

Ref no. (for office use only)

Application for a determination of liability to pay and reasonableness of service charges

Section 27A of the Landlord and Tenant Act 1985

It is important that you read the notes below very carefully before you complete this form. This is the correct form to use if you want to ask the Tribunal to determine whether a variable service charge is payable. If so the Tribunal can also determine:

- the person by whom it is payable
- the person to whom it is payable
- the amount which is payable (this is limited to what is reasonable)
- the date at or by which it is payable

A fee is payable for this application (see section 15 for Help with Fees). The fees are set out in this form.

Please send your completed application form and fee (if applicable), together with a copy of the lease to the appropriate regional Tribunal. (See the Annex to this form for regional office addresses). Please do not send any other documents. If and when further evidence is needed, you will be asked to send it in separately.

If you have any questions about how to fill in this form, the fee payable, or the procedures the Tribunal will use please call the appropriate regional office.

If you are completing this form by hand please use BLOCK CAPITAL LETTERS.

1. DETAILS OF APPLICANT(S) (if there are multiple applicants please continue on a separate sheet)

Name:

Capacity:

Address (including postcode):

Address for correspondence (if different from above):

Telephone:
Day: Evening: Mobile:

Email address: Fax:

Representative name and address, and other contact details: Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting for you.

Name:

Reference no. (if any)

Address (including postcode):

Telephone:

Day: Mobile:

Email address: Fax:

Note: The Tribunal may copy the application form to other appropriate persons (e.g. other service charge paying leaseholders in the building or development). If you are a leaseholder and do not want your telephone/fax number or email address to be disclosed to other such persons please omit those details from Box 1 and attach them on a separate sheet.

Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting.

2. ADDRESS (including postcode) of SUBJECT PROPERTY (if not already given)

3. BRIEF DESCRIPTION OF BUILDING (e.g. 2 Bedroom flat in purpose built block of flats)

4. DETAILS OF RESPONDENT(S) the person against whom an applicant seeks determination from tribunal – this will not be the landlord’s managing agent unless they are a party to the lease. If there are multiple respondents, please continue on a separate sheet.

Name:

Capacity

Address (including postcode):

Address for correspondence (if different from above):

Telephone:

Day: Evening: Mobile:

Email address: Fax:

Representative name and address, and other contact details: Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting for you.

Name:

Reference no. (if any)

Address (including postcode):

Telephone:

Day: Mobile:

Email address: Fax:

Note

This form asks the applicant to provide the details of parties to the application. Additionally, the Tribunal needs to know the names and addresses of other people who may be significantly affected by the application such as other lessees in the building. Please provide a list of the names and addresses of any such person(s). If this is not possible or is impractical, then a written statement should be provided with this application.

If you are the landlord/management company making the application please omit, if known, the telephone/fax numbers and email address of the respondent(s) when completing Box 4 and include them on a separate sheet. This is because the application form may be copied by the Tribunal to other appropriate persons (e.g. other service charge paying leaseholders in the building or development).

5. DETAILS OF LANDLORD (if not already given)

Name:

Address (including postcode):

Reference no. (if any)

Telephone:

Day: Evening: Mobile:

Email address: Fax:

6. DETAILS OF ANY RECOGNISED TENANTS' ASSOCIATION (if known)

Name of Secretary

Address (including postcode):

Telephone:

Day: Evening: Mobile:

Email address: Fax:

7. SERVICE CHARGES TO BE CONSIDERED BY THE TRIBUNAL

A. Service charges for past years.

Please list years for which a determination is sought.

- | | |
|------------|----------------------------|
| 1. 2018/19 | 4. 2015/16 |
| 2. 2017/18 | 5. 2014/15 |
| 3. 2016/17 | 6. 2013/14 |
| | 2012/13, 2011/12, 2010/201 |

For each service charge year, fill in one of the sheets of paper entitled **SERVICE CHARGES IN QUESTION**

B. Service charges for current or future years.

Please list years for which a determination is sought.

- | | |
|------------|----|
| 1. 2019/20 | 4. |
| 2. | 5. |
| 3. | 6 |

For each service charge year, fill one of the sheets of paper entitled **SERVICE CHARGES IN QUESTION**

Total value of dispute £3.6M

8. OTHER APPLICATIONS

Do you know of any other cases involving either: (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application? Yes No

If Yes, please give details

LON/00BG/LAM/2015/0012 (s.24 Appointment of a Manager) and associated applications to vary (s24(9) including:

LON/00BG/LVM/2016/0020 and 0023

LON/00BG/LVM/2018/0005 and 0006 and 0014 and 0018,

LON/00BG/LVM/2019/0010 and 0013 and 0016

9. IMPORTANT – S20C LANDLORD AND TENANT ACT 1985 – APPLICATION FOR AN ORDER LIMITING PAYMENT OF LANDLORD'S COSTS

Some leases allow a landlord to include costs incurred in connection with proceedings before the Tribunal as part of a service charge. Section 20C of the Landlord and Tenant Act 1985 gives the Tribunal power, on an application by a tenant, to make an order that such costs are not to be included in the amount of any service charge payable by the tenant or any other persons specified in the section 20C application.

