FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case References	:	HAV/40UC/LSC/2025/0729 HAV/40UC/LDC/2025/0682
Property	:	17 The Esplanade, Burnham on Sea, Somerset TA8 1BG
Applicant	:	17 The Esplanade Management Company Limited
Respondent	:	Dale Peter John Lang
Type of Application	:	Application for dispensation of consultation requirements under s. 20ZA Landlord and Tenant Act 1985, and for determination of service charges under s. 27A of the 1985 Act.
Tribunal Members	:	Judge N Pointon Deputy Regional Judge J Dobson Mr M Ayres FRICS
Date of Hearing	:	26 June 2026
Date of Decision	:	22 July 2026 (Clerical error amended on 3rd August 2026, under Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

DECISION

SUMMARY OF DECISION

1. **The Tribunal exercises its power to dispense with the consultation requirements contained in s. 20 LTA 1985 on the condition that the Applicant pays the Respondent's reasonable legal costs in connection with investigating and challenging that application, which the Tribunal determines in the amount of £3,000 inclusive of VAT.**

2. **The Tribunal determines that the sum of £16,393.95 is reasonable as service costs for the relevant items, of which the Respondent's 25% contribution payable by way of service charges equates to £4,098.48. A breakdown of those sums in respect of each service charge year is as follows:**

<u>2023 (November 2023-March 2024</u>

Electricity	£48.44
Insurance	£1,295.57
Roof Works	£10,244
Total	**£11,588.01**

2024 (April 2024 – March 2025)

Repairs and maintenance	£1,901
Electricity	£226.44
Emergency testing	£84.50
Insurance	£1,399
Roof Works	£1,056
Total	**£4,666.94**

2025 (April 2025 – March 2026)

Electricity	£69
Window cleaning	£70
Total	**£139**

3. **The Respondent is not liable to contribute towards: (i) the legal fees incurred by the Applicant; or (ii) the ICO or accountancy fees incurred by the Applicant, by way of service charge.**

4. The reasons for the Tribunal's decision are set out below. The reasons do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal's view, are critical to this decision. In writing this decision the Chairman has regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.

5. The Tribunal were provided with a hearing bundle extending to 724 electronic pages. References in this judgment to page numbers in the bundle are indicated as **[ ]**.

Background

6. 17 The Esplanade (**"the Property"**) is a four-storey building situated on or near the seafront at Burnham on Sea, Somerset, TA8 1BG. It is split into four flats. The Applicant (17 The Esplanade Management Company Limited) owns the freehold. The Respondent (Mr Lang) is the leaseholder of Flat 2, situated on the first floor, pursuant to a lease dated 18 February 1982, for a term of 999 years (**"the Lease"**, [48]). Leasehold estates in Flats 1, 3 and 4 are owned by Dr Olinga Taeed and Mrs Barbara Taeed. Dr and Mrs Taeed are also the directors of the Applicant.

7. The Respondent and his family occupy Flat 2 as their home. For Dr and Mrs Taeed, the remaining flats are investments. They bought Flats 1 and 3 first (on 21st November 2023) and Flat 4 later (on 8 January 2024) [118]. Dr Taeed gives every impression of being an experienced developer of property.

8. Shortly after purchasing Flats 1 and 3, it became apparent that water was leaking into Flat 4 and, from there, cascading into Flat 3 [121]. Dr Taeed obtained access to Flat 4 from its then owner (Mr Julian Hill) and on 30th November 2023 inspected that flat and the lofts above it [122]. Conversations then began among the flat owners about fixing the roof. Dr and Mrs Taeed were, by this stage, already the directors of the Applicant freeholder and management company.

9. On 7th December 2023 Dr Taeed sought quotes for roof repairs via the 'MyBuilder app'. On 8th December 2023, 'All Aspects Roofing' attended to inspect the property and quote. On the same day, Dr Taeed sent their estimate to the Respondent by WhatsApp, stating *'I think it will be approx. £4,000'* [150]. The estimate itself was for £3,800 and appears at [429]. The Respondent was concerned and over subsequent days the parties' exchanges via WhatsApp became more heated. Dr Taeed referred to the section 20 consultation process ([159]) but suggested that this would create delay and additional cost.

10. By 12th December 2023 the Respondent had reluctantly agreed to proceed with the original quote of £3,800, but by 13th December 2023 it seems that the cost of scaffolding had increased, causing Dr Taeed to cancel the job [162 – 163]. At this point, Dr Taeed resolved to seek two further quotes [163], the first of which he provided on 15th December [164] and the second on 16th December 2023 [166]. The first is by 'Above & Beyond Construction' in the amount of £5,300, and appears at [348] (though it presents itself as an invoice, we were told that it was a quotation prior to work, which is consistent with it being dated 15th December 2023). The second is no longer available and the Tribunal has not seen it (Dr Taeed's witness statement explains that the quotes are no longer available on the MyBuilder platform, at [124]).

11. The Respondent wished to arrange for his own contractor, a family member called 'Grant Westlake', to inspect the roof and provide another quotation. The Respondent said that *'Grant believes he will be able to replace the whole roof for around £10,000'* ([169]). Discussions took place in respect of access (Flat 4 remained, at this stage, owned by Julian Hill who was not in the area), but to no avail. Ultimately Dr and Mrs Taeed, with Mr Hill's agreement, elected to proceed with the quote from 'Above & Beyond Construction'. On 17th December 2023 the Respondent wrote to Dr Taeed by WhatsApp as follows ([182]):

> *"I will accept quote 2 [Above & Beyond's quote of £5,300] to proceed with the work they have put on their estimate. Should they say the roof needs additional work or a new roof once starting I will be getting my own quote for a second opinion as I do not accept that company to replace the roof for a reason such as them already being up there…"*

12. Weather halted further progress, with the roofers eventually getting started on or around 11th January 2024 [183]. However, upon starting the initial works the roofers purported to identify a significant array of further problems. For convenience we will distinguish between the **"Initial Works"** (being those encompassed by the initial quote of £5,300) and the **"Additional Works"** (being all those identified thereafter).

