FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/21UC/LAM/2025/0619
Property	:	Denton Court, 20 Denton Road, Eastbourne, East Sussex, BN20 7ST
Applicants	:	Annik Edith Helene Coupey Smith Benedict Maher
Representative	:	Mr Leoni, Of Counsel Peppercorn Law
Respondents	:	Susan Greenwood Gareth Thacker Gabriela Katarina Richardson
Representative	:	Alastair Richardson
Interested Persons	:	The other lessees and freeholders
Proposed Manager	:	Mr Graeme John
Type of Application	:	Appointment of a manager
Tribunal Members	:	Regional Surveyor Clist MRICS Paul Smith FRICS Jayam Dalal
Date of Decision	:	11th May 2026

Decision

This is a formal order of the Tribunal which must be complied with by the parties.

Communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.

Background

1. The Applicants seek the appointment of a manager for the above Property. The Applicants have nominated Mr Graeme John as the Proposed Manager following service of a Notice pursuant to Section 22 of the Landlord and Tenant Act 1987 on 16th October 2025.

2. The Property is a Victorian block of six flats.

3. The Respondent comprises four individuals actings as trustees, holding the Property on trust for the leaseholders.

The Law

The relevant statutory provisions in respect of this application are found in s24 of the 1987 Act. The provisions read as follows:

"24 Appointment of a manager by [a .....tribunal]

(1) [The appropriate tribunal] may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this part applies-

(a) Such functions in connection with the management of the premises, or

(b) Such functions of a receiver,

or both, as [the tribunal] thinks fit.

(2) [The appropriate tribunal] may only make an order under this section in the following circumstances, namely-

(a) Where [the tribunal] is satisfied-

(i) that [any relevant person] either is in breach of any obligation owed by him, to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and

(ii) .....

(iii) that it is just and convenient to make the order in all the circumstances of the case;

(ab) where [the tribunal] is satisfied-

(i) that unreasonable service charges have been made, or are proposed or likely to be made, and

(ii) That it is just and convenient to make an order in all the circumstances of the case;

(aba) where the Tribunal is satisfied-
That unreasonable variable administration charges have been;
And That it is just and convenient to make an order in all the circumstances of the case made, or are proposed or likely to be made,

(abb) where the tribunal is satisfied-

(i) That there has been a failure to comply with a duty imposed by or by virtue of section 42 or 42A of this Act, and

(ii) That it is just and convenient to make the order in all the circumstances of the case;]

(ac) where [the tribunal] is satisfied-

(i) that [any relevant person] has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and

(ii) that it is just and convenient to make the order in all the circumstances of the case;] or

(b) where [the tribunal] is satisfied that other circumstances exist which make it just and convenient for the order to be made."

4. Certain of the words and phrases are explained or expanded upon in subsequent subsections of section 24 of the 1987 Act. Later subsections address the extent of the premises and the extent of the powers of the manager. The opening provision of section 24 of the 1987 Act enables the Tribunal to give to the manager such powers as it considers appropriate, not limited to those given to the freeholder under the Lease.

5. There is essentially what is often described as "a threshold criterion" for the making of an order that there is a breach made out, although equally there can be an order if relevant "other circumstances" have arisen, without a necessity for a breach to be found. That effectively involves the Tribunal looking backward. The breach can be only one of many alleged and can be modest. The fact of there being a breach or there being other circumstances does not mean that an order must be made, simply that one then may be made.

6. It then falls to the Tribunal to consider whether the making of an order is just and convenient. That involves rather more the Tribunal looking forward. Several examples of factors which may support the making of an order or may support not doing so are identified in case authorities. Any specific decision must necessarily consider the interplay of any relevant factors in the particular case. The principle of appointing a manager and the appointment of a specific proposed manager are separate issues.

7. The Tribunal has, amongst its jurisdictions, a jurisdiction to determine the service charges payable and the reasonableness of the costs incurred which those service charges are demanded to meet, pursuant to the

Landlord and Tenant Act 1985. Sections 18 and 27a are perhaps most notable. The Tribunal has regard to, amongst other matters, the RICS Service Charge Residential Management Code 3rd Edition (as was applicable at the date of application, referred to here on in as "the RICS Code"). That would all have been relevant in the event that detailed consideration of any matters in respect of service charges had been required. The provisions and requirements need not be set out in detail in the particular circumstances.

