FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BB/LSC/2025/1132**
Property	:	**6, First Avenue, London, E12 6AN**
Applicant	:	**Abu Elias**
Representative	:	**Unrepresented**
Respondent	:	**Wendy Taylor (Executrix for Estate of David Taylor (Deceased))**
Representative	:	**Peter Gunby FRICS of B.Bailey Property Management Ltd**
Type of application	:	**Landlord and Tenant Act 1985 – Section 27A(1) and Landlord and Tenant Act 1985 – Section 20C and Commonhold and Leasehold Reform Act 2002 – Schedule 11, paragraph 5A**
Tribunal member(s)	:	**Judge Ş Nihat Judge N O'Brien Ms M. Bygrave**
Venue	:	**10 Alfred Place, London WC1E 7LR**
Date of Determination	:	**3 June 2026**

DECISION

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(1) The Tribunal determines the sums payable as set out within this Decision.

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(2) The Tribunal determines under section 27A of the Landlord and Tenant Act 1985 that the building insurance premiums charged to the Applicant for the service charge years 2018/19 to 2023/24 were not correctly charged to the extent that they exceeded one-half of the total cost of insuring the whole building, and that the sums payable are limited accordingly.

(3) The Tribunal determines under Schedule 11 to the Commonhold and Leasehold Reform Act 2002 that the £240 debt recovery administration charge is not payable by the Applicant.

(4) The Tribunal determines under section 27A of the Landlord and Tenant Act 1985 that the fire risk assessment and asbestos survey charge is not payable by the Applicant.

(5) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of these Tribunal proceedings may be passed to the Applicant through any service charge.

(6) The Tribunal makes an order under Schedule 11 paragraph 5A of the Commonhold and Leasehold Reform Act 2002 that the Applicant's liability to pay any administration charge in respect of the Respondent's costs of these Tribunal proceedings is extinguished.

(7) The Tribunal orders that the Respondent shall reimburse the Applicant the application and hearing fees he paid to the Tribunal. This reimbursement must be made within 28 days of this Decision.

The Application

1. The Applicant sought a determination pursuant to section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as to the amount of service charges and (where applicable) administration charges payable by the Applicants in respect of the several service charge years.

2. By directions dated 26 November 2025, Judge Martynski identified the following issues for determination:

    a. Whether the service charge of buildings insurance is within the landlord's obligations under the lease/ whether the service charge is payable by the leaseholder under the lease

    b. Whether the cost of the buildings insurance is reasonable, in particular in relation to the nature of the service, the contract price and any management fee

    c. All aspects of the arrangement, scope, tendering, appointment, pricing, apportionment, value for money etc. of buildings insurance for the Property for ALL years from 2018/9 to 2023/24 inclusive is queried

d. Whether an order under section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the 2002 Act should be made

e. Whether an order for reimbursement of application/hearing fees should be made

3. The Tribunal has addressed the evidence and submissions by reference to those directed issues. The individual disputed items are considered by reference to one or more of the issues identified in paragraph 2 above.

Background

4. The property which is the subject of this application is 6 First Avenue, London E12 6AN ("the Property"). This is a converted mid-terrace house comprising two self-contained maisonettes: a ground-floor maisonette occupied by the Applicant and an upper maisonette occupied by another leaseholder ("the First-Floor Leaseholder"). The bundle included the official copy register for the freehold title, the new lease / deed of variation of the ground-floor maisonette dated 27 March 2012, the original lease of the ground-floor maisonette dated 25 October 1974, the official copy leasehold title, and the corresponding lease documents for the first-floor maisonette.

5. The Respondent, Wendy Taylor, is the executrix for the estate of David Taylor, the deceased freeholder. The Respondent was represented at the hearing by Mr Peter Gunby FRICS of B Bailey Property Management Ltd, which managed the insurance arrangements and service charge demands on behalf of the Respondent.

6. In 2015 the Applicant obtained planning permission for a single-storey rear extension to the Property. The Respondent originally proceeded on the basis that there was no record of landlord's consent for those works, but the bundle subsequently included a Licence for Alterations dated 23 June 2016. That material led Mr Gunby to amend his witness statement by removing the unqualified allegation that the works were carried out without the landlord's permission. The extension remains relevant because the Respondent says it changed the reinstatement value and risk profile of the Property. However the Applicant says that, even if the extension affected the total premium, it did not permit the Respondent to depart from the fixed one-half contribution provided by the Lease.

7. The relevant parts of the Lease are as follows:

   Clause 4(2), Landlord's Covenants:

   "That the Landlord will at all times during the said term (unless such insurance shall be vitiated by any act or default of the Tenant) insure and keep insured the whole building of which the Maisonette forms part against loss or damage by fire and such other risks (if any) as the Landlord thinks fit in such sum as in the Landlord's Surveyor's opinion shall represent the full value thereof in some insurance office of repute and whenever reasonably required produce to the Tenant the policy or

policies of such insurance and will in the event of the Building being damaged or destroyed by fire or other insured risks as soon as reasonably practicable lay out the insurance moneys in the repair rebuilding or reinstatement of the Building"

The First-Floor Leaseholder occupies under a lease containing mirror provisions.

Clause 3(13) of the Tenant's Covenants:

"*To pay all expenses (including Solicitors costs and Surveyors fees) incurred by the Landlord incidental to the preparation and service of a notice under Section 146 of the Law of Property Act 1925 notwithstanding forfeiture is avoided otherwise than by relief granted by the Court."*

8. In particular, this application turned on the interpretation of this clause, which concerned the extent of the Applicant's covenant to pay for building insurance:

   Clause 1, Reddendum/Habendum:

   "AND ALSO PAYING by way of additional rent from time to time a sum or sums of money equal to one-half of the amount which the Landlord may expend in affecting or maintaining the insurance of the whole building of which the Maisonette forms part against loss or damage by fire and such other risks (if any) as this Landlord shall think fit as hereinafter mentioned such additional rent to be paid without any deduction when demanded by the Landlord after expenditure thereof"

9. The wording of Clause 1, above, which sets out the requirement to pay towards building insurance, has not been varied.

