in title.

The Lease

5. By a lease dated 30th March 1985, Brinkburn Limited granted a lease of Flat 6 for a term of 125 years commencing 29th September 1984 (the “Lease”).
6. This Application concerns clauses in the Lease that the Applicant alleges the Respondent has breached.
7. In the Application it is first alleged that the Respondent has breached certain lessee’s covenants of the Lease.
8. Specifically, he is said to have breached clause 3(9) which reads:

THAT the Lessee will at his expense execute and do all such works as may be directed in pursuance of any statutory enactment or otherwise by any national local or public authority or body to be executed or done at any time during the said term upon or in respect of the Demised Premises whether by the Lessor or the Lessee thereof

9. It is further alleged that the Respondent has breached clause 3(18) which states:

THAT that the Lessee will not do or permit or suffer any act or thing in or upon the Demised Premises which may render any increased or extra premium to be payable for the insurance of the Building or which may make void or voidable any policy for such insurance and will indemnify the Maintenance Trustee and the Lessor against any increased or additional premium which by reason of any such act or default of the Lessee may be required for effecting or keeping up any such insurance and that in the event of the Demised Premises or the Building or any part there of being damaged or destroyed by fire or any other risk insured in accordance with the provisions hereinafter contained at any time during the term hereby granted and the insurance money under any insurance policy effected therein in accordance with such provisions being wholly or partially irrecoverable by reason solely or in part of any act or default of the Lessee then and in every such case the Lessee will forthwith pay to the Lessor the whole or (as the case may require a fair proportion of the cost of rebuilding and reinstating the same and indemnify the Lessor and the Maintenance Trustee against all costs claims and damage resulting there from any dispute as to the proportion to be so contributed by the Lessee or otherwise in respect of or arising out of this provision to be referred to arbitration in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re enactment thereof for the time being in force

10. The Respondent is also said to have breached clause 3(24) of the lease which reads:

THAT the Lessee will at all times during the said term observe the regulations contained in the Fifth Schedule hereto or any regulations added to or substituted therefor under Clause 14 hereof

11. In addition to the above provisions, the Application also concerns paragraphs 4 and 5 of the Fifth Schedule, which contains the regulations to be observed by the lessee, which state:

4. *not to permit a person of unsound mind or a drunkard or a person of immoral life to reside in the Demised Premises*

5. *not to do or permit to be done whether by himself or his family servants agents or visitors any act to the nuisance damage or annoyance of the Lessor or the tenants of the Lessor or the occupiers of any part of the Building or of any adjoining or neighbouring premises or neighbourhood or which may prejudicially affect or depreciate the amenities of the Lessor's property or any illegal or immoral act*

Procedural Background

12. The Application, dated 18th February 2025, seeks a determination pursuant to section 168(4) of the Commonhold and Leasehold Reform Act 2002 ("the

2002 Act”) that the Respondent is in breach of the provisions at paragraphs 8 to 11 above.

13. By an order dated 29th May 2025, made following a remote hearing on the same date, the Tribunal issued directions in respect of the Application. Each party was required to submit, in turn, any documents, witness statements and/or legal submissions in support of their case, with the Applicant permitted to file a reply. The parties were also directed to seek to agree a paginated bundle for use at the final hearing. The order identified the issues for determination by the Tribunal, warned the Respondent that the proceedings may be a preliminary to court proceedings to forfeit the Lease, and listed the Application for a final remote hearing on 1st September 2025.
14. At the final hearing, the Applicant was represented by Ms Thompson, solicitor.
15. The Respondent did not attend and was not represented at the final hearing.
16. The Tribunal received a 398-page electronic hearing bundle containing the following evidence:
 - 16.1 Witness statement of Fiona Bonner dated 26th June 2025;
 - 16.2 Witness statement of Susie Power dated 26th June 2025;
 - 16.3 Witness statement of the Respondent dated 10th July 2025; and
 - 16.4 The Applicant’s reply dated 24th July 2025.
17. In addition, Ms Bonner prepared a supplementary witness statement dated 18th August 2025.
18. The Lease in the bundle was of poor quality. On 31st October 2025 the Tribunal requested the Applicant provide an improved copy, which the Applicant’s solicitor supplied by e-mail the same day.
19. At 10.00am on 1st September 2025, the Respondent had not joined the remote hearing. The case officer contacted him, and he confirmed that he would not be attending and had no objection to the hearing proceeding in his absence.
20. From the Respondent’s telephone conversation with the case officer, the Tribunal was satisfied that the Respondent had been given proper notice of the hearing, and that it was in the interests of justice to proceed with the hearing in his absence. Therefore, as the criteria at rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the “Rules”), were met, the hearing continued without the Respondent.