The Hearing

8. The hearing took place at the Brighton Tribunal Hearing Centre from 10am.

9. The hearing was attended by Mr Leoni of Counsel for the Applicants and Mr Maher as the second Applicant. Unfortunately, Ms Coupey-Smith had been taken ill and was unable to attend the hearing. Mr Williams, Ms Coupey-Smith's son, attended in the capacity of a witness for the Applicants. In attendance for the Respondents were Mrs Richardson and Ms Greenwood. Mrs Richardson requested that her son represent her which was dealt with as the first preliminary matter. Also in attendance were several observers to the hearing. Due to the number in attendance, the Tribunal did not make a record of their names.

10. The Tribunal did not inspect the premises. The hearing bundle contained limited photographic evidence of the Property.

11. The Tribunal confirmed to the parties that it had read the hearing bundle prior to the hearing, although a second bundle had been produced by the Applicant to amend the first. The matter was raised as a preliminary issue.

12. The Tribunal had also read the Applicant's skeleton argument in advance of the hearing. The Respondent's skeleton argument had not been received by the Tribunal until the start of the hearing. The Tribunal read the document during the short adjournment referred to below.

13. This decision records the most salient parts of the hearing which the Tribunal took account of in reaching its determination. It is not however a transcript of all that took place.

14. References in this determination to electronic page numbers in the bundle are indicated as [ ].

15. Mrs Richardson requested that her son act as her representative. The Applicant objected on the basis of late notice. Mrs Richardson responded that she had only received notice the previous day that the Applicant had appointed Counsel. She confirmed that she consented to Mr Richardson representing her and that he was willing to do so. Permission was granted, on the basis that Mr Richardson would deliver the opening and

closing statements and question the Applicant's witnesses only; he was not a witness and would not be giving any evidence.

16. The Respondents submitted that the Applicant's case ought to be automatically struck out. They argued that the second bundle had been filed late and should not be admitted, as they had not had sufficient time to review it and confirm that it was identical to the earlier bundle save for the removal of corrupted pages. It was alleged that the corruption was attributable to the Applicant. The Respondents also raised concerns regarding incorrect pagination and stated that approximately 20 additional pages appeared to have been added, although there had not been sufficient time to review the same fully ahead of the hearing.

17. The Applicant explained that the second submission was intended to rectify the corruption issue and to include the Applicant's reply to the Respondents, which was permitted by the directions dated 26 February 2026.

18. The Tribunal agreed with the Applicant, explaining to the parties that the date for compliance for the Applicant's reply appeared to have been miscalculated or a typographical error as an Applicant's reply would ordinarily be filed on the same date as the bundle or shortly beforehand, not after.

19. In those circumstances, the Tribunal found that the Applicants were not in breach of the Directions and that it would be unfair to impose a sanction.

20. The Tribunal further noted that pagination errors and IT-related corruption issues are unfortunately common and could be managed by taking care to ensure accurate page references and that all parties were referring to the same documents. Whilst not ideal, it would be disproportionate to strike out the application on that basis.

21. The Respondents stated that the Applicant had given no indication that an Applicant's reply had been added, nor that a witness statement from Ben Maher had been included, to which they directed to the Tribunal.

22. On review, the Tribunal noted that the document appeared to be an email rather than a formal witness statement. Mr Leoni advised that it was intended to be a witness statement; however, it had not been included in the first bundle, was neither signed nor dated, and did not contain a statement of truth. Further, the Respondents had not been notified of its inclusion by the deadline set out in the directions, nor prior to the filing of the second bundle. No case management application had been made to amend the directions, and there had been no communication with the Respondents regarding these matters.

23. This conduct was described as poor by the Respondents, particularly given that the Applicants were professionally represented. Mr Richardson further stated that the Respondents had not yet had time to

read and digest the Applicant's reply and were not familiar with the contents or order of the second bundle.

24. The Tribunal considered that, while the situation was partly attributable to the Tribunal's earlier directions, it was concerned that new evidence had been introduced at paragraphs 4–11 of the Applicant's reply, relating to a recent vote and associated exhibits. This went beyond the scope of a concise reply and raised the concern of the Tribunal as prejudicing the Respondent.

25. The Tribunal did not permit the inclusion of the document intended to be Mr Maher's witness statement due to non-compliance as to the requirements of a witness statement and its late inclusion.

