FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/43UK/LVM/2025/0004
Property	:	Castle Place, Castle Square, Bletchingley, Redhill, Surrey RH1 4LB
Applicants	:	William George Sheldon
Representative	:	Ms Rebecca Ackerley of counsel
Respondents	:	F Schrijver (Flat 1) P Cove and J Cove (Flat 2) M Eldredge (Flat 3) W Sheldon and S F Sheldon (Flat 4) R McHugh (Flat 5) S Pamenter (Flat 6) Castle Place Bletchingley Freehold Limited (freeholder)
Representative	:	
Manager	:	Mr Gary Pickard
Type of Application	:	Application to renew appointment of a manager – Section 24 Landlord and Tenant Act 1987
Tribunal members	:	Judge J Dobson Ms C Barton MRICS Ms T Wong
Dates of Hearing		18th November 2025 and 11th December 2025
Date of Decision	:	22nd January 2026

DECISION

Summary of Decision

1. **The Tribunal determines that the Management Order be varied as follows:**

   i) The period of the appointment is extended to 25th October 2027.

2. **The application by Mr Eldridge pursuant to section 20C of the Landlord and Tenant Act 1985 that costs be disallowed as recoverable as service charges is dismissed.**

Background

3. On 26th October 2016 the Tribunal first by an Order ("the 2016 Order") [48- 58] appointed Mr Gary Pickard as manager ("the Manager") of the property Castle Place, Castle Square, Bletchingley, Surrey RH1 4LB ("the Property") for a term of 3 years. A decision was made in the same proceedings about service charges which had been demanded.

4. The Tribunal varied the Order on 25th May 2017 in order to facilitate the raising of ad hoc interim demands and then quarterly demands on account. The Order was then pursuant to a Decision dated 14th July 2020 ("the 2020 Decision") [59- 75 with Order 76- 87] extended to 25th October 2022. The terms were also varied to enable the Manager to deal with the recovery of costs required to be incurred in respect of the boiler house ("boiler house"- one word) (see more below) through service charges and hence to demand service charges to meet the costs involved. In addition, the Order was extended on an interim basis pending the decision below.

5. The most recent Decision in respect of a Manager for the Property was made on 13th March 2023 ("the 2023 Decision"), although the actual Order followed later after a time allowed for representation and was dated 5th May 2023. That provided for the Order to continue until 25th October 2025 as a specific period and then ongoing until such time as any further application made prior to expiry of that term was determined.

6. The reasons for the decision to appoint a manager and for the subsequent variation are explained in the above Decisions and do not require to be repeated here at too great a length, although some elements remain of note and do merit recording again.

7. Key to the reasoning in the 2016 Decision [36- 47] was the fact that the service charge demands issued had not been valid. The original management company Bletchingley Castle Management Limited (termed in the Lease as "the Management Company"), no longer existed, the company having been dissolved. There had been an attempt to form a new management company, called Castle Place Bletchingley Management

Company Limited and that was a party to those proceedings, but the Tribunal determined that management responsibilities had not been given to it, for reasons explained and which do not need repeating now. As the Management Company had been dissolved and struck off, it no longer existed as a legal entity and its obligations under the Lease could only be performed by the freeholder.

8. The Tribunal also stated the following:

> "…… the terms of the existing leases are patently unsatisfactory. In addition to the problems of the extent of the demise and the relationship between the management company and other parties, a number of further ambiguities remain in relation to the ratio or division of various charges between the tenants, parking arrangements, discrepancies in plans and the existence of an increasing ground rent."

9. In addition, it was determined that the lessees could not be liable for expenditure in relation to the repairs or maintenance of the boilerhouse as it fell outside of the relevant demise. The 2020 Decision noted that ongoing difficulty.

10. The 2016 Decision included at paragraph 1 the statement that:

> "A protracted disagreement has arisen between the Applicants and the owners of the other apartments over the ownership and management of the property."

It was apparent that the lessees had been unable to resolve that.

11. It does merit recording that when extending the term in 2023, the Tribunal observed that the original Order:

> "Notwithstanding those difficulties, …… [the Order] did not specifically address them. It went little further than inserting the Manager into the leases with management responsibilities."

12. To a fair extent that was resolved by the subsequent variations, at least in terms of facilitating management by the Manager. They could overcome underlying issues with the Lease in the shorter term.

13. The Tribunal in the 2023 Decision also expressed the view that:

> "a significant, if not only reason for the management order to continue, was to remedy defects in the leases as to apportionment"

and stated:

> "The Tribunal was concerned about the appropriateness of continuing a Management Order for the purpose of dealing with difficulties with apportionment which could be overcome by an application to vary the leases and iron out the defects identified as long ago as in October 2016 when the order was first made."

14. The Tribunal expressed the outcome in this manner:

> "Notwithstanding the concerns above as to whether this was a case for extending the order, in this instance it will be extended to enable the Manager to continue with the various matters he is presently involved in and to avoid the difficulties that may otherwise arise with respect to the defects in the leases."

15. It was also said as follows:

> "However, if proper attempts are not made within the additional time that has been given to remedy the problems, it may not be extended further in the future. A future Tribunal may well be reluctant to extend the appointment any further simply to paper over the known remediable cracks."

16. The freeholder ("the Lessor" as termed in the Lease) is the last- named Respondent, Castle Place Bletchingley Freehold Ltd ("the company" or "the freeholder"). It is a lessee- owned company, that is to say it is the lessees who are the members of the company. There are currently 2 directors of the company, namely the third and fifth- named Respondents, Mr Eldredge and Ms McHugh. The Applicant was a director until 17th October 2025.

The current application

17. The Applicant sought the renewal for 3 years of the appointment of Mr Pickard as the Manager of the Property by application dated 26 August 2025 for variation of an order [13- 33]. Directions were given dated 16th September in relation to the preparation of the parties' cases in the usual sort of manner and listing a final hearing on 18th November 2025 by video with a time allowed of 3 hours.

18. The Applicant was also required to provide a hearing bundle. The Applicant did so as a PDF bundle comprising 430 pages. The Tribunal considered that. On the whole, the Tribunal does not find it necessary to refer to specific pages of that bundle in making this Decision and so nothing should be read into the absence of individual reference to documents or pages of them. To the extent that the Tribunal does make reference to any specific pages, it does so by way of the page number in square brackets- [ ], including as above.

19. In the event, the case could not be concluded on 18th November 2025, even allowing the whole day. For various reasons, the hearing got off to a slower start than envisaged, although with hindsight would not have concluded even with the full day and even with a clean start. The balance of the hearing, was listed on 11th December 2025, being the first date achievable.