The Inspection

21. Neither party requested an inspection, and the Tribunal did not consider that one was necessary.

The Applicant's Case

22. The Applicant relies on a series of allegations dating back to 2016, detailed in its witness statements and exhibits.

Floods and Leaks

23. These allegations primarily concern repeated floods and leaks originating from Flat 6, as summarised below:

- 23.1 On 10th April 2024 at around 7.00pm, Ms Bonner and Ms Pover discovered water leaking through the hallway ceiling, running down walls and pooling on the floor.
- 23.2 On 9th May 2024 there was another leak from Flat 6 into the hallway resulting in water coming through the ceiling, running down the walls and causing damage to lighting on the stairs.
- 23.3 At around 12.30am on 27th September 2024, a resident of Flat 3 returned to find water coming through the ceiling and running down the entrance hall walls. This caused extensive damage to Flat 2, and to communal lighting in the hallway. Mr Gallagher was arrested for criminal damage and for breaching the restraining order (referred to in paragraph 28 below).
- 23.4 On 30th September 2024 at around 8.15pm Mr Gallagher was re-arrested following further flooding affecting the communal landing.
- 23.5 On 16th October 2024 at around 12.30pm the Fire Brigade attended following another leak, and found the bath overflowing in Flat 6 leaking into the communal hallway.
- 23.6 On 12th February 2025 flooding from Flat 6 again affected Flats 1 and 4.
- 23.7 Further leaks from Flat 6 occurred on 27th April and 17th May 2025, causing additional damage to Flat 4.
- 23.8 On 1st June 2025 from around 7.30pm Ms Bonner discovered a slow trickle of water running down a wall due to a boiler leak in Flat 6.
- 23.9 On 5th June 2025, police officers attended following another leak.
- 23.10 On 6th June 2025, police confirmed that the leak originated from Flat 6's boiler. The Applicant's solicitors requested urgent repairs, but the Respondent did not carry these out.
- 23.11 There was a similar leak on 11th June 2025, with photographic evidence of the damage provided by the Applicant.

24. In her second witness statement Ms Bonner explains that while Mr Gallagher was remanded in custody, on 30th July 2025, there was another leak into Flat 4 from Flat 6. The Fire Brigade entered Flat 6 and isolated the water and electricity supply to the boiler. It appeared that Mr Gallagher had placed a bowl beneath the leaking boiler, which overflowed during his absence.

Other Allegations

25. In addition to these incidents the Applicant raises other concerns about Mr Gallagher's conduct including historical vexatious court proceedings, a physical altercation with a resident of Flat 3, and physical damage to parts of the Block.
26. Regarding the court proceedings brought by Mr Gallagher, these include:
- 26.1 Claim number CO0BF392 were injunctive proceedings against Ms Jiminez, which by an order dated 11th March 2016 were *"...struck out as it is without merit and fails to disclose reasonable cause of action"*
- 26.2 Claim number F40YM313 was a claim against multiple defendants including Doobeck Residents Association Limited, the Applicant's predecessor, and Ms Jiminez. The County Court summarily dismissed the claim 1st March 2021.
- 26.3 Claim number KO0YJ949 was a claim against the Metropolitan Police and Ms Bonner. On 3rd July 2023 *"...the Court finding the claim against the Second Defendant to be an abuse of process in that it is designed to continue the Claimant's course of harassment against the Second Defendant"*, struck out the claim.
27. Additional incidents relied upon by the Applicant are set out below.
28. It is alleged that on 25th August 2021, Mr Gallagher was recorded on CCTV stealing bicycles belonging to Ms Bonner and her son. It is claimed he was convicted of harassment, fined, and on 20th May 2022 was made subject to a five-year restraining order prohibiting him from directly or indirectly contacting or approaching Ms Bonner, whether verbally or in writing. A copy of the restraining order issued by West London Magistrates' Court is included in the hearing bundle.
29. There are also letters from the police and Crown Prosecution Service regarding breach proceedings initiated in respect of the restraining order.
30. It is alleged that Mr Gallagher's conduct has devalued Flat 4. Ms Bonner states that due to his conduct she wishes to sell Flat 4. However, in October 2022 she obtained a valuation report which gave a market value of £366,000 taking into account the allegations against Mr Gallagher. The

