

**Residential Property Tribunal for Wales  
Y Tribiwnlys Eiddo Preswyl  
Leasehold Valuation Tribunal**

**Case Reference** : **LVT/0045/10/24**

**Property** : **7 Bishops Court, Hay Road, Brecon, LD3 9SW**

**Applicant** : **Bishops Court Brecon RTM Co Ltd**

**Represented by** : **Mr Heard (director), assisted by Mr Hill**

**Respondents** : **Mr John Derrick and Ms Annette Foster**

**Represented by** : **Mr Glenn Stevenson, Stevensons Solicitors**

**Type of Application** : **Section 94(3) of the Commonhold and Leasehold Reform Act 2002**

**Tribunal Members** : **Judge Caroline Hunter  
Tribunal Member Hefin Lewis  
Tribunal Member Dean Morris**

**Date of hearing:** : **22 October 2025**

**Date of Decision** : **11 November 2025**

**DECISION**

**Summary Decision**

1. The Ms Foster is required to pay 1/6<sup>th</sup> of the service charges.
2. The Tribunal requires the Respondents to provide for the extended 2023-24 period (January 31, 2023 – 1 March 2024) information as to how much the lessees of Flats 7 and 8 were invoiced and the service charges paid by them (if any).

## Background

3. On 22 October 2024 the Applicant, Bishops Court Brecon RTM Co Ltd, made an application under the Commonhold and Leasehold Reform Act 2002, s.94(3) for a determination of the amount of any payment of accrued uncommitted service charges. The Respondents, Ms Foster and Mr Derrick, were named as the freeholders of the building (7-12 Bishops Court, Hay Rd, Brecon, LD3 9SW) that the applicant RTM Company manage. The application also named Ms Foster as the leaseholder of Flat 7. The application indicated a number of other issues.
4. On 28 November 2024 the tribunal identified that issues to be determined were likely to include the services and administration charges payable for the service charges years in dispute. The Directions required the Respondents to file one electronic copy at the Tribunal and send to the Applicant copies of all relevant service charge accounts and estimates for the years in dispute, (audited and certified where so required by the lease), together with all demands for payment and details of any payments made. Further Directions were made requiring the Applicant to provide a Scott schedule of the amount claimed, any documents and a statement. The Respondents were then required to provide their case in response.
5. The Respondents did not respond to these Directions. However, in line with the Directions the Applicant on 8 January 2025 provided a Scott schedule for non-payment of the service charges from 2024-25 for Flats 7 and 10, a bundle of documents and a short statement. The statement set out six 'concerns regarding Bishops Court service charges.' These were:
  - a. Ms Foster's unpaid invoices for the year 2024-25
  - b. Failure by her to respond to the form sent under s.93, Commonhold and Leasehold Reform Act 2002 on 13 December 2023.
  - c. As evidenced by unaudited accounts, the failure by Ms Foster to pay service charges before 2024.
  - d. A query about whether there are 5 or 6 flats which have to pay service charges.
  - e. Some evidence from an email that Ms Foster does not intend to pay her service charges.
  - f. A supplementary service charge of £3000 each invoiced on 11 August 2023 by the Respondents to three of the leaseholders (who were the Directors of the RTM).
6. On 31 January 2025 new Directions with similar requirements to the 28 November 2024 Directions were sent to the parties. Again, the Respondents failed to respond. The current Tribunal decided that a Directions hearing to understand the issues in the Applicant's application would be beneficial. Unfortunately, the Tribunal were not made aware of the existence of the Applicant's bundle. Mr Heard for the Applicants did appear. The Respondents did not attend the hearing.
7. Having heard from Mr Heard and having sight of his bundle, the Tribunal took the view that there are two live issues that the Applicant could pursue in this application:

- a. The application under the Commonhold and Leasehold Reform Act 2002, s.107 (as amended by the Leasehold and Freehold Reform Act 2024) to make an order requiring compliance with the s.93 notice.
  - b. The payability of the service charges for flats 7 and 10 for the year 2024-25 (under the Landlord and Tenant 1985, s.27A).
8. The Directions states that in responding to two issues the parties should address the merger of flats 7 and 10 and the effect on this the payability of the service charges for flats 7 and 10. In addition the parties should address who is the freeholder of the building: the Respondents as individuals or as Directors of Bishops Court West (Brecon) Ltd.
9. The Tribunal could not to address the issue of Ms Foster's non-payment of services before 2024 nor the supplementary service charge of 11 August 2023. These are matters that individual leaseholders can pursue but not the applicant RMT company which has no status regarding them in this application.
10. In response to the Directions the parties provided:
  - a. The Applicant's original bundle.
  - b. The Respondents' First Statement with exhibits dated 6 August 2025.
  - c. The Respondents' Second Statement with exhibits dated 20 October 2025. Mr Stevenson apologised for the very late submission of this statement.
11. On 22 October 2025 an on-line hearing was held. Mr Heard, assisted by Mr Hill attended for the Applicant, Mr Stevenson attended for the Respondents.

### **The property and the lease**

12. Bishops Court consists of two purpose-built blocks, each block containing six flats. We have been provided with the lease for Flat 7 and Flat 10. The leases are in the same terms. For Flat 7 the lease is dated 17 October 2001, is for a term of 125 years from 1 December 1997 at a ground rent of £25.00 per annum. In the lease the service charge percentage was stated as 1/12<sup>th</sup>.
13. On 31 October 2014 the freehold of the west building, containing the relevant six flats, was transferred to Bishops Court West (Brecon). Both Respondents are directors in this company. At that time no application was made to change the percentage of the service charges to recognise the split of the freehold of the two buildings. We note that on 8 October 2025, a different Tribunal in a case on Flat 9 found 'the service charge is expressed to be a one-twelfth share but is now one-sixth.'<sup>1</sup> The parties to this application also agree that the correct percentage in the leases is 1/6<sup>th</sup> for the six flats.
14. That Tribunal also noted at para.7 that the:

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<sup>1</sup> LVT/0035/08/24

‘Historically, the Respondent [Bishops Court West (Brecon) Ltd] has proceeded on the basis that nothing further needs to be done in respect of the service charge other than fixing an advance service charge figure for the forthcoming year. No reconciliation accounts have ever been provided or statement served as to whether there has been a deficit or surplus. There are the annual accounts, but apart from 2018, these were not provided until the order for disclosure in these proceedings. No service charge demands have ever been served apart from those in respect of the advance service charge.’

15. On 1 March 2024, the Applicant RTM company acquired the right to manage the west building.

### **The issues**

16. Although the original application was made under the Commonhold and Leasehold Reform Act 2002, s.94(3) (see the Appendix to this decision for the text of s.94 and s.93) and the Respondents very late second statement provides information and made submissions on the effect of s.94. Given the directions which moved the focus to s.93 and Ms Foster’s service charges, the Tribunal has not considered an application under s.94(3).

#### *The service charges payable from Ms Foster*

17. Ms Foster accepted and agreed in the second Respondents’ statement that she is liable for interim service charges at the 1/6<sup>th</sup> percentage. We noted that, as at the date of the hearing, she has not paid them. The issue left is the percentage that Ms Foster has to pay.
18. The Respondent’s first statement includes a Deed of Surrender & Regrant of 14 October 2019. By this document, the parties are Bishops Court West (Brecon) Ltd (as landlord) and John Derrick & Annette Foster (as the Original Tenants). The documents states at para. 3:

#### **3.1 Vesting of the Premises and the reversion**

The First Premises [Flat 7] and the Second Premises [Flat 10] are now vested in the Original Tenants and the reversion immediately expectant on the expiry of the expiry of the term granted the Previous Leases are now vested in the Landlord.

#### **3.2 Agreement to Surrender and renewal**

The Original Tenants and the Landlord have agreed to the surrender of the Previous Leases by the Original Tenants in consideration of the Landlord granting and the Tenant [Ms Forster] accepting a grant of the Demised Premises [the combined flats 7 and 10, known as ‘Maisonette 7 Bishops Court’] under the same terms and conditions as the First Previous Lease on the terms appearing below.

