



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

Case Reference : **CHI/00HN/LIS/2018/0051**

Property : **Flats 17a and 17c, 17 St Catherine's
Road, Southbourne, Bournemouth
BH6 4AE**

Applicant : **Mr Aviran Reuven**

Representative : **Mr Christopher Ellison**

Respondent : **Mr Hertz El Hagai**

Representative :

Type of Application : **For the determination of the
reasonableness of and the liability
to pay a service charge**

Tribunal Members : **Judge Tildesley OBE
Mr M J F Donaldson FRICS**

**Date and venue of
Hearing** : **8 March 2019
Best Western Royale, 16 Gervis
Road, Bournemouth BH1 3EQ**

Date of Decision : **15 April 2019**

DECISION

Decisions of the tribunal

- (1) The Tribunal finds that the Applicant is the freeholder and the person entitled to receive the charges which the Respondent is obliged to meet under the leases for Flats 17A and 17C.
- (2) The Tribunal determines that the amounts payable by the Respondent in respect of the service charges for 2017 are £362.26 (£112.26 Insurance and £250 Costs of Courtyard decoration) for Flat 17A and £293.26 (£56.26 Insurance and £237 Costs of Courtyard decoration) for Flat 17C.
- (3) The Tribunal determines that the amounts payable by the Respondent in respect of the service charges for 2018 are £362.26 (£112.26 Insurance and £250 Costs of roof repairs) for Flat 17A and £306.26 (£56.26 Insurance and £250 Costs of Courtyard decoration) for Flat 17C.

The Application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 as to the amount of service charges payable by the Respondent in respect of the service charge years 2017 and 2018.
2. The Applicant holds the freehold title to the property under Title Number DT75595. The Respondent is the leaseholder of the rear ground floor Flat (17c St Catherines Road: title number DT138081) and of the first floor Flat (17a St Catherines Road DT134273). There are two other Flats in the property, Flat 17B (second floor) and a converted shop on the ground floor of which the freeholder is the leaseholder.
3. Under the terms of the respective leases the Respondent is liable to contribute one sixth of the service charge for Flat 17c and one third of the service charge for Flat 17a.
4. The Applicant did not provide details of the service charge accounts for the whole property. The Applicant instead supplied the figures in dispute for the individual Flats. The Tribunal proceeded on the basis of the individual figures given in the Applicant's statement of case.
5. The amount of service charges in dispute for each Flat were:
 - a) Flat 17 A: 2017: £6,493 (roofing repair and maintenance) [60 + 62] ; £2,910.93 (Service Charge, Insurance and Inspection) [68]; 2018: £780 (building maintenance) and £1,306.70 (Service Charge, Insurance and Inspection) [76].

b) Flat 17C: 2017: £3,246 (roofing repair and maintenance) [60 + 62] ; £1,698.38 (Service Charge, Insurance and Inspection) [78]; 2018: £390 (building maintenance) and £803.33 (Service Charge, Insurance and Inspection) [86].

6. Counsel for the Applicant regarded the Application as a straightforward matter for the Tribunal. According to Counsel the decision for the Tribunal was whether the service charges for 2017 and 2018 were reasonable and valid. Counsel stated that the managing agent, Ellis & Partners, had prepared the invoices and accounts according to the contractual terms and the amounts in dispute were based on those accounts. Counsel asserted that the principal dispute was whether the Applicant was a Charlatan pretending to be the freeholder or was the individual on the Land Registry documents. Counsel believed that once this issue was determined the majority of the documents served little relevance beyond the financial amounts due.
7. The Respondent contended that the Applicant was not the person who owned the freehold but an older man of 60 years of age who had the same name as the Applicant. The Respondent stated that the signatures of the freeholder on the deeds of variation for the leases of the properties in question did not match with the Applicant's signatures on various letters. The Respondent considered the costs for the roofing works excessive, not supported by invoices and the work was undertaken without following through the correct consultation procedures. The Respondent argued that the invoices have not been sent in accordance with the law. Finally the Respondent stated that he was the managing agent for the property and Ellis & Partners had no legal standing to instruct contractors and to issue service charge invoices.
8. The relevant legal provisions are set out in the Appendix to this decision.

The Hearing

9. The Tribunal inspected the property prior to the hearing, only the Respondent attended despite notification being given to the Applicant's representative. At the end of the hearing the Tribunal carried out a further inspection of the property in the presence of the parties to view the inner lightwell.
10. The Applicant appeared and was represented by Christopher Ellison of Counsel at the hearing. Mrs Michelle Boyle was also in attendance as an observer. Her husband, Mr Alfie Boyle (the Applicant's Uncle), was previously responsible for the property.

11. The Respondent appeared in person, and was accompanied by Mr Rajko Kubat who was a building contractor.
12. The Applicant supplied the bundle of documents, which was admitted in evidence. The page numbers of the documents referred to in this decision are in [].
13. The bundle contained the following witness statements for the Applicant:
 - Ms Helen Fage who has Power of Attorney in respect of Flat 17B [25-27].
 - Mr Jody Crichton of Beechwood Carpentry Services Limited who was instructed by the Applicant to carry out the conversion works to the shop [88-91].
 - Mr Kevin Bircumshaw of Aviron Exhibitions and Builders Limited who carried out maintenance, painting and decorating works on the courtyard and the front elevation [92].
 - Mr Nelson Lamb of V Build Construction who carried out the roof repairs to the property [99].
14. The Respondent included a witness statement from Professor Max Kingsley who was a friend and gave evidence in support of the Respondent's assertion that the Applicant was not the freeholder of the property.
15. The Applicant did not call his witnesses to give evidence. The Respondent had requested Ms Fage to attend. His request was forwarded to the Applicant's representative, who appeared not to act on it. The Tribunal considered the statements of the three contractors focussed on the disruptive behaviour of the Respondent which was tangential to the issues at stake.
16. The Applicant gave evidence in person and was cross examined by the Respondent.
17. The Respondent had applied for an adjournment of the hearing on 5 March 2019 because the barrister he instructed, Andrew Otchie was representing his witness, Professor Max Kingsley, in County Court proceedings on the same day as the hearing of this case. The Respondent produced a hearing notice for Canterbury County Court in support. The grounds of the Respondent's application was that he would be without legal representation and that he had difficulty speaking because of a recent stroke. The Tribunal refused his

application for adjournment but gave him permission to renew his application at the hearing, which he duly did.

18. The Tribunal acknowledged that the Respondent had difficulties with his speech but the Tribunal formed the view that this could be managed without prejudicing his case. The Tribunal met the Respondent prior to the hearing at the inspection of the property. The Tribunal was able to understand what the Respondent was saying