FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	CHI/00ML/LSC/2024/0104
Property	**:**	13 & 21 Pacific Heights, Suez Way, Saltdean, BN2 8AX
Applicants	**:**	Oscar Hidalgo Ivana Hladka Rebecca Ireland Lynda Earle
Representative	**:**	Oscar Hidalgo
First Respondent	**:**	Hyde Housing Association
Representative	**:**	Stephanie Smith, counsel instructed by Adewale Ogun, in house solicitor
Second Respondent	**:**	Grand Ocean View Management Company Limited
Representative	**:**	Kevin Daniells of Eddisons
Type of Application	**:**	Determination of liability to pay and reasonableness of service charges Section 27A Landlord and Tenant Act 1985
Tribunal Members	**:**	Tribunal Judge H Lumby Mr K Ridgway MRICS Mr L Packer
Venue	**:**	Havant Justice Centre (by CVP)
Date of Hearing	**:**	27 August 2025
Date of Decision	**:**	21 November 2025

DECISION

Decisions of the tribunal

(1) The tribunal determines that the amounts demanded in respect of electricity charges for the 2021/2022 service charge year are both payable and reasonable in amount.

(2) The tribunal determines that the amounts demanded in respect of NHBC legal fees (Estate), legal dispute with leaseholder (Estate) and NHBC legal fees (Block) for the 2021/2022 service charge year are both payable and reasonable in amount.

(3) The tribunal determines that no amount is payable in respect of electricity (Estate) for the 2022/2023 service charge year.

(4) The tribunal determines that no amounts are payable in respect of legal and professional (Estate) for the 2022/2023 service charge year.

(5) The tribunal determines that the amounts demanded as contributions towards building insurance (Block) for the 2022/2023 service charge year are both payable and reasonable in amount.

(6) The tribunal determines that the unclear or unsupported charges of £5,784 and £50,201 in respect of the 2022/2023 service charge year are not payable.

(7) The tribunal determines that the First Respondent's contribution towards the fire door levy in respect of the 2022/2023 service charge year is £250 unless the Second Respondent obtains dispensation from the consultation requirements section 20ZA of the Landlord and Tenant Act 1985.

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

(9) The tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 in favour of the Applicants that none of the costs incurred by the First Respondent in connection with these proceedings can be charged direct to the Applicants as an administration charge under the Applicants' leases

(10) The tribunal makes an order in favour of the Applicants that the First Respondent should reimburse to the Applicants both the application

fee and the hearing fee paid to the tribunal, amounting to £330 and to be paid within 28 days of this determination.

The application

1. The Applicants have made an application for determination pursuant to section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") of liability to pay and reasonableness of service charges for the years 2021/2022, 2022/2023 and 2023/2024. They also seek orders pursuant to Section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

2. Directions were issued on 27 November 2024 setting down a conciliation hearing on 24 January 2025. The Applicants' principal issue was the lack of provision of breakdowns and evidence that the Applicants said that they had requested from their landlord, the First Respondent. The First Respondent in reply argued that the level of service charges and the control of relevant documentation lay in the hands of the management company named in the Head Lease; that management company has now been joined to the proceedings as the Second Respondent.

3. A further case management hearing took place on 26th March 2025. At that hearing, it was identified that the Applicants' challenge is to estimated service charge figures.

4. Whilst the Applicants are perfectly entitled to challenge estimated on account service charges, it was apparent that would not address their real concerns and would be unlikely to prevent there being further proceedings in respect of actual service charges when rendered, inevitably involving additional time and expense. There was an added complication identified that the accounting year adopted by the Second Respondent and that adopted by the First Respondent differ.

5. It is understood that documents were provided after the hearing on behalf of the Second Respondent to both the Applicants and the First Respondent.

6. The First Respondent then produced actual service charges for the years in question and provided these to the Applicants on 13th May 2025. These showed that the actual cost of the services in the years in dispute was equal to or in excess of the estimates levied.