report states that without such issues the value of Flat 4 would be around £500,000.

31. Ms Pover moved into Flat 2 on 23rd November 2023. A few days later, at around 10.00pm on 26th November 2023 she heard the hallway smoke detector beeping. When she investigated, she found a strong smell of burning food coming from Flat 6. Although she knocked on Flat 6's door, there was no answer. However, Ms Bonner's partner said he saw Mr Gallagher open the entrance door, but he did not come out nor speak to anyone.
32. On 26th March 2024 new fire doors were fitted to the communal meter cupboard. The following day an unsigned note was taped to the wall beside the communal entrance door. It referred to the inconvenience the new cupboard doors allegedly caused to Flat 6. On the balance of probabilities the Tribunal concludes the note was written by Mr Gallagher, which reads (original block capitals):

I RESPECTFULLY ASK WHOEVER IS RESPONSIBLE FOR THIS LATEST HARASSMENT – TO MAKE PAYMENT FOR ALL LOSS ARISING OUT OF LOSS OF AN ELECTRICAL SUPPLY IN THE SUM OF £250 (TWO HUNDREN AND FIFTY POUNDS PER DAY OR PART DAY FOR LOSS OF ELECTRICAL SUPPLY TO FLAT 6 – UNTIL THE OBSTRUCTION IS REMOVED.

33. The Applicant accepts that the new meter cupboard door was locked, but explains that a key was hung nearby. The key was subsequently removed and replaced multiple times, which the Applicant believes Mr Gallagher was responsible for. The Tribunal considers this more likely than not.
34. Following a fire door inspection, a survey dated 21st June 2024 identified damage to the entrance door frame of Flat 6. In a letter from the Applicant's solicitors dated 14th October 2024, the Respondent was asked to repair the damage, but had failed to do so by the date of the final hearing.
35. The skylight at Flat 6 was also damaged allowing rainwater ingress. Photographic evidence of the damage is included in the hearing bundle. An e-mail sent on 9th December 2024 to Mr Gallagher by the block management company reads:

I have previously reported this window to yourself as posing a serious risk due to the extremely deteriorated condition. I attach a below photo highlighted the worsened condition - this needs urgent action due to the potential risk of falling and causing injury, damage or worse to property or life.

36. The Applicant's position is that to date the skylight has not been repaired.

37. On 24th January 2025, using a chisel Mr Gallagher damaged the meter cupboard fire doors. The Applicant relies on video evidence to support this allegation.
38. On 4th April 2025, Mr Gallagher grabbed a resident of Flat 3 by her shirt. Again, the Applicant relies on photographic evidence of this incident.
39. Ms Bonner and Ms Pover have exhibited numerous photographs to their witness statements showing water damage including cracks to plaster, mould, staining, and spoiled decorations, which they attribute to the leaks. Other photographs include stills of Mr Gallagher carrying a tool, the damaged meter cupboard door, and Mr Gallagher pulling at the clothing of a resident of Flat 3.
40. The Applicant's solicitors and former solicitors have written to the Respondent about the various alleged breaches on a number of occasions. For instance on 7th August 2017, 13th August 2017, 14th October 2024, 9th December 2024, 18th December 2024, 20th January 2025, 6th May 2025, 27th May 2025, 12th June 2025.

Building Insurance

41. The Applicant alleges that Mr Gallagher's conduct has affected the building insurance. It relies on a letter dated 30th May 2022 sent on behalf of Axa Insurance, which includes the following endorsement:

We shall not have any liability under this Policy for, or directly or indirectly arising out of, or in any way connected with Raymond Gallagher.

