FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BE/LSC/2024/0156**
Property	**:**	**Various Properties on Kingswood Estate, London SE21**
Applicants	**:**	**Alex Dwiar, Rhiannon Brislee-Young, Henry Fogarty and all other applicants as per the Schedule attached to the application**
Representative	**:**	**Mr Richard Alford, counsel**
Respondent	**:**	**The London Borough of Southwark**
Representative	**:**	**Mr Stephen Evans, counsel**
Type of application	**:**	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985**
Tribunal members	**:**	**Judge Tagliavini** **Ms J Rodericks MRICS**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Dates of hearing **Date of decision**	**:**	**6 & 7 October 2025 and 3 February 2026** **10 April 2026**

DECISION

Decisions of the tribunal

(1) The tribunal makes the decisions set out below.

The application

1. This is an application made under s.27A Landlord and Tenant Act 1985 seeking the tribunal's determination as to the payability and reasonableness of service charges levied by the London Borough of Southwark as part of the Kingswood Estate QHIP 2018/19 Major Works Contract.

The background

2. The applicants are all leaseholders spread over the 26 blocks that make up the Kingswood Estate. The respondent is the freeholder and landlord.

The leases

3. The applicants' leases were originally granted under the 'right to buy.' While there are minor variations between the leases depending on when they were granted, the terms relied upon are identical in all of the leases as follows:

> **The relevant parts of Clause 4 provides in respect of the landlord's obligations:**
>
> *(2) To keep in repair the structure and exterior of the flat and of the building (including drains gutters and external pipes) and to make good any defect affecting that structure*
>
> *(3) To keep in repair the common parts of the building and any other property over or in respect of which the Lessee has any rights under the First Schedule hereto*
>
> *(4) As often as may be reasonably to paint in a good workmanlike manner with two coats of good quality paint all outside parts of the building usually painted and also all internal common parts of the Building usually painted*
>
> *4(5) To provide the services more particularly hereinbefore set out the definition of "services" to or for the flat and to ensure so far as it practicable that they are maintained at a reasonable*

level and to keep in repair any installation connected with the provision of those services.

The 'services' means:

the services provided by the Council to or in respect of the flat and other flats or premises in the building and on the estate and more particularly set out hereunder (where and when applicable):

(i) Security Services
(ii) Electricity
(iii) Estate Lighting
(iv) Door Entry
(v) Concierge (including CCTV)
(vi)Lift
(vii) TV Aerial
(viii) Unitemised Repairs
(ix) Grounds Maintenance
(x) Care and
(xi) Heating (xii) Water Tanks"

Paragraph 6 of the Third Schedule provides:

(1) The Service Charge payable by the Lessee shall be a fair proportion of the costs and expenses set out in paragraph 7 of this Schedule incurred in the year.

(2) The Council may adopt any reasonable method of ascertaining the said proportion and may adopt different methods in relation to different items costs and expenses.'

The relevant parts of Paragraph 7 of the Third Schedule provides:

The said costs and expenses are all costs and expenses of or incidental to

(1) The carrying out of all works required by sub-clause (2) to (4) inclusive of Clause 4 of this lease …

(2) Providing the Services hereinbefore defined

(3) Insurance under sub-clause (6) of Clause 4 of this lease

(6) the maintenance and management of the Building and the Estate (but not the maintenance of any other building comprised in the Estate)…

(7) the employment of any managing agents appointed by the council… …

(9) installation (by way of improvement) of:
(i) double glazing
(ii) entry phone

The issues

4. The issues in dispute were identified as:

   (i) Whether the leases only allow the respondent to recover service charges for named improvements, being the installation of an entry phone system and double-glazed windows.

   (ii) Whether there is any clause in any of the leases entitling the respondent to recover service charges for complying with statutory requirements, for example the Regulatory Reform (Fire Safety) Order 2005 (as amended).

   (iii) Whether there is a 'sweeping up' provision or clause entitling the respondent to recover service charges not specifically recoverable under any other clause.

5. The applicants challenged the payability and reasonableness of part of the service charges levied by the respondent as part of the 'Kingswood Estate QHIP 2018/19 Major Works Contract. In particular the applicants challenged their obligation to pay the following items:

   (i) Front Entrance Doors (partially conceded by respondent)

   (ii) Other fire risk assessment works

   (iii) Communal lighting

   (iv) Fitting Spartan tiles to balcony floors

   (v) Internal cavity wall insulation (conceded by respondent)

   (vi) Supply and fit of loft insulation (conceded by respondent)

6. The respondent asserted that all works undertaken as part of the QHIP 2018/19 Major Works Contract fall within the landlord's obligations

under the leases and are recoverable under the service charge provisions they contain. Further, the respondent submitted that the works are consistent with the need to maintain the buildings to modern safety and energy efficiency standards, thereby ensuring the long-term habitability and value of the properties.

