FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**HAV/00ML/LSC/2025/0691**
Property	:	**St Ann's Well House, Farm Road, Hove, BH3 1FX**
Applicants	:	**Claire Dixon (Flat 1) Kirstie McLachlan (Flat 2) Duncan Moore (Flat 12) Caroline Hynds (Flat 12) Asma Elkhamlichi (Flat 15)**
Representative	:	**Ms Spurgeon (for Miss Hynds)**
Respondent	:	**Claire Louise Antonia Slade**
Representative	:	**Mr Jones of Counsel, Instructed by Gunnercooke LLP**
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	:	**Mr D Cotterell FRICS Mr P Smith FRICS Ms J Dalal**
Date of Hearing	:	**27-28 April 2026**
Date of Decision	:	**19 June 2026**

DECISION

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Decision of the Tribunal: Summary

1. **In relation to the specific items challenged in the application, the Tribunal determines that the amounts payable for the invoices shown in each case, for the service charge years in issue, are as follows:**

Year	Invoices	Amount Payable
2019	Packham Construction	£ 2,376.00
2019	HOP Consulting Ltd	£ 300.00
2019	HOP Consulting Ltd	£ 1,188.00
2019	Portal Plan Quest	£427.00
2019	Turner Associates	£ 2,609.00
2019	**S/C year total of these invoices**	**£ 6,900.00**
2020	Overill Assocs	£ 3,295.94
2020	Deacons Bldg Svcs	£ 4,902.00
2020	Telkev	£ 110.00
2020	HOP Consulting Ltd	£ 324.00
2020	**S/C year total of these invoices**	**£ 8,631.94**
2021	Deacons Bldg Svcs	£16,441.83
2021	Deacons Bldg Svcs	£ 9,388.43
2021	Deacons Bldg Svcs	£ 33,915.00
2021	Deacons Bldg Svcs	£96.00
2021	Woodland Constr	£4,752.00
2021	P Goacher Assocs	£ 630.00
2021	Zurich	£ 6,084.00
2021	**S/C year total of these invoices**	**£ 71,307.26**
2022	OA Building Surveyors	£ 2,828.53
2022	OA Building Surveyors	£12,554.25
2022	OA Building Surveyors	£ 4,947.84
2022	OA Building Surveyors	£ 121.44
2022	P Goacher Assocs	£ 1,315.68
2022	Woodland Constr	£784.80
2022	Woodland Constr	£352.80
2022	Chambers & Newman	£10,021.00
2022	Transfer to reserves	£ 15,000.00
2022	**S/C year total of these invoices**	**£ 47,926.34**
2023	Woodland Constr	£ 4,233.60
2023	Chambers & Newman	£ 13,549.00
2023	P Goacher Assocs	£ 14,679.96
2023	R A Ellis Consultancy	£ 428.35

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2023	Transfer to reserves	£ 12,000.00
2023	**S/C year total of these invoices**	**£32,890.91**
2024	Woodland Constr	£ 3,970.00
2024	Chambers & Newman	£10,316.00
2024	Transfer to reserves	£ 6,400.00
2024	Optimum Property	£2,172.00
2024	Eco Tree Care	£500.00
2024	**S/C year total of these invoices**	**£23,358.00**
2025	**No findings**	**No findings**

2. **The expenditure relating to Roof Works reflected in the invoices detailed at paragraph 78 below and totalling £14,376 is reasonable and reasonably incurred, but (on the Respondent's admission) did not comply with the consultation requirements of section 20 of the Landlord & Tenant Act 1985 and therefore payability of that total is limited to £250 per leaseholder.**

3. **The Tribunal makes no order under section 20C of the Landlord & Tenant Act 1985 and Paragraph 5A Schedule 11 Commonhold and Leasehold Reform Act 2002**

4. **The Tribunal's reasons are set out below.**

The Application

5. The application seeks determination of liability to pay and/or reasonableness of service charges under s.27A of the Landlord & Tenant Act 1985 in relation to St Ann's Well House, Farm Road, Hove (the Property). The application was dated 9 May 2025. The Applicants challenge service charges levied in 2019, 2020, 2021, 2022, 2023, 2024, and in estimate in 2025. At section 10 of the application form, the Applicants state "*The grounds for this application … include the unreasonableness of costs due to potential historic neglect, lack of proper consultation and inadequate justification for charges*".

6. The application listed items in issue for each of the service charge years, notably works and fees relating to repair to balconies to the front of the Property (the Balcony Works); works relating to repair to external staircases at the rear of the Property (the Stairway Works); works relating to wall repair adjacent Flat 1 (the Flat 1 Works); works relating to trees (Tree Works), the cost of insurance of the Property, fire safety works, roof repairs (Roof Works) and accounting of funds held in a sinking fund arrangement (the Reserve Fund accounting).

7. By Directions given on the 19 August 2025 and further Directions given on the 1 October 2025, following a case management hearing on that date, the issues for

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which the applicant seeks determination were identified as: (a) Whether service charges demanded for the years 2019-2025 are payable and if so, are reasonable in amount. (b) Whether an order under section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the 2002 Act should be made. (c) Whether an order for reimbursement of application/ hearing fees of should be made.

8. The application was heard over 2 days on the 27 and 28 April 2026 at Havant Justice Centre, Elmleigh Road, Havant. The parties provided, and the Tribunal read and considered, a main bundle of 1921 pages and an additional bundle of images of a further 166 pages and a further supplementary bundle consisting of 130 pages.

