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

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| **Case Reference** | MAN/30UF/LSC/2024/0608 |
| **Property** | Sandhurst Court, 3-5 South Promenade, Lytham St Annes FY8 1LS |
| **Applicant** | Paul Whiston |
| **Representative** | Chris Brook, Rowan Building Management Ltd |
| **Respondent** | Sand Hurst Court Management Limited |
| **Type of Application** | Application for determination of liability to pay and reasonableness of service charges (S.27A Landlord and Tenant Act 1985)<br>Application that the costs are not relevant costs in determining service charges (Paragraph 5A Schedule 11 Commonhold and Leasehold Reform Act 2002) |
| **Tribunal Members** | Judge Rachel Watkin<br>Surveyor Member – Huw Thomas BSc FRICS FCABE MEWI |
| **Date of Hearing** | 23 October 2025 |
| **Date of Decision** | 24 October 2025 |

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**DECISION**

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## Decision

The Tribunal has considered the Application and determines as follows:

a) The cost of the works to the fire doors was reasonable and is payable as claimed by the management company.
b) The Respondent is limited to recovering the sum of £250 from the Applicant in respect of the roof work and must credit the Applicant's account in relation to any additional sums charged.
c) Any credits balances in favour of the Applicant must remain in his service charge account.
d) The Respondent may not seek to charge any litigation costs arising from these proceedings as service charges.

## Background

1. This is the decision of the Tribunal in the Application (the "**Service Charge Application**") by Mr Paul Whiston (the "**Applicant**") dated 30 October 2024 for determination of the liability to pay and reasonableness of service charge.

2. The Applicant is the owner of the leasehold property known as 12 Sandhurst Court, South Promenade, Lytham St Annes, FY8 1LS (the "**Apartment**") pursuant to a lease dated 13 September 1976 (the "**Lease**") (as the date of the Lease is not clear from the document provided, the year may not be correct).

3. The Apartment is situated within Sandhurst Court, South Promenade, Lytham St Annes, FY8 1LS building (the "**Property**") which is an apartment block containing 17 residential apartments (the "**Apartments**") all of which are subject to long leasehold interests which are understood to be identical to the Lease.

4. The Respondent is the management company named within the Lease and which has obligations pursuant to the Lease and has obligations under the Lease to observe and perform covenants set out in the sixth schedule to the Lease. The obligations on the management company include the carrying out of maintenance works and the Lessees have an obligation to pay a maintenance charge in respect of such works (clause 5 of the Lease).

5. The Applicant has also issued a second application also dated 30 October 2024 (the "**Costs Application**"). This application is for an order under paragraph 5A to schedule

11 of the Commonhold and Leasehold Reform Act 2002 for an order reducing or extinguishing any liability to pay the Respondent's litigation costs through the service charge provisions within the Lease.

**Previous Relevant Proceedings**

6. In 2024, there was an application made by the Respondents under section 20ZA of the Landlord and Tenant Act 1985 (the "**1985 Act**") for the dispensation of the section 20 consultation requirements in respect of works to the communal fire doors and proofing carried out in March 2022. This application was determined under application number MAN/30UF/LSC/2024/0061.

**Documentation**

7. The Tribunal has received four bundles of documents containing a total of 562 pages, one in respect of each item of service charge which was dispute (numbered 1 to 3) and one containing additional documents (bundle 4). The Tribunal has also considered the documents on file including the parties' statements of case and supporting documents.

8. Where page numbers are referenced within this decision, the reference is to pages within the 4 bundles.

**The Hearing**

9. The hearing took place remotely and was attended by the Applicant, Mr Chris Brook (Managing Director of the Managing Agent, Rowan Property Management) and Mr Perry-Warnes (Property Manager).

**The Issues**

10. The issues to be determined by the Tribunal were initially difficult to identify from the documents provided as a number of different application forms had been provided to the Tribunal and some of the items in dispute had been determined as being outside the Tribunal's jurisdiction within the directions dated 26 March 2025.

