FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/26UD/LSC/2023/0065**
Property	**:**	**Hamels Mansion Hamels Lane, Hamels Park Knights Hill, Buntingford Hertfordshire SG9 9NF**
Applicants	**:**	**1. Faisal Kashmiri (Villiers Suite) 2. Lynn Taylor (Villiers Suite) 3. Richard Gyesie (Shepherd Suite) 4. Ann-Marie Gyesie (Shepherd Suite) 5. Caroline Spicer (Crofton Suite)**
Respondents	**:**	**1. Distinction Homes Limited 2. Hamels Mansion Management Ltd**
Represented by	**:**	**Nigel Maguire of Roythornes Solicitors**
Type of application	**:**	**Liability to pay service charges**
Tribunal	**:**	**Judge Richard Granby Mr John Francis QPM**
Date of Decision	**:**	**10 December 2025**

DIRECTIONS

Introduction

1. This is the determination of the Applicants application pursuant to s.27A of the Landlord and Tenant Act 1985 dated 7 November 2023. Not withstanding the date of the application the years in issue have been extended to include the calendar year 2024.

2. The Applicants are all leaseholders within a building known as Hamels Mansion, a former mansion house converted into flats in approximately 2016.

3. The First Respondent is the developer and freeholder of Hamels Mansion.

4. The Second Respondent is a lessee owned service company that exists to provide services for Hamels Mansion.

5. The Tribunal was not provided with any executed leases but a draft lease of the Flat known as Shepherd Suite was provided in the bundle – it was agreed that the leases of the Applicant's flats were all in the same form and the Tribunal proceeded on that basis.

6. It is unnecessary to set out the contractual relationship between the parties in full but, in short, the leases envisage that when the First Respondent has granted a long lease of every Flat in Hamels Mansion the freehold will be transferred to the Second Respondent, so long as the First Respondent remains freeholder the Second Respondent is under the effective control of the First Respondent.

7. The Applicants appeared in person, the Respondents were represented by Mr Maguire. The Tribunal is grateful for the assistance it has received.

The Application

8. By virtue of case management orders made on 18 September 2024 and 3 March 2025 the scope of the application has narrowed to a discrete set of issues itemised in a Scott Schedule. As set out further below there has also been substantial practical agreement between the parties. The Tribunal commends the parties on the constructive approach that has been taken.

9. The significant service charge issue between the parties concerns heating. Hamels Mansion (including the individual flats) is heated by a communal boiler which is fuelled with fuel oil.

10. The orthodox service charge provisions within the leases are found in Schedule 7 (entitled "Services and Service Costs") with provision for payment of interim and balancing charges at paragraph 2 of Schedule 4 (the tenants covenants).

11. Paragraph 6 of Schedule 4 provides that the leaseholder is:

"to pay all costs in connection with the supply and removal of electricity, gas, water, sewerage, telecommunications, data and other services (including but not limited to heating) and utilities to and from the Property.

12. This clause has presented difficulties in this case because it does not set out the proportions in which such costs are to be met.

13. The practice originally adopted by the Respondents was to charge leaseholders in accordance with actual usage (the supply to each Flat being metered). In broad terms the Applicants complaint was that this did not fairly account for the heat loss between the boiler and the Flats, it being said that because there was a constant supply of heat to each flat the amount actually used was not the right measure of cost. Various formulas based on kilowatt- hours based on the efficiency of the heating system were suggested.

14. The Application also addressed the treatment of a loan between the Respondents (which, the Respondents say was necessary to keep the Second Respondent afloat and the heating on when, it is said, service charges were not paid) in the Second Respondent's accounts. This was rightly not pursued in the Scott Schedule that set out the issues the Tribunal was ultimately required to determine – on an application under

s.27A Landlord and Tenant Act 1985 the Tribunal is only concerned to determine whether service charges are (or would be) payable.

15. Loans incurred taken by the Second Respondent or repayment of those loans might form part of a s.27A application. However, in this case, where there is no suggestion that such a loan has made any difference to the service charges payable by the Applicants there is no issue for the Tribunal to determine.

