FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/00HR/LSC/2025/0770
Property	:	442 New Road, Ferndown, Dorset BH22 BEX
Applicant	:	442 New Road Limited
Representative	:	Launceston Property Management
Respondent	:	(1) Alan Catlin (2) Mavis Catlin
Representative	:	Martin Davies, Rawlins Davy Reeves Solicitors and Mediators
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	:	Tribunal Judge E Bowden Panel Member Mr K Ridgeway Panel Member Mrs J Herrington
Venue	:	Havant Justice Centre
Date of Decision	:	04 July 2026

DECISION

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

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

Summary of Decision

(1) **The Tribunal determines that the sum of £5,055.20 is payable by the Respondents in respect of the improvement service charges for the year 2025.**

(2) **The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.**

Background

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act"). The Applicant is the freeholder, there are no applications under Section 20C of the Landlord and Tenant Act 1985, Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act").

The Law

27A Liability to pay service charges: jurisdiction

2. Section 27A

> *27A (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to—*
>
> *(a) the person by whom it is payable,*
>
> *(b) the person to whom it is payable,*
>
> *(c) the amount which is payable,*
>
> *(d) the date at or by which it is payable, and*

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

(a) the person by whom it would be payable,

(b) the person to whom it would be payable,

(c) the amount which would be payable,

(d) the date at or by which it would be payable, and

(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which—

(a) has been agreed or admitted by the tenant,

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(c) has been the subject of determination by a court, or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject of an application under subsection (1) or (3).

(7) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.

Service charge s18 LTA 1985

3. LTA 1985 defines service charge in s18.

"18 Meaning of "service charge" and "relevant costs"

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent –

(a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and

(b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose –

(a) "costs" includes overheads, and

(b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period."

The background

1. The property which is the subject of this application is Launceston House, 442 New Road, Ferndown, Dorset BH22 8EX (the "Building"). The Building is a block of twelve apartments, set over three floors (ground to second). The block is described by the surveyor as:

   a. A building of masonry construction with a flat roof with tiled mansard beneath, which extends the full height of the second floor. All windows and external doors are white UPVC units.

   b. To the front (south facing) elevation, each flat has an associated terrace or balcony area that is inset into the overall footprint of the building. There are two recesses in the south-facing elevation, each containing six private terraces or balconies. At each floor level, the balconies of two flats are adjoined and separated by a facing brick wall.

   c. Those properties on the first and second floors have a projecting concrete balcony with a side access door from the living room. The balconies on the first and second floors are enclosed by painted steel balustrades.

   d. To the southern elevation, there are a number of large deciduous and pine trees within close proximity to the structure, particularly towards the western end.

2. The Respondents hold the registered leasehold for Flat 11 and Garage, Launceston House, 442 New Road, Ferndown, Dorset BH22 8EX. By a lease extension date 24 November 2008 ("the New Lease") made between (1) 442 New Road Limited and (2) Alan Robert Catlin, Mavis Rose Catlin and Steven Alan Catlin the property known as Flat 11 and Garage, Launceston House, 442 New Road, Ferndown, Dorset BH22 8EX ("the Property") a residential dwelling house was demised for a

term of 999 years from 01 January 1980 (the “New Lease”). The New Lease was granted on the same terms with the same rights and subject to the same rights, provisos, covenants, and conditions that were contained in the original lease. The original lease, dated 09 November 1981, was between 442 New Road Limited and (1) Arthur Henry Bibb and (2) Elizabeth Edith Bibb, in which the Property was demised, for a term of 99 years from 01 January 1980 (the Original Lease). Together, the New Lease and the Original Lease are the “Lease”.

3. Neither party requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

The hearing

4. The Applicant represented by Mr Sykes of Launceston Property Management was accompanied by Richard Himson and Linda Sykes (nee Morris). Mr Himson, Mrs Sykes and Angela Bradley are directors of the Applicant company. Mr Sykes, trading as Launceston Property ,Management is the managing agent of the property. Mr Sykes, Mr Himson, and Mrs Sykes attended Havant Justice Centre for the hearing.