26. The Tribunal agreed with the Respondent that the inclusion of new evidence and a witness statement at this stage, without notification or case management application to the Tribunal amounted to very poor conduct and was surprising given the Applicant was well-represented.

27. The Tribunal proposed a short adjournment to allow the Respondents time to read the Applicant's reply and evidence. Upon resumption, Mr Richardson confirmed that he was content to proceed with the hearing and was also content for the newly introduced evidence relating to the vote to be admitted, as the Respondents might seek to rely on it. However, he reiterated that he was unfamiliar with the ordering of the new bundle and had prepared page references only for the original bundle.

28. The Tribunal indicated that a pragmatic solution would be to refer to both bundles as necessary. Mr Leoni agreed. The Tribunal is grateful to both parties for co-operating with the Tribunal to find a workable and balanced solution, allowing the hearing to proceed.

29. Mr Leoni gave his opening statement.

30. Mr Leoni relied on his skeleton argument and set out four grounds for the application: breach of obligations, unreasonable service charges, breach of the RICS code, and whether it was just and convenient to appoint a manager. The Property is a block of six flats managed by lay leaseholders. The Applicants argued that management had been ineffective and would remain so. Multiple sub grounds were relied upon and the Tribunal was invited to consider the totality of management issues in the round when applying the statutory test.

31. Mr Leoni Called Mr Williams.

32. Mr Williams confirmed his witness statement [267-285]. His evidence focused largely on concerns over the Respondents' handling of the collapsed boundary wall and related insurance matters. While not disputing that the tree caused the wall collapse, he criticised how the Respondents dealt with the issue, particularly in relation to insurance,

consultation, and liability considerations. He stated that his mother, a vulnerable elderly leaseholder, had not been properly informed of insurance claims, policy changes, or claims history.

33. He also raised concerns about lack of consultation, disruption caused by repair works, and uncertainty over responsibility for the wall. Further issues identified included concerns about roof repairs, garages, service charges, and the presentation and reliability of accounts. He expressed a lack of confidence in the trustees' ability to manage the Property properly in the future.

34. Mr Richardson questioned Mr Williams.

35. Mr Williams explained his limited but long-standing involvement arising through his mother. He accepted that service charge arrangements had been in place for many years but expressed doubts about their lawfulness and transparency. He reiterated his mother's vulnerability and ongoing litigation with neighbours.

36. He stated that additional management concerns were identified only after the boundary wall dispute but maintained that the Respondents had been given sufficient time to address matters. He alleged discrepancies in roof repair documentation, questioned the legitimacy of certain contractors, and expressed mistrust in the financial records. He rejected the suggestion that the trustees had failed to notify leaseholders of wall works, stating that this failure lay with the neighbours.

37. Mr Richardson gave his opening statement.

38. Mr Richardson argued that self-management by lay leaseholders was common and appropriate. Court appointed management was a last resort. He said that the Applicants had never previously sought professional management and that the dispute arose solely from the wall collapse, which had now been resolved. Other issues were said to be readily resolvable.

39. He emphasised proportionality, noting the modest service charges and significant cost increase that a Tribunal appointed manager would bring. He stated that the Respondents had acted in good faith, complied with their fiduciary duties, and explored insurance options. Appointing a manager should remain a matter of leaseholder choice.

40. Mr Richardson called Mrs Richardson to give her evidence which she based upon her second witness statement only [387-393].

41. Mrs Richardson explained the historic and informal nature of management and service charge arrangements, which she had inherited from predecessors.

42. Mrs Richardson accepted that up until recently, the Trustees had levied service charges at their discretion.

43. She acknowledged awareness of certain lease obligations, including insurance apportionment, but said practices simply continued as before. She accepted that processes were informal and it was not a scientific process.

44. Mrs Richardson understood that the service charges ought to be levied twice yearly on the 24 June and 25 December as a one sixth apportionment to each flat under the terms of the lease but that was not the practice as Service charges had been historically paid monthly at £100 per month.

45. The service charges were fixed, unreconciled, and historically inclusive of insurance although the latter would now be charged for separately. There had never been any year-end adjustments made.

46. This was established practice and she had never felt that there had been an option to change that. She now understands that she can give leaseholders the option to pay monthly or bi-annually. It was a community not a business.

47. She further accepted that there had been non-compliance with various statutory requirements including Section 21B Landlord and Tenant Act 1985.