7. A further preliminary hearing occurred on 4th June 2025. It was hoped by the tribunal that the information provided would have been used by the parties to make progress. However, this had not been reviewed by the Applicants in depth, citing its late provision as a reason.

8. It became apparent that it would not be possible to ascertain from the Applicants which items were in dispute and why. They were therefore given four weeks to set out precisely the items they objected to in the actual accounts. They were required to explain what their objection is to that item

and how much they were prepared to pay, if anything. This is often called a Scott Schedule. It was agreed that they would need to accompany this with a statement setting out their case and to provide their supporting evidence, for example of poor workmanship or works not being done or of what a reasonable amount is. That would be what the final hearing reviews and would be their complete case. Anything omitted would not be considered.

9. The First Respondent would then have four weeks to set out its response.

10. The completed Scott Schedule was provided in advance of the final hearing.

The background

11. The Property comprises two flats in a purpose built block on a larger estate; the flats in question each have two bedrooms.

12. The Applicants are long leaseholders, the first two named applicants being the leaseholders of Flat 13 and the second two the leaseholders of Flat 21. The leases are for a term of 125 years from 25 March 2009. The First Respondent is the Applicants' landlord and holds a superior leasehold interest for a term of 999 years from 1 January 2007. The Second Respondent is the management company for the wider estate; it provides all the services and charges a proportion onto the First Respondent, which in turn recovers a smaller proportion from the Applicants.

13. The tribunal has not inspected the Property.

The leases

14. The headlease to the First Respondent has the Second Respondent as a party, to provide the estate and block services and to recover service charges. The lease contains full service charge provisions, allowing for recovery of all the services in dispute, including insurance. This covers estate wide and block costs. The tenant is to pay a fixed proportion of the relevant costs, calculated by reference to applicable areas. There are provisions for on account payments to be made on 1 September and 1 March by reference to the estimated service charge with a balancing payment or credit to be made once the year-end total is calculated.

15. The subleases to the Applicants require them to pay their share of sums payable by the landlord pursuant to the headlease together with other landlord costs including a management fee.

Hearing

16. The hearing was hybrid, with the panel being in the tribunal and the parties attending separately online by CVP. There were no technological

issues. The Applicants attended and were represented by Mr Hidalgo. Ms Stephanie Smith of counsel appeared on behalf of the First Respondent; Ms Donna Jones appeared as a witness for the First Respondent. Mr Kevin Daniels of Edisons appeared for the Second Respondent and provided useful background information. Various observers also attended. There were no separate witnesses for the Applicants in attendance.

17. The documents that the tribunal was referred to are in a bundle of 531 pages. This included the completed Scott Schedule, statements of case from the Applicants and the First Respondent and Ms Jones' witness statement. Copies of the headlease and a specimen sublease were also provided. The tribunal has fully considered the bundle and noted its contents.

18. The hearing reviewed each item on the Scott Schedule in turn, giving both parties the opportunity to make submissions as they were considered. The parties then made closing submissions.

19. Ms Smith argued that the full sums demanded were payable by the Applicants. They had not challenged the payability of any sums so the issue was whether they were charged correctly. She contended that all sums had been correctly charged and the accounts were now finalised, giving the correct sums due.

20. The Applicants argued that they were not seeking to avoid paying legitimate service charges but questioned the top ups charged by the First Respondent, citing failures in transparency and communications. Mr Hidalgo contended that the First Respondent should have been checking all sums that they were charged but had failed to do so, relying on threats of eviction in place of explaining costs.

The Tribunal's determination

21. Having considered all of the documents and heard the submissions made by the parties, the tribunal has made determinations on the various issues as follows.

Service charge sums in dispute

22. The tribunal considered each of the items identified in the Scott Schedule in turn.

2021/2022 estate electricity charge

23. The amount charged had increased from £15,240 in the previous year to £80,659.61 for this service charge year. The Applicants had received two

demands for payment for electricity, an on account demand based on the previous year's charges which were accepted and a later demand for the excess between the on account estimate and the actual costs. It was that excess that was being challenged.