13. The Additional Works appear to be those comprised in 3 further invoices from Above & Beyond Construction, as follows:

INV0314 [331]	'Material deposit to be paid on receipt of invoice for box gutters install'	£1,000

INV0312 [332]	'Material deposit to be paid on receipt of invoice'	£4,485
	'Complete strip down of chimneys and rebuild with engine bricks'	
	'Tower scaffolding for bricklayer sorted by us'	
	'Chimneys to be capped off with real slates'	
	'All muck to be done on top of chimneys over slates to make sure complete water tight'	
	'Labour to be paid on completion'	£1,515
INV0302 [336]	'Material deposit to be paid on receipt of invoice'	£3,250
	'Install new breathable membrane across the roofs'	
	'Install new treated batons'	
	'Install dry ridge systems on roofs with dry hips'	
	'Chimney work included'	
	'Install original tiles back on the roofs'	
	'Labour to be paid on completion'	£1,250
	'2 vent tiles on rear roof'	£0
TOTAL		£11,500

14. The Applicant's bank statements (or those of Dr Taeed, in respect of the period prior to the establishing of a bank account by the Applicant itself) indicate the following payments to Above & Beyond Construction [696] – [699]:

16th December 2023	£2,100
18th December 2023	£890
19th December 2023	£3,250
8th January 2024	£4,485
10th January 2024	£1,000
1st March 2024	£640
7th March 2024	£785
16th March 2024	£1,344
20th March 2024	£748
21st March 2024	£1,808

11th April 2024	£750
Total	**£17,800**

15. Drawing together the maths, that figure appears to be comprised of £5,300 in respect of the Initial Works, £11,500 in respect of the Additional Works (broken down in paragraph 13 above), plus £1,000 in respect of the Velux window serving Flat 4 (totaling £17,800).

16. The Respondent has paid a total of £1,325 towards the roof works [482], [541].

17. A section 20B(2) notice was issued to the Respondent on 20th May 2025.

18. The relationship between the parties has only deteriorated following these roof works. The Respondent views matters with suspicion and seeks detailed documentation in support of the sums asked of him.

The Applications and Procedural History

19. There are two applications, both dated 7th July 2025, which were heard together:
    a. An application seeking dispensation from the s.20 Landlord and Tenant Act 1985 (**"LTA 1985"**) consultation requirements (**"the s. 20ZA Application"**); and
    b. An application seeking a determination of the reasonableness and payability of service charges in the years 2023, 2024 and 2025 (**"the Service Charge Application"**).

20. Directions were given on 23rd October 2025 and again on 5th December 2025. On 10th February 2026 Mr Lang applied for permission to adduce the expert evidence of a single joint expert. Such permission was declined by Regional Judge Whitney on 13th February 2026.

21. In respect of the Service Charge Application, the items and sums involved are broken down and described as follows:

2023

Electricity	£48.44
Insurance	£1,295.57
Roof works	£10,644

(Sub-total for 2023)	**(£11,988.01)**
<u>2024</u>	
Repairs and maintenance	£2,031.55
Legal	£6,285.60
Electricity	£226.44
Emergency testing	£84.50
Accountancy fees	£34
ICO	£35
ICO	£47
Insurance	£1,399.56
Roof works	£6,235
(Sub-total for 2024)	**(£16,378.65)**
<u>2025</u>	
Electricity	£69
Window cleaning	£70
Legal	£2,252.40
(Sub-total for 2025)	**(£2,391.40)**
<u>Total</u>	**<u>£30,758.06</u>**

Note: these are total figures. The Applicant's liability to contribute towards reasonable service charges is 25%. The total sum therefore charged to the Applicant is 25% of £30,758.06 = £7,689.52.

22. The Respondent invited the Tribunal to make an order under s. 20C of the 1985 Act and / or paragraph 5A of Schedule 1 to the Commonhold and Leasehold Reform Act 2002, preventing the Applicant from passing its legal costs on through the service charge. For reasons which will become apparent in paragraph 54 below, it is no longer necessary to deal with that application.

<u>The Hearing</u>

23. The hearing took place on 26th June 2026 at Yeovil County Court.

24. The Applicant was represented by counsel, Mr Michael Walker, who filed a skeleton argument and bundle of authorities dated 22nd June 2026. Dr Taeed gave evidence for the Applicant and was cross examined by Mr Lang.

25. The Respondent represented himself and provided a concise response to the

Applicant's skeleton argument on 23rd June 2026. Mr Lang gave evidence himself and was cross examined by Mr Walker for the Applicant.

26. The Tribunal is grateful to both parties for their approach to that hearing.

Relevant provisions of the Lease

27. By clause 4(ii) of the Lease, the Respondent is obliged to *'contribute and pay one equal fourth part of the costs expenses outgoings and matters mentioned in the Fourth Schedule hereto'* [50].