10. Until 2016, the Respondent had insured both the Property and the First-Floor Flat under a single insurance certificate. Via the service charge, the Applicant was then charged half of this amount. The Applicant considered this approach was in accordance with the Lease, in particular because of the requirement to pay "*a sum or sums of money equal to one-half of the amount which the Landlord may expend in affecting or maintaining the insurance of the whole building of which the Maisonette forms part...*".

11. **<u>Legal framework and burden</u>**

12. The Tribunal's jurisdiction under section 27A of the 1985 Act is to determine whether a service charge is payable, and if so by whom, to whom, how much, when and how it is payable. The first question is contractual payability: the Respondent must show that the charge falls within the Lease and has been demanded from the person liable under it. The second question, if the charge is contractually payable, is statutory reasonableness: under section 19 of the 1985 Act, relevant costs are recoverable through a variable service charge only to the extent that they

are reasonably incurred and, where relevant, only where the service is of a reasonable standard. Administration charges are considered separately under Schedule 11 to the 2002 Act and are payable only to the extent that they are payable under the lease or other relevant contractual basis and reasonable in amount. The Applicant bears the evidential burden of identifying the basis on which the charges are challenged.

13. The applications under section 20C of the 1985 Act and paragraph 5A of Schedule 11 to the 2002 Act concern whether the Respondent should be able to recover costs connected with these proceedings through the service charge or as administration charges.

14. In this case the central question under section 27A is not whether insurance was arranged — that is not disputed — but whether the amount demanded from the Applicant was charged in accordance with the fixed contractual apportionment in the Lease. That question of lease interpretation is addressed first.

The Hearing

15. A hearing was held on 24 April 2026. The Applicant, Mr. Abu Elias, is a conveyancing solicitor, and represented himself.

16. The Respondent was represented by FRICS of B Bailey Property Management Ltd.

17. At the outset of the hearing, the Applicant corrected minor errors in their application concerning the sums disputed, so that the overall disputed amounts were:

Service Charge Year	Disputed Amount
01/08/2023 – 31/07/2024	£621.53 (Building insurance premium) £240 (Debt recovery administration fee)
01/08/2022 – 31/07/2023	£788.32 (Building insurance premium)
01/08/2021 – 31/07/2022	£534.29 (Building insurance premium)
01/08/2020 – 31/07/2021	£543.32 (Building insurance premium)
01/08/2019 – 31/07/2020	£505.63
01/08/2018 – 31/07/2019	£488.54 (Building insurance premium)

Disputed items and their relationship to the directed issues

18. The principal disputed item is the annual building insurance premium for the ground-floor maisonette for the years 2018/19 to 2023/24. Those premiums engage issue 2(a), because the Tribunal must decide whether the insurance charge is within the landlord's obligations under the Lease and payable by the Applicant; issue 2(b), because the amount and management-fee/commission element of the premium are challenged as unreasonable; and issue 2(c), because the dispute concerns the arrangement, scope, tendering, appointment, pricing, apportionment and value for money of the insurance. The figures in dispute are the sums demanded for the relevant years, although the Applicant's alternative case on apportionment is that the charge should have been limited to one-half of the total cost of insuring the building.

19. The first insurance sub-issue is payability under the Lease. The Applicant's case is that the Lease fixes his contribution at one-half of the amount expended on insuring the whole building and that the Respondent could not, without a deed of variation, alter the practical contribution from 50% to about 60%. The Respondent's case is that the Lease permits insurance by 'policy or policies', that the building continued to be insured within the portfolio arrangements, and that the post-extension apportionment reflected the physical and reinstatement-value position after the Applicant's 2016 extension, and it would not be fair for the First-Floor Leaseholder to pay 50% of the insurance costs when the Applicant had enlarged the footprint of the Property. This issue is the core of issue 2(a) and part of issue 2(c).

20. The second insurance sub-issue is the reasonableness of the insurance cost. The Applicant relies on the premium increase from £543.32 in 2021/22 to £788.32 in 2022/23, his online comparator quotations, the commission structure and his contention that the storm claim relied on by the Respondent was not properly attributable to the ground floor. The Respondent relies on the claims history, the market-testing and re-marketing of the policy, the breadth of the landlord's policy including terrorism and property owners' liability cover, and the fact that the premium reduced the following year. This issue falls within issue 2(b) and the pricing, value for money, scope and tendering elements of issue 2(c).

21. The third insurance sub-issue is commission and management remuneration. This was not separate from the insurance issue but formed part of the Tribunal's consideration of the 'nature of the service, the contract price and any management fee' under issue 2(b), and the 'arrangement, appointment, pricing and value for money' matters under issue 2(c). The Respondent relied on Appendix 6 and the commission summaries to show remuneration to Lockton and B Bailey, and said the commission reflected active work in maintaining the policy, notifying changes, dealing with claims, desktop valuation and broker liaison. The Applicant challenged the transparency and reasonableness of the commission and argued that further information was required.

22. The £240 debt recovery administration fee is the only discrete administration charge identified in the dispute. It is not part of the annual insurance premium. It came about by the Respondent's enforcement steps in relation to the Applicant's arrears at the time. The Respondent said this fee was connected with preparing matters for solicitors and/or steps towards a section 146 notice. It therefore engages the Schedule 11 jurisdiction, paragraph 5A where litigation-cost administration charges are concerned, and the section 20C / paragraph 5A issue identified at paragraph 2(d). It is also relevant to fee reimbursement and costs only insofar as the parties' conduct in escalating or resisting enforcement is relied upon.

