FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	HAV/29UL/LSC/2025/0764
Property	**:**	Flat 3, 62 Cheriton Road, Folkestone, Kent CT20 1DF
Applicant	**:**	Gary Mcfegan
Representative	**:**	None
Respondent	**:**	Keith Clark, Wendy Clark, Robert Taylor & Pauline Taylor
Representative	**:**	Keith Clark
Type of Application	**:**	Liability to pay service charges under Landlord and Tenant Act 1985 s.27A
Tribunal Members	**:**	Tribunal Judge David Gethin Ms C Barton MRICS
Date and venue	**:**	13 August 2026, Ashford Tribunal Hearing Centre
Date of Decision	**:**	12 October 2026

DECISION

Summary of the decisions of the Tribunal

(1) The Tribunal determines that the Applicant is liable to pay all service charges for the years ending 2019 to 2026 in full.

(2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the Respondent's costs of the Tribunal proceedings may be recovered from the Applicant 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 Applicant as an administration charge.

The Proceedings

1. References in [ ] in this decision are to the pdf pages taken from the bundle unless otherwise specified.

2. The Applicant seeks a determination of liability to pay and reasonableness of service charges for the years 2019 to 2024 [2-23].

3. The Applicant further seeks 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.

4. Directions were issued on 2 February 2026 listing the application for a case management and dispute resolution hearing on 4 March 2026. Directions were issued including for a paper determination. Upon receipt of the bundle the Tribunal directed that a further Case Management Hearing ("CMH") was required.

5. A CMH was held on 3 June 2026 before Regional Judge Whitney at which both of the originally named parties attended by telephone in person and Mr Clark was joined on the call by Mrs Wendy Clark.

6. At the CMH, it became apparent that Mr Clark has supplied documents in paper form which were not received until after the date provided in the earlier directions. Mr Clark explained he had difficulties emailing and so had delivered the paper documents to the Property address and not the address given by the Applicant.

7. Further Directions were issued on 3 June 2026 listing the application for a one-day face-to-face final hearing. The parties had complied with those

directions, and a final hearing bundle comprising 177 pages including cover pages and index had been provided by the Applicant.

8. The Applicant named only Mr Clark as the Respondent. It was only as a result of considering the freehold title for 62 Cheriton Road, Folkestone, Kent CT20 1DF ("the Building") [114-117] in which the Property is situate that it became apparent that Mr Clark is one of four freeholders of the Building, and are therefore the Applicant's landlord, who appear to hold the freehold as tenants-in-common. Further, Mr & Mrs Clark informed us that Mrs Taylor had passed away in 2016.

9. Mr Taylor was not in attendance, and we had no evidence of Mrs Taylor's death such as a death certificate or grant of probate. It may be the case that Mrs Taylor's interest in the freehold is how held by the personal representatives of her estate, or the beneficiaries of her will, or had passed to Mr Taylor by right of survivorship. It was not possible, on the evidence presented, to know whether the current Respondents might be Mr & Mrs Clark and Mr Taylor alone, or a fourth, unidentified, party.

10. Without wishing to cause any distress to Mr Taylor, and having regard for the overriding objective under rule 3 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the 2013 Rules"), we proceeded on the basis that the named registered owners of the freehold, including Mrs Taylor, are the Respondents and that Mr Clark, with the helpful assistance of Mrs Clark, was in a position to represent all of the Respondents at the hearing.

11. Neither party requested an inspection, and the Tribunal did not consider that one was necessary to resolve the matters in dispute.

12. The Applicant's position is that he has repeatedly requested service charge accounts, budgets, invoices and supporting documentation since purchasing the Property in 2007, without receiving adequate information until disclosure within these proceedings. He maintains that he is willing to pay any sums lawfully due but disputes liability in the absence of proper documentation.

13. The Respondent contends that annual statements of account, demands and supporting documents have been provided and that the charges claimed are recoverable under the lease. The Respondent relies upon statements of account, insurance certificates, section 166 notices and various invoices disclosed following the Tribunal's directions. The Tribunal does not have jurisdiction to determine whether the Applicant is liable to pay the ground rent pursuant to the service of the section 166 notices.

The Background

14. The Applicant is the leaseholder of Flat 3, a one-bedroom first-floor flat. The Respondents are the freeholders, and they have conducted the management of a semi-detached five storey Victorian building converted into four flats. Each flat comprises one bedroom save for the top flat which is a two-bedroom maisonette extending into the loft space.