28. Paragraph 1 of the Fourth Schedule states [54]:

> *'The expenses of maintaining repairing redecorating and renewing (a) the main structure and in particular the roof chimney stacks gutters and rainwater pipes of the Mansion...'*

29. Paragraph 4 of the Fourth Schedule states [54]:

> *'All other expenses (if any) incurred by the Lessors in and about the maintenance and proper and convenient management and running of the Mansion.'*

Relevant law

30. The relevant provisions of the Landlord and Tenant Act 1985 are set out below:

> ***'s. 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.*
>
> ...
>
> ***s. 20ZA Consultation requirements: supplementary***
> *(1)Where an application is made to the appropriate tribunal for a*

determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

…

s. 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.'

31. If a landlord fails to comply with the consultation requirements prescribed, in the present case, by Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003, then the contributions of tenants towards the cost of the relevant works is limited to £250. This is the effect of s. 20 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002.

32. By s. 20ZA the Tribunal may dispense with some or all of those requirements if it thinks it is reasonable to do so. The Tribunal may exercise that power with or without conditions.

33. The leading decision on the approach to the exercise of the s. 20ZA jurisdiction is ***Daejan Investments Ltd v Benson*** [2013] UKSC 14; [2013] 1 WLR 854. Lord Neuberger PSC, with whom Lords Clarke and Sumption JJSC agreed, explained at [44] that:

> *"…the issue on which the [Tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements."*

34. This question of prejudice to the tenant is *"the main, indeed normally, the sole question"* for the Tribunal (***Daejan*** at [50]). The financial consequences for the landlord of granting or declining dispensation are not relevant, nor is the nature of the landlord (***Daejan*** at [51]).

35. If prejudice is identified, the ordinary approach is summarized at [71] of ***Daejan***:

> *"Insofar as the tenants will suffer relevant prejudice as a result of the landlord's failure, the LVT should, at least in the absence of some good reason to the contrary, effectively require the landlord to reduce the amount claimed as service charges to compensate the tenants fully for that prejudice."*

36. However, Lord Neuberger went on to say, at [73]:

> *"However, drilling a little deeper, if matters rested there, the simple conclusion described in para 71 could be too favourable to the landlord. It might fairly be said that it would enable a landlord to buy its way out of having failed to comply with the Requirements. However, that concern is, I believe, answered by the significant disadvantages which a landlord would face if it fails to comply with the Requirements. I have in mind that the landlord would have (i) to pay its own costs of making and pursuing an application to the LVT for a section 20(1)(b) dispensation, (ii) to pay the tenants' reasonable costs in connection of investigating and challenging that application, (iii) to accord the tenants a reduction to compensate fully for any relevant prejudice, knowing that the LVT will adopt a sympathetic (albeit not unrealistically sympathetic) attitude to the tenants on that issue."*

37. To similar effect, at [64]:

> *"Like a party seeking a dispensation under section 20(1)(b), a party seeking relief from forfeiture is claiming what can be characterised as an indulgence from a tribunal at the expense of another party. Accordingly, in so far as the other party reasonably incurs costs in considering the claim, and arguing whether it should be granted, and, if so, on what terms, it seems appropriate that the first party should pay those costs as a term of being accorded the indulgence."*

38. In respect of the determination of service charges itself, the proper approach to such applications was summarised by the Court of Appeal in ***Spender v FIT Nominee Ltd*** [2025] EWCA Civ 1578; [2026] 1 WLR 2536, as follows (per Zacaroli LJ at [89]):

> *'...the courts have developed a pragmatic approach that a landlord will not, without more, have to justify each and every element of service charge claimed from the tenant. In the first place,*

it is for the tenant to identify in its pleading those elements of the costs claimed which it says were unreasonably incurred and, second, the landlord will only be required to prove that particular elements of costs claimed as service charge were reasonably incurred if the tenant is able to establish a prima facie case that they were not reasonably incurred.

(3) Given this pragmatic approach, it probably does not matter where the legal burden lies in the case of an application under s.27A. It is clear from Yorkbrook and Enterprise (as endorsed in Gell) that on such an application the critical questions are: (1) has the tenant properly put in issue whether a particular element of the cost claimed as service charge was reasonably incurred; and (2) has the tenant established a prima facie case that it was not reasonably incurred. If the answer to both questions is yes, then (as Mr Allison accepted) the burden lies on the landlord to establish that the cost was reasonably incurred.'

Findings of fact and Reasons for the Decision

39. This Decision will address the s. 20ZA Application (for dispensation from consultation requirements) first, and the substantive Service Charge Application (seeking declarations as to payability) second.

s. 20ZA Application

40. **The Tribunal exercises its power to dispense with the consultation requirements contained in s. 20 LTA 1985 on the condition that the Applicant pays the Respondent's reasonable legal costs in connection with investigating and challenging that application, which we determine in the amount of £3,000 inclusive of VAT.**

41. The Tribunal would have further required the Applicant to bear its own legal costs of making and pursuing its application for dispensation, but the effect of its concession in respect of legal costs (recorded in paragraph 54 below) is to reach the same position by another route. The reasons for this decision are as follows.

42. It is common ground that the roofing work engaged the consultation

requirements in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003, and that the Applicant failed to follow them. The Applicant therefore asks the Tribunal to exercise its power to dispense with those consultation requirements retrospectively.

43. The Applicant contended that a "quasi-consultation process" was followed in which three quotes were obtained and provided to the Respondent and, with his eventual agreement, the cheapest of those quotes was accepted. In any event, says the Applicant, the Respondent sustained no prejudice as a result of the Applicant's failure to comply with the full s. 20 consultation requirements. Prejudice means financial prejudice; any lack of transparency or inability to engage in the consultation process does not, in and of itself, constitute relevant prejudice.

44. The Applicant accepts that the scope of the works broadened when the roofers opened up the roof and identified further problems. The Applicant contends that this is a common occurrence and that the Additional Works should, in effect, be treated as an extension of the Initial Works (rather than necessitating its own process of consultation).