The hearing

7. At the oral hearing, the applicant was represented by Mr Richard Alford, counsel. The respondent was represented by Mr Stephen Evans, counsel. The tribunal was provided with a digital bundle of 2146 pages which included expert reports relied on by the applicant from Dobson & Poole Ltd dated 1 March 2021 (Surveyors) and letter dated 27 November 2024; Alexander McNair dated 5 May 2021 and 15 December 2024 (Engineers); CS Todd & Associates dated April 2024 and November 2024 (Fire Safety).

8. The tribunal heard oral evidence from the applicant's witnesses Mr Dobson FRIS; Mr Alex Jeremy Dwiar (lead applicant); Mr Fox and Mr Alexander McNair MIET.

9. The tribunal heard oral evidence on behalf of the respondent from Mr Nigel Rice who formally adopted the written evidence of Mr Jamie Anderson (Senior Electrical Engineer); Mr Jeremy French (Assured Fire Safety Consultancy); Mr Michael Balfour (Major Works project Manager; and Mr Joseph Sheehy (Capital Works Consultation Officer).

10. Included in the hearing bundle were the s.20 consultation letters and documents; Block Fire Risk Assessments for the subject blocks on the Kingswood Estate; Feasibility Reports – QHIP and Fire Risk Assessment Works. The respondent provided a Table detailing the Leaseholder Front Entrance Doors Renewed; Table of Fire Risk Assessment works; Table of Communal Electrics and Lighting works; Table of Balcony works; Table of Cavity Wall insulation works and Provisional final Accounts.

Preliminary matters

11. At the beginning of the hearing, the respondent sought to rely upon further additional evidence in respect of the flat doors of 3 of the additional applicants joined to the application by the tribunal in an Order dated 4 August 2025 and contained in a report/table compiled from an inspection of the front entrance doors on 09/12/2022. The tribunal determined it was reasonable and appropriate to admit this into evidence.

Repair or improvement

12. The applicants' central submission in this application was that the majority of the works carried out were works of improvement for which they were not required to contribute any sum.

13. The applicants asserted that:

    (1) The extent to which the Landlord may recover the costs of improvements is expressly limited to two, particularly defined, matters.

    (2) The Leases do not contain any obligation on the Landlord to comply with regulatory requirements or legislation or to recover the cost of the same from Leaseholders;

    (3) The Leases do not contain any typical 'sweeping-up provision,' though it will be seen that the respondent (impermissibly) relies on para. 6(7) as a broad obligation to contribute to numerous matters that are not expressly referred to in the Landlord's covenants or elsewhere in the service charge mechanism.

14. The respondent submitted that the major works were not works of improvement and fell within:

    (1) the obligation in clause 4(2) as a work of repair, and/or a work of maintenance and/or a work 'to make good any defect affecting that structure' (in that non-fire safe materials, and the absence of the same, constitutes a defect affecting the structure of both the flats and the building); and

    (2) within Paragraph 7(6) of the 3rd Schedule of the lease, which allows the recharge for works necessary for the maintenance and management of the block; and

    (3) within clause 4(5) as provision of a Service (lighting only).

15. In *Holding & Management Ltd v Property Holding & Investment Trust Plc* [1990] 1 All ER 938, the CA held at p.945 the Court of Appeal held,

> *Thus the exercise involves considering the context in which the word "repair" appears in a particular lease and also the defect and remedial works proposed. Accordingly, the circumstances to be taken into account in a particular case under one or other of these heads will include some or all of the following: the nature*

of the building, the terms of the lease, the state of the building at the date of the lease, the nature and extent of the defect sought to be remedied, the nature, extent, and cost of the proposed remedial works, at whose expense the proposed remedial works are to be done, the value of the building and its expected lifespan, the effect of the works on such value and lifespan, current building practice, the likelihood of a recurrence if one remedy rather than another is adopted, the comparative cost of alternative remedial works and their impact on the use and enjoyment of the building by the occupants. The weight to be attached to these circumstances will vary from case to case.