The Property

20. The Property is as described in the 2016 Decision, a large extended mid-Victorian house and grounds. It now comprises 6 flats with lessees as set out above. There is a communal entrance to five of the flats and an individual entrance to Flat 2. The 2016 Decision also described stunning views over the surrounding countryside but with the bucolic atmosphere marred by aircraft noise.

21. As to the grounds, there was explained to be a gravelled area in front of the building, providing a parking area and housing a bin store and septic tank, and a lawned area and shrubs to the sides and rear of the building. A further area of woodland and scrub was described as not forming part of the demise to the freehold company as it now is but as being maintained by the residents. That was described as the "outer freehold".

22. As identified in previous Decisions and Orders, there is also a separate freehold title for what has been termed the boilerhouse and the land on which it sits [255- 257]. The Tribunal understands the structure to be a wooden shed in effect, but one in which the heating boiler is situated. The Tribunal refrains from expressing a view about that arrangement itself but does return to the separate legal title below insofar as relevant.

23. There is also other land which does not form part of the Property but has been mentioned in previous Decisions. However, there is nothing arising from that which has any impact on the Decision and so nothing needs to be said about it.

The Lease

24. The bundle included a sample lease, being that for Flat 4 ("the Lease") [196- 222]. The Tribunal understands that the leases of the other flats at the Property are in substantively the same terms, save as mentioned below.

25. The Lease is tri- partite. The parties are the freeholder as then was, the Management Company and the lessee of the flat.

26. The Tribunal does not consider it necessary to set out the provisions at length. In the main they are in the sorts of terms that would be expected.

27. There was a relevant point about the supply of heating and hot water and the fact of the boiler being located within a separate freehold title. The freeholder company is obliged by clause 5(1)(n) to maintain hot and cold water supplies including boilers in existence at the date of the Lease to provide hot and cold running water. The provision of heating is expressly excluded.

28. Clause 5(1)(d) of the Lease requires the maintenance by, originally, the Management Company of all parts of the "services and their fittings" which do not exclusively serve a single flat and clause 5(1)(h) requires the maintenance of any communal facilities more generally. The term "services

and their fittings" is defined in clause 5(3)(c) to include tanks, cisterns and such like but:

"as may be in or under the ground generally of the Property".

29. Clause 4(17) on which at least Mr Eldredge relies mainly relates to the lessees being required to contribute to the cost of the Management Company/ freeholder fulfilling obligations in clause 5. There was also a relevant point in respect of any replacement management company in the "event that the original management company named in the Lease ceased, as of course it has.

30. There is additional wording at the very end of clause 4(17), after a series of sub- clauses which provides as follows:

"Without prejudice to the provisions of clause 6(4) hereof, if during the term hereby granted the Company shall for a period of Thirty days or sooner in case of emergency or reasonably perceived emergency fail or neglect to perform and observe its obligations or any of them hereunder or shall go into liquidation the Lessor shall undertake or by action or otherwise compel the Company to undertake the obligations hereby agreed to be undertaken by the Company and shall be entitled to recover from the Lesse all moneys, costs, charges and expenses"

Any such compulsion necessarily requires the Management Company to remain in existence and be compellable.

31. That is followed by clause 4(18) which states:

"Without prejudice to the provisions of clause 6(4) hereof, should the Company enter into liquidation or be struck off the Registrar [presumably this should have read as "Register"] of Companies for any reason the Lessee shall take all necessary steps together with the other lessees in the Property to form a new Management Company within three months of the occurrence of such event."

32. The other provisions relevant to the original management company ceasing include clause 6(4), which provides that if the Management Company enters liquidation or is struck off the Register of Companies, the freeholder will upon the written request of "the Lessee" perform the covenants entered into by the Management Company:

"On condition that the Lessor receives reimbursement of the appropriate proportion of the costs and expenses incurred in that respect as provided for in Clause 4(17)"

So that is to say the lessees must pay the fair proportion.

33. Hence the repairing and other obligations can be made to fall upon the freeholder upon the Management Company being dissolved.

34. The above caveat in respect of the leases relates to that for Flat 1, also provided [223- 254].

35. There is a difference between the lease of Flat 1 (which it has been said occupies approximately 1/3 of the total floor area) and the other leases with regard to service charges. The leases other than that of Flat 1 provide that service costs are to be apportioned on the basis of a "fair contribution"- clause 4(17)(b) of the Lease. The freeholder or management company is able to decide what would produce such a fair contribution- the specific caselaw about such decisions need not be considered in this instance.

36. In respect of Flat 1, the provision is more complex. The starting point is said to be a fair contribution but clause 4(17)(b) of this lease then goes on to say that what is in effect the default basis will be relative floor area. That will represent the fair method "in the absence of special circumstances".

37. There are some other differences between leases which are mentioned in the bundle, for example an email by Mr Cove [143] lists some. The Tribunal does not have the other leases and so cannot quote or otherwise refer to any specific provisions.

The Law

38. The applicable law is as follows:

> "Landlord and Tenant Act 1987 section 24
>
> (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 1925, 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 a leasehold valuation 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 or insurance of those premises."

39. Notably, once the original Order has been made, it does not matter whether the original grounds for making remain- and that has some relevance here. The question is not whether the continuation of the appointment is 'necessary'- the term used on behalf of the freeholder in closing.

40. The Tribunal does not consider it necessary to set out any case authorities about the appointment of managers. It does not consider any such affect the outcome of these proceedings specifically. Nevertheless, the Tribunal applies the relevant law.

41. In terms of the construction of leases, the Tribunal's position is essentially the same. However, as there are questions of construction dealt with below, the Tribunal identifies that it has had particular regard to the judgment of the Supreme Court in *Arnold v Britton* [2015] UKSC 36 in respect of the interpretation of leases, accepting that what are in effect the same principles have been expressed in slightly different ways in other cases (and there are many judgments of lower courts in which the principles have been applied but which do not add anything for these purposes).

The hearings

42. The application was dealt with at the two hearings mentioned above. Both were conducted as video proceedings with the Tribunal sitting at Havant Justice Centre.

43. The Applicant was represented by Ms Ackerley. The Respondents who opposed the application- that is to say all save Mr and Mrs Cove- and were all present to one extent or another on each of the hearing days. Mr Schrijver left after making certain comments on the first morning, expressing confidence in the other Respondents. The freeholder was represented by Mr Eldredge and Ms McHugh. The other opposing Respondents essentially represented themselves combined with reliance on the submissions for the freeholder- that is perhaps a better description of what happened in practice than formally. Mr and Mrs Cove were not present on the first hearing day but Mr Cove was on the second day, and represented his wife and himself on that date.