15. The Respondents also own, between them, the leasehold of the other three flats within the Building. The dispute concerns service charges, ground rent, insurance contributions and management fees. The Tribunal's directions initially concerned 2019-2024 but were subsequently extended to include 2025 and 2026. The Tribunal had indicated that periods before 2019 were not within the scope of determination.

16. The Property is subject to a long lease dated 10 April 1991 between (1) Kenneith Essex, the Respondent's predecessor-in-title, and (2) Paula Bassant and Sandra Ann Bassant for a term of 99 years from 25 December 1990 ("the Lease") [154-177].

17. Clauses 4(b) and 1(h) of the Lease provides for the Applicant to contribute one quarter (25%) of specified expenses incurred in relation to repair, maintenance, renewal and insurance of the building and provision of services. The Applicant does not dispute the proportion of the Respondent's incurred costs that he is required to pay.

18. Clause 3 of the Lease also provides for payment of ground rent, initially £75.00 per annum ending on 24 December 2023 then increasing to £150.00 per annum for the next 30 years ending on 24 December 2056. Although payment of ground rent does not fall within our jurisdiction, the Applicant had previously queried the increase of ground rent but confirmed at the hearing that he was not disputing the amount to pay but his liability to do so where ground rent demands did not comply with statutory requirements. The Applicant relies upon provisions requiring annual budgeting and accounting information.

The Applicant's Case

19. The Applicant's principal complaint is not that nothing is payable, but that proper service charge documentation was not provided. He contends:

- no annual service charge budgets were supplied;
- no proper annual accounts or audited accounts were supplied;
- he was denied the opportunity to verify expenditure and his 25% liability;

- apart from disclosure in these proceedings, supporting paperwork was largely unavailable.

Service Charge Demands

20. The Applicant says that, apart from a July 2022 email from Mrs Clark, he received no service charge demands between 2019 and commencement of the Tribunal proceedings. The Applicant states that correspondence sent to all freeholders seeking information went unanswered.

Repairs and Maintenance

21. The Applicant accepts in principle his liability for one quarter of genuine maintenance expenditure. The Applicant identified invoices produced for 2021-2022 and accepted the associated 25% contributions, subject to evidence. The Applicant noted that some invoices appear to relate to individual flats rather than common parts and that no invoices have been provided for a number of years including 2019, 2020 and later years.

Ground Rent

22. Although not within our jurisdiction, the Applicant accepted liability for ground rent for all years under consideration, 2019-2026, subject to proper demands. The Applicant says that only the 2022 ground rent demand was received before the Tribunal proceedings and that the £75 demanded for 2022 was paid on 26 October 2022. He contends that the Respondent's accounting records failed initially to reflect that payment, resulting in a potential credit.

Buildings Insurance

23. The Applicant accepts that the building should be insured and is in principle willing to contribute. His concerns are:

    - absence of invoices for most years;
    - uncertainty regarding the identity of "P Taylor & Associates";
    - anomalies in some insurance certificates;
    - a desire for confirmation that leaseholders' interests are covered under the policies relied upon.

Management Fees

24. The Applicant disputed the management fees, particularly for 2019, 2020 and years after 2022. The Applicant argued that there has been no professional management service and that failures concerning budgets, accounts and

communications make the fees unreasonable. The Applicant accepts management fees for 2021 and 2022 but disputes the other charges.

Section 20C and Paragraph 5A

25. The Applicant seeks orders preventing recovery of the Respondents' litigation costs through service charges or administration charges, contending that the proceedings arise largely from failures in management and disclosure.

The Respondents' Case

26. The Respondents rely upon annual statements of account from 2019 onwards, section 166 ground rent notices, insurance certificates and a number of maintenance invoices. The Respondent's case is that:

- proper demands were issued;
- supporting documentation has been provided;
- management charges are recoverable;
- insurance and maintenance expenditure has been incurred for the building;
- the sums set out in the statements of account remain payable.

27. The Respondent's disclosed documentation includes:

- annual statements of account for 2019-2026;
- section 166 ground rent notices for the relevant years;
- insurance certificates covering successive policy periods;
- invoices relating chiefly to drainage and electrical works in 2021 and 2022.

The Respondents' Case

28. The bundle contained:

- the original Tribunal application;
- Tribunal directions;
- the Applicant's witness statement and replies;
- the Respondent's statements and disclosure;
- annual statements of account from 2019 to 2026;
- section 166 notices;
- insurance certificates covering 2019-2026;
- invoices relating to drainage, plumbing and electrical works;
- correspondence concerning demands and disclosure.