5. The Respondents appeared in person via CVP and were represented by Mr Davies, who appeared in person at Havant Justice Centre.

6. The day before the hearing, the Tribunal received an application for Mr Catlin to attend remotely, and permission was granted. The Tribunal also received Mr Davies’ skeleton and attachments the day before the hearing. Mr Sykes notified the Tribunal that he objected to the late provision of the skeleton and the documents.

7. The Tribunal had the benefit of a 219-page hearing bundle, Mr Davies’s skeleton argument and its attachments.

Preliminary issue - skeleton

8. The Tribunal explained to Mr Sykes that the skeleton argument was intended to assist the Tribunal following any submissions made by Mr Davies, and that it also assisted Mr Sykes by indicating what Mr

Davies was going to say. Mr Sykes agreed that he had had time to read the skeleton and accepted that he did not need more time at the hearing to read it. The Tribunal accepted Mr Davies's apology for providing the skeleton late.

The application

9. The Applicant seeks a determination of whether the estimated service charges demanded in 'Invoice 1' (page 81) are i) payable under the lease and ii) reasonable. The application states at page 24:

> *Service Charge invoice relating to Section 20 Notice Finalised at the AGM 23/02/2025.*
>
> *The Section 20 Notice was voted upon by all twelve Leaseholders regarding paragraph 9 of the Lease by Special Resolution at the 2025 Annual General Meeting.*
>
> *Mr and Mrs Catlin have refused to pay their final outstanding value. The work required is well underway, and the Catlins ' refusal to pay is delaying the completion of the works.*
>
> *All Remaining Leaseholders have paid in full and want this vital work completed.*

10. At the hearing, Mr Sykes confirmed that:

    a. The invoice on page 81, 'Repair to Main Frontage Charge 2024, dated 22 February 2025', was the demand in question ("22/02/25 Demand").

    b. The sum of £5,055.20 (before reductions for any leaseholder payments and contributions from the reserve fund) included the cost of having the work completed on the Respondents' property.

    c. The s20 process had been followed, and this was seen on the four required notices at page 195 (s20 notice), page 198 (s20 estimates), page 199 (detailed estimates), and page 203 (decision taken by the leaseholders)

    d. The sum in the 22/02/25 Demand was reasonable.

The response

11. The Respondents' case at the hearing was:

    a. The 22/02/25 Demand was capable of being a demand under clause 3(9) of the Lease, but only if i) it was an improvement and ii) the benefit benefited all the flat owners

    b. The Respondents were not challenging the s20 process.

    c. The Respondents did not challenge the approval of the 22/02/25 Demand, which was the accepted had been approved by a special resolution of the Lessor at an Annual General Meeting of the Lessor.

    d. Even if clause 3(9) of the Lease was satisfied, the sum was not reasonable.

12. The above position differed from that set out in the Respondents' position statement dated 24 February 2026. In the Respondents' position statement dated 24 February 2026 (prior to Mr Davies involvement), the Respondents' position was:

    a. The alleged improvements were not for the benefit of all the leaseholders

    b. The funds available from the reserve account were wrong, as the applicant has paid sums from it incorrectly, e.g. printing costs which were excluded by a previous tribunal decision.

    c. The applicant was providing poor service management and inappropriate management funds; they were not a member of a redress scheme.

    d. The reserve funds themselves were not protected; the applicant's business was benefiting from the work, which was more than a like-for-like repair.

    e. The s20 process was deficient as the stage one notice was a notice about a long term agreement and not the work.

Narrowing the issues

13. The Tribunal was able to narrow the issues by hearing from the parties regarding their positions on the bank account and the printing.

a. **Bank account:** the parties agreed and accepted that this was not relevant to the payability/reasonableness of the 22/02/25 Demand under the Lease.

b. **Printing costs reducing the funds in the reserve fund:** the parties agreed and accepted that this was not relevant to the payability/reasonableness of the 22/02/25 Demand under the Lease.