48. It had been a genuine error that she had provided Mr Maher with a copy of the 2024/2025 accounts rather than 2023/2024 as he had requested. Mr Maher had not made it known to her until the application that she has provided the wrong accounts. Had he informed her of this sooner she would have rectified the same.

49. She stated that Denton Court was generally well maintained and there had never been any complaints in the past. The management had been accepted by all bar one leaseholder who had not been paying the service charge for over a year.

50. Mrs Richardson believed that the management would change and that a managing agent would be appointed if the Tribunal did not do so. There had been agreement as to the preferred managing agent to appoint.

51. After the break for lunch, Mrs Richardson accepted that the RICS Code and lease terms had largely not been applied. The RICS code of management had never been applied in terms of the management strategy. It was once discussed but not considered to apply to them as lay trustees.

52. She accepted there were gaps in emergency arrangements and consultation on major works. There was no provision for out of hours emergency contacts.

53. With respect to the roof works above flats 2 and 4 in 2023 there had been no formal consultation process undertaken with leaseholders.. She understood that it was required for any works above £250 per leaseholder but works were kept below the threshold or invoiced separately.

54. The trustees would await for any reports of repairs and would respond very quickly to undertake required repairs. This practice had been effective and accepted for many years.

55. It was said that the leaseholders reported a leak to a downpipe but when Mrs Richardson had knocked their door to investigate they did not let her in. They had not been the most co-operative leaseholders. When taken to an email reporting the issue in 2023, Mrs Richardson disputed that they had left the issue for two years before fixing. Mr Jones must have been confused as to damp. The building was of Victorian construction and was looked after very well.

56. With regards to subletting, it was said that certain flats had been sub-let since before she had purchased her property. Even Miss Coupey-Smith's property had been previously sub let. The lease permits subletting with consent.

57. Sub-letting was said to not affect the insurance premium, the insurance premium had previously increased because the insurers requested further information as to the basement and reinstatement valuation. Mrs Richardson did not respond to Mr Leoni's reference to an email stating that the insurance premium had increased due to a change in occupancy [126].

58. It was said that Mr and Mrs Jones had failed to provide their residential status as requested by the insurance company. Mrs Greenwood had also requested the same information from them but had failed. As a result, some the broker had to find an insurer who would provide cover despite the lack of information as the nature of their occupancy.

59. It was said that communication and relations had deteriorated with Ms Coupey-Smith due to the tree and the wall. The Trustees had not taken action against Ms Coupey-Smith, that was the neighbours.

60. It was accepted by Mrs Richardson that her conduct had not always been entirely professional but the conduct of leaseholders had not always been cooperative. Mr Maher was in arrears, Mr and Mrs Jones had not provided required information, nor had they been friendly or taken the bins out. It was a small block and everyone ought to be involved in the daily running of it.

61. It was rejected that she was the only trustee management the Property. It was said that despite Mr Thacker and Mrs Greenwood residing elsewhere, they communicated frequently and got on very well.

62. Mr Richardson called Mrs Greenwood.

63. Mrs Greenwood confirmed her statement [383-397] and described the management as having been historically informal and leaseholders having very good relations in the past.

64. She acknowledged limited understanding of lease implications when acting as trustee and confirmed sub-letting had historically occurred.

65. Sub-letting was permitted as long as properties were not let to students or those in receipt of social assistance. Her own flat had been sub-let prior to her purchase.

66. Ms Greenwood confirmed that she had access to view the bank balance but had no control over the finances.

67. As to the service charges, it was her understanding it was levied as per the maintenance cost which was based on the expenditure of previous years. The cost was split equally between each flat.

68. With regards to insurance, it should be apportioned in accordance with the lease but had always been charged at a fixed cost.

69. The trustees had always operated a voting system requiring agreement from 3 out of the four trustees.

70. Mrs Greenwood's role was to correspond with leaseholders but she had not been so involved with the hands on management of the property as she does not reside there. She would however attend the property when an issue arose.

71. It was acknowledged that the recent dispute had made management difficult and she could now see a benefit in an independent person undertaking the management of the property.

72. Mr Leoni called Mr John.

73. Mr John confirmed his statement [406-408].

74. Mr John confirmed to the Tribunal that he remained content to be the nominated manager.

75. Not all leases had been reviewed by Mr John, only those of Flats 1 & 4 and a garage although he could not recall the number.

