FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	**BIR/41UG/LSC/2025/0044**
Property	:	**179a Brookside Lane, Walton, Stone, Staffordshire, ST15 0HZ**
Applicants	:	**Daniel Webb, Kath Hope, Wendy Jones, Jeremy Glover, Anna Matthews, Kent Bailey, Marian Bates**
Representative	:	**Daniel Webb**
Respondent	:	**Gainhold Ltd**
Representative	:	**Roseway Properties Ltd**
Type of applications	:	**(1) Application for determination of liability to pay and reasonableness of service charges under sections 27A and 19 of the Landlord and Tenant Act 1985 ("the Act")** **(2) Application for an order under section 20C of the Act** **(3) Application under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 for an order reducing or extinguishing a tenant's liability to pay an administration charge in respect of litigation costs**
Tribunal member	:	**Judge C Goodall** **Mr W Jones FRICS**
Date and place of hearing	:	**Paper determination**
Date of decision		**11 May 2026**

DECISION

Background

1. This decision concerns a block of eight flats let on long leases to individual lessees. Seven of the lessees have applied for a determination of whether an invoice for works to repair a water leak noticed in late 2023 / early 2024 at the western end of the block and carried out in 2024, is payable in full. The individual lessees have each been invoiced in the sum of £631.40.

2. None of the parties asked for an oral hearing of the application. Accordingly, the decision is made on the basis of the documentary evidence submitted by the parties, supplemented by an inspection. The Tribunal carried out an inspection on 16 March 2026, but unfortunately the parties were not notified and the Applicant's representative and the Respondent therefore did not attend. On that occasion, though, the Tribunal was able to meet two other residents and Applicants on site – Mrs Anna Matthews and Kath Hope, who were able to explain where the works took place.

3. A second inspection therefore took place on 5 May 2026 with due notification. The Respondent did not attend, but asked his contractor Mr Dominic Geobey from Beacon Builders to do so.

4. The documentary evidence that the Tribunal considered consisted of the application form, the Respondents Statement of Case, and two bundles of documents, one supplied by each party.

5. This decision states the decision the Tribunal has made on the application and the reasons for it.

The Inspection

6. The block of flats runs west to east and is a two storey oblong brick built block built in red brick and with a flat roof. Four flats are ground floor flats and four are first floor flats.

7. The are three chimney stacks on the block; one at each of the west and east ends, and one centrally located. It is the west end chimney stack that is the concern in this application. The first floor flat at the west end is owned by Kath Hope. She reported a water leak towards the end of 2023.

8. The Tribunal was not able to inspect the roof itself. The chimney stack itself is of traditional brick with mortar pointing. There are four chimneys which are each capped with cowls.

9. At the second inspection, Mr Geobey was able to confirm that the works his company had undertaken consisted of the grinding out of old mortar and repointing of the chimney, replacement of crumbling flaunching on the top of the chimney, replacement of cowls, resealing airbricks with

silicon, replacement or repair of lead work at the bottom of the chimney, replacement of felt flashings at the base of the chimney where the laths had lifted, and the drilling of a new drain hole in the roof and fitting of a new corresponding drainage discharge pipe to allow surface water discharge to the surface water drainage system. These works were carried out on separate occasions, but they were all purposed to resolve the water ingress issue into Ms Hope's flat.

10. On the 16 March 2026 inspection, the Tribunal was shown the interior of flat 173a and noted that wallpaper had not yet been replaced following the water ingress during 2024 that Ms Hope had experienced.

The leases

11. The Tribunal has been supplied with a copy of the First Applicants lease and assumes all leases are in the same terms. It was granted in 1976 for a term of 99 years on payment of a premium and an annual ground rent.

12. The lessee has covenanted in clause 4(b) of the lease, in relation to the block, to:

    "contribute and pay one equal part of the costs expenses and outgoings of the Lessor incurred in the performance of the functions mentioned in the Fourth Schedule hereto."

