FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Tribunal case ref.	**:**	HAV/24UC/LSC/2025/0740
Property	**:**	Flats 1-6, Hamlet House, 94 High Street, Alton, GU34 1GS
Applicants	**:**	Lee Fowler – Flat 1 Dex Conner – Flat 2 Yaqin Wang and Gary Wilkins – Flats 3 & 6 Diana Anna Guerra – Flat 4 Leanne Myers – Flat 5
Representative	**:**	Gary Wilkins
Respondent	**:**	Hamlet Property (Alton) LLP
Representative	**:**	Leslie Trevor & Co Solicitors
Type of Application	**:**	Determination of liability to pay service reasonableness of service charges Section 27A Landlord and Tenant Act 1985
Tribunal Member	**:**	Tribunal Judge David Gethin
Type of Hearing	**:**	Paper determination – 10 July 2026
Date of Decision	**:**	17 July 2026

DECISION

Summary of the decisions of the Tribunal

(1) The Tribunal determines that the Applicants are liable to pay the following sums in respect of the Works in 2025:

a. Flats 1, 2 and 4 are liable to pay £44.10;
b. Flats 3, 5 and 6 are liable to pay £60.89.

(2) The Tribunal refuses to make an order under section 20C of the Landlord and Tenant Act 1985 preventing the Respondent from recovering its costs of the Tribunal proceedings from the Applicants through the service charge.

(3) The Tribunal makes an order under paragraph 5A, Schedule 11 to the Commonhold and Leasehold Reform Act 2002 so that none of the Respondent's costs of the Tribunal proceedings may be passed to the Applicants as an administration charge.

(4) The Tribunal makes no order regarding the Applicants' fees of this application.

The Proceedings

1. An unpaginated pdf bundle of 713 pages was provided by the Applicants. References in [ ] in this decision are to the pdf pages taken from the Hearing Bundle unless otherwise specified.

2. The Applicants have made an application for determination of liability to pay and reasonableness of service charges for the years 2020 to 2025.

3. The application was received on 23 July 2025.

4. The Applicants further sought orders pursuant to Section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

5. The Applicants stated that:

> The Landlord has done no work on the building to my knowledge in several years.
>
> We are seeking this to be put right with historical billing to the appropriate owners.
>
> The local council are aware of the run down building.

Covering but not limited by

All maintenance for the infrastructure, windows, gutters, Roof, exterior and bins area and any other land demised to the freeholder. Common staircases, fire safety and escapes. All areas not demised to any of the units and windows.

There are major leaks from the roof into the top floor flats that the owner will not address. This has resulted in water coming thru light fittings and mould in bedrooms. Freeholder denies responsibility

Since all the areas need an ongoing and annual maintenance yet this has been done, all properties including Ground floor Shops, First floor tenants (presently Alton Gym) and the top floor Hamlet house flats should pay an appropriate pro rata charge. The share of the cost between the Residential nod non-residential section

6. Directions were issued on 17 November 2025 listing the application for a case management and dispute resolution hearing on 7 January 2026.

7. The hearing took place at Havant Justice Centre as directed and was attended by Gary Wilkins for the Applicants and John Beresford, Counsel for the Respondent. Also in attendance were Lee Fowler, Yaqin Wang and Leanne Myers.

8. At the hearing a discussion took place regarding the Tribunal's jurisdiction in relation to the application that has been made, with the Tribunal being clear over the extent to which the Tribunal can determine matters under section 27A Landlord and Tenant Act 1985 particularly in relation to the need for the application to identify which charges or demands are specifically in dispute.

9. It was confirmed that at this stage there is only one invoice that is currently challenged within the Tribunal's jurisdiction for the sum of £350.00 in respect of the roof repairs.

10. Directions were agreed with the parties in attendance in relation to that invoice ("the January Directions").

11. The Applicants filed a Statement of Case, dated 4 March 2026, one month later than the deadline for submission given by the January Directions. The Respondent applied to strike out the Applicants' case or for the Tribunal to issue directions stating that a failure to comply on the part of the Applicants could lead to strike out.

12. The Tribunal issued directions dated 10 March 2026 ("the March Directions") dismissing the Respondent's application and setting out a revised timetable.

Those directions repeated an earlier direction that the application remained suitable for a determination on the papers without an oral hearing.

13. Previous Directions made by the Tribunal have not been complied with by the Applicant. In particular it failed to submit a statement of case within the timeline in the January Directions and omitted to submit the bundle by the due date despite a clear direction to do so in the March Directions, which set out a revised timetable for the bundle to be submitted.

14. The Application was struck out by the Tribunal on 27 April 2026. Paragraph 21 of the March Directions stated that the Application would be struck out without further notice if the Applicants failed to comply.