76. Mr John inspected the Property twice at the end of August 2025 and again in the Autumn 2025. All inspections were external only, entering the lobby and Miss Coupey-Smith's flat to meet with her.

77. Upon appointment Mr John would prioritise setting up a maintenance record, undertaking fire risk and asbestos assessments, review the insurance cover, take lessee contact details and a client account. It was said that he would also complete any LPE1 forms.

78. Over the course of the first year he would undertake a full specification of the block to ensure it was compliant. He would need to deal with leaseholder rent arrears as that would influence the finances. His approach to deal with any arrears would be to send letter within 14 days, if ignored an admin charge may be applied. If the matter remained unresolved he uses a debt collection specialist and solicitors but it would depend on the cost.

79. With regards to sub-letting, the lease would need to be reviewed and the provisions applied. The possibility of a lease variation would be explored.

80. Mr John confirmed that he had two other Tribunal appointments in the Brighton & Hove area.

81. He had been contacted by the Applicants' solicitor rather than directly by the Applicants.

82. Mr John's indemnity insurance provided for £2,000,000 cover. This had been increased in the past from £1,000,000 coverage for previous Tribunal appointments and had been accepted as any higher level of indemnity led to a significant increase in cost which made it financial unviable to be a Tribunal appointed manager.

83. During questioning by Mr Richardson, Mr John clarified that his insurance cover was for any one claim, having been unclear earlier as to the Tribunal's question on the coverage.

84. Mr John was unable to comment as to why the details of his previous appointments had not been sent to the Respondent.

85. It was said that Mr John managed some 140 properties as a sole trader. Mr John rejected Mr Richardson's preposition that being a small trader led to increased risk. In terms of the amount of properties managed, he was satisfied that he had sufficient resources.

86. Mr John stated that he did not have a client money protection scheme.

87. In terms of the service charge regime, this would be carried out in accordance with the terms of the lease and in accordance with the legislative requirements. He would produce statements of income and expenditure and obtain certification by an Accountant. The cost of this to leaseholders would be approximately £300 each.

88. Mr Richardson made his closing statement.

89. Mr Richardson argued that historic management practices had been accepted for decades without complaint or detriment. While acknowledging non-compliance, he said these issues only arose after the wall collapse and did not justify Tribunal intervention.

90. He argued that leaseholders should retain control and appoint their own managing agent if desired.

91. It was accepted that Mrs Richardson could not recite various parts of the RICS code but nor could Mr John throughout the course of his evidence.

92. Mr Richardson rejected that the RICS code needed to be strictly adhered to by the lay managers and concluded that the application was disproportionate and unnecessary.

93. Mr Leoni made his closing statement.

94. Mr Leoni focused on the statutory framework under Section 24 Landlord and Tenant Act 1987. He argued that admissions made by Mrs Richardson established prima facie grounds for appointment, including failure to comply with the lease, unlawful service charge demands, and non-compliance with the RICS Code.

95. He characterised the fixed £100 monthly charge as a "poll tax", highlighted the absence of lawful demands and reconciliation, and rejected reliance on historic acceptance of breaches.

96. Mr Leoni submitted that leases cannot be disregarded or rewritten for convenience.

97. Mr Leoni concluded that, considering all circumstances, it was just and convenient for the Tribunal to appoint a manager.

Decision

98. The Tribunal thanks both parties for their submissions.

99. At the commencement of the hearing, the Tribunal indicated that the grounds contained within the Section 22 notice were somewhat extensive. As such, the Tribunal's consideration and findings will be based primarily upon those subject to the oral evidence. The Tribunal notes that Mr Leoni requested the Tribunal to consider matters in the main.

100. The Tribunal would comment that whilst Mr Williams had clearly become familiar with the Property and the events leading up to the application, the Tribunal considered his evidence to be of limited assistance as a non-leaseholder without first-hand knowledge.

101. With regards to Ms Coupey-Smith's and Mr Thacker's witness statements, the Tribunal has read and considered the same although

both statements are regarded as less compelling than that of the evidence that was orally tested at the hearing.

102. The Tribunal considered that both Mrs Richardson and Ms Greenwood had been candid whilst giving evidence.

103. Mrs Richardson had made admissions in the course of her evidence that no regard had been given to the RICS Code, stating that it was considered not to have applied to lay leaseholders. Mr Richardson stated that it did not have to be strictly adhered to in such circumstances. The Tribunal rejected the proposition that the RICS Code had no application to the Respondents. The RICS Code has wide application to persons involved in the management of residential leasehold properties and enshrines relevant legislative provisions that have mandatory application.