44. The Tribunal received oral evidence from Mr Sheldon, Mr Eldredge, Ms McHugh and Mr Pamenter. In addition, the Tribunal heard evidence from Mr Pickard on 11th December 2025. That was followed on 11th December 2025 by closing submissions from Ms Ackerley, Mr Eldredge, Mr Pamenter- which included matters which would amount to new evidence and so which required care from the Tribunal given the time for evidence had passed- and Mr Cove. The Tribunal identified to Mr Eldredge in particular- simply he was the objector who went first- the points made by Ms Ackerley with the aim of assisting the Respondents in addressing those.

45. Certain other documents were sought to be provided during the course of the hearing days. On the one hand that included a copy of the 2023 Decision provided by Mr Pickard, the Manager. That was at the specific request of the Tribunal for a copy given its absence from the bundle.

46. The freeholder sought to provide a document on 18th November 2025, headed "Change in Circumstances….." which was not in terms a Skeleton Argument permitted to be provided only shortly in advance of the hearing and which was not permitted by any other of the Directions' provisions. Nevertheless, on a fine balance and as the document comprised in part comments on legal matters in respect of the Lease and otherwise did not appear controversial, the Tribunal was content to consider that and did so. It did not alter the outcome on any issue.

47. In contrast, the freeholder sent in on 11th December 2025 a letter from White and Sons confirming its appointment as managing agents, although not an appointment which could be made by the freeholder during the life of the Order. That document very much was additional evidence and where the position regarding White and Sons was not all accepted. The Tribunal noted to Mr Eldredge on behalf of the freeholder that the document had been sent long after the date for evidence provided in the Directions and could not be relied upon unless permission were granted. Mr Eldredge made submissions. Ms Ackerley responded opposing. The Tribunal considered that very little weight could be placed on that document, including in the absence of the writer of it, and that in light of that and the lateness, it was not appropriate to grant permission.

Consideration of variation of the Order to extend the term

48. It will be readily identified from the Summary at the start of this document that the Tribunal has determined that the appointment should continue. The Tribunal therefore explains below its reasons why.

49. The Tribunal is mindful of the instruction from the Senior President of Tribunals to keep decisions as succinct as practicable, although necessarily whilst explaining the basis for the Decision. The Tribunal considered the various arguments of varying merits advanced by the various parties. It is not necessary in adopting the approach instructed to cover off every matter which was raised and weighed. The Tribunal is also mindful of the various previous decisions and Orders in respect of this Property and the explanations given for those, including but not limited to the specific extracts quoted above. The Tribunal considers that the parties are more than amply aware of their respective positions and the reasons for those.

50. The reasons can be succinctly summarised as that there remain a number of problems with the legal structure in relation to the Property; there is no effective solution identified by the objecting Respondents and the Tribunal does not accept Mr Eldredge's submission that every component is now in place- fundamentally and despite any suggestion any party has made to the contrary, the Tribunal determines that the parties are no further forward practically than they were in 2023 or earlier; the Tribunal is not persuaded of any issue with the management by the Manager; and despite the length of the appointment, the comfortable balance remains that it is just and convenient for the Order to continue.

51. Nevertheless, the Tribunal accepts that this Decision as a whole cannot properly be described as succinct. It will be identified from the length of this Decision that the Tribunal considers that, not least in light of the length of the appointment to date, its reasoning needs to be set out and fully explained.

52. The Tribunal is very much mindful that the original Order was made back in 2016. In the usual course, an initial term of 3 years is the most which will be granted at the current time by a Tribunal and some caution is usually applied to a request for extension of the term. Historically appointments were often for longer and sometimes were indefinite but in more recent years there has tended to be focus on identifying and addressing the specific purposes for which the appointment of a manager is required, enabling other arrangements to be made within that period where appropriate but not interfering with property rights for a longer time. The aim is that the issues which lead to the appointment will be addressed and that continuing the appointment is no longer required.

53. The Order in one form or another has been in place for approaching 10 years. That in itself is a powerful reason why it may be appropriate for it not to continue further. The point made in the 2023 Decision that "if proper attempts are not made within the additional time that has been given to remedy the problems, it [the appointment] may not be extended further in the future" sounds all the louder now. Given that the other issues with the Property and the relationship between the parties are not new, the Tribunal does indeed feel some reluctance to extend the appointment further simply to address known issues and ones which in principle are remediable by the Applicant and Respondents with pragmatism and sensible co-operation in their collective and individual benefit. The fact of suitable alternative arrangements not having been made would remain a reason to continue the appointment, but the point would be reached at which the appropriateness of continued appointment would expire even in the absence of those.

54. Certain matters are no longer identifiably relevant or significant.

55. The failures with the service charge demands themselves prior to the 2016 Decision now have little relevance. There is no suggestion that there might now be any demands incorrectly containing the details of any previous management company or purported management company. However, as identified above, the fact of that aspect no longer being relevant to the current situation is by no means determinative in respect of any continuation of the appointment. Risk of future incorrect demands is also relevant.

56. The Tribunal notes that the original 2016 Decision mentions a rising ground rent but does not consider that could have been one of the weightier factors in relation to the Order appointing the Manager and it is not a matter which this Tribunal considers is of relevance now. Very commonly there are leases with rising rents and whilst that sort of

arrangement has been the subject of criticism in respect of the extent of increases in some leases, it is not of itself a matter which would lead to the appointment of a manager.

57. Issues as to parking arrangements may also have been a concern back in 2016 but appear not to be any longer. None of the parties to these proceedings made any mention of that aspect.

58. The extent of the demise and separate legal title on the one hand and potential issues as to apportionment are ongoing matters. They are of relevance to the ongoing management of the Property and have required appropriate consideration. The Tribunal returns to those below.

59. The Tribunal acknowledges that there is an issue taken by the objecting Respondents in respect of work to remedy damp, which the Tribunal returns to below. However, it is very clear that Mr Pickard has been undertaking management, subject to constraints also identified below. There are suitable service charge demands, accounts and reports to the Tribunal within the bundle all as would be expected. It is not necessary to refer to any of those specifically.

60. There are very differing views about the merits of the management undertaken by the Manager. Mr Sheldon and Mr Cove were supportive of it. Mr Cove considered Mr Pickard had been placed in a very difficult position by the arrears of service charge payments. The other lessees were not supportive, although to differing extents. Mr Pamenter had been very critical in the previous proceedings, although the Tribunal had comprehensively rejected those criticisms e.g., in the 2020 Decision.

61. The Tribunal was unable to identify any matter in respect of the Manager's management which weighed much against continuing the appointment if other factors supported such continuation. That is despite Mr Pickard being questioned at some length by various Respondents.