16. The respondent also relied upon *Waaler v Hounslow London Borough Council* [2017] EWCA Civ 45, [2017] 1 WLR 2817, per Lewison LJ at para 14:

> *I do not believe that the following propositions are controversial in the context of contractual liability.*
>
> *(i) The concept of repair takes as its starting point the proposition that that which is to be repaired is in a physical condition worse than that in which it was at some earlier time: Quick v Taff Ely Borough Council [1986] QB 809.*
>
> *(ii) Where the deterioration is the product of an inherent defect in the design or construction of the building the carrying out of works to eradicate that defect may be repair: Ravenseft Properties Ltd v Davstone (Holdings) Ltd [1980] QB 12.*
>
> *(iii) Prophylactic measures taken to avoid the recurrence of the deterioration may also be repair: the Ravenseft Properties Ltd case, at para 22, McDougall v Easington District Council (1989) 21 HLR 310, 315.*
>
> *(iv) In principle where there is a choice of methods of carrying out repair, the choice is that of the covenantor provided that the choice is a reasonable one: Plough Investments Ltd v Manchester City Council [1989] 1 EGLR 244.*
>
> *(v) At common law there is no bright line division between what is a repair and what is an improvement: the McDougall case at p 315. 3*
>
> *(vi) The use of better materials or the carrying out of additional work required by building regulations or in order to conform with good practice does not preclude*

works from being works of repair: Postel Properties Ltd v Boots the Chemist Ltd [1996] 2 EGLR 60.

17. The respondent also referred the tribunal to *Waaler* where Lewison LJ went on to hold,

> *In my judgment, therefore, whether costs have been reasonably incurred is not simply a question of process: it is also a question of outcome. That said it must always be borne in mind that where the landlord is faced with a choice between different methods of dealing with a problem in the physical fabric of a building (whether the problem arises out of a design defect or not) there may be many outcomes each of which is reasonable. I agree with Mr Beglan that the tribunal should not simply impose its own decision. If the landlord has chosen a course of action which leads to a reasonable outcome the costs of pursuing that course of action will have been reasonably incurred, even if there was another cheaper outcome which was also reasonable.*

18. The respondent submitted that the lease enables the respondent to recover the costs of 'providing the Services hereinbefore defined' (Schedule 3, para 7(2). The recovery of those costs is independent of para 7(1), which refers back only to clauses 4(2) to (4) of the lease. The use of the verb 'providing' does not exclude the provision of a service which might constitute an improvement, so called, and should not be construed as being limited to mere repair or maintenance.

19. Having considered the parties oral submissions and the documents relied upon, the tribunal makes the decisions below.

Service charge item - Front Entrance Doors

Decision

20. The tribunal records the respondent's limited concessions in respect of not recharging the applicants for part of these costs.

21. The tribunal finds the remaining costs of these works are within clause 4(2) of the lease and are reasonable and payable by the leaseholders.

Reasons

22. In reaching its decision, the tribunal had regard to the case of *Various Leaseholders of the St. Saviours Estate* [2017] UKUT (LC). This decision concerned the same respondent and the same leases and was a successful challenge by leaseholders to a door replacement programme.

In that case the respondent was not permitted to recover the costs of replacing doors that it could not prove were in disrepair.

23. The tribunal finds these works were not works of improvement but form part of the maintenance and repair of the building. The tribunal accepts the respondent's evidence as to the (old) age of many of these doors and their state of repair, deterioration due to age and level of fire resistance as well as the unauthorised replacements by some leaseholders (as these doors do not fall within the demise) and the need to comply with current statutory requirements in respect of fire safety.

24. The tribunal finds that there were several options put forward in respect of remedial work to these doors, the tribunal finds the respondent's choice of replacement was a considered, reasonable and cost effective choice that reasonably ensured uniformity of fire safety across the Estate.

25. In this instance, the tribunal finds the scope and nature of the works was considered by the respondent after the receipt of both independent and internal expert evidence and advice, in addition to the observations received from the leaseholders. Thereafter, the respondent made carefully considered choices as to what works would be carried out and their cost both in the short term and with regard to any long-term cost saving benefits.