104. Furthermore, Mrs Richardson admitted that service charges were paid monthly at £100 per flat based upon historic practice rather than being in accordance with the lease. Mrs Richardson further admitted that the insurance had not been apportioned in terms of the lease.

105. With regards to the accounts, Mrs Richardson admitted that there had been no end of year reconciliation of the accounts and no adjustments were made to leaseholder charges.

106. Mrs Richardson further admitted that she had not had regard to Section 21B Landlord and Tenant Act 1985 and had not issued lawful service charge demands.

107. Mrs Richardson added that there had never been any formal consultation process carried out with leaseholders.

108. The management was said to have been informal and at the discretion of the Trustees.

109. Both Mrs Richardson and Ms Greenwood accepted that some flats were sub-let with consent and the same had been historic practice.

110. On the basis of Mrs Richardson's admissions, the Tribunal finds that the Respondent is in breach of its obligation to operate the service charges in accordance with the lease and failure to provide annual accounts, and a failure to enforce lease covenants relating to sub-letting (Paragraph 1 of the Seventh Schedule). Further, the Tribunal is satisfied that unreasonable service charges have been made, or likely to have been made on the basis of a fixed monthly charge which is unbalanced and not apportioned in addition to insurance which has not been apportioned under the terms of the lease (Clause 1, sub-paragraph b of the Sixth Schedule, as amended by Paragraph 4 of the Deed of Variation dated 8 August 1990). The Respondent has also failed to comply several relevant provisions of the 3rd Edition of the Service Charge Residential

Management Code of the Royal Institute of Chartered Surveyors under the ground (ac).

111. With respect of sub-letting, whilst the Tribunal acknowledges that the whilst the Trustees have permitted the same, Paragraph 1 of the Seventh Schedule restricts use to owner-occupation and Paragraph 9 of the Fourth Schedule prohibits any action leading to an increase in the insurance premium. On the basis of the evidence at page 127 of the bundle, the Tribunal finds that the occupation status, including the sub-letting of one flat, has resulted in an increase to the insurance premium and as such the Respondents have failed to enforce the lease covenants.

112. On the basis of the above admissions and findings, the Tribunal finds that the grounds for appointment have been met. As such, the Tribunal need not make any further findings as to the remaining grounds relied upon by the Applicants within the Section 22 notice, although in acknowledgement of the same, the Tribunal would add that evidence relating to disrepair was limited (in terms of written, photographic and oral evidence) with the weight of Mr Williams' evidence being limited for the reasons outlined above.

113. In relation to the matter of the tree and collapsed boundary wall, the Tribunal notes that whilst the issue seems to have been the precursor for the turn in relations and no doubt of fundamental importance to Ms Coupey-Smith in particular, the issue had not been the focus of the oral evidence, nor of Mr Leoni's submissions. The Tribunal notes that a Lease Plan for Flat 1 was not included within the hearing bundle and as such, the evidence advanced was insufficient for the Tribunal to make a finding as to whether the Respondent had breached its repairing obligation in respect of this boundary wall.

114. In light of the grounds for appointment being met, the Tribunal considers whether it would be just and convenient to appoint a manager. In the circumstances, the Tribunal did not.

115. The Respondents had made admissions relating to management failures and had indicated that there was a keen intention for matters to improve. The Tribunal was encouraged by the Respondent seeking three quotations to appoint a professional managing agent, having selected the preferred option should the subject application not succeed.

116. Mrs Greenwood acknowledged that there would be a clear benefit of having professional assistance and along with Mrs Richardson, were both realistic about the abilities of the trustees to self-manage going forward given considerations to age, health, change or ownership and locations of trustees.

117. The Tribunal found both Mrs Richardson and Ms Greenwood, in addition to all parties which had provided evidence to the Tribunal whether written or orally, to be individuals that were highly capable of managing the property with the benefit of increased education and new

systems to do so, particularly with the assistance of a professional manager. It was clear that whilst the existing management had not been carried out in accordance with the lease or RICS code, the management had nonetheless been very active for several years.

118. Whilst there had been suggestion of disrepair to the remaining external boundary walls and driveway, the evidence in that respect had been somewhat limited. Photographic evidence had not been time and date stamped and images were without description.