11. The Applicant confirmed, at the start of the hearing, that the issues for determination were as follows:
    a. Whether the cost of installing fire doors in March 2022 was unreasonable.

b. Whether the Respondent had complied with the consultation requirements pursuant to section 20 of the Landlord and Tenant Act 1985 in relation to works carried out to the roof and, if not, whether the sums recoverable from each leaseholder are £250.

c. As the lease does not provide for a sinking fund, whether credit balances at the end of the financial year should be credited to the leaseholder's accounts held by the Respondent or could be retained and added to a sinking fund.

**Documentation**

12. The Tribunal has received four main bundles of documents, one in respect of each item of service charge which was dispute and one containing additional documents.

13. References to page numbers within this decision are references to the pages within these bundles.

**Relevant Terms of the Lease**

14. The Tribunal has had regard to the whole of the Lease but considers that the following to be the most relevant.

15. The terms of the lease set out the expenditure that is payable by the lessee as service charge (or "*maintenance charge*" as referenced in the Lease). By clause 6(a) of the Leases, the Lessees agree to pay the "*maintenance charge*". Maintenance charge is defined at clause 1(ix) as:

> *"Maintenance charge" means the sum of one equal 1/17th part of the Management Company's expenses in maintaining the common parts of the Development (other than the common parts of the Block) and 1 equal 1/17th part of the Management Company's expenses of maintaining the common parts of the Block in each case computed in accordance with the provisions of clause 5(i) hereof.*

16. Common parts are defined as:

> *"common parts" means parts of the Block and of the development, which are more particularly described in the First Schedule."*

17. Part I of the First Schedule provide:

*Part II Common parts of the Block.*

*1. The following items are included in the common parts of the Block*

*(a) The hall staircase and landings lifts (if any) and the means of raising and operating such lifts together with any other amenities or facilities in connections with the Block or any other parts of the Block which are used in common by the owners or occupiers of more than one flat.*

*(b) The main structural parts of the Block which include:*

*(ii) the roof foundations floors (other than internal surface screeds or wooden floors belonging to any flat)*

*(iii) the whole of the walls (including glass in the windows and the internal surfaces) of any part of the Block solely encompassing any of the common parts referred to in Sub-clause (a) hereof.*

*(iv) All the structural walls of any flat. (Excluding the internal surfaces and the glass in the windows).*

18. Clause 5(i) provides:

*(a) The maintenance charge for each year shall be estimated by the Management Company or their Managing Agents (whose decision shall be final) as soon as practicable after the First day of January in each year and the Lessee shall pay one half of the maintenance charge to the Management Company on each rent day.*

*(b) As soon as reasonably may be after the end of each year when the actual amount of the expenditure in respect of which the maintenance charge payable has been ascertained the Lessee shall forthwith pay the balance to the Maintenance Company or be credited in the books of the Management Company with any amount overpaid.*

**Fire Doors**

19. The first issue that needs to be determined by the Tribunal is whether the cost of the works to the fire doors was reasonable in amount. There is no suggesting that it was not reasonable for the works to be carried out.

20. Whilst the works carried out cost £42,600, the Respondent confirms that only 40% of the cost of the work has been charged through the service charges (the sum of £1,002 per flat) as the Respondent is of the opinion that the entrance doors to the individual

apartments ("Apartment Doors") flats are not part of the communal parts of the Property. It is the Respondent's position that the works have been carried out to the Apartment Doors on behalf of the Lessees as a result of a separate agreement having been reached between them.

21. Whilst the Applicant, at the hearing, raised the issue of the interpretation of the Lease in relation to whether the Apartment Doors should have been replaced by the Respondent pursuant to the Sixth Schedule of the Lease, the issue for determination by the Tribunal is only whether the costs that were incurred and recovered through the service charge provisions in the Lease were both reasonable and payable. As the Respondent has not sought to recover the costs of replacing the Apartment Doors as service charges, the question of whether those works should have been carried out by the Respondent do not fall to be considered by the Tribunal.

