

11957



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

**Case reference** : LON/00AN/LAM/2016/0031

**Property** : 46 Auriol Road, London W14 0SR

**Applicant** :  
1. Helene Sandberg  
2. Ahmed and Deana El-Sadek

**Representative** : Northover Litigation

**Respondent** :  
1. Auriol Management Limited  
2. Daniela Becher

**Representative** : Samuel Okoronkwo, Mercantile Barristers

**Type of application** : Appointment of Manager

**Tribunal member(s)** :  
Ruth Wayte (Tribunal Judge)  
Stephen Mason FRICS

**Venue** : 10 Alfred Place, London WC1E 7LR

**Date of decision** : 27 January 2017

---

**DECISION**

---

### **Tribunal's decision**

1. In accordance with section 24(1) Landlord and Tenant Act 1987 Mr Andrew McKeer, MRICS FIRPM of Prior Estates Limited ('the Manager') is appointed as manager of the property at 46 Auriol Road, London W14 0SR ('the Property').
2. The order shall continue for a period of 5 years from 27 January 2017. If the parties wish to apply for any extension of the order, they are encouraged to do so at least three months before the order expires.
3. The Manager shall manage the Property in accordance with:
  - (a) The management order, directions and schedule of functions and services attached;
  - (b) The obligations of the landlord in the leases by which the flats at the Property are demised by the first respondent and in particular with regard to repair, decoration, provision of services and insurance of the Property; and
  - (c) The duties of a manager set out in the Service Charge Residential Management Code ('the Code') or such other replacement code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to section 87 Leasehold Reform Housing and Urban Development Act 1993.
4. The Manager shall register the order against the landlord's registered title as a restriction under the Land Registration Act 2002, or any subsequent Act.
5. An order shall be made under section 20C Landlord and Tenant Act 1985 that the first respondent's costs before the Tribunal shall not be added to the service charges.

### **The application and hearing**

6. On 23 August 2016 the applicants and leasehold owners of flats on the lower and upper ground floor of the property made an application for an order appointing Andrew McKeer MRICS FIRPM of Prior Estates Limited as manager under section 24 of the Landlord and Tenant Act 1987 ("the Act"). The first respondent and freeholder is a company ("the Company") owned by the applicants and the second respondent, who holds long leases in the other two flats. The main ground of the application was that with two shares in the Company being held by the applicants and two by the second respondent, the Company was unable to function in the event of a disagreement between them.
7. At the date of the application there was a risk that the Property would be left uninsured due to the dispute between the applicants and the second respondent but that fell away as both the applicants and the second respondent each arranged buildings insurance for the whole of the building on behalf of the Company. Although that course of action

raised separate risks in the event of a claim, the applicants relied principally on the breakdown in relationship between the parties which they stated made it just and convenient for the order to be made.

8. At the hearing the applicants were represented by Mr Bates of counsel. The second respondent was represented by Mr Okoronko of counsel. Ms Sandberg and the proposed manager attended to give evidence in support of the application and Ms Becher gave evidence in response. No objection was taken to the evidence of Mr Clarke, the former managing agent (although he did not attend for cross examination), the evidence of Lydia Rawicz for the second respondent was taken as written.
9. The following issues were identified for determination:
  - Did the notice comply with section 22 of the Act?
  - Has the applicant satisfied the tribunal of any grounds for making an order as specified in section 24(2) of the Act?
  - What is the evidence that the directors and shareholders are unable to agree on any decisions regarding management and of any prejudice to the leaseholders and the property?
  - Is it just and convenient to make the order?
  - Would the proposed manager be a suitable appointee and, if so, on what terms and for how long should the appointment be made?
  - Should the tribunal make an order under section 20C of the Landlord and tenant Act 1985 to limit the first respondents' costs that may be recovered through the service charge?

### **Background**

10. The property is a substantial period detached house that has been converted into four flats let on long residential leases. The applicants own the lower and upper ground floor flats and the second respondent owns the first and second floor flats. The freehold is owned by the leaseholders, with one share per flat. The applicants are both directors of the company, while the second respondent acts as company secretary and is also a director.
11. The applicants' Statement of Case stated that whereas in the past the leaseholders had managed to "muddle along", that had become impossible as a result of the lack of agreement between the parties – principally Ms Becher and Mr El-Sadek. They stated that this had led to the resignation of the previous managing agents, the difficulties with insurance and the current impasse as to the future. They were frank that the applicants themselves did not necessarily agree with each other as to management but they did agree it was dysfunctional and therefore it needed to be carried out by an independent third party.

