



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

Case reference : LON/00AP/LSC/2025/0954

HMCTS code : P: PAPERREMOTE

Property : Flat 5, Garwoods Lodge, High Road,
London, N22 8JU

Applicant : Nicole Harris

Representative : Not represented

Respondent : Notting Hill Genesis

Representative : Tom Owen of Notting Hill Genesis

Type of application : An application under section 27A
Landlord and Tenant Act 1985

Tribunal : Judge Tueje
Mr A Gee RIBA

Venue : 10 Alfred Place, London, WC1E 7LR

Date of decision : 6th March 2026

DECISION

Unless otherwise stated, statutory references relate to the Landlord and Tenant Act 1985.

Decisions of the Tribunal

- (1) The service charge costs levied on behalf of Space Homes Limited that are the subject of this Application are payable under the terms of the Applicant's lease.
- (2) Subject to paragraph (3) below, the period for the Applicant to submit her reply to the Respondent's statement of case is extended to 27th December 2025 pursuant to rule 6(3)(a).
- (3) Paragraph 9 of the Applicant's Final Response to Respondent's statement of case is excluded, and the Tribunal makes no determination in respect of the matters raised therein.
- (4) The Tribunal's reasons for these decisions are set out below.

The Background

1. This Application relates to service charges in respect of the premises known as Flat 5, Garwoods Lodge, High Road, London, N22 8JU (the "Premises").
2. By a shared ownership lease dated 14th August 2006, Presentation Housing Association Limited, the Respondent's predecessor, granted a lease of the Premises for a term of 125 years commencing 1st April 2005.
3. The lease was assigned to the Applicant on 15th October 2010.
4. The Respondent owns the freehold of the block within which the Premises is situated.
5. The Premises are within a block containing 11 purpose built flats. It is situated in a wider development containing other dwellings, and is accessed via an electronic gate and a private driveway. The Respondent does not have a legal interest in any other part of the wider development.
6. The wider development is owned by Space Homes Limited, and is managed by Y&Y Management.
7. The block does not have a bin store, nor is there a bin store on any part of the land owned by the Respondent. Therefore, the block's occupiers use the bin store on the wider development.

The Lease

8. The Tribunal was provided with a copy of the lease. The following terms of the lease relevant to this Application are set out below.
9. The Particulars of the lease state as follows:

Building: Flats C1-C11 Garwood Lodge, 419 High Road, Wood Green, London and parking spaces as comprised in the title number above referred to

Premises: Flat 5 Garwood Lodge on the first floor of the Building and parking space (if any) as the same are shown edged in red on the attached plan(s) including the fixtures and fittings therein

10. The Particulars also provide that:

Block Specified Proportion of Service Provision: 1/11th

11. Clause 1 of the lease contains definitions, which include (original emphasis):

1(2)(a) **“the Common Parts”** Means the entrance halls landings staircases bin store and other parts (if any) of the buildings comprising part of the Landlord's Estate and any driveway footpath garden parking area or other part of the Landlord's Estate which is intended to be or is capable of being enjoyed or used by the Leaseholder in common with the occupiers of the other flats in the Landlord's Estate

1(2)(b) **“the Landlord's Estate”** means the land and property now or formerly comprised in the Title referred to above

12. The Title referred to is registered at Land Registry under title number AGL125426, as stated at prescribed clause LR2 of the lease.

13. Clause 1 continues, and in particular, clause 1(2)(g) states:

“Service Charge” : Expressions relating to the payment of a service charge are defined in Clause 7 of this Lease.

14. The title of clause 7 is **“SERVICE CHARGE”**, and the title to clause 7(1) is **“Definitions”**. Insofar as is relevant, clause 7(1) contains the following definitions:

7(1)(b) **“Block”** means the Building

7(1)(c) **“the Block Service Charge”** means the Block Specified Proportion of the Service Charge Provision

7(1)(d) **“the Block Service Provision”** means that part of the Service Provision stated separately in pursuance of Clause 7(3)(a)

7(1)(e) **“Block Specified Proportion”** and Estate Specified Proportion means the proportions respectively specified in the Particulars

