



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

Case reference : LON/00AY/LSC/2025/0889
LON/00AY/LSC/2025/0995

Property : 364 Southwyck House Estate,
Clarewood Walk, London, SW9 8TT &
203 Southwyck House Estate
Clarewood Walk, London, SW9 8TT

Applicants : Juliette Garside, Roger Garside and
Jonathan Phillips (1)
Andrew Parrott and
Kay Gatehouse (2)

Representative : Mr Gifford (Counsel)

Respondent : London Borough of Lambeth

Representative : Mr Adamou (Counsel)

Type of application : For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985

Tribunal members : Mr A Parkinson MRICS
Mr A Fonka

Venue : 10 Alfred Place, London WC1E 7LR

Date of decision : 22 December 2025

DECISION

Decisions of the tribunal

- (1) The application is struck out under Rule 9(2)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 because the Tribunal does not have jurisdiction in relation to the proceedings or case.

The application

1. By an application issued on 1 July 2025 the First 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 by the First Applicants in respect of the service charge year 2021/22. The First Applicants also seek an order for the limitation of the landlord’s costs in the proceedings under section 20C of the 1985 Act.
2. On 21 August 2025 the Tribunal received a separate application from the Second Applicants. The issues were stated to be the same as those in the First Applicants’ application, and the two cases were joined to be heard together. Hereinafter “the Applicants” refers to both the First Applicants and Second Applicants collectively, unless stated otherwise.
3. The Respondent is the freeholder owner of Southwyck House.
4. The applications raise a single issue, which is the payability of a service charge demand of £17,042.79 for the replacement of the communal boiler system and associated works.
5. Directions were issued by the Tribunal and the matters were listed for hearing on 21 November 2025.
6. A PDF bundle of documents comprising 714 pages was provided by the Applicants to the Respondent and Tribunal. All page references hereafter in square brackets relate to the PDF bundle unless stated otherwise.

The hearing

7. The Applicants were represented at the hearing by Mr Gifford (Counsel). Ms Garside and Ms Gatehouse gave evidence. The Respondent was represented by Mr Adamou (Counsel).
8. Both Counsels provided Skeleton Arguments in advance of the hearing.

The background

9. The property which is the subject of this application is Southwyck House which comprises six blocks including 173 residential flats, a hall and foodbank. Within the 173 flats are 36 leasehold flats and the remainder are understood to be social rental flats.
10. Neither party requested an inspection and the tribunal did not consider that one was necessary.
11. The Applicants hold long leases of Flats 364 and 203, which require the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.
12. The disputed sums relate to one single issue which is the payability and reasonableness of a service charge demand of £17,042.79 for the replacement of the communal boiler system and associated works.
13. It is the Respondent's case that it issued the then leaseholders of Flat 364 and Flat 203 two Notices for qualifying works on 19 February 2014 and 3 June 2014 respectively ("the Notices"): [710] and [285]. The Notices concerned the replacement of main gas distribution pipework and heating systems throughout Southwyck House ("the Works").
14. In May 2015, the First Applicants purchased the assignment of the lease of Flat 364 [158]. In the course of the conveyancing, the First Applicants were sent the Pre-Assignment Pack for Flat 364: WS/JG paragraph 6(c) [555]. The Pack neglected to state that the Notices had been served and/or that the Works were to take place [577-709].
15. In early 2018, the Second Applicants purchased the assignment of the lease of Flat 203 for their son: WS/KG paragraph 2 [561]. Unlike the Pre-Assignment Pack for Flat 364, the Pre-Assignment Pack for Flat 203 included references to the Notices and the Works: WS/KG paragraph 12 [562] and [407].
16. In or around 2018, the Respondent completed the Works: WS/JG paragraph 3 [554] and WS/KG paragraph 15 [563].
17. On 17 June 2021, the Respondent issued the First and Second Applicants with invoices in the sum of £17,042.79 for the Works ("the Invoices"): [113-115] & [123-125]. The Invoices stated:

"[A]s you will be aware, your lease states the below sums are due within 30 days of this invoice..."

The Invoices were accompanied by a pack of options for payment and the agreements for them [172-180].

18. On 15 July 2021, the First Applicants signed the “*Prompt payment discount agreement form*” (“the PPDA”) [176-177] and paid the £16,190.65 on the same date.
19. On 20 July 2021, the Second Applicants signed the PPDA and made payment of £16,190.65 [174-175].