19. In para. 5 it is stated the new lease is made ‘upon the same terms and subject to the same covenants, provisions and conditions as are contained in the First Previous

lease....'. The current Land Registry entry for the freehold reflects this, recording the lease of 7 Bishops Court '(Ground and First Floor Flat)' and with no Flat 10 on the list of leases.

20. It was Mr Stevenson's case that the effect of the surrender and regrant is that the lessee of the current Flat 7 (Ms Foster) is only required to pay 1/6<sup>th</sup>. Of course, the effect of this is that there is a shortfall of 1/6<sup>th</sup> on service charges. Mr Stevenson's response to this is that this can be dealt by negotiation or, in the absence of agreement, by an application under the Landlord and Tenant 1987, s.37. Indeed, in an email from their solicitor (Mr Stevenson) dated 7 July 2025 to Mr Heard, the Respondents make an offer to change the percentage to 1/5<sup>th</sup> for each flat (AF9).
21. For the Applicant, Mr Hill rejected this argument. He suggested that the Respondents could not limit the liability for Flat 10 by merging it in Flat 7. Furthermore, he did not accept the offer that the percentages should be changed to 1/5<sup>th</sup>.
22. In the view of the Tribunal, Mr Stevenson's analysis of the legal position is correct. The current lease of Flat 7 only requires the payment of 1/6<sup>th</sup> of the service charges. This is for the current position. Clearly given the shortfall, the Applicant and the lessees will be keen to rectify the position. The Respondents are also keen to reach agreement. The Tribunal does not have s.37 application before it. However, we encourage the parties to reach agreement on the implications of the merger rather than seeking redress via this Tribunal in the form of a s.37 application. Such an application might be made in the interest of fairness and practical application given the disparity which now exists between the size of flat 7 (maisonette) by comparison to the remaining flats in the building.

*Has the s.93 notice been complied with?*

23. The other issue for the Tribunal to decide is whether the s.93 notice has been complied with. The notice was served on 13 December 2023. The notice specified the six following items:
- 1(a) A copy of the buildings insurance policy or a summary of cover, a copy of the current schedule and evidence of payment of the premium for the current year
  - (b) Brief details of the claims history for the last 3 years
  - 2 A copy of the Financial Statements for the year to 31 January 2023
  - 3 Interim Accounts for the period from 1 February 2023 to 1 March 2024
  - 4 A list of service charges due from or held on account in respect of each flat
  - 5 Details of any surplus monies held on account of service charges
  - 6 The percentages of service charges payable in respect of all the flats contained at the premises and to:
- (i) supply the Company to the address stated above with a copy of any document containing the said information in a readily intelligible form, and
  - (ii) permit any person authorised to act on behalf of the Company at any reasonable time to inspect any document in your possession.

24. The Respondents' response is in their Statement of Case, dated 6 August 2025 and in their Second Statement of Case dated 22 October 2025. We take each issue in the s.93 notice in turn.
25. *Building insurance.* The first Statement of Case of the Respondents includes the Insurance Policy (AF5) and a claim history (AF6). The requirement in the s.93 notice is met.
26. *Financial Statements and interim accounts.* The Respondents' first Statement of Case includes the Financial Statement and Accounts for the period 31 January 2023 – 31 January 2024 (AF7) and the accounts for the period to 1 March 2024 (AF8). Essentially the accounts to 1 March 2024 are simply an extension of the 31 January 2023 – 31 January 2024 account for 14 months.
27. Mr Hill argued that the accounts provided do not comply with the lease that requires in Clause 8.5.2 'As soon as reasonably practicable after the end of each accounting year the said accounts shall be audited by the Lessor's Accountants and a copy of the audited accounts shall be supplied to the Lessee by the Lessor forthwith upon completion of such audit.' He argued that the accounts were not properly *audited* accounts.
28. In the Applicant's bundle (Item No. 3) are included the accounts for the year ending 2021. The Respondent's Second Statement of Case includes amended accounts for the year ended January 2021 (AF11). This indicated that the original accounts included for that year an amount for the original purchase for the freehold for the third director of Bishops Court West (Brecon) Ltd. The Statement of Case states that this is not correct. This statement, in conjunction with the failure to provide accounts and annual reconciliation accounts (see para. 14 above), would suggest that the Respondents, as directors of Bishops Court West (Brecon) Ltd, have not taken sufficient care in providing information to the accountants and have not managed the property with the lease in their minds.
29. However, the question for the Tribunal is what information is in the hands of the Respondents, not have they complied with the lease. The Respondents have provided the 'accounts' in their possession. In that sense they have met the requirement of the s.93 notice.
30. *A list of service charges due from or held on account in respect of each flat.* In the original application the Applicants states that from the 'scant information the unaudited accounts provided, it appears that Ms Foster who is both leaseholder and freeholder has never paid services as all...'. We assume that s.93 request for information on each flat was partly to understand this. The request did not specify a period for this information.
31. The extended accounts for 2023 – 2024 do provide information that service charges are owing for flats 9, 11 and 12. There is no information on whether Ms Foster has paid in 2023-24. In our view this request has not been met. The Respondents should