42. An e-mail sent by the Block's insurers on 22nd May 2025, regarding a leak from Flat 6 into Flat 4, concludes:

Finally, I must advise that as soon as we have the quantum for the claim we will reserve our rights to issue a revised renewal, since this claim has happened during the renewal cycle.

The Respondent's Position

43. The Respondent has responded to the allegations. In a letter dated 17th August 2017, he accused the Applicant and its predecessor of ongoing harassment of his tenant (Mr Gallagher), including hounding him in his home, assaulting him in communal areas and unlawfully imprisoning him.
44. On 9th July 2021 Mr Gallagher sent a written complaint to Ms Bonner accusing her of running up and down the stairs, banging on doors and engaging in anti-social and offensive behaviour.

45. In a letter dated 7th September 2021 he accused Ms Bonner of haranguing Mr Gallagher in the communal hallway the day before and calling him a thief.
46. In a letter dated 14th August 2022 the Respondent alleged that Ms Bonner made false accusations to the police against Mr Gallagher, and he repeats similar allegations in a letter dated 5th September 2022.
47. The Respondent's witness statement for these proceedings is dated 10th July 2025. He exhibited an earlier witness statement dated 13th July 2023 in which he describes three incidents involving Ms Bonner. The first occurred in around April 2020 when he states Ms Bonner allegedly shouted at Mr Gallagher telling him not to send letters. The second occurred in around 2020-2021 when Ms Bonner and her partner told the Respondent that Mr Gallagher must stop sending letters or they would call the police. He alleges they also obstructed Mr Gallagher leaving the building, making the same comments to him. The Respondent complains of similar behaviour by Ms Bonner and her partner on another occasion in around 2020-2021, so he has avoided visiting the Block.
48. In his most recent witness statement, the Respondent denies the Applicant's allegations, stating that there is no evidence of the claimed damage. He asserts that Ms Bonner appears to have a vendetta against Mr Gallagher, and that the Applicant's predecessor has sought to terminate Mr Gallagher's occupation, by harassing and assaulting him over the past 20-30 years. He also alludes to the contents of his earlier July 2023 statement, and reiterates that he avoids visiting the Block because of these experiences.

The Tribunal's Determination

49. The Tribunal acknowledges the time that has elapsed since the final hearing. The Tribunal would like to apologise for this delay, and thanks the parties for their patience in waiting for this determination to be issued.
50. The Tribunal reached its decision after considering the Applicant's oral and both parties' written evidence, taking into account its assessment of the evidence, and also having regard to the arguments made by the parties.
51. This determination does not refer to every matter raised by the parties, or every document the Tribunal reviewed or took into account in reaching its decision. However, this doesn't imply that any points raised, or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, it was considered by the Tribunal.
52. The Applicant's submissions (at pages 61 to 64 of the hearing bundle) seek to rely on alleged breach of clause 3(4) of the Lease. However, this is not included in the Application and there has been no request to amend the Application. Accordingly, the Tribunal has not made a determination in respect of the alleged breach of clause 3(4).

The Issues

53. The Tribunal has identified the issues for determination, which are set out at paragraph 2 of the Directions Order. The issues are as follows:

53.1 Whether the lease includes the covenant relied on by the Applicant, and

53.2 Whether, if proved, the alleged facts relied on by the Applicant constitute a breach of the covenant.

54. We consider it is for the Applicant to prove these matters on the balance of probabilities. In determining whether the Applicant has discharged the burden of proof, we will take into account the Respondent's written response. We will consider the witness evidence, documentary evidence and arguments in the round to determine the issues.

55. We have applied the relevant law to the issues that require determination, and our decision is at paragraphs 57 to 85 below.

The Law

56. The law relevant to the substantive application can be found at section 168 of the Commonhold Leasehold and Reform Act 2002, which insofar as is relevant, is set out in the Appendix.

