



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

Case reference	: LON/ooBK/LSC/2025/0703
Property	: 20 Invergarry House 45 Carlton Vale Maida Vale London NW6 5EP
Applicant	: Mehdi Shadmani
Representative	: None
Respondent	: The Mayor of the Westminster City
Representative	: Beverly Frimpomaah
Type of application	: An application under section 27A Landlord and Tenant Act 1985
Tribunal members	: Judge I B Holdsworth FRICS Michaela Bygraves AssocRICS
Date and venue of Hearing	: 7 November 2025 10 Alfred Place London WC1E 7LR
Date of Decision	: 12 December 2025

DECISION

Decisions of the Tribunal

- a. The Tribunal determines that the sum of £4,457 be reimbursed to the Applicant in full and final payment of service charges which were not properly demanded by the Respondent during the period 2004-2024.
- b. It was determined that the Applicant's accurate due proportions for the service charges are 4.0983% lessee block percentage and 1.779% for the lessee's estate percentage.
- c. The Tribunal make a 20C Order that prevents the recovery of the costs of these proceedings by the Respondent Landlord. They also direct that the

Respondents reimburse the Applicant the tribunal application and hearing costs within 28 days of this decision.

- d. The Tribunal decline a request to make a Rule 13 Costs Order for the Applicant.

1. Background

- 1.1 The Applicant had sought a determination pursuant to s.27A of the Landlord & Tenant Act 1985 ('the 1985 Act'), as to the payability of service charges in respect of the service charge years 2003/04 to 2025/26 in respect of 20 Invergarry House, 45 Carlton Vale NW6 5EP ('the Property').
- 1.2 An Application was made to the Tribunal on 7 March 2025. This was followed by a case management hearing ('CMH') held on 22 July 2025. At the CMH it was revealed that the Application raised a single issue in dispute which is the percentage of the total service charges payable by the Applicant. This percentage is based upon the number of bedspaces at the property which is disputed by the parties.
- 1.3 Prior to this application the Respondent charged the Applicant 4.878% in respect of block charges and 2.128% in respect of estate charges.
- 1.4 During the CMH the Applicant contended the Property had three bed spaces. The Respondent argued the Property has six bed spaces.
- 1.5 The Directions dated 22 July 2025 and prepared after the CMH confirm this is a long running dispute between the Applicant and the Respondent over the service charge contribution. The Applicant had previously engaged with the Respondent's internal complaints procedure about this matter but the outcome from that complaint had not been in his favour.

2. Hearing

- 2.1 The hearing took place on 7 November 2025 at 10 Alfred Place, London WC1E 7LR.
- 2.2 The Applicant Mr Mehdi Shadmaini appeared in person. Ms Frimpomaah a Leasehold Litigation officer represented the Respondent.
- 2.3 The Tribunal was presented with a 350-page bundle.

3. Issue in dispute

- 3.1 At the hearing the Applicant agreed that the single issue in dispute between the parties was the designation of the Property in the lease by the Respondent for service charge purposes as a six-bed space dwelling. The Applicant said it had space for only four bedspaces.

3.2 Ms Frimpomaah for the Respondent said that since receipt of the complaint the Authority had inspected the property and revised their assessment to five bed spaces.

3.3 The number of bed spaces contained by a property is used by the Authority to determine the share of the service charge burden borne by the leaseholder. Mr Shadmaini argues that his percentage contribution to the total service charge bill since 2004 was too large as it was based upon the false premise that the property offered 6 bedspaces rather than four.

3.4 The Tribunal took the parties to the floor plan at p.244 of the bundle (the “**dwelling plan**”). This dwelling plan was prepared by Foxtons Estate Agents but annotated by the Authority. The parties confirmed to the Tribunal this plan was agreed as an accurate representation of the number of rooms at the dwelling.

3.5 The measurements were confirmed by the parties as correct and the bed space allocations to master bedroom, bedroom two and bedroom four were also accepted by both parties. The only issue in dispute was that the Respondent had designated bedroom three as having a single bed space. The Applicant said this was incorrect and the bedroom should be disregarded as a single bedspace.