13. In clause 5(3) of the lease, the landlord has covenanted to:

    "undertake and perform all the functions set out in the Fourth Schedule hereto …"

14. Paragraph 1 of the Fourth Schedule (containing the matters for which the landlord is responsible and for which the lessees are to contribute) provides:

    "The expenses of maintaining repairing redecorating and renewing
    (a) the main and party structures and in particular the roof gutters and rainwater pipes of the Block …"

15. No other paragraph of the Fourth Schedule (or indeed any other clause in the lease) allows the recovery of any management fees.

The invoice being challenged

16. The invoice under challenge is dated 20 February 2025. The Tribunal only has the invoice addressed to Mr Webb but assumes that all the Applicants received the same invoice, as it is a claim for the service charge period 1 Jan – 31 Dec 2024.

17. The expenses are stated to be £4,592.00, one eighth of which is charged in the invoice in the sum of £574.00. A 10% management fee of £57.40 has been added, making the total claimed the sum of £631.80.

18. The Respondent has provided copies of the invoices that make up the sum of £4,592.00 and work sheets from their contractor showing the cost is made up of:

    a. Invoice A. An invoice dated 8 January 2024 for work carried out on 3 January 2024 to "Attend site with access equipment. Thoroughly cleaned down chimney top. Lay a sand and cement mortar bed on top of whole chimney and flaunch. Apply water seal to all brickwork faces on the chimney. Carry out thorough investigation to flat roof and repair accordingly with bitumen felt. Lay bitumen felt flashings around base of chimney." The charge was £795.00 plus VAT, totalling £954.00.

    b. Invoice B. An invoice dated 22 March 2024 for work carried out on 8 March 2024 to "Core drill hole into the concrete soffit at the front corner and install a EDPM rubber outlet to the gutter. Apply bitumen felt to the gutter around the new outlet to make watertight. Remove existing down pipe to the rear of the property and dispose of. Install 2no new down pipes front and back of the property to flow into the existing gully pot." The contractor's charge was £1,620.00. Although VAT was calculated on the invoice, it was not added to the total invoice, so the invoice total remained £1,620.00.

    c. Invoice C. An invoice dated 22 March 2024 for work carried out on 22 March 2024 to "Attend site with mobile access tower for roof access. Grind out all existing mortar joints and clean down roof. Apply sand and cement mortar to brickwork joints to a flush finish using a 3:1 mortar." The contractor's charge is £1,190.00. Again, VAT was calculated but not added in, so the invoice total is £1,190.00.

    d. Invoice D. An invoice dated 5 December 2024 for work carried out on 4 December 2024 to "Attend site with access equipment. Install cowls to 4no chimney tops to prevent water ingress. Repoint the small area of missing mortar to the top of 1no side elevation. Remove silicone to the air bricks to the side elevation." The charge is £690.00 plus VAT, totalling £828.00.

    e. Those four invoices total £4,592.00. All were submitted by Beacon Building Developments Ltd.

The Applicants challenges

19. The challenge is:

a. The works to resolve the water leak at the west end of the block was one set of works. The leak was reported in late 2023 / early 2024 by the lessee of 173a and all charges were for repeated attempts to resolve that one complaint;

b. The service charge is not recoverable in full as there has been no consultation under section 20 of the Act.

c. In support of this argument, they point out that there was a single contractor engaged to carry out the works;

d. There is no provision in the leases which allow recovery of a management fee; and

e. The Applicants suspect that the Respondent has a long term qualifying agreement with the contractor, this limiting the recoverable charge to £100.00 per annum per lessee.

The Respondent's response

20. The Respondent accepts that no consultation under section 20 was carried out.

21. The Respondent's case is that the four occasions on which works were carried out as indicated in the four invoices which support the service charge addressed different building issues at different times, as evidence by the passage of time between each invoice. The four visits were not part of a single planned scheme of works. They constituted four separate occasions when the Respondent decided to carry out works. The existence of a common underlying issue does not convert the works into a single set of works.

22. The Respondent also states that no long term agreement exists between the contractor and the Respondent.

23. On the management fee, the Respondent's case is that a management fee is recoverable from lessees as part of managing the property. It claims that a 10% fee is reasonable.

Law

24. The law on the requirement to consult, (and a landlord's right to request dispensation from that requirement) is contained in section 20 and 20ZA of the Act. Section 20 provides:

Section 20 Limitation of service charges: consultation requirements

(1) Where this section applies to any qualifying works or qualifying long term agreement..., the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

(a) complied with in relation to the works or agreement, or

(b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.

