



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

Case Reference : **MAN/ooBY/LSC/2024/0252**

Property : **Flats 38, 45, 67, 69 and 113 Tobacco Wharf, 51 Commercial Road, Liverpool, L5 9XB**

Applicants : **Gemma Simmons & Howard Jewell, Sabine Bosmans, Benedict & Lauren Weaver, Joanne Curtis, Kam Tim Chong**

Respondent : **Tobacco Wharf Management Company Ltd.**

Type of Application : **Landlord and Tenant Act 1985 – s 27A
Commonhold and Leasehold Reform Act 2002 –Sch 11 para 5A
Landlord and Tenant Act 1985 – s 20C**

Tribunal Members : **Tribunal Judge S. Westby
Tribunal Judge P. Forster
Tribunal Member H. Thomas BSc FRICS
FCABE MEWI RICS Registered Valuer**

Date of Decision : **15 August 2025**

DECISION

Decision

- (1) The amount payable by each of the Applicants as service charges for their respective flats for the service charge year 2022/23 is £2,100.00 and for the service charge year 2023/24 is £1,856.09.
- (2) No order is made under section 20C of the Landlord and Tenant 1985.
- (3) No order is made under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

Reasons

Introduction

1. This is an application under s27A of the Landlord and Tenant Act 1985 ('the 1985 Act') for the Tribunal to determine the payability and reasonableness of services charges in respect of Flats 38, 45, 67, 69 and 113 Tobacco Wharf, 51 Commercial Road, Liverpool, L5 9XB ('the Property') in respect of the service charge years 2022/23 and 2023/24.
2. The named Applicants, Gemma Simmons & Howard Jewell, Sabine Bosmans, Benedict & Lauren Weaver, Joanne Curtis and Kam Tim Chong are the long leasehold owners of five of the 116 flats in the Property.
3. The Respondent, Tobacco Wharf Management Company Ltd., is the management company entitled to receive the service charges.
4. The Property was formerly a tobacco factory which was converted into 116 individual flats arranged over 4 floors.
5. The Applicants also seek an order pursuant to s.20C of the 1985 Act and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

Directions

6. Directions were given on 30 January 2025 which included an order for the Respondents to disclose all relevant service charge accounts and budgets for the years in dispute. A further Directions Order was made on 1 May 2025, following an application made by the Applicants requesting the Respondents to disclose the budgets and accounts for service charge years 2019/20 and 2020/21. Although these years do not fall within the application, the Applicants argued that the Tribunal needed the documents to assess the reasonableness of the service charges for the years under review. The Tribunal made an Order requiring the Respondent to provide the requested documents and allowing the Applicants to file and serve a supplemental statement of case.

The Hearing

7. The Tribunal did not inspect the Property. The hearing took place on 6 August 2025. The Applicants were represented by Ms Simmons, one of the named Applicants, who attended by video and the Respondent by Mr Kieran Walsh of Stevenson Whyte who attended in person.

The Leases

8. The Tribunal had copies of the relevant leases which were in similar terms. The terms of the leases were not in dispute. Under clause 5(a) of the Leases, the Applicants covenanted to pay the service charge, calculated in accordance with Schedule 5, on the stated dates.

The Law

9. S.18 of the 1985 Act defines the concept of “service charge” and “relevant costs”:
 - (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 estimate costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with matters for which the service charge is payable.”

10. S.19 of the 1985 Act gives this Tribunal the jurisdiction to determine the reasonableness of any service charge:

“(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 provision 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.”

11. The application also requires the Tribunal to consider s. 27A of the 1985 Act in respect of the service charge items in dispute. S. 27A(1) provides:

“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.”

12. The Tribunal notes the following passage from the judgment of Martin Rodger KC in *Enterprise Home Developments LLP v Adam* [2020] UKUT 151 (LC) at [28]: “Much has changed since the Court of Appeal's decision in *Yorkbrook v Batten* but one important principle remains applicable, namely that it is for the

party disputing the reasonableness of sums claimed to establish a *prima facie* case.”

Reasons for the decision

13. The Applicants complain about poor financial governance, unjustified charges, serious deficiencies in accounting practices, lack of transparency and inconsistent budgeting patterns. The Applicants acknowledge this in their statements of case and ask that the Tribunal, amongst other things, require the Respondent to remedy these faults.
14. The Tribunal does not have jurisdiction to do this. Its remit is to consider the payability and reasonableness of the charges that have been made by the Respondent.
15. The Applicants accept that they are liable under the Leases to pay the service charges to the Respondent.
16. The specific service charge items in dispute are set out in a schedule prepared by the Applicants.

‘Duplicated’ charges

17. The Applicants’ core argument is that the Respondent has made ‘duplicated’ service charges together totaling £12,568.93. The Applicants dispute these charges.
18. After the Applicants purchased their flats, they each entered into a Service Agreement with Investar Developments Limited (“IDL”). IDL was appointed as sole managing agent. The Service Agreement was a ‘hands-off investment’ for the Applicants, whereby IDL sourced the tenant, managed the tenancy and paid the service charges and ground rents payable by the Applicants under the Leases to the Respondent from the rental income received, before sending the net rent to the Applicants.