3.6 The Applicant contended that bedroom three at an area of 65.01ft² or 6.4m² was too small to be designated as a single bed space. He justified this statement by reliance upon a recent House in Multiple Occupation ('HMO') registration of the Property dated 29th August 2025. In this Property Licence the dwelling is licensed for “*a maximum of 6 people living as 4 households regardless of age*”. The Local Authority apply their HMO room size criteria to the dwelling and deem bedroom three to only be suitable for “*1 child under the age of 10-years old*” due to the small size. The Applicant inferred from this ruling that bedroom three is too small to constitute a bed space.

4. The law

4.1 The statutory provisions referred to in this Decisions may be consulted at www.legislation.gov.uk/ukpga/1985/70/section/27A

5. The lease

5.1 The relevant clauses in the lease, as they relate to this Application, are as follows:

The estate is defined in the First Schedule as:

'All that land etcetera known as Maida Vale Estate in the City of Westminster.'

The Property is defined in the Second Schedule as:

'All that piece or parcel of land being part of the estate and

known as Invergarry House, Maida Vale Estate in the City of Westminster ... excluding all other part of the estate.'

The due proportion of the service charge relating to Invergarry House is:

'4.898%'

By clause 3 (A) the lessee covenants to pay as an element of service charge (referred to in the lease as management charges):

'(a) Pay to the lessor such annual sum as may be notified to the lessee by the lessor from time-to-time as representing the due proportion of the reasonably estimated amount required to cover the costs and expenses incurred or to be incurred by the lessor in carrying out the obligations or functions contained in or referred to in this clause and clauses 4 and 6 hereof and in the covenants set out in the Ninth Schedule thereto (such costs and expenses being hereafter together called the management charges).'

By clause 3 (B) the lessee covenants to:

'Pay the lessor on demand the amount by which the estimated sum paid by the lessee to the lessor under sub-clause (a) of the clause in respect of the management charges is less than the due proportion of the total monies properly and reasonably expended or retained by the lessor such that the proportion being 4.878%.'

6. Applicant's submissions

- 6.1 The Applicant explained that the dwelling comprised a two-storey maisonette over the fifth/sixth floors with a kitchen, reception room, master and three further bedrooms, shower room, bathroom, WC.
- 6.2 The Property is situated within a purpose-built block of flats, Nos 1-24 Invergarry House ('**the Building**') and this is located on the Maida Vale Estate.
- 6.3 The Building contains mixed tenures of both 15 long leases and 9 social housing tenancies.
- 6.4 The Applicant explained that this long running dispute with the Respondent was brought formally to their attention in 2024. On receipt of the Applicants query about the number of bedspaces at the dwelling the Respondent identified in the property management system an error as the record showed the dwelling comprised three bedrooms instead of four bedrooms.
- 6.5 The Applicant accepted that representatives of the Respondent visited the dwelling in December 2024 and following inspection changed the number of bed spaces from six to five.
- 6.6 He said this outcome was not acceptable. He contended that if bedroom 3 is too small to designate under the HMO licencing as suitable for an

adult letting then it accordingly does not offer a bedspace. Therefore the dwelling should be rated as a dwelling with four bedspaces not five.

- 6.7 The Applicant went on to explain that he calculates an over payment of more than £30,695.54 (including interest) in service charges over the 21-years since 2003/04 had the dwelling been rated as four rather than five bed space properties. This loss includes a charge for interest at 10%.
- 6.8 On questioning by the Tribunal, the Applicant was unable to provide a coherent justification for the addition of a 10% interest charge to the overpayment. He confirmed the lease did not contain a clause that requires lessees to pay interest on any late payment of their service charges.

7. **Respondent's submissions**

- 7.1 The Respondent acknowledged it had made an error in its assessment, as evidenced in the lease, which stated the Property contained six bed spaces.
- 7.2 Ms Frimpomaah accepted this error had led to incorrect assessment of the service charges applicable to the Property since the Applicant had taken ownership in 2004.
- 7.3 She explained that from September 2025 the charges were revised, based on a five bed spaces dwelling. It is her contention that this is the correct assessment. She referred the Tribunal to the basis of the calculation, the CAAS criteria which is an acronym for the General classification, accommodation, amenity schedule ('CAAS'). She confirmed these criteria is widely used by other local authorities.
- 7.4 In application to this property the following parameters are used to calculate bed spaces:

*'Bedrooms up to 110ft² (10.219m²) = one bed space
Bedrooms greater than 110ft² (10.219m²) = two bed space'*

- 7.5 Ms Frimpomaah said the recent registration of the Property as an HMO was not relevant to the assessment of service charges. Rather, the relevant matters were the lease and the assessment method adopted by the Respondent at the time the lease was acquired by the Applicant. Further, the methodology used by the Respondent to assess bed spaces had not changed since his purchase and provided a consistent measure for the assessment of service charges. The Respondent had to address the appropriate apportionment of service charges for both long leaseholders and social housing tenants within Invergarry House.
- 7.6 She conceded that the Due Proportion referred to in the lease of 4.878% is incorrect as it is based upon the wrong number of bedspaces. She explained the correct number of bedspaces for the estate is 281 rather than 282 and for the block 122 compared to 123. This produces revised contribution percentages for the dwelling of 1.779% for the estate and

4.0983% for the block. She said these revised percentages are amended on the Respondents Management System but cannot be changed in the lease without a deed of variation.

7.7 She then referred to building insurance liability under the lease. She said that since service charge year 2019 insurance cover had been secured through a qualifying long-term agreement and was apportioned according to the number of bedrooms within a property, rather than bed spaces. The Property was recorded as having three bedrooms on the Respondent's management system, instead of four. This had resulted in the Respondent undercharging the Applicant in respect of buildings' insurance charges over five service charge years. This error has now been corrected.

7.8 She said the Respondent recognised the Applicant had suffered some financial loss because of the administrative error by the Local Authority within their Property Management System. They calculated the loss over 21-years as being £4,457 and it was this amount the Ms Frimpomaah put to the Tribunal as a fair and reasonable sum to compensate the Applicant. She said that this amount would place the Applicant in the same position as he would have been had the error not occurred within the lease and/or in application of the bed space charge method. The Authority calculation of loss is documented at p 265 of the bundle. It includes no interest charge.

8. Decision of the Tribunal

8.1 The lease requires a "*Due Proportion*" of the service charges to be payable by the tenant. The Respondent has decided that the number of bedspaces offered by each of the dwellings within the block should form the basis for calculation of that "*Due Proportion*".

8.2 It is accepted by Tribunal that there are various methods to apportion services charges and whatever method is adopted it must seek to provide an outcome that is fair and reasonable and reflects as far as possible the usage of the services.

8.3 It is for the Respondent as freeholder to select which of the methods they adopt to determine the charge. as they are obligated to manage the Building and provide the services in accordance with the landlord's covenants as set out in the lease.

8.4 The Tribunal is mindful that the Property was originally built as social housing accommodation and the long leases were first sold under the Right to Buy scheme as governed by the Housing Act 1985. Indeed, the Applicant probably purchased the Property following an initial right to buy acquisition.

8.5 When the Applicant purchased the Property in 2004, he confirmed that the lease contained the same wording as it does today and thus then as now, service charges payable were assessed on the number of bedspaces.

8.6 The Tribunal recognise that reliance upon the number of bedspaces to calculate service charges has flaws. Mr Shadmani referred to smaller room areas being designated as bedspaces. There is no defined minimum size of bedspace under this method, so fair outcomes do rely upon a pragmatic use of the criteria. The Tribunal are cognisant that alternative methods of calculation, such as total floor areas per property, rateable values or number of bedrooms all have merits and potential flaws.

8.7 The Respondent's adopted method of calculation has been operated without challenge across the Respondent's property portfolio in the City of Westminster for a long time. The size of a bedspace at any dwelling is ignored in the calculation of service charges. It is apportioned on the potential number of people occupying a bed space in each of its properties and thus likely to use of the services.

8.8 The Tribunal prefers the chosen method of service charge calculation to those alternatives adopted by other landlords. The licencing of the property for HMO use adopts a different criterion and the outcome is not relevant to the calculation of service charges.