45. The Respondent resisted the s. 20ZA Application on the basis that *'their failure to follow the statutory consultation process has caused clear prejudice to my ability to make informed decisions'* [474]. The Respondent contended that the statutory consultation requirements oblige the Applicant *'to act reasonably, obtain clarity on scope and pricing, and maintain a proper accounting. The absence of those safeguards is precisely the prejudice I rely upon'* [479].

46. In response to the Applicant's contention that the Respondent is really complaining about matters of transparency, the Respondent asserted that *'The prejudice was practical and financial. I lost the proper opportunity to nominate or test contractors, obtain my own quotation, arrange access for my own roofer or surveyor, inspect the roof before alleged additional works were incurred, challenge the scope of those additional works, and understand the cost before the liability was created'* (Response to Applicant's Skeleton Argument, paragraph 9).

47. Applying the principles in ***<u>Daejan</u>***, set out at paragraphs 30 – 34 above, we do not find that the Respondent sustained any relevant prejudice which would require us to either decline dispensation or render dispensation conditional upon a commensurate reduction in the extent of the Respondent's liability to contribute to the cost of the works. It is for the Respondent to demonstrate a *"credible case for prejudice"* (***<u>Daejan</u>*** at

[68]). While the Tribunal is encouraged to view the tenant's arguments sympathetically (***Daejan*** at [67]), Lord Neuberger was clear that transparency and accountability are *not* freestanding purposes of the s. 20 consultation requirements (***Daejan*** at [52]).

48. To put the matter another way, the Respondent has not demonstrated a credible case that he is financially worse off for the Applicant's failure to comply with the consultation requirements (save in respect of legal costs). It is clear that the Respondent wished to arrange for his own nominated contractor to quote for the roof works, but there is no credible evidence before the Tribunal as to: (a) what that contractor would have quoted for these works; or (b) what the Applicant would have done with that quote, mindful that its obligation under s. 20 is simply to 'have regard to' such quotes. As against that, the evidence does indicate that of the quotes obtained in respect of the initial roof repairs, the Respondent went with the cheapest. On the balance of probabilities and on the basis of the evidence before us, we find as fact that if the consultation requirements had been adhered to in full, the Applicant would nevertheless have proceeded as it did.

49. The Applicant's approach to the roof works leaves a great deal to be desired. There is no specification of works anywhere, against which the Respondent might have sought a desktop quotation from other contractors (either at the time or in preparation for these proceedings). The quotations (labelled invoices) from Above & Beyond Construction are not clear nor easy to follow. The array of invoice numbers which appear in the Applicant's invoices to the Respondent only amplify this confusion. These are all matters which buttress the Tribunal's conclusion that the Respondent has reasonably incurred legal costs in seeking to get to the bottom of these matters, such that the payment of those reasonable costs should be a condition of dispensation with the s. 20 consultation requirements. However, the Tribunal remains without credible evidence as to what, if any, financial prejudice was suffered by the Respondent as against the position which would have arisen if those consultation requirements had been followed to the letter (save in respect of legal costs).

50. As to the quantum of the Respondent's legal costs, he has incurred costs of £2,445.60 with Wollens [532] and a further £5,434.80 with Michelmores [535]. Wollens' statement of account describes the matter as *'Advice relating to (1) Director conduct and (2) Breach of s.20 Major Works legislation by 17 The Esplanade Mgmt Co.'* Michelmores' statement of account describes it as *'FTT Service Charge Dispute with (1) 17T (1)'*. It is clear that the dispute between the parties is wider than these proceedings and the description given by Wollens refers to an element beyond the scope

of these proceedings.

51. The Tribunal therefore finds that these costs are likely to include matters beyond those strictly incurred in relation to the Applicant's s. 20ZA Application. The Tribunal determines £3,000 to be the appropriate amount of costs to allow to the Respondent in considering and responding to that application.

S. 27 Service Charge Application

52. This leaves the question of the extent to which the various service charges sought by the Applicant are payable by the Respondent. The answer to that question comes in two parts: (a) whether those costs are matters to which the Respondent is obliged to contribute by the terms of the Lease; and (b) if so, whether they were reasonably incurred and the associated services or works are of a reasonable standard (within the meaning of s. 19 LTA 1985).

53. The Applicant complains that the Respondent has not adequately particularised the objections he makes to each item. In any event, says the Applicant, they were all reasonably incurred and are reasonable in amount.

54. One concession was made by the Applicant in the course of the hearing. The Applicant initially sought to pass on its legal fees via the service charge, pursuant to paragraph 4 of Schedule 4 to the Lease. In the course of the hearing the Tribunal brought to the Applicant's attention the decision of the Upper Tribunal in ***Geyfords v O'Sullivan*** [2015] UKUT 683 (LC); [2016] EGLR 22, in which a materially identical clause was held *not* to encompass legal fees. After considering that decision, Mr Walker for the Applicant quite properly conceded that he could not sensibly distinguish this clause or its context, so as to contend for a different interpretation to that reached in ***Geyfords***. The Applicant therefore did not pursue its claim to recover a proportion of its legal fees from the Respondent by way of service charge. The effect of this concession is to reduce the total service charges in issue by £8,538, from £30,758.06 to £22,220.06.

55. The Respondent's position is something of a 'kitchen sink' argument, levelling a variety of objections at the various service charge items. The Respondent's own summary of those objections appears at paragraph 5 of a position statement (prepared in advance of a CMC) [474-5].