- 7(1)(f) ***“the Estate Specified Charge”*** means the Estate Specified Proportion of the Estate Service Provision
- 7(1)(g) ***“the Estate Service Provision”*** means that part of the Service Provision stated separately in pursuance of Clause 7(3)(b)
- 7(1)(h) ***“the Service Charge”*** means the sum of the Block Service Charge and the Estate Service Charge
- 7(1)(i) ***“the Service Provision”*** means the sum computed in accordance with sub-clauses (4)(5) and (6) of this clause

15. Although clause 7(1)(g) refers to clause 7(3)(b) of the lease, there is no clause 7(3)(b).

16. Initially, the absence in the lease of a definition for “the Estate” or “the Estate Service Charge” was not expressly addressed by the parties. Therefore, on the order issued 28th January 2026 the Tribunal requested the parties to address this as follows:

Clause 7(1)(h) provides that “the Service Charge” means the sum of the Block Service Charge and the Estate Service Charge. The lease contains no definition of “the Estate” or of “the Estate Service Charge”. The parties are invited to address what legal consequence, if any, flows from the absence of those definitions when determining whether the estate charges claimed by the Transferor are recoverable from the Applicant under the lease.

17. The parties’ responses are below: the Applicant’s response is at paragraphs 51 to 56 below, and the Respondent’s response is at paragraphs 84 to 85.

18. Returning to the express provisions in the lease, clause 7(5) reads:

The relevant expenditure to be included in the Service Provision shall comprise all expenditure reasonably incurred by the Landlord in connection with the repair management maintenance and provision of services for the Landlord's Estate and the Common Parts and shall include (without prejudice to the generality of the foregoing)-

19. Sub-clauses 7(5)(a) to 7(5)(e) set out various heads of expenditure to be included in the Service Provision that relate to costs in respect of the Landlord’s Estate and/or the Common Parts.

20. In particular, clause 7(5)(b) reads:

the costs of and incidental to compliance by the Landlord with every notice regulation or order of any competent local or other authority in respect of the Landlord's Estate (which shall include compliance with all relevant statutory requirements)

21. And clause 7(5)(d) reads:

any rates taxes duties assessments charges impositions and outgoings whatsoever whether parliamentary parochial local or of any other description assessed charged imposed or payable on or in respect of the whole of the Landlord's Estate or of the Building or on the whole or any part of the Common Parts

22. Paragraph 1 of the Second Schedule reads:

The right for the Leaseholder and all persons authorised by the Leaseholder (in common with all other persons entitled to the like right) at all times to use the Common Parts for all purposes incidental to the occupation and enjoyment of the Premises and the Landlord's Estate and the bin store (but not further or otherwise)

23. And paragraph 5 of the Second Schedule states:

The right for the Leaseholder and all persons authorised by the Leaseholder (in common with all persons entitled to the like right) at all times (a) to use the Common Parts... for all purposes incidental to the occupation and enjoyment of the Premises (but not further or otherwise) and (b) to pass and repass over and across the access ways road and footpaths leading to and from the Premises (c) to the free and uninterrupted use of the Car Parking Space (if any) edged blue on the plan

The Factual Background

24. The Applicant states that that in a letter from the Respondent dated 25th September 2015, leaseholders were notified from 2014/2015 onwards that service charges would include costs relating to estate charges levied on behalf of Space Homes' Limited on the Respondent.
25. These service charges, which will be referred to below as "SHL's costs" are for expenditure not relating to the Landlord's Estate or the Common Parts, but which have been incurred in respect of the wider development.
26. A proportion of SHL's costs are charged to the Respondent, which recharges it to leaseholders of the Building, including the Applicant.
27. In 2018 the Applicant invoked the Respondent's complaints procedure to challenge the payability of SHL's costs, but her complaint was dismissed. Also in 2018, she complained to the Housing Ombudsman about SHL's costs. In a letter dated 23rd January 2019 it notified her it did not have jurisdiction to deal with her complaint, which should be pursued through the First-tier Tribunal.
28. The Applicant states:

I was not in a position to pursue the matter when it first went to the ombudsman due to limited resource is and capacity, but I am now in a position to do so and am requesting a full review.