12. The second respondent's Statement of Case denied all of the applicants' case, although it set out a long history of a dispute with Mr El Sadek. Nevertheless she stated that the claim was exaggerated, it had been sprung on her without sufficient notice, there was no prejudice and no evidence that there had in fact been any breach of the lease. She suggested that she should be appointed as the building manager on account of her successful track record in managing the Property. The Statement of Case was ostensibly on behalf of both the first and second respondents, although it was subsequently clarified by Mr Okoronkwo that it was a response in Ms Becher's capacity as company secretary and one of three directors as opposed to a response on behalf of the company as a whole.

### **Statutory Framework**

13. The provisions in respect of the appointment of managers are set out in Part II of the Act at sections 21 to 24. Section 21 contains exclusions from the right to apply, none of which are relevant in this case.
14. Section 22 sets out the requirements for the preliminary notice which must be served by the tenant before an application is made. They include a requirement at 22(2)(d) to set out the steps and allow a reasonable period for the remedy of any breaches which are capable of remedy. Section 23 states that no application shall be made to the Tribunal until the notice period (if any) has expired.
15. Section 24 gives the Tribunal the power to make an order appointing a manager in a number of circumstances, including where it is satisfied that other circumstances exist which make it just and convenient for the order to be made. This was the ground relied on by the applicants.

### **Section 22 notice**

16. Although the second respondent's case was not put directly in terms that the applicants had failed to comply with section 22, Mr Okoronkwo submitted that Ms Becher had been ambushed by the claim. The application to the tribunal was signed on 23 August 2016, the day after the notice was served.
17. The urgency was stated by the applicants to be due to the fact that the buildings insurance was shortly to expire and the brokers would only renew the policy if a manager was in place. A preliminary hearing was listed for 12 September 2016 to deal with that issue but subsequently vacated when the Tribunal received confirmation that insurance had been secured. In fact, both the applicants and the second respondent had each arranged buildings insurance for the Property on behalf of the Company as Ms Becher insisted that the policy identified by the previous agents was unsuitable given Mr El-Sadek's alleged lack of occupation of his flat.
18. As stated above, at the hearing that applicants relied solely on the lack of agreement between the parties. Their assertion was that a lack of

agreement was not capable of remedy in the same way as a failure to insure or other breach of covenant and, in the circumstances, no period at all was required between the notice and the proceedings.

19. The tribunal has determined this application on the sole ground put forward by the applicants at the hearing and in the absence of any other challenge to the section 22 notice determines that a valid notice has been served. As stated by the applicants, a failure to agree is not capable of unilateral remedy and therefore no delay was required between the notice and the application.

### **Grounds under the Act**

20. As stated above, the applicants relied on section 24(2)(b) – that other circumstances exist which make it just and convenient for the order to be made. Mr Bates was clear that they were not asking for an apportionment of blame, simply stating that in the absence of agreement between the parties, management was impossible without an independent third party who could take control.
21. The Memorandum and Articles of the Company were largely “off the shelf”. All three of the leaseholders were Directors and there were four shares in total: one per lease. Whereas it was true that two directors acting together could bind the Company, if the third disagreed they were unlikely to co-operate, raising the spectre of litigation and incurring further bad will. Mr Bates pointed to the resignation of the previous managing agents, Dexters and the issue with the insurance as evidence that the problem was real as opposed to theoretical. There was also substantial written evidence in the three lever arch bundles before the tribunal setting out the disputes between the parties over the last 6 years, including court proceedings in 2013.
22. Ms Sandberg gave evidence on behalf of the application. She had lived at the Property since 2003. To start with, she had been content to leave the management of the Property to Ms Becher but that had become increasingly difficult since Mr El-Sadek bought his flat in 2010. Ms Sandberg had found herself caught between Ms Becher and Mr El-Sadek, either as mediator or pivotal voter to force decisions through. After 6 years the emotional stress had taken its toll. She felt that the only way forward was to appoint a manager so that she could be left in peace and get on with her life. In cross-examination Mr Okoronkwo raised the issue of the letters signed by Ms Sandberg which appeared to agree with Ms Becher’s interpretation of issues involving Mr El-Sadek. Ms Sandberg accepted that she had signed the letters which had been typed by Ms Becher, she stated she felt under pressure to sign and was worried about the reaction of Ms Becher if she didn’t. She confirmed that no one got on together in the building.
23. The other witness evidence put forward by the applicants was a statement by Nicholas Clarke, of Dexters London Ltd. This company was appointed as managing agents from 4 June 2015 until they