8.9 The Tribunal was referred to an earlier Leasehold Valuation Tribunal Decision regarding 3-5 Orsett Terrace, Paddington, London W2 6AJ dated 9 March 2010 which had addressed a similar application. At that time the Tribunal said:

'...the Tribunal] finds that the method adopted falls within the parameters of a fair and reasonable method of apportionment, even though it may not be the only one. The Tribunal can see no reason to alter a method that it considers to be fair and has been used throughout Westminster for many years.'

8.10 This Tribunal agrees with this finding. The Applicant should have made enquiries through his legal advisor, about the method adopted for apportionment of service charges at the time of his purchase of the long leasehold of the Property. No evidence is provided to illustrate that the method of apportionment adopted by the Respondent is not within the range of fairness.

8.11 The Tribunal is asked to consider any losses which may have occurred due to the Respondent's acknowledged error in the lease when the Property was acquired by the Applicant.

8.12 The Applicant seeks a refund of all alleged overpaid sums in the total of £10,324.95 plus interest of £20,370.90 totalling £30,695.54. He argues this will reflect the time-value of money and the prolonged nature of the overcharge as part of equitable restitution. It is calculated based on the difference between six and four bedspaces. The Tribunal do not accept this is the correct basis for the calculation of any compensation. The Tribunal determine any loss should be calculated on the difference between six and five bed spaces. The Tribunal has already confirmed five bed spaces is the correct rating for this dwelling.

8.13 Whilst Tribunal had noted the arguments about time value of money given by the Applicant, when questioned he was unable to explain how or with what justification he had arrived at 8% above bank base rate as the interest rate to calculate the sum of compound interest claimed, equivalent to £20,370.90.

8.14 The Applicant accepted there is nothing in the lease that requires the freeholder or leaseholder to pay interest on sums outstanding, should either party delay in making service charge payments or refunds.

8.15 The Tribunal therefore concludes there is no contractual nor legal obligation to apply interest to an overpayment of service charges and the sum was determined without the addition of interest.

8.15.1 The Tribunal concludes that it is reasonable for the Authority to adopt the calculation of service charges by the bed space method without mitigation for room size. On this basis the dwelling is a five-bedspace property, and any calculation of loss should be made on the difference between six and five bedspaces. This is the approach taken by the Authority and shown in the table at p.265 in the bundle. No interest is payable, and the Tribunal accordingly accept the sum of £4,457 as a fair and reasonable compensation payment for any losses incurred by the Applicant arising from administrative errors made by the Authority in management of the dwelling since 2004.

8.15.2 The Tribunal also endorse the revised Due Proportion percentages of 1.779% for the estate and 4.0983% for the block. These are based upon a five-bedspace property at the subject property. The Lessee's block percentage is calculated as 5/122 [total block bedspaces] and the Lessee's estate percentage is calculated as 5/282 [total estate bedspaces].

9. s.20C costs

9.1 The Applicant has requested the Tribunal make a s.20C Costs Order.

9.2 The Tribunal noted no submissions in this respect were received from either party either oral or written at the hearing. The Applicant made a subsequent e mail submission.

9.3 The Applicant was successful in securing a reimbursement of overpaid service charges and the Tribunal therefore saw this as a validation of his Application.

- 9.4 Any determination with regard to a s.20c and a paragraph 5a Order application is made on the basis of whether it is just and reasonable that the Respondent be prevented from recovering its costs of the proceedings based on the level of success enjoyed by the Applicant.
- 9.5 The Tribunal determined it would be just and equitable to make a 20 C Costs Order given the extent of outcomes in his favour so accordingly the Tribunal determine that the Respondent's costs in these proceedings are not recoverable through the service charges.
- 9.6 They also Order the Respondent to reimburse the costs of the Tribunal application and hearing fees to the Applicants.

Name: Ian B Holdsworth **Date:** 12 December 2025
Judge

RIGHTS OF APPEAL

- 1 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.
- 2 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.
- 3 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.
- 4 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.

APPENDIX OF 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 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.

Section 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either: -

- (a) complied with in relation to the works or agreement; or
- (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.

- (2) In this section 'relevant contribution', in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement: -
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount; or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount: -
 - (a) an amount prescribed by, or determined in accordance with, the regulations; and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

- (1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.
- (2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

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 21B

- (1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.
- (2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
- (3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.
- (4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

- (5) Regulations under subsection (2) may make different provision for different purposes.
- (6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.