



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference	: HAV/00ML/LAC/2025/0022
Property	: Flat 5 Highfield Court, 14-16 Church Road, Haywards Heath, RH16 3PA
Applicant	: Robert Haycock and Yvonne Anne Haycock
First Respondent	: Grays Inn Capital Limited
Second Respondent	: Highfield Court (Haywards Heath) Management Company Limited
Type of Application	: Paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002
Tribunal Member	: Judge Dovar
Date	: 18th August 2026

DECISION

Introduction

1. The Applicants, by way of application dated 20th November 2025, seek a determination as to their liability to pay, and the reasonableness of, a variable administration charge, under paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act').
2. The offending charge is a fee of £120 to register notices of Assured Shorthold Tenancies ('AST') granted in respect of the Property by the Applicants.¹
3. The First Respondent is the freeholder and lessor under the Applicants' lease. The Second Respondent is the named manager under the lease, and is a tenant run management company. It has played no part in these proceedings and the decision does not appear to impact on them in any way. References in this decision to the Respondent are references to the First Respondent.
4. On 27 April 2026, the Tribunal indicated that the application was likely to be suitable for determination without a hearing in accordance with Rule 31 of the Tribunal Procedure Rules 2013 unless a party objected in writing to the Tribunal within 28 days. Neither party has objected and this matter has been determined on the papers provided.

Background

5. The Applicants acquired their lease of the Property in 2016 and have let it on ASTs of between 6 and 12 months.
6. From 2018 the Respondent, through its agents, Simarc Property Management Limited ('Simarc'), started charging a £120 fee per notice of underletting and required details of the occupiers. Prior to that no fee had been charged.

Lease Terms

7. The material terms of the Applicants' lease, which is dated 29th July 1988, are:
 - a. Clause 2(17) which prohibits assignment or underletting exceeding one year without a deed of covenant with the Lessor and Managers, prepared by the Lessor's solicitors at the tenant's cost.
 - b. Clause 2(18) which requires

¹ Since this application was made, the Renters' Rights Act 2025 has come into force with respect to amendments to the Housing Act 1988 giving rise to the effective abolition of assured shorthold tenancies. However, an assured shorthold tenancy was a species of assured tenancy which continue as a form of tenure for short lettings of residential property at a passing rent. The amendments to the Housing Act 1988 do not have any bearing on this determination.

‘within one month after any assignment, underlease, ... to give written notice to the Solicitors for the time being of the Lessor and the Managers of the deed or instrument affecting the same and to pay them a reasonable fee (being not less than £7 plus value added tax) in respect of each such deed or instrument for the registration thereof.’

8. The lease also includes provision for a restriction on title, requiring the Lessor’s solicitor’s certificate that Clause 2(17) has been complied with for registrable transfers or underleases.

The Applicants’ Case

9. The Applicants dispute liability for the administration charge on the following grounds:
 - a. As a matter of construction, ASTs are not “underleases” for the purposes of Clause 2(18) and therefore no charge can be levied. A distinction is drawn in clause 2(17) between short letting and longer leases which should be carried over to the interpretation of clause 2(18). Further, the assured tenant does not have to abide the terms of the Applicants’ lease and their tenure is of limited duration, so this is not the type of interest that is intended to be subject to this clause;
 - b. Alternatively, that in order to levy a charge the provision of the information needs to serve some purpose, which has not been established. There is no direct relationship between the Respondent and the under tenant and so there is no need for registration of the letting;
 - c. Alternatively, there has been some form of waiver or estoppel arising from the long-term non-enforcement of this provision prior to 2018. That is said to prevent the charge being levied without further notice;
 - d. In the event that this is an administration charge, no administration charge notice have been served in accordance with the requirements of the 2002 Act;
 - e. Further, the demands sought payment to Simarc, who is the wrong party as the lease specifies payment to the Lessor’s solicitors and the Managers’ solicitors;
 - f. Finally in the event that any sum is due, £120 is unreasonable against the 1988 benchmark of ‘not less than £7’, that would equate to around £22 today.