56. The Respondent specifically challenged the extent and quality of the work carried out to the roof. In this connection he points to photographs which he says demonstrate poor workmanship [564] – [574]. He also challenges

the assertion that the roofers (Above & Beyond Construction) did in fact conduct a *'Complete strip down of chimneys and rebuild with engine bricks'*, as detailed in INV0312 [546].

57. As noted at paragraph 54 above, the Applicant no longer seeks to recover its legal fees via the service charge. This leaves the following items in dispute:

Roof works

58. The Respondent is plainly liable to contribute to the cost of the roof works under clause 4(ii) and paragraph 1 of Schedule 4 to the Lease [50], [54].

59. As to the Initial Works (costing £5,300), we find these to have been reasonably incurred and reasonable in amount. The property was suffering from leaks (evidenced by the photographs at [164]-[165] and videos supplied to the Tribunal), an aggressive winter storm season approached, and the quote taken was the cheapest of those obtained.

60. As to the Additional Works (costing £11,500), we are not satisfied that the entirety of that sum was reasonably incurred. It is not at all easy to understand the relationship between the 'Invoices' set out in paragraph 13 above which, despite that label, were apparently quotations. For example, INV0302 ([336]) is dated 19th December 2023, seemingly before the roofers were able to erect scaffolding (in early January 2024) and begin taking tiles off the roof. It also notes 'Chimney work included', with no breakdown of what that comprises, only for INV0312 [338] (dated 8th January 2024) to detail extensive works to chimneys with a separate quote of £6,000.

61. To compound that confusion, the Applicant's invoice to the Respondent dated 11th February 2024 [550] refers to three *further* invoices from Above & Beyond Construction, namely INV0301, INV0344 and INV0345. Of those, INV0301 appears to relate to a Velux window which was installed in the roof above Flat 4, and which Dr Taeed agreed to pay for himself as a matter benefiting that flat (rather than the building as a whole). Nonetheless, INV0301 appears in this invoice to the Respondent. We have not seen INV0344 nor INV0345.

62. A further invoice from the Applicant to the Respondent dated 12th April 2024 [552] appears to continue this pattern, referring to four further invoices from Above & Beyond Construction, namely INV0346, INV0347, INV0348 and INV0350. Again, none of these invoices appear in the bundle.

63. Furthermore, the Tribunal notes that while it is not uncommon for one set

of works to identify the need for further work which had not been appreciated at the outset, it is notable that the sums charged in respect of the Additional Works are significantly greater than those for the Initial Works in this case. This is not an instance of one set of works giving rise to the need for a few supplemental additions; instead the Additional Works have cost more than twice the Initial Works. The difficulty in ascertaining the reasonableness of those Additional Works and their cost is compounded by the fact that, despite the significant increase in costs, there was no involvement of a surveyor nor were any alternative quotes obtained.

64. The nature of the invoicing practice makes it very difficult to ascertain exactly what works took place. The clearest summary of what the additional £11,500 relates to is that given by Dr Taeed to the Respondent in his email of 12th January 2024 [610], in which he said:

> *'This [sic.] extra items are mainly for the replacement of a badly crumbling front chimney, breathable membranes (some were torn with gaps not allowing for patching), rotten box gutter – all discovered after the job was started. Other new costs have been absorbed by the supplier…'*

65. Invoice number 0312 refers to completely stripping down and rebuilding a chimney with 'engine bricks' (referring to engineering bricks). However, on the evidence provided this does not appear to have happened. The series of photographs at [569] – [573] appear to indicate simply the re-pointing of existing brickwork and re-rendering of the chimney. There is no evidence of engineering bricks, typically purple or darker in colour, having been used. On the balance of probabilities, we are not satisfied that a chimney was rebuilt, much less with engineering bricks. Instead, the Tribunal finds as fact that the chimney was re-pointed and re-rendered (rather than rebuilt with engineering bricks); that new breathable membranes were installed; and that a new box gutter was installed.

66. Based on the Tribunal's experience and expertise, we regard £6,000 as being a reasonable amount in respect of the Additional Works which we find took place (chimney repairs, replacement of breathable membranes and replacement of the box gutter). That is comprised in round figures of £2,000 in respect of the chimney work which the Tribunal is persuaded was undertaken, £3,000 in respect of the membranes and £1,000 in respect of the box gutter. Those figures are inclusive of VAT.

67. An issue arose concerning the installation of a Velux (or similar) window. The Applicant's position (and that of Dr and Mrs Taeed personally) has always been that Dr and Mrs Taeed would bear the cost of this item because

it was for the benefit of Flat 4, as opposed to the building as a whole. The cost of this item has fluctuated. In a WhatsApp message of 16 December 2023, Dr Taaed suggested that £1,650 was attributable to the Velux window [593]. By the following day, that had seemingly become £1,000 [604]. Dr Taeed's explanation under cross-examination was that he elected to use a cheaper brand of window (rather than an actual Velux window), though there is no contemporaneous documentary evidence in support of this, with all invoices and other records continuing to refer to 'Velux'. Curiously, Dr Taeed's own witness statement asserts that a different sum again (of £901) was in fact paid for this window [137] – [138], but again there is no invoice or other documentary evidence to this effect. We note that, despite Dr Taeed's assurance that the Velux window was to be paid for by Flat 4 only, its cost appears to have been met from the Applicant's bank account (hence the payments in paragraph 14 above total £17,800). Further, INV301 (pertaining to the Velux window) appears in the Applicant's invoice to the Respondent on 11th February 2024 [550]. For the avoidance of any doubt, the Tribunal determines that no sum is payable by way of service charge in respect of the Velux (or other brand) of skylight window installed in the roof of the building.