29. The Application is dated 25th July 2025, and was received by the Tribunal on 28th July 2025. It requested a determination on the papers.
30. The Tribunal issued directions dated 15th August 2025, which were amended on 18th November 2025. The latter directed the Respondent to provide its statement of case by 24th November 2025, and the Applicant to provide any reply by 2nd December 2025. The parties were directed to provide an agreed bundle by 2nd January 2026, but in default of an agreement, each party was required to provide their own bundle by the same date.
31. The Tribunal received an 80-page bundle from the Applicant on 27th December 2025, it included a reply to the Respondent's statement of case, which had not previously been submitted.
32. The Respondent provided a 205-page bundle on 2nd January 2026, and submitted an Order 1 form dated 2nd January 2026 requesting the Applicant's reply should be excluded because it was filed late, and it was filed after the Respondent prepared its skeleton argument.
33. In an e-mail sent to the Tribunal and the Respondent on 2nd January 2026, the Applicant set out her reasons for opposing the Respondent's application. She argued that the Tribunal's directions allowed her the option of providing a reply by 2nd December 2025, but did not require her to do so, and so allowed her to provide a reply by a later date. She also argued that she is a litigant in person and the Respondent has not stated what prejudice, if any, it suffered as a result of the timing of her reply.

The Parties' Positions

34. The Applicant's case is that under the terms of her lease, the Respondent is not entitled to recover SHL's costs because these costs are not incurred in connection with the Landlord's Estate. She relies on the definition of the Landlord's Estate at clause 1(2)(b), and argues that when read in conjunction with clause 7, in particular she has highlighted in fluorescent ink clauses 7(5), 7(5)(b), 7(5)(c) and 7(5)(d).
35. The Respondent's unchallenged position is that SHL's costs which are the subject of this Application relate to a proportion of the following costs:
 - 35.1 Electricity costs for the lighting of the bin store and the Private Driveway;
 - 35.2 Bin store maintenance;
 - 35.3 Maintenance of the electric gate; and
 - 35.4 Y&Y Management's costs in respect of the above.
36. In its statement of case the Respondent argues that the Applicant's definition of the Common Parts is too narrow, and when considered in conjunction with clause 7(5) which states that "... *all expenditure reasonably incurred by the Landlord in connection with the repair*

*management maintenance and provision of services for the Landlord's Estate **and** the Common Parts ..."*

37. It also points out that by paragraph 1 of the Second Schedule the Applicant has the right to "... *use the Common Parts for all purposes incidental to the occupation and enjoyment of the Premise and the Landlord's Estate and the bin store*"
38. Therefore, it argues, the definition of the Common Parts is intended to have a broader meaning beyond the common parts on the Landlord's Estate.
39. The Respondent further relies on Arnold v Britton, and submits that it is clear to a reasonable observer that the bin store provided for occupiers of the Block to use are part of the common parts to which the Applicant has access. These amenities are intended to be and are capable of being used by occupiers of the Building, including the Applicant, therefore the service charge provisions at clause 7(5) apply to these costs.
40. A similar argument is advanced in relation to the Applicant's right of uninterrupted access across all roads and footpaths leading to and from the Premises. Therefore, it's submitted, the access, roads, footpaths etc are intended to be included within the definition of Common Parts.
41. The Respondent submits that under the terms of the transfer of the freehold title from Space Homes Limited to its predecessor, the latter agrees to provide the bin store and access, and the Respondent agrees to pay an estate charge in respect of these services.
42. The Respondent further submits that by virtue of the express wording at clause 7(5)(b) and clause 7(5)(d), the Applicant is required to pay the claimed proportion of SHL's costs. That is because Space Homes Limited, the Transferor, or its agent, is an authority, which gives notice to the Respondent of the estate charges (i.e. SHL's costs), and by clause 7(5)(b) the Applicant is liable for those costs.
43. Furthermore, the Respondent argues (original emphasis):