Evidence

14. Once the parties' positions had been clarified, the Tribunal heard evidence from Mr Sykes.

15. Mr Sykes' written evidence is at page 5.

16. Summary of Mr Sykes' oral evidence:

a. The scheme of work for the building frontage is the work that is included in the 22/02/25 Demand; this work was an improvement to the main frontage.

b. The scaffolding was required to carry out the scheme of work (seen on 203, s20 notice 3).

c. The balcony renewal and the mansard renewal (seen on page 204, s20 notice 3) were improvements; there was a new design and larger pipes and guttering to account for the likely increase in water volume. The material, zinc, was an improvement as UPVC plastic required maintenance and in the long term cost more due to upkeep.

d. The balustrade replacement (seen on page 205, s20 notice 3) was an improvement, and there was a new design to account for the current and likely future volume of water. The design also eliminated the middle leg design flaw.

e. Each flat that had a balcony/balustrade would get a new balustrade and its balcony updated.

f. Over all the work would benefit all the flats as the Building's appearance would be improved (zinc was better colour, and plastic got dirty and required upkeep), there would be lower maintenance costs, the building would be better protected, the balconies would stop leaking, the redesign would mean that the building was actually able to cope with the volume of water that came off the extensive roof.

17. In cross-examination Mr Sykes said, in summary:

a. He had known that the Lease required a demand on 01 January each year if using the clause 3(5) mechanism to demand the service charge. It was not possible to make a demand on 01 January each year, as the accounting year-end for the accounts was 31 December.

b. The lease was not fit for purpose – a new one was planned.

c. He had inherited a system where invoices and payments were made quarterly, rather than the 01 Jan demand mechanism.

d. He and all leaseholders had always paid the quarterly invoices – including Mr and Mrs Catlin.

e. When he took over as managing agent, he just carried on doing what had been done before.

f. The surveyor had said UPVC could be used– and he agreed it could be. Mr Sykes stated that Zinc could also be used. Zinc was a better solution – bigger pipes, better longevity and less maintenance. The UPVC was more expensive in the long run, once you include maintenance. In any event, the UPVC pipes were too small for the volume of water and only zinc offered the larger pipe size needed.

g. No fungicide would stop moss, so you could wipe the UPVC with a fungicide, but the moss would grow back. Moss would cause blockages, and water ingress would happen again. Zinc was better.

18. The following witness statements were included by the Applicant, but the witnesses did not give oral evidence:

    a. Carys Himson

    b. Patricia Holloway

    c. Angela Bradley

    d. Richard Himson – evidence relating to the oil leak only.

19. After Mr Sykes' evidence, the Tribunal established that although Mr Sykes had questions for Mr Catlin, the questions were in areas that were not relevant to the application, e.g.

    a. The alleged oil damage from Mr Catlin's car on the tarmac; and

    b. The alleged damage to Mr Catlin's guttering.

20. Mr Sykes agreed that he could make the points he wanted to in submissions.

21. Mr Catlin's statement to the Tribunal starts at page 62; this was the document he filed in compliance with the directions. His statement raises issues with:

    a. Liability to pay under clause 3(9) – Mr Catlin acknowledged that the work was needed but argued that the work did not benefit all leaseholders.

    b. Calculating the outstanding demand – the balance of the outstanding funds was challenged, with the argument being that sums had been paid out of the reserve account that should not have been, e.g., tribunal costs.

    c. Poor service and management. Including challenging the need to pay under s42 of LTA 1987, there was no redress scheme, no liability protection, slow progress, and Mr Sykes' business benefiting from the work, i.e. a conflict of interest.

    d. Deficiencies in the s20 process – the argument put forward was that the process was defective because the first s20 notice referred to a long-term agreement and the cheapest quote was not selected.

e. Order under section 20C LTA 1985 and 5A Schedule 11 CLRA 2002 – the costs of the Applicant seeking a determination of reasonableness should not be recovered via the service charge.

