FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AM/LSC/2025/0730**
Property	**:**	**49 Hackney Road, London, E2 7NX**
Applicant	**:**	**1. Robert Wright and Ingrid Wright (Flat 2)** **2. Stefano Devato and Francesca Lazzarini (Flat 1)** **3. David Button (Flat 3)** **4. Stephanie Kersten-Johnston and Erwin Kersten-Johnston (Flat 4)**
Representative	**:**	**In person**
Respondent	**:**	**FG UK Property Limited**
Representative	**:**	**Legal Studio Solicitors (Ben Colenutt)**
Type of application	**:**	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985**
Tribunal member	**:**	**Judge Robert Latham**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**22 December 2025**

DECISION

Decisions of the tribunal

(1) The Tribunal finds that the relevant contribution which the Respondent is entitled to charge in respect of the following qualifying works is restricted to £1,000 (£250 per flat) because the Respondent has failed to comply with the statutory duties to consult imposed by section 20 of the Landlord and Tenant Act 1985:

(i) Internal Decoration – Invoice dated 25 December 2024; sum demanded: £4,740.65;

(ii) Supply and install Xpander Combined Sounder and A1R Heat Detector – Invoice dated 25 December 2024; sum demanded: £1,522.87.

(2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of the tribunal proceedings may be passed to the lessees through any service charge.

(3) The tribunal determines that the Respondent shall pay the Applicants £110 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicants.

The Application

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable in respect of the service charge year 2024. They are Sub-Lessees of flats at 49 Hackney Road, London, E2 7NX ("the Property").

2. On 21 March 2025, Robert Wright and Ingrid Wright ("the First Applicants") issued this application naming Alex Fuller as the Respondent. They stated that their primary concern was that the Respondent had failed to comply with the statutory duty to consult.

3. On 4 July 2025, the Tribunal gave Directions. The First Applicants had stated that they were content for a paper determination. No party has requested an oral hearing.

4. Thereafter, Stefano Devato and Francesca Lazzarini (Flat 1); David Button (Flat 3); and Stephanie Kersten-Johnston and Erwin Kersten-Johnston (Flat 4) have applied to be joined as applicants. On 6 August 2025, the Tribunal joined them as applicants.

5. Pursuant to the Directions, the Applicants have filed a Bundle of Documents (177 pages). This includes a Schedule setting out the issues in dispute and the respective Statements of Case filed by the parties.

6. The Applicants seek to challenge two invoices:

(i) Internal Decoration – Invoice dated 25 December 2024; sum demanded: £4,740.65. The Respondent suggests that its managing agent, Mylako, complied with the statutory duty to consult.

(ii) Supply and install Xpander Combined Sounder and A1R Heat Detector – Invoice dated 25 December 2024; sum demanded: £1,522.87. The Respondent concedes that it did not comply with the statutory duty to consult. In its Statement of Case (at p.50) it suggests that it would seek retrospective dispensation, but notes that given the sum in dispute £522.87), the cost of such an application might outweigh the benefit to the Respondent. No such application has been made.

7. Had the Respondent made any application for dispensation pursuant to section 20ZA of the Act, the Tribunal would have required further submissions from the parties on the issue of prejudice (see *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854). The Applicants argue that the cost of the works was unreasonably high and have provided two lower quotes. The manner in which the parties have prepared their cases is not entirely satisfactory. The Tribunal has considered whether to adjourn the case for an oral hearing. However, have regard to the modest sums in dispute, it has concluded that it would not be proportionate to do so.

8. It is accepted that the appropriate respondent is FG UK Property Limited, a company controlled by Mr Fuller. The Tribunal substitutes FG UK Property Limited as respondent pursuant to rule 10 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Tribunal Rules").

The Background

9. This application relates to four residential flats on the second and third floors at the Property at 49 Hackney Road. There are commercial premises on the two lower floors. There are two sets of legal interests:

(i) The Respondent is the freehold owner of the Property. By a Head Lease, dated 4 July 2011, the freeholder (the Landlord) leases the second floor together with the roof and airspace to the Tenant (referred to in this decision as “the Head Lessee”). A third floor has subsequently been added, to create four flats on the second and third floors. The Respondent (at p.42) states that the interest of the Head Lessee is now

held by Stefano Devato, David Tasman, Wren Button (sic) and Stephanie Kersten-Johnston. The Head Lease is at p.66-93. The Parties have not provided the Land Registry Official Record of Title.