*Under clause 7(5)(d) on **Page 79** of this bundle the Applicant agrees to pay her proportion of charges... of any... description... imposed or payable... on or in respect of the whole of the Landlord's Estate or of the building or on the whole or any part of the Common Parts.*
44. Therefore, because SHL's cost levied by the Transferor on the Respondent, are payable in respect of the Building and help preserve the Applicant's easements, these can be reclaimed from the Applicant under the terms of the lease.
45. The Respondent's next argument is a jurisdictional one; it submits that the Applicant should be taken to have agreed to these service charge costs. It acknowledges that the Applicant sought to challenge these costs, first by

complaining to the Respondent, and subsequently to the Housing Ombudsman. The latter determined on 23rd January 2019 that it did not have jurisdiction, because it was a dispute within the First-tier Tribunal's jurisdiction. However, because the Applicant has paid all service charge demands in full, and filed this Application six years after the Housing Ombudsman's determination, she should be taken to have agreed to SHL's costs.

46. The Applicant's reply addresses the Respondent's case, and is summarised below.
47. Clause 1(2)(a) provides the definitions used throughout the lease, including the terms when used in clause 7(5) of the lease.
48. She argues that any reference to the bin store, driveway and footpath in the lease apply only to those areas if they are part of the Landlord's Estate by the express wording of clause 1(2)(a). She says, this means that any areas outside the Landlord's Estate, cannot be legitimately demanded as part of the service charges. Adding, that it is not permissible to interpret the wording in clause 7(5)(a) as overriding the definition of the Common Parts in clause 1(2)(a), which expressly refers to the Common Parts being within the Landlord's Estate.
49. She further argues that Arnold v Britton does not apply in this case because the words used in the lease are clear. She states:

As confirmed by the Supreme Court in Arnold v Britton, the meaning of the lease must be determined by the actual words used, not by seeking to achieve a commercially convenient result or by reading in obligations which are not present. Only if there is genuine ambiguity may wider context or commercial common sense be considered. Here the language is clear and requires no such additional interpretation.

50. Her alternative argument on this point is that, even if "commercial common sense" is applied, that approach supports the Applicant's position. That is because it would be unreasonable for a leaseholder to agree to contribute towards costs relating to areas outside the leaseholder's Landlord's Estate, particularly because those charges would be outwith the statutory protection.
51. In responding to the Tribunal's order dated 28th January 2026 regarding the definition of "the Estate" and "the Estate Service Charge" the Applicant argued the terms "the Estate" and "the Estate Service Charge" can only reasonably be read as referring to "the Landlord's Estate".
52. Alternatively, the Applicant also argues, if "the Estate" and "the Estate Service Charge" are not defined in the lease, recovery of costs relating to "the Estate" and "the Estate Service Charge" are not covered by the provisions of the lease and so are impermissible. She continues, if these terms are not defined, the extent of leaseholders' liability would be vague and broad. She further states, leaseholders would be unable to challenge

the reasonableness of the charges, but would have to rely on the Respondent to do so.

53. As to the Respondent's reliance on paragraphs 1 and 5 of the Second Schedule, the Applicant argues that these paragraphs set out the Applicant's right of access and to use the bin store, driveways and paths on the wider development. However, the right to use these amenities does not inevitably impose an obligation to contribute towards their maintenance and repair, and no such obligation is provided for in the lease.
54. Nor, the Applicant argues, is she bound to pay these sums merely because the Respondent is liable to the Transferor to pay an estate charge. She is not a party to that agreement, so its terms cannot override the terms of the lease. She also relies on this point to address the Respondent's reliance on sub-clauses 7(5)(b) and 7(5)(d).
55. Furthermore, as regards sub-clauses 7(5)(b) and 7(5)(d), she disputes that the Transferor is an authority, as referred to in these sub-clauses.
56. The Applicant disputes that Cain v Islington applies in this case, because the reasoning only applies where a leaseholder has repeatedly made payments without any challenge. However, the Applicant states that she has been seeking clarification of the charges since 2014, continued doing so in 2016, and made a detailed challenge to the Respondent in 2018. She again requested a breakdown of these costs in 2025, which was not provided. She subsequently made this Application to the Tribunal. She states that she explained in the Application that the time that elapsed before she made the Application was because she did not have the financial or emotional resources to make an application earlier. She accepts that she has made payments in the intervening years, but that was because she was concerned about the consequences of not paying, and so the payments cannot be taken to have been acceptance.