- resigned shortly before the application was made. Mr Clarke did not attend court to give evidence although there was no dispute that he terminated the agreement by email dated 8 August 2016, stating “*We simply cannot have our resources drained to this extent over a simple matter of renewing insurance and find ourselves constantly threatened with legal action, not to mention our suppliers being harassed with phone calls to the point where they simply refuse to deal with this property.*” It was common ground that Dexters were referring to contact by Ms Becher.
24. Mr Okoronkwo maintained that no grounds were made out under the Act. In particular that there was insufficient evidence of a lack of agreement between the parties or that it had led to problems with management of the property or prejudice to any of the leaseholders. His solution for the future was to put the appointment of a managing agent to a vote or for any unhappy leaseholder to appoint their own manager, effectively as proxy.
  25. Ms Becher gave evidence on her own behalf. As detailed in her witness statement, she had lived at the Property all her life, taking over the management from her mother in 2001. That statement confirmed a long history of disagreement with Mr El-Sadek and what she described as “*His preference...for everyone around him to be under his control and to act at his behest*”. She saw the application as a punishment when she had acted in the best interests of the Property, the reason she gave for “falling out” with Dexters and their insurance brokers. She was upset that her decision making would be taken away and worried about the additional cost. She felt that if the other leaseholders had a problem with her management of the property they should bear the cost of professional management themselves, this dispute was not her fault.
  26. During cross-examination Ms Becher’s response to a question as to how management would progress without a manager being appointed was that the police were going to organise mediation between her and Mr El-Sadek. All of the problems were due to his failure to respect her views about the lease and she had a “plethora of correspondence” signed by Ms Sandberg agreeing with her that the fault lay with Mr El—Sadek.
  27. In addition to her own evidence, Ms Becher was supported by her friend Lydia Rawicz. Ms Rawicz’s evidence was accepted by the applicants. It largely corroborated Ms Becher’s concerns about the affect of Mr El-Sadek’s alleged absence from his flat on the building insurance for the Property and her dispute with the broker and the managing agent as a result. It also further reinforced the depth of the dispute with Mr El-Sadek.
  28. Taking all of the evidence into account the tribunal is clear that the continuing dispute between Ms Becher and Mr El-Sadek has made it extremely difficult for the Company to function effectively. For the

avoidance of doubt, the tribunal accepts that Ms Becher has managed the Property to the best of her ability and is absolutely committed to achieving what she sees as the best outcome in terms of quality and cost. The difficulty is that the Property does not belong to Ms Becher alone – while Ms Becher had previously been allowed a free hand by Ms Sandberg and the previous owner of the ground floor flat, Mr El-Sadek is entitled to play his part as the owner of a share in the freehold. The evidence shows that there has been no compromise between Ms Becher and Mr El-Sadek over the last 6 years. Police mediation seems unlikely to be the answer – if anything that rather underlines how extreme the disagreement has become.

29. The tribunal is in no doubt that the current situation is untenable for Ms Sandberg and has put the management of the Property in jeopardy, as illustrated by the dispute in relation to the buildings insurance which is now covered by two separate policies with potential difficulties in the event of a claim. Given the experience of Dexters, a vote to appoint a further managing agent is unlikely to be the answer, even assuming there can be agreement on that. In the circumstances the tribunal determines that the applicants have established that there are other grounds which make it just and convenient for a manager to be appointed by the tribunal with the autonomy to act in the Company's shoes.