If you are a tenant do you wish to make a section 20C application? Yes No

If you have answered "Yes" then please specify any other persons to be included in the section 20C application by providing their names and addresses in the box immediately below.

Note: Even if you have applied for an order under section 20C the Tribunal may refuse to make one.

10. IMPORTANT – PARAGRAPH 5A OF SCHEDULE 11 – APPLICATION FOR AN ORDER LIMITING PAYMENT OF LANDLORD'S COSTS

Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') provides that a tenant may apply to the Tribunal for an order for a court or tribunal which reduces or extinguishes the tenant's liability to pay an "administration charge in respect of litigation costs" ie contractual costs in a lease.

Do you want to make an application under Paragraph 5A of Sch11 to the 2002 Act Yes No

11. CAN WE DEAL WITH YOUR APPLICATION WITHOUT A HEARING?

If the Tribunal thinks it is appropriate, and all the parties and others notified of their right to attend a hearing consent, it is possible for your application to be dealt with entirely on the basis of written representations and documents and without the need for parties to attend and make oral representations. ('A paper determination').

Please let us know if you would be content with a paper determination if the Tribunal thinks it appropriate. Yes No

Note: Even if you have asked for a paper determination the Tribunal may decide that a hearing is necessary. Please complete the remainder of this form on the assumption that a hearing will be held. Where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

12. TRACK PREFERENCES

We need to decide whether to deal with the case on the Fast Track or the Standard Track (see Guidance Note for an explanation of what a track is). Please let us know which track you think appropriate for this case.

Fast Track
 Standard Track

Is there any special reason for urgency in this case?

Yes No

If Yes, please explain how urgent it is and why:

Canary Riverside is subject to a s.24 manager appointment and a new manager is due to be appointed on 1st October 2019 which is when the next insurance premium payable to the landlord falls due. The landlord is disputing the service charge payable by them and at the same time demanding that their insurance demand be paid. The unpaid service charge is significantly greater than the insurance demand.

The net position is that the landlord owes the service charge account a significantly greater sum than is owed to them - and indeed, some of the monies owed by the landlord include insurance premiums payable to them. A decision in respect of insurance would reduce the sum payable to the landlord and therefore assist the service charge cashflow/the s.24 Manager.

Note

The Tribunal will normally deal with a case in one of three ways: on paper (see section 11 above) or 'fast track', or 'standard track'. The fast track is designed for cases that need a hearing but are very simple and will not generate a great deal of paperwork or argument. A fast track case will usually be heard within 10 weeks of your application. You should indicate here if you think your case is very simple and can be easily dealt with. The standard track is designed for more complicated cases where there may be numerous issues to be decided or where for example, a lot of documentation is involved. A standard track case may involve the parties being invited to a Case Management Conference which is a meeting at which the steps that need to be taken to bring the case to a final hearing can be discussed.

13. AVAILABILITY

If there are any dates or days we must avoid during the next four months (either for your convenience or the convenience of any witness or expert you may wish to call) please list them here.

Dates on which you will NOT be available:

August: 1st - 30th inclusive

September: none at date of making this application

October: none at date of application

November: none at the time of making this application

14. VENUE REQUIREMENTS

Please provide details of any special requirements you or anyone who will be coming with you may have (e.g. the use of a wheelchair and/or the presence of a translator):

Applications handled by the London regional office are usually heard in Alfred Place, which is fully wheelchair accessible. Elsewhere, hearings are held in local venues which are not all so accessible and the case officers will find it useful to know if you or anyone you want to come to the hearing with you has any special requirements of this kind.

15. CHECKLIST

Please check that you have completed this form fully. The Tribunal will not process your application until this has been done and it has both a copy of the lease and the application fee (if applicable):

A copy of the lease(s) is/are enclosed.

A crossed cheque or postal order for the application fee of £100 (if applicable) is enclosed. Please put your name and address on the back of any cheque you send.

DO NOT send cash under any circumstances. Cash payment will not be accepted.

Fees should be paid by a crossed cheque made payable to, or a postal order drawn in favour of, HM Courts and Tribunals Service.

Please note where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

Help with Fees

If you think you may be entitled to a reduced fee, the guide EX160A 'Apply for help with court, tribunal and probate fees' outlines how you can submit an application for Help with Fees.

You can submit your Help with Fees application online at www.gov.uk/help-with-court-fees or by completing the form EX160 'Apply for help with fees'. You can get a copy of the 'Apply for help with fees' form online at www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees or from your regional tribunal office.