Procedural Issues

57. The Tribunal considered the Respondent's application dated 2nd January 2026 to exclude the Applicant's reply.
58. We find the Applicant has misinterpreted the Tribunal's direction. These gave her the option of providing a reply, and if she elected to do so, she was required to provide that reply by 2nd December 2025. Therefore, her reply submitted (in her bundle) on 27th December 2025 was late.
59. However, although the Respondent points out it had prepared its skeleton argument prior to receiving the Applicant's reply, the Respondent does not state what prejudice if any it has suffered. Furthermore, the Tribunal's directions envisaged the Applicant's reply would be the final document prepared, it did not allow the Respondent an opportunity to respond to the Applicant's reply. Therefore, the Respondent's skeleton argument prepared on 18th December 2025 was not part of the Tribunal's directions.

60. In light of the above, in the absence of the Respondent identifying any or any material prejudice, and taking into account that the Applicant is a litigant in person, we consider it is in the interests of justice in accordance with the overriding objective to admit the Applicant's reply. However, it is admitted only insofar as it deals with whether the disputed amounts are within the terms of the lease. It is relevant to the issues the Tribunal needs to determine, and there would be prejudice to the Applicant if the reply is excluded.
61. The Applicant's original Application challenges whether SHL's costs are within the terms of the lease. It makes no express challenge regarding the amounts being claimed. The Respondent has responded to the Application on that basis, as stated at paragraph 9 of its statement of case. However, paragraph 9 of the Applicant's reply raises issues connected to the alleged unreasonableness of the amounts claimed. These matters were not raised within the original Application, and so the Respondent has not had an opportunity to address these. Furthermore, the purpose of a reply is to respond to a party's case, it is not intended to provide an opportunity to raise additional points.
62. Accordingly, except for paragraph 9 of the reply, we exercise our powers under rule 6(3)(a) to extend the period by which the Applicant is required to submit her reply to 27th December 2025.

The Issues for the Tribunal

63. The central issue in dispute between the parties is whether the Respondent is entitled to recover SHL's costs from the Applicant.
64. In the Application form the Applicant lists the service charge periods for which she is challenging these costs as 2020 to 2025, but in her statement of case seeks to challenge service charges from 2014 onwards. The Respondent argues that the Applicant is only entitled to challenge the period stated in the Application. The Tribunal deals with this at paragraph 91 below.
65. The Tribunal has identified that the following issues require determination:
 - 65.1 Is there unambiguous provision in the lease as to whether SHL's costs are recoverable;
 - 65.2 If there is any ambiguity, how should the ambiguity be resolved in accordance with Arnold v Britton;
 - 65.3 Whether, in light of Cain v Islington, the Applicant has admitted or agreed to the service charges that are the subject of the Application.

The Law

66. Section 27A reads:

27A Liability to pay service charges: jurisdiction

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to—

- (a) the person by whom it is payable,*
- (b) the person to whom it is payable,*
- (c) the amount which is payable,*
- (d) the date at or by which it is payable, and*
- (e) the manner in which it is payable.*

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

- (a) the person by whom it would be payable,*
- (b) the person to whom it would be payable,*
- (c) the amount which would be payable,*
- (d) the date at or by which it would be payable, and*
- (e) the manner in which it would be payable.*

(4) No application under subsection (1) or (3) may be made in respect of a matter which—

- (a) has been agreed or admitted by the tenant,*
- (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,*
- (c) has been the subject of determination by a court, or*
- (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement*

67. As regards section 27A(4), in Cain v Islington [2015] UKUT 0542 (LC), the Upper Tribunal held it could be inferred that the tenant in that case had admitted or agreed to service charge costs, in respect of which he had made a series of payments over several years without challenging the service charges. It was held that a single payment alone was not sufficient, but because the tenant had made several payments without protest, had done so over a period of time, and had the necessary information to challenge the costs, that was sufficient for the Tribunal at first instance to conclude he had admitted or agreed to the disputed service charges. Therefore, by virtue of section 27A(4) of the 1985 Act the tenant was precluded from subsequently challenging those service charges, even though the exact date the service charges were agreed or admitted was unknown.

