FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case References	**:**	**MAN/00CG/LSC/2024/0607** **MAN/00CG/LAM/2024/0600**
Property	**:**	**23-27 (incl. Flats 23A and 23B) Taplin Road, Sheffield S6 4JD**
Applicants	**:**	**Chris Taylor** **Zaul Ridley**
Respondent	**:**	**South Yorkshire Property Investments Ltd**
Type of Application	**:**	**Landlord and Tenant Act 1985 – s27A** **Landlord and Tenant Act 1985 – s20C** **Commonhold and Leasehold Reform Act 2002 – Schedule 11 para 5A** **Landlord & Tenant Act 1987 – Section 24(1) (Appointment of a Manager)**
Tribunal Members	**:**	**Judge L. F. McLean** **Mr J. H. Elliott MRICS**
Date of Hearing	**:**	**9th & 10th October 2025**
Date of Decision	**:**	**12th January 2026**

DECISION

DECISIONS OF THE TRIBUNAL

(1) The amount payable by the Applicants to the Respondent by way of service charge for the service charge financial year 2019/2020 was £168.00.

(2) The amount payable by each of the Applicants to the Respondent by way of service charge for the service charge financial year 2020/2021 was £973.00.

(3) The amount payable by each of the Applicants to the Respondent by way of service charge for the service charge financial year 2021/2022 was £759.20.

(4) The amount payable by each of the Applicants to the Respondent by way of service charge for the service charge financial year 2022/2023 was £0.00 (NIL).

(5) The amount payable by each of the Applicants to the Respondent by way of on-account service charge for the service charge financial year 2022/2023 was £1700.00. However, the Tribunal expressly reserves the position under Section 19(2) of the Landlord and Tenant Act 1985 as to the Respondent's duty, after the relevant costs have been incurred, to make any necessary adjustment by repayment, reduction or subsequent charges or otherwise (including the Applicants' right to seek a further determination on those issues in future, if needed).

(6) The Tribunal shall issue further directions regarding the management of proceedings in Case Reference MAN/00CG/LAM/2024/0600 in due course.

(7) The Applicant's applications under Section 20C Landlord and Tenant Act 1985 and the Commonhold and Leasehold Reform Act 2002, Schedule 11, Paragraph 5A, and the issue of whether the Applicants should be refunded their application fees and hearing fees, will be determined at a later date.

REASONS

The applications

Service charges

1. The Applicants have sought a determination pursuant to s.27A Landlord and Tenant Act 1985 as to whether they are required to pay

to the Respondent certain sums by way of service charge (and, if so, how much).

2. In their application, dated 25th October 2024 ("the Service Charges Application"), the Applicants referred to the service charge financial years set out below:-

   i. 2019/2020
   ii. 2020/2021
   iii. 2021/2022
   iv. 2022/2023
   v. 2023/2024

Appointment of a Manager

3. The Applicants have applied to the Tribunal for an order, pursuant to s.24(1) of the Landlord and Tenant Act 1987, to appoint a manager in respect of 23-27 Taplin Road, Sheffield S6 4JD ("the Property"). The Applicants have nominated Richard Britton of RDB Estates Limited. This application will be referred to as "the AoM Application".

Landlord's costs

4. The Applicants seek an order under Section 20C Landlord and Tenant Act 1985 that all or any of the costs incurred, or to be incurred, by the Respondent in connection with these 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 Applicants.

5. The Applicants seek an order pursuant to Commonhold and Leasehold Reform Act 2002, Schedule 11, Paragraph 5A, reducing or extinguishing the Applicants' liability to pay administration charges in respect of litigation costs.

Background

6. The Respondent is the current registered freehold proprietor of the Property.

7. The Property is a substantial mixed-use building, featuring both retail and residential elements. According to publicly available sources, it was first constructed in or around 1905. The Property is a brick-built building in keeping with the Victorian-Edwardian architectural style of the surrounding residential terraced homes. There have been various renovations and alterations to the configuration of the Property over 120 years, which has also experienced changes in its commercial usage in that time.

8. The ground floor mainly comprises a series of retail shopfront units. The first floor consists wholly of residential dwellings, accessed via a stairwell from the ground floor. The stairwell leads down to a makeshift reception lobby, which in turn is accessed through a security door from under the archway entrance to the enclosed (gated) rear car park. The Property includes an extensive basement / cellar which is used for storage of some items and which houses various utility meters, cabling and piping.

9. Each of the Applicants is a tenant under a long lease of a flat in the Property. Chris Taylor is the tenant of Flat 23A and Zaul Ridley is the tenant of Flat 23B. The Tribunal was provided with a copy of the lease agreement for Flat 23A (originally known as Flat 1), granted on 7th June 2004 by Mohammed Ismail Sadiq ("the Lease"), as being representative of the material terms of all of the long leases of dwellings in the Property. The Applicants' two flats are located on the north-east corner of the first floor of the Property. There are three other first-floor flats overlooking Taplin Road, which are retained by the Respondent and are currently subject to short term residential tenancies.

10. The Lease makes provision for the Respondent to provide certain services, set out at Schedules 3 and 5. Schedule 3 to the Lease also provides for the Applicants to pay a service charge in relation to the Respondent's costs so incurred.

11. The final hearing took place in person over two days on 9th and 10th October 2025 at Court House, Castle St, Sheffield City Centre, Sheffield S3 8LU, following an inspection of the Property on the first morning. The Applicants appeared in person. The Respondent was represented by its property management agent, Michael Lewis. Richard Britton and David Britton also attended at the inspection of the Property and at the hearing.

12. The members of the Tribunal considered the parties' oral and written submissions and evidence and documents filed in accordance with the Tribunal's directions.

Grounds of the Service Charges Application

13. The Applicants challenged the payability of service charges over the years in question on a variety of grounds. These included:-

    i. Whether charges had been demanded which were not contractually payable under the Lease terms;
    ii. Whether costs had been "reasonably incurred" within the meaning of Section 19(1) of the Landlord and Tenant Act 1985;
    iii. Where costs had been incurred on the provision of services or the carrying out of works, whether the services or works had been of a reasonable standard;

iv. Whether recoverability of certain costs was limited pursuant to Section 20 of the Landlord and Tenant Act 1985 due to failures to comply with leaseholder consultation requirements;
v. Whether recoverability of certain costs was limited pursuant to Section 20B of the Landlord and Tenant Act 1985 due to failures to present demands for payment within 18 months of the costs being incurred.