9. The Applicants' case was supported by a statement of case and personal statements from each of the Applicants, a response to the Respondent's statement of case, and witness statements and evidence in person from each of the Applicants. The Respondent's case was supported by a statement of case, a witness statement and evidence in person. Each party's case was also supported by expert evidence, for the Applicants from Mr Plant FRICS, and for the Respondent from Mr Rollestone MRICS. The Applicants presented their case in person, Miss Hynds supported by Ms Spurgeon. Mr Jones of Counsel instructed by Gunnercooke LLP appeared for the Respondent. At the hearing each witness (except Ms Elkhamlichi) having given their evidence in person, was cross examined, and answered questions from the Tribunal.

Background

10. The Property is a purpose-built apartment block dating from the early 20th Century and containing 16 similar flats and arranged over ground and 3 upper floors. There are substantial balconies at first floor level to the front of the building; at the rear are steel-framed staircases serving the upper floor flats. The ground at the rear of the Property is a communal garden.

11. The Applicants are leaseholders of individual flats within the Property. The Respondent has been the freeholder since February 2017; the freehold title includes 5 of the flats and the Respondent has indirect control of a further 2 flats through a company of which she is a director.

12. During the service charge years in issue, the Property was managed by agents, Fullers Commerce (Fullers), on behalf of the Respondent.

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The Leases

13. The bundle included a copy of the lease of Flat 1 that is in a similar form to all the Applicants' leases. It is dated 28/09/1989 and grants a term of 99 years from 29/09/1987 which, in the case of Flat 1, is extended by a deed of variation dated 06/10/2016.

14. The extent of the demised flat is described in the lease's First Schedule, being: "*…all those rooms known as Flat Number 1 St Ann's Well House Farm Road Hove in the County of East Sussex on the Ground Floor of the Building and shown edged red on the plan…*". In addition to reference to the plan, the demise is described to include internal plastered surfaces and various conduits. The retained Property is described as " *… the land shown edged in blue on the Plan together with the building. thereon comprising. sixteen flats together with all appurtenances thereto which land edged blue is registered at H.M. Land Registry with freehold title absolute under title number ESX126686.*"

15. The freeholder's repairing covenants are set out in the Fourth Schedule to the lease. The freeholder is empowered to appoint a managing agent (paragraph 1). By paragraph 2, the freeholder may wash and paint the exterior elements of the Property and "*… will keep the interior walls and the exterior walls and ceilings and floors of the Building and the whole of the structure roof balconies foundations and main drains and boundary walls and fences of the Building … in good repair and condition and keep the communal grounds and paths properly maintained and surfaced*". Paragraph 3 extends the duty to repair to other common parts of the Property.

16. Paragraph 8 of the lease details the freeholder's obligations in relation to insurance in terms that they will "*insure and keep insured the Building (including the Flat) against comprehensive risks with some insurance Company of repute nominated by the Landlord including loss or damage by fire … .in the full reinstatement value thereof …*"

17. Paragraph 9 goes on to say, inter alia: "*… The Landlord shall carry out all repairs to any other part of the Building for which the Landlord may be liable and provide and supply such other services-for the benefit of the Tenant and the other tenants of flats in the Building and carry out such other repairs and such improvements works and additions and defray such other costs(including the modernisation or replacement of plant and machinery) as the Landlord shall reasonably consider desirable to maintain the Building as a block of residential flats or in the general interest of good estate management or otherwise in the interest of the tenants of any of them*" and in addition at paragraph 11 the freeholder is empowered to: "*… provide such other services and amenities as it or the Surveyor shall consider desirable in the interest of the Building or the tenants of the flats therein or any of them or in the general interest of good estate management*".

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18. The leaseholders' obligations in relation to paying service charges are detailed at clause 3(3)(a) of the lease in terms: "*To contribute and pay to the Landlord within fourteen days of the service upon him of the hereinafter mentioned account a proportionate part (hereinafter called the "Tenant's Proportion") of all costs charges and expenses from time to time incurred or to be incurred by the Landlord in performing and carrying out the Landlord's obligations and each of them under the Fourth Schedule hereto as set out in the account referred to in paragraph 12 of the Fourth Schedule hereto (hereinafter called "the service charge") and the expression "all costs charges and expenses from time to time incurred or to be incurred by the Landlord" as hereinbefore used shall be deemed to include not only those costs charges and expenses which have been actually disbursed incurred or made by the Landlord during the year in question but also such reasonable part of all such costs charges and expenses which are of a periodically recurring nature (whether recurring by regular or irregular periods) whenever disbursed incurred or made and including a sun or sums of money by way of reasonable provision for anticipated expenditure in respect thereof as the Landlord or its accountant or surveyor (as the case may be) may in its or his discretion allocate to the year in question as being fair and reasonable in the circumstances and relates pro rata to the Flat … ".*

19. Clause 3(3) continues at (b): "*To pay to the Landlord with each payment of rent such sum in advance and on account of the service charge (hereinafter called "the Advance Payment") as the Landlord shall in its discretion specify as being a fair and reasonable interim payment*" being a provision to make charge in advance

The Issues

20. The issues raised by the Applicants that fall within the Tribunal's jurisdiction concern the service charges for the service charge years 2019-2025 and elements of those charges as detailed in the application, in particular:

Service Charge Year	**Applicants' Description**	**Amount**
2019	Front balcony exploration work:	£2,376.00
2019	Legal and professional fees:	£4,524.00
2020	Front balcony exploration work:	£8,623.00
2021	Front balcony refurbishment:	£ 59,841.00
2021	Scaffolding:	£ 4,752.00
2021	Surveyors - Philip Goacher Associates	£ 480.00
2022	Front balcony refurbishment: refurbishment:	£ 20,331.00
2022	Scaffolding (Fire Escapes):	£4,234.00
2023	Fire Escapes: Scaffolding:	£4,234.00
2023	Survey Costs (Philip Goacher Associates):	£ 14,679.96
2023	Mr. Ellis Reports (Rear Wall Flat 1)	£ 428.35

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2023	Flat 1 Skimming Works (Rear Wall)	All amounts
2024	Scaffolding (Fire Escapes) (a/cs ending 31/12/2024)	£3,970.00
2024	Skimming works (Flat 1 - Side Wall)	All amounts
2024	Tree works:	£ 500.00
2025	Contract Works (Paul McBride):	£ 275,134.44
2025	Fire Alarms (Brighton Fire Alarms):	£ 12,919.20
2025	Allowance for Inflation (Delayed Start):	£ 14,403.13
2025	Surveyors Costs (Philip Goacher Associates):	£30,246.58
2025	Scaffolding costs: Cost for 2025 to be determined	All amounts
2025	Reassessment Work to the Rear Flat 1	All amounts

21. The detail of the Applicants' concerns relates to a number of matters that cover several of the service charge years in question, and may be summarised as:

- The Balcony Works
- The Stairway Works
- The Flat 1 Works & Tree Works
- The cost of insurance
- Fire Safety Works,
- Roof Works

22. The nature of the Applicants' concerns as expressed in their position statements and witness evidence, typically as related by Ms Dixon: "*…persistent failures in management, lack of transparency, long-term neglect of essential maintenance, and repeated procedural and statutory breaches. These issues have caused financial detriment and significant distress…*" and as set out by Ms McLachlan: "*…ongoing disrepair, lack of communication, financial strain, and loss of amenity have had a profound impact on my family's wellbeing. We have endured years of disruption, uncertainty, and anxiety, and have lost the ability to fully enjoy and safely use our home and communal spaces.*" Miss Hynds and Ms Elkamlichi expressed similar discontent.

23. The Applicants did not contest that the works listed (save for the 2025 service charge year in advance) have been carried out nor that they have been done adequately. In addition, in relation to the Reserve Fund accounting that any fraud has occurred against the Applicants.

<u>The Balcony Works</u>

24. The Respondent, through her agents, Fullers, appointed Deacons Building Services Ltd to carry out repair works to the front balconies, following a survey establishing the requirement to repair, and an application for planning consent. Fullers carried out a consultation process, in the course of which they referred to

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Jalet (a company of which the Respondent is a director) rather than the Respondent by name.

25. In cross examination, Ms Dixon accepted that she had not contested the quality of the work undertaken on the Balcony Works nor made any complaint about the work at the time. She clarified that her complaint arose from the "*overall financial planning*" of the works, notably that in the course of the works, the Respondent had of her own initiative, made a £30,000 loan to the Property's service charge account, and, telling the Tribunal that this contribution had not been made known at the time to the leaseholders, this had distorted her understanding of the true financial position of the Property's reserve fund, with the result that she had not been able properly to plan for her contribution to maintenance costs; she made no indication that the works had been thought unnecessary. The expenditure involved in the project over 2019-2022 service charge years was £100,927 on the Applicants' case.

The Stairway Works

26. In response to a report from Philip Goacher Associates in 2021, identifying substantial deterioration to the steel framed staircases at the rear of the Property, the Respondent's agents Fullers commissioned scaffolding support to the staircases, as an interim safety measure pending a longer-term resolution to the defects. On the Respondent's case, more extensive repairs were best deferred on an explanation that since costly repairs were then current to the front, it would they submitted, have been more affordable to rely on the interim safety measures. In her evidence, Ms Dixon said that she disagreed with this supposition: her view was that had the service charge account been properly managed then reserve funds should have been available to meet the cost, instead the scale of prospective bill to leaseholders was very problematic. In the alternative, had works been undertaken at an earlier date, then it would have been at a lower cost. She agreed nevertheless that the complaint (as detailed in the application) related to the cost of scaffold rental and professional fees – this totals £27,117.97 from the amounts set out in the application. In addition, the repeated payments for scaffolding amount, she asserted, to a qualifying long-term agreement for the purpose of the Landlord & Tenant Act 1985, s.20.

The Flat 1 Works & Tree Works

27. These items appear as "Skimming works" (rear and side wall) and "Reassessment Work to rear of Flat 1" in a total of £2,600.35 in 2 invoices and in relation to undefined amounts in relation to skimming works on the rear wall and reassessment work. Tree works are mentioned in the sum of £500.

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Insurance Costs

28. Insurance costs have been included in the service charge accounts for all subject service charge years as an apportionment of the actual premium in each case since the insurance year does not align with the service charge years. The Applicants' complaint in respect of insurance, as explained by Ms Dixon in her evidence, was that the insured included Jalat as the addressee of insurance documentation and also that costs were considered high. The issue raised in relation to Jalat's involvement in the process was a perceived danger that the Property was not adequately insured.