62. Invariably managers are appointed in difficult situations. That is an inevitable consequence of taking away the freeholder's rights to manage and impact on those involved with the freeholder. It is also a consequence of there having been something in relation to the property and its management which reached the point of a party applying for the appointment of a manager and the Tribunal concluding that the appointment is appropriate. There is commonly a dispute as to how best to manage the given property and to deal with the matters which require attention. It is rare for there to complete satisfaction with a manager because in the manager seeking to manage taking an independent view of the situation, there is inevitably an element of difference with others involved who would like or have liked a different approach to be adopted. That is generally not a sign of poor management but of the situation which lead to and requires such a manager.

<u>The Apportionment issue</u>

63. Mr Pamenter remains unhappy in respect of apportionment of the service charges levied by the Manager between the flats. He also remains unhappy with the measurements taken in respect of his flat, which had been one of the issues addressed in the 2020 Decision, in which it was identified that relative floor areas was a potentially fair basis for determining apportionment. Mr Pamenter explained in closing that the share for his flat and that of Mr Schrijver had increased and the others had reduced.

64. Mr Pamenter also contended in oral evidence that he had known that apportionment would arise at the hearing and suggested he could have provided other information, which he said he not had the opportunity to present. However, the Directions had been clear and had applied to all, there had been no suggestion that any relevant issues were excluded from consideration and the Tribunal determines matters on the cases as presented by the parties.

65. It is apparent and unsurprising that at the time of the leases being granted, there was a mechanism for apportionment of the service charges. In the absence of the appointment of the Manager, those provisions would continue to apply. 100% of the service costs could be met by service charges apportioned as provided for in the Lease- a fair proportion being assigned to each flat in the manner the freeholder or management company determined.

66. The Tribunal noted that gas and electricity bills have been apportioned by relative floor area, for at least several years even if not from the outset- so irrespective of usage- there being a single supply. The Tribunal also noted that the other service charges appear to have at some stage been split by the equally irrespective of size of flat. There is at least room for argument as to whether that was a fair apportionment. There is at least no universal agreement to return to that. The approach did not fit well with the default approach provided for in the lease of Flat 1.

67. The original position pursuant to the Lease, indeed the leases, was not perfect and historic apportionment similarly. Those matters were perhaps more notable back in 2016.

68. As to Mr Pamenter's argument that only his flat has been re- measured, that was found as a fact by the Tribunal to be wrong. The Tribunal accepted the evidence of Mr Pickard that all of the flats in the Property were re- measured, also noting the report of Mr Michael R Lee (Surveyors) Limited [144- 148] which plainly refers to inspecting and measuring and then sets out calculations for each of the flats.

69. The Tribunal is well aware from its experience that there has been a change in the industry standard in respect of measurement of dwellings. One particular matter is the treatment of areas with restricted height. It is understandable that a measurement taken using the current standards

would produce a different result from one taken using earlier standards. That does not demonstrate any problem in the more recent re-measuring.

70. Whilst agreeing with Mr Pamenter that 100% of the service costs- the expenditure- could have been charged using the original measurements, it is understandable that the Manager had the flats re- measured given that the 2016 Decision expressed a need to remedy defects in the leases as to apportionment, as the 2020 Decision recognised and carefully explained. The approach taken by the Manager is not considered by the Tribunal to be a basis for criticism of him and a factor weighing against continuation of his appointment. The fact that the original provisions could be operated and the approach of the Manager being reasonable in light of the 2016 Decision are not inconsistent.

71. For the avoidance of doubt, the Manager having arranged re-measurement of the flats, it falls within the powers of the Manager to charge the lessees service charges in percentages which accord with the relative floor area of the flats as re- measured. It is, the Tribunal determines, and adopting for this purpose the wording of the Lease, a fair method (there being no special circumstances found by the Tribunal pursuant to the lease of Flat 1) and produces a contribution which can properly be described as fair. The fact that there might be other methods or contributions which would also meet the test of fairness does not detract from contributions calculated as the Manager has doing so.

72. The Tribunal carefully considered and was concerned about the fact that Mr Pickard had backdated the service charges to 2016 on the basis of the re- apportionment. There had been service demanded on a previous basis prior to that backdating. To that extent and on the evidence provided, Mr Pamenter's service charges will have been increased for the years prior to the re- measuring in addition to service charges for subsequent years being calculated according to the new measurements. The Tribunal identifies no power for the Manager to backdate and so to alter the service charges demanded for periods before the re- measuring. The Tribunal weighed that in reaching its Decision.

73. It follows that the Manager was entirely able to charge service charges going forward as apportioned in accordance with the measurements taken at the time of any re- measuring of the flats (or otherwise as determined fair). However, the service charges up to the time of re- measuring were only calculable as a fair proportion as determined at that time.

74. This issue lent weight against the continuation of the appointment because the Tribunal does not consider that the Manager dealt with it correctly. The weight nevertheless went nowhere close to altering the overall comfortable balance- it added to one side of the scales, but the substantial weight remained on the other side.

75. Mr Pamenter has proposed apportionment on the basis of size but of course his share depends upon which measurements are used and he

means the sizes as understood before the re- measurement. This is a different point to any criticism of Mr Pickard but may well be relevant in respect of any agreed approach if the Manager were not in place.

76. The evidence demonstrated disagreement between the parties as to whether any apportionment ought to be upon the basis of the original or revised measurements, if on measurements at all. Inevitably, some may gain a little and other may lose a little dependent upon the approach taken to measurements and if that is the limit to the determination of fair proportions. There is not only one outcome on which the parties may decide to agree and provided that there is a workable approach going forward, that workability feature is more significant than the precise terms. This is the sort of issue on which parties need to compromise if ongoing, time- consuming and wearying conflict is to be avoided.

The Boilerhouse issue and the Variation Issue

77. Mr Sheldon, the Applicant, has contended that currently the freeholder covenants to supply water and heat without a mechanism to recover the cost. As identified in the 2016 Decision and unchanged, the boilerhouse is situated outside of the freehold title for the Property and the service costs in the Lease do not include payment in relation to it. The 2016 Decision was unequivocal in determining that cost of supply and maintaining the system cannot be recovered for that reason. The Tribunal re- iterates that the Lease requires the provision of hot and cold water and does not require provision of heating.

78. The Tribunal understands the boilerhouse to essentially be a wooden shed. As the name suggests, the boiler serving the Property is situated within it. The Tribunal notes that Mr Pamenter stated that the gas, electric and water meters are also situated within the boilerhouse and no other party challenged that.