14. The Applicants also alleged that there had been failures to provide them with financial information pursuant to requests made under Sections 21 and/or 22 of the Landlord and Tenant Act 1985, which they said had hampered their ability to present their case to the Tribunal.

Grounds of the AoM Application

15. The grounds of the application for the appointment of a manager were, in essence, based on the following allegations:-

i. Failures by the Respondent or their agents to comply with the terms of the Lease;
ii. Unreasonable demands for service charges;
iii. Persistent breaches of landlord and tenant legislation by the Respondent and/or its agents;
iv. Poor management of the Property by the Respondent and/or its agents.

Issues

16. The issues which the Tribunal had to decide were:-
i. What service charges were payable by the Applicants to the Respondents for the service charge years in question?
ii. Should the Tribunal appoint a manager in respect of the Property? If so, should it appoint Richard Britton, and on what terms?
iii. Is it just and equitable to preclude the Respondent from recovering its legal costs of the application through the service charge?
iv. Should the Tribunal reduce or extinguish any administration charges sought from the Applicants by the Respondent?

Relevant Law

Service Charges Application

17. The relevant sections of the Landlord and Tenant Act 1985 read as follows:-

18 Meaning 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 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.

19 Limitation of service charges: reasonableness

(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.

(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.

20 Limitation of service charges: consultation requirements

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

(a) complied with in relation to the works or agreement, or

(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.

(2) In this section *"relevant contribution"*, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or

(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—

(a) an amount prescribed by, or determined in accordance with, the regulations, and

(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

21.— Request for summary of relevant costs.

(1) A tenant may require the landlord in writing to supply him with a written summary of the costs incurred—

(a) if the relevant accounts are made up for periods of twelve months, in the last such period ending not later than the date of the request, or

(b) if the accounts are not so made up, in the period of twelve months ending with the date of the request,

and which are relevant costs in relation to the service charges payable or demanded as payable in that or any other period.

(2) If the tenant is represented by a recognised tenants' association and he consents, the request may be made by the secretary of the association instead of by the tenant and may then be for the supply of the summary to the Secretary.

(3) A request is duly served on the landlord if it is served on—

(a) an agent of the landlord named as such in the rent book or similar document, or
(b) the person who receives the rent on behalf of the landlord;

and a person on whom a request is so served shall forward it as soon as may be to the landlord.

(4) The landlord shall comply with the request within one month of the request or within six months of the end of the period referred to in subsection (1)(a) or (b) whichever is the later.

(5) The summary shall state whether any of the costs relate to works in respect of which a grant has been or is to be paid under section 523 of the Housing Act 1985 (assistance for provision of separate service pipe for water supply) or any provision of Part I of the Housing Grants, Construction and Regeneration Act 1996 (grants, &c. for renewal of private sector housing) or any corresponding earlier enactment and set out the costs in a way showing how they have been or will be reflected in demands for service charges and, in addition, shall summarise each of the following items, namely—

(a) any of the costs in respect of which no demand for payment was received by the landlord within the period referred to in subsection (1)(a) or (b),
(b) any of the costs in respect of which—
(i) a demand for payment was so received, but
(ii) no payment was made by the landlord within that period, and
(c) any of the costs in respect of which—
(i) a demand for payment was so received, and
(ii) payment was made by the landlord within that period,

and specify the aggregate of any amounts received by the landlord down to the end of that period on account of service charges in respect of relevant dwellings and still standing to the credit of the tenants of those dwellings at the end of that period.

(5A) In subsection (5)*"relevant dwelling"* means a dwelling whose tenant is either—

(a) the person by or with the consent of whom the request was made, or
(b) a person whose obligations under the terms of his lease as regards contributing to relevant costs relate to the same costs as the corresponding obligations of the person mentioned in paragraph (a) above relate to.

(5B) The summary shall state whether any of the costs relate to works which are included in the external works specified in a group repair scheme, within the meaning of Chapter II of Part I of the Housing Grants, Construction and Regeneration Act 1996 or any corresponding

earlier enactment, in which the landlord participated or is participating as an assisted participant.

(6) If the service charges in relation to which the costs are relevant costs as mentioned in subsection (1) are payable by the tenants of more than four dwellings, the summary shall be certified by a qualified accountant as—

(a) in his opinion a fair summary complying with the requirements of subsection (5), and

(b) being sufficiently supported by accounts, receipts and other documents which have been produced to him.

22.— Request to inspect supporting accounts &c.

(1) This section applies where a tenant, or the secretary of a recognised tenants' association, has obtained such a summary as is referred to in section 21(1) (summary of relevant costs), whether in pursuance of that section or otherwise.

(2) The tenant, or the secretary with the consent of the tenant, may within six months of obtaining the summary require the landlord in writing to afford him reasonable facilities—

(a) for inspecting the accounts, receipts and other documents supporting the summary, and

(b) for taking copies or extracts from them.

(3) A request under this section is duly served on the landlord if it is served on—

(a) an agent of the landlord named as such in the rent book or similar document, or

(b) the person who receives the rent on behalf of the landlord;

and a person on whom a request is so served shall forward it as soon as may be to the landlord.

(4) The landlord shall make such facilities available to the tenant or secretary for a period of two months beginning not later than one month after the request is made.

(5) The landlord shall—

(a) where such facilities are for the inspection of any documents, make them so available free of charge;

(b) where such facilities are for the taking of copies or extracts, be entitled to make them so available on payment of such reasonable charge as he may determine.

(6) The requirement imposed on the landlord by subsection (5)(a) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available

25.— Failure to comply with s. 21 22, or 23 an offence.
(1) It is a summary offence for a person to fail, without reasonable excuse, to perform a duty imposed on him by section 21, 22 or 23.

(2) A person committing such an offence is liable on conviction to a fine not exceeding level 4 on the standard scale.

27A Liability to pay service charges: jurisdiction
(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.

AoM Application

18. The relevant sections of the Landlord and Tenant Act 1987 read as follows:-

21.— Tenant's right to apply to court for appointment of manager.

(1) The tenant of a flat contained in any premises to which this Part applies may, subject to the following provisions of this Part, apply to the appropriate tribunal for an order under section 24 appointing a manager to act in relation to those premises.

(2) Subject to subsection (3) and section 24ZA, this Part applies to premises consisting of the whole or part of a building if the building or part contains two or more flats.