26. Although the applicants challenged the respondent's decision to replace these doors and asserted it was both unnecessary for fire safety reasons and amounted to works of improvement, the tribunal preferred the evidence relied upon by the respondent to that of the applicants. The applicants relied upon the report of Mr Fox MIAAI, MSET, MCABE, QTLS, Ieng, FIFireE of C.S. Todd & Associates Ltd. In oral evidence to the tribunal Mr Fox told the tribunal that the works to the FEDs marked 'Light Red' on the Table of Works had been conceded by the respondent as not chargeable to the applicants and those marked 'Green' he accepted were works that were required because 'they were not fire doors.' In his report, Mr Fox stated,

> *It follows, therefore, that, in respect of the blocks on the Kingswood Estate, the requirement to replace existing fire doors should have been assessed on a case-by-case basis as part of an individual fire risk assessment for each block, based on risk.*

27. On cross-examination Mr Fox conceded that he had not known at the time of making his report a door by door inspection had been carried out on behalf of the respondent although 'he knew this now.' He did not carry out a similarly comprehensive survey himself. The tribunal also noted that his report did not include any photographic evidence to support his case. Mr Fox maintained in evidence that the doors should be only replaced when they were beyond economic repair and that

everything else such as hinges, letter boxes/plates and gaps could be remedied or adjusted. However, Mr Fox accepted in cross-examination that the respondent's decision to replace the doors was a choice that was open to the respondent. He also accepted that he had not considered the issue of 'remediation' in his report as his instructions from the applicants had not required this.

28. The applicants submitted it was difficult to understand the rationale for the respondent's decision to replace the vast majority of FEDs and asserted the Respondent appears to have made a blanket decision to replace doors that were not certified as in compliance with the FD30 standard, although that is a standard that is applicable to new installations (but not doors already in situ). The applicant also relied on the evidence of Mr McNair who stated in his evidence that,

> *Based on my own assessment of the original fire doors inspected, I am of the opinion that these doors could be determined to be "notional" fire doors and would, consequently, offer a suitable level of fire resistance to protect the means of escape in the event of a fire.*

29. The applicants asserted that unless these doors were in disrepair, the costs of the works upgrading their fire standard and any works recommended by the Regulatory Reform (Fire Safety) Order 2005 (as amended) were not recoverable from the leaseholders as the leases do not contain any obligation on the Landlord to comply with regulatory requirements or legislation or to recover the cost of the same from leaseholders. Further, the leases do not contain any typical 'sweeping-up provision.'

30. The applicant also submitted that the respondent (impermissibly) relies on para. 6(7) as a broad obligation to contribute to numerous matters that are not expressly referred to in the Landlord's covenants or elsewhere in the service charge mechanism.

31. The respondent relied on the evidence of Mr French who spoke to his witness statement dated 7 May 2025. Mr French described the methodology used as,

> *Assured offered the Council an inspection process that followed the clauses of a third party certificated fire door inspection scheme (BRE Global LPCB Loss Prevention Standard 1197). However, the objective as explained to us by the Project Manager, Mr Michael Balfour, was more of an assessment of the option to retain the FEDs, so the process did not proceed through the third-party certification route. However, the principles and practices of the schemes were constantly referred to.*

The concept of the process was fundamentally a risk-based survey which assessed the fire resisting potential of FEDs with an objective of advising the Council on whether they have the option to retain existing FEDs and still meet their mandatory life safety requirement. I was responsible for assigning competent fire door inspectors, initial assessments and overall project validation. I was also assigned the risk rating for each doorset based upon severity resulting from any breach of fire compartmentation via FED failure and applied recommended timescale for any works.

…

The process resulted in the assessment of 239 FEDs; the headline results were:

(i). 138 FEDs needed to be fire resisting but did not have the potential to meet the minimum standard with a recommendation to be replaced.

(ii) 27 FEDs had adequate fire resistance or there was no requirement for fire resistance and did not require replacement.

(iii) 74 FEDs that also needed to be fire resisting had faults that could be remediated.

32. The tribunal accepted Mr French's criticism of the limitations of the applicant's expert's approach and CSTA's failure to understand the respondent's concern and consideration of risk and accepts the respondent's works to the doors was a necessary and urgent measure directly related to enhanced fire safety standards, which arose from a comprehensive review of fire safety following the Grenfell Tower fire. The respondent had found, after every door was inspected, that the existing doors, while potentially functional under previous regulations, did not conform to the rigorous standards now required under the Regulatory Reform (Fire Safety) Order 2005 and the more recent Fire Safety Act 2021 and lacked the necessary certification to guarantee their effectiveness as fire barriers.