The preliminary issue

20. On 28 July 2025, after the issuance of the first set of directions, the Respondent sought a determination at a preliminary hearing that the Tribunal did not have jurisdiction to hear the First Applicants’ application due to section 27A(4) of the 1985 Act [144]. On 5 September 2025, Judge Nicol refused the Respondent’s application.
21. In advance of the hearing the Respondent requested that the jurisdiction be considered by the Tribunal as a preliminary point, namely:
 - (i) If the sums claimed by the Respondent were agreed or admitted by the Applicants; and
 - (ii) If the Tribunal has jurisdiction to determine the case.
22. Mr Gifford as representative for the Applicants stated that the preliminary point could be covered as part of the wider case to ensure that the parties have the opportunity to present their cases fully.
23. Mr Adamou stated that the Respondent’s position is that the preliminary point was so fundamental it therefore should be addressed at the outset.
24. The tribunal agreed the preliminary point required initial focus and the parties were asked to focus their submissions on the preliminary point initially, to enable the tribunal to consider this point in isolation prior to dealing with the wider case.
25. Mr Adamou set out that the application was made under section 27A of the 1985 Act which clearly sets out the jurisdiction under which the First-tier Tribunal (FTT) can decide the basis of applications to the FTT. Specifically sections 27A (4) and 27A (5) of the 1985 Act provide:

“(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,

.....

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

It is the Respondent’s position that the PPDA is an agreement and therefore the cost of the Works has been agreed and/or admitted by the Applicants.

26. The Applicants’ position is that the PPDA’s are void pursuant to section 27A(6) of the 1985 Act as the PPDA’s seek to provide for the determination of the Invoices “*in a particular manner*”, as admitted by the Respondent, to “*ouster the Tribunal’s jurisdiction to make a determination on service charges*”: paragraph 15 of the Respondent’s Statement of Case [567].
27. Further and in any event, it is the Applicant’s position that the PPDA’s do not oust the Tribunal’s jurisdiction since to agree the service charges the Tenant must be in full knowledge of the ability to challenge and the grounds upon which to challenge the service charge: *G&A Gorra Ltd & Ors v Kenilworth Court Block E RTM Company Ltd* [2024] UKUT 81 (LC), [44-45] & [50]. Mr Gifford states that the Applicants were unaware of the Respondent’s purported failure to comply with section 20B and the consequence of the same. Accordingly, the Applicants’ position is that due to the Applicants’ lack of knowledge of the Respondent’s failures, there was no valid agreement under section 27A(4)(a).
28. In the alternative the Applicants’ position is that the PPDA’s are *void ab initio* by reason of misrepresentation which the Applicant avers is fraudulent. Specifically the invoices [113-115] sent by the Respondent stated inter alia:

You may recall that we sent you a notice on 19 February 2014 to let you know that your building was included in the scheme of works detailed below. We now enclose your final account for these works.

As you will be aware, your lease states the below sums are due within 30 days of this invoice, however within these 30 days you are also able to opt for one of our extended payment plans as detailed in the payment terms leaflet...

...Actual Major Works Service Charge: £17,042.79.

By doing so, the Respondent represented that the Applicants were required by their respective Leases to pay the full invoice of £17,042.79 in 30 days (“the Express Representation”). Further or in the alternative, applying the reasonable reader test of *IFE Fund SA v Goldman Sachs International* [2006] EWHC 2887 (Comm) [50], the Respondent impliedly represented (“the Implied Representations”) that:

- i. the Applicants were required by their Leases to pay the full invoice of £17,042.79 in 30 days;