If you have completed an online application for Help with Fees please enter the reference number you have been given here.

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If you have completed form EX160 "Apply for Help with Fees" it must be included with your application.

The 'Apply for help with fees' form will not be copied to other parties.

If you are making several applications at the same time, even if you are using different application forms or the applications relate to different parts of the Tribunal's jurisdiction, you do not have to pay a separate fee for each application. The overall fee will be the biggest of the fees payable for each application on its own.

16. STATEMENT OF TRUTH

The statement of truth must be signed and dated.

I believe that the facts stated in this application are true.

Signed: _____ Dated: 25/07/2019

SERVICE CHARGES IN QUESTION

Please use the space below to provide information regarding each of the years mentioned in section 7 of the main application form.

You will be given an opportunity later to give further details of your case and to supply the Tribunal with any documents that support it. At this stage you should give a clear outline of your case so that the Tribunal understands what your application is about. **Please use one sheet per year.**

The year in question 2019/20

A list of the items of service charge that are in issue (or relevant) and their value

Building and terrorism insurance (Residential) c.£320,000
Building and terrorism insurance (Residential Car Park) c.£73,000

Description of the question(s) you wish the Tribunal to decide:

Whether the insurance premiums charged to lessees were reasonably incurred, including consideration of:

- the level of commissions included within the charge levied on lessees and the value of the sum insured.
- the level of insurance cover provided to residential lessees by the Policy, which identifies Santander as the 'First Loss Payee' for sums in excess of £250,000 and does not note residential lessees' interests.

Any further comments you may wish to make:

The Applicant requests that the FTT direct disclosure by the Respondents of the following documents in respect of each of the years covered by this application:

- the certificate of insurance and policy document
- the net and gross premiums filed by the Insurer (to be provided by the insurer)
- proof of payment of the premiums (invoices and associated bank payments)
- the insurance revaluation report supporting the sum insured
- the procedure followed when placing the insurance
- confirmation from the insurer as to the procedure to be followed in respect of a triggering of the First Loss Payee clause favouring Santander in the current (2019/20) policy

ANNEX: Addresses of Tribunal Regional Offices

NORTHERN REGION

HM Courts & Tribunals Service
First-tier Tribunal (Property Chamber) Residential
Property, 1st Floor, Piccadilly Exchange, Piccadilly
Plaza, Manchester M1 4AH

Telephone: 01612 379491
Fax: 01264 785 128

This office covers the following Metropolitan districts: Barnsley, Bolton, Bradford, Bury, Calderdale, Doncaster, Gateshead, Kirklees, Knowsley, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne, Oldham, Rochdale, Rotherham, St. Helens, Salford, Sefton, Sheffield, Stockport, Sunderland, Tameside, Trafford, Tyneside (North & South), Wakefield, Wigan and Wirral.

It also covers the following unitary authorities: Hartlepool, Middlesbrough, Redcar and Cleveland, Darlington, Halton, Blackburn with Darwen, Blackpool, Kingston-upon-Hull, East Riding of Yorkshire, Northeast Lincolnshire, North Lincolnshire, Stockton-on-Tees, Warrington and York.

It also covers the following Counties: Cumbria, Durham, East Cheshire, Lancashire, Lincolnshire, Northumberland, North Yorkshire and West Cheshire.

MIDLAND REGION

HM Courts & Tribunals Service
First-tier Tribunal (Property Chamber) Residential
Property, Centre City Tower, 5-7 Hill Street,
Birmingham, B5 4UU

Telephone: 0121 600 7888
Fax: 01264 785 122

This office covers the following Metropolitan districts: Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

It also covers the following unitary authorities: Derby, Leicester, Rutland, Nottingham, Herefordshire, Telford and Wrekin and Stoke-on-Trent.

It also covers the following Counties: Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.

EASTERN REGION

HM Courts & Tribunals Service
First-tier Tribunal (Property Chamber) Residential
Property, Cambridge County Court, 197 East Road
Cambridge, CB1 1BA

Telephone: 01223 841 524
Fax: 01264 785 129
DX 97650 Cambridge 3

This office covers the following unitary authorities: Bracknell Forest, West Berkshire, Reading, Slough, Windsor and Maidenhead, Wokingham, Luton, Peterborough, Milton Keynes, Southend-on-Sea and Thurrock.

It also covers the following Counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Northamptonshire, Oxfordshire and Suffolk.

SOUTHERN REGION

HM Courts & Tribunals Service
First-tier Tribunal (Property Chamber) Residential
Property, Havant Justice Centre, The Court House,
Elmleigh Road, Havant, Hants, PO9 2AL

Telephone: 01243 779 394
Fax: 0870 7395 900

This office covers the following unitary authorities: Bath and Northeast Somerset, Bristol, North Somerset, South Gloucestershire, Bournemouth, Plymouth, Torbay, Poole, Swindon, Medway, Brighton and Hove, Portsmouth, Southampton and the Isle of Wight.