22. There is a s20 response letter from Mr Catlin on page 90 dated 03/10/23, and it observes:

a. UPVC Facia, Soffit and Gutters: The work appeared to be required, but Mr Catlin wanted like-for-like.

b. Rheinzink Graphite Grey Fascia, Soffit, Gutters and Downpipes: Mr Catlin wanted like-for-like.

c. Replacement of lead Cavity Trays: These should be repaired and not replaced.

d. Roof Felt: Not necessary, but if it were like-for-like repairs, that's all his lease required him to pay for.

e. Balcony Tiles: Not necessary, but like-for-like repairs are all that his lease required him to pay for.

f. Balcony Balustrades: The work appeared to be required, but Mr Catlin wanted like-for-like.

23. There is no statement from Mrs Catlin.

Submissions

24. Mr Davies' case was:

a. If the Tribunal found the work in 22/02/25 Demand was an improvement; the 22/02/25 Demand was a demand for the purpose clause 3(9).

b. Clause 3(9) was a two-stage test – i) was it an improvement that benefited all the flats? And ii) had it been approved?

c. It was accepted that it had been approved.

d. It was not accepted that the work in 22/02/25 Demand benefitted all flats.

e. Even if it did, the amount still had to be reasonable, and it was not.

f. The Applicant has not provided any expert evidence that this was an improvement, nor any evidence that the cost was reasonable.

g. The top layer of the balcony was demised to the flat owner.

h. If not an improvement under 3(5), the service charge had to be demanded on 01 January – as it had not been, then it is not payable.

i. Mr Catlin, if given reassurance that the 22/02/25 Demand included work on his property, he would pay the sum demanded, as he'd previously offered to. His previous offers were set out in his February 2024 position statement to the Tribunal on page 54:

> *18. The Respondents have sought a reasonable and mutually acceptable way forward. For example, they asked Citizens Advice on 14 January 2025 to put forward a compromise proposal whereby they would contribute their 1/12th share of the necessary costs to ensure that the balconies, balustrades, gutters and fascias were refurbished to a good state of repair, with the additional costs that the Applicant has suggested are 'improvements' borne by leaseholders who perceive these to be to their benefit. The Applicant did not reply to this proposal.*
>
> *19. The Respondents also offered to pay the interim service charge demand of 22/02/2025 under protest once the Applicant's representative provided a written assurance that he would include the balcony and balustrade exclusively serving the Property within the scope of works to be progressed. No such assurance was provided*

25. Mr Davies was not able to clarify, due to Mr and Mrs Catlin attending via video, whether the position today was payment under protest or a simple agreement to pay.

26. Mr Sykes's case – which the Tribunal has heavily summarised was:

a. The work on 22/02/25 Demand was an improvement; it had been approved.

b. The sum demanded was reasonable

c. It was payable under the lease.

The Lease

27. The New Lease and the Original Lease were in the bundle at pages 95 and 219. The key terms are in Annex 1 attached to this decision.

Interpretation

28. The Supreme Court in *Arnold v Britton [2015] UKSC 36* (per Lord Neuberger PSC at [15]) sets out the principle for contract interpretation:

> *"When interpreting a written contract, the court is concerned to identify the intention of the parties by reference to 'what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean', to quote Lord Hoffmann in Chartbrook Ltd v Persimmon Homes Ltd [2009] UKHL 38; [2009] 1 A.C. 1101 at [14]. And it does so by focussing on the meaning of the relevant words, in this case cl.3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of:*
>
> *(i) the natural and ordinary meaning of the clause;*
>
> *(ii) any other relevant provisions of the lease;*
>
> *(iii) the overall purpose of the clause and the lease;*
>
> *(iv) the facts and circumstances known or assumed by the parties at the time that the document was executed; and*
>
> *(v) commercial common sense; but*

> *(vi) disregarding subjective evidence of any party's intentions."*

29. In *Francis v Phillips [2014] EWCA Civ 1395*, which was decided before the Supreme Court in **Arnold v Britton**, it was also made clear that there are no special rules of construction for service charges. In that case the position was explained as follows:

> *"72. The starting point is that ordinary principles of contractual interpretation apply to the relevant provisions of the Lease. The meaning of a contract is that which a reasonable person who has all the background knowledge which would reasonably have been available to the parties to the contract in the situation in which they were at the time of the contract would have understood the parties to have meant. In deciding that meaning, the court must have regard to all the relevant circumstances….The more unreasonable a particular interpretation the less likely the parties can have intended it, and if they do intend it the more necessary it is that they shall make that intention abundantly clear…If there are two possible interpretations, that it is to say real ambiguity, the court is entitled to prefer that one which is consistent with business common sense and to reject the other."*

Decision

30. The Tribunal read and considered all the material before it, including the hearing bundles, oral evidence and submissions. If this decision fails to mention something, that does not mean it was not considered.

31. The Tribunal was grateful for the bundle, the documents filed by the parties, Mr Davies's skeleton argument and attachments, and the assistance those gave the Tribunal.

Bank account

32. Dealing with the issue of the bank account:

a. The Respondents, in their late skeleton argument, argued that the Launceston Property Management bank account did not comply with the provisions of Section 42 and 42(A) of the Landlord and Tenant Act 1987, and accordingly, pursuant to Section 42A(9), the Respondents are entitled to withhold payment of the service charge. It was argued that the Applicant has not provided a statement from Barclays Bank confirming that the funds are ringfenced as required by paragraph 6.2 of the service charge residential management code.

b. This was not an argument specifically raised in the Respondents' statement in response, albeit there was mention of s42 of the LTA 1987.

c. The Tribunal noted that Mr Catlin has paid other sums into the account in question, although Mr Davies said this had ended in April 2026, when he had notified Mr Catlin about s42 and s42A.

d. Mr Sykes described the issues he was facing getting the relevant information he needed from the bank for Mr Davies/Mr Catlin.

33. Given that this was not a matter that fell within the remit of the application before the Tribunal, all the Tribunal can do is express that it expects the parties to take a sensible and pragmatic approach to obtain the necessary information from the bank. For example, Mr Sykes could provide Mr Davies with a letter of authority so that Mr Davies can contact the bank and obtain the reassurance Mr Catlin and he needed. Mr Davies is best placed to provide Mr Sykes with a draft letter of authority.

34. The Tribunal makes no findings on this issue.

Service charge item & amount claimed

<u>Service charge mechanism 3(5)</u>

35. Under clause 3(5) the process of payment of the service charge is:

a. The accounting year runs from 01/01 to 31/12 each year (4(f)).

b. At 4(g) a chartered accountant will prepare, audit and certify to the total amount of costs charged and expenses (including the audit fee) for the period the account relates to, i.e. the accounting year 01/01 to 31/12.

c. At 4(h) within 2 months of the account hereinbefore provided (i.e. 4(g) account YE 31/12) the landlord will serve on the lessees notice in writing stating the amount payable under 3(5) during the next year, ensuring that the amount fixed by the landlord/agent shall be the least amount which based on the previous annual accounts will be necessary to cover the indemnity provided in 3(4) during the next accounting year. Any excess/deficiency of the previous year, having been taken into account.

   i. There is a significant practical issue with the account being prepared by the end of February (2 months) and the sum being demanded on 01 January.

   ii. However, according to 4(h)(ii), the preceding accounts are used for the next year, and then, according to 3(6), if the landlord serves notice, the difference is paid.

d. Under 3(5), the lessees on 01/01 pay to the landlord/agent on account, such annual amount certified by the landlord/agent, the amount under 4(h). Which must be, for the reasons stated above, be based on the previous year's accounts

e. Under 3(6), within 14 days of the accountant's certification of the accounts (4(g)) (which are provided 2 months after year-end (4(f))), the lessees must pay the balance.

<u>Service charge mechanism 3(9)</u>

36. There is no timing provision within 3(9) – it was simply 'when requested'. The qualifying factors are that the work needed to be an 'improvement' that 'benefited all flat owners' and be 'approved by a special resolution at an AGM'.

Consideration

37. The 22/02/25 Demand is for (page 81):

Repair to Main Frontage Charge 2024.