22. Therefore, the only question before the Tribunal is that of the amount which is payable. The Applicant contents that the costs of the works was too high and that the Respondent did not take sufficient steps to ensure that quotes for works were obtained for all possible contractors to ensure that the works were carried out on the most cost effective basis.

23. Mr Brook explained to the Tribunal that tenders had initially been sought for the whole of the works (including the replacement of the Apartment Doors). A specification of works had been prepared and issued for tender by Jones Melling Limited (Property Construction Advisors). The Tender Report (page 83 of Bundle 1) dated 25 January 2021 summarises the project as follows:

> *"The works comprise of the replacement of the existing internal fire doors within the building facing onto the communal areas, including the apartment doors, doors to the lift motor room and meter room, the fire door with glazed vision panel between the lift lobby and the rear corridor and the doors between the rear corridor and the rear fire escape staircase."*

24. Three contractors were invited to tender and they offered to carry out the work for £42,671, £45,836.98 and £64,446.00.

25. In addition, the Respondent's managing agents approached two additional contractors, SK Joinery (page 156 Bundle 1) and CCH (page 153 Bundle 1). SK Joinery provided a quotes in the sum of £37,320 dated 7 January 2022 for the replacement of the doors and £2,640 for the decorating of the doors dated 14 March 2022 (both inclusive of

VAT), at total of £39,960. CCH provided a quote dated 17 May 2021 in the sum of £34,244.66 plus VAT (the total cost of £41.093.59).

26. Mr Brook also indicated that an approach had been made to smaller, not vat registered contractors, in particular, Mr Worden, but that they had declined the job, due to it being too big for them to manage.

27. By contrast, the Applicant, however, referred the Tribunal to a section 20 Notice dated 3 June 2019 (Page 58-59 Bundle 4) (the "Generations Notice") that had been prepared by the then managing agents, Generations Property Management. This notice set out details of estimates obtained following the service of an early notice of intention to carry out works. The notice set out the purchase prices of doors, the Applicant understood that the prices came from Howdens, together with separate prices from joiners for the fitting of the doors and further separate costings for the decorating of the doors. This set out the most cost-effective option as £11,172.26. Copies of the actual estimates were not provided.

28. The Respondent proceeded with the quotation from SK Joinery which, it is noted was lower than the quotes received through the tender process but significantly higher than the costings set out by Generations Property Management Ltd, However, the total cost came to £42,600 due to additional charges for clear glass to the communal doors (in place of Georgian glass) and to supply and fit vinyl to glazed doors at a total of £3,400 and a deduction of £1,200 for lacquer to the communal doors (all plus VAT) (page 165 Bundle 1).

29. On 23 May 2025, the Respondent obtained dispensation from the obligation to comply with the requirements to consult the Lessees in relation to the work, pursuant to section 20 of the 1985 Act. However, the Tribunal made no finding, at that time, in relation to whether the cost of the works was reasonable or payable by the Respondent (page 108 to 119, Bundle 4).

30. The Applicant considers that the work was not carried out at a reasonable cost as the Respondent did not make sufficient effort to ensure that the work was carried out at a competitive rate, in particular, the Respondent did not obtain quotes from the contractors named in the Generations Notice. Mr Brook explained that he considered that they had made sufficient effort to obtain competitive quotes and that, whilst he had not spoken to the contractors named in the Generations Notice, he had sought to obtain quotes from the smaller joinery contractors and that they had not been able to carry out the work on the scale required.

31. The Tribunal has carefully considered the work carried out by the Respondent's managing agents and considers that it did take reasonable steps to obtain a sufficient number of comparative quotes to be satisfied that the work was being carried out at reasonable cost. The Tribunal accepts that the managing agents sought quotes from smaller, non-vat registered joiners and that they were not able to do the work due to the scale of the job.