29. Ms Dixon also clarified that the Applicants' concern was in relation to the insurances covering the 2023 service charge year. The apportioned amount in the service charge account for the year ending 31/12/2023 was £13,549 – having been £10,021 in the previous 12 months.

30. Ms Dixon confirmed that the Applicants had not sought comparative insurance quotations, rather the amount "*seemed very high*" in view of the substantial increase on the previous year's cost.

Fire Safety Works

31. Following a report and directions for required works from East Sussex Fire & Rescue Service in a letter dated the 19/06/2025, Fullers on behalf of the Respondent implemented various works to the common parts. An amount of £12,919.20 appears in the 2025 service charge estimate relating to Brighton Fire Alarms, which arises from the required works. Other required works include replacement of leaseholders' front doors, although as this falls to individual leaseholders' responsibility, this is not a matter to be considered within the ambit of service charge. In her evidence, Ms Dixon's criticism of the fire safety expenditure under the service charge, is that since the required works had been originally identified in reports in 2008 and 2011, the works should have been done at an earlier date and at consequently lower cost.

Roof Works

32. In 2024, following discovery of water ingress, a repair was arranged by the Respondent appointing Ken Bernard Building Contractor. His costs totalled £10,308 (in 2 invoices of £8400 for works and £1908 for scaffolding). In addition there was a further cost of roofing-related services provided by Optimum Group of £4668 (in 4 invoices of 31/08/2024, 02/10/2024, 18/11/2024, 18/12/2024) making a total of £14,976.

33. The Respondent admitted that insufficient consultation had taken place in relation to these works and the costs are presently the subject of an application under s.20ZA of the Landlord & Tenant Act 1985. Ms Dixon said in her evidence

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that deterioration of the roof had been noted in 2012 and that preventative works around that time could have avoided the expenditure and addressed the issue at lower cost.

Other Matters

34. It is not within the Tribunal's jurisdiction to examine administration of funds held as sinking funds or surpluses held on account, except where that administration has resulted in amounts demanded for service charges being unreasonable in amount, or their being unreasonably incurred. Although the Applicants' case questions the way in which funds have been dealt with in certain respects, no decision regarding the propriety of their administration will be given by this Tribunal.

The Evidence

35. The parties submitted written evidence and statements of case as mentioned above.

36. In her evidence, Ms Dixon described her experience as a leaseholder and alleged prolonged and systemic mismanagement by the managing agents, Fullers, and by the Respondent, citing repeated failures to maintain the Property, comply with obligations, and communicate transparently, resulting in financial loss, safety concerns, and significant distress. In particular, she mentioned that her flat has been affected by persistent damp and mould, arising from external structural defects leading to complaint to the Property Redress Scheme and since which, no permanent repairs had been completed. She described longstanding issues with staircases asserting that known defects had not been disclosed to leaseholders, and that repairs were repeatedly delayed. She complained that scaffolding erected in December 2021 to prevent collapse of the staircases remains in place, generating ongoing cost to leaseholders.

37. She described management of the service charges as opaque and inconsistent and that significant service charge increases were not properly explained, and key information, including a £30,000 loan from the Respondent was not disclosed at the proper time. She alleged misleading conduct by Fullers, including misrepresentation of professional qualifications and longstanding roof defects, and asserted that structural problems with the front balconies and staircases, were not transparently communicated – particularly at the point that she had bought her flat.

38. In cross examination on the matter of balcony repairs, Ms Dixon confirmed that she had not disputed the quality of the works undertaken, but instead the underlying planning of repairs that had led to a sudden substantial bill for the cost, mentioning that had it been clear that insufficient funds were held "*in the*

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kitty" then with sufficient notice, the leaseholders could have made their own arrangements accordingly. Similarly in relation to the Stairway Works, better notice of likely costs would have allowed for better planning.

39. Ms McLachlan, likewise, described the consequences of ongoing management issues, a lack of transparency, and unresolved repair works on both her property and her family life. When buying her flat, she said she had been told that planned works to the building would be fully covered by an established reserve fund; in cross-examination she confirmed that this assurance had related to all required works. She noted that in 2019, maintenance concerns focused on the Balcony Works despite evident deterioration at the rear of the building, and on raising concerns, she was advised that rear works were not necessary at that time. During the period of the Balcony Works, she had made repeated attempts to obtain clear information about the condition of the staircases, and likely costs. When she queried the purpose of scaffolding, she said she was informed that the structure required support but that there were insufficient funds available for permanent repairs.

40. The uncertainty she felt had serious consequences: she had attempted to sell her flat in 2022–2023 but had been unable to proceed due to the lack of clarity about future costs. Her quality of life was also affected, and the scaffolding prompted concerns for her children's safety. She said that the issues with the staircases had been known for many years but were not communicated to leaseholders, making financial preparations problematic; in cross-examination she expressed the view that there would have been sufficient funds had the building, in her view, been managed properly. She asked the Tribunal to consider the cumulative impact of these factors when assessing the reasonableness of the charges and the management of the building.

41. In her statement Miss Hynds said that when she purchased her flat in 2014, the rear balconies were already in significant disrepair, and she was assured that these works would be prioritised. She raised concerns at the time, providing photographic evidence but no meaningful action followed. By 2017, Fullers acknowledged the problems with the balconies and fire escapes, yet the condition persisted for years. Notwithstanding, she explained that she continued to pay service charges on the understanding that contributions would fund both front and rear works over time. Nevertheless, she was only informed in 2025 that the rear works would instead require a substantial upfront payment, which she had not anticipated and had not been given the opportunity to plan for.