79. The Tribunal gave consideration to whether the provisions of the Lease for the Management Company/ freeholder maintaining services and fittings could extend to cover costs in respect of the boiler and boilerhouse, notwithstanding that previous Decisions considered not, but could not identify in properly construing the provisions that they could be taken that far. The Tribunal determines that this is and would remain a difficulty for the freeholder.

80. In that regard, the Tribunal considered clause 4(17) of the Lease and noted the argument (and oral evidence) of Mr Eldredge that the lessees can be required to contribute pursuant to that and indeed that is why the Tribunal considered the issue notwithstanding the previous Decisions, which must be given respect but which do not preclude the Tribunal from re- visiting the issue. However, the Tribunal rejects that argument. The Tribunal similarly rejected the arguments of Mr Pamenter, which focused on heating but where the Lease does not provide for that as observed above.

(That is something else which could be provided for if the Lease were varied, if appropriate.)

81. The Tribunal determines that the particular provision creates a liability on the part of the lessees for payment for the costs which the freeholder, as it now is, is able to charge for performance of obligations. It is clause 5(1) which explains what matters charges can be rendered for. The Tribunal determines that the correct construction of that provision is that the relevant infrastructure, as it can be termed, must be situated "as may be in or under the ground generally of the Property". That by its nature excludes any which are not. A specific provision would be needed to create liability for something outside of the Property whereas there is none. It follows that the previous Decisions were sound on the point.

82. There has still been no application to vary the leases, whether as to apportionment or to seek to address the boilerhouse, assuming that is regarded as the best solution to that issue, or otherwise. Mr Eldredge said in evidence that the issue was not about varying- the Tribunal understands in principle- but of what each lessee wanted.

83. The Tribunal understood there to be broad agreement about the need to deal with the boilerhouse- although the evidence of Mr Eldredge to the contrary and the relevant question being asked of him by Ms McHugh point the other way. It certainly remains unclear how the Respondents opposing the application would propose to deal with the boilerhouse, which the Tribunal has determined would have to be done, and how they would propose to address the question of the separate title to the land on which the boiler is situated, such that in the absence of the Manager related costs could be recovered. It is notable that the Respondent holds that title in addition to the title for the Property and so is in a position to take steps in respect of the title(s) in the event that those are considered appropriate. However, the fact that there are steps available does not alter the lack of an identifiable proposal at this stage.

84. There are various bases on which a lease may be varied. One is that all parties consent, which would no doubt be ideal, but that is not the only option. The others fall within Part IV of the Landlord and Tenant Act 1987, which provides that applications can be made to the Tribunal pursuant to section 39 without the consent of all parties, to vary long leases of flats under section 35 (failure of the lease to make satisfactory provision for repair or maintenance- including of installations and including the provision or maintenance of any services which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation- or for other identified matters) and b) under section 37 (not complete consent but threshold consent). (There is separate provision in the Part in relation to houses.) The parties seem to be aware of the relevant provisions, of which there are mentions within the bundle.

85. The Applicant set out in his witness statement a little about efforts to explore entry into a deed of variation, which would be a variation with

consent. It can be easily identified that currently complete agreement is some distance from the actual situation. For example, both he and Mr Cove in his own statement reference Mr Eldredge stating that "Lease variations can always be revisited later if there's appetite". That expression is to be found in the email by Mr Eldredge of 15th September 2025 [134]. That does nothing for the position unless and until any such later variation occurs.

86. It is not the role of the Tribunal to advise about the most appropriate route of any available nor whether any given route is available in the circumstances of the Property and the leases. That is not least because it would fall to the Tribunal to determine any application made. The point is simply that if the parties consider that there are failings in the provision made in the Lease or there is sufficient agreement, it is possible to seek to address that.

87. The most significant point is that parties could, but have not done so, either agree an approach to be taken to this matter or an application could potentially have been made without agreement. Neither has happened.

The Arrears Issue and the Damp Issue

88. There are large arrears of service charges which significantly hamper the Manager. The Tribunal avoids specific comment about the arrears, being mindful of ongoing proceedings in the County Court. Otherwise, certain matters said would have merited reference, although with no wider impact.

89. Nevertheless, in the absence of arrears, the Manager would not have needed to spend time on pursue sums unpaid or to spend money received from lessees who have paid service charges on legal costs to chase payment from non- payers. The funds and those which ought to have been paid but have not been could instead have been used to attend to matters at the Property. The non- payers would not have cost, at least in the shorter term, their fellow leases as much. Any potential non- payer might reflect on that and the several Decisions of the Tribunal. The fact that not as much has been achieved as the lessees might wish and the Manager intended is primarily, the Tribunal finds, because of the lack of payment.

90. The lack of funds notably impacts in the lack of works to alleviate the problems with damp suffered by Mr Schrijver of Flat 1 and Mr and Mrs Cove in Flat 2. Those lessees are suffering specific impact and some loss of amenity because of the ongoing effects. Mr Cove in his statement describes problems for some 12 years and with health effects to Mrs Cove. Mr F Schrijver bears the greater impact on the information the Tribunal received. However, he is one of those asserted to be and have been substantially in arrears with his contributions to service charges.

91. It is apparent that Mr Cove does not consider the lack of resolution of the damp to demonstrate a failing on the part of the Manager and accepts that the Manager is constrained by lack of funds. His statement expressed

doubt that the freeholder would address the matter. Indeed, the position of the opposing Respondents gives support for that doubt, the Tribunal finds. Mr Eldredge specifically said that the section 20 consultation process for the works would not be continued with. There are other issues to be addressed at the Property, but the damp is described as longstanding but worsening with staining indicative of water penetration and creating the proper need to address it as soon as practicable. The Tribunal is not persuaded that the freeholder would deal with the issue in a timely and proper manner, including necessarily by ensuring funds to do so.

92. The Tribunal does not ignore there being an apparent dispute on the part of Respondents as to whether the work intended to be undertaken by the Manager to address damp by way of major works is appropriate. However, the Tribunal does identify that there have been investigations and advice. The Tribunal does not identify any support for not extending the appointment where other factors provide considerable weight for that. The Tribunal also observes that there is no suggestion that the major works are the entirety of the works which should or will be undertaken, necessarily funds permitting- if the lack of funds precludes the major works consulted upon, it may well be that there cannot be movement on to other works.

93. Given that the 2023 Decision extended the term to enable the Manager to continue with matters in which he was involved, an approach this Tribunal considers entirely sensible, the lack of payment has gone to support the continuation of the appointment of the Manager. If the non- payers hoped that lack of payment and consequent failure by the Manager to deal with matters might have the opposite effect, they are sadly mistaken.