32. Furthermore, as the estimates set out in the Generations Notice have not been provided it is not clear to the Tribunal that the contractors were aware of the scale of the work. It is noted that the quotes referred to a price per door and, therefore, it is not known either whether the contractors were aware of the number of doors that needed to be fitted. There is also no evidence to suggest that consideration had been given to the addition of the necessary door furniture (as outlined on the quote from SK Joinery). In addition, the Tribunal notes that the works were carried out around three years after the date of the Generations notice and accepts the evidence given by Mr Brook that construction costs have gone up significantly since 2019.

33. On balance, therefore, the Tribunal accepts that the Respondent took reasonable steps to ensure that the works were carried out at a reasonable cost and that the cost incurred of £17,040 in respect of the replacement of communal fire doors (which is the sum understood to have been charged through the service charges) is reasonable.

**Roof works**

34. The second issue to be determined by the Tribunal is the question of whether the Respondent had complied with the section 20 of the 1985 Act requirement to consult the Lessees in relation to the works to the roof and, if so, whether the amount is payable pursuant to section 27A by reason of whether the full extent of the works was necessary.

35. The roof works that were carried out are detailed on the invoices from DRSL (page 67-69-74 Bundle 2) and include significant works to the roof including the erection of scaffold, the replacement of rooflight tops, the replacement of decking boards, installation of SIKA liquid plastics, completing of slating works to the front elevation, repair to garage edge, renewal of fascia and PVC trim to windows and gutter repair.

36. The Respondent indicated that it was satisfied that it had complied with the section 20 consultation process and referred the Tribunal to the Section 20 notice that it had provided to the Lessees dated 21 July 2021 (page 31 Bundle 2) (the "July Notice").

37. The July Notice described the works that were to be carried out as follows:

> *"Independently survey the roof to investigate the longstanding roof leaks penetrating the penthouse apartments. Verify the recommended resolution regarding the new front parapet detail and Mansard flashing. Agree with all relevant parties the final scope of works before undertaking the work."*

38. The purpose of the section 20 consultation is to ensure that lessees are provided with information about the works that are to be carried out and to have the opportunity to raise concerns or provide nominations for possible contractors. Therefore, it is important that lessees are made aware of the details of the proposed works, even if it is not possible to be precise.

39. It is the Applicant's view that the July Notice did not provide him with information about the roof works or notify him of any intention to carry out any roof works. It was the Applicant's position that the July Notice informed him only that the Respondent intended to conduct a survey of the roof to verify whether the works that had previously been recommended were appropriate.

40. The Respondent stated that it is important that the July Notice is read in conjunction with the minutes of the meeting that took place on 11 June 2021 (the "June Minutes"). These state:

> *"Roofwork: New front parapet detail including mansard flashing across the entire elevation to resolve the long-standing water leaks. Quote from Blackpool Industrial Roofing (BIR) of £20,280 received to date. It would be advisable to get the issue independently surveyed to ensure the spec per BIRs quote is accurate and resolve the issue once and for all. Further quotes would also need to be attained once the spec is finalised under a section 20 process. There is a separate leak from a roof vent where Harry Jacks are due to investigate and resolve under their existing warranty."*

*41.* The Tribunal considers that, in order for a section 20 to be valid to cover certain works, the nature of those works must be clear to the recipient of the notice, based on the

circumstances known to the recipient at the time of receipt. Therefore, the Tribunal considers the meaning of the July Notice from the perspective of a lessee who had already received a copy of the June Minutes and, therefore, a recipient who had knowledge that some roof works had been recommended. However, the June Minutes support the Applicant's understanding that the Respondent intends to obtain a survey of the roof to ascertain the necessary works. Whilst the June Minutes do suggest that there would need to be a section 20 process once the specification of works has been finalised, it does not suggest that the section 20 process for those works would take place prior to the specification being obtained.

*42.* Therefore, the Tribunal is not persuaded that the July Notice covers the significant works that were carried out to the roof. As such, the amount of the contribution that can be recovered from each of the Lessees is £250.

43. In light of the Tribunal's conclusion in this regard, the Tribunal is not required to consider whether the works carried out were necessary.

**Credit of unspent funds**

44. The third issue which the Applicant has request that the Tribunal considers is whether the Respondent is entitled to retain credit balances at the end of any year.

