



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

Case Reference : HAV/24UP/LSC/2025/0640

Property : 17 Queens Court, Peninsula Square,
Winchester, SO23 8GL

Applicant : Robin Bruce-Gardner

Representative :

Respondent : Q.Court(Winchester)Management Ltd

Representative : Sophie Gibson, Clyde & Co LLP

Type of Application : Determination of liability to pay and
reasonableness of service charges
Section 27A Landlord and Tenant Act 1985

Tribunal Members : Regional Judge Whitney
Mr D Cotterell FRICS
Ms T Wong

Date of Hearing : 15 December 2025

Date of Decision : 21 January 2026

DECISION

Background

1. The Applicant made an application for determination of liability to pay and reasonableness of service charges for the years 2024 and 2025.
2. The application relates to legal fees; the total value in dispute being £37,500.
3. Directions were issued on 23 May 2025 listing the application for a case management and dispute resolution hearing at which further directions were issued dated 18 July 2025 listing the matter for a final hearing.

Hearing

4. The hearing took place at Havant Justice Centre on 15 December 2025. The Applicant appeared in person. The Respondent was represented by counsel Ms Gibson.
5. The hearing was recorded. The Tribunal had an electronic bundle of 343 pdf pages and references in [] are to that bundle. The Applicant had also produced a short (12 pdf pages) supplementary bundle which was admitted as the Respondent did not object. The Tribunal had a skeleton argument from each side and a bundle of authorities.
6. The parties agreed the issue for determination was simply whether or not the lease under which the Applicant owned his flat allowed the Respondent to recover certain legal costs. The amount challenged totalled £37,226.60. The Applicant accepted that Invoice number 036458 in the sum of £1,443.60 was recoverable.
7. Ms Sarah Bell, director of the Respondent gave evidence and was briefly cross examined by the Applicant.
8. The Applicant then made his submissions, followed by Ms Gibson and Mr Bruce-Gardner replied to these submissions.

Decision

9. We thank both parties for their considered submissions and the helpful way the case was presented. We would hope that the parties can move forward in a constructive way to avoid further unnecessary litigation which frankly benefits no party.
10. For context the dispute arises as the Applicant had made various allegations as to the running of the Respondent company which is a company whose members are the leaseholders of Queens Court. The directors had instructed solicitors to respond to the allegations and it is these costs which are challenged. Mr Bruce-Gardner suggests that under the lease such costs are not recoverable as a service charge expense. In his submission it is unfair to expect his

fellow members to bear such costs. It was confirmed at the hearing we were only looking at whether or not the costs may be charged under the lease, there was no other challenge to the make up of the amounts themselves by the Applicant.

11. To be clear we have read all the documents submitted including the authorities to which were referred by the parties. We only refer to those which we found particularly pertinent in reaching our decision.
12. We reminded the parties that we cannot make any determinations as to whether or not the Respondent company has been run in accordance with Company law. The Applicant's allegations which led to the instruction of solicitors relate to Company matters. These allegations are not matters upon which we can or should adjudicate. We can adjudicate as to whether or not the costs of such action is recoverable under the service charge mechanism including in the lease between the Applicant and Respondent.
13. We were referred to the Applicant's lease [191-210]. Both parties agreed the relevant parts for us to construe were those set out in the Third Schedule [208] which we set out below:

THE THIRD SCHEDULE

The Service Charge Expenditure

1. *The expenditure (in this Schedule described as "the Service Charge Expenditure") means:*
 - (1) *expenditure incurred by the Landlord in discharging its obligations under clause 8 (other than any expenditure which is expressly stated not to be recoverable from the Tenant through payment of the Service Charge) or in discharging any other obligations relating to the Estate or its occupation imposed by operation of law*
 - (2) *expenditure incurred by the Landlord in the management of the Estate or in the administration of any management company under the control of the tenants of a majority of the flats in the Building and responsible for the time being for the administration of the Building*
 - (3) *expenditure representing the proper fees of surveyors or agents appointed by the Landlord in connection with the performance of the Landlord's obligations under clause 8 and with the apportionment and collection of those expenses and fees between and from the several parties liable to reimburse the Landlord for them and of the expenses and fees for the collection of all other payments*

due from the tenants of the dwellings in the Building not being the payment of rent to the Landlord