94. Whilst there is dissatisfaction with the Manager on the part of some Respondents, the Manager has not- principally if not wholly because of arrears- been placed in the position he ought to have been in order to deal with matters efficiently and has not completed tasks which it has been identified need to be undertaken as a consequence of the difficulties he has faced. The dissatisfaction is not well- founded set against that background.

95. It is far from clear how the problems with shortage of funds would be resolved in the absence of ongoing appointment of the Manager so that any further progress might be made with works to the Property and other matters requiring funds. Indeed, and quite startingly, the position expressed by Mr Eldredge and Ms McHugh was that the freeholder would not pursue forfeiture of any lease as a means of enforcement- Mr Eldredge that was the policy of the freeholder. Given that is the biggest stick which is available in the toolkit when seeking to ensure payment of unpaid service and other charges, the definite statement that it would not be used, provides a marked disincentive for any lessee not inclined to pay such charges to actually make payment, reducing the prospect of payment and reducing the prospect of works and services being provided.

96. It is understandable that there may not be a desire to cause financial problems for fellow lessees. It is understandable that causing a fellow

lessee to lose their flat may cause no little disquiet. However, where there is an obvious necessity to receive funds to meet the costs which need to be incurred, acting in such a way as to reduce the prospect of that, including by stating that certain usual courses of action would not be followed, is detrimental to effective management of the Property. It would also be to the detriment of those lessees who did pay and of anyone who wishes to have work to the Property undertaken and the other services and works which involve costs undertaken. As Mr Cove contended, there is a real issue about the financial viability of management if arrears accrue and are not addressed.

97. The Tribunal determines the fact of significant arrears, the important need for those arrears to be resolved and undertaking of the intended major works which the resolution of the arrears will do much to facilitate to be important and weighty features.

98. The Tribunal finds the concerns of the Applicant and Mr Cove about delay with recovery of sums owed to be well founded. The Tribunal determines that the freeholder's proposed approach does nothing to encourage payment and would not amount to effective and appropriate management of the Property. The fact of arrears and the proposed approach of the freeholder to arrears support the continuation of the Order.

The Freeholder managing/ Management Company Issue

99. The Tribunal also considered that there was some misunderstanding of the provisions of the Lease by the Respondents opposing the application. A new company was incorporated on 31st October 2025, called Castle Place Bletchingley Management Limited (Company No. 16824149). It will be identified that is the same name as the 2nd Respondent in the 2016 Decision.

100. It was asserted on behalf of the opposing Respondent that the company has been incorporated to satisfy Clause 4(18) of the Lease. Mr Eldredge contended that the new company set up could take over the role of management company.

101. However, the Tribunal determines that it cannot. The Tribunal therefore determines that a new management company had to be set up with the 3- month period. The requirement for "shall take all necessary steps together with the other lessees in the Property to form a new Management Company within three months of the occurrence of such event" not only requires the undertaking of the necessary steps but also requires them within 3 months.

102. The Tribunal is very much mindful that a construction which makes time of the essence would result in there being no ability for there to be a third-party management company if one were to be sought to be created later than 3 months from the relevant event. That would be inherently

unlikely if such an outcome prevented management of the Property- it is difficult to see how the contracting parties could have wished such a result.

103. However, there is the ability to manage, on the part of the freeholder, albeit with the limitation upon service charge payments on account explained below. It was in effect the freeholder that created the Management Company in which the lessees would receive shares and so that in effect the lessees managed the Property through that company. It is amply clear that was what the freeholder sought.

104. It is not inconsistent with that aim that if the lessee- owned company was dissolved or struck- off, logically because of some failing, the lessees would be given a limited time to get their house in order by way of setting up a replacement company and so continuing to be able to manage the Property but that, in contrast if the lessee- owned original management company could no longer manage and the lessees did sort out a replacement in a timely fashion the ability to manage the freeholder's property would be lost to them.

105. The Tribunal cannot know what was in the mind of the freeholder and it matters not for these purposes. The relevant matter is the words used set in context of the considerations in construction of contracts which can apply. Where the words used are clear on their face and they are not illogical in the circumstances of the contract and no other proper consideration makes it appropriate to depart from them, they should be applied. That includes the 3- month time limit. The Tribunal accepts counsel's point that there is no specific need for an explicit statement that time is of the essence.

106. There was of course an attempt within 3 months to set up a new management company, but not effectively as the 2016 Decision discussed. The creation of a new company now does not make it the management company pursuant to the Lease. The existence of a management company which cannot manage pursuant to the Lease and is simply a vehicle- in effect a managing agent- through which the freeholder manages would not of itself be objectionable in the usual course. That said, it is not obvious that it achieves anything in particular.

107. The fact that opposing Respondents may have perceived that the new purported management company would be able to issue demands, which it necessarily follows from the above would not be valid ones if said to be on behalf of that management company, is the matter which most obviously would create the risk of future invalid service charge demands.

108. That said, if for any reason the Tribunal is wrong about its construction of the particular clause, the only effect is that the new management company could manage pursuant to the Lease. It can also be said that the new company adds nothing of assistance to those opposing the Order continuing in any event and hence if the Tribunal had reached a different construction, it would not have altered the outcome of the case as a whole.

It would not of itself solve any of the other problems which have existed and continue. Mr Eldredge referred to it acting as a buffer to protect assets and not making demands, referring to that being done by the managing agent. The Tribunal does not identify what the existence of the management company would add to assist with management.

109. It is correct that the freeholder steps into the shoes of the former Management Company upon a request pursuant to the Lease. Two points could be made about that. Firstly, the request is by the lessee of the particular lease. The wording does not state that a single lessee can trigger the effect in respect of all the leases. That creates some uncertainty as to the wider effect of the request from Mr Eldredge. Secondly, it is difficult to now discern whether the freeholder did in practice commence management some years ago and before the Manager was first appointed and whether the lessees at the time made written requests sufficient to allow that.

110. If anything turned on either of those matters, the Tribunal would have needed to consider them further and to have determined the correct construction of the Lease. However, the Tribunal does not consider that would taken matters anywhere. The ability of the freeholder to manage in respect of all lessees, assuming that it could not before, would not resolve any of the several other issues which exist.

111. The limits upon the freeholder or management company imposed by the Lease would remain. Even if there had been a new management company capable of being set up in effective succession to the original one by this point in time, it would face the same limits as the freeholder upon the matters which could be addressed. The same other problems would continue.

112. For completeness, any majority support for management by the freeholder, also cited as a relevant argument, is not something to be dismissed out of hand. Rather it does have relevance. But the Tribunal agrees with Ms Ackerley that it is by no means conclusive, especially in this instance, and does not weigh nearly sufficiently to alter the clear balance.