33. The tribunal accepts the respondent's assertions based on the evidence of Mr French, that the older doors often did not achieve the FD30 standard, which mandates that doors must provide at least 30 minutes of fire resistance to prevent the spread of fire and smoke, thereby protecting escape routes and providing vital time for residents to evacuate safely and were therefore 'defective.'

34. Although the tribunal had regard to the Upper Tribunal decision in *St. Saviours Estate*, the tribunal finds that this case centred around the factual matrix and evidence heard and preferred by the First-tier tribunal. The tribunal is satisfied that in this application the respondent has produced persuasive, detailed evidence as to the reasons it considered the front entrance doors (or a number of them) to be defective and the reasons for their replacement rather than remediation. The tribunal does not accept Mr Fox's conclusion in his second report that,

> *In my opinion, this entire case has resulted from a disproportionate perception on the part of the Council that failure to comply with current guidance for new buildings equates to undue risk to occupants; in effect, the Council have conflated non-compliance with serious risk, without any proper assessment of the risk from any defects that might exist in individual FEDs.*

35. The tribunal accepts the fire at Grenfell have brought sharply into focus fire risks and the need for ongoing assessments of risk. The tribunal however, found Mr French's report to both detailed and wide-ranging in its consideration of all the options available to the respondent. Mr French considered that where there was a door with multiple issues it would be both better and more cost effective to replace it rather than getting multiple tradesmen to deal with the issues. An approach the tribunal found to be a reasonable one.

36. The respondent asserted that the replacement of these doors was not an arbitrary improvement but a response to a clear and present safety requirement after careful consideration of the potential risks posed by non-compliant doors, especially in a densely populated residential estate the Respondent maintains that the rigorous safety standards now required justify the replacement of all non-compliant doors to ensure consistency for all flats in fire safety across the Kingswood Estate

37. The tribunal finds the front entrance doors to the individual flats do not form part of the demise and therefore remain the responsibility of the landlord to maintain and keep in repair. The tribunal found Mr French a good, credible witness who gave clear evidence to the tribunal about the extensive involvement of himself and his team in the inspections of the front entrance doors across the Estate. The tribunal accepts that in reaching his conclusions that works of replacement of the doors was 'maintenance' and not improvement as he had regard to all relevant matters including the current fire safety standards, the height of the block and the likely vulnerability of the residents due to age, health, disability.

38. The tribunal finds the works of replacement of the front entrance doors were not works of improvement but were works to remedy defects in their fire resistance which could only be remedied by the replacement of the original. In this instance the tribunal considered whether was there evidence upon which it could properly be determined that any or all of the replacement or altered original doors had dropped below the FD30 standard or rating and determined there was such evidence.

39. In conclusion, the tribunal finds that although there were several options put forward in respect of remedial work to these doors, the respondent's choice of replacement was a considered, reasonable and cost effective choice that ensured uniformity of fire safety across the Estate.

Service charge item - Other fire risk assessment works

Decision

40. The tribunal finds these works are works of repair and maintenance and fall within the terms of the leases and are reasonable and payable by the applicants.

Reasons

41. These works were described as:

    (i) the bricking up of coal and rubbish chutes

    (ii) cladding staircase soffits,

    (iii) signage as required

    (iv) replacement of air bricks with intumescent vent covers,

    (v) work to fire compartmentation in roof void and general firestopping as required.

42. The applicants asserted that unless these works were specifically to replace or repair items that have fallen into clear, evidencable, disrepair, they would be improvements on the original design and original levels of fire protection, and therefore were the financial responsibility of the freeholder, and not recoverable under the leaseholder service charges.

43. The respondent told the tribunal it had conducted several Fire Risk Assessments (FRA) on the Estate all of which were included in the Hearing Bundle. The witness statement of Michael Balfour concluded there was no adequate fire separation between the coal chutes and the

flat interior as this was how they were built in the 1940s and 1950s. Consequently, smoke from a fire could travel around the block, using the coal chute as its pathway. Therefore, for residents' safety the coal chutes needed to be bricked up if they could not be removed with minor cosmetic work to any damage. The respondent asserted that all the additional works are recoverable pursuant to Schedule 3, para 7(1) and/or (6) of the lease, in so far as they might extend beyond simple repair or maintenance.