It also covers the following Counties: Cornwall and the Isles of Scilly, Devon, Dorset, East Sussex, Gloucestershire, Hampshire, Kent, Somerset, Surrey, West Sussex and Wiltshire.

LONDON REGION

HM Courts & Tribunals Service
First-tier Tribunal (Property Chamber) Residential
Property, 10 Alfred Place, London WC1E 7LR

Telephone: 020 7446 7700

Fax: 01264 785 060

DX 134205 Tottenham Court Road 2

This office covers all the London boroughs.

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

To receive a paper copy of this privacy notice, please call 0300 123 1024/ Textphone 18001 0300 123 1024.

Service Charges in question:

The year in question: 2010/11

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

1. £238,367: Residential
2. £31,539: Car Park
3. £16,024: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

The 2010/11 accounts were issued in February 2014. The landlord did not comply with section 21 (LTA 1985) requests made by lessees to inspect the supporting records/documents to the 2010/11 accounts.

Lessees were given access to a limited number of documents in January and April 2015, but this did not include the relevant documents for most of the disputed expenditure detailed above.

Service Charges in question:

The year in question: 2011/12

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

1. £324,136: Residential
2. £42,887: Car Park
3. £26,495: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

The 2011/12 accounts were issued in November 2015.

The landlord has not complied with section 21 (LTA 1985) requests made by lessees to inspect the supporting records/documents to the 2011/12 accounts.

Service Charges in question

The year in question: 2012/13

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

1. £324,136: Residential
2. £42,887: Car Park
3. £25,862: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

The 2012/13 accounts were issued in January 2016.

The landlord has not complied with section 21 (LTA 1985) requests made by lessees to inspect the supporting records/documents to the 2012/13 accounts.

Service Charges in question

The year in question: 2013/14

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

1. £318,876: Residential
2. £42,106: Car Park
3. £25,560: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

The 2013/14 accounts were issued in April 2016.

The landlord has not complied with a section 21 (LTA 1985) request to inspect the supporting records/documents to the 2013/14 accounts.

Service Charges in question

The year in question: 2014/15

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

1. £316,076: Residential
2. £31,736: Car Park
3. £25,495: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

The 2014/15 accounts were issued in May 2016.

The landlord has not complied with a section 21 (LTA 1985) request to inspect the supporting records/documents to the 2014/15 accounts.

Service Charges in question

The year in question: 2015/16

A list of the items of service charge that are in issue (or relevant) and their value:

<p>Building and Terrorism Insurance</p> <ol style="list-style-type: none">1. £318,875: Residential2. £42,106: Car Park3. £25,560: Estate

Description of the questions(s) you wish the Tribunal to decide:

<p>Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.</p>
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Any further comments you may wish to make:

<p>The 2015/16 accounts were issued in September 2016.</p> <p>The landlord has not complied with a section 21 (LTA 1985) request to inspect the supporting records/documents to the 2015/16 accounts.</p>

Service Charges in question

The year in question: 2016/17

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

1. c.£318,000: Residential
2. c.£42,000: Car Park
3. c.£26,000: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

No supporting documents provided by CREM nor Mr Coates* in respect of insurance premiums despite request. *S.24 1987 LTA Management Order in place from 1st October 2016.

Service Charges in question

The year in question: 2017/18

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance
1. c.£318,000: Residential
2. c.£42,000: Car Park
3. c.£26,000: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

No supporting documents provided by CREM nor Mr Coates* in respect of insurance premiums despite request. *S.24 1987 LTA Management Order in place from 1st October 2016.

Service Charges in question

The year in question: 2018/19

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance

4. c.£318,000: Residential
5. c.£42,000: Car Park
6. c.£26,000: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

No supporting documents provided by CREM nor Mr Coates* in respect of insurance premiums despite request. *S.24 1987 LTA Management Order in place from 1st October 2016.

Service Charges in question

The year in question: 2019/20

A list of the items of service charge that are in issue (or relevant) and their value

Building and Terrorism Insurance
1. c.£318,000: Residential
2. c.£42,000: Car Park
3. c.£26,000: Estate

Description of the questions(s) you wish the Tribunal to decide:

Whether the insurance premium was reasonably incurred. Of particular concern is the level of commissions included in the premium and the sum insured.

Any further comments you may wish to make:

No supporting documents provided by CREM nor Mr Coates* in respect of insurance premiums despite request. *S.24 1987 LTA Management Order in place from 1st October 2016.
There is also concern regarding the actual level of benefit provided to the Applicants in view of the 'First Loss Payee' and 'Composite Insured' clauses in favour of Santander.