

**Case No.**

**IN THE FIRST-TIER TRIBUNAL**

**B E T W E E N:**

**BARNET HOMES  
ON BEHALF OF THE LONDON BOROUGH OF BARNET**

**Applicant**

**and**

**VARIOUS LEASEHOLDERS  
OF THE LONDON BOROUGH OF BARNET**

**Respondent**

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**STATEMENT OF CASE**

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1. Barnet Homes is the arm's length management organisation (ALMO) for the London Borough of Barnet which is the freeholder to the Respondent lessees.
2. Barnet Homes make this application to seek a determination of the Tribunal regarding the methodology used to calculate the cost of its management charges pursuant to Section 27 Landlord and Tenant Act 1985 (as amended). This application is made because Barnet Homes will change the calculation of their management charge for routine day to day management and also their proposed administration charge for the cost of major works delivered to leasehold properties.
3. The Tribunal has pursuant to S27A(3) Landlord and tenant Act 1985, jurisdiction to make a determination whether if costs were incurred for services, a service charge would be payable and if so, as to the amount which would be payable.

4. Barnet Homes will be using the new methodology to calculate the management charge for the actual cost of management for the service charge year 23/24 although the actual cost figures will not be known until September 2024. The estimated cost of management for the service charge year 23/24 was based upon the old methodology. Therefore for the purpose of this application Barnet Homes seeks a determination from the Tribunal in respect of the intention to charge an estimated sum for management for the service charge year 24/25 with such estimate being based upon the new methodology.
  
5. Barnet Homes will also charge an administration fee for the delivery of major works at a proposed new rate of 13%, such cost being charged from the financial year 1 April 24-31 March 2025. Barnet Homes seek a determination that if costs for such service were incurred in relation to a proposed scheme of major works at Aeroville NW9 5JT, which is scheduled for service charge year 24/25, a service charge would be payable at 13% for the cost of administering that scheme.

### **Background**

6. This application in relation to the Management Fee relates solely to the various Respondents who are leaseholders pursuant to right to buy leases granted pursuant to the Housing Act 1985. A list of those leaseholders is set out at **Appendix 1**. There is at **Appendix 2** a list of lessees whose leases were granted prior to the Right to Buy as these lessees will be subject to the proposed new administration fee.

## **The Annual Management Fee**

7. Barnet Homes undertook a benchmarking exercise with other local authority landlords or their ALMO's in respect of management fees. The results are set out at **Appendix 3**. This benchmarking exercise identified that the methodology prior to 23/24 used by Barnet Homes to calculate its annual management fee was not used by the majority of the landlords in that survey. The former method charged a fixed fee of £119 and a variable fee of 24.5% of the annual service charge expenditure, excluding insurance.
  
8. The former methodology creates a large variance in the cost per leasehold property with the lowest management fee charged in 21/22 of £119 and a highest at £590.14. Barnet Homes believes this current methodology does not fairly reflect the cost per property of the annual management irrespective of the amount of service charge expenditure in any particular year.

## **The Lease**

9. A sample lease is attached at **Appendix 4** and the service charge clause for the various Respondents is in materially the same form. A lessee covenants to pay a service charge which are the sums set out in the Third Schedule which provides for the landlord's "expenses and outgoings of which the lessee is to pay a proportionate part by way of service charges". In relation to the block, such sums are:

*"All costs and charges and expenses incurred or expended or estimated to be incurred or expended by the Corporation whether*

*in respect of current or future years ... in carrying out or in pursuance or furtherance of or in intended pursuance or furtherance of the obligations or rights of the corporation under this lease or in relation to the block and in particular but without prejudice to the generality of the foregoing all such costs charges and expenses in respect of the following;*

...

8. *The costs incurred by the Corporation in the management of the block”.*

10. In relation to the Estate the same obligations as set out above but provided in Part 2 in relation to the Estate.

### **The Management Services and Charges**

11. The cost to Barnet Homes of leasehold management is calculated by reference to the cost of providing management services. Barnet Homes have identified the teams which provide services to leaseholders and have assessed the percentage of time spent by each team on leasehold management and have allocated that percentage of that team's cost in order to calculate the total cost of providing leasehold management per annum.

12. The relevant teams that provide leasehold services are as follows:

Income Collection Team (Percentage of Cost Allocated - 100%)

This team is responsible for annual service charge demands and collection of those charges along with the responsibility of the collection of major works invoices.

Head of Housing Management (Percentage of Cost Allocated – 5%)

This team is responsible for overseeing the Housing Management Team and the Income Collection Team. It deals with leasehold complaints and decision making regarding leasehold issues.

Customer Contact Centre (Percentage of Cost Allocated – 10%)

This team deals with general enquiries for estate services including neighbour issues, lease enquiries on leasehold issues and requests for information and receives notice of request, repairs and anti-social behaviour reports.

Leasehold Development Team (Percentage of Cost Allocated – 15%)

This team responds to queries on major works invoices after billing and completion of works. It coordinates and collates information in response. Where necessary it prepares and attends First-tier Tribunal cases in relation to major works and undertakes consultation in relation to insurance contracts.

Housing Management (Percentage of Cost Allocated – 23%)

This team provides services dealing with breach of lease, anti-social behaviour disputes, sub-tenancy notices and enquiries regarding lease

extension and enfranchisement and further deals with general housing management regarding requests for parking, satellite dishes and alterations.