- ii. the Respondent had complied with all of the Lease covenants and all their obligations by law;
 - iii. the service charge of £17,042.79 was not liable to be reduced in any way; and
 - iv. failure to pay the monies demanded would result in enforcement action as permitted by the respective Leases.
29. The Applicants' position is that the Express and Implied Representations were false, and that the Respondent made the Express and Implied Representations in full knowledge that they were false. Specifically the Applicant states that the Respondent was aware of (a) the requirements of section 20B and the consequences of not complying with the same; (b) that it incurred the costs of the Works in 2018; and (c) that it was invoicing the Applicants in excess of 18 months after the incurring of costs.
30. Mr Gifford says that the Applicants reasonably relied upon the Express and Implied Representations to sign the Forms and make payment: WS/JG paragraphs 7, 8 and 11 [555] and WS/KG paragraphs 17-20 [563-564]. Accordingly, the fraudulent representations induced the Applicants into paying, and the Applicants' position is that the PPDAs are rescinded as a result.
31. Mr Gifford said that if in the alternative, if the Tribunal determines that the Respondent's representation was in fact a negligent one, it being a representation that was made carelessly and/or without reasonable grounds for believing it to be true, the Tribunal has the power to rescind the PPDAs if equitable to do so under section 2(2) of the Misrepresentation Act 1967. It is averred by the Applicant that ordering the rescission of the PPDAs is equitable, given that not doing so will allow the Respondent to rely upon the PPDAs in full defense to the Application, subject to the above.
32. Mr Gifford stated that if the Tribunal cannot make a decision due to not having jurisdiction, the Tribunal could (a) refer the matter to the Upper Tribunal to decide on the jurisdiction point, (b) refer the matter to the County Court to determine the contractual position of the PPDA, or (c) stay the matter on an "unless" basis to allow the Applicants to bring their case in County Court within 28 days, with the consequence of no application to County Court in the timeframe being to strike out.
33. Mr Gifford also reminded the Tribunal that the Respondent has not submitted any witness statements or statements of case with a statement of truth and therefore the Respondent has no sworn statements and/or evidence on which to rely.
34. In response Mr Adamou stated that the Respondents position is that PPDAs are not void pursuant to section 27A(6) of the 1985 Act as this

would mean that any agreement would be ousted and void under section 27A(6). That could not have been Parliament's intention, given the provisions of s.27A (4) (a):

“(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,

.....

35. Mr Adamou stated that ‘informed consent’ is not a relevant consideration as the parties were not in a fiduciary relationship such as that between solicitor and client. In any event informed consent would be relevant to whether agreement in the PPDA could be set aside (i.e. was voidable) so the discounted invoice sum was not “due”. That was not the issue over which the Tribunal’s jurisdiction was in question, i.e. whether the discounted invoice was payable. Mr Adamou submitted that almost every contract and many agreements will involve inequality of knowledge on the part of the parties.
36. The Respondent’s position is that the PPDA was a nature of compromise agreement and that its validity could only be set aside on the grounds of fraud, mistake or misrepresentation. Mr Adamou submitted that the FTT does not have jurisdiction to consider setting aside the PPDA as a concluded agreement on any of those three grounds.
37. Mr Adamou stated that the Tribunal does not have jurisdiction to consider an allegation of fraud in the question under section 27A LTA 1985 of whether there was an agreement or admission. Separately, fraud in this context would be an allegation of misrepresentation (deceit) which had not been adequately specified.
38. Mr Adamou stated that the Tribunal does not have the power to rescind the agreements under the Misrepresentation Act 1967. As the Tribunal was not granted jurisdiction (or even in existence in 1967) the word “Court” in the provision cannot be deemed to include Tribunal.
39. Mr Adamou said that he would not be making any submissions on the Section 20B point in response to a direct question from the Tribunal on this specific point.
40. Mr Adamou submitted that the section 20 notices for the Works were correctly served, but in any event the Respondent could make an application under section 20ZA for dispensation were it required. The point was made because the provisions of section 20 and section 20B appear to have been confused in various documents in the bundle.
41. Mr Adamou reminded the Tribunal of its jurisdiction and that the Respondents have the right to cross examine witnesses and evidence submitted by the Applicant.

42. It was not practical for the tribunal to fully consider and decide the preliminary point on the day of the hearing. The parties' representatives were therefore invited to present their respective cases on all points, to allow the tribunal to reach decisions on the remaining points, regardless of the outcome of the preliminary point.

The issues

43. The tribunal proceeded to hear the case.
44. Ms Garside was called as first as witness. Ms Garside was questioned on the validity of the alleged comparable costs, submitted in the bundle [540], for a gas combi boiler costs and average gas bill costs [541]. It was confirmed by Ms Garside that the costs provided were based on a single combi boiler serving a single apartment and associated gas consumption costs for an apartment-based system and was therefore not a like for like alternative to the communal system serving Southwyck House Estate.
45. Mr Adamou questioned Ms Garside on the image of a letter included in the bundle [238]. This is a letter which Ms Garside stated she believed accompanied the signed PPDA which was posted to the Respondent. The letter includes the following statement:

“Payment notwithstanding, we reserve our rights to challenge this invoice in future, including under section 27A of the Landlord and Tenant Act”.