### **The proposed manager**

30. Mr McKeer attended to give evidence as to his suitability. He qualified as a Chartered Surveyor in 1991 and had been in residential property management for 39 years. He had been appointed as a manager under the Act for three other properties, one on its third renewal. He had inspected the Property on 22 November 2016 and produced an updated statement and draft budget which took into account the fact that the only outstanding item of work appeared to be attending to the boundary wall. This had led to a decrease in his management fees, which he now proposed at £350 per unit per year to include annual service charge accounts and dormant accounts on behalf of the Property.
31. He saw his first focus as the resolution of the insurance issues and then to complete the major works as set out above. He proposed a 5 year term to allow for a full cycle of works. He stated that he had his eyes “wide open” about the scale of challenge and had dealt with many similar personality clashes in his years of property management.
32. The tribunal were satisfied that Mr McKeer is suitable for appointment as a manager and that a 5 year term is appropriate in all the circumstances of the case. The management fees are extremely reasonable and do not present an excessive financial burden for Ms Becher. The approved management order is attached to this decision.

33. Ms Becher had also put herself forward for appointment as a manager. She admitted she had no formal qualifications or insurance but relied on her track record. In all the circumstances of the case, quite apart from the fact that Ms Becher is not a professionally qualified, regulated or insured manager, the very fact that Ms Becher is at the centre of the dispute renders her wholly unsuitable for appointment by the tribunal.

### **Section 20 C**

34. The applicants proposed that given the reality that the Company was not an effective party in this case, which was between the respective Directors, the only appropriate order to make was one under section 20C. The second respondent did not object and the tribunal agrees with the applicants and therefore makes an order that none of the first respondent's costs may form part of the service charge for the Property.

**Name:** Ruth Wayte

**Date:** 27 January 2017

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).



## **MANAGEMENT ORDER**

### **Interpretation**

In this order

- (a) "Common Parts" means any garden area, postal boxes, refuse store, security gates, paths, halls, staircases and other access ways and areas (if any) within the Premises that are provided by the Respondent for common use by the Lessees or persons expressly or by implication authorised by them
- (b) "Freeholder" means the person or persons with the benefit of the freehold title registered at HM Land Registry under Title Number LN179684
- (c) "Functions" means any functions in connection with the management of the Premises including any obligations and powers of the Respondent under the Leases
- (d) "Leases" means the long leases vested in the Lessees
- (e) "Lessee" means a tenant of a dwelling holding under a long lease as defined by section 59(3) of the Landlord & Tenant Act 1987 ("the Act")
- (f) "the Manager" means Andrew McKeer, MRICS, FIRPM of Prior Estates Limited, 7 Newman Road, Bromley, Kent BR1 1RJ.
- (g) "the Premises" all that property known as 46 Auriol Road, London W14 0SR
- (h) "the Respondent" includes any successors in title of the freehold estate registered under title number LN179684 or any interest created out of the said freehold title

### **Preamble**

UPON the Applicants having applied for the appointment of a manager under Pt.II, Landlord and Tenant Act 1987

AND UPON the First-Tier Tribunal being satisfied that the Applicants are entitled to so apply and that the jurisdiction to appoint a manager is exercisable in the present case

AND UPON the First-Tier Tribunal being satisfied that the conditions specified in s.24, Landlord and Tenant Act 1987 are met, such that it is just and convenient to appoint a manager