Central Company (Percentage of Cost Allocated – 2%)

This team addresses central company matters, including insurance premiums and audit fees.

Finance and Procurement (Percentage of Cost Allocated – 2%)

This team manages the incoming and outgoing leasehold payments and internal allocations. They manage enquiries to lost or mis-directed payments by leaseholders and allocate relevant costs to leaseholder accounts and block for account preparation. They process invoices and make payment to suppliers and raise invoices for leaseholders to pay for services requested (for example, provision of copy documents). The team also procures services for leasehold management contractors.

Complaints Team (Percentage of Cost Allocated – 3%)

This team deals with all complaints, including complaints for and from leaseholders, councillors and Members of Parliament. They coordinate leasehold replies to ensure responses are delivered on time and to expectations directed by internal policy.

Community Engagement (Percentage of Cost Allocated – 2%)

This team carries out engagement with all residents, including leaseholders holding meetings and engaging regarding service improvements and holding housing surgeries where leaseholders can attend in person to discuss relevant issues.

#### System Application Support (Percentage of Cost Allocated – 2%)

This is the in-house IT team which assists with managing service charge accounts and the delivery and production of service charge demands and supporting the IT network and systems.

13. The cost of those teams noting the percentage of apportionment for the financial year 21/22 is set out at **Appendix 5**. This identified a total cost of managing leasehold of £711,000 which when allocated across 3,812 properties which under the proposed new methodology would set an annual management charge of £186.16 per leasehold property.

### **Comparison of Former and Present System for Financial Year 21/22**

#### The Former Charges

14. Barnet Homes up to and including financial year 22/23 calculated the management charge on the following basis:
  - Fixed fee £119, plus
  - Variable fee of 24.5% of costs incurred above £50 (excluding insurance).
15. Using the charging basis set out above, the following management charge was raised:

- 232 leasehold properties paid only the flat fee of £119.
- 1444 properties paid a management fee of between £119 - £200
- 1722 leaseholders paid a management fee over £200.

16. The charge for the 21/22 year based on the new methodology would be £186.16 per leaseholder.

### **Management Fee for 24/25**

17. Barnet Homes intend to demand an estimated management fee based upon the new methodology set out above for the financial year 24/25. This estimated management fee will be £186.12 being the sum calculated on the 21/22 actual cost figures as set out above. The actual cost of management will be calculated in accordance with that methodology once actual costs for the year 24/25 have been calculated and the adjustment for the actual cost will be sent to leaseholders in September 25.

### **The Major Works Administration Charge**

#### The Old Charge

18. Barnet Homes previously charged an administration fee on major works schemes of 16% on the first £1,000 of the leaseholder contribution plus 5.6% on charges above £1,000. On a leaseholder service charge contribution for major works of £7,790.58 the administration fee calculation is as follows:

- $£1,000 \times 16\% = £160$
- $£6,790.58 \times 5.6\% = £380.27$
- Admin fee total £160 plus £380.27 = £540.27



### The Cost of Administering Major Works

19. The amount recovered through the major works administration fee in the service charge year 2021/22 was £117,601. However the cost of administering the major works was £214,965. Therefore there was a shortfall of £97,364 between the costs charged to leaseholders for the administration of major works and the cost of administering the works. The calculation of the cost of £215,000 is set out at **Appendix 6**.

### Benchmarking

20. Barnet Homes carried out a benchmarking exercise as referred to above in paragraph 4. The results of that benchmarking exercise showed that the current rate for those organisations that replied showed an administration fee for major works of between 8%-13%.
21. At **Appendix 7** there is an analysis of a sample of major works projects delivered by Barnet Homes in 2021/22 where the average fee charged by Barnet Homes under the methodology set out at paragraph 13 above is 13.11%. The range of a percentage charges in that sample shows the lowest charge of 6.39% and a highest of 21.85%.

### The Proposed New Administration Fee

22. Barnet Homes will charge an administration fee for major works schemes delivered from 2024/25 onwards at a fixed percentage of 13%. If that percentage had been charged on major works schemes in 2021/22 the shortfall would have reduced from £97,364 to £19,210.

23. Barnet Homes intends to carry out Fire Safety Works to a block of 30 Flats known as Aeroville NW9 5JT of which 25 flats are let on long leasehold and the estimated management cost to be invoiced to lessees in respect of the scheme will be 13% of the cost of the works. Those flats with a lease contribution of 3.19% of the cost are estimated to pay £3950.14 and therefore the administration charge at 13% will be £464.94

**Summary**

20. Barnet Homes seeks the following determinations pursuant to S27A(3) Landlord and Tenant Act 1985:

- (i) That if an estimated management fee for management services is charged for the service charge year 2024/25 at £186.16 based on the methodology set out above that such charge is payable.
  
- (ii) That if an administration fee for the cost of delivering major works to Aeroville NW9 5JT at £464.94 being the rate of 13% of the estimated cost of works charged to a leaseholder, then that administration fee is payable.

Dated this 8 day of August 2023

*Judge & Priestley LLP*

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JUDGE & PRIESTLEY LLP  
Solicitors for the Applicant

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**STATEMENT OF CASE**

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