The Tribunal's Findings

Clause 3(9) of the Lease

THAT the Lessee will at his expense execute and do all such works as may be directed in pursuance of any statutory enactment or otherwise by any national local or public authority or body to be executed or done at any time during the said term upon or in respect of the Demised Premises whether by the Lessor or the Lessee thereof

The Tribunal's Decision

57. The Tribunal determines that the Respondent has not breached clause 3(9) of the Lease.

Reasons for the Tribunal Decision

58. This clause requires the Respondent to arrange and pay for all works he may be directed to do in accordance with a statute, or in accordance with a request by a national, local or public authority or body.

59. Paragraph 18 of the Applicant's written submissions reads:

In Breach of Clause 3(9) the Respondent has failed to comply with a request to bring the door frame of his demise up to fire standards at his own expense. Further the Respondent's tenant has on several occasions

unlocked the doors of the cupboard housing electrics on the ground floor, these doors are to remain locked at all times, the Respondent's tenant has caused damage to those doors.

60. The fire door survey dated 21st June 2024 identifies the damaged door frame to Flat 6, and the Applicant's solicitors have written to the Respondent requesting he remedies this. However, this allegation does not specify which statute or other enactment by a national, local or public authority or body is engaged. It's claimed the Respondent has failed to ensure the door frame meets fire standards, but no legislation or bye law etc. is specified.

61. In the circumstances, we do not consider this alleged breach is made out.

Clause 3(18) of the Lease

THAT that the Lessee will not do or permit or suffer any act or thing in or upon the Demised Premises which may render any increased or extra premium to be payable for the insurance of the Building or which may make void or voidable any policy for such insurance and will indemnify the Maintenance Trustee and the Lessor against any increased or additional premium which by reason of any such act or default of the Lessee may be required for effecting or keeping up any such insurance

The Tribunal's Decision

62. The Tribunal determines that the Respondent has breached clause 3(18) of the Lease.

Reasons for the Tribunal Decision

63. Clause 3(18) prohibits the Respondent from doing or allowing to be done anything that may result in an increased or additional premium to be paid for building insurance. Additionally, the Respondent must not do or allow to be done anything that may make the insurance void or voidable. Yet further, the Respondent must reimburse the Applicant any increased or additional premium resulting from his failure to comply with this provision.

64. Paragraph 13 of the Applicant's written submissions reads:

The insurers have indicated that the premium may be affected, further there is a specific exclusion endorsement on the Directors and Officers insurance confirming that there will be no liability arising out of or in any way connected with Raymond Gallagher.

65. The Applicant would be obliged to report any relevant loss to its insurer irrespective of whether a claim is made. The May 2022 endorsement suggests that the Applicant has complied with this obligation.

66. The insurer's e-mail sent on 22nd May 2025 (see paragraph 42 above) gives notice that it reserves the right to issue a revised renewal. Given the context of this e-mail is that an insurance claim has been made in the renewal cycle,

we consider it is more likely than not that any revision is likely to be an increase in the premium.

67. From the evidence available, we are satisfied that Mr Gallagher has engaged in conducted which has caused the floods and leaks documented at paragraphs 23.1 to 24 above. Our reasons are that firstly, we have had direct evidence from Ms Bonner and Ms Pover regarding the floods and leaks, who have also provided evidence that the police and fire service have on occasions confirmed the cause of the leaks. They provide evidence that is consistent, and that is supported by photographic and video evidence of leaks. Furthermore, there is contemporaneous correspondence sent to the Respondent regarding the leaks. Finally, there is no direct evidence from or on behalf of the Respondent. Considering the evidence in the round, on the balance of probabilities, we conclude it is more likely than not that Mr Gallagher has caused the floods and leaks detailed at paragraphs 23.1 to 24 above.
68. We are also satisfied that the Respondent has allowed, permitted or suffered such acts to be done. The Respondent has been notified in writing about Mr Gallagher's conduct and the consequent leaks or flooding, but he has taken no effective action to address these. His responses have been to accuse the Applicant and other residents of harassing Mr Gallagher, but there is no evidence he has taken any or any appropriate or adequate measures to address Mr Gallagher's conduct, and the leaks have continued after the Respondent was notified. Therefore, in our judgment, the Respondent has allowed, permitted or suffered this conduct.
69. In light of the floods and leaks and consequent losses that would have been reported to the insurers, and/or the claims history, we consider this is sufficient to amount to a breach of clause 3(18) of the Lease, noting that it applies where the cost of the insurance "may" increase.