42. The works and scaffolding had, she said, significantly affected her quality of life. Working from home as a freelance editor, she has experienced disruption, loss of working time, and difficulty planning professional commitments due to unpredictable noise and activity. In cross examination she confirmed her view that the inadequacies she perceived in the administration of the service charge funds were not fraudulent.

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43. Ms Elkhamlichi, who did not attend the hearing, had however provided a witness statement, although she was not available for cross examination on her evidence. She mentioned in her statement that during 2020-22, due to personal circumstances, she had limited involvement with the Property, and no communications about major works or service charges. On her return in 2022, she discovered a roof leak which took over 2 months to address, and even then repairs were incomplete. In relation to the demand of £20,794 for Stairways Works, she mentioned that these issues had been identified many years earlier but not addressed and as a result, the condition has worsened over time, in her view, increasing costs. She attributed the current financial demands to historic neglect and poor communication, which have caused her stress, financial pressure, and disruption.

44. In her witness statement as Respondent Ms Slade explained that although she became a joint freeholder in 1994, she had little involvement in the property until 2017, when, following a family dispute, she assumed sole ownership. At that point, she became responsible for a large and complex property portfolio with limited documentation from the previous managing agent, Millmanor and due to personal health issues and the scale of the transition, she relied on Fullers to manage the property.

45. She accepted that the service provided by Fullers was at times substandard, attributing this to their workload, illness within their management, and broader factors such as the COVID-19 pandemic. She has stated that she was not informed of many of the leaseholders' complaints, as Fullers chose to handle these without involving her. Once concerns became apparent, she ended Fullers appointment and instructed new managing agents, Spratt and Son, in January 2026, partly in response to loss of trust among leaseholders.

46. Regarding major works, she explained that the Balcony Works were prioritised due to immediate safety risks: they followed the statutory consultation process and were competitively tendered. A temporary £30,000 loan she had provided was, she said, to ensure urgent works proceeded without delay and this was later repaid to her through service charge receipts.

47. As to the Stairways Works, she said that earlier surveys suggested they could be maintained through cyclical repair, but a 2021 inspection found them to be beyond economic repair, requiring scaffolding for safety. Replacement works were deferred to avoid imposing simultaneous large costs alongside the Balcony Works. She argued that this decision was a reasonable balance between safety and financial burden and maintained this view under cross examination by Ms Dixon.

48. She said that although the Fire Risk Assessment concluded that the staircases were not required for fire escape purposes, as freeholder she remained contractually obliged by the lease terms to maintain them. As a consequence, she said, scaffolding costs were necessary to stabilise the unsafe structures and were

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therefore reasonable. She acknowledged procedural failures by Fullers to comply with Section 20 consultation requirements for certain works, including scaffolding and roof repairs, and has applied to the Tribunal for dispensation for these items. With regard to the roof, she said that emergency repairs were undertaken in 2024, and further significant works were now anticipated.

49. Regarding insurance, she explained that policies were arranged as part of a group portfolio for cost efficiency and that increased premiums reflected wider market conditions and prior claims. She maintained that service charges related to necessary works and that decisions were made in good faith to manage safety and the financial impact of service charge costs. While acknowledging shortcomings in management, she disputed allegations of any deliberate delay and in response to cross examination from Ms Spurgeon, asserted that any lack of communication on her part had been due to matters not being relayed by Fullers Commerce, the previous managing agents.

50. On the second day of the hearing, the Tribunal heard from the parties' experts who had both submitted expert reports to the Tribunal. Mr Plant FRICS, an expert appointed by the Applicants, and a chartered building surveyor, gave his assessment of the condition, management history, and cost implications for the Property. His report concluded that the building, rear staircases and previously existing front balconies, has suffered from a prolonged history of neglect, in the absence of routine and planned maintenance. This failure allowed components, especially exposed steel structures in a coastal environment, to deteriorate significantly over time. As a result, repair and replacement costs had, he considered, increased substantially compared to what would have been required under a proper maintenance regime.

51. He described the staircases as being in an extremely poor and dangerous condition (he said "*deplorable*"), approaching collapse, with severe corrosion, structural failure, and inadequate temporary support. He said that this deterioration had been foreseeable and preventable through standard cyclical maintenance, regular inspection, and repainting, which was not carried out. His report went on to identify failures in building management, including the absence of maintenance plans, inconsistent managing agents, and a lack of proper documentation or inspection records. With regard to costs, he concluded that delays in addressing defects led to a proliferation of escalating service charges. Under cross-examination by Mr Jones, he suggested that Stairway Works and Balcony Works should have been carried out simultaneously.

52. He also highlighted shortcomings in fire safety management. Measures such as compliant fire doors, emergency lighting, and protected escape routes were not implemented in a timely manner, despite repeated recommendations and regulatory requirements. His view was that a delayed and reactive approach to maintenance having resulted in unnecessarily high costs and service charge liabilities, and that many of these costs could have been avoided or significantly

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reduced through timely maintenance, better planning, and more appropriate design decisions.