15. Following an application for reinstatement the Tribunal issued a decision and further directions dated 11 May 2026, ("the May Directions") which set out what must be included in the determination bundle, paragraph 17 of which clearly stated that the content of the bundle (to be prepared by the Applicant) **must be agreed** with the Respondent.

16. Paragraph 19 of the May directions stated that the Application would be struck out without further notice if the bundle was not sent to the Tribunal by the due date or not in the required format.

17. The Applicant failed to comply with the May directions. The Applicant had not agreed the content of the bundle with the Respondent. The Applicant had included a "new" statement of case without authorisation from the tribunal to do so. The Applicant had not included a complete copy of all the Tribunal's previous directions. The Applicant was afforded a final chance to seek a determination of the application and further directions dated 8 June 2026 ("the June Directions") set out what must be included in the determination bundle.

18. If the Applicant failed to comply with the June directions, or the Tribunal found that the revised bundle is unsuitable for it to determine the application on the papers, the application would be struck out without further notice.

19. The parties did not request an oral hearing within the period provided for. The Applicants did so subsequently but that application has been refused. The Tribunal had reviewed the hearing bundle and decided that the application remains suitable to be dealt with on the papers and communicated the same by way of the Directions dated 18 June 2026.

The Background

20. The Respondent is the freeholder of 80-92 (even), High Street, Alton, GU34 1EN, ("the Building") [116-119].

21. The Building consists of three floors and is of 1960s construction with a flat roof. The ground and first floor are let as commercial units and the second floor has been converted into six residential flats which are owned by the Applicants.

22. On 2 July 2019 the Respondent granted a headlease ("the Headlease") [124-155] of Hamlet House to Landmark Estates (HH) Ltd ("Landmark") of a part of the Building to allow the second floor of the Building to be converted into six flats. Thereafter, Landmark converted Hamlet House and granted the 6 residential Leases.

23. It is submitted that the Respondent and Landmark are separate and unconnected entities, with no common ownership, control, or affiliation between them. Accordingly, all dealings between the Respondent and Landmark have been conducted on a strictly arm's-length basis. That is not disputed.

24. Landmark engaged GH Property Management ("the Agent") as its managing agents. The Respondent understands that the Agent issued service charge demands (on behalf of Landmark) to each of the Applicants during Landmark's tenure as landlord.

25. On 27 February 2025, the Respondent acquired the Headlease from Landmark by way of a TR1 of the same date [195-200]. The Respondent became the registered proprietor of the leasehold interest under the Headlease on 17 March 2025 [192-194].

26. Costs were incurred by the Respondent in respect of "*works to the property to include gully & roof cleaning*" ("the Works") as evidenced by the invoice from G C Facilities Ltd dated 14 May 2025 in the sum of £350.00 [202].

27. This cost was then demanded by the Respondent from each of the Applicants by way of a service charge demand dated 9 June 2025 [88-95].

28. It is understood that each of the residential leases is on the same terms. A signed copy of a long lease of Flat 3 dated 2 June 2023 for "*a term of 125 years less 7 days from and including 2 July 2019 and to and including 1 July 2144*" was included in the Bundle [156-191].

The Relevant Law – Service Charge and Administration Charges

29. In accordance with s.27A(3) LTA 1985:

27A Liability to pay service charges: jurisdiction

> *(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.*

30. A service charge is defined by s.18(1) LTA 1985 reads as follows:

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

> *(2) 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.*

31. Section 19 LTA 1985 provides that there is a limitation on service charges in that they must be reasonable:

19 Limitation of service charges: reasonableness.

> *(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—*
>
> *(a) only to the extent that they are reasonably incurred, and*
> *(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;*
>
> *and the amount payable shall be limited accordingly.*

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

32. Section 20C LTA 1985 provides that there is a further limitation on service charges in that the tenant can apply for an order that the costs incurred, or to be incurred, of proceedings are not to be regarded as relevant costs:

20C Limitation of service charges: costs of proceedings.

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court residential property tribunal or leasehold valuation tribunal or the First-tier Tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) …

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

33. Paragraph 5A of Schedule 11 to CLRA 2002 provides that the tenant can apply for a similar order that reducing or extinguishing their liability to pay a particular administration charge in respect of litigation costs:

5A Limitation of administration charges: costs of proceedings

(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.

(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable…

The Issue

34. The Tribunal has identified the relevant issue for determination is whether the service charge in respect of the Works is reasonable having regard for the apportionment.