(ii) The Head Lessee subsequently granted sub-leases of the four flats to the four Applicants ("the Sub-Lessees"). The sub-lease for Flat 21 is included in the bundle at p.94-129. It is for a term of 125 years from 25 January 2012.

10. The Tribunal notes that some of the Sub-Lessees hold interests under the Head Lease as Head Lessees. However, Robert Wright and Ingrid Wright hold no such interest.

11. The Respondent, as freeholder/Head Lessor, is responsible for the repair and maintenance of the Property and the provision of services. The Head Lessee covenants to pay a "fair proportion" of the service charge to the Respondent. The Respondent apportions the service charges according to the floor areas of the commercial premises and the residential flats. Thus 48.805% of the charges which relate to the exterior and main structure are charged to the Head Lessee. The Property has an internal staircase serving the first floor commercial unit and the four residential flats. 66.137% of these costs are charged to the Head Lessee. There is no dispute about these allocations.

12. The Respondent does not have any direct contractual relationship with the Sub-Lessees. It rather charges a service charge to the Head Lessee which then apportions this charge between the four residential flats. The Applicants have not made any submissions on how the Head Lessee apportions these service charges.

13. On 14 June 2023, Mylako emailed a Notice of Intention to carry out internal and external decorations addressed to "Stefano Devato, David Button and Stephanie Kersten-Johnston" who are described as Head Lessees" (p.55-56). No separate Notice of Intention was served on the Sub-Lessees. No one responded to this Notice.

14. On 24 October 2024, Mylako emailed a Notice of Estimates addressed to "S Devato, D Button and S Johnston" (p.57-58). The Applicants assert that not all the named recipients received the email. No separate Notice of Intention was served on the Sub-Lessees. Two estimates had been obtained: Optimo Construction: £7,167.60 and Link Homes: £7,788. The recipients were invited to make observations on the estimates by 27 November 2024.

15. The Respondent states that on 7 November 2024, David Button, emailed Mylako to ask for copies of the quotes. On 24 November, Mylako responded providing copies of both quotes. No other responses were received. On 24 October, Mylako, had appointed Optimo

Construction to undertake the internal redecoration. The works were completed on or around 10 November 2024.

16. On 25 December 2024, the Respondent invoiced the Head Lessee £4,740.65 in respect of the works. (see p.53). This was 66.137% of the total cost of the works (£7,167.60). The remainder of the cost was apportioned to the commercial unit on the first floor.

17. The Applicants dispute that dispute the cost of the works and have provided two quotes. The Respondent contends that these quotes are comparable. The Applicants also dispute that the Notices were served on the Head Lessee in accordance with the terms of its lease. They also dispute that the Notices included the relevant information. Finally, they complain that the works were both started and completed before the deadline for making responses to the Notice of Estimates.

18. Had the Tribunal been required to consider these wider issues, it would have adjourned the case for an oral hearing so that evidence could be heard and full legal submission could be made. However, the Tribunal is satisfied that the case can be determined on the narrow issue of whether the Respondent had been obliged to consult the four Sub-Lessees.

The Statutory Duty to Consult

19. Section 20 of the Act provides:

"Limitation of service charges: consultation requirements

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsections (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 an 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."

20. Section 20ZA(4) provides that "the consultation requirements" mean requirements prescribed by regulations made by the Secretary of State. The consultation requirements applicable in the present case are

contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003.

21. The appropriate amount in relation to "qualifying works" is an amount which results in the relevant contribution of any tenant being more than £250. Where the landlord has failed to comply with the consultation requirements, the relevant contribution that any tenant is required to make is limited to £250.