53. Mr Rollestone MRICS an expert appointed by the Respondent and also a chartered building surveyor, concluded that deterioration of the staircases was due to a combination of age, environmental exposure, and inherent design limitations. He estimated that the structures dated from the 1930s, and were of steel, which he said inevitably degrades over time. The location near the sea exposes them to salt-laden air, accelerating corrosion, particularly at joints and connections. Also in his view, the original design, where steel elements are embedded into the structure and in close contact with moisture-retaining concrete further contributed to deterioration. He considered that although deterioration was inevitable, proactive maintenance could have mitigated the decline, but by around 2009 the structure had deteriorated to a point where continued maintenance was no longer economically viable, and only essential repairs were appropriate thereafter.

54. His view was that scaffolding of the staircases as an interim safety measure was appropriate given their condition as identified by Mr Goacher's 2021 structural assessment, which had recommended propping pending demolition. The ongoing costs of the scaffold were broadly reasonable to date. He was also of the view that the Balcony Works had been likely necessitated by deterioration largely due to hidden structural weaknesses in the original design: critical steel elements embedded within the walls were corroding internally and would not have been visible during routine inspection without invasive investigation.

55. As such he concluded, the timing of the works could not reasonably have been anticipated earlier, and there is no clear evidence that better maintenance would have prevented the issues. In his view, the costs associated with the Balcony Works were reasonable and that the contract was awarded following a competitive tender process, and the final costs were below the original contract value despite the duration of the works.

56. He concluded that the intended Stairway Works are necessary due to progressive deterioration linked to age and environmental exposure rather than mismanagement alone, but on re-examination by Mr Jones he said that the propping works undertaken were a reasonable course of action to deal with the problem presenting. He admitted that while there is evidence that earlier concerns about the condition of the stairs existed, he did not consider the current need for replacement to be significantly influenced by any specific past failure in maintenance.

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The Legal Principles

57. The law requires that service charges must be reasonably incurred, and are payable only where works are carried out to a reasonable standard. In this respect, the Landlord & Tenant Act 1985 at section 19 says:

Section 19 - Limitation of service charges: reasonableness.

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

58. The Applicants do not however, in relation to most items challenged in the application, contend that the costs incurred by the Respondent for the Balcony Works, the Roof Works and the intended Stairways Works (and the cost of scaffold propping to date) have been unreasonably incurred within the meaning of section 19, rather, the point of challenge is that the costs incurred should not be payable because they were caused by the Respondent's alleged breach of her covenants to repair in the Leases over a long period of time, specifically that timely and coordinated pro-active maintenance would have avoided much or all of the expenses now in contention.

59. This issue is often referred to as "historic neglect". The approach to the remedy that is potentially available to leaseholders in such cases was confirmed by the Lands Tribunal in Continental Property Ventures Inc v White [2007] L&TR 4 in which HH Judge Rich QC held:

"[T]here can be no doubt that breach of the landlord's covenant to repair would give rise to a claim in damages. If the breach results in further disrepair imposing a liability on the lessee to pay service charge, that is part of what may be claimed by way of damages. At least to that extent it would, as was held by the Court of Appeal in Filross Securities v Midgley (Peter Gibson, Aldhous and Potter LJJ, July 21, 1998), give rise to an equitable set-off within the rules laid down in Hanak v Green[1958] 2 QB 9, and as such constitute a defence. This would not mean that the costs incurred for the 'nine stitches' were not reasonably incurred. It would however mean that there would be a defence to their recovery. What the LVT was engaged upon was determining whether these costs were 'payable' within the meaning of section 27A ".

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60. Later these principles were approved and considered in Daejan Properties Ltd v Griffin & Another [2014] UKUT 206 (LC) in which the Upper Tribunal held [at paragraph 80]:

> *"The only route by which an allegation of historic neglect may provide a defence to a claim for service charges is if it can be shown that, but for a failure by the landlord to make good a defect at the time required by its covenant, part of the cost eventually incurred in remedying that defect, or the whole of the cost of remedying consequential defects, would have been avoided. In those circumstances the tenant to whom the repairing obligation was owed has a claim in damages for breach of covenant, and that claim may be set off against the same tenant's liability to contribute through the service charge to the cost of the remedial work*".

Parties' Submissions

61. For the Respondents, Mr Jones referred to the Scott schedule included in his skeleton argument. He submitted that the Respondent had taken control of the Property without full records and had relied on managing agents and advisers. The Respondent had, he submitted, responded to safety issues promptly once identified, consulted with leaseholders as required, and has not sought to pass on costs that were not properly chargeable. In addition, sums charged were reasonable in amount and necessity; and where s.20 consultation did not occur, it was due to urgency, and retrospective dispensation is being sought from the Tribunal in separate application.

62. He addressed the Tribunal on the issue of historic neglect, referring to the decisions in Continental Property Ventures v White [2007] L&TR 4 and Daejan Properties Ltd v Griffin [2014] UKUT 206 (LC), submitting that while hindsight is the perspective from which such decisions are inevitably viewed, any neglect that might be established, does not of itself render later remedial costs unreasonable. This point, he suggested being pervasive to the issues raised by the Applicants in relation to the Balcony Works, the Stairways Works, and the Roof Works.

63. As to insurance costs, he argued that insurance has been placed annually through a professional broker who tested the market and secured demonstrably competitive premiums, and pointed out that the Applicants had produced no alternative quotations to challenge reasonableness. In relation to references to Jalet in s.20 notices and insurances, he argued that the error did not nullify the effect of the notices, citing the principle established in Mannai v Eagle Star [1997] 1 EGLR 57.