24. The Applicants argued that this was an excessive increase. In addition, they contended that the increase was not demanded from the Applicants until more than 18 months after the costs were incurred. As a result, they argued that the increase was not payable as no notice had been served pursuant to section 20B of the 1985 Act allowing for late collection. (Section 20B (which is set out in the schedule to this decision) essentially provides that service charges demanded more than 18 months after the relevant sum is incurred are not payable unless notice of the sum incurred is provided within that 18 month period).

25. The First Respondent argued that section 20B had been complied with. The Second Respondent had previously employed Remus as managing agents and they had served a section 20B notice on the First Respondent on 24 February 2023. The section 20B notice was made within 18 months of the costs being incurred and was valid as against the First Respondent. The demand for payment was made to the First Respondent on 27 April 2023 and so fell within its 2023/2024 service charge year (which runs from 1 April in each year). This was included within its service charge accounts drawn up in September 2024 with the excess charged to the Applicants. Accordingly, the Applicants were charged within 18 months of the costs being incurred by the First Respondent, meaning they were not able to rely on section 20B to avoid payment. The Applicants had originally been charged based on the previous year's figures increased by CPI plus 1% so there was a large excess payable, due to the substantial increases in electricity costs.

26. In answers to questions from the tribunal, Ms Jones confirmed that the electricity invoice had been requested from Remus but not provided. The First Respondent did check demands made but did not ask for every invoice, as this would be excessive and lead to higher costs for leaseholders.

27. The tribunal considered these arguments and the evidence provided. The Applicants have not challenged whether the cost of estate electricity is recoverable as a service charge item and the tribunal agrees that these charges are so recoverable as a matter of principle.

28. The tribunal considered whether the late demand for the excess was irrecoverable by virtue of the operation of section 20B of the 1985 Act. It accepts the First Respondent's arguments that a valid section 20B notice was served on the First Respondent. It also accepts that the excess cost for electricity was billed to the Applicants within 18 months of the excess being incurred by the First Respondent. As a result, the Applicants

cannot rely on section 20B of the 1985 Act to avoid paying the excess demanded for electricity.

29. It then considered whether the amount demanded was reasonably incurred. It is able to take judicial notice of the large increases in the cost of electricity at that time. There is no evidence to suggest that the amount charged was unreasonable. As a result, it has to conclude that the amount was reasonably incurred.

30. Accordingly, the tribunal determines that the amounts demanded in respect of electricity charges for the 2021/2022 service charge year are both payable and reasonable in amount.

2021/2022 NHBC legal fees (Estate), 2021/2022 legal dispute with leaseholder (Estate), 2021/2022 NHBC legal fees (Block)

31. These three items (numbered 2 to 4 on the Scott Schedule) were considered together, an amount of £58.563.60 was demanded for NHBC legal fees in respect of the estate, £26,226 for the leaseholders' dispute and £6,424.50 for the NHBC legal fees for the block the Property was located in.

32. The Applicants make the same section 20B argument in relation to these costs. The same position as in relation to electricity applies and so this argument will fail for the same reasons. They also argue that no explanation or breakdown of these costs has been provided.

33. The First Respondent accepts that no detailed breakdown was received from Remus and they could have done more to interrogate the costs. However, details of the disputes were repeatedly mentioned in the second Respondent's newsletters and the AGM minutes, the costs were recoverable under the service charge and so it was not unreasonable to pass these on.

34. The tribunal considered these arguments and the evidence provided. The Applicants have not challenged whether the costs are recoverable as a service charge item and the tribunal again agrees that they are recoverable in principle.

35. The tribunal considered whether the late demand was irrecoverable by virtue of the operation of section 20B of the 1985 Act. However, as stated above, the position is the same as for electricity. As a result, the Applicants cannot rely on section 20B of the 1985 Act to avoid paying these costs.

36. It then considered whether the amounts demanded were reasonably incurred. There is no evidence to suggest that the amounts charged were unreasonable. As a result, it has to conclude that the amounts were

reasonably incurred. That said, the tribunal did note that the First Respondent could have done more to interrogate demands and to keep its leaseholders informed, for example by providing information from AGM meetings for the Second Respondent. However, this does not affect this decision.