44. The respondent asserted these works could be distinguished from those in the Upper Tribunal decision limiting so-called 'sweeper clauses', *LBTH v Lessees of Brewster House and Malting House* [2024] UKUT 193 (LC). The respondent stated it also relied on the 3rd Schedule, para 7(6) of the leases and its obligations to repair and maintain and expressly includes making good defects affecting the structure of the flats and building. Further, as para 7(6) of the 3rd Schedule does not follow a long list of specific, express covenants, the parties to the leases intended future relevant costs to be recoverable by the landlord.

45. The tribunal finds that the works listed above were reasonably required as part of the landlord's obligation to 'repair and maintain' and/or obligation to maintain and manage the building and to make good defects pursuant to Schedule 3 para 7(6) of the lease. The tribunal does not agree with the applicants' assertion that the removal of potentially dangerous disused coal shutes; cladding of soffit entrances, the installation of emergency signage, the replacement of air bricks with intumescent vent covers and work to fire compartmentation in roof voids and general firestopping as required can be considered to be 'improvements.'

46. Mr Dobson for the applicant in his report stated in respect of these works,

> *These works are welcome – but it is important to point out that unless these works are specifically to replace or repair items that have fallen into clear, evidencable, disrepair, they would be improvements on the original design and original levels of fire protection, the financial responsibility of the freeholder, and not recoverable under the leaseholder service charges.*

47. The tribunal finds that these works are not works of improvement but are works to remedy defects in the existing structure and fall within Schedule 3 para 7(6) of the lease i.e. *works concerning the maintenance and management of the Building and the Estate (but not the maintenance of any other building comprised in the Estate)…*

Service charge item - Communal lighting

Decision

48. The tribunal finds these are not works of improvement except for the element relating to the installation of the emergency lighting.

49. This element of cost attributable to this work should be deducted from the overall cost of these communal lighting works, which are otherwise Services which fall within the terms of lease and are payable by the applicants.

Reasons

50. These works were described as:

> Re-wire communal lighting system serving block along walkways & staircases including the installation of emergency lighting. As well as re-wiring work includes renewal of light fittings. Re-wire tank room power & lighting circuit, renew lighting writing to intake room.

51. The applicants asserted the electrical works which have been required or recommended because of Fire Risk Assessments are works of improvements for which there is no provision in the leases to charge for complying with statutory requirements. Consequently, the previous communal lighting system has been replaced by a new 'smart' system which also acts as emergency lighting although Mr McNair had found the existing communal lighting system was in a reasonable state of repair.

52. The applicants also challenged the works identified by Mr McNair as work which is not consequential on repair work but was solely being done as an improvement as;

(i) Installation MEM Glasgow TPN Isolator

(ii) Installation of Surge Protection

(iii) Communal Electrics heads to EDF tails

(iv) Install new lighting system to switch room.

53. The applicant submitted that works may be required to comply with current statutory standards but as set out above, there is no provision in the leases allowing the respondent to charge for complying with statutory requirements,

54. The respondent asserted the leases define 'services' as including electricity, lighting of common areas and/or estate lighting (although accepted there may be some minor variation amongst leases). Clause 4(5) of the leases obliges the respondent to provide the Services, and to ensure so far as practicable that they are maintained at a reasonable level, and to keep in repair any installation connected with the provision of those Services.

55. The respondent asserted the leases enable the respondent to recover the costs of 'providing the Services hereinbefore defined' under Schedule 3, para 7(2). The respondent submitted the recovery of those costs is independent of para 7(1), which refers back only to clauses 4(2) to (4) of the lease. The use of the verb 'providing' does not exclude, therefore the provision of a service which might constitute an improvement, so called, and should not be construed as being limited to mere repair or maintenance.

56. The respondent also submitted that the communal lighting and electrical upgrades were necessary to ensure that the estate complies with current safety regulations, including the Regulatory Reform (Fire Safety) Order 2005 and the British Standards for 114 emergency lighting (BS 5266-1:2016). The existing lighting systems on the estate were outdated, lacked emergency lighting provisions, and presented several safety risks, particularly in communal areas where visibility is crucial in the event of an emergency.

57. In his witness statement, Jamie Anderson, Senior Electrical Engineer, detailed the deficiencies in the existing lighting systems, including insufficient illumination, non-compliance with modern standards, and the absence of emergency lighting. The electrical systems themselves were said to be outdated, with wiring that was no longer compliant with the current Institute of Electrical Engineers (IEE) wiring regulations.