(3) This Part does not apply to any such premises at a time when—

(a) the interest of the landlord in the premises is held by –

(i) an exempt landlord or a resident landlord, or

(ii) the Welsh Ministers in their new towns residuary capacity,

(b) the premises are included within the functional land of any charity.

(3A) But this Part is not prevented from applying to any premises because the interest of the landlord in the premises is held by a resident landlord if at least one-half of the flats contained in the premises are held on long leases which are not tenancies to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) applies.

(4) An application for an order under section 24 may be made—

(a) jointly by tenants of two or more flats if they are each entitled to make such an application by virtue of this section, and

(b) in respect of two or more premises to which this Part applies;

and, in relation to any such joint application as is mentioned in paragraph (a), references in this Part to a single tenant shall be construed accordingly.

(5) Where the tenancy of a flat contained in any such premises is held by joint tenants, an application for an order under section 24 in respect of those premises may be made by any one or more of those tenants.

(6) An application to the court for it to exercise in relation to any premises any jurisdiction to appoint a receiver or manager shall not be made by a tenant (in his capacity as such) in any circumstances in which an application could be made by him for an order under section 24 appointing a manager to act in relation to those premises.

(7) References in this Part to a tenant do not include references to a tenant under a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.

(8) For the purposes of this Part, *"appropriate tribunal"* means—

(a) in relation to premises in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and

(b) in relation to premises in Wales, a leasehold valuation tribunal.

22.— Preliminary notice by tenant.

(1) Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served by the tenant on—

(i) the landlord, and

(ii) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to the tenant under his tenancy.

(2) A notice under this section must—

(a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which any person on whom the notice is served may serve notices, including notices in proceedings, on him in connection with this Part;

(b) state that the tenant intends to make an application for an order under section 24 to be made by the appropriate tribunal in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the requirement specified in pursuance of that paragraph is complied with;

(c) specify the grounds on which the court would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds;

(d) where those matters are capable of being remedied by any person on whom the notice is served, require him, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and

(e) contain such information (if any) as the Secretary of State may by regulations prescribe.

(3) The appropriate tribunal may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section on a person in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the person, but the court may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.

(4) In a case where—

(a) a notice under this section has been served on the landlord, and

(b) his interest in the premises specified in pursuance of subsection (2)(b) is subject to a mortgage, the landlord shall, as soon as is reasonably practicable after receiving the notice, serve on the mortgagee a copy of the notice.

23.— Application to court for appointment of manager.

(1) No application for an order under section 24 shall be made to the appropriate tribunal unless—

(a) in a case where a notice has been served under section 22, either—

(i) the period specified in pursuance of paragraph (d) of subsection (2) of that section has expired without the person required to take steps in pursuance of that paragraph having taken them, or

(ii) that paragraph was not applicable in the circumstances of the case; or

(b) in a case where the requirement to serve such a notice has been dispensed with by an order under subsection (3) of that section, either—

(i) any notices required to be served, and any other steps required to be taken, by virtue of the order have been served or (as the case may be) taken, or

(ii) no direction was given by the tribunal when making the order.

24.— Appointment of manager by a tribunal.

(1) The appropriate tribunal may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies—

(a) such functions in connection with the management of the premises, or

(b) such functions of a receiver,

or both, as the tribunal thinks fit.

(2) The appropriate tribunal may only make an order under this section in the following circumstances, namely—

(a) where the tribunal is satisfied—

(i) that any relevant person either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and

(iii) that it is just and convenient to make the order in all the circumstances of the case;

(ab) where the tribunal is satisfied—

(i) that unreasonable service charges have been made, or are proposed or likely to be made, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;

(aba) where the tribunal is satisfied—

(i) that unreasonable variable administration charges or prohibited administration charges have been made, or are proposed or likely to be made, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;

(ac) where the tribunal is satisfied—

(i) that any relevant person has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and

(ii) that it is just and convenient to make the order in all the circumstances of the case; or

(b) where the tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.

(2ZA) In this section *"relevant person"* means a person—

(a) on whom a notice has been served under section 22, or

(b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.

(2ZB) Subsection (2)(a) does not apply in respect of a breach of a building safety obligation by an accountable person for a higher-risk building.

(2ZC) In this section—

"accountable person" has the meaning given in section 72 of the Building Safety Act 2022;

"building safety obligation" means an obligation of an accountable person under Part 4 of the Building Safety Act 2022 or regulations made under that Part;

"higher-risk building" has the meaning given in section 65 of the Building Safety Act 2022.

(2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—

(a) if the amount is unreasonable having regard to the items for which it is payable,

(b) if the items for which it is payable are of an unnecessarily high standard, or

(c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection *"service charge"* means a service charge within the meaning of section 18(1) of the Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

(2B) In subsection (2)(aba) *"variable administration charge"* has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, and *"prohibited administration charge"* means an administration charge which is not payable because of paragraph 2A of that Schedule.

(2C) Where a special measures order relating to the building is in force, an order under this section may not provide for a manager to carry out a function which the special measures order provides is to be carried out by the special measures manager for the building.

(2D) In this section—
"special measures manager" means a person appointed under paragraph 4 of Schedule 7 of the Building Safety Act 2022;
"special measures order" means an order under paragraph 4 of Schedule 7 of the Building Safety Act 2022.

(2E) An order under this section may not provide for a manager to carry out a function in relation to a higher-risk building where Part 4 of the Building Safety Act 2022 or regulations made under that Part provide for that function to be carried out by an accountable person for that building.

(3) The premises in respect of which an order is made under this section may, if the tribunal thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.

(4) An order under this section may make provision with respect to—
(a) such matters relating to the exercise by the manager of his functions under the order, and
(b) such incidental or ancillary matters,

as the tribunal thinks fit; and, on any subsequent application made for the purpose by the manager, the tribunal may give him directions with respect to any such matters.

(5) Without prejudice to the generality of subsection (4), an order under this section may provide—
(a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;
(b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;
(c) for remuneration to be paid to the manager by any relevant person, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;
(d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.

(6) Any such order may be granted subject to such conditions as the tribunal thinks fit, and in particular its operation may be suspended on terms fixed by the tribunal.

(7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the tribunal may, if it thinks fit, make such an order notwithstanding—

(a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or

(b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).

(8) The Land Charges Act 1972 and the Land Registration Act 2002 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.

(9) The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 2002, the tribunal may by order direct that the entry shall be cancelled.

(9A) The tribunal shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied—

(a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and

(b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.

(10) An order made under this section shall not be discharged by the appropriate tribunal by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.