25. The relevant contribution is the amount a tenant may be required to contribute under his lease (sub-section (2)).

26. Sub-sections (6) and (7) of section 20 limit the tenants "relevant contribution" to an "appropriate amount", which is currently £250 for works and £100 for a qualifying long term agreement (see SI 2003/1987, reg 6).

27. Section 20ZA provides (in so far as is relevant):

"Section 20ZA Consultation requirements: supplementary

(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section –

"qualifying works" means works on a building or any other premises ..."

28. In *Francis v Phillips* [2014] EWCA Civ 1395, the Court of Appeal considered the question of what constituted a single set of works for the purposes of consultation. Paragraph 36 stated as follows:

"It is not in issue that the question of what a single set of qualifying works comprises is one of fact. It is a multi-factorial question the answer to which should be determined in a commonsense way taking into account all relevant circumstances. Relevant factors are likely to include (i) where the items of work are to be carried out (whether they are contiguous to or physically far removed from each other); (ii) whether they are the subject of the same contract; (iii) whether they are to be done at more or less the same time or at different times; and (iv) whether the items of work are different in character from, or have no connection with, each other. I emphasise that this is not intended to be an exhaustive list of factors which are likely to be relevant. Ultimately, it will be a question of fact and degree. ...".

Discussion

29. The question for us is whether the four occasions when the Respondent engaged and paid for works to the block were for one set of "works to a building" or for four separate sets of works.

30. We have noted:

    a. All four invoices were for works to resolve one general issue – namely the reported water ingress into flat 173a;

    b. All works were carried out by the same contractor;

    c. Three invoices (A, C, and D) were for works carried out on the chimney all of which appeared to be carried out to improve the risk of water leaks. Invoice A involved resealing the top of the chimney and new lead flashings and waterproofing the brick work; Invoice C involved repointing the brickwork (even though some sealing of the brickwork had already been undertaken in Invoice A; Invoice D involved the fitting of cowls to prevent water ingress and yet more work on the brickwork;

    d. Invoice B was for works to prevent water ingress through pooling of water on the flat roof by the chimney.

31. Even though the works were carried out a different times, they were therefore all undertaken for the same reason. There was a strong connection between all four sets of works, and the works were all on the same part of the building.

32. It is our view therefore that the four invoices charged as a service charge in 2024 were for a single set of works. The Respondent admits there was no consultation and therefore under section 20 of the Act (absent of the grant of dispensation by the Tribunal), the law provides that no more than £250.00 can be charged to each lessee for the works.

33. We are also asked to review the addition of a management fee to the service charge invoice. Our role is not to consider whether such a fee is reasonable. The first question is whether there is a basis for it being payable at all. Frequently, there is a contractual right for a landlord or property manager to charge a management fee, and if it is challenged, the Tribunal's role is then to consider whether it is reasonably incurred. But if there is no contractual basis to charge the fee in the first place, it can never be charged, however reasonable in amount it is.

34. So far as we can see, there is no contractual basis for levying a management fee in this case, and we therefore determine that it is not payable.

35. The final issue is whether the service charge levied on the Applicants is further limited because there was a qualifying long term agreement between the landlord and the contractor on which there was no consultation.

36. The Applicants' have not produced any evidence of such an agreement, and the Respondent denies there is one. There is therefore no basis upon which we can determine that the service charge is further limited by failure to consult on a QLTA.

Decision

37. Our determination is that the Applicants are each liable to pay the sum of £250.00 only in respect of the service charge demands made against each Applicant which are dated 20 February 2025.

Costs

38. The Applicants have applied for orders under section 20C of the Act for an order that any of its costs incurred in defending this application are not to be regarded as relevant costs to be included in a service charge, and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 for an order reducing or extinguishing a tenant's liability to pay an administration charge in respect of litigation costs.

39. The Applicants have succeeded in their substantive application.

40. The Respondent has stated that it does not intend to seek recovery of its costs in any event, but out of caution we agree that it is appropriate to make these orders in favour of the Applicants as requested, and we so order.

Appeal

41. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
First-tier Tribunal (Property Chamber)