23. The asbestos survey and fire risk assessment charge of £180 was treated at the hearing as a further service charge issue, although it was not one of the specific insurance issues identified in paragraph 2. The Respondent said the total cost was £360 and that the Applicant had been charged one-half, namely £180, for statutory fire safety and asbestos compliance relating to the common/lobby area. The Applicant's case was that he had not been told he was the relevant duty holder, had not been given proper notice that works would be carried out in default or that he would be charged, and could have obtained a report himself at lower cost if required. We consider this item as a non-insurance service charge / administration-related issue arising under section 27A and, where relevant, Schedule 11 rather than as part of the building-insurance issues in paragraph 2(a)-(c).

24. The applications under section 20C of the 1985 Act, paragraph 5A of Schedule 11 to the 2002 Act and for reimbursement of fees are addressed by issues 2(d) and 2(e). Those issues follow the Tribunal's conclusions on the substantive service charge and administration charge disputes, but also require consideration of the parties' conduct.

25. Mr Elias stated that he came to the Tribunal as a last resort because the Respondent had escalated matters rather than resolving the dispute, and he sought reimbursement of the application and hearing fees. The Respondent considered that the charges were properly raised, and that the application should be dismissed.

26. Following Mr. Elias' opening remarks, Mr Gunby for the Respondent set out six issues he believed were relevant to the Tribunal in reaching its determination as follows:

    i. The number of building insurance policies the Respondent had taken out;

    ii. The disputed £240 administration charge;

    iii. The charge for the fire risk assessment and asbestos survey;

iv. The reasonableness of the service charges and the increase in the premium;

v. Mr Elias' alternative building insurance quotation obtained from the internet by way of comparator;

vi. The apportionment percentages of the building insurance with respect to the Property and the First-Floor Flat.

Building insurance: policy or policies (issues 2(a) and 2(c))

27. Mr Gunby referred the Tribunal to the two parts of the lease which referred to insurance, including the landlord's covenant in the original ground floor lease, and asked the Tribunal to note that the lease expressly referred to "*policy or policies*". On that basis, he submitted that there was no contractual requirement for a single policy.

28. Mr Gunby also said that, in practice, there were four policies issued on the building: two building insurance policies, one for each floor, and two terrorism policies, one for each floor. The insurance certificates and invoices were in the hearing bundle. He then referred to the certificates for the ground floor, the first floor, and the terrorism cover, and then returned to the tenant's covenant requiring payment of a sum equal to one half of the landlord's expenditure in effecting or maintaining the insurance of the whole building, as set out in the original lease.

29. The Respondent's position was that the wording of the tenant's covenant was important because it did not simply say "*half the premium*"; it referred to one half of the amount expended in effecting or maintaining the insurance. Mr Gunby stated that the relevant expenditure was the real cost in the market, and that commission formed part of the overall remuneration paid for arranging and maintaining the insurance. He said that the landlord did not retain any commission and that the arrangement was not a passive arrangement. He referred to evidence that, every week, B Bailey sent a report to the broker of any material change on the block policy, including whether properties were vacant or whether there were building works.

30. Mr Gunby also said that B Bailey checked reinstatement values each year, carried out desktop valuations, answered emails and queries, responded to insurance queries, oversaw the administration of claims, notified the insurance company, and liaised with leaseholders and loss adjusters. He relied on a RICS audit of B Bailey's insurance arrangements, which he said recorded the highest grading of compliance and described the firm as outstanding.

31. He then referred to the commission evidence in the bundle and the summary of insurance premiums and commissions. Mr Gunby said that the documents showed remuneration paid to the broker and to B Bailey, and gave the example of the 2025/26 year, where B Bailey's charge was

£43.88, being 10% of the premium. He said that the bottom row of the table showed a reduction from 17.5% to 10%, and that, for the amount of work expended in dealing with numerous claims and associated works, this was a fair and reasonable fee for the work involved.

32. He emphasised that no commission was received by the landlord, and that it was received only by the broker and managing agent for arranging, expanding and maintaining the policy. He submitted that the relevant test was whether the costs were reasonably incurred, and that the lease allowed insurance by one or more policies, so that the tenant was liable for actual expenditure and not a notional premium.

Disputed £240 administration charge (Schedule 11 and issue 2(d))

33. Mr Gunby explained that, owing to Mr Elias' failure to pay his service charge, the Respondent had to refer the matter to solicitors for debt recovery. Accordingly, on 24 October 2023, solicitors instructed by the Respondent had sent a letter before action.

34. The Respondent relied on the letter before action and submitted that letters had been written by solicitors in relation to the debt, and that no further demands or costs had been added. The Respondent referred to clause 13 of the lease, which requires the tenant to pay solicitors' costs and surveyors' fees incidental to the preparation and service of a section 146 notice, notwithstanding that forfeiture is avoided.

35. The Respondent's case was that the £240 was a specific charge for passing the documents for forfeiture to solicitors, or for preparing matters for solicitors with a view to enforcement, and that it was recoverable even if forfeiture was not pursued. Mr Gunby acknowledged that a County Court claim before the hearing had been a nullity because the claimant had died, but he said that this did not mean the claim had failed on its merits. He maintained that the £240 related to steps taken for a clear breach and to the preparation of matters for solicitors with a view to enforcement.

Asbestos survey and fire risk assessment charge (section 27A / Schedule 11 issue)

36. The Tribunal heard submissions concerning the asbestos survey and fire risk assessment. The Respondent referred to the invoice showing that the total charge to Mr Elias was £180, which was said to be half of the overall £360 charge. The Respondent's position was that there was a legal duty in respect of common parts to review fire risk regularly, act on the findings, control asbestos findings and keep a register. Mr Gunby referred to the lease and submitted that, although it was drafted for a maisonette, the demise included the ground floor and the lobby area fell within Mr Elias's repairing obligations. He relied on the tenant's covenant to keep the demised premises in tenantable repair and on the landlord's right to enter, inspect and serve a notice specifying repairs. He

also referred to emails in which various employees of B Bailey had requested from Mr Elias access for the common parts, chased that request, and explained why access was required for the fire risk assessment and survey.