(11) References in this Part to the management of any premises include references to the repair, maintenance, improvement or insurance of those premises.

Costs Applications

19. The relevant sections of the Landlord and Tenant Act 1985 read as follows:-

20C Limitation of service charges: costs of proceedings

(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 a court, residential property tribunal or leasehold valuation tribunal or the First-tier Tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, 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 or any other person or persons specified in the application.

(2) The application shall be made—

(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to the county court;

(aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;

(b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;

(ba) in the case of proceedings before the First-tier Tribunal, to the tribunal;

(c) in the case of proceedings before the Upper Tribunal, to the tribunal;

(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to the county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

20. Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 provides as follows:-

Limitation of administration charges: costs of proceedings

5A(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

<u>Evidence and Submissions – Service Charges Application</u>

21. Prior to the hearing, each party had prepared a statement of case and filled out sections of a spreadsheet identifying the disputed service charges and their respective positions regarding each item.

22. The Tribunal decided to proceed on a chronological / thematic basis. Each year was taken in turn, and for each year the Tribunal invited each party to make submissions regarding each disputed item.

23. After considering the written statements of case and hearing from the parties, the Tribunal summarises the key evidence, submissions and findings on the disputed issues in the relevant years below.

2019/2020

Buildings Insurance

24. The Applicants asserted that they had not been named as additional or interested parties on the buildings insurance policy, contrary to the requirements of Paragraph 4.5 of the 5th Schedule to the Lease. The Applicants also questioned why the Respondent had changed the apportionment of the cost from 1/8th in 2019/2020 to 1/5th in subsequent years even though the entire premises (including commercial/retail units) is covered by it.

25. The Respondent conceded that the Applicants had not been noted as additional or interested parties on the buildings insurance policy until 30th August 2022 when they received an email to that effect. Michael Lewis asserted that the Respondent had asked Zurich to add the Applicants as named parties on the insurance but that this request was refused by the insurers as not being possible. The change in cost apportionment was attributed to the express terms of the Lease, which stated that each of the Applicants was required to contribute a fixed proportion of one-fifth of the Respondent's costs.

26. The Tribunal concludes that the terms of the Lease required the Respondent to ensure that the interests of the Applicants were noted in the buildings insurance policy, that this was a condition precedent, and that it was a condition that the Respondent failed to comply with. Accordingly, the Tribunal determines that none of the buildings insurance costs for this period were payable by the Applicants.

Regent Serviced Suites Fees

27. The Applicants contended that property management services were provided by both Regent Serviced Suites ("RSS") and Craven Wildsmith, but the division of labour between them was not clear. They also stated that Balbir Purewal is a director of both the Respondent and RSS, which raised the issue of a potential conflict of interests. Lastly, they said that RSS was not registered with a

property redress scheme, which they believed was a mandatory requirement.

28. Michael Lewis explained that his role was working for RSS, and that originally in 2017 this role was intended to be management associated with the lettings of the flats which were retained by the Respondent and rented out on shorter term arrangements. However, he had been required to divert time away from managing just those flats to dealing with wider issues affecting the entire premises. He said that this had included removing unauthorised visitors from the premises, clearing waste and other items from the external common parts and highway, and arranging for the building to be cleaned up. As such, his time spent providing management services for the Property was invoiced to the Respondent from RSS. He said that from around 2019, Craven Wildsmith assumed responsibility for overall management of the premises but that RSS continued providing a quasi-concierge service such as managing the conduct of residents (including sub-tenants) and day-to-day maintenance. He said that this service had been provided until April 2024, but that the first 3 or 4 years had required particularly intense work. These assertions were disputed by the Applicants. In particular, Zaul Ridley strongly denied that his sub-tenant had been responsible for any anti-social behaviour committed at or near the Property and/or any conduct of the nearby garage mechanic (which had been described in the Respondent's statement of case).

29. It is difficult for the Tribunal to reach a detailed evaluation of whether these costs were reasonably incurred and/or whether the service was provided to a reasonable standard. There seems to be consensus that the Property was in need of relatively intensive site management for the first few years after 2017 (when the Respondent acquired the freehold). The evidence as to the extent of the service actually provided, and whether there was any overlap with services provided by Craven Wildsmith, is contested. No comparable evidence of the costs for providing this service for other similar properties in the area has been submitted by either party. In the round, however, the cost of £168 per leaseholder over the course of a year (equivalent to £14 per month) is very modest. The Tribunal determines that this sum was payable by each of the Applicants.

<u>2020/2021</u>

Buildings Insurance

30. The submissions made by the parties in relation to 2019/2020 continued to apply on this issue.

31. For the same reasons, the Tribunal determines that none of the buildings insurance costs for this period were payable by the Applicants.

Regent Serviced Suites Fees

32. The submissions made by the parties in relation to 2019/2020 continued to apply on this issue, save that the cost increased to £200 – which is still a relatively modest amount.

33. For the same reasons, the Tribunal determines that this sum was payable by each of the Applicants.

Painting and decorating

34. Zaul Ridley explained that work had been done totalling £1740 as at July 2021. The total cost had been separated into 10 different elements. He asserted that the Respondent had failed to comply with the leaseholder consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Regulations made under it, such that the Respondent was limited to recovering £250 of the invoiced cost from each of the Applicants.

35. Michael Lewis conceded that frankly he had no knowledge of the requirements of Section 20 or its associated regulations.

36. In light of the Respondent's admission, the Tribunal determines that the sum of £250 was payable by each of the Applicants under this heading.

Undisputed Items – Audit, Unreceipted Expenses, Personal Use Items

37. Certain items (Audit Fee, Unreceipted Expenses, Personal Use Items) had been conceded by the Respondent as not being payable by the Applicants. The Applicants asserted that they had still not been credited for these refunds, which was disputed by Mr Lewis.

38. In these proceedings, it is not the role of the Tribunal to give a judgment ordering one party to pay sum to another by way of balancing credit/debit. The Tribunal's role is to determine what sums were payable in the first instance.

39. In light of the Respondent's admission, the Tribunal determines that none of the costs under these headings were payable by the Applicants.

Loan Interest

40. Zaul Ridley explained his understanding that a loan had been taken out to pay for the installation of CCTV, a security door and gates to the rear of the Property. He queried the wisdom of seeking a loan for this, which he said would accrue significant interest over time, rather than making advance on-account demands for funds in anticipation of the costs being incurred.