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64. In her submissions for the Applicants, Ms Dixon reviewed the evidence relating to the principal elements of the Application. In relation to the Balcony Works, that a prolonged failure to address defects had resulted in deterioration and delayed remedial works with a consequent increase in overall costs to leaseholders and that section 20 consultation undertaken in 2020 was defective due to a lack of full and transparent financial and technical disclosure. In relation to the Roof Works she submits that the roof's need for extensive works, arose from a prolonged failure to carry out timely replacement, and that consequently the costs incurred for patch-up repairs was neglectful and so recent expenditure is not reasonable within the meaning of section 19, also that consultation failures should result in limitation to statutory maximum.

65. Similarly in relation to the Stairway Works, the Applicants submit that present disrepair is a direct consequence of the failure to carry out earlier replacement, and so the cost of works to address that is not reasonable expenditure as service charge. In addition, statutory consultation requirements have not been met since the scaffolding expenditure should be regarded as a qualifying long-term agreement for the purposes of section 20 of the Landlord & Tenant Act 1985. Ms Dixon added that since it had become clear that the staircases were not required as fire escapes, expenditure predicated on a mistaken belief that they were, should be considered unreasonable – in particular, the level of professional fees incurred was, she argued, excessive.

66. With regard to fire safety works, she submitted that they were unreasonable to the extent that they had been increased due to "delay and mismanagement"; expenditure on repairs to flat 1 had not properly addressed the cause of problems and had relied on unqualified assessment. Further, amounts sought as contributions to the reserve fund were not reasonably incurred due to the lack of transparency of the fund's management. Finally, the cost of insurance being inadequately explained or justified, should also be considered as unreasonable.

67. Ms Spurgeon, speaking on behalf of Miss Hynds, emphasised the problems caused by historic neglect at the Property and that resulting repair costs are higher than they otherwise would have been.

The Tribunal's Decision

68. The Tribunal thanks the parties and their representatives for their comprehensive and helpful submissions.

69. The issue to be determined by the tribunal is whether the sums claimed in the service charge years 2019-2025 are payable and reasonable. The Tribunal has considered this across all of the claims set out:

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Historic Neglect

70. Of primary concern in this application is the question of historic neglect and whether that as an issue should render maintenance and related costs as unreasonable. In its decision on this matter, the Tribunal has applied the principle explained in *Daejan*, notably at paragraph 80 – and to repeat: "*The only route by which an allegation of historic neglect may provide a defence to a claim for service charges is if it can be shown that, but for a failure by the landlord to make good a defect at the time required by its covenant, part of the cost eventually incurred in remedying that defect, or the whole of the cost of remedying consequential defects, would have been avoided*".

71. On the evidence of historic neglect and its consequence, the Tribunal prefers the evidence of Mr Rollestone to that of Mr Plant concerning effect, namely that the landlord's response to disrepair had been reasonable, and that the need to incur the cost of replacement of balconies, staircases, and roof was not exacerbated by delay or the nature of running repairs applied over time.

72. While an alternative approach to maintenance might have sought comprehensive programmed repair and replacement, the reactive approach applied by the Respondent has, in the Tribunal's view, met their obligations as landlord as defined in the lease. In the Tribunal's view, the lease terms permit the landlord this discretion – in particular, paragraph 9 of the Fourth Schedule states: "*… The Landlord shall carry out all repairs to any other part of the Building for which the Landlord may be liable and provide and supply such other services-for the benefit of the Tenant and the other tenants of flats in the Building and carry out such other repairs and such improvements works and additions and defray such other costs(including the modernisation or replacement of plant and machinery) as the Landlord shall reasonably consider desirable to maintain the Building as a block of residential flats or in the general interest of good estate management or otherwise in the interest of the tenants of any of them*". The required approach to repair within this wide discretion has, the Tribunal considers, been met.

73. Accordingly in the Tribunal's view, no allegation of neglect raised in the Applicants' case has resulted in the type of avoidable cost envisaged in *Daejan*, and therefore the costs challenged on the allegation of historic neglect are found to be reasonable, reasonably incurred, and payable.

Reference to Jalet in Section 20 Consultation

74. In the Tribunal's view, this error on the part of the Respondent's managing agent does not invalidate the effect of the notices concerned, since a reasonable recipient (as contemplated in *Mannai* above) would understand its intent.

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Qualifying Long-Term Agreement

75. In relation to the scaffolding supporting the Stairway, the Applicants submitted that the repeated payments to Woodland Construction & Management amounted to a qualifying long-term agreement for the purposes of Section 20 of the Landlord and Tenant Act 1985 by reason of the length of scaffolding hire and continued service provided by that company.

76. In the Tribunal's view the repeated payments to Woodland Construction & Management are not made under a qualifying long-term agreement. This approach follows the decision in Bracken Hill Court at Akworth Management Co Ltd V Dobson [2018] UKUT 333 (LC). In that appeal, it was established that where an initial contract is not for a period of more than 12 months as would appear to have been the arrangement here, and that contract is renewed for a further similar period, the fact that such a contract might be renewed annually does not make it a qualifying long-term agreement.