The Respondent’s Case

10. The Respondent resists the application on the basis that the charge is not an administration charge and therefore there the Tribunal has no jurisdiction to deal with this matter. They contend that it does not fit any of the definitions of such a charge contained in paragraph 1(1) of Schedule 11 to the 2002 Act.
11. That schedule encompasses the following four types of charge as an administration charge, being a charge

‘payable, directly or indirectly—

 - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,*
 - (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,*
 - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or*
 - (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.’*
12. The Respondent relies on a number of first instance decisions of this tribunal in support of the contention that this is not an administration charge:
 - a. *Mangion v Simarc* CAM/11UF/LSC/2009/0070, in which it was observed that there were Tribunal decisions going either way on this point; none of which were binding. However, it was considered that the fee was not for an approval and ‘clearly’ did not fall within the other sub paragraphs.
 - b. *Broome v Freehold Properties GR Ltd* CAM/26UJ/LAC/2010/0001, in which it was said at paragraph 24, that the omission of this type of fee from the schedule was ‘a complete mystery’, and alternative avenues to challenge such a fee were considered at paragraph 25.
 - c. *Andrews v Simarc* MAN/OOCG/LAC/2015/0009, in which the Tribunal dismissed submissions that the fee was in connection with the provision of information or documents on behalf of the landlord and reference was made to unnamed decisions in 2009 and 2010 of the same view.

Applicants’ Reply

13. In reply to the challenge to jurisdiction, the Applicants have relied on both an extract from Service Charges and Management (4th ed), para 15-02 and *Christoforou v Standard Apartments Ltd* [2013] UKUT 0586 to

encourage a wider interpretation of the remit of the Schedule and as confirming that this is an administration charge as the fee is both for the provision of a document by a landlord and is in connection with the grant of approvals.

14. In the alternative, they seek to amend their application to include a determination that the charge is a service charge as defined under s.18 of the Landlord and Tenant Act 1985 ('the 1985 Act').

Respondent's Response

15. In response, the Respondent has pointed out paragraph 15-06 of Service Charges and Management which states

*'..a covenant requiring the fact of any assignment to be registered with the landlord, coupled with a fee. It is arguable that para 1(1)(a) does not cover such a fee, which has nothing to do with any 'approval' of the assignment.'*²

16. They have also provided a copy of *Proxima GR Properties Ltd v McGhee* [2014] UKUT 0059 (LC), [21]-[22] in which the Upper Tribunal confirmed *obiter* that a fee for registering a document is not payable

'directly or indirectly for or in connection with the grant of approvals under [a] lease ... so as to come within paragraph 1(1)(a) of Schedule 11..'

Discussion and conclusion

17. I only have jurisdiction to consider the fee if it is an administration charge as defined by Schedule 11. If the fee is not, then the matter does not fall within my jurisdiction and all the challenges raised by the Applicants fall away, regardless of whether there is any merit in them. The Applicants are at liberty to raise them in other forums. I therefore need to consider whether I have jurisdiction to deal with this matter.
18. Notwithstanding the general exhortation in *Christoforou* to interpret these provisions widely, the *obiter* comments of the Upper Tribunal in *Proxima* carry significant weight.
19. Further, in this case there is no qualified prohibition on assignment for a term not exceeding one year. There is no requirement for any consent to be given. There is no 'approval' to be sought or given in relation to any assignment, just conditions to be met. As there is no 'approval' for assignment, there can be no fee payable either directly or indirectly for any such approval. Therefore the fee in this case cannot fall within paragraph 1(1)(a). There might have been some argument that it was in

² In fact I note that in the latest edition of that work, the learned authors have firmed their view stating at para 15-12 'A sum payable as a fee for registering a document does not fall within Commonhold and Leasehold Reform Act 2002 Sch.11 para.1(1)(a)' and they cite *Proxima* in support. Further para 13-07 of that edition also refers to *Proxima*.

connection with an approval if it followed from such an approval, but that is not the case here.

20. What is required is the provision of notice to solicitors for the landlord of the deed or instrument of underletting and the payment of a fee for registration. Paragraph 1(1)(b) refers to the provision of information *by* or on behalf of the landlord. In this case, the provision is the other way around, it is *by* the tenant to the landlord's solicitors. Whilst the paragraph does refer to the provision by others, that specifically excludes provision by a tenant. Therefore the fee in this case cannot fall within paragraph 1(1)(b).
21. There is no suggestion that the fee could fall within either of the remaining two paragraphs of the sub paragraph.
22. I therefore do not consider I have jurisdiction and the application is dismissed. I have not engaged with the request to include within this application a determination that the fee is a service charge within the meaning of s.18 of the 1985 Act. A proper application to amend would have been required and the Respondent given a further opportunity to respond. In light of that I do not see any reason to make any order under either s.20C of the 1985 Act or para 5A of Schedule 22 of the 2002 Act.