Full Cost for Repair work. £46,057.00

Amount Due for 12 Flats. £4,212.67

Vat at current rate. £842.53

Amount Due. £5,055.20

Received Payment on Account 2024. £1,842.28.

Total Amount Due. £3,212.92

38. This sum is calculated in Section 20 notice 3, dated 31 December 2023, on page 202 and itemised at page 205, is

The Cost Implication for all 12 Leaseholders:	
1: Express Scaffolding.	£3,980.00
2: Sykes Roofing:	
Cost of 8 Balconies.	£34,300.00
Cost of Mansard Renewal.	£15,312.00
Total Cost of Roof Work.	**£53,592.00**
3: Weldtec Balustrade:	
Cost of 7 Balconies.	£10,465.00
Total Cost:	**£64,057.00**
Reduction from not undertaking Mr Catlins Balcony.	£3,000.00
Reduction as Agreed to take Sum from Main Bank Account.	£15,000.00
Total Cost of Reduction.	£18,000.00
Total Cost:	**£46,057.00**
Vat at Current Rate.	£9,211.40
Complete Cost.	**£55,268.40**
Divisible by Twelve Leaseholders	**£4,605.70**

39. The Applicant's evidence was that the 22/02/25 Demand included work on Mr Catlin's balcony and that the works were agreed by the leaseholders at the AGM, although Mr Catlin left the meeting.

40. The Tribunal noted a difference between the amount demanded in the 22/02/25 Demand (page 81) and the Section 20 notice 3 (page 205), namely £449.50 (£4,605.70 to £5,055.20). The Tribunal has not been able to ascertain the reason for this, but noted the following:

    a. The s20 notice and the 20/02/25 Demand were 2 months apart.

    b. The sum demanded is based on estimates; by February, actual costs may have been incurred.

    c. The sum calculated in the Section 20 notice 3 (page 205) did not include Mr Catlin's balcony; the 22/02/25 Demand did include it.

41. The Tribunal considered:

    a. Mr Sykes's witness statement, including his exhibits of leaseholder AGM minutes and letters from leaseholders, including Mr Catlin. The weight of the minutes and letters was limited as it was not tested via cross-examination, although it was not specifically challenged.

    b. Mr Sykes's statement in reply and his position statement.

    c. Russell Fareham Associates Ltd's Survey of the southeastern elevation, balcony and guttering arrangements 2024 (page 156) and the recommendations within that report.

    d. Mr Catlin's witness statement and position statement, and the skeleton argument of Mr Davies

Findings

42. Mr Catlin had not admitted or agreed on the sum payable as it could not be ascertained whether he was agreeing to pay, or he was agreeing to pay under protest.

43. The 22/02/25 Demand did include work on Mr Catlin's balcony and to the front of the Building.

44. The 22/02/25 Demand fell into clause 3(9) and was not the sum that should have been paid on 01 January under 3(5), nor was it the sum payable under 3(6).

45. As the Tribunal found the demand fell within clause 3(9), compliance with clause 3(5) is not required.

46. The overall scheme of work proposed under the s20 process, which led to the 22/02/25 Demand, was an improvement. The Tribunal rejected Mr Davies's suggestion that only the work that represented an improvement fell within 3(9), and that any work that was not an improvement needed to be demanded under the usual mechanism. i.e. if a length of gutter needed replacing, and that would have cost £100 for UPVC, but the Applicant chose to improve it by replacing it with a zinc at a cost of £150, then only the £50 was an improvement capable of falling within 3(9).

47. The terms of 3(9) were broad, 'any improvement which benefits all the flats'. The improvement in this case is the overall upgrade of the drainage/rainwater management system and the hardware that handles and/or is affected by rainwater for the Building. Mr Davies' interpretation was rejected because it did not fall within the ordinary natural meaning of 3(9).

48. The Tribunal found that the scheme as a whole benefited all the flats, because:

    a. It provided a roof/balcony/balustrade upgrade and enabled the building to manage the level of water coming from the large flat roof.

    b. The longevity and lower maintenance cost of the zinc system were a benefit to all flat owners, because i) the building was able to deal with the volume of water and ii) the upgraded water management and improved balustrades/balconies would reduce maintenance and repair costs for all flat owners.

