



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

**Case reference** : **LON/00AH/LBC/2025/0657**

**Property** : **27 Nova Road, Croydon, Surrey CRO  
2TN**

**Applicant** : **Bowlwonder Limited – Mr Stephen  
Clacy**

**Representative** : **In person**

**Respondent** : **Graham Wiles**

**Representative** : **In person**

**Type of  
application** : **An allegation of breach of covenant:  
Section 168(4) Commonhold and  
Leasehold Reform Act 2002**

**Tribunal  
member(s)** : **Ms S Beckwith MRICS  
Mr J Stead**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **19 March 2026**

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**DECISION**

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**Decision of the tribunal**

1. The Tribunal finds that the Respondent is in breach of Clause 4(iii)(b) of the Lease for the reasons set out below.
2. The tribunal determines that the Respondent shall pay the Applicant £341 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

## **Background**

3. The Applicant is the freeholder of 27 Nova Road, Croydon, a two storey terraced house converted into two flats. The Respondent is the long leaseholder of the ground floor flat (“the Property”) held under a lease dated 26 October 1987 made between Michael Jospeth Guckian and Neil Russell Harris and Elizabeth Brown (“the Lease”).
4. The Applicant seeks a determination under section 168(4) of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) that the Respondent is in breach of a covenant contained in the Lease.
5. The tribunal issued directions on 2 October 2025 providing for the exchange of witness statements of facts, statements of case, legal submissions and any other documents upon which the parties wished to rely.
6. A hearing took place on 20 January 2026. The Applicant was represented by Mr Clacy, a Director of the company. The Respondent appeared in person.
7. The tribunal had been provided with a 56 page bundle prepared by the Applicant, including a witness statement, surveyors report, statement of estimates and supplementary reply.
8. The Respondent had not submitted any statement of case or evidence in accordance with the tribunal’s directions. The tribunal noted that the Respondent declared some learning difficulties, is dyslexic and also has some physical disabilities. Mr Wiles has been supported by Waterloo Legal Advice Service throughout the proceedings, although could not secure representation at the hearing.
9. Neither party requested an inspection, and the tribunal did not consider that one was necessary.
10. The tribunal heard full submissions from both parties during the hearing. Following a break, the parties informed the tribunal that they had reached a provisional agreement relating to matters wider than the single issue of the breach of covenant being considered at the hearing. The tribunal agreed to adjourn the hearing and delay issuing its decision until after 24 February 2026 to allow the parties to formally document their agreement and withdraw the application. The parties were asked to update the tribunal by 17 February 2026, otherwise it would proceed to publish its decision after 24 February 2026. On 23 February 2026 the tribunal received communication that the documentation was still being discussed. The tribunal gave the parties until 4 March 2026 to provide a further update. On 10 March 2026, the Applicant advised the tribunal that the

parties had not been able to document their agreement and requested that the decision was issued.

### **The lease**

11. Clause 4 (iii) of the Lease sets out the Lessee's covenant as follows:

*Jointly with the owners or occupiers of the other Flat in the Property and at their own expense in equal shares*

*[...]*

*(b) At all times during the said term well and substantially to repair uphold support maintain and keep the exterior of the Property and the entrance ways paths and staircases main walls party walls roof foundations and all structural parts thereof respectively including without prejudice to the generality of the forgoing all those parts used in common with the lessees of the other flats in the Property and all drains sewers watercourse pipes water pipes gas pipes electric wiring gutters down pipes gas pipes electric wiring gutters down pipes and other conduction media belonging thereto respectively with all necessary reparations and amendments whatsoever*

*[...]*

12. Clause 5 (d) sets out the Lessor's covenant as follows:

*That (if so required by the Lessee) he will enforce the covenants and restrictions similar to those contained in Clause 4 and the Second Schedule thereto entered into or to be entered into by the lessees of the other flat comprised in the Property on the Lessee indemnifying the Lessor against all costs and expenses in respect of such enforcement and prior to the Lessor taking any steps to enforce the covenants providing such security in respect of costs and expenses as the Lessor may reasonably require [...]*

13. The tribunal understands that the first floor flat within 27 Nova Road is held on similar terms.
14. The Applicant alleges that the Respondent is in breach of Clause 4(ii)(b) of the Lease.