Clause 3(24) of the Lease

THAT the Lessee will at all times during the said term observe the regulations contained in the Fifth Schedule hereto or any regulations added to or substituted therefor under Clause 14 hereof

The Tribunal's Decision

70. The Tribunal determines that the Respondent has breached clause 3(24) of the Lease.

Reasons for the Tribunal Decision

71. This provision requires the Respondent complies with the Fifth Schedule. We are satisfied for the reasons stated at paragraphs 76 to 85 below that the Respondent has not complied with paragraph 5 of the Fifth Schedule.

Paragraph 4 of the Fifth Schedule

Not to permit a person of unsound mind or a drunkard or a person of immoral life to reside in the Demised Premises

The Tribunal's Decision

72. The Tribunal determines that the Respondent has not breached paragraph 4 of the Fifth Schedule

Reasons for the Tribunal Decision

73. The Applicant's position is that Mr Gallagher is "a person of immoral life" who the Respondent has allowed to live in Flat 6.
74. Historically this has referred to individuals who do not conform to widely expected standards of behaviour, and so the conduct it applies to has evolved over time. For instance, historically, this definition may have applied to an unmarried cohabiting couple. But as stated, times have moved on. Nonetheless, the definition remains unchanged, even if the conduct which it engages it has evolved. Furthermore, the definition is a broad one.
75. However, we consider it applies to the way someone lives their life, or even how they may earn their living, but not necessarily to more isolated acts. In other words it describes a person's way of life. Therefore, we do not consider it applies to the conduct relied on in this case, which consists of Mr Gallagher bringing 3 claims in a 7-year period between 2016 to 2023. We do not consider that conduct reflects a way of life, and accordingly, in our judgment, it does not meet the definition of "a person of immoral life".

Paragraph 5 of the Fifth Schedule

Not to do or permit to be done whether by himself or his family servants agents or visitors any act to the nuisance damage or annoyance of the Lessor or the tenants of the Lessor or the occupiers of any part of the Building or of any adjoining or neighbouring premises or neighbourhood or which may prejudicially affect or depreciate the amenities of the Lessor's property or any illegal or immoral act

The Tribunal's Decision

76. The Tribunal determines that the Respondent has breached paragraph 5 of the Fifth Schedule.

Reasons for the Tribunal Decision

77. This provision prohibits the Respondent from doing or permitting to be done any act that causes nuisance, annoyance or damage to a tenant or occupier of the Block. It covers acts done by the Respondent or acts by his family which he permits to be done. It also prohibits any immoral or illegal act.

78. Paragraph 10 of the Applicant's written submissions states:

In breach of clauses 3 (18) and paragraph 5 of the 5th Schedule, on various dates between 10th April 2024 to date the Respondent's tenant has caused the escape of and/or allowed the continued escape of water from the Respondent's demise to the common areas and to the demise of Fiona Bonner (Flat 4). The Respondent has been notified of the continuing breaches full.

79. Paragraph 15 of the Applicant's written submissions continues:

In breach of paragraphs 4 and 5 of the 5th schedule, on various dates the Respondent's tenant has harassed and intimidated the various owners and occupiers of the flats in the building. The Respondent's tenant has embarked upon a course of unsuccessful and vexatious litigation against the various owners and occupiers of the flats.

80. It is common ground that Mr Gallagher is the Respondent's father. He is therefore a member of the Respondent's family to whom paragraph 5 would apply.

81. For the reasons stated at paragraph 67 to 68 above, we find Mr Gallagher has caused a nuisance and annoyance by the leaks and floods, and we also find this has caused damage as shown in the photographs.

82. We accept the Applicant's evidence that Mr Gallagher has harassed and intimidated other owners and occupiers of the Block. We had direct evidence from Ms Bonner and Ms Pover regarding Mr Gallagher's conduct. We have taken into account that the Respondent denies the allegations, but we attach limited weight to his evidence. Firstly, the Respondent's evidence was hearsay evidence contained in his witness statement dated 10th July 2025; he did not attend the hearing for cross examination. Secondly, he does not appear to have directly witnessed the incidents the Applicant relies on. Thirdly, his witness statement essentially amounts to a bare denial, and does not address the specific allegations made.