16. The Scott Schedule also addressed a number of discrete points addressed individually below.

The Response

17. The Respondents case as set out in a skeleton argument filed shortly before the hearing relied on *Abacus Land 4 Ltd v Bradley and another* [2025] EWCA Civ 1308. It was said that because the lease was silent on how the heating costs were to be divided there was limited scope for the FTT to interfere with the landlords apportionment of those costs so long as that apportionment complied with the lease.

18. This appears to the Tribunal to be correct in principle – Paragraph 6 of Schedule 4 (by implication) requires an apportionment exercise, so long as the landlord complies with the lease in that exercise (including by not making a decision that no reasonable landlord would have made) then the Tribunal or the Courts cannot interfere with that apportionment. The s.19 Landlord and Tenant Act 1985 requirement that service charges are only payable to the extent that they are reasonably incurred and reasonable in amount does not bear on the issue of apportionment.

19. For the reasons set out below it was ultimately unnecessary for the Tribunal to apply that principle to the facts.

20. The Respondent also sensibly conceded that the fuel oil costs sought to be recovered under Paragraph 6 of Schedule 4 were service charges within the meaning of s.18 (1) of the Landlord and Tenant Act 1985. The Respondents made the further sensible concessions that it followed that the requirement in s.21B of the Landlord and Tenant Act 1985 that demands be served with a statement of rights and obligations applied as did that in s.20B that demands must be made within 18 months of the costs being incurred.

21. The effect of these concessions was that it was accepted that the heating oil costs for a number of years in dispute was not recoverable at all.

Matters in issue and their determination

22. This decision will now address the matters in the Scott Schedule in the order they are set out.

Item 1 – Fuel Oil 20 February 2021- 24 March 2022

23. The Respondent concedes that nothing is payable because s.21B was not complied with and that s.20B precludes the costs being re-demanded. The Tribunal according determines that £0 is payable in respect of this item.

Item 2- Fuel Oil 24 March 2022 – 1 March 2023

24. The Respondent concedes that nothing is payable because s.21B was not complied with and that s.20B precludes the costs being re-demanded. The Tribunal according determines that £0 is payable in respect of this item.

Item 3 – Fuel Oil 1 March 2023 – 1 March 2024

25. The Respondent concedes that nothing is payable because s.21B was not complied with and that s.20B precludes the costs being re-demanded. The Tribunal according determines that £0 is payable in respect of this item.

Item 4- Fuel Oil 1 March 2024 – 1 December 2024

26. The Tribunal was informed that the parties had agreed (without any concession of principle by the Respondents) that a figure of £5,000 was to be applied towards the costs of fuel oil from the service charge (within the meaning of the Lease rather than statute) to account for the heat loss issue. The issue in respect of item 4 is that it was said that the demands did not account for this agreement. This point was accepted by the Respondents and following a short adjournment the following figures were agreed as payable in respect of this item:

    Villiers: £204.99
    Shepherd: £201.11
    Crofton: £452.97

Item 5 £2,235 VAT refund

27. The Tribunal understands the Applicants case to be that the Second Respondent received a VAT refund from Young's Oil Company in 2023 having been charged the incorrect rate of VAT in 2021 and/ or 2022.

28. The Applicants say that this sum should stand to the credit of leaseholders when a balancing charge is made.

29. The Respondents primary case is that the Tribunal is being invited to make an accounts and enquiries type exercise that is the preserve of the Courts and the issue does not bear on the payability of any demand.

30. That may be correct, at least as the application is put, but the Respondents (uncontested) factual case also appears to the Tribunal to be an answer to the issue. That case is that Youngs Oil Company were paid by the Second Respondent using the loan from the First Respondent described above – the VAT refund was accordingly passed by the Second Respondent to the First Respondent in part repayment of that loan. The Second Respondent's accounts for 2022 show a debt of £26,585 to the First Respondent, this falls to £0 in the 2023 accounts as a result, the Tribunal is told, of a write off.