68. **The Tribunal determines the sum of £6,000.00 of service costs as payable in respect of the Additional Works, in addition to the £5,300 in respect of the Initial Works, leaving a total of £11,300 of service costs payable in respect of the roofing works overall.**

<u>Repairs and maintenance</u>

69. The Applicant seeks to recover £2,031.55 in respect of various items of repair and maintenance, enumerated in paragraph 60 of Dr Taeed's witness statement [139] as follows:

Amount	**Supplier**	**Reason for Repair / Maintenance**
£490	Sedgemoor District Council Planning	Retrospective building regs for the roof
£380	Kelvin Assender	Surveyors report on roof repairs to assure quality of repairs

£1,000.00	Insulation Invoice April 2024 Clear Solution	Loft insulation – which was installed in accordance with the recommendations of Mr Assender to bring the building within the legal limited for insulation value
£9.49	Screwfix £9.49 Mortar front wall repair 28 Nov 2024	Essential Repair identified following an inspection of the scaffolding in place for the roof
£69.17	Screwfix £69.17 sockets for communal areas Nov 2024	Purchased to install a new power outlet for communal area in order to allow for cleaning. There was no outlet – not yet installed due to safety concerns for Mr Lang's children who regularly roam the hallway without supervision.
£79.96	Screwfix £79.96 Emergency Light and smoke detector communal area Nov 2024	Replacement of outdated smoke detector (7 Dec 2011) and emergency light failing the 3-hour test. I had inspected and I changed. I didn't charge for my time.
£5.49	Screwfix Clips for gas supply communal meter cupboard Nov 2024	Gas safety certificate provider identified the communal gas pipe required further stabilisation
£2,031.11	TOTAL	

70. The Respondent's challenge to these items disputes that they were reasonably incurred or are reasonable in amount, but does not clearly specify any particular respect in which any item is said to fall short in these regards. In effect, the Respondent simply puts the Applicant to proof. In our judgment this falls short of what is required of party challenging the reasonableness of service charges, following ***Spender*** (paragraph 38 above).

71. The only exception is Mr Assender's fee. The Respondent does advance a more detailed criticism of the reasonableness of incurring that cost at paragraphs 5.72 – 5.75 of his witness statement [506] – [507]. The Tribunal does not accept the Respondent's suggestions that Mr Assender is a friend

of Dr and Mrs Taeed, or that his independence is otherwise compromised. There is no evidence to support such claims other than the Respondent's own bare assertion. The Tribunal does, however, accept that Mr Assender's use of the postnominals 'C. Build E MCABE' was improper. The Respondent's investigations have unearthed the fact that Mr Assender was no longer a member of the Chartered Institution of Building Engineers [558].

72. The Tribunal does not go so far as to conclude that this rendered it entirely unreasonable for the Applicant to retain his services. However, we do find that a reasonable amount for those services is £250 (as opposed to the £380 actually incurred) to take account of the absence of the professional membership which he asserted and the appropriate amount to pay for a report from a person without those as compared to the original fee.

73. **The Tribunal therefore determines that of the £2,031.11 sought in respect of 'Repairs and maintenance', £1,901.11 is payable.**

Insurance

74. The Applicant seeks to recover by way of service charge £1,295.57 paid in respect of insurance of the building in the 2023/24 service charge year, and £1,399.56 in respect of the 2024/25 service charge year.

75. In response the Respondent asserts that: (i) he has already paid his share of the £1,295.57 relating to 2023/24; and (ii) in respect of 2024/25, the Respondent complains that he has not received 'a clear breakdown of the insurance cover and associated costs' [509].

76. As to 2023/24, the Respondent's bank statement at [541] identifies a payment of £323.89 on 13th February 2024. This item has therefore been both accepted (removing it from the jurisdiction of the Tribunal in any event) and paid.

77. As to 2024/25, the policy schedule appears at [217] – [222] (exhibited to Dr Taeed's witness statement). The Respondent has not identified any particular respect in which he asserts that this cost was unreasonably incurred or is unreasonable in amount. The policy appears identical in all material respects to that for 2023/24 ([210] – [214]). The Applicant used a broker in securing it [223]. The Tribunal identifies no basis on which the cost can effectively be challenged.

78. **The Tribunal therefore determines that £1,399.56 is payable in**

respect of insurance in the service charge year 2024/25. Since the sum claimed in respect of 2023/24 has already been paid (and accepted), there is neither jurisdiction nor need to say anything further about it.

Electricity

79. The Applicant seeks declarations that the sums of £48.44, £226.44 and £69 are payable in respect of electricity to the communal parts in the periods November 2023 – March 2024, and April 2024 – March 2025, and April 2025 - the date of the application, respectively [16] – [18].

80. The Respondent avers that he has already paid £67.74 towards electricity since November 2023, and is *'willing to settle any genuine arrears once the correct figures are proven to be legitimate…'* (witness statement paragraphs 8.1-8.2 [511]).

81. The Respondent's bank statement at [541] does indicate a payment of £67.74 on 10th June 2024 with the description 'Annual electricity'. It is not clear why that is the sum paid, but this is a matter of accounting for the Applicant.

82. The Respondent identifies no particular respect in which the sums claimed in respect of electricity were either unreasonably incurred or unreasonable in amount. **The Tribunal determines the sums in respect of all years to be both reasonably incurred and reasonable in amount, and therefore payable (£48.44 in the 23/24 service charge year. £226.44 in the 24/25 year and £69 in the 25/26 year).**

Emergency testing

83. The Applicant seeks to recover £84.50 in respect of 'emergency testing' in the 2024/25 service charge year. Dr Taeed explained that this relates to EICR testing [141].