113. The opposing Respondents have also, in the Tribunal's judgment, failed to take account of and provide any proposal for addressing the fact that the Lease does not provide the freeholder with a means to demand service charges on account of expenditure. Rather, the freeholder must incur the expenditure and then demand it back after.

114. The Tribunal determines that the correct construction of the words used in clause 6.4 of the Lease- "undertake the covenants on its part contained in this Lease, with all costs and expenses properly incurred to be recoverable from the lessees"- is as set out above. The words used are unequivocal. It is costs and expenses incurred which may be recovered. That is not expenses to be incurred, which it is expected will be incurred or even which are in the process of being incurred. The freeholder can only recover once it has

incurred the expense. The Tribunal agrees with the Applicant about those matters.

115. As Ms Ackerley observed in closing, at the time of the Lease, the freeholder was a different party. There was a management company intended to manage, management by the freeholder was very much a default provision where the management company no longer existed and where it is apparent from the provision enabling a replacement management company to be incorporated that management by the freeholder was envisaged as a temporary arrangement. There is nothing inherently unlikely about the effect of the wording that the contracting parties used.

116. That provides a significant problem for the company. It has no other sources of income than the money received in relation to the Property. It has no identifiable ability to pay up- front for the expenditure required from year to year and ahead of later being able to obtain the relevant end of year service charges from the lessees. It is not apparent how the company could manage the Property in the absence of agreement from the lessees or a variation of the provisions of the Lease- as to which see above.

117. As the proposal is for the freeholder to manage, that was already happening in practice prior to the appointment of the Manager, and it does not in itself resolve the identified issue- and any new management company cannot resolve the issue for the reasons explained above- the particular problem would be very relevant.

118. It should be recorded that the freeholder has also proposed that management be undertaken by a managing agent, White and Sons. It was said in the hearing that they would be independent and express clear views as to the best approach to managing. However, White and Sons would be the agent of the freeholder and would have to follow the instructions of the freeholder, its principal. It could do no other. It may well be that robust advice would be given but there would be no obligation for the company to follow it. The fact of there being managing agents would not resolve any of the issues faced in relation to the Property. Whilst there was something of a dispute between parties as to whether White and Sons still wish to be managing agent, it is not necessary to make any finding about that.

119. It does follow from the above that the Tribunal does not accept Mr Sheldon's case that the freeholder would be unable to levy service charges at all in the absence of amendment of the Lease. The freeholder can. However, within limits and importantly not including the ability to demand sums on account or to charge in respect of the boilerhouse which the Manager is currently able to do, at least not unless and until there may be any resolution of titles, if appropriate, and/ or variation of the Lease.

The Relationship between the Parties

120. As mentioned above- and somewhat glaringly obvious from the various issues and the different approaches to them from different lessees- the parties do not agree as to the way forward and indeed there is somewhat less than universal agreement on any of the issues which would need to be resolved to facilitate effective management in the absence of appointment of the Manager. Mr Sheldon gave evidence that he had applied to extend Mr Pickard's term because there were no other proposals in place. Ms McHugh said in evidence that the lessees had learned their lesson and needed to be "allowed to grow up".

121. There can be little doubt that it is in the interests of the lessees to reach agreement and that is expressed on a number of occasions one way or another in this Decision. However, it was not obvious that there was an expectation of give and take. There was significant and somewhat entrenched disagreement on matters. It was not apparent that lessons had been learned.

122. An adversarial and critical approach as between the lessees, in all of whose individual and collective interests it is to resolve issues, will only maintain the current situation and the problems which go hand in hand with it.

123. The simple fact is that the lessees do not at this time, or indeed discernibly at any previous one, agree between themselves with regard to addressing any difficult aspect of the situation, how to deal with effective management of the Property and how to resolve the long- standing issues in respect of service charges and generally. That is where the freeholder is a lessee- owned company dealing solely with this Property. There is no proper process in place to resolve the ongoing problems.

124. In contrast, notwithstanding the considerable and articulate efforts made by those opposing the Order continuing, the Tribunal finds when their case is stripped back there is little more than a hope on the part of the freeholder that if management was returned to it, a way would be found to address the several issues. Such general hope without discernible foundation and without a demonstrable approach to successfully achieving it does nothing for the case of those opposing the continuation of the Manager's appointment.

Effect of the above

125. Whilst the Tribunal in the 2023 Decision identified matters to be addressed, in practice those have not been addressed in any practical manner. The reasons why the term of the appointment was last extended remain applicable still and, much as the Tribunal would ideally wish the appointment to end, support its continuation. The outcome of consideration of each issue above supports the continuation and not the return of management to the freeholder in the circumstances which continue to exist.

126. The Tribunal heard the Applicant and Respondents set out their positions in asking and answering questions and in submissions and took note of those, further to the documents which the Tribunal had carefully read. There was no discernible shift in position from any participant. The contrast between the positions and the lack of discernible acceptance of any merit in any position other than the party's own remained.

127. There was in short nothing at all to suggest that the return of the management of the Property to the freeholder, a company comprising of members who are the very same lessees as cannot currently agree about various matters and who in instances have failed to pay service charges and which company lacks the ability to demand service charges on account, would lead to the effective management and maintenance and to anything other than ongoing disputes.

128. It should be added that whilst several reasons are provided above, it was not necessary for all of those to apply in order for the Tribunal to reach the outcome that it has. Even if elements had weighed against variation of the Order to extend the term of the appointment, that would only have added some weight to one side of the scales and reduced the weight to the other to an extent. The balance would comfortably have remained the same unless there were notably fewer elements in favour of the variation or matters of particular weight supporting ending the term.

129. The Tribunal has reminded itself that the appointment of a manager and similarly the continuation of the Manager is to a large extent a step of last- resort. The Tribunal would not choose to appoint in the event of being persuaded of a practical effective alternative or to continue if persuaded that the Property could be practically and effectively be managed with a manager ceasing. However, the opposing Respondents have failed by a marked distance to so persuade the Tribunal.

130. Hence, despite the fact that the appointment has continued for longer than it might reasonably have envisaged to at the outset and despite there being little initial attraction to continuing further a term already approaching 10 years, the Tribunal has been unable to be satisfied 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 that it is just and convenient in all the circumstances of the case to discharge the order. Rather, the Tribunal has concluded by a very comfortable margin that it is just and convenient to vary the Order by way of extending it for a further period.

The further term of Appointment

131. The Tribunal considered the appropriate further term of order, noting the request for a further 3 years but also considering other potential periods. In essence, the Tribunal sought to identify the minimum further period which would give Mr Pickard a realistic prospect of completing the matters previously identified and as yet not completed, assuming always

that he is put in funds to do so, but also the minimum period which the Tribunal considers is likely to be sufficient to facilitate the lessees addressing questions of title and how to approach effective ongoing management in their combined interests in the event that they were all to seriously set their minds to doing so. There is of course a criticism inherent in that last sentence and intentionally so.