41. Michael Lewis explained that the loan was taken out in May 2020 under a Covid-19 support scheme. He said that the context was that the Respondent had not received any payments towards service charge costs by the Spring of 2020 – the works were necessary but they did not have cash reserves to pay for them. He acknowledged that the reason for the Respondent's funds being depleted was because service charge demands had not been presented during that period. He said that the option of asking the Applicants for on-account contributions had not really been considered and they were more focused on dealing with complaints about security issues on the site. Zaul Ridley took issue with Michael Lewis' characterisation of the situation.

42. The Applicants' comments in the Scott Schedule also noted that the Respondents had failed to provide requested service charge cost information as required by Section 22 of the Landlord and Tenant Act 1985.

43. The Tribunal acknowledges the guidance set out in the RICS Code of Practice: *Service Charge Residential Management Code, 3rd edition (2016)* at section 7.3 that where a landlord is required to commit expenditure without having sufficient funds on account to pay for it, then the landlord may incur costs in servicing a loan taken out for that purpose. It is generally considered prudent to seek on-account demands where viable and where maintenance of a reserve or sinking fund is permitted by the terms of the applicable leases. However, it is not a hard rule or strong guidance that a landlord should avoid borrowing to fund the cost of works – it is a matter of discernment from one case to the next.

44. In this instance, the Tribunal is reluctant to interfere with the decision-making process of the Respondent and its agents in seeking loan funding for the works. It was evident that the Respondent's agents were still in the process of bringing the management of the Property up to speed. The commercial context in early 2020 was an extreme one, with the worst global pandemic in over 100 years causing unprecedented economic and operational disruption to business activities. There was great uncertainty as to whether the situation would be resolved relatively swiftly or only after many more years, if ever. Covid-19 bounceback loans were offered on commercially favourable terms, and at interest rates which are generally not available as of now. It would be churlish of the Tribunal to try to judge the wisdom of this decision with the benefit of hindsight. Although the failure of the Respondent to provide information required by Section 22 of the Landlord and Tenant Act 1985 is concerning, it does not of itself render the charges void or unreasonable. The Tribunal accordingly determines that the sums demanded by the Respondent under this heading were payable by the Applicants.

Cleaning

45. Zaul Ridley explained that the Applicants considered the procurement of the cleaning contract not to have complied with the leaseholder consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Regulations made under it, such that the Respondent was limited to recovering £100 of the invoiced cost from each of the Applicants per service charge year.

46. Michael Lewis explained that the Respondent does not have a "long term agreement" lasting for more than 12 months with any cleaning service provider, but that communal cleaning is instructed and paid for on an "as and when needed" basis. He said that they had used 4 different cleaners over the years, and that the service is now handled by Craven Wildsmith and is quite sporadic. He said that his company also used to ensure that regular gardening took place but that Craven Wildsmith had also latterly procured this on a sporadic basis.

47. The Applicants' comments in the Scott Schedule also noted that the Respondents had failed to provide requested service charge cost information as required by Section 22 of the Landlord and Tenant Act 1985, which inhibited their ability to comment on the reasonableness of the costs.

48. The Tribunal considers that the requirements of Section 20 of the Landlord and Tenant Act 1985 and the Regulations made under it do not evidently apply to the Cleaning service, as there is no contract in place for a minimum term of more than 12 months. Accordingly, the £100 per annum limit does not apply. The sums demanded appear reasonable at first blush, and the Applicants have not adduced comparable evidence to suggest that the service could have been procured on a better value for money basis. Although the failure of the Respondent to provide information required by Section 22 of the Landlord and Tenant Act 1985 is concerning, it does not of itself render the charges void or unreasonable. The Tribunal accordingly determines that the sums demanded by the Respondent under this heading were payable by the Applicants.

Craven Wildsmith Fees

49. Again it had been contested by the Applicants that considered the procurement of the contract with Craven Wildsmith not to have complied with the leaseholder consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Regulations made under it, such that the Respondent was limited to recovering £100 of the invoiced cost from each of the Applicants per service charge year. They had also noted that the Respondents had failed to provide requested service charge cost information as required by Section 22 of the Landlord and Tenant Act 1985, which inhibited their ability to comment on the reasonableness of the costs.

50. Michael Lewis referred to the terms of the contract with Craven Wildsmith. It was granted for an initial term of exactly 1 year, which meant that the requirements of Section 20 of the Landlord and Tenant Act 1985 and the Regulations made under it do not evidently apply. He said that he did not believe that the contract had been formally renewed, and that his assumption was that it had just "rolled over". He was not sure how much notice would be required to terminate the current arrangements, but he assumed it would be no later than the end of the current payment year. There was some disagreement between Zaul Ridley and Michael Lewis about whether the underlying costs had been renegotiated.

51. The Tribunal considers that the requirements of Section 20 of the Landlord and Tenant Act 1985 and the Regulations made under it do not evidently apply to the contract with Craven Wildsmith, as there is no contract in place for a minimum term of more than 12 months. Accordingly, the £100 per annum limit does not apply. The sums demanded appear reasonable at first blush, and the Applicants have not adduced comparable evidence to suggest that the service could have been procured on a better value for money basis. Although the failure of the Respondent to provide information required by Section 22 of the Landlord and Tenant Act 1985 is concerning, it does not of itself render the charges void or unreasonable. The Tribunal accordingly determines that the sums demanded by the Respondent under this heading were payable by the Applicants.

2021/2022

All items analysis

52. Subject to the discussion regarding Section 20B of the Landlord and Tenant Act 1985 which is noted below, the Applicants and Respondent maintained the same submissions, *mutatis mutandis*, for the 2021/2022 service charge year as for the 2020/2021 service charge year. The Tribunal accordingly broadly reaches the same conclusions for each head of charge for this year as for the previous year.

Impact of Section 20B time limit

53. There was a discussion regarding the application and impact of the 18-month time limit under Section 20B of the Landlord and Tenant Act 1985.

54. It was noted that the Respondent presented a demand for payment of service charges, including an on-account demand for anticipated costs, in December 2021. After that, the Respondent failed to present any further demands for payment until August 2024.

55. The Tribunal noted the provisions of Section 20B in that a cost incurred by the landlord ceases to be recoverable from the

leaseholders if no demand for payment of that cost is made within 18 months of it being incurred, unless before then the landlord gives written notification to the leaseholders that the cost has been incurred and that they will subsequently be required to contribute towards that cost by payment of a service charge at a later date.