Mr Adamou asked Ms Garside if she could evidence that she posted the letter to the Respondent with the PPDA as the Respondent denies receiving the letter. Ms Garside stated that she believes the letter was posted in hard copy with the hard copy signed PPDA. Mr Adamou asked why Ms Garside provided an image of the letter and suggested that it was an attempt to disguise the date that the letter was created. Ms Garside stated that she only had a hard copy of the letter rather than an electronic version. Mr Adamou suggested that an electronic file would reveal the creation date and suggested that it may have been created more recently than the date of the letter suggests. Ms Garside denied this.

46. Mr Adamou asked Ms Garside if she sought any advice or clarification from the Respondent or any specialist advice prior to agreeing the PPDA and paying the discounted sum. Ms Garside said that she thought the clauses in the PPDA [177] were contradictory but did not seek any advice or clarification from the Respondent. Ms Garside also confirmed that she did not challenge or question the sums payable between receipt of the PPDA [176-177] dated 17 June 2021 and signing the PPDA and paying £16,190.65 on 15 July 2021.

47. When asked if she knew when the Works were completed Ms Garside stated that she only knew of completion of the works because the flat was moved over to the new heating system and this happened in 2018. Ms Garside was asked if she received a section 20B notice between 2018 and receipt of the PPDA in June 2021. She said not.
48. When questioned by Mr Adamou about the demand for the Works, Ms Gatehouse stated that the cost was not affordable but that she did not question the cost because of previous difficulties in identifying who to speak to and/or not receiving responses to queries she made of the landlord. Ms Gatehouse also stated that she believed the cost of the Works was payable because the Respondent stated that it was payable and because she believed that the Respondent had the right to enforce if the sums were not paid. Ms Gatehouse confirmed that she paid without reservation.
49. Mr Gifford in closing submissions contended that credible evidence was provided in the bundle and in oral evidence by the witnesses that no section 20B notice was issued between the Works being completed in 2018 and demanded in 2021. The bundle also contained evidence [181], [193], [214] and [220], in the form of emails from the Respondent, showing that other leaseholders have had their charges for the Works capped at £250 due to “Section 20B not being served in time” [181].
50. Mr Gifford also raised a question over the reasonableness and in particular the apportionment of costs as the Applicants have not received a justified rationale of the apportionments. The Applicants also question the high cost of the works. Whilst they have not submitted like for like alternative costs, it is very difficult to do so given the scale of the Works.
51. Mr Gifford also pointed to the quotations obtained from the Applicants for circa £3,000 versus the circa £17,000 cost of the Works, albeit it was acknowledged that these were not on a like for like basis.
52. Mr Adamou in closing, without prejudice to the preliminary point that the Tribunal do not have jurisdiction, stated that Ms Garside’s evidence is of questionable credibility. Mr Amadou stated that Ms Garside has been involved in multiple cases against this landlord. It is also the Respondent’s position that the letter with the statement reserving rights [238] did not exist in July 2021 when the signed PPDA was submitted. Mr Adamou said that it seemed unlikely that Ms Garside would forget about such a letter until this application was made.
53. Mr Adamou also reminded the Tribunal that it is the Tenant’s responsibility to establish a prima facie case for any costs that are disputed *Enterprise Home Developments LLP v Adam* [2020] UKUT 151 (LC). Mr Adamou stated that the Applicants have not established a prima facie case, and the only alternative cost for a single combi boiler is not

like for like or an alternative that would be allowable under the terms of the lease.

The tribunal's decision

54. The tribunal first considered the preliminary point raised by the Respondent, namely:
- a. If the sums claimed by the Respondent were agreed or admitted by the Applicants; and
 - b. If the Tribunal has jurisdiction to determine the case.
55. The Tribunal's jurisdiction under section 27A LTA 1985 is ousted where the sums in question have been agreed. Mr Adamou's submission on behalf of the Respondent is, essentially, that when faced with a written instrument purporting to be an agreement, the Tribunal has no jurisdiction to give any consideration to a leaseholder saying 'that is not truly an agreement' for any reason. We are satisfied that is not and cannot be correct. In the same way as evidence over whether there has been an oral agreement will require the Tribunal's careful enquiry if it is disputed, the question whether a written document reflects true agreement must, in a relevant case, permit and indeed require the Tribunal's enquiry in order to answer the question posed in section 27A(4)(a), where a party asserts that the written document does not reflect the true position.
56. However, we find that does not assist the Applicants in this case.
57. Firstly, it is evident that the Applicants entered into agreements with the Respondent in the form of the PPDA's. The PPDA is an agreement between the Applicants and Respondent. The Applicants both signed and returned a PPDA to agree to the terms within the PPDA and benefit from the 5% discount. The Applicants must be considered to have willingly entered into agreements with the Respondent in the form of PPDA's, unless they can show otherwise.
58. Based on the oral and written evidence, the Tribunal is not satisfied on the balance of probabilities that Ms Garside sent to the Respondent the cover letter containing the paragraph:

"Payment notwithstanding, we reserve our rights to challenge this invoice in future, including under section 27A of the Landlord and Tenant Act".

with the hard copy signed version of the PPDA. There is no evidence of the cover letter including this wording being posted and Ms Garside's responses to questioning were not convincing. The Tribunal considers that if Ms Garside was intent on reserving her position, she would have made sure that this was clearly evidenced in order to be able to rely on

this as part of this application. Based on the bundle the image of the letter was first forwarded to the Respondent by email on 12 May 2025 [236] which was after the application was made. Additionally, neither the Applicants' Submissions document [157-170] or the witness statement of Juliette Garside [554-560] contain any mention of the cover letter reserving rights to challenge the invoice.

59. Allegations of fraudulent misrepresentation require cogent evidence, with the burden being on the Applicants to satisfy the Tribunal to a high degree. The Tribunal is not satisfied that the Applicants have met that burden in their allegation of fraud against the Respondent in this case. In Ms Garside's case in particular, had the cover letter been sent as alleged, it would not have been necessary or permissible to advance any misrepresentation argument, as any such reservation as asserted in that letter would lead to the inevitable conclusion that Ms Garside was fully aware of her section 27A rights.
60. The Tribunal is not persuaded that there was any intentional misrepresentation on the part of the Respondent at the time that the PPDAs were entered into. There is also no compelling evidence before the Tribunal that the Applicants were misled and that any misleading induced the PPDAs or that would render the agreements void or voidable.
61. There is no evidence before the Tribunal that the Respondent was aware of any potential section 20B non-compliance at the time that the PPDAs were issued.
62. We find on the balance of probabilities that the form or wording in the PPDA was not designed to mislead the Applicants. We consider that the PPDA was simply designed to give the leaseholders the benefit of a discount for early payment, and nothing more sinister than that. Whilst the wording could have been more carefully drafted, there is no evidence of intent to do anything other than offer the leaseholders a benefit. That is a benefit which the Applicants saw the wisdom of at the time that they signed and returned the PPDAs.
63. The Tribunal is satisfied that the Applicants knowingly entered into agreements with the Respondent via the PPDAs, and that the Applicants had the benefit of six weeks to seek advice on the impact of the PPDAs but neglected to do so. The fact that Ms Garside in particular now advances that she did have sufficient knowledge at the time to send a cover letter asserting her rights, no matter the Tribunal's finding on her credibility, substantially undermines her allegation of misrepresentation.
64. The Tribunal finds that the Applicants were content to agree the PPDA at the time of agreement but have since changed their minds as a result of other leaseholders in the estate subsequently benefitting from cost

caps. The arrangements between the Respondent and other leaseholders is not a consideration for the Tribunal in this case.

65. Therefore, as the agreements were entered into and payments made by the Applicants, the Tribunal does not have jurisdiction to decide the case as a result of section 27A (4) (a) of the 1985 Act.
66. It follows that the applications must be struck out under Rule 9(2)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 because the Tribunal does not have jurisdiction in relation to the proceedings or cases or that part of them.
67. In the light of this lack of jurisdiction, we are satisfied that we should make no order under section 20c against the Respondent.

The tribunal's decision on reasonableness

68. Had the Tribunal found that it did have jurisdiction its decision would have been to confirm that the service charges demanded were reasonable in the absence of a prima facie case by the Applicants to the contrary. The Applicants provided an alternative quotation, but it was accepted by the parties that the quotation was not like for like as it did not reflect the size of the block and the nature of the actual works undertaken.
69. However, as the Respondent has refused to meet the Applicant's case about section 20B compliance either in writing or at the Tribunal's specific invitation during this hearing, the Tribunal would have concluded that no section 20B notices were served. The result would have been that the cost of the Works is time barred and therefore not payable.

Name: Mr A Parkinson

Date: 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).

Appendix – The Law

Landlord and Tenant Act, 1985

s.27A Liability to pay service charges:

(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.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject of an application under subsection (1) or (3).

(7) The jurisdiction conferred on [F4the appropriate tribunal] in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.]