IT IS ORDERED THAT

### **The Manager**

- 1 Andrew McKeer, MRICS, FIRPM is appointed Manager (including such functions of a Receiver as are necessary) for 5 years commencing on 27 January 2017 and is given for the duration of his appointment all such powers and rights as may be necessary and convenient and in accordance with the Leases to carry out the management functions of the Respondent and in particular:
- (a) To receive all service charges, interest and any other monies payable under the Leases and any arrears due thereunder, the recovery of which shall be at the discretion of the Manager.
  - (b) The right to treat the service charge financial year as commencing on the date of this Order and ending on 31 December 2017 and thereafter as running from 1 January to 31 December in each year this Order is in place.
  - (c) The right to give notice and raise an interim service charge in accordance with any Budget he issues once he has established the costs already incurred in the current financial year.
  - (d) The power and duty to carry out the obligations of the Respondent contained in the Leases and in particular and without prejudice to the foregoing.
    - (i) The Respondents' obligations to provide services;
    - (ii) The Respondents' repair and maintenance obligations; and
    - (iii) The Respondent's power to grant consent.
  - (e) The power to delegate to other employees of Prior Estates Limited, appoint solicitors, accountants, architects, surveyors and other professionally qualified persons as he may reasonably require to assist him in the performance of his functions.
  - (f) The power to appoint any agent or servant to carry out any such function or obligation which the Manager is unable to perform himself or which can more conveniently be done by an agent or servant and the power to dismiss such agent or servant.
  - (g) The power in his own name or on behalf of the Respondent to bring or defend any legal action or other legal proceedings in connection with the Leases or the Premises and to make any arrangement or compromise on behalf of the Respondent including but not limited to:
    - (i) proceedings against any Lessee in respect of arrears of service charges or other monies due under the Leases;
    - (ii) legal action to determine that a breach of covenant has accrued;

- (iii) legal action to prevent a further breach of covenant.
  - (h) The power to commence proceedings or such other enforcement action against the Respondent pursuant to paragraph 7 of this Order.
  - (i) The power to enter into or terminate any contract or arrangement and/or make any payment which is necessary, convenient or incidental to the performance of his functions.
  - (j) The power to open and operate client bank accounts in relation to the management of the Premises and to invest monies pursuant to his appointment in any manner specified in the Service Charge Contributions (Authorised Investments) Order 1998 and to hold those funds pursuant to s42 of the Landlord and Tenant Act 1987. The Manager shall deal separately with and shall distinguish between monies received pursuant to any reserve fund (whether under the provisions of the Leases (if any) or to powers given to him by this Order) and all other monies received pursuant to his appointment and shall keep in a separate bank account or accounts established for that purpose monies received on account of the reserve fund.
  - (k) The power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of the Respondent or any Lessee owing sums of money to the Manager.
  - (l) The power to borrow all sums reasonably required by the Manager for the performance of his functions and duties, and the exercise of his powers under this Order in the event of there being any arrears, or other shortfalls, of service charge contributions due from the Lessees or any sums due from the Respondent, such borrowing to be secured (if necessary) on the interests of the Respondent in the Premises or any part thereof against the registered estate of the Respondent registered under title number LN179684.
- 2 From the date of this Order, no other party shall be entitled to exercise a management function in respect of the Premises where the same is a responsibility of the Manager under this Order
  - 3 From the date of this Order, the Respondent shall not, whether by itself or any agent, servant or employee, demand any further payments of service charges, administration charges or any other monies from the Lessees. Such functions are transferred to the Manager forthwith.
  - 4 The Respondent, the Lessees and any agents or servants thereof shall give reasonable assistance and cooperation to the Manager in pursuance of his duties and powers under this Order and shall not interfere or attempt to interfere with the exercise of any of his said duties and powers.

- 5 From the date of this Order, the Respondent and the Lessees shall - on receipt of 24 hours written notice – give the Manager reasonable access to any part of the Premises which he might require in order to perform his functions under this Order.
- 6 The obligations contained in this Order shall bind any successor in title and the existence and terms of this Order must be disclosed to any person seeking to acquire either a leasehold interest (whether by assignment or fresh grant) or freehold.

### **DIRECTIONS**

1. From the date of the appointment and throughout the appointment the Manager shall ensure that he has appropriate professional indemnity cover in the sum of at least £1,000,000 and shall provide copies of the current cover note upon a request being made by any lessee of the Property, the Respondent or the Tribunal.
2. That no later than four weeks after the date of this order the parties to this application shall provide all necessary information to and arrange with the Manager an orderly transfer of responsibilities. No later than this date, the Applicants and the Second Respondent shall transfer to the Manager all the accounts, books, records and funds (including, without limitation, any service charge reserve fund).
3. The rights and liabilities of the Respondent arising under any contracts of insurance, and/or any contract for the provision of any services to the Property shall upon 27 January 2017 become rights and liabilities of the Manager.
4. The Manager shall account forthwith to the Respondent for the payment of ground rent received by him and shall apply the remaining amounts received by him (other than those representing his fees) in the performance of the Respondent's covenants contained in the said leases.
5. The Manager shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges of leases of the Property) in accordance with the Schedule of Functions and Services attached.
6. By no later than 31 January 2018, the Manager shall prepare and submit a brief written report for the Tribunal on the progress of the management of the property up to that date.
7. Within 28 days of the conclusion of the management order, the Manager shall prepare and submit a brief written report for the Tribunal, on the progress and outcome of the management of the property up to that date, to include final closing accounts. The Manager