68. As to Mr Cain's request during this period for further information regarding the service charges he subsequently sought to challenge, the Upper Tribunal did not consider his request amounted to a protest or

challenge such that would undermine the inference that he had agreed or admitted the service charges.

69. Arnold v Britton provides guidance regarding interpreting a lease where its terms are ambiguous. It states the court's task is to ascertain the objective meaning of the wording — that is, what the terms would reasonably have been understood to mean at the time the agreement was made. In doing so, the court considers the natural and ordinary meaning of the words, their context within the document, the purpose of the clause and the contract as a whole, the factual matrix known to both parties at the time, and what accords with commercial common sense.
70. The court does not take into account either party's subjective intention. Although ambiguity may justify a more flexible interpretative approach, the court will not rewrite the bargain simply because the outcome appears unwise or unfair in hindsight. It may only rely on facts and circumstances that were mutually known when the contract was formed, and it must give proper weight to the actual language the parties chose to use.

Determination on the Issues

71. The Tribunal has considered the parties' arguments and the documentary evidence provided.
72. Only findings relevant to the issues identified at paragraph 65 to 65.3 above, and those necessary to determine the issues, have been referred to in this judgment. It has not been necessary, and neither would it be proportionate, to determine each and every matter in dispute.
73. We have not referred to every document that we read and/or was taken into account in the findings below, but that does not mean it was not considered if it was referred to by the parties and it was relevant to an issue.
74. We will now address the issues identified above at paragraphs 60 to 60.3 in turn.

Whether there is unambiguous provision in the lease as to whether SHL's costs are recoverable

The Tribunal's Decision

75. We find that the terms of the lease are ambiguous as to whether SHL's costs are recoverable from the Applicant.

Reasons for the Tribunal's Decision

76. We consider it is arguably possible to interpret the lease in the way the Applicant contends for the following reasons:

- 76.1 The definitions of “the Landlord’s Estate” at clause 1(2)(b) applies throughout the lease, and that the definition of “the Common Parts” at clause 1(2)(a), means that this refers to areas within the Landlord’s Estate.
- 76.2 Where the lease refers to the Common Parts that include the bin store, driveway and footpath, this only applies to those areas within the Landlord’s Estate.
- 76.3 Granting rights of access and other easements, rights or privileges, do not require a leaseholder to contribute towards any associated repair or maintenance unless there is provision in the lease.
- 76.4 The Respondent’s liability to pay the Transferor an estate charge, does not entitle the Respondent to recover these costs from the Applicant unless there is provision in the lease.
- 76.5 Neither the Transferor or Y&Y Management can properly be described as authority for the purposes of the lease.
77. However, arguably, there is another way to interpret the term of the lease. That is because the Applicant’s position does not take into account sub-clause 7(1)(h) which states “***the Service Charge***” means the sum of the Block Service Charge and the Estate Service Charge”. We have emphasised, by underlining, the relevant text. However, the Applicant’s interpretation is based on the service charge consisting entirely of the Block Service Charge.
78. Accordingly, we find that there is ambiguity in the lease regarding whether SHL’s costs are payable, because the wording of the lease also indicates that the Estate Service Charge would be part of the service charges payable.
79. Clause 7 makes repeated reference to charges in respect of the Estate forming part of the service charge. For instance, clause 7(1)(e) refers to the Block Specified Proportion and Estate Specified Proportion meaning the proportion specified in the Particulars. However, only the former is specified in the lease (as 1/11th).
80. We consider the Estate Service Charge is the source of the ambiguity in the lease.
81. Further references to charge in respect of the Estate can be found at clause 7(1)(f) which refers to the Estate Specified Charge, and clause 7(1)(g) which refers to the Estate Service Charge provision. These expressions are similar to references regarding the Block Service Charge, in respect of which there are references to the Block Specified Charge, and the Block Service Charge Provision.
82. A further indication to support the express wording at clause 7(1)(h) that the Service Charge is intended to be an amalgamation of costs relating to

the Landlord's Estate as well as the Estate can be found in clauses 7(1)(d) and 7(1)(g). These each refer to the Block Service Charge Provision, and the Estate Service Charge Provision as being separate elements of the Service Charge Provision pursuant to clauses 7(3)(a) and 7(3)(b) respectively. However, the lease does not contain either a clause 7(3)(a) or 7(3)(b), which adds to the ambiguity.