119. Mrs Richardson had explained that there had been occasions of water ingress from various sections of the roof which had been repaired promptly, with the exception of water ingress to Flat 6. Mrs Richardson however, disputed Mr Leoni's suggestion that no action had been taken for some two years, explaining that there had been access issues. On the basis of this account and supporting evidence within the hearing bundle [443-444] to Mrs Greenwoods statement providing a timeline of events, the Tribunal accepts that the Respondent had attempted to resolve the issue. However, the Tribunal considered that had better communication and systems been in place for repairs, the issue could have been resolved sooner. Notwithstanding, it was Mrs Richardson and Ms Greenwood's evidence that the leaseholders of Flat 6 did not occupy the property as their main residence. This no doubt hampered the situation further with regards to receiving reports and gaining access. It appeared to the Tribunal to be an isolated event rather than being reflective of the overall management, maintenance and repair of the Property.

120. It is reasonable for properties to require ongoing maintenance, particularly a building of this age. The Tribunal considered that the current management had been informal and for the most part reactive rather than proactive. Notwithstanding, the Tribunal had heard evidence that there were regular contractors in use, cleaning and gardening services were utilised and repairs had been carried out, in the main once reported. Ideally the management would be proactive, but it had nonetheless been active. Whilst Mrs Richardson had not provided any evidence within the hearing bundle of a draft maintenance plan, the Tribunal were again encouraged to hear that there had been consideration of the same.

121. The Tribunal would note however, that the Respondents had taken the stance that the application was as a result of a dispute following the collapsed boundary wall. Further, it was said that the informal practice had been historically accepted by the Applicants. Whilst the Tribunal has some sympathy with the Respondents that the system had been inherited by the former Trustees and felt compelled to continue the same, it provides no justifiable reason to continue that practice nor to reject the Applicants' legitimate concerns. The Tribunal agreed with Mr Leoni's submissions that the motivation of the Applicants in making this application are not relevant.

122. The Tribunal wishes to be very clear that leaseholders have numerous rights enshrined within the various landlord and tenant statutes which should be adhered to. The management, regardless of whether professional or lay should be in accordance with the freeholders' duties and obligations.

123. The appointment of a manager under Section 24 is profound, effectively removing management powers from the freeholder, in this case the trustees. This is a different outcome to a freeholder appointed managing agent, who would take instruction from the freeholder thus retaining some control.

124. A Tribunal appointed manager would not resolve the dispute regarding the collapsed boundary wall nor historic breaches in relation to the service charge regime. The Tribunal considers that there are more suitable alternative courses of action for the same, should the leaseholders wish to address such breaches.

125. In these circumstances, the Tribunal is hopeful that the management would now improve, particularly on the basis of the Trustees instructing a professional managing agent as had been proposed.

126. As such, the Tribunal did not consider it just and convenient to appoint a manager at this time.

127. The Tribunal is grateful to Mr John for attending the hearing as a nominated manager.

128. Mr Richardson's submissions were critical of Mr John in terms of his level of insurance, lack of client money protection scheme, sole trader status and general knowledge of the RICS code. Whilst the Tribunal appreciates that Mr Richardson had had regard to the Tribunal's Practice Statement, the Tribunal does have discretion in the application of the same and each case ought to be considered on its merits.

129. The Tribunal accepts Mr John's explanation of his level of professional indemnity insurance being £2,000,000. Given the current climate of the insurance market, this is reasonable.

130. With regards to Mr Richardson's other concerns, the Tribunal balances this with Mr John's experience of managing some 140 properties, qualification and two other Tribunal appointments.

131. Most significantly, the Tribunal found that Mr John remained calm yet assertive under challenge from Mr Richardson. The Tribunal further considered Mr John to be impartial and non-partisan. Such qualities are fundamental for a Tribunal appointed manager who will invariable be dealing with fractious parties and hostility.

132. The Tribunal did however have some concern as to the level of detail contained within the proposed management plan and say this not as a criticism to Mr John but a suggestion for any future appointments.

133. Although, the Tribunal considers that the lack of detail as to the proposed management plan may to some extent be reflective of the fact that there has been no professional or formal management in the past.

134. Had the Tribunal considered that it was just and convenient to appoint a manager, it would have been inclined to appoint Mr John on the basis of his experience and conduct throughout the hearing.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.

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

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

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