19. Revolution Property Management (“Revolution”) managed the Property on behalf of the Respondent until 27 April 2022. Stevenson Whyte was appointed as the new managing agent on 12 August 2022.
20. It was apparent to the Tribunal that before Stevenson Whyte was appointed the Property was poorly managed. There were delays in providing audited service charge accounts to the leaseholders.
21. It is not in dispute that IDL failed to pass on to the Respondent the money it deducted from the rent received for service charges. When Stevenson Whyte took over as managing agent there were arrears of service charges which were shown on the statements issued to leaseholders.
22. The Applicants do not accept that they are liable for the arrears. They consider that the service charges have already been paid by way of deductions from their rental income. Upon taking advice, they have paid the arrears under protest. They say they have paid the service charges twice.
23. The total amount in dispute is £12,568.93, broken down as follows:

Flat Number	Amount in dispute
Flat 38 (Howard Jewell)	£2,297.29
Flat 45 (Kam Tim Chong)	£2,540.45
Flat 67 (Joanne Curtis)	£2,577.05
Flat 69 (Sabine Bosman)	£2,577.05
Flat 113 (Lauren Weaver & Benedict Weaver)	£2,577.09

24. Four of the five flat owners issued proceedings against IDL in the County Court to recover the service charge deductions. Judgments were obtained but it has not been possible to recover the money because IDL is in liquidation. These four Applicants also claim the legal fees incurred in pursuing IDL for the deductions made from the rent.
25. The Applicants’ position is that the Respondent is responsible for recovering the service charge arrears from IDL. They make the false assumption that there was a contractual relationship between IDL and the Respondent. This is based in part

on the fact that at the material times, Hao Dong was a director of both IDL and the Respondent company.

26. The issue about the duplicated payments has been exacerbated by the Respondent's failure at the time to alert them to the fact that the service charges had not been paid.
27. Whilst the Tribunal has sympathy for the Applicants' position, the terms of the Leases are clear; the Applicants are liable to pay service charges to the Respondent. Ms Simmons did not dispute this at the hearing.
28. IDL and the Respondent, despite both having Hao Dong as a Director, are separate legal entities. The Respondent has no legal basis upon which it could pursue IDL for the unpaid service charge. The only parties with recourse to this are the Applicants under the terms of the Service Agreement.
29. Accordingly, the Tribunal determines that there has been no duplication of payment of these service charges.

Caretaker Services

30. The first item in the Schedule refers to the service charge year 2021/2022 and to budgeted caretaker services in the sum of £15,000 against an actual expenditure of £0. This service charge year is not one of those included in the application.
31. Therefore, the Tribunal makes no determination in respect of this item.
32. The Tribunal notes that the Respondent has incorporated the £15,000 into the £99,112 accruals and deferred income noted in the service charge statement of account for the 2021/2022 service charge year.

Door and Gate Maintenance

33. The next item in the Schedule relates to door and gate maintenance in the 2022/2023 service charge year.

34. This item was budgeted at £2,000, but only £80 was spent. The Applicants do not allege that the work was not required, nor that the work was not done, nor that the charge was unreasonable.
35. The balance of £1,920 included in the budget was credited to the service charge accounts for the following year.
36. In the circumstances, there is nothing for the Tribunal to determine.

Repairs and Renewals and Sinking/Reserve Fund Expenditure

37. It is easier to deal with the next two items in the Schedule together as the arguments raised are similar.
38. The Applicants' issue with these items is that no invoices, contracts or other documentation have been provided by the Respondent to justify the expenditure. The Applicants say they do not know what works have been carried out and the only information they have about certain works is a single line in budgeted accounts, the receipt of which has been delayed. The situation is made worse by the fact that the Applicants do not live in the flats and cannot see for themselves what work is being done.
39. The Applicants do not allege the work was not required, nor that the work was not done, nor that the charge was unreasonable.
40. In respect of the sinking/reserve fund expenditure, the Applicants did pursue the argument that a consultation, pursuant to s.20 of the 1985 Act, should have been undertaken. It was accepted at the hearing, however, that the threshold had not been triggered.
41. Pursuant to s.19 of the 1985 Act, a service charge is only recoverable by a landlord in so far as the costs have been reasonably incurred and the works carried out are of a reasonable standard. These are not the arguments advanced by the Applicants. Accordingly, the Tribunal is unable to make a determination in respect of these items.

42. The Tribunal has some sympathy for the Applicants. If the Respondent had provided the Applicant with the documentation that the Applicants clearly wished to see, but had not formally requested, these items may not have been disputed at all. It is apparent to the Tribunal that there has been a breakdown in communication between the parties which has exacerbated the situation, and it is hoped that this can be rectified.

Building Insurance Budget

43. The final item in the Schedule relates to building insurance in the 2024/2025 service charge budget in the sum of £42,361. However, as the service charge year 2024/2025 is not one of the service charge years in dispute, the Tribunal makes no determination in respect of this item which is outside the scope of this application.

Section 20C/ Schedule 11 application

44. In relation to the application by the Applicants for an order pursuant to s.20C of the 1985 Act and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, the Tribunal has concluded that no order should be made in the circumstances of this case.

Judge S. Westby

Date: 15 August 2025

Right of Appeal

A person wishing to appeal this decision to the Upper Tribunals (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

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.

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 allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state what result the party making the application is seeking.