### **The law**

15. The law relevant to the substantive application can be found at section 168 of the Commonhold Leasehold and Reform Act 2002:

### ***168. No forfeiture notice before determination of breach***

*(1) A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 (c. 20) (restriction on forfeiture) in respect of a breach by a tenant of a covenant or condition in the lease unless subsection (2) is satisfied.*

*(2) This subsection is satisfied if—*

- (a) it has been finally determined on an application under subsection (4) that the breach has occurred,*
- (b) the tenant has admitted the breach, or*
- (c) a court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, has finally determined that the breach has occurred.*

*(3) But a notice may not be served by virtue of subsection (2)(a) or (c) until after the end of the period of 14 days beginning with the day after that on which the final determination is made.*

*(4) A landlord under a long lease of a dwelling may make an application to the appropriate tribunal for a determination that a breach of a covenant or condition in the lease has occurred.*

*(5) But a landlord may not make an application under subsection (4) in respect of a matter which—*

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

*(6) For the purposes of subsection (4), “appropriate tribunal” means*

- (a) in relation to a dwelling in England, the First-tier Tribunal [...]*

### **The Applicant’s case**

16. Mr Clacy set out that in spring of 2017 they had been approached by the leaseholder of the first floor flat. The leaseholder had been advised that the roof required renewal. A surveyor’s report by Range Property Consultants dated 8 December 2016 [12-15] confirms that the roof is

considered to be beyond economic repair and therefore replacement is recommended.

17. The leaseholder of the first floor flat had approached the Respondent about arranging the works, however, he had indicated that he was not in a position to contribute to arranging the works or the cost thereof. Under Clause 5 (d) the leaseholder of the first floor flat approached the Applicant to find a solution, so that they would not be in breach of their lease.
18. The Applicant decided that they needed to intervene to do the works due to their duty of care to the leaseholders and to protect their investment in the freehold.
19. Mr Clacy confirmed that a formal consultation for the renewal of the roof coverings was then undertaken.
20. A Notice of Intention to carry out works was issued on 23 January 2017. Statement of Estimates was sent on 3 April 2018 [8-12] including details of six contractors who were invited to tender for the works. The Applicant indicated they proposed to appoint the contractor that submitted the lowest estimate, the total cost of the works being £54,425.02, resulting in a 50% share to Mr Wiles of £27,212.51.
21. The Respondent confirmed during a telephone call on 2 May 2018, that the works should proceed.
22. The roof works were completed on 28 June 2020.
23. The Applicant agreed a payment plan with the leaseholder of the top-floor flat to pay for the works over a period of time.
24. Mr Clacy confirmed that a payment plan to pay for the works has been offered to the Respondent multiple times since they were undertaken, but nothing has been agreed. The payment plans offered had always included a provision for interest on the sum due, initially at 8%, then reduced to 6%.
25. Mr Clacy submits that the Lease requires the Respondent to arrange and pay for any works to the Property together with the leaseholder of the first floor flat. The Respondent failed to arrange the works and has not paid for them and is therefore in breach of the Lease.

### **The Respondent's case**

26. Mr Wiles does not believe that he owes the amount of money that the Applicant is demanding. There is no clause in the Lease that requires him

to pay interest on the costs of the works to the roof. He therefore believes he only owes the original cost of the works.

27. Mr Wiles does not believe he is in breach of the Lease because he has offered to pay for the works. His offer was for the cost of the works only, to be paid in monthly instalments of £500 per month. This offer was refused.
28. Mr Wiles has paid £1,000 to date towards the cost of the works to the roof.

### **The tribunal's decision**

29. The tribunal determines that the Respondent has breached Clause 4(iii)(b) of the Lease.

### **Reasons for the tribunal's decision**

30. Clause 4(iii)(b) of the Lease requires the Respondent to jointly with the lessee of the first floor flat, to repair the Property, including the roof and to pay for such repair in equal shares.
31. The surveyors report of 8 December 2018 demonstrated that the roof of the Property required repair. The Respondent does not dispute that the works were required and those works have been undertaken.
32. It is common ground between the parties that the Respondent should have paid for an equal share of the cost of the works. The failure of the parties to reach agreement centres on the interest charges proposed by the Applicant. The tribunal has no jurisdiction as to how the cost of these works should be paid for or interest on that cost.
33. The tribunal's jurisdiction is limited to the question of whether the Respondent has breached a covenant of their Lease. The tribunal finds that the Respondent has not paid for the cost of the works to the roof as required under Clause 4(ii)(b) of the Lease and is therefore in breach of that Clause.

### **Costs**

34. In their supplementary reply, the Applicant made an application for a refund of the fees that they had paid in respect of the application/hearing<sup>1</sup>. Taking into account the determination above, the tribunal orders the Respondent to refund any fees paid by the Applicant within 28 days of the date of this decision.

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<sup>1</sup> The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

35. The Applicant also asks for disbursements of £30 (being Land Registry fees and postage) and the expenses of Mr Clacy attending the hearing. The tribunal does not have jurisdiction to order payment of expense claims.

**Name:** Ms S Beckwith MRICS

**Date:** 19 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).