Insurance Premiums

77. In the light of the evidence supplied regarding administration of insurance cover and the absence of any evidence calling the level of cost into question, the Tribunal determines that the insurance costs incurred in the service charge years in issue are reasonable, reasonably incurred, and payable

Roof Works

78. The Tribunal determines that the roof repairs reflected in the invoices given by Ken Bernard Building Contractor in the amounts of £8,400 (of 02/04/2024) and £1,908 (of 16/09/2024), and Optimum in the amounts of £600 (of 31/08/2024), £1,428 (of 02/10/2024), £900 (of 18/11/2024), and £1,740 (18/12/2024), are reasonable and reasonably incurred, but on the Respondent's admission the consultation requirements of section 20 to the Landlord & Tenant Act 1985 were not met in relation to their total, and accordingly in this application and until any further application to the FTT Property Chamber may determine otherwise, the maximum amount payable by any leaseholder in relation to these costs, is limited to £250 per leaseholder.

Tree Works

79. The Tribunal determines that in the absence of any evidence to the contrary, the Tree Works invoiced by Eco Tree care in the amount of £500 are reasonable, reasonably incurred, and payable.

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Reserve Fund

80. The Tribunal determines that the contributions demanded towards a reserve fund in the service charge years in issue are reasonable and payable, on the evidence provided to it.

2025 Service Charges

81. Notwithstanding that certain Works projects begun in earlier years will result in service charges for the 2025 service charge year, accounts for that year have not been completed. As a consequence, the Tribunal makes no finding in relation to service charge items or demands relating to the 2025 service charge year challenged in the application.

Decision Summary

82. In consideration of the above and in relation to the specific items challenged in the application, the Tribunal determines that the amounts payable in each case for the service charge years in issue are as follows:

Year	Applicants' Description	Invoices	Invoice Amount	Bundle Page Ref
2019	Front balcony exploration work:	Packham Construction	£ 2,376.00	187
2019		HOP Consulting Ltd	£ 300.00	186
2019		HOP Consulting Ltd	£ 1,188.00	190
2019		Portal Plan Quest	£427.00	188
2019	Legal and prof fees:	Turner Associates	£ 2,609.00	189
2019		**S/C year total**	**£ 6,900.00**	
2020	Front balcony expl.work	Overill Assocs	£ 3,295.94	192
2020		Deacons Bldg Svcs	£ 4,902.00	193
2020		Telkev	£ 110.00	194
2020		HOP Consulting Ltd	£ 324.00	195
2020		**S/C year total**	**£ 8,631.94**	
2021	Front balcony refurb:	Deacons Bldg Svcs	£16,441.83	197
2021		Deacons Bldg Svcs	£ 9,388.43	198
2021		Deacons Bldg Svcs	£ 33,915.00	201
2021		Deacons Bldg Svcs	£96.00	202
2021	Scaffolding:	Woodland Constr	£4,752.00	200

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2021	P Goacher Associates	P Goacher Assocs	£ 630.00	199
2021		Zurich	£ 6,084.00	1375
2021		**S/C year total**	**£ 71,307.26**	
2022	Front balcony refurb	OA Building Surveyors	£ 2,828.53	205
2022		OA Building Surveyors	£12,554.25	206
2022		OA Building Surveyors	£ 4,947.84	207
2022		OA Building Surveyors	£ 121.44	208
2022	Scaffolding (Stairways):	P Goacher Assocs	£ 1,315.68	204
2022		Woodland Constr	£784.80	209
2022		Woodland Constr	£352.80	1742
2022		Chambers & Newman	£10,021.00	1376
2022		Transfer to reserves	£ 15,000.00	1149
2022		**S/C year total**	**£ 47,926.34**	
2023	Fire Escapes: Scaffolding	Woodland Constr	£ 4,233.60	214 -225
2023		Chambers & Newman	£ 13,549.00	1376
2023	Survey Costs (P Goacher)		£ 14,679.96	212
2023	Mr. Ellis's Rep'ts (Flat 1)	R A Ellis Consultancy	£428.35	213
2023	Flat 1 Skimming Works			
2023		Transfer to reserves	£ 12,000.00	1149
2023		**S/C year total**	**£32,890.91**	
2024	Scaffolding (Stairways) 31 December 2024)	Woodland Constr	£ 3,970.00	227 - 234
2024		Chambers & Newman	£10,316.00	243
2024		Transfer to reserves	£ 6,400.00	1149
2024	Skimming wks (Flat 1)	Optimum Property	£2,172.00	235-236
2024	Tree works:	Eco Tree Care	£500.00	1234
2024		**S/C year total**	**£23,358.00**	

Costs applications under section 20C of the Landlord & Tenant Act 1985 & Paragraph 5A, Schedule 11 to the Commonhold & Leasehold Reform Act 2002.

83. In the application form and at the hearing, the Applicant applied for an order on behalf of the Applicants under section 20C of the Landlord and Tenant Act 1985 Act. Such an order may restrict costs incurred by the landlord in these proceedings being levied in the service charge payable by the tenant or any other leaseholder who signs up to the section 20C application. Additionally, an application was made under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002. Such an application may reduce or extinguish

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the tenant's liability to pay an administration charge under the terms of their lease.

84. The most significant issue for the Tribunal to determine in this application was the costs of the major works described and the question of historic neglect: that is the issue that took up most of the hearing and to which most of the parties' evidence and preparation was directed.

85. The Respondents have succeeded in resisting all of the complaints raised with the exception of consultation in relation to roof works – where they admitted their own shortcomings – and are engaged in a separate application to the Tribunal for retrospective consent. In the circumstances we are satisfied that it is just and equitable that the Tribunal make no orders under section 20C and 5A in favour of the Applicants.

RIGHTS OF APPEAL

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

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

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

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

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

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