84. The Respondent complains that this item was not notified to him at the time at which it was incurred, and that supporting documents have been produced at a late stage. These objections do not bear upon whether the cost was reasonably incurred or reasonable in amount. **The Tribunal determines that £84.50 was reasonably incurred, is reasonable in amount and is therefore payable by way of service charge**.

ICO and accountancy fees

85. The Applicant seeks to recover £34 in respect of accountancy fees and a total of £82 in respect of ICO (Information Commissioner's Office) fees, all in the 2024/25 service charge year. Dr Taeed explained that the accountancy fees relate to the completion statement which the Applicant is required to file with Companies House, and the ICO fees are in respect of its role as a data controller [141]. The latter seemingly relate to two separate years, but were both paid in the 2024/25 service charge year.

86. The Respondent disputes that the lease permits recovery of ICO fees [512]. In respect of accountancy fees, no such challenge is made but the Respondent does complain that he has not been provided with 'formal accounts or financial documentation' [513].

87. The lease does not contain an express provision dealing explicitly with fees incurred by the management company by virtue of being a company or a data controller. The Applicant relies upon the sweeper provision in paragraph 4 of Schedule 4 to the lease, as follows:

> *'All other expenses (if any) incurred by the Lessors in and about the maintenance and proper and convenient management and running of the Mansion.'*

88. A distinction is often drawn between the management and running of the property, on the one hand, and the management and running of a management company, on the other. If the landlord wishes to impose a wider obligation upon the tenant so as to include the costs of establishing and running a management company, then it is for the landlord to spell out such an obligation clearly in the lease. This lease does not do so. Paragraph 4 of Schedule 4 explicitly limits itself to *'expenses incurred… in and about the… proper and convenient management and running <u>of the Mansion</u>'* (emphasis added).'

89. Upon its proper interpretation, the Tribunal determines that the provision is therefore a clause encompassing expenses incurred in relation to the management of the property, and not in the management of the landlord company. It follows that costs incurred by the Applicant in relation to its operations as a company are not costs to which lessees are liable to contribute by way of service charge.

90. Of course, these may well be costs which must be incurred in compliance with the company's legal obligations. As such, it may be that the individual leaseholders need to contribute those funds in their capacities as

shareholders of that company in order to avoid it being struck off or otherwise sanctioned. The net effect may therefore be the same in practical terms. However, upon the proper construction of the service charge provisions in the Lease, these sums are not payable by way of service charge.

91. **Accordingly, neither the ICO costs nor accountancy fees relating to the submission of the company's Annual Return are payable by way of service charge.**

<u>Window cleaning</u>

92. Finally, the Applicant seeks to recover £70 by way of service charge in respect of window cleaning, in the 2025 service charge year.

93. By its Skeleton Argument, the Applicant contends that the windows are not part of the flat demised to the Respondent, and so remain part of the building which the Applicant is obliged to maintain under clause 5(c)(i) of the Lease (and to which the Respondent is liable to contribute under paragraph 1 of the First Schedule to the Lease). It relies upon ***<u>Tay v Holding and Management (Solitaire) Ltd</u>*** [2019] UKUT 373 (LC) in that connection.

94. Curiously the Applicant's Statement of Case, dated 30 January 2026, takes a different approach and seeks to recover these costs under the sweeper clause in paragraph 4 of Schedule 4 to the Lease instead (paragraph 109, [114]).

95. The Respondent wishes to arrange for the cleaning of his windows himself and avers that all previous owners have *'cleaned their own windows'* [514].

96. In ***<u>Tay</u>*** the language of the lease explicitly excluded *'windows and window frames'* from the demise (relevant clause reproduced at [5] of that judgment). The same cannot be said of the Respondent's lease in this case. The flat includes *'the internal walls of the flat up to the same level [of the ceiling]'*, but the lease makes no mention of windows.

97. The question is whether the lessor's obligation (in clause 5(c)(i) of the Lease) to '*maintain repair decorate and renew… the main structure'* of the building includes the windows. In our view it does. The Lease demises *'the internal walls'* of the flat, thereby distinguishing between the internal and external walls. Windows necessarily pass through both. One of the purposes of an obligation to *'maintain repair decorate and renew'* is to maintain the appearance of the building to which it relates. That purpose naturally

encompasses the cleaning of the windows of the building. The fact that the Lease demises only the internal walls suggests that the exterior of the building (and responsibility for its maintenance, repair, decoration and renewal) was to remain with the landlord. If windows were to be excluded from the scope of that obligation, one would expect to see clear language to that effect (either in the terms of the demise itself or in the delineation of obligations between landlord and tenant within the Lease). There is no such language in this Lease.

98. The Tribunal therefore determines that the windows form part of the structure of the building and therefore fall within the scope of the Applicant's duty, in clause 5(c)(i) of the Lease, to *'maintain repair decorate and renew... the main structure'*. The reasonable costs incurred in doing so, including the costs of cleaning those windows, are therefore costs to which the Respondent is liable to contribute by way of service charge under paragraph 1 of the Fourth Schedule to the Lease. No challenge is made to the amount of those costs. In any event, the cost of £70 is in our view reasonable.

99. Alternatively if, contrary to the foregoing, clause 5(c)(i) did not encompass these costs, the Tribunal would have concluded that the sweeper provision in paragraph 4 of the Fourth Schedule to the Lease did so in any event (i.e. the cleaning of the windows is an expense incurred *'in and about the maintenance and proper and convenient management and running of the Mansion'*).

100. **The cost of £70 in respect of window cleaning is therefore payable by way of service charge**.