45. Pursuant to clause 5(i) of the Lease, the management company provides an estimate for the year after 1 January and the estimated sum is then paid in advance. At the end of the year, the actual amount of expenditure is calculated and there may be a credit or debit balance. The Applicant's concern relates to the treatment of any credit balance.

46. The parties both confirm that it has been the practice of the management company to retain credit balances and paying them into a sinking fund. The Respondent contends that it is entitled to do this based on the wording of clause 5(i)(b) which reads as follows:

> *As soon as reasonably may be after the end of each year when the actual amount of the expenditure in respect of which the maintenance charge payable has been ascertained the Lessee shall forthwith pay the balance to the Maintenance Company or be credited in the books of the Management Company with any amount overpaid.*

47. The Respondent considers that a credit "in the books of the Management Company" is a reference to them being permitted to hold a sinking fund. However, the parties both

advise that there are no further provisions within the Lease that deal with the allocation of sinking charge funds. Therefore, once monies have been paid into a sinking fund, there is no mechanism for the Lessees to demand the return of those funds if they are not applied to the cost of work by the management company.

48. The Tribunal considers that the wording of clause 5(i)(b) must be interpreted in accordance with the principles set out by the Supreme Court in *Arnold v Britton* (2015) UKSC 36 where, at paragraph 15, Lord Neuberger said:

> *"... meaning has to be assessed in the light of (i) the natural and ordinary meaning of the clause, (ii) any other relevant provisions of lease, (iii) the overall purpose of the clause and the lease, (iv) the facts and circumstances known or assumed by the parties at the time that the document was executed, and (v) commercial common sense, but (vi) disregarding subjective evidence of any party's intentions."*

49. Whilst it could be considered commercial common sense for a sinking fund to exist, for the clause to be interpreted on the basis of sums being paid into a sinking fund in the absence of any provisions stipulating how those funds should be applied would not amount to commercial common sense. Therefore, the Tribunal considers that the meaning of the words "*be credited in the books of the Management Company"* must mean that the individual lessee's account held by the management company would be credited with any excess sums and not that those sums should be held within a separate sinking fund.

50. Therefore, the Tribunal considers that all sums presently held by the managing agent in a sinking fund on behalf of the Applicant should be credit to his service charge account.

**Schedule 11, paragraph 5A, Common Hold and Leasehold Reform Act 2002**

51. The Applicant had brought an application under paragraph 5A, Schedule 11 of the Commonhold and Leasehold Reform Act 2002 (the "Costs Application") for an order that would reduce or extinguish his liability to pay the Respondent's litigation costs in respect of the Service Charge Application.

52. Paragraph 5A of Schedule 11 states:

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

*(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.*

*(3) In this paragraph—*

*(a) "litigation costs" means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and*

*(b) "the relevant court or tribunal" means the court or tribunal mentioned in the table in relation to those proceedings."*

53. In response to the Costs Application, Mr Brook indicated that whilst they had spent a significant amount of time dealing with the Service Charge Application, they had not charged the Respondent any additional costs and did not intend to do so. Therefore, they had not objection to an order being made to extinguish the Applicant's liability to pay costs.

54. It was evident from Mr Brook's approach to the hearing that it had not been the Respondent's, or his, intention to strongly object to any part of the proceedings before the Tribunal but, simply, that they had come to the Tribunal to establish the facts in relation to the best manner in which to manage the Property.

**Summary**

55. Therefore, the Tribunal determines that:
    a. The costs of the works to the firedoors was reasonable and is payable as claimed by the management company.
    b. The Respondent is limited to recovering the sum of £250 from the Applicant in respect of the roof work and must credit the Applicant's account in relation to any additional sums charged.
    c. Any credits balances in favour of the Applicant must remain in his service charge account.
    d. The Respondent may not seek to charge any litigation costs arising from these proceedings as service charges.

**APPEAL**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Judge R Watkin

Tribunal Member Huw Thomas BSc FRICS FCABE MEWI