35. Having considered the Hearing Bundle, the Tribunal has made determination on the issue as follows.

The Hearing

36. The matter was determined by way of a paper hearing which took place on 10 July 2026.

The Applicants' Case

37. The Applicants' case taken from its Statement of Case dated 4 March 2026 [85-87] and undated Reply [88-91] is that the costs incurred by the Respondent in maintaining, repairing or reinstating the Building should not be recoverable only from the residential units in the Building, but should be apportioned to have regard for the commercial units in much the same way as the insurance premium for the Building is apportioned.

38. The Applicants submits that the lease requires a two-stage approach, namely:

(1) Building-level allocation – determining which parts of the building should contribute; and
(2) Internal apportionment – dividing the residential share between flats.

and that the Respondent has acted unreasonably in apportioning the costs of the Works solely to the residential flats.

39. The Applicants seeks orders under s.20C LTA 1985 and para.5A, Sch.11 CLRA 2002 on the grounds that "*the proceedings have been made necessary by the Respondent's consistent failure to disclose any apportionment methodology despite repeated requests, and its continued demand of charges that cannot be shown to be reasonable*" [87].

The Respondent's Case

40. The Respondent's case taken from its Statement of Case dated 2 April 2026 [92-108] and in particular §§19-24 is that the Works were to remedy standing water on the roof which was causing a leak down damaged pipework and, if unabated, would have caused leaking into the second floor where the six residential flats and communal areas are located.

41. The Respondent submits that the costs had been incurred for the benefit of the Applicants, as opposed to commercial tenants on the floors below and that save in the case of two commercial leases, the commercial tenants' leases do not allow the Respondent to charge them a service charge or otherwise recover for the costs of repairs to the roof.

42. As to the two commercial tenants who are liable to pay a service charge, the Respondent submits that it would not have been appropriate to charge those tenants for the roof repairs because: (a) the repairs did not benefit these tenants; and (b) other commercial tenants were not (and could not) be charged for this cost.

43. The Respondent submits that the costs had been apportioned between the Applicants having regard for whether the flat has 1 or 2 bedrooms, and in doing so has acted reasonably in apportioning service charge costs in a "*fair and reasonable proportion, as determined by the Landlord….*".

44. The Respondent relies on the Supreme Court decision in *Aviva Investors Ground Rent GP Ltd v Williams* [2023] UKSC 6 and the Court of Appeal decision in *Bradley v Abacus Land 4 Ltd* [2025] EWCA Civ 1308.

45. With regards to the orders sought under s.20C LTA 1985 and para.5A, Sch.11 CLRA 2002, the Respondent submits that the Applicants have sought to raise wide ranging issues outside the scope of the Tribunal's jurisdiction which is unhelpful and has increased the Respondent's costs, that failure to comply with Directions led to the Respondent incurring additional costs, and that the sums involved are *de minimis* being either or £58.80 or £81.19.

The Tribunal Decision

46. The six Applicants' leases ("the Leases") are in materially identical form. We do not recite the service charge mechanism at length as the Applicants do not dispute this, other than to say that the Applicants have covenanted under clause 5 [167] and paragraph 2 of Schedule 4 [176] to the Leases to pay the Service Charge which by clause 1.1 [164] is defined as a "*fair and reasonable proportion, as determined by the Landlord of the Service Costs*".

47. The Service Costs are those costs listed at Part B of Schedule 7 to the Leases which include, at paragraph 1.1.1, "*all of the costs reasonably and properly incurred or reasonably and properly estimated by the Landlord to be incurred of…providing the Services*". The Services include at paragraph 1.1.1 of Part A of Schedule 7 [187] "*cleaning, maintaining, decorating, repairing*

and replacing the Estate", the Estate being defined as "*each and every part of the property of which the Building forms part...*" [160].

48. The Works clearly fall within Service Costs for which the Applicants are liable to pay a "*fair and reasonable proportion*".

49. In determining whether the Respondent's apportionment is a "*fair and reasonable proportion*", I have followed the approach described by Nugee LJ in *Bradley*, namely that I am to consider whether the Respondent acted reasonably rather than rationally.

50. In Bradley, the "*the Flat Leases confer on the Landlord the right in its discretion to designate items of expenditure as Residential Service Charge Items*" [104]. No such term is present in the Leases.

51. I do not accept that the benefit of the Works is determinative. Generally, works or repair or replacement to a building, whether to the roof, exterior walls or to prevent ingress of water is to the benefit of all tenants. By way of an example, in a wholly residential building I would not consider application of a "*fair and reasonable*" apportionment would be reasonable if that was applied in a way that meant a ground floor tenant did not contribute towards the costs of that building's lift even though they may not use it as much as the top floor tenant.