37. The Tribunal asked what part of the lease required Mr Elias to supply a key. Mr Gunby answered that Mr Elias was not required to supply a key, but was required to provide access. Mr Gunby accepted that the emails asked for access rather than a key, and said that, in the end, it was agreed that somebody would inspect and that Mr Elias would allow access. He submitted that the correspondence showed B Bailey chasing access, and that the Applicant later confirmed the appointment and allowed access. The Respondent's argument was that, although the lease clause had to be read in context and in light of the facts of the case, Mr Elias had been notified of the issues, the required actions, the need to provide access and the need for the works or inspection to be undertaken. Mr Gunby also stated that Mr Elias was a practising conveyancing solicitor and therefore familiar with repairing covenants and the mechanisms by which they are enforced.

38. The Tribunal asked Mr Gunby who, as between the landlord and Mr Elias, was the relevant duty bearer for fire safety and asbestos purposes. Mr Gunby said that he believed Mr Elias was the duty bearer because the common parts were within the demise. Judge O'Brien asked Mr Gunby to show any email or correspondence saying that this was Mr Elias's duty under the lease and that, if he did not do it, the Respondent would charge him.

39. Mr Gunby accepted that the protocol was not exactly as the lease required and that the position had not been put as clearly as that. When asked directly whether Mr Elias had been notified that, in the Respondent's view, he was the duty holder, Mr Gunby answered no. He nevertheless maintained that the case was not simply about absence of notice, because, on the Respondent's case, the Applicant had been fully informed of the obligations sought to be enforced and had sought to rely on procedural technicalities.

Reasonableness of buildings insurance costs (issues 2(b) and 2(c))

40. The Respondent addressed the reasonableness of the insurance premium increases, with reference to Mr Elias's witness statement, Mr Gunby's statement, and the amended statement. Mr Gunby accepted that Mr Elias's witness statement had raised the increase from £543.32 for 2021/22 to £788.32 for 2022/23, which the Applicant described as a 43% or 45% increase. He submitted, however, that the premium reduced the following year and that there was no continued escalation, but a temporary spike followed by a reduction. He referred to the schedule in Appendix 1 and to the claims history in Appendix 4, including water damage and storm damage, and submitted that the claims history provided a rational explanation for the premium movement in that

period. The Respondent's case was that the increase was not unreasonable or irrational when viewed in the context of the claims history.

Applicant's alternative insurance quotation as comparator (issues 2(b) and 2(c))

41. The Respondent addressed the Applicant's alternative insurance quotations as follows: Mr Gunby said that Mr Elias had relied on online MoneySuperMarket or Aviva quotations of £236.08 and £426.99, but that those quotations had to be treated with caution. He stated that the Applicant's quotes did not include terrorism cover, did not have the same property owners' liability limits, did not reflect the full claims history, and appeared to be a homeowner product rather than a landlord's policy or a like-for-like comparison. He also relied on the lease covenant requiring use as a single private dwellinghouse and said that, unlike the Applicant's quotation, the landlord's policy had to cover all occupational types for the use, including different forms of occupation that would significantly change the risk profile.

42. Mr Gunby said that the Respondent's broker had tested the market and moved renewal to Allied World, producing a material reduction in premium, which showed that the broker had tested the market and secured competitive quotes; the Respondent relied in this respect on Appendix 5 and the insurance documents in the bundle. He submitted that, if a genuinely like-for-like cheaper quote existed, one would have expected it to have been before the Tribunal.

Arrangement, scope, tendering, appointment, pricing, apportionment and value for money (issue 2(c))

43. The Respondent also addressed the percentages charged to the Applicant for the insurance premium. The Tribunal was taken to the lease wording requiring payment of one half of the amount expended by the landlord on insuring the building, and to the Respondent's evidence that Mr Elias had in practice been charged approximately 60% after the extension. The Respondent submitted that, following the extension in 2016 and to reflect the change, the insurance percentages were reviewed and changed from 50% to 60%, not to disadvantage the Applicant but to reflect the building as it existed and not as it had existed in 1974. The licence for alteration and related material appeared in the additional evidence.

44. Mr Gunby described two competing issues: the contractual terms of the existing lease and the statutory requirement under the 1985 Act that service charges be reasonable, including to the First-Floor Leaseholder. Mr Gunby said that it would be unreasonable for the First-Floor Leaseholder to bear the higher premium arising from the ground floor extension, and that the adjustment did not operate as an informal variation of the lease. He accepted that there was no express power in

the lease allowing the change and that he was not aware whether the change had been raised with Mr Elias when the percentage was altered.

45. Mr Elias had provided a statement of case dated 13 February 2026. This stood as his evidence.

46. Mr Gunby had provided one witness statement on behalf of the Respondent; it was initially dated 12 March 2026 but was then amended and re-dated 28 March 2026. The amendments reflected the fact that the Respondent's initial position had been that the Applicant did not have the Respondent's permission for the extension in 2016. Following the provision of evidence from the Applicant relating to a Licence for Alteration dated 23 June 2016, the Mr Gunby amended three paragraphs to his statement and re-served it. When doing so, he explained that, although the Respondent had not seen a completed licence to alter executed by the landlord and said the Respondent's position was "*not changed*", the Applicant's submission about an application for permission to alter introduced enough doubt that he did not think it appropriate to state unequivocally that permission was not obtained.

47. Mr Elias asked Mr Gunby questions relating to his evidence. He began with the fire safety and access correspondence in Appendix 2, taking Mr Gunby to an email which said that it was imperative for the landlord or agent to hold keys to the common part. Mr Elias asked whether, by reading that email, a leaseholder would understand that the landlord's main concern was getting the keys, rather than the fire safety reports. Mr Gunby accepted that the email was not the best worded, but said that the reason for the key or access request was explained later as being so that the fire safety of the common parts could be monitored and checked. Mr Elias pointed out that, whenever fire safety reports were mentioned in later emails, he had responded that access could be arranged subject to notice. Mr Gunby said that the process had taken several months, beginning in September 2024, and that there was a clear audit trail showing that access was requested for compliance purposes.