83. On a separate point, contrary to the Applicant's contention, we also do not consider it is inherently unreasonable, where the terms of a particular lease permit it, for a leaseholder to contribute towards costs in respect of areas outside of a landlord's estate, or in which the landlord has no legal interest. This is a feature of some underleases on developments, where the intermediate landlord is itself a leaseholder only part of the development, and where a superior landlord, for instance, owns the freehold of the entire development.
84. The Respondent's position is that, in the absence of any definition of "the Estate" and "the Estate Service Charge", they should be interpreted how a reasonable person would interpret these terms in the lease. It disputes the Estate is intended to have the same meaning as the Block (or the Building), because defining the Estate would be otiose.
85. The Respondent further argues that in light of clauses 7(1)(f) to 7(1)(h) a reasonable person would conclude the Estate refers to those areas of the development referred to in the Second Schedule to the lease.

How should the service charge provisions in the lease be interpreted in light of Arnold v Britton

The Tribunal's Decision

86. We find that having regard to the decision in Arnold v Britton, the correct interpretation of the lease is that the Respondent is entitled to recover SHL's costs from the Applicant.

Reasons for the Tribunal's Decision

87. In interpreting the lease we have adopted the approach set out in Arnold v Britton. Therefore, in summary, we have determined what the parties objectively meant by the words used in the lease by asking what a reasonable person, equipped with all the knowledge that would have been available to the parties at the time of the agreement, would have understood the disputed wording to mean. We have focused on the language used, and considered its natural and ordinary meaning without re-writing the bargain.
88. We have considered the Applicant's submission that the undefined term "the Estate" (and "the Estate Service Charge") must be read as "the Landlord's Estate" as defined in clause 1, invoking *contra proferentem* in the alternative; and that any wider reading would deprive leaseholders of statutory challenge rights. We have also considered the Respondent's

submission that clauses 7(1)(f)–(h), the Second Schedule easements and the site plan show that “the Estate” is distinct from “the Block”, so that the Service Charge has two components (Block and Estate), and its reliance on business common sense as articulated in Rainy Sky SA v Kookmin Bank [2011] UKSC 50.

89. We reject the Applicant’s approach. Clause 7(1)(h) states that “the Service Charge comprises both the Block Service Charge and the Estate Service Charge.” If “the Estate” were simply the “Landlord’s Estate” coterminous with the Block (as contended), it would make the inclusion of the terms “the Estate Service Charge”, “the Estate Specified Proportion” and “the Estate Service Provision” otiose. The Applicant’s approach does not take into account that clause 7(1) distinguishes between Block and Estate.
90. Giving the words their natural and ordinary meaning in context, in our judgment a reasonable person with the background knowledge available to the parties at the time would understand clause 7(1)(h) to identify two distinct charging heads: a Block Service Charge referable to the Block and an Estate Service Charge referable to the wider development within which the Block is situated. In this context, we consider that would be the natural meaning of “the Estate Service Charge”. The factual matrix includes that the Premises forms part of a Block within a wider development; the Second Schedule confers rights of way and ancillary rights to enable access and use of facilities serving more than the Block alone. On that basis, the Estate Service Charge is the second element of the Service Charge.
91. We accept, as a matter of general law, that an easement does not of itself impose a liability to contribute to repair or maintenance. However, read together, clauses 7(1)(f)–(h) and the Second Schedule indicate that the parties objectively intended the Service Charge to comprise (i) a Block Service Charge and (ii) an additional Estate Service Charge referable to the land and facilities over which the leaseholder enjoys the rights contained in the Second Schedule. On that interpretation, the existence and scope of the Applicant’s liability under the Estate Service Charge are governed by the extent of the rights conferred in the Second Schedule. This gives effect to clause 7(1)’s internal structure while recognising the parties’ allocation of costs for facilities beyond the Block.
92. We are conscious that, if the Respondent incurs estate-level liabilities to a third-party transferor which it cannot pass through, the outcome may be commercially disadvantageous. However, our conclusion is not driven by an attempt to correct a “bad bargain”. It is based on the lease’s language and structure read in context.
93. As to whether the principle of *contra proferentem* is relevant, we have carried out a composite assessment, taking into account all the relevant surrounding circumstances to determine whether the Applicant’s or the Respondent’s interpretation is more consistent with business common sense; we conclude the latter is, and we therefore reject the Applicant’s interpretation. Accordingly, we have not considered this as an alternative,

instead we have considered the parties respective positions when interpreting the lease's provisions.