37. Accordingly, the tribunal determines that the amounts demanded in respect of NHBC legal fees (Estate), legal dispute with leaseholder (Estate) and NHBC legal fees (Block) for the 2021/2022 service charge year are both payable and reasonable in amount.

2022/2023 electricity (estate)

38. This relates to the electricity charge for the year following that above and amounts to £108,249. The Applicants made the same arguments as before. However, this time the First Respondent agreed, saying no section 20B notice was served and so the Second Respondent is time barred. It confirmed that this cost would not be passed onto leaseholders, including the Applicants.

39. The tribunal agrees with this position.

40. Accordingly, the tribunal determines that no amount is payable in respect of electricity (Estate) for the 2022/2023 service charge year.

2022/2023 Legal & Professional (Estate)

41. This is linked to the legal fees point above and amounts to another £46,808. Mr Daniels explained that this related to four claims brought against the NHBC for Laing O'Rourke works relating to fire cladding. The action was successful and any fees recovered would be credited to the service charge. The Applicants repeated the same arguments. The First Respondent acknowledged that no section 20B notice was served and so the Second Respondent is again time barred. It confirmed that this cost would not be passed onto leaseholders, including the Applicants.

42. The tribunal agrees with this position.

43. Accordingly, the tribunal determines that no amounts are payable in respect of legal and professional (Estate) for the 2022/2023 service charge year.

2022/2023 building insurance (Block)

44. The total amount demanded was £71,748. The Applicants argue that the amount for the block is unreasonably high compared to other blocks,

repeat their section 20B argument and raise the lack of transparency by the First Respondent.

45. Mr Daniels for the Second Respondent explained that the block insurance is arranged by the freeholder rather than the management company. The high premium was due to the flammable nature of the block. Other insurers refused to quote for the policy as a result.

46. The tribunal considered these arguments and the evidence provided. The tribunal determines that block insurance is recoverable pursuant to their leases from the leaseholders, including the Applicants.

47. There is no evidence that the insurance premium was demanded late and so no argument that the premium was irrecoverable by virtue of the operation of section 20B of the 1985 Act.

48. The tribunal then considered whether the amount demanded was reasonably incurred. The reason for the large increase – the flammability of the building – was explained and it was noted that no other insurer would accept the risk until the block was made safe. There is no evidence to suggest that the amount charged was unreasonable. As a result, it has to conclude that the amount was reasonably incurred.

49. Accordingly, the tribunal determines that the amounts demanded as contributions towards building insurance (Block) for the 2022/2023 service charge year are both payable and reasonable in amount.

2021/2022 and 2022/2023 deficit demands for Flats 13 and 21

50. This forms four separate headings in the Scott Schedule. The tribunal has considered them together. The invoices cover the additional charges levied to both flats for the 2021/2022 and 2022/2023 service charge years. The amounts disputed are, for Flat 13, £1,641.58 and £1,381.78 and, for Plat 21, £1,778 and £1,523.32.

51. The Applicants argue that the First Respondent's approach, by threatening eviction rather than engaging on the issues, are additional reasons why these sums should not be paid. They point out that this included an eviction threat after the tribunal proceedings had begun, despite the First Respondent's assertions to the contrary. Ms Jones acknowledged this mistake, for which she apologised. She assured the tribunal that these demands were all on hold, pending the outcome of these proceedings.

52. The tribunal considered these demands. They were demands for payment for various costs but not the actual costs themselves. The invoices were therefore mechanical and would need recalculating in light

of the tribunal's decisions. The tribunal leaves the First Respondent to credit these invoices and issue fresh demands.

2022/2023 unclear or unsupported items

53. These are items 12 and 13 from the Scott Schedule, amounting to £5,784 and £50,201. The tribunal has considered these together. The Applicants argue that there is no explanation as to what these items are. Neither Respondent was able to provide any explanation.