48. Mr Elias put to Mr Gunby that, apart from the access correspondence, there was no notice saying that he was responsible for the work. Mr Gunby accepted that Mr Elias had not been technically advised that the Respondent was going to carry out the works in default. Mr Elias put that he had not been informed that he needed to do the work and had not been informed about any possible cost for which he would be liable. Mr Gunby answered that Mr Elias had been put on notice of a breach, but accepted that he had not been told in those terms that he needed to do the work or that he would be liable for the cost.

49. Mr Elias also asked questions relating to the rear extension and the measurements used to justify the 60:40 insurance apportionment. Mr Elias referred to Mr Gunby's statement that the rear extension increased

the ground floor area by 31%, and Mr Gunby confirmed that this was his calculation. Mr Elias compared different pages in the bundle, pointing to figures of 77 square metres and 63.79 square metres, and asked Mr Gunby to explain which was correct. Mr Gunby said that, when carrying out reinstatement valuation, he had to take a broad-brush assessment, using the plans provided, photographs, the EPC register and Google Maps, and that he did not go into the flat and measure it or have CAD drawings. He accepted that the desktop valuation was not entirely accurate and that there would be discrepancies, but said it was the best available assessment at low cost.

50. Mr Elias questioned Mr Gunby about the licence for alterations and the related correspondence. Mr Gunby said that he could not remember his involvement from ten years earlier, but accepted that he must have been involved to some degree. Mr Elias put to him that the measurements relied upon had been produced by his architect, and Mr Gunby accepted that he had used a plan but said that, if a plan had been printed or resized, measurements could change without the benefit of CAD drawings. Mr Gunby also accepted that the Respondent had not previously had a record of the licence or consultation on its system, although the agreement had plainly been made with the freeholder and for some reason had not been recorded in B Bailey's system. The bundle showed that a licence for works was in fact executed by Wendy Taylor and Abu Elias, and that it related to a single storey rear extension at 6 First Avenue; the executed licence appeared in the hearing bundle.

51. Mr Elias then challenged the rationale for the 60:40 apportionment. Mr Gunby said that he could see the logic for that change because Mr Elias had extended his flat and it was not fair on the First-Floor Leaseholder to pay for the increased premium. Mr Elias put that, even before the extension, the first floor was larger than the ground floor, and Mr Gunby acknowledged that this the case. Mr Elias then put that, even after the extension, both flats were a similar size according to Mr Gunby's own calculations. Mr Gunby accepted that the flats were now of a similar size and that the desktop reinstatement values were similar, but maintained that Mr Elias had made a material change in the physical appearance of the building which materially changed the reinstatement value, and that this had nothing to do with the First-Floor Leaseholder.

52. Mr Elias also challenged the Respondent's reliance on the February 2022 storm damage claim as an explanation for the 2022/23 premium increase, referring to the claims history at pages 174 to 175 and correspondence at pages 435 to 436. Mr Gunby accepted that the storm claim could well have been part of the reason for the premium spike. Mr Elias then took Mr Gunby to email correspondence between himself, the First-Floor Leasholder, and Ms Beddall (of B Bailey Management), suggesting that the storm damage concerned the roof and therefore related to the first floor rather than the ground floor. Mr Gunby answered that it was all part of the same building and that the risk element was the same regardless of the flat. Mr Elias pressed him on

whether the Respondent's statement was wrong to describe the claim as relating to the ground floor flat, but Mr Gunby said that the schedule came from the insurer's claims history and that B Bailey had not been involved in the claim in 2022 beyond notifying the insurer. The exchange ended with Mr Gunby maintaining that the claims history related to the building, while Mr Elias argued that the email evidence did not support the way the claim had been characterised.

53. The Tribunal asked questions of Mr Gunby, including questions arising from the insurance schedule, commission material and policy documents. Mr Gunby was asked whether, if he regarded it as unfair for the First-Floor Leaseholder to pay 50% of the insurance premium, he had considered a variation of the lease. Mr Gunby answered that he had not, and said that he did not think a variation had been considered.

54. The Tribunal then asked whether the overall cost of the block policy for the years in dispute could be found, including information showing what the policy premium was for each year in dispute, how many properties it covered and the total amount paid for the whole policy for 2018 to 2024. Further, whether the size of the portfolio had changed significantly over the years.

55. Further questions were asked about the block policy, the commission-bearing premiums, the number of properties covered and the nature of the work done by B Bailey and Lockton. Mr Gunby explained that the insurance had been split so that two brokers could compete against each other, and that the premium paid for the block policy and terrorism cover needed to be distinguished from commission-bearing insurance premiums. He said that there was no commission on the terrorism cover. The Tribunal asked for the number of properties covered and asked whether there had been much change in the work B Bailey had done to manage the policies. Mr Gunby said that the work element had been consistent over the years, but that commission had reduced in line with broker advice and recent guidance.

56. The Tribunal asked whether the reduction in commission was linked to FCA guidance and asked Mr Gunby to estimate how much time B Bailey spent overseeing insurance matters across the portfolio. Mr Gunby said that it would be very difficult to provide that figure because the work was split between people dealing with insurance queries, people dealing with the block policy, and himself dealing with reinstatement estimates, but he described it as a lot of work and highly responsible work. The Tribunal asked what Lockton did as broker, and Mr Gunby said that Lockton tested the market, obtained quotations, advised on policy wording, dealt with claims issues, involved loss adjusters and provided support on challenging cases. Mr Gunby described Lockton as an integral part of the process and agreed that it did not simply place the policy and then "wander off into the sunset". The Tribunal also clarified that the phrase "block policy" usually meant a policy covering a portfolio of buildings, and does not refer to a policy in respect of a specific block of flats.