83. Furthermore, we prefer the Applicant's direct evidence because it is corroborated: Ms Bonner and Ms Pover provide consistent accounts of Mr Gallagher's conduct. It is also corroborated by independent evidence, for instance we have photographic evidence of Mr Gallagher pulling at the clothing of the Flat 3 resident.

84. Yet further, we are satisfied that the restraining order issued by West London Magistrates' Court supports the Applicant's position that Mr Gallagher's conduct was such that it was appropriate to make a restraining order to prohibit him from directly or indirectly contacting Ms Bonner.

85. We consider that the proceedings Mr Gallagher has initiated, as set out at paragraphs 26 to 26.3 above, can be characterised as vexatious. We note that at least one County Court Judge has described one of the claims in this way, and that the claims have been dismissed or struck out on the grounds that they are without merit. We find this conduct falls below the accepted

standard of behaviour in society, and to that extent, initiating those proceedings amounts to an immoral act.

86. There are two matters the Applicant relies on to argue the Respondent has breached paragraph 5, which we do not consider amount to a breach of this provision.

86.1 Firstly, we note as part of its case the Applicant alleges Mr Gallagher has a criminal conviction. We have taken into account the statements, letters and other communications in the hearing bundle from the police and CPS, and we note Mr Gallagher is awaiting trial in August 2026 for alleged criminal damage. However, we have not been provided with a memorandum of any past conviction. A restraining order may be issued on conviction or on acquittal, and so absent a memorandum of conviction, we do not consider there is sufficient evidence that Mr Gallagher has committed a criminal act.

86.2 Secondly, we are not satisfied on the balance of probabilities that the damaged skylight amounts to a breach of paragraph 5. As stated, there is witness and photographic evidence of the damage, but paragraph 5 is a positive covenant, in that it prohibits the doing of an act. We have not been provided with any sufficient evidence addressing how the skylight was damaged. Paragraph 5 does not impose an obligation on the Respondent to repair the damage, nor is the continuing damage a breach of paragraph 5.

87. Nonetheless, for the reasons stated at paragraphs 77 to 85 above, we find the Respondent has breached paragraph 5 of the Fifth Schedule.

Conclusion

88. In the circumstances, we find the Respondent is in breach of clauses 3(18), 3(24), and paragraph 5 of the Fifth Schedule of the Lease.

Costs

89. Ms Thompson raised the issue of costs at the end of the hearing.

90. Any party wishing to make an application under rule 13 of the Rules, section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the 2002 Act must notify the Tribunal by e-mail within 14 days of the Tribunal sending this decision. In due course, the Tribunal will send out directions regarding any application that might be made.

Name: Judge Tueje

Date: 13th November 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).

Appendix of Relevant Legislation:

Commonhold and Leasehold Reform Act 2002

168.- No forfeiture notice before determination of breach

- (1) A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 (c. 20) (restriction on forfeiture) in respect of a breach by a tenant of a covenant or condition in the lease unless subsection (2) is satisfied.*
- (2) This subsection is satisfied if—*
 - (a) it has been finally determined on an application under subsection (4) that the breach has occurred,*
 - (b) the tenant has admitted the breach, or*
 - (c) a court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, has finally determined that the breach has occurred.*
- (3) But a notice may not be served by virtue of subsection (2)(a) or (c) until after the end of the period of 14 days beginning with the day after that on which the final determination is made.*
- (4) A landlord under a long lease of a dwelling may make an application to the appropriate tribunal for a determination that a breach of a covenant or condition in the lease has occurred.*
- (5) But a landlord may not make an application under subsection (4) in respect of a matter which—*
 - (a) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,*
 - (b) has been the subject of determination by a court, or*
 - (c) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.*
- (6) For the purposes of subsection (4), “appropriate tribunal” means —*
 - (a) in relation to a dwelling in England, the First-tier Tribunal...*