94. Finally, our interpretation does not deprive the Applicant of the statutory protection in section 27A of the Landlord and Tenant Act 1985. Whether any given demand is (i) payable under the lease and/or (ii) reasonably incurred remains open to determination under section 27A. That is available to the Applicant whether the service charges costs relate to the costs incurred by the Respondent for carrying out maintenance and repairs and providing services, or whether the costs relate to maintenance, repairs and services provided by a third party, charged to the Respondent, and re-charged to the Applicant.

Whether the Applicant has admitted or agreed to the costs that are the subject of this Application

The Tribunal's Decision

95. We find that the Applicant must be taken to have agreed to SHL's costs.

Reasons for the Tribunal's Decision

96. In the event that we are wrong regarding the above interpretation of the lease, we nonetheless consider the Applicant is barred from challenging them.
97. The parties have referred to Cain v Islington, which was discussed in G & A Gorrara Ltd v Kenilworth Court Block E RTM Co Ltd [2024] UKUT 81 (LC). Based on both of these authorities, we find that the Applicant in this case must be taken to have agreed to SHL's costs.
98. In this case, as with Mr Cain, the Applicant was aware at the time she made payments between 2019 to 2025 that her payments included a contribution to SHL's costs. We have no evidence that her payments were qualified in anyway, for instance, that she made the payments stating she was doing so under protest.
99. Furthermore, not only was the Applicant aware that SHL's costs were included, but the Housing Ombudsman informed her on 23rd January 2019, that if she disagreed with the costs she should apply to the First-tier Tribunal. Therefore she was aware of the charges and the mechanism for challenging them, but she did not do so until around 6 ½ years later.
100. We do not consider her request in 2025 for a breakdown of SHL's costs amounts to challenging them, in the same way that Mr Cain's request for further information did not. In any event, by the time the Applicant asked for a breakdown in 2025, she had been paying SHL's costs without challenge for around 6 years.
101. The Applicant seeks to explain this by stating she did not make an application earlier because she didn't have the capacity to do so, seemingly

referring to lacking the necessary financial or emotional resources. But this explanation is unclear. However, it is unclear what is meant by lacking the emotional resources. To the extent that this refers to the Applicant's health, she has not stated this, nor has she provided any medical evidence. Secondly, as to the financial resources, she is not legally represented, so it's unclear how her financial resources would have any impact on her making an Application.

102. Although the Upper Tribunal in Gorrara disagreed with part of the reasoning in Cain v Islington, that is not relevant to our finding. Both concluded that in some circumstances, a series of unqualified payments may be sufficient, and we find in the circumstances of this case, given that the Applicant was aware when she made those payments, that she was paying for service charges including SHL's costs, that knowledge, combined with the subsequent unqualified payments between 2019 to 2025, is sufficient.

Additional Matters

103. In light of the above, it follows that we do not need to determine whether this Application covers the service charge periods from 2020 to 2025, or extends back to 2014. Having found that the terms of the lease require the Applicant to pay these sums, and/or she is barred from challenging them by virtue of section 27A(4), any determination on this point would be academic.
104. It also follows that we do not need to deal with the issue of how any refund is to be implemented.

The Applications for Costs and Refund of Fees

The Tribunal's Decision

105. The Tribunal refuses the Applicant's request for orders under section 20C of the 1985 Act and paragraph 5A of Schedule 11 to the 2002 Act.
106. The Tribunal refuses the Applicant's request that the Respondent reimburses the tribunal fees paid by her.

Reasons for the Tribunal's Decision

107. The Respondent has successfully defended the Application. Therefore, we do not consider it to be just and equitable to make either of the orders the Applicant requests.

Name: Judge Tueje

Date: 6th March 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

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