132. The Tribunal noted that the service charge accounting year which has been adopted runs from 24th to 23rd March of a given year and that there may be logic to fixing the end date of the term to coincide with the end of the accounting year. However, on balance, March 2027 is considered by the Tribunal to be too short a period, being only a little over a year.

133. There was, the Tribunal considered, no particular freestanding reason for ending the term on 25th October 2027 in the way in which previous Orders had ended on 25th October of other years. That date of 25th October has no fit with the service charge year or with anything else other than calculating periods of 12 months commencing on the date of the 2016 Order. However, there is by now something of a history of that date being adopted and the parties will have become used to that. The Tribunal perceives that the Manager has become used to working to dates of 25th October by now given the length of the appointment and adoption by previous Orders of that date. October 2027 also gives a somewhat longer period than March 2027 and one in which the undertaking of steps by the Manager, subject to funds, and getting matters as on track as possible is more realistic, without being excessively long.

134. Therefore, on balance, the Tribunal has retained the 25th October end point adopted by the previous Decisions and Orders.

Concluding Observations

135. The Tribunal observes that in the event of any variation of the leases being agreed, it may be sensible to clarify the accounting period and improve the service charge mechanism generally. The Lease provides for rent being payable on the anniversary of the term of the Lease, so potentially different flat by flat; there was a requirement to pay on account service charges to the Management Company within 28 days of, in effect, a budget being provided; accounting and payment of any balance/ crediting of any excess is unclear.

136. The Tribunal will be disappointed with the lessees if by October 2027 they have still not managed to find it within themselves to actively explore solutions and strain every sinew to achieve those, putting aside any personal issues and pushing themselves to reach compromises to facilitate the resolution of problems and achieve an effective approach to management in the best interests of the lessees as a whole, avoiding the negative impact on the value of their flats and the higher costs of the ongoing issues and the need for management by a Tribunal- appointed

manager. If that includes the leases being varied in a practical manner, all well and good.

137. That includes the lessees ensuring that for the reminder of any term of the Order the Manager has appropriate funds to complete works and attend to management matters without hindrance and constraint and so can reduce the matters which he "is involved in". That may in turn reduce the reasons to retain the Manager. Mr Sheldon was quite correct in his email back on 12th February 2024 [96-100] that there is a need to eliminate arrears and avoid, until such time as recovered, service charge funds being expended to pursue non- payers.

138. That is not to seek to dictate the outcome which any future Tribunal ought to reach in the event that the lessees have not been able to complete any resolution of matters within the further period of appointment. It will be for that Tribunal to reach such determination as it considers appropriate. It equally ought to be obvious to the parties that such a Tribunal may be reluctant to extend the appointment further. However, and in contrast a Tribunal is likely to have regard to why and because of whom resolution was not achieved and who may be advantaged or disadvantaged by any decision made, which may overcome its reluctance at least for a further period. If lessees who do not wish continuation of the Manager fail to reach any sensible compromise which enables a resolution such that a Manager is no longer required, they might just the continuation of the Manager that they did not wish for. The point also works the other way.

139. To rather state the obvious, the appointment of the Manager cannot go on forever but there will remain factors supporting its continuation whilst there are ongoing issues and during that time there will remain a balance to strike in determining the just and convenient outcome.

140. For the avoidance of doubt, given that the Directions issued in these proceedings required the Manager to retain insurance with cover of £1million and the Tribunal would most commonly require cover of £5million (although with some variation property to property as appropriate), Mr Pickard informed the Tribunal that he does have insurance cover for £5million and will retain that.

Decision

141. The Tribunal therefore determines that the Management Order dated 26th October 2016 be varied as follows:

i) The period of the appointment is extended to October 2027.

142. The relevant Order, in the same terms as the previous one (not alteration required having been identified by the parties) is made.

143. The Tribunal notes that at the end of the hearing, it was said that a draft would be produced on which the parties could provide comments. However, as none of the provisions in the last Order have been varied other than the end date for the appointment, the Tribunal considers that unnecessary.

144. Nevertheless, if a party contends that there should be any variation they may provide written representations and in the event that the Tribunal determines that there ought to be any alteration to the Order, it will make any.

Section 20 C application

145. The objecting lessees, that is to say Mr Eldredge, Ms McHugh, Mr Pamenter and Mr Schrijver have made an application pursuant to section 20C of the Landlord and Tenant Act 1985 seeking an order that legal costs incurred by the Manager in respect of this application should not be recoverable through service charges.

146. The provisions of section 20C were considered in *Re: SMCLLA (Freehold) Ltd's Appeal* [2014] UKUT 58, where the Upper Tribunal held that:

> "although [the First-tier Tribunal] has a wide jurisdiction to make such order as it considers just and equitable in the circumstances" (at paragraph 25), "an order under section 20C interferes with the parties' contractual rights and obligations, and for that reason ought not to be made lightly or as a matter of course, but only after considering the consequences of the order for all of those affected by it and all other relevant circumstances" (at paragraph 27).

147. In *Conway v Jam Factory Freehold Ltd*, [2014] 1 EGLR 111 the Deputy President Martin Rodger QC suggested that it was:

> "essential to consider what will be the practical and financial consequences for all of those who will be affected by the order, and to bear those consequences in mind when deciding on the just and equitable order to make".

148. In *Bretby Hall Management Co Ltd v Pratt* [2017] UKUT 70 (LC), Judge Behrens added:

> "2. The circumstances include the conduct of the parties, the circumstances of the parties and the outcome of the proceedings.
> .....
> 3
> 4. The power to make an order under s.20C should only be used in order to ensure that the right to claim costs as part of the service charge is not used in circumstances which make its use unjust.
> 5. One of the circumstances that may be relevant is where the landlord is a resident-owned management company with no resources apart from the service charge income."

149. The Tribunal determines that the recovery of costs by the Manager in the circumstances of this case is just and equitable.

150. The Applicant's application has been successful. The Manager has necessarily been involved in dealing with the application. The required work reflects the opposition to the application by the Respondents, with the exception of Mr and Mrs Cove and the issue unsuccessfully raised.

151. The Manager has only the charges rendered from which to pay any costs incurred. There is no conduct on his part or other reason why he ought to meet such costs from his own funds, which is the only alternative. There is no other identifiable factor which might go to support the grant of the section 20C application.

152. It follows as it must that the section 20C application is dismissed.

Right to Appeal

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

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. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.

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.

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