57. Mr Elias then questioned Mr Gunby further on how the portfolio and commission figures were calculated. He asked whether a large purpose-built building containing 20 flats would be counted as one property if it was insured under one policy or certificate. Mr Gunby explained that a building of 20 flats could be one property on the schedule even though it contained 20 flats, and that the subject building was a small flat conversion with two flats. Mr Elias then put calculations to Mr Gunby concerning commission, including an argument that if the commission figure were divided across the portfolio it would produce a different amount. Mr Gunby responded that the bundle set out what commission Mr Elias was charged, that it was pro-rated to the premium, and that it had been based on commission rates of 10% in recent years and 17.5% in earlier years.

58. The hearing also addressed arrears and the statement of account, by reference to the service charge demands, proofs of payment and statement material. Mr Elias suggested that the statement of account relied upon by the Respondent did not correctly show what was outstanding because a later payment had been made. Mr Gunby referred to a statement showing a current balance of £1,505.26, and the bundle statement showed an opening balance, a £240 debt recovery fee, the asbestos and fire risk assessment charge, the 2025/26 building insurance charge, and a £1,409.85 BACS receipt on 9 December 2025. Mr Elias asked what period the statement covered and identified charges he said were outside the Tribunal's application, including the 7 August 2024 insurance item. Mr Gunby accepted that the July 2025 and August 2024 insurance items were outside the application.

59. The parties then made their final statements. Mr Elias submitted first and said that he had come to know about the issue in 2018 and had been drawn into money claim proceedings, which were struck out; he relied generally on his witness statement and exhibits at pages 44 to 84. He said that the Respondent had not done anything to resolve the issue, and that he had come to the Tribunal as a last resort. He argued that the Respondent was relying on the extension to justify the insurance structure, but that the evidence showed, year by year, the reinstatement values and premiums, and that the figures did not fit. He relied on Mr Gunby's evidence that the size difference between the flats was not much, and submitted that, if the building was not that different, the Respondent had not justified charging him more.

60. Mr Elias also argued that, if the Respondent thought the lease arrangement was unfair after the extension, it had opportunities to deal with that at the time of the licence for alterations, during the party wall process, or later, but instead acted unilaterally. He said that the Respondent's own earlier advice was that a deed of variation was needed to change the insurance percentage, and the bundle recorded B Bailey's 2014 position, that the insurance percentage was fixed by the lease and could only be changed by a deed of variation agreed by the other leaseholder and freeholder. He referred to a case (*Aviva Investors Ground Rent v Williams and ors* [2023] UKSC 6), in which a landlord

had an express option to reapportion, and submitted that there was no equivalent provision in this lease. His submission was that the lease did not expressly require one insurance policy, but that when it was read together with the "equal to one-half" contribution covenant, it indicated that there should be one single policy or one master insurance with one invoice split in two. He argued that, if the Respondent had two policies, the wording needed to be precisely interpreted, and that it was at least implied, if not express, that the Respondent should have one policy.

61. Mr Elias's closing submission on payability was that the landlord had not raised the service charge in accordance with the lease because the demands should have been equal to one half of the building insurance premium. He said that the demands were invalid because they demanded payment for separate maisonette insurance rather than one half of the insurance of the whole building. He submitted that this was a fundamental error in the notices for all relevant periods, and that the sums should not be paid at all rather than simply reduced to his percentage. Alternatively, he argued that, if the Tribunal did not accept his payability point, the charges were unreasonable for the same reasons, because the Property had an identical lease provision and he should not be charged more than the First-Floor Leaseholder where the flats were now almost equal in size.

62. Mr Elias then addressed commission and reasonableness. He said that, although the Tribunal had been helpful in obtaining more details, the Respondent had still not complied fully with the Tribunal's directions about commission disclosure. He argued that the documents were merely computer entries, that the insurer or broker records were not reliable, and that the storm claim had been inaccurately described as a ground floor claim when the correspondence suggested it related to the roof and the First-Floor Leaseholder. He accepted that his comparison quote was not tailored, but said that it still showed that the premium he was charged was more than 300% higher, and that the justification given for the increase appeared to rely on a storm claim which he said was probably not related to his flat. He also submitted that his premium went 45% higher in 2022 whereas the first floor went up 31%, and that, if the arrangement were fair, the premium should have gone higher for the first floor maisonette rather than the ground floor. He further submitted that terrorism insurance should be considered for this property and location, and that having two insurance arrangements for one building was expensive because insurance vetting and administration costs were doubled.

63. On the £240 administration charge, Mr Elias submitted that the cost had been incurred in 2023 in relation to a disputed insurance premium and a letter to solicitors, referring to the letter before action and the service charge statement material. He asked how the Respondent could recover the cost if the claim had been struck out. He said the matter had been completely resolved and that it would not be fair for the Respondent to recover the £240. On the asbestos survey and fire risk assessment, he said that if he was responsible, he was prepared to commission a report

himself, because the Respondent's report was too expensive and a similar report could be obtained for a smaller amount; this related to the asbestos and fire risk assessment material. He also said that the First-Floor Leaseholder should contribute because both flats used the relevant area.

64. Mr Elias concluded by asking the Tribunal to consider his evidence and his skeleton argument, and he apologised for the late provision and the number of charges or documents. He asked for repayment of all amounts he had paid, or alternatively £1,174.80 as the refund representing the excess amount he said he had paid if the first floor was treated as an identical size. He submitted that, if the notices were invalid, the Respondent should be barred from serving further notices for those historic years. He said that it had not been his intention to come to the Tribunal, but that he had been shocked when he saw an insurance charge approaching £800, which he considered indicative of a money-making opportunity. He said that he felt he was subject to injustice from the freeholder and hoped that the Tribunal could shape the parties' rights. He also sought reimbursement of the application fee and hearing fee, saying that the Respondent had escalated matters rather than resolving the dispute.

65. Mr Gunby then gave his closing statement on behalf of the Respondent. He identified three broad issues: whether the insurance arrangements complied with the lease, whether the service charges complied with relevant statute, and whether the additional charges were recoverable under the lease.