The Tribunal Decision

29. We preface our determination with the following comments.

30. The parties had never met prior to the hearing. During the course of the hearing, the parties' somewhat entrenched positions softened. As with so many service charge determinations, the breakdown in communication between the parties was largely the cause of the dispute.

31. None of the parties live in the Building and all flats are sub-let to tenants. The Respondents own both the freehold and leasehold of the 3 other flats. The Respondents have sought to bring a 'light touch' approach to the management of the Building thereby minimising the costs incurred. Mr Clark gave oral evidence that the lack of invoices in support of the, in our view, relatively modest costs incurred was because he had undertaken management tasks and routine maintenance at the Building himself. Costs were not incurred on cleaning the common parts of the Building as one or more of the tenants had undertaken this, presumably in return for a favourable rent.

32. We did not see evidence of price gouging or inflation of costs by the Respondents. They collectively bear liability to pay 75% of the costs incurred. There is evidently no incentive for them to incur costs unreasonably or for those costs to be unreasonable in themselves.

33. The Applicant was also alive to the fact that this meant that he had limited leverage if he disagreed with the Respondents regarding the management of the Building, such as if he believed the Respondents should be expending further monies on the repair, renewal and maintenance of the Building. The Building is typical of those in the locality offering both architectural interest, alongside relatively low rents. Absent a programme of wider gentrification, there is a conflict between maintaining rental yields and investing in the restoration of the Building.

34. Although we have no jurisdiction to determine liability to pay a ground rent, we considered it prudent to allow the Applicant to ventilate his concerns and some issues were identified in that process as to whether the name of the landlord provided by the Respondents was accurate and therefore met the statutory requirements of Sections 47 and 48 of the Landlord and Tenant Act 1987 ("LTA 1987").

35. The Applicant had experienced issues with his current tenant regarding anti-social behaviour and rubbish in the adjoining alleyway, and this had caused consternation for the other tenants and, in turn, for the Respondents. The Applicant is not a professional property manager. Where bulk waste such as

mattresses had been dumped, Mr Clark would from time to time collect such items himself and take them to the tip as he holds a waste licence. This was to avoid the cost of employing a specialist waste firm.

36. The Applicant's response to his frustrations had been to withhold his contribution to the service charge, accruing not insignificant arrears despite the modest service charge demanded. The Respondents were in a position where they could afford not to chase the arrears aggressively and had taken a rather passive approach. This was in line with their general approach to the management of the Building.

37. The Tribunal went through some of the more specific items in dispute, to understand the Applicant's challenge in more detail. It was then agreed with the parties present that there would be an adjournment to allow the parties the opportunity to discuss the issues in dispute amongst themselves.

38. On their return, the parties informed the Tribunal that they had reached agreement on a number of matters which do not fall within the Tribunal's jurisdiction and would therefore not be appropriate to record. It was confirmed that the Applicant had agreed to pay all sums sought by the Respondents, regardless of whether correctly demanded or not.

39. We are content to proceed on that basis.

40. Whilst the Respondents, as leaseholders themselves within the Building, may be content to take a less than stringent approach to complying with statutory requirements, and agreement may have been reached with the Applicant for the costs incurred to date, we would strongly encourage the Respondents to seek legal advice on the content of their notices and practices moving forward to avoid a future dispute.

Application Under s.20C and Para.5A and Refund of Fees

41. The Applicant had not sought reimbursement of the Tribunal's fees from the Respondents. Accordingly, we make no order to do so.

42. The Applicant has applied for an order under section 20C of the 1985 Act and under paragraph 5A of Schedule 11 to the 2002 Act preventing the Respondents from recovering any of its legal costs of the Tribunal proceedings either as a service charge or as an administration charge.

43. Whilst the Respondents may not have instructed legal representatives, they have undoubtedly spent time engaged in responding to the application and attending the hearing, and at the hearing the Applicant agreed to pay all service charges in full.

44. However, the Applicant had identified deficiencies in the Respondents' processes and notices which we accept fall short of the statutory requirements. The Applicant chose at the hearing to take a pragmatic approach and reached agreement to make payment of the arrears in return for the Respondents' assistance in matters that are not relevant to the Tribunal. That does not exonerate the Respondents where failings have been identified.

45. We therefore find that is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act and under paragraph 5A of Schedule 11 to the 2002 Act, so that the Respondents may not pass any of its costs incurred in connection with the proceedings before the Tribunal either through the service charge or as an administration charge.

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.