31. The effect appears to be that the First Respondent was repaid a little of its loan before the balance was written off – nothing in this suggests that there could be any effect on the payability of any demand (or future demand).

32. Accordingly the Tribunal determines (so far as it can) that this issue does not affect the payability of any service charge.

Item 5 Cleaning

33. A figure of £4,220 is shown in the accounts, this item is explained as covering both cleaning and window cleaning. The Applicants case for 2022 is that the cleaners were paid £2,060 but that the invoices for window cleaning total only £750 (at £250 each) so only that combined total is payable.

34. For 2023 a figure of £2,340 is shown in the accounts. The Applicants case is that £1,800 was paid to the cleaners and there are only £500 worth of invoices.

35. The Respondents accept that approach in principle and the amounts payable to the cleaners but submit their belief that the invoices added up to the amounts claimed.

36. The Tribunal can only determine this issue on the material it has before it. It not necessary for a landlord to produce an invoice to show that a cost was incurred but in a case where the invoices have been disclosed, and the applicants (who are owner -occupiers) submit that window cleaners visit 2 or 3 times a year the Tribunal finds the invoices it has the best evidence of what costs were incurred and accordingly determines:

> That the payable cleaning and window cleaning costs for 2022 are £2810
> That the payable cleaning and window cleaning costs for 2023 are £2,300

Item 6 Electricity

37. The Applicants note that the sums in the accounts for electricity were: 2021; £4,184, 2022; £1,433, 2023; £4,696. The Applicants state they do not understand why the figure in the accounts for 2022 was lower and query why this is, no issue is taken as the amounts for 2021 and 2023. The Respondent states that these are the sums incurred. There is no challenge to the level of charges for electricity under s.19 (1) of the Landlord and Tenant Act 1985 and no suggestion that this query impugns or directly concerns any service charge (the figure being lower than the other years rather than higher).

38. This appears to the Tribunal to be an enquiry into the Second Respondents accounts that is beyond its jurisdiction. For the avoidance of doubt the Tribunal determines that this issue does not affect payability of any service charges.

Item 7 - CLPM Heating System Strategy and Energy Efficiency Report

39. The First Respondent commissioned a report dated 2 May 2023 by CLPM, the instructions given (taken from the report) were to assess the

heating efficiency levels from the boilers through to the individual flats and, inter alia, to review the billing procedure. This report was commissioned in the context of the dispute and was submitted by the Respondent to be in part a check that they were doing the right thing.

40. The Applicants criticism of the report is that the cost of £953.40 is high particularly as the report doesn't make specific recommendations stating that it does not "endorse any products or services referred to. These are to be used as a suggestion". The Applicants also criticises the report for estimating an efficiency to the Flats of 60 – 80% when (it is said) the boiler service identified an efficiency of 86%.

41. The Tribunal considers that there is a contractual basis for this cost to be passed through the service charge – paragraph 1.2.3 of Part 2 of Schedule 7 provides for the costs of any other person reasonably and properly retained by the landlord… to act on their behalf in connection with the Building…"

42. In the context of the dispute (and its compromise) it appears to the Tribunal to have been contractually reasonable and proper to incur this cost and for it to have been reasonably incurred within the meaning of s.19 (1) of the Landlord and Tenant Act 1985.

43. The Tribunal does not consider that the amount payable is reduced by the quality of the report or that that cost is excessive. The Applicants have provided no comparator (there is no alternative quotation). Further the criticism made of the report seems to be mistaken – the 86% figure the Applicants refer to is the identified efficiency of the boiler from their preferred source, the service company – the figure CLPM assumed for calculation purposes was actually a little higher than the service figure at 88.2% (which was noted to be the maximum), the 60-80% estimate refers to the efficiency of delivery of heat to the Flats not the boiler itself.

44. Accordingly the Tribunal determines the figure of £953.40 payable.

Appeals

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 rpeastern@justice.gov.uk .

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

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