66. On insurance structure and commission, he submitted that the lease expressly allowed insurance by way of "*policy or policies*" and imposed no requirement for a single policy. He submitted that the tenant was required to pay a proportion of the amount expended, and that those words were deliberately wide enough to include the premium, the cost of arranging the policy and the cost of administering the policy. He said that commission was not a hidden profit but a mechanism for the broker and managing agent to be remunerated for placing insurance, managing risk, handling claims and compliance. He submitted that the evidence showed an active process, not a passive process.

67. On reasonableness of premium, Mr Gunby submitted that the correct legal test was not whether a cheaper policy could be found, but whether the policy obtained was reasonable in the circumstances. He said that the Applicant relied on one online quotation which was flawed because it did not reflect the claims history, terrorism cover or the same liability cover, and because it was a homeowner product rather than a like-for-like landlord policy. He contrasted that with the Respondent's evidence that the policy had been remarketed and that a 21% reduction had been achieved, which he said aligned with the claims history and was what one would expect in a properly managed insurance process. On the £240 charge, he submitted that the lease expressly allowed costs incidental to a notice and that the £240 reflected actual work carried out in enforcing

arrears. He described the charge as modest, not a penalty, and as falling within the lease.

68. On the fire risk assessment, Mr Gunby submitted that it was not optional because it arose from statutory fire safety and asbestos requirements. He said that Mr Elias controlled the relevant parts of the property and had repairing obligations, and that the Respondent had made repeated attempts to obtain access and compliance. On apportionment, he submitted that moving from 50% to 60% reflected a material increase in the size of the demise and was not a variation of the lease. He argued that it would be contrary to section 19 for the first floor lessee to bear the financial consequence of a unilateral change made by the ground floor lessee. He invited the Tribunal to dismiss the application, or at least to find that the insurance arrangements complied with the lease, that the costs were reasonably incurred, that the application was not valid insofar as it challenged the charges, and that the charges fell within the contractual and statutory framework.

69. The Tribunal also raised the issue of costs and the £240 administration fee. The Tribunal sought clarification of the basis that this cost could be passed to Mr Elias, and asked whether B Bailey had ever obtained the £240 from the freeholder. Mr Gunby answered that the charge had been placed on the tenant's account, but that it was not usual for B Bailey to charge the freeholder until the money had been collected from the tenant. The Tribunal asked whether the Respondent intended to invoice the freeholder once collected, and Mr Gunby said yes. Mr Gunby confirmed that, as at the hearing, the freeholder had not yet been invoiced, but Mr Gunby said that the cost had nevertheless been incurred.

<u>Determination</u>

63. We make the following determinations by reference to the issues identified in paragraph 2 above.

<u>Issue 2(a): Whether buildings insurance is within the landlord's obligations under the Lease and payable by the Applicant</u>

64. We determine that the building insurance charge is, in principle, within the landlord's obligations under the Lease and is payable by the Applicant as a service charge. Clause 4(2) requires the landlord to insure and keep insured the whole building of which the maisonette forms part, and Clause 1 requires the tenant to pay, by way of additional rent, a sum equal to one-half of the amount expended by the landlord in effecting or maintaining that insurance. That wording is clear. There is no dispute that insurance was in fact arranged for the building during the relevant years.

65. We do not accept the Applicant's submission that the service charge demands were invalid because the Respondent issued separate certificates for the ground floor and first floor, or because some demands were also addressed to his wife.

66. The Lease requires the landlord to insure the building and permits production of a policy or policies. It does not, in terms, require a single certificate or a single invoice. The demands sufficiently identified the property, the nature of the charge and the amount claimed. The fact that some demands were addressed also to Mrs Elias does not, in our judgment, invalidate them. There was no evidence that Mr Elias was misled as to the charge being demanded, and he was able to dispute the demand and bring this application.

67. The finding that insurance is in principle within the landlord's obligations and that the demands were not invalid does not, however, resolve the Applicant's principal challenge, which concerns the amount he has been charged and the basis on which that amount has been apportioned between the two leaseholders. Those questions are addressed under Issues 2(b) and 2(c).

Issues 2(b) and 2(c): Reasonableness and the arrangement, scope, tendering, appointment, pricing, apportionment and value for money of the buildings insurance

68. We have treated the Applicant's online quotations with caution. The quotations were not shown to be like-for-like comparisons with the landlord's policy. In particular, the evidence was that the landlord's policy included broader cover, including terrorism cover and property owners' liability cover, and that it needed to reflect claims history and landlord/portfolio risks which would not necessarily have been inputted into an online homeowner quotation. We therefore do not determine the reasonableness of the insurance costs simply by comparing the sums demanded with the online quotations relied upon by the Applicant. In any event, the reasonableness of the total premium in market terms is subsidiary to the apportionment question addressed below, which is determinative of the sums payable by the Applicant. This is regardless of how the total premium compares with alternative quotations.

69. However, the central issue is not whether the Respondent was entitled to insure the building through a portfolio arrangement, or whether the landlord's total insurance premium was necessarily unreasonable in market terms. The central issue is that the Lease fixes the Applicant's contribution at one-half of the amount expended by the landlord in effecting or maintaining the insurance of the whole building. The Respondent accepted that, following the 2016 extension, it changed the practical apportionment from 50:50 to approximately 60:40. It also accepted that there was no express power in the Lease allowing that change and that no deed of variation had been entered into. In our judgment, that is decisive.

70. The Respondent was entitled to arrange insurance for the whole building, including by more than one policy or certificate if that was administratively convenient. But the Respondent was not entitled, without variation of the Lease, to recover from the Applicant more than one-half of the amount expended on the insurance of the whole building.

Section 19 of the 1985 Act does not empower the landlord or the Tribunal to rewrite the contractual apportionment in the Lease. If the extension increased the total reinstatement value and therefore the total premium, the Applicant would bear the consequence through paying one-half of that higher total premium. It did not permit the Respondent to charge him more than one-half of the total.