provide the information in terms of the extended 2023-24 period, how much the lessees of Flats 7 and 8 were invoiced and the actual service charges paid (if any).

32. *Details of any surplus monies held on account of service charges.* Again, this information is provided, in particular, in the Respondent's Second Statement of Case. It is open to the Applicant to make a new application under s.94 in the light of the information they have received in that Statement if they are of the view there are accrued uncommitted service charges.

33. *The percentages of service charges payable.* We have dealt with this matter above.

### **Decision**

34. As indicated above (para. 22) our decision is that Ms Foster is currently required to pay 1/6<sup>th</sup> of the service charges. She has accepted this, although at time of the hearing she had not made any payment.

35. Although the Respondents did provide some explanation of the delay in providing the accounts, this does not explain why they did not provide all the other information for more than 18 months. However, all bar one element have now been provided. On that one element (para.31) the Tribunal requires the Respondents to provide for the extended 2023-24 period (January 31, 2023 – 1 March 2024) information as to how much the lessees of Flats 7 and 8 were invoiced and the service charges paid by them (if any).

Signed:

A handwritten signature in dark ink, appearing to read 'Caroline Hunter', with a stylized flourish at the end.

Tribunal Judge Caroline Hunter (**Chair**)

Dated this                      day of November 2025

## Appendix

### **Commonhold and Leasehold Act 2002**

#### **93 Duty to provide information**

(1) Where the right to manage premises is to be acquired by a RTM company, the company may give notice to a person who is—

- (a) landlord under a lease of the whole or any part of the premises,
- (b) party to such a lease otherwise than as landlord or tenant, or
- (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

requiring him to provide the company with any information which is in his possession or control and which the company reasonably requires in connection with the exercise of the right to manage.

(2) Where the information is recorded in a document in his possession or control the notice may require him—

- (a) to permit any person authorised to act on behalf of the company at any reasonable time to inspect the document (or, if the information is recorded in the document in a form in which it is not readily intelligible, to give any such person access to it in a readily intelligible form), and
- (b) to supply the company with a copy of the document containing the information in a readily intelligible form.

(3) A notice may not require a person to do anything under this section before the acquisition date.

(4) But, subject to that, a person who is required by a notice to do anything under this section must do it within the period of 28 days beginning with the day on which the notice is given.

#### **Section 94 Duty to pay accrued uncommitted service charges**

(1) Where the right to manage premises is to be acquired by a RTM company, a person who is—

- (a) landlord under a lease of the whole or any part of the premises,
- (b) party to such a lease otherwise than as landlord or tenant, or
- (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

must make to the company a payment equal to the amount of any accrued uncommitted service charges held by him on the acquisition date.

(2) The amount of any accrued uncommitted service charges is the aggregate of—

- (a) any sums which have been paid to the person by way of service charges in respect of the premises, and
- (b) any investments which represent such sums (and any income which has accrued on them),

less so much (if any) of that amount as is required to meet the costs incurred before the acquisition date in connection with the matters for which the service charges were payable.

(3) He or the RTM company may make an application to the appropriate tribunal to determine the amount of any payment which falls to be made under this section.



(4) The duty imposed by this section must be complied with on the acquisition date or as soon after that date as is reasonably practicable.