22. The 2003 Regulations were summarised by Lord Neuberger in the leading authority of *Daejan Investments Ltd v Benson* (at [12]):

Stage 1: Notice of intention to do the works

Notice must be given to each tenant and any tenants' association, describing the works, or saying where and when a description may be inspected, stating the reasons for the works, specifying where and when observations and nominations for possible contractors should be sent, allowing at least 30 days. The landlord must have regard to those observations.

Stage 2: Estimates

The landlord must seek estimates for the works, including from any nominee identified by any tenants or the association.

Stage 3: Notices about Estimates

The landlord must issue a statement to tenants and the association, with two or more estimates, a summary of the observations, and its responses. Any nominee's estimate must be included. The statement must say where and when estimates may be inspected, and where and by when observations can be sent, allowing at least 30 days. The landlord must have regard to such observations.

Stage 4: Notification of reasons

Unless the chosen contractor is a nominee or submitted the lowest estimate, the landlord must, within 21 days of contracting, give a statement to each tenant and the association of its reasons, or specifying where and when such a statement may be inspected.

The Tribunal's Determination

23. The issue in this case is who had the duty to consult in respect of the internal decoration works. It is accepted that these were "qualifying

works" in that each of the Sub-Lessees would each be required to pay more than £250.

(i) The Respondent contends that it was only obliged to consult with the Head Lessee and it complied with its statutory obligation to do so.

(ii) The Applicants contend that the Respondent was obliged to consult with both the Sub-Lessor and the Sub-Lessees.

24. The Upper Tribunal addressed this issue in *Leaseholders of Foundling Court v Camden LBC* [2016] UKUT 366 (LC); [2017] L&TR 7. Martin Rodger KC, the Deputy President, held that it was clear from regulation 1(3) of the 2003 Regulations that the obligation to consult falls on the landlord who intends to carry out the "qualifying works". The duty is therefore on the Respondent to consult with both the Head Lessee and the Sub-Lessees (see [75]). The Judge considered that the primary purpose of the consultation regime is to ensure that those who are ultimately responsible for paying for work or services are consulted. The only viable alternative construction (that the landlord intending to do the work must consult its own direct tenants only, those tenants being under no obligation of their own to consult further down the chain of title) would impermissibly frustrate the object of the statute. The Judge recognised that difficulties might be encountered by a superior landlord in discovering the identity of the qualifying sub-tenants. However, these difficulties could be overcome by (i) delivering a consultation notice addressed to “the leaseholder” to each flat in the building; (ii) obtaining the necessary information from the intermediate landlord(s); or (iii) seeking dispensation from the consultation provisions in advance. Such practical difficulties do not arise in the current case.

25. In the current case, the Respondent's managing agent, Mylako, did not recognise that it was obliged to serve the Stage 1 and Stage 3 notices on the four Sub-Lessees, namely: Stefano Devato and Francesca Lazzarini (Flat 1); Robert Wright and Ingrid Wright (Flat 2); David Button (Flat 3); and Stephanie Kersten-Johnston and Erwin Kersten-Johnston (Flat 4). Where any Sub-Lessee was held by joint tenants, the Respondent should have served the Notices on both joint tenants. We are satisfied that this failure is fatal. In these circumstances, the "relevant contribution" of any Sub-Lessee is restricted to the sum of £250. Therefore, the maximum that the Respondent is able to charge to the Head Lessee is £1,000.

26. Given the Tribunal's finding on this issue, it is not necessary for the Tribunal to consider the wider issues raised by the Applicants. There is no application for dispensation. Had the Tribunal been required to consider these further issues, it would have set the matter down for an oral hearing so that evidence could be heard and legal submissions could be made.

Application under s.20C and refund of fees

27. In their application, the Applicants apply for an order under section 20C of the 1985 Act. The Tribunal is satisfied that it is just and equitable in the circumstances for an order to be made so that the Respondent may not pass any of its costs incurred in connection with these proceedings through the service charge. The Tribunal is further satisfied that the Respondent should refund to the Applicants the tribunal fee of £110 which they have paid.

28. Mylako are no longer managing the Property. The consultation procedure followed by Mylako did not comply with the statutory requirements. It is to be hoped that the parties can now look to the future.

Judge Robert Latham
22 December 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).