shall also serve copies of the report and accounts on the lessor and lessees, who may raise queries on them within 14 days. The Manager shall answer such queries within a further 14 days. Thereafter, the Manager shall reimburse any unexpended monies to the paying parties or, if it be the case, to any new tribunal-appointed manager, or, in the case of dispute, as decided by the Tribunal upon application by any interested party.

8. The Manager shall be entitled to apply to the Tribunal for further directions.

## **SCHEDULE OF FUNCTIONS AND SERVICES**

### **Insurance**

- (i) Maintain appropriate building insurance for the Property.
- (ii) Ensure that the Manager's interest is noted on the insurance policy.
- (iii) Manage or provide for the management through a broker of any claims brought under the insurance policy taken out in respect of the Property with the insurer.

### **Service charge**

- (i) Prepare an annual service charge budget (consulting with the Lessees as appropriate), administer the service charge and prepare and distribute appropriate service charge accounts to the lessees.
- (ii) Set, demand and collect ground rents, service charges (including contributions to a sinking fund), insurance premiums and any other payment due from the lessees.
- (iii) Instruct solicitors to recover unpaid rents and service charges and any other monies due to the Respondent.
- (iv) Place, supervise and administer contracts and check demands for payment of goods, services and equipment supplied for the benefit of the Property with the service charge budget.

### **Accounts**

- (i) Prepare and submit to the Respondent and lessees an annual statement of account detailing all monies received and expended. The accounts to be certified by an external auditor, if required by the Manager.
- (ii) Maintain efficient records and books of account which are open for inspection by the lessor and lessees. Upon request, produce for inspection, receipts or other evidence of expenditure.

- (iii) Maintain on trust an interest bearing account/s at such bank or building society as the Manager shall from time to time decide, into which ground rent, service charge contributions and all other monies arising under the leases shall be paid.
- (iv) All monies collected will be accounted for in accordance with the accounts regulations as issued by the Royal Institution for Chartered Surveyors.

### **Maintenance**

- (i) Deal with routine repair and maintenance issues and instruct contractors to attend and rectify problems. Deal with all building maintenance relating to the services and structure of the Property.
- (ii) The consideration of works to be carried out to the Property in the interest of good estate management and making the appropriate recommendations to the Respondent and the lessees.
- (iii) The setting up of a planned maintenance programme to allow for the periodic re-decoration and repair of the exterior and interior common parts of the Property.

### **Fees**

- (i) Fees for the above mentioned management services will be a basic fee of £350 per annum per flat. Those services to include the services set out in the Service Charge Residential Management Code published by the RICS.
- (ii) Major works carried out to the Property (where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on lessees and supervising the works) will be subject to a charge of 10% of the cost.
- (iii) An additional charge for dealing with solicitors' enquiries on transfer will be made on a time related basis by the outgoing lessee.
- (iv) The Manager is entitled to be reimbursed in respect of reasonable costs, disbursements and expenses (including, for the avoidance of doubt, the fees of Counsel, solicitors and expert witnesses) of and incidental to any application or proceedings whether in the Court of First-tier tribunal, to enforce the terms of the Leases. For the avoidance of doubt, the Manager is directed to use reasonable efforts to recover any such costs etc directly from the party concerned in the first instance and will only be entitled to recover the same as part of the service charges in default of recovery thereof.
- (v) VAT to be payable on all the fees quoted above, where appropriate, at the rate prevailing on the date of invoicing.
- (vi) The preparation of insurance valuations and the undertaking of other tasks which fall outside those duties described above are to be charged for a time basis.

**Complaints procedure**

- (i) The Manager shall operate a complaints procedure in accordance with or substantially similar to the requirements of the Royal Institution of Chartered Surveyors.