<u>Summary of the sums payable by way of service charge in each service charge year</u>

101. The foregoing results in the following sums being payable by way of service charge:

<u>2023 (November 2023-March 2024</u>

Electricity	£48.44
Insurance	£1,295.57
Roof Works	£10,244
Total	**£11,588.01**

2024 (April 2024 – March 2025)

Repairs and maintenance	£1,901
Electricity	£226.44
Emergency testing	£84.50
Insurance	£1,399
Roof Works	£1,056*
Total	**£4,666.94**

2025 (April 2025 – 7th July 2025, being the date of application)

Electricity	£69
Window cleaning	£70
Total	**£139**

* Being the balance of the £11,300 we find to be payable in respect of roofing works.

In accordance with clause 4(ii) of the Lease, the Respondent is liable to contribute ¼ of these costs. Credit must of course be given for the sums which the Respondent has already paid in respect of service charges demanded of him in each of these years.

Miscellaneous matters

Flat 3A

102. At various points reference was made to a 'Flat 3A', said to form a physically separate part of the second floor of the property. The Respondent's written case appeared to challenge the apportionment of service charges (as to 25% for the Applicant) on the basis that this alleged Flat 3A would bring the total number of flats within the property to 5, rather than 4 (paragraph 2.16 of the Respondent's 'Statement of Case / Witness Statement' at [480]).

103. It is unnecessary to resolve any factual disputes between the parties in respect of the alleged Flat 3A because it has no bearing on the extent of the Respondent's obligation to contribute to service charges. That obligation is determined by clause 4(ii) of the Respondent's Lease, which clearly requires him to *'contribute and pay one equal fourth part'* of the relevant costs. Any physical alteration to the layout of Flat 3 above has no bearing on the extent of that liability.

Estoppel

104. The Applicant's Statement of Case argued that the Respondent was estopped from reneging on his alleged agreement to pay for the roofing works (paragraph 34.3, [101]). At the Final Hearing the Applicant's counsel confirmed, when asked by the Tribunal, that no case was being maintained on the basis of estoppel.

The Respondent's right to supporting documentation

105. Relations between the parties have deteriorated to such an extent that the Respondent is inherently suspicious of the Applicant's demands and consequently requires sight of all underlying paperwork before agreeing to anything. For its part, the Applicant has seemingly sought to provide no more by way of documentation than it believes is strictly necessary, and has required the Respondent to physically attend at the Applicant's then registered office[1] in order to inspect documents, with no facilities for copying the same. The intransigence of both positions has not assisted in the early resolution or refinement of the issues which the Tribunal has had to determine.

106. The Applicant appears to approach the issue of access to documentation purely as a matter of company law. However, section 22 of the Landlord and Tenant Act 1985 provides a further, free-standing right for a tenant to require their landlord to afford reasonable facilities both for inspecting underlying documents *and* for taking copies or extracts from the same.

107. Furthermore, whatever may be the strict legal position in respect of access to underlying documents, it cannot have escaped the parties that earlier access to that material may have obviated or narrowed these proceedings. On this occasion, the approach to the provision of that material appears to have caused more heat than light. We therefore encourage the parties to reset relations between themselves and move forwards in a more positive spirit.

Costs and Fees

108. The applications under s. 20C of the Landlord and Tenant Act 1985 and

[1] Then situated in South Wales; now seemingly moved to Northampton, as of November 2025.

paragraph 5A of Schedule 1 to the Commonhold and Leasehold Reform Act 2002 fall away by virtue of the Applicant's concession, recorded in paragraph 54 above.

109. In respect of the Tribunal's power to make an order under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, in the event of the unreasonable bringing, defending or conducting of proceedings, the Tribunal declines to do so. The proper approach to the exercise of that power is set out by the Upper Tribunal in ***Willow Court Management (1985) Ltd v Alexander*** [2016] 0290 UKUT (LC), at paragraph 28, as follows:

> *"At the first stage the question is whether a person has acted unreasonably. A decision that the conduct of a party has been unreasonable does not involve an exercise of discretion but rather the application of an objective standard of conduct to the facts of the case. If there is no reasonable explanation for the conduct complained of, the behaviour will probably be adjudged to be unreasonable, and the threshold for the making of an order will have been crossed. A discretionary power is then engaged and the decision maker moves to a second stage of the inquiry. At that second stage it is essential for the tribunal to consider whether, in the light of the unreasonable conduct it has found to have been demonstrated, it ought to make an order for costs or not; it is only if it decides that it should make an order that a third stage is reached when the question is what the terms of that order should be."*

110. The Tribunal determines that neither party has acted unreasonably in bringing, defending or conducting these proceedings. As noted in paragraph 36 above, the Supreme Court in ***Daejan*** took the view that an applicant seeking dispensation from the s. 20 consultation requirements would ordinarily be required to bear the costs and fees involved in making such an application. Further, as noted above in paragraphs 49 and 60-62 above, various invoices provided to the Respondent are confusing in many respects. The relationship between the parties has broken down and the Applicant's approach to the provision of underlying or supporting documentation has not assisted in obviating the need for these proceedings. Further, the Respondent has succeeding in significant aspects of its response to both applications.

111. In any event, as noted in paragraph 40 above, the Tribunal affords the Applicant dispensation of the s. 20 consultation requirements upon the condition that it pays to the Respondent £3,000 in respect of the costs which

the Respondent has incurred. That is the Tribunal's determination of the reasonable costs incurred by the Respondent. It is neither necessary nor appropriate to make any further order in respect of costs under Rule 13.

RIGHTS OF APPEAL

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

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

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

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