56. However, the Tribunal also noted that this provision does not bite in relation to on-account demands. In the case of *Gilje v Charlegrove Securities* [2004] HLR 1 it was held that Section 20B has no application where (a) payments on account are made to the landlord in respect of service charges, and (b) the actual expenditure of the landlord does not exceed the payments on account, and (c) no request by the landlord for any further payment by the tenant needs to be or is in fact made.

57. The Tribunal noted that the sums demanded in December 2021 exceeded the amounts actually incurred until at least the end of the service charge year in September 2022. As such, Section 20B does not operate to limit the recoverable costs in that service charge year.

58. The item which the Tribunal determines should be disallowed in its entirety is the Applicants' contribution to the cost of buildings insurance, for the same reasons as given earlier. The total cost was £1118 for the year ending 31st August 2022, and the Tribunal understands that this was apportioned 20% to each of the Applicants. The total amount of the charges will accordingly be reduced by £223.60 per Applicant.

2022/2023

All items analysis

59. Again, subject to the discussion regarding Section 20B of the Landlord and Tenant Act 1985 which is noted below, the Applicants and Respondent maintained the same submissions, *mutatis mutandis*, for the 2022/2023 service charge year as for the 2020/2021 and 2021/2022 service charge years. The Tribunal accordingly would have broadly reached the same conclusions for each head of charge for this year as previously.

Impact of Section 20B time limit

60. However, the potential impact of Section 20B was much more significant in this service charge year. The demand presented in August 2024 included costs incurred between September 2022 and August 2023. The 18-month cut-off point therefore fell during February 2023, which was 18 months before the 7th August 2024 demand. As such, a significant part of the service charge year (September 2022 to February 2023) fell during a period when recovery of relevant costs was time-barred.

61. The Tribunal considered it appropriate to seek clarification as to exactly when the Respondent had incurred certain costs during the course of the 2022/2023 service charge year, to work out which costs were time-barred and which costs might not be.

62. Michael Lewis' answers to questioning on this point were wholly unsatisfactory and vague. He appeared quite bemused by the very existence of Section 20B. His evidence was that he would prepare spreadsheets of costs and provide supporting receipts to Craven Wildsmith, who would in turn provide them to the Applicants. This was disputed by the Applicants, who said that they had received nothing of that nature from Craven Wildsmith since the 2021/2022 service charge year. Although Michael Lewis was able to point to examples of emails he had sent to Craven Wildsmith, he could provide no actual evidence of the information being passed on to the Applicants in turn. He was forced to concede that he could not prove what Craven Wildsmith actually did with the information he gave to them. As there was no employee of Craven Wildsmith present to give corroborating evidence, the Tribunal prefers the first-hand testimony of the Applicants, that such information was not in fact passed on to them.

63. As the Respondent was unable to provide any meaningful clarification as to the points in time during the 2022/2023 service charge year that certain costs were incurred, the Tribunal determines that the Respondent has failed to discharge the evidential burden that any of the costs demanded in August 2024 for this period were incurred within 18 months of the demand being presented. Accordingly, the Tribunal determines that none of the costs during the entirety of the 2022/2023 service charge year were payable by the Applicants.

<u>2023/2024</u>

64. Again, subject to the discussion regarding Section 20B of the Landlord and Tenant Act 1985, the Applicants and Respondent maintained the same submissions, *mutatis mutandis*, for the 2023/2024 service charge year as for the 2020/2021 and 2021/2022 service charge years. The Tribunal accordingly broadly reaches the same conclusions for each head of charge for this year as previously, insofar as in August 2024 the Respondent presented a reasonable estimate of costs for the 2023/2024 service charge year. The only point of difference is that the Tribunal considers that the Respondent had begun complying with the terms of the Lease as regards the buildings insurance, and so this sum would now be recoverable in comparison to previous years.

65. The Applicants clarified at the hearing that they were not disputing the estimate-based demand of August 2024 on the grounds of Section 20B itself, as they acknowledged that all costs incurred during that period were within 18 months of the demand being

presented. However, it was common ground that the Respondent had omitted to send any actuals figures or balancing demand (if one was needed) for the 2023/2024 service charge year, even by the date of the hearing, and Zaul Ridley raised this as an issue. It had also been flagged on the Applicants' entries in the Scott Schedule. Michael Lewis explained that the actuals reconciliation had been held in abeyance pending the outcome of the current proceedings. The Tribunal observed that the Respondent's decision to do that may well mean that if the actual costs had exceeded the initial estimate then certain of those sums, if and when demanded, may now already be time-barred by virtue of Section 20B.

66. Zaul Ridley questioned why the demand in August 2024 was only based on an estimate rather than actual expenditure. The Tribunal observed that even with only 3 weeks of the service charge year remaining, it would have been premature of the Respondent to assume that no further costs would be incurred during the remainder of the accounting period.

67. The Respondent has not provided confirmation of actual costs incurred, and has presented no formal demand for payment of any excess or credit of any surplus for this service charge year. For the Applicants' part, they have not contested the figures based on value for money grounds, but have said that they were hindered in doing so due to the Respondent's non-compliance with Section 22 of the Landlord and Tenant Act 1985. Given that any balancing charge may also now be at least partially time-barred by Section 20B, the Tribunal is in a difficult position to provide a formal determination on these sums.

68. The Tribunal determines that the sums demanded in the August 2024 on-account demand for the 2023/2024 year were reasonable and payable insofar as this was a reasonable estimate of anticipated costs. However, this determination expressly does not deal with the payability or reasonableness of those service charges to the extent that they relate to actual costs incurred. Accordingly, the Tribunal expressly reserves the position under Section 19(2) of the Landlord and Tenant Act 1985 as to the Respondent's duty, after the relevant costs have been incurred, to make any necessary adjustment by repayment, reduction or subsequent charges or otherwise (including the Applicants' right to seek a further determination on those issues in future, if needed).