52. I do accept though that where a commercial tenant has no obligation to pay a service charge, the costs of works cannot be recovered from that commercial tenant. However, that does not mean that those costs should automatically fall on the residential tenants. The terms of the commercial leases are a matter for the Respondent and the commercial tenant. If the Respondent is required to maintain the Building at its own costs (subject to whatever is recoverable from the residential tenants), that will have no doubt be factored into the rent payable by the tenant.

53. Section 4.2.8 of RICS Professional Standard *Service charges in commercial property* 2nd edition, June 2025 considers mixed-use development in more detail than the previous edition but is only effective from 31 December 2025. It therefore does not apply to the present service charge demand, but will be relevant to apportionment of future invoices.

54. I have not been able to locate an archived copy of the RICS Information Paper *Managing Mixed Use Developments* 1st edition, 2009 which has been rendered redundant by *Service charges in commercial property* 2nd edition.

55. The RICS Code of Practice *Service charge residential management Code and additional advice to landlords, leaseholders and agents* 3rd edition, 1 June

2016 has also been superseded but was the version in force at the relevant time. Neither the 3rd or 4th editions assist to any great extent.

56. Whilst s.27A(6) LTA 1985 does not apply to commercial leases, if I reduce the "*fair and reasonable*" proportion payable by the residential tenants, the Respondent may seek to pass on any shortfall to its commercial tenants. Given the sums at stake, I do not consider it would be proportionate to invite representations from those commercial tenants whose leases require them to contribute towards the Respondent's costs incurred.

57. Had the Leases specified percentages that each of the Applicants was required to pay so that the long lessees of the flats in the Building pay 100% of the service charge but the commercial units pay nothing, no service charge would be due from the commercial units.

58. Neither party addressed in their submissions what the amount payable should be if reduced. Given the sum at stake, it would not be proportionate to invite further submissions.

59. Whilst there is no requirement for costs to be allocated according to the most reasonable split, the Respondent should be able to defend its rationale behind both individual apportionments and any commercial/residential split.

60. I am satisfied that the individual apportionments are fair and reasonable being based on whether the flat has 1 or 2 bedrooms.

61. Mr Lichtig, a 'designated member' of the Respondent provided a witness statement [109-114]. I find that the commercial/residential split is not "*fair and reasonable*" given Mr Lichtig's evidence and clause 10 of the leases exhibited at [389-432] and [480-524].

62. I find that the commercial tenants do benefit from the Building being kept in good repair and condition generally. I find that just because the Works were at height does not mean that the ground floor and first floor commercial tenants would not potentially derive benefit from preventing damage if water ingress resulted because the leak was not abated.

63. I reduce the Applicants' liability to pay by 25%. I have not applied a reduction based simply on floorspace; the benefit derived from a residential lease, being that person's home and residence, and a commercial lease is different. In doing so, that is not meant to imply that any future application of the "*fair and reasonable proportion*" would necessarily mean the Applicant's liability is limited to 75% of the Respondent's costs incurred. It could be less or more.

Summary of the Tribunal's determinations

64. To aid the parties, I record below a summary of the Tribunal's decisions in respect of the amounts owed by each Applicant in respect of the Works.

Property	**Amount claimed**	**Amount determined payable**
Flat 1	58.80	44.10
Flat 2	58.80	44.10
Flat 3	81.19	60.89
Flat 4	58.80	44.10
Flat 5	81.19	60.89
Flat 6	81.19	60.89

Applications under s.20C and para. 5A and Refund of Fees

65. The Applicants have applied for an order under s.20C LTA 1985 and under para. 5A Sch. 11 CLRA 2002 preventing the Respondent from recovering any of its legal costs of the Tribunal proceedings either through the service charge in the future or as an administration charge.

66. Having considered the parties' submissions and taking into account the determinations above, the Tribunal determines that it is just and equitable in the circumstances for an order to be made under para. 5A Sch. 11 CLRA 2002 so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the Tribunal as an administration charge. This is the Applicants' application, and it cannot be said that the Respondent has incurred costs arising out of a breach of the Applicants' covenants.

67. The Tribunal does not make an order under s.20C LTA 1985 preventing the Respondent from passing any of its costs incurred in connection with the proceedings before the Tribunal through the service charge.

68. The Applicant has succeeded on a single discrete issue, but the Application has been significantly narrowed in scope from that originally pleaded. If the Respondent does pass its costs of these proceedings through the service charge, the Applicants will be able to challenge whether those costs have been reasonably incurred or are reasonable in amount.

69. Given the Applicants have succeeded but to a limited extent, the Tribunal makes no order that the Respondent shall reimburse the Applicants their fees involved in the application.

Rights of appeal

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

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.

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

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