58. The respondent took the decision to upgrade the communal lighting not only to enhance the safety of residents but also to reduce the long-term maintenance costs associated with the old systems. The new installations include LED lighting, which is more energy-efficient and has a longer lifespan and the integrated emergency lighting, which is crucial for ensuring safe evacuation routes in the event of an emergency. LED lighting also has the benefit of allowing remote monitoring thus removing the need for monthly on-site inspections.

59. The applicants relied on the expert report by Alexander McNair, which challenged the necessity of the full replacement of the lighting system, arguing that parts of the system were still functional and could have been repaired rather than replaced.

60. The tribunal finds these works fall within the terms of the leases. However, the tribunal also finds the works were excessive in their scope

and unreasonable in so far as they included works to install emergency lighting, which necessitated the ripping out of existing cables and installation of new in order to accommodate it.

61. The tribunal finds the other works were reasonable and the costs of which are recoverable from the applicants.

Service charge item - Fitting Spartan tiles to balcony floors

Decision

62. The tribunal finds these works are not works of improvement and that the cost has been reasonably incurred by the respondent and is payable by the applicants.

Reasons

63. The applicants relied on the expert survey report of Martin Dobson FRICS and submitted these tiles are not part of the original building construction and therefore are an improvement over and above the original design and finish.

64. The respondent told the tribunal the costs of the tiles are recoverable under clause 4(2) and (3) and 3rd Schedule para 7(1) of the leases, and or in the alternative by virtue of para 7(6) thereof. The respondent told the tribunal that Spartan tiles are an industry standard repair for private balconies to provide protection from wear and tear and weather damage over many years into the future (although now no longer available and a similar substitute is sourced).

65. Consequently, the use of these tiles (or similar) does away with much future cyclical maintenance cost. It is also relatively inexpensive to fit. Spartan tiles are therefore a means of long term repair and maintenance, rather than improvement. There is thus no restriction under the lease on their fitting for this purpose.

66. Further, the respondent told the tribunal that a landlord is entitled to consider long term repair solutions and does not have to use the same repair method on every occasion. As with walkway asphalt, treating private balconies with solar reflective paint is not an effective repair method. After exposure to rain, the coating can become slippery under foot. It is also liable to be worn away from the bare asphalt due to residents' normal usage of their balconies.

67. The respondent also stated that not all private balconies received Spartan tiles or had an asphalt surface, despite the inclusion in the 'TOP' allowance. Additionally, several blocks, including ground-level private

balconies as well as rear private balconies, did not receive asphalt repairs or tiling due to the absence of an asphalt-covered private balcony. Moreover, specific balconies, such as the small semi-circular private balconies did not receive tiling but did have asphalt repairs and (possibly) solar paint applied.

68. The respondent told the tribunal that a mixture of approaches was utilised in carrying out repairs to the damaged asphalt on balconies, with some receiving tiles and others repairs to the asphalt and a covering of reflective paint. Consequently, the cost of these works are both reasonable and recoverable under the terms of the lease.

69. The tribunal finds it was accepted by the applicants and as evidenced in Mr Dobson's report there was disrepair to the balconies on the Estate and so were in need of repair and/or maintenance. The applicants did not raise any objection to the requirement for works and confined their objection to the use of Spartan tiling, although provided no alternative costing. At the hearing it was suggested the cost of the balcony works should be discounted by 28% to reflect the increase in cost by the use of Spartan tiling.

70. The tribunal finds the use of Spartan tiling was not an improvement as submitted by the applicants. The tribunal accepted the respondent's evidence that this was a cost-effective way to ensure maintenance of the relevant balconies and it had given careful consideration to the cost and effectiveness of this method as against the cheaper and less long-lasting use of asphalt.

Service charge item - Internal cavity wall insulation

Decision

71. The tribunal records the respondent's concession it will not recharge any applicant for costs of Cavity Wall Insulation.

Service charge item - Supply and fit of loft insulation

Decision

72. The tribunal records the respondent's concession it will not recharge any applicant the cost of these works.

Application under s.20C and refund of fees

73. At the end of the hearing, the Applicant made an application seeking an order that the respondent not be permitted to recover its costs of this application through the service charges. Having heard the submissions

from the parties and taking into account the determinations above; the applicants' original position of 'nothing is due' to its Amended Statement of Case and the concessions made by the respondent both before and during the hearing, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the respondent may not pass more than 50% of its costs incurred in connection with the proceedings before the tribunal through the service charge.

Name: Judge Tagliavini **Date:** 10 April 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 should be made on Form RP PTA available at https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber

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).

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 should be made on Form RP PTA available at https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber

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).