49. The parties agreed that the scheme of work had been approved in accordance with the Lease 3(9). Therefore, this did not require findings or a determination.

50. The Tribunal found that the sum demanded was reasonable, based on the estimates in the bundle and the Tribunal's own knowledge. The Tribunal found that the estimated costs were consistent with the scale of work and the survey recommendations. The Respondents did not provide any evidence as to what they said a reasonable sum should be.

51. The £449.50 difference, the Tribunal finds that it would expect to see a change in prices given the passage of time and the fact that some actual costs would have been incurred. The difference does not render the overall sum unreasonable.

Determination

52. The Tribunal determines that the amount payable in respect of the Repair to Main Frontage Charge 2024 (the 22/02/25 Demand) is the sum of £5,055.20 and is payable by the Respondents in respect of the service charges for the improvement in the year 2025

53. The Tribunal notes that the 22/02/25 Demand was based on 2023 estimates and is likely to change.

Order under section 20C LTA 1985 and 5A schedule 11 CLRA 2002

54. The Applicant did not make an application for an order under section 20C LTA 1985 and 5A Schedule 11 CLRA 2002.

55. There was an application in response from Mr Catlin within his May 2026 witness statement to the Tribunal, albeit this was not repeated at the hearing. In any event, the Tribunal considered the Respondents' application for an order under s20C LTA 1985 and 5A schedule 11 CLRA 2002.

Law

56. Similar principles apply to both applications. The case law is summarised in *Conway v Jam Factory [2013] UKUT 0592 (LC)* at

[51] to [58]. In *Schilling v Canary Riverside Development PTE Ltd (2006) LRX/26/2005*, HHJ Rich stated at [14] that:

> *"In service charge cases, the "outcome" cannot be measured merely by whether the Applicant has succeeded in obtaining a reduction. That would be to make an Order "follow the event". Weight should be given rather to the degree of success, that is the proportionality between the complaints and the Determination, and to the proportionality of the complaint, that is between any reduction achieved and the total of service charges on the one hand and the costs of the dispute on the other hand."*

Consideration and findings

57. The Tribunal is aware of a protracted history of disagreement between the parties regarding work on the Building. It is understandable that the applicant took a protective stance and sought a determination before incurring costs.

58. The Tribunal notes that the Applicant's demand was found to be an 'improvement' and reasonable in cost. The Respondents were unsuccessful in arguing that the work was not an improvement and that it did not benefit all the flat owners.

59. The Tribunal also notes that the Respondents informed the Tribunal that they would pay the sum (although it could not be ascertained whether this was under protest or not) if the Applicant confirmed that the Respondents' balcony was included in the work.

60. The Tribunal finds that in the circumstances of this case; there is no basis to make an order under either section 20C LTA 1985 or 5A Schedule 11 CLRA 2002.

Determination

61. The Tribunal declines to make an Order under section 20C LTA 1985 and 5A Schedule 11 CLRA 2002.

Name: Tribunal Judge E Bowden **Date:** 04 July 2026

RIGHTS OF APPEAL

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

1. A written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the date this decision is sent to the parties.
3. If the application is not made within the 28-day time limit, such an 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.
4. The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.

Annex 1 – the Lease

Clause 1

1. … the Lessee from the 1st January 1980 for the term of 99 years (less the last 10 days thereof) YIELDING AND PAYING THEREFOR Yearly and proportionately for any fraction of a year by annual payments in advance to be made on the 1st day of January in every year the first of such payments being a proportion from the date hereof to the next following 1st January to be paid on or before the signing hereof:

(a) For the first 33 years of the said term a rent of £40.00

(b) For the next 33 years of the said term a rent of £85.00

(c) for the remaining 33 years of the said term a rent of £130.00

Clause 2

2 (XV) to pay to the Lessor all legal and/or surveyors fees costs charges and expenses which may be incurred by the Lessor whether incidental to the preparation and service of a notice under Section 146 of the Law of Property Act 1925 or otherwise consequent upon or arising out of any default or alleged default by the Lessee with observance or performance of the covenants and conditions herein contained whether or not forfeiture shall be avoided otherwise than by relief granted by the Court