54. The tribunal considers that items charged without any explanation as to what these relate to cannot reasonably be payable.

55. Accordingly, it determines that the unclear or unsupported charges of £5,784 and £50,201 in respect of the 2022/2023 service charge year are not payable.

2023/2024 fire door levy

56. The Applicants are disputing a charge of £31,998 towards a fire door levy. They say that they were not consulted as required by section 20 of the 1985 Act and so their contribution is limited to £250 per flat.

57. It is common ground that a consultation was required and that no dispensation from consultation has been obtained. It is also accepted that a consultation was carried out by the Second Respondent, that the First Respondent was consulted but not its leaseholders, including the Applicants.

58. Ms Smith referred the Upper Tribunal decision in the case of *Leaseholders of Foundling Court and O'Donnell Court v Mayor and Burgesses of the London Borough of Camden and others* [2016] UKUT 366 (LC). It was held in that case that the duty of consultation extends to all tenants, including subtenants. The same principle applies here; she argued that because there was no consultation, the consultation was not valid. As a result, the First Respondent's contribution is limited to £250 and the Applicants' share limited to their proportion of £250.

59. The tribunal agrees with this analysis. However, this is subject to the Second Respondent not obtaining dispensation pursuant to section 20ZA of the 1985 Act. Neither the First Respondent nor the Applicants argued that the sum charged was not payable or was unreasonable, should dispensation be obtained.

60. Accordingly, the tribunal determines that the First Respondent's contribution towards the fire door levy in respect of the 2022/2023 service charge year is £250 unless the Second Respondent obtains

dispensation from the consultation requirements pursuant to section 20ZA of the Landlord and Tenant Act 1985.

Applications under s.20C and paragraph 5A and for costs of hearing

61. The Applicants has applied for cost orders under section 20C of the Landlord and Tenant Act 1985 ("Section 20C") and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("Paragraph 5A"). The tribunal has also considered whether the fees payable to the tribunal in making the application and the hearing fee both be refunded by the First Respondent (these fees are £110 and £220 respectively).

62. The relevant part of Section 20C reads as follows:-

> (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 … the First-tier Tribunal … 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…".

63. The relevant part of Paragraph 5A reads as follows:-

> "A tenant of a dwelling in England may apply to the relevant … tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs".

64. A Section 20C application is therefore an application for an order that the whole or part of the costs incurred by the First Respondent in connection with these proceedings cannot be added to the service charge of the Applicants or any other parties who have been joined. A Paragraph 5A application is an application for an order that the whole or part of the costs incurred by the First Respondent in connection with these proceedings cannot be charged direct to the Applicants as an administration charge under their leases.

65. In this case, the Applicants have been successful on a number of issues. More significantly, This dispute could have been avoided if the First Respondent had engaged more with its landlord and its tenants, rather than passively passing on costs without proper interrogation; the Tribunal found that legitimate concerns raised by the Applicants were not addressed in a timeous or proactive manner, instead relying on a heavy handed approach to try to force tenants to pay. Having a different year end to the Second Respondent caused unnecessary confusion with no apparent steps taken to address this. Taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act. The tribunal therefore make an order in favour of the

Applicants that none of the costs incurred by the First Respondent in connection with these proceedings can be added to the service charge.

66. For the same reasons as stated above in relation to the Section 20C cost application, the Applicants should not have to pay any of the First Respondent's costs in opposing the application. The tribunal therefore makes an order in favour of the Applicants that none of the costs incurred by the First Respondent in connection with these proceedings can be charged direct to the Applicants as an administration charge under their leases.

67. Finally, and for the same reasons as for the Paragraph 5A and Section 20C applications, the tribunal considers that the Applicants should not have to pay the fees paid to the tribunal for bringing this case. The tribunal therefore makes an order in favour of the Applicants that the First Respondent should reimburse to the Applicants both the application fee and the hearing fee paid to the tribunal, amounting to £330 and to be paid within 28 days of this determination.

Rights of appeal

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

APPENDIX

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 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 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.