AoM Application

Applicants' Case

69. The Applicants broadly relied on similar grounds for seeking the appointment of a manager by the Tribunal as had been articulated in their challenge to the previous years' service charges. These were

set out in their statement of case, supplemented by their oral submissions. The key areas of dispute were:

i. Respondent breaches of the management obligations under the leases
    i. Breaches of the buildings insurance clause, as referred to previously (failing to include the Applicants on the policy)
    ii. Failure to properly maintain internal and external common parts and communal areas
    iii. Failure to provide annual service charge accounts
ii. Unreasonable service charges, including attempting to double-charge items and inappropriately charge leaseholders for personal use items
iii. Failure to comply with the RICS Code of Practice / other circumstances
    i. Respondent's failure to comply with various statutory landlord and tenant requirements (e.g. Sections 20, 20B and 22 of the Landlord and Tenant Act 1985, and Section 3 of the Landlord and Tenant Act 1987)
    ii. Poor quality accounting in breach of the RICS CoP, including not keeping receipts
    iii. Failure to keep ground rents and service charges in separate accounts
    iv. Failure to return overcharged sums
    v. Respondent's breaches of data protection legislation (failure to register with the ICO regarding CCTV)
    vi. Other general poor management and communication
    vii. Potentially serious breaches of fire safety laws (raised at the hearing following observations of Richard Britton during the inspection of the Property)
    viii. Potential conflicts of interest between the directors / shareholders of the Respondent and its managing agent RSS (raised at the hearing)

<u>Respondent's Case</u>

70. The Respondent had also submitted a statement of case in reply, which was supplemented by oral submissions made by Michael Lewis during the hearing.

71. For the Respondent, Michael Lewis disputed either the factual basis of the Applicants' submissions or the significance of the issues. He referred firstly to what he believed was a historic dispute between Mohammed Saleem (the original owner of the Property) and Chris Taylor. Chris Taylor disputed Michael Lewis' understanding. There was also a reference to a historic dispute with Zaul Ridley's sub-tenant and two local tradesmen. The Tribunal found it difficult to understand the relevance of the Respondent's assertions in any event.

72. Michael Lewis was unable to explain why the Applicants had not received notice of the change of landlord as required by Section 3 of the Landlord and Tenant Act 1987.

73. He conceded that the Applicants had not previously been named on the buildings insurance, but said that they are now.

74. It had already been noted that the Respondent had persistently failed to comply with Section 22 of the Landlord and Tenant Act 1985. It was evident that Michael Lewis was oblivious to this legal requirement.

75. On the issue of CCTV, Michael Lewis conceded that the Applicants had identified the need for the Respondent to register with the ICO. He said that this had now been done, although he admitted that at one stage they had forgotten to set up a direct debit to renew their registration fee. Zaul Ridley pointed out that this was not done until September 2024, around the time that the current proceedings had been commenced.

76. On the issue of accounting, Michael Lewis referred to his written submissions. These assert that the service charge accounts are audited by a registered chartered accountant, that explanations of calculations and historical records of the service charges are forwarded to the Applicants as supporting documentation to the service charge demand. It also asserted that the Property Redress Scheme had dismissed a formal complaint against Craven Wildsmith by the Applicants in 2021. The Respondent has also denied seeking to recover inappropriate costs from the Applicants and asserted that disputed sums have been returned when challenged.

77. On the issue of quality of communications by the Respondent's managers, Michael Lewis again referred to his written submissions, which disputed the Applicants' allegations. During the hearing, it became clear that Michael Lewis finds himself frequently frustrated at the communications received from the Applicants. However, when he was asked to provide more detail about this, it emerged that the underlying reason was that the Applicants were often seeking further information or clarification regarding matters to which they had a legal entitlement, or because the Respondent had failed to comply with legal requirements of which it was unaware. A particular case in point was Sections 21 and 22 of the Landlord and Tenant Act 1985. The Tribunal observed that the Applicants had requested a summary of relevant costs under Section 21, which had not been supplied. Michael Lewis thought that the audited accounts should have sufficed. The Tribunal pointed out that Section 21 has certain specific requirements which a set of audited accounts might not meet in and of itself. The Tribunal also pointed out that Section 22 provides a right to be supplied with relevant supporting documents which are given to the accountant who prepares the Section 21 summary, and that failure to provide that information is

a criminal offence. Overall, the Tribunal observed that it was perfectly reasonable for the Applicants to request compliance with these legal obligations, and to be dissatisfied with the Respondent's persistent failure to do so arising entirely from its own ignorance of the law.

78. Regarding maintenance of internal and external common parts and communal areas, it is common ground that the Property has historically suffered from fly tipping and overgrown vegetation. It was evident from the visit on 9th October 2025 that the Property is generally fairly well maintained and in fairly good condition, given its age. The members of the Tribunal also noticed that the parking area appeared to have been very recently cleared of overgrown vegetation, in that root balls (presumably from some large butterfly bushes which were shown in exhibited photographs) were still present between the paving stones, and the top surface of the paving was smeared with the freshly exposed soil which had accumulated between the stones. Michael Lewis confirmed that he had raised the issue of the car park with Craven Wildsmith and that a gardener had attended 3 times in the last 3 months. He stated that he would prefer to employ a cleaner each month, if one could be sourced, but he alleged that the Applicants would not be willing to pay for that.

79. On the point of potential breaches of fire safety legislation, Michael Lewis initially insisted that the Property was fully compliant. When pressed on this issue, he explained that view by reference to a letter from the local Fire Officer which turned out to be dated from 6 or 7 years ago. A copy of the letter was shown to the Tribunal and the Applicants on Michael Lewis' mobile phone. It was confirmed that there had been no visits from South Yorkshire Fire and Rescue Service since then.

<u>The Proposed Manager</u>

80. The Tribunal had read the statement of Richard Britton, and interviewed him during the course of the hearing on 10th October 2025. He gave evidence of having managed other similar properties under appointment from the Tribunal. This included Whitecroft Works, which had suffered from fire safety issues. He said that they set up a schedule of works and liaised with the Fire Service. He confirmed that the appointment is still current and that he was recently re-appointed for a further 3 years. His other appointment had been in relation to Grove House in Rotherham – he considered that the appointment had been successful and the leaseholders had now formed their own management company to take back management of the scheme.

81. Regarding what Richard Britton considered to be the most significant issues affecting the Property, he was most troubled by the Respondent's approach to fire safety management. He said that there is currently no suitable fire risk assessment, which was meant

to be done annually by a qualified and trained person. During the course of the inspection, he had frequently pointed out aspects of the Property which he considered were breaches of fire safety rules and posed a significant risk. At the hearing, he commented that the cellar should be rated to 60 minutes fire resistance, with communal areas rated to 30 minutes and with no combustible materials present (such as the furniture by the entrance door). He also asserted that it was inappropriate for the Respondent to rely solely on the views of the local Fire and Rescue Service as their role was only to enforce, not to advise. He estimated that approximately £60,000 of fire safety works were required to achieve compliance, especially on compartmentation.

82. Richard Britton confirmed that he is currently an associate member of RICS although he was looking to join the Property Institute instead, and he was a member of the Property Redress Scheme in relation to having a formal complaints procedure and a client money protection scheme. He confirmed that he was aware of the provisions of the RICS Service Charge Residential Management Code. He had already detailed his experience with two Tribunal statutory appointments, and said he was also on the loss adjustment team for the Velocity Building while he was at McDonnell Partnership.

83. Richard Britton had not provided confirmation of professional indemnity insurance, but said it could be supplied on request. He also said that he had not prepared a management plan yet as he had wanted to inspect the Property first. He was, however, aware of the provisions of the Tribunal's template management order.

84. Michael Lewis raised various issues in reply. He asserted that they had addressed fire compartmentation with the Fire Officer and followed their advice. When pressed, he conceded that the Fire Risk Assessment was last reviewed in 2018, although he said that the fire alarm is serviced every year. The Tribunal commented that it was astonishing that the Fire Risk Assessment was 7 years old.

85. In relation to repairs, Michael Lewis said that the Respondent considered it more practical to replace the external windows as they could not find anyone willing to do the necessary renovations.

The Tribunal's Current View

86. Although at first glance during the inspection, the Property appeared tidy and adequately managed, the revelations over the following two days caused the Tribunal to develop increasing levels of concern about the approach of the Respondent to managing the Property as a residential premises. The Tribunal was deeply unimpressed with Michael Lewis as a leasehold property manager, in particular. He was open about the fact that his expertise was mainly in managing short-term lets. In the context of the current proceedings, his utter

lack of knowledge of leasehold legislation was deplorable, and his attitude towards such regulations came across as ignorant at best, or dismissive at worst. He was poorly prepared to appear in front of a Tribunal which specialises in this field of law, and his answers to questions put by the Tribunal were frequently found wanting. The Tribunal considers that he is manifestly not fit or competent to manage the Applicants' premises. The members of the Tribunal were left bemused as to why he had been left to conduct proceedings as the Respondent's sole representative and witness when he was clearly not up to the task.

87. It was also observed that Michael Lewis had a tendency to apportion responsibility for any issues arising in more recent years to the overall building management by Craven Wildsmith. They did not attend the hearing to give an account of themselves, which undermined the Respondent's ability to make its case. The Tribunal finds it instructive to consider the professional biography of Neal Craven (Exhibit 92 to the Respondent's statement of case). He is apparently the lead manager for the Property, judging by the amount of email correspondence he has had with the Applicants and which has been produced to the Tribunal. In his firm's biography of him, he is described as a specialist in commercial property management and there are multiple references to client testimonials praising his commercial property management skills and knowledge. It is telling, however, that there are no references whatsoever to experience of residential property management. His lack of residential knowledge and experience is clearly demonstrated in the Respondent's truly woeful and persistent failures to comply with residential landlord and tenant laws, which are in many ways considerably more detailed and onerous upon landlords. These have led, incontrovertibly, to the Respondent making unlawful and unreasonable demands for payment of service charges, as demonstrated in the Tribunal's findings in the first part of this decision.

88. Overall, it appears to the Tribunal that the Respondent and its agents view the Property as primarily a commercial endeavour, and that the Applicants' residential premises are viewed by them as an irritating distraction from the main business of being a commercial landlord. The Respondent has appointed two managing agents – Craven Wildsmith are commercial agents managing the overall building from a commercial perspective, and RSS are lettings agents who mainly deal with short-term and holiday lets. Neither of these agents appears to be remotely capable of managing residential leasehold premises and all that this entails. This is further demonstrated in what appear to be frequent breakdowns in communications between the two companies, and the haphazard nature of the compilation and production of service charge accounts (having been released in batches several years apart). The apparent failure to renew the Fire Risk Assessment, in what may well be a significant breach of the Regulatory Reform (Fire Safety) Order 2005, is alarming. However, neither RSS nor Craven Wildsmith appear to show any degree of

insight, and seemingly prefer to characterise the Applicants as difficult or high maintenance. As the Tribunal explained during the hearing, there is nothing awkward about insisting on compliance with legal obligations, many of which have been staples of residential leasehold law for several decades. The Tribunal considered that the Applicants have shown considerable patience and cordiality in the face of the truculence of the Respondent's agents.

89. The Tribunal is mindful that, in practice, the threshold for appointing a manager is a high one. It amounts to state interference with the private property and contract rights of individuals and companies. It also occupies the resources of the Tribunal on an ongoing basis. As such, management orders are not made lightly.

90. If the issue were confined solely to poor management then the Tribunal may be able to resolve the situation through less intrusive means, such as reducing or disallowing the management fees charged by the Respondent. However, there are two aspects to the current case which lean in favour of making a management order. The first is the persistence and wide-ranging nature of the failure of the Respondents' agents to comply with leasehold legislation, coupled with the ongoing and wilful ignorance of such obligations exhibited by the agents, which gives the Tribunal cause to believe that this is unlikely to be remedied in the near future. The second is the potentially serious health and safety risks posed by the current level of compliance with fire safety requirements. In light of these issues, the Tribunal is minded, in principle, to make a management order.

91. However, the Tribunal also considers that it is not yet in possession of sufficient information to appoint Richard Britton as the manager at this stage. He appears to be wholly competent to fulfil the role and the Tribunal has no concerns in that regard. But three matters need to be addressed, in particular:-

i. The preparation of a Management Plan – which is essential before a management order can be made;
ii. Confirmation of Richard Britton's professional indemnity insurance (including specifically that it would cover his statutory role, if appointed);
iii. Confirmation of what provisions of the Regulatory Reform (Fire Safety) Order 2005, and other associated regulations, may currently be unmet in relation to the Property, and what steps are required in order to achieve compliance.

92. As such, the Tribunal will make arrangements for a further hearing where those issues can be reviewed and resolved before the Tribunal makes its final decision. Directions will follow soon, but for now the Tribunal is conscious of the need to communicate its decision on the service charges application as soon as possible.

Costs

93. In light of the Tribunal's findings above, it is presently minded to prohibit the Respondent from seeking its costs of these proceedings by way of a service charge (if the leases permit that). However, since the application for the appointment of a manager is yet to be concluded, it would be slightly premature to make an order in such terms at this stage. The Tribunal accordingly defers final consideration for the time being.

Name: **Date: 12th January 2026**
Judge L. F. McLean
Mr J. H. Elliott MRICS

Rights of appeal

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).