71. We therefore determine that, for each of the service charge years 2018/19 to 2023/24, the building insurance premium was not correctly charged to the Applicant to the extent that it exceeded one-half of the total cost of insuring the building. The sums payable by the Applicant in respect of building insurance for those years are limited to one-half of the total premium for the whole building in each relevant year. To the extent that the sums demanded exceeded that one-half amount, they were not payable.

72. The Tribunal has also considered the commission evidence in light of *Octagon Overseas Ltd v Cantlay [2024] UKUT 72 (LC)*. The fact that commission was included in the gross premium does not, of itself, make the charge irrecoverable. However, the Respondent still had to show that the commission and management-fee element was reasonably incurred. The Respondent shared at the hearing the policy premium for each year in dispute and the number of policies covered, although the total number of properties within the portfolio was not made clear, which is unfortunate as it would have assisted the Tribunal in establishing whether the commission attributed to the Property was proportionate for the work done for it specifically. Nevertheless, we are satisfied that the commission element was reasonably incurred. The commission was pro-rated to the premium rather than allocated arbitrarily; the work done in managing the policies was confirmed to have been consistent over the years; and the commission rate reduced from 17.5% to 10% over the period in dispute. The commission evidence remains relevant to the reasonableness of the total cost, but it does not justify charging the Applicant more than the lease permits.

73. The Tribunal has also considered the reasonableness of the total insurance premium by reference to the two-stage test in *Cos Services Ltd v Nicholson* [2O17] UUT 382 (LC); [2018] L&TR 5 . As set out above, that test requires consideration of both the rationality of the landlord's decision-making process and the reasonableness of the amount charged in all the circumstances. Taking into account the written and oral evidence, we are satisfied that the total premium for the whole building of which the Property was a part was reasonably incurred for the relevant service charge years. We consider that the Respondent showed a rational process: the insurance was placed through Lockton as broker, the market was tested, and the policy was moved to Allied World, which reduced the premium. Further, the claims history, including storm damage, provided a rational explanation for the increase in premium in the year 2022/23, and we note the premium then decreased the following year. The Applicant's online quotation was not like-for-like and does not displace the Respondent's evidence. Therefore, the total premium for each year

meets the reasonableness test as set out in *Cos Services*. The sums payable by the Applicant are one-half of those reasonable total premiums.

The £240 administration charge

74. We determine that the £240 administration charge is not payable. The Respondent relied on Clause 3(13), which refers to solicitors' costs and surveyors' fees incidental to the preparation and service of a section 146 notice. The evidence before us did not establish that the £240 was a sum incurred by the landlord as solicitors' costs or surveyors' fees. Mr Gunby accepted that, as at the hearing, B Bailey had not invoiced the freeholder for that amount, although it had placed the charge on the tenant's account. On that evidence, we are not satisfied that the Respondent has shown that the £240 was contractually recoverable or reasonable as an administration charge.

Fire risk assessment and asbestos survey charge

75. The £180 fire risk assessment and asbestos survey charge falls to be considered separately from the building insurance premiums, for the reasons set out at paragraph 23 above. Although it was not one of the directed insurance issues, it was treated at the hearing as a live service charge dispute and we determine it accordingly.

76. The Respondent relied on statutory fire safety and asbestos obligations and on the Applicant's repairing obligations. However, the Respondent's own evidence was that the relevant area was within, or said to be within, the Applicant's demise, and that the Respondent did not clearly notify the Applicant that it considered him to be the duty holder, that it intended to carry out the work in default, or that it would charge him for doing so. Mr Gunby accepted that the position had not been put as clearly as that.

77. Much of the correspondence relied upon by the Respondent concerned obtaining access or a key, rather than giving the Applicant a clear opportunity to organise the assessment or survey himself. In those circumstances, we are not satisfied that the Respondent has shown that the £180 was contractually recoverable from the Applicant or reasonable as a service charge or administration charge.

Issue 2(d): Section 20C and paragraph 5A

78. We make a full order under section 20C of the 1985 Act. The Applicant has succeeded on the substantive issue that the building insurance premium was not correctly charged to him under the lease, because he was charged more than one-half of the total cost of insuring the building. He has also succeeded in showing that the £240 administration charge is not payable, and that the £180 fire risk assessment and asbestos survey charge is not payable. We recognise that the Applicant did not succeed on every point: in particular, we have found that buildings insurance is in principle within the landlord's obligations and that the

service charge demands were not invalid merely because separate certificates were used or because some demands were also addressed to Mrs Elias. However, the central and financially significant issues were determined in the Applicant's favour. In those circumstances, and having considered proportionality and the parties' relative success, we are satisfied that it would not be just and equitable for the Respondent to recover any of the costs of these Tribunal proceedings through the service charge.

79. For the same reasons, we make an order under paragraph 5A of Schedule 11 to the 2002 Act extinguishing the Applicant's liability to pay any administration charge in respect of litigation costs arising from these proceedings. That order is proportionate because the Applicant succeeded on the principal matters in dispute and because the Respondent has not established payability of the discrete administration charges considered above.

Issue 2(e): Reimbursement of application and hearing fees

80. We order the Respondent to reimburse the Applicant the application fee and hearing fee paid to the Tribunal. The Applicant was substantially successful on the central issues: the insurance premiums were not charged in accordance with the Lease, and the £240 administration charge and the £180 fire risk charge were not payable.

81. We have also had regard to the conduct of the parties. The Applicant's evidence was that he came to the Tribunal as a last resort having been unable to resolve the dispute through correspondence, and that the Respondent had escalated matters rather than engaging with his concerns. The Respondent did not advance any persuasive answer to that characterisation. In those circumstances it is appropriate that the Respondent bear the cost of the fees the Applicant incurred in bringing this application. The Respondent must reimburse those fees within 28 days of the date of this Decision.

Name : Judge Ş Nihat **Date : 3 June 2026**
Judge N O'Brien
Ms M. Bygrave

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