Clause 3

3. THE Lessee hereby covenants with the Lessor and with and for the benefit of the owners and Lessees from time to time during the currency of the term hereby granted of the other flats in the Building as follows

(4) To keep the Lessor indemnified from and against one Twelfth of all the costs charges and expenses incurred by the Lessor after the date hereof in carrying out its obligations hereunder

(5) Without prejudice to the immediately preceding sub-clause hereof the Lessee shall on the First day of January in each year during the continuance of this demise pay to the Lessor on account of the Lessee's obligations under the immediately preceding sub-clause hereof such annual amount as shall be certified in writing by the Lessor as the proper amount payable in accordance with clause 4(h) hereof any such payment being credited to the liabilities under the immediately preceding sub-clause hereof the earliest being satisfied in priority to the later liabilities being taken into account in accordance with the said clause 4(h)

(6) Within fourteen days after the service by the Lessor on the Lessee of a notice in writing stating the proportionate amount (certified in accordance with clause 4(g) hereof) due from the Lessee to the Lessor for the accounting period to which the notice relates to pay to the Lessor or be entitled to receive from the Lessor the balance by which the said proportionate amount respectively exceeds or falls short of the total sums paid by the Lessee to the Lessor pursuant to the last preceding sub-clause hereof during the said period

(9) When requested so to do to contribute a one-twelfth share of the costs of any improvement which benefits all the flat owners and which shall have been approved by special resolution of the Lessor at an Annual General Meeting of the Lessor

Clause 4

4. THE Lessor hereby covenants with the Lessee as follows:

(c) keep the Reserved Parts including the utilities and the conduits and all parts of the Building and grounds not specifically demised by this Underlease or the underleases of the other flats in the Building and all fixtures and fittings therein and additions thereto and the boundary walls and fences thereof in a good and tenantable state of repair decoration and

condition including the renewal and replacement of all worn or damaged parts and to keep the grounds of the Building tidy and well cultivated at all times and the paths and drives swept and in the year of One thousand nine hundred and eighty four and in every succeeding fourth year of the said term to paint with good quality paint in a workmanlike manner all the wood iron work and other parts of the Reserved Parts usually painted to include for the avoidance of doubt the external surfaces of the front doors and door frames and window frames of the flats and the external surfaces of the garage doors and to paper and repaper the parts usually papered with suitable paper of good quality and to keep lighted at appropriate times and cleaned and swept the main entrance, hall stairs and landing used in common by the Lessees PROVIDED that nothing herein contained shall prejudice the Lessor's right to recover from the Lessee or any other person the amount or value of any loss or damage suffered by or caused to the Lessor or the Reserved Parts by the negligence or other wrongful act or default of the Lessee or such other persons

(f) To keep proper books of account of all costs charges and expenses incurred by it in carrying out its obligations hereunder and an account shall be taken on the Thirty first day of December in each year during the continuance of this demise and at the termination of this demise of the amount of the said costs charges and expenses incurred since the commencement of this demise or the date of the last preceding account as the case may be

(g) The account taken in pursuance of the last preceding sub-clause hereof shall be prepared and audited by a competent Chartered Accountant who shall certify the total amount of the said costs charges and expenses (including the audit fee of the said Accountant) for the period to which the account relates

(h) (i) Within two months of the account hereinbefore provided for and of every such annual account thereafter to serve on the Lessee notice in writing stating the amount payable by the Lessee pursuant to Clause 3(5) hereof during the year next ensuing

(ii) The amount to be fixed by the Lessor for the purpose of this Clause shall be the least amount which in the opinion of the Lessor on the basis of the preceding annual accounts will be necessary to cover the indemnity by the Lessee given under clause 3(4) hereof during the succeeding year (any excess or deficiency of payments previously made by the Lessee hereunder being taken into account)