(4) expenditure incurred in the provision of services facilities amenities improvements and other works where the Landlord in the Landlord's reasonable discretion from time to time considers the provision to be for the general benefit of the Estate and the tenants of the dwellings on the Estate and whether or not the Landlord has covenanted to make the provision

14. We find the costs were incurred by the Company in obtaining advice and representation from Warner Goodman solicitors in respect of matters relating to the actions of the directors and the running of the company. Mr Bruce-Gardner sets out his allegations within his skeleton argument and documents, we do not repeat the same as all parties are aware of the same. What is plain is that these matters did not relate to issues arising from the Respondent's obligations to repair or maintain the building as a landlord or management company.
15. The Respondent company is we are told now both the freeholder and the management company referred to within the lease. It is agreed it is a company limited by guarantee in which each leaseholder is a member. It has no income save for modest ground rents (which it does not collect) and the ability to recover costs as service charge expenses under the lease.
16. The Applicant suggested that no part of the lease and the clauses referred to above allow recovery of such legal expenses. He looked to rely upon a decision of the Midlands Region of this Tribunal *Jones v. Blackthorne (Midlands) Limited and others BIR/37UF/LIS/2022/0011* and *Triplark Limited v. Howard and others [2025] UKUT 232 (LC)*.
17. The Respondent submitted that the lease did allow recovery. We were referred to *Arnold v Britton [2015] UKSC 36*. Ms Gibson suggested that when the lease mechanism was set up it was known that the Company would ultimately become the freeholder and had no way, other than through the service charge of recovering costs. She suggested that nothing within Clause 1(2) and clause 1(4) limited what the Respondent could recover to matters relating to the Building or the Estate (as defined within the lease). Further she suggested that the Respondent was the "management company" as referred to within clause 1(2). It was accepted the Respondent did itself engage a managing agent but that did not prevent them falling within the definition of a management company.
18. Ms Gibson suggested that the *Triplark* case could be distinguished as it was a materially different situation, with different recovery clauses and the nature of the landlord was different. She relied

upon *Solarbeta Management Co Ltd v Akindele* [2015]1 EGLR 18 and paragraphs 29-34.

19. We find that the legal expenditure incurred by the Respondent in instructing and obtaining advice and representation from Waner Goodman to respond to the Applicant's allegations are costs which may be recovered under Clause 1(2) of the Third Schedule.
20. We do not accept that they are costs which can be recovered under clause 1(4) of the Third Schedule. We do not accept that this clause is so broad as to allow recovery of costs beyond those incidental to the company and its running. We are not satisfied that costs of this nature are to the general benefit of the estate of tenants of dwellings. In our judgment this relates to matters physically affecting such matters.
21. However, as we say, we are satisfied that Clause 1(2) of the Third Schedule does allow recovery of such costs. We are satisfied that the costs incurred are in the administration of the company. It is accepted that this is a company whose members are the leaseholders of Queens Court. The function of this company is now and has always been to manage the estate. It is also the freeholder. In managing the estate it may delegate day to day responsibility to an external managing agent but it remains the management company under the leases.
22. The company has very limited powers to raise funds. It can charge the ground rent. We are told it does not, given that the amounts are very modest (about £2500 per annum) and to do so may cause tax liabilities and other issues. We accept these reasons. Otherwise the only practical way to recover costs is as a service charge given the memorandum and articles do not provide any other mechanism for raising monies from its members. The lease draftsmen ought to have been aware of this when the mechanism was set up as would have been all of the original leaseholders. As such, we find it must have been within the contemplation of all parties that costs which the Respondent incurred as a company would be recovered under the service charge subject to any and all statutory protections.
23. We are satisfied that this clause is sufficiently broad to allow the Respondent to recover legal costs it has incurred relating to the running of the company. To do so is in our judgment plainly within the realms of what the draftsman contemplated which drafting the clause.
24. We are satisfied that clause 1(2) of the Third Schedule allows the recovery of such expenses as are in dispute here by the Respondent from the Applicant. We find the Applicant is liable to pay his proportion of such costs.

25. We find that the actual costs incurred in 2024 of £23,726.60 and the budgeted costs for 2025 of £13,500 totalling £37,226.60 are payable and reasonable. The Applicant is responsible to pay his agreed proportion of such costs.
26. The original application also sought an order pursuant to paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. Such orders are discretionary. In this case the Applicant has been unsuccessful in his challenge. We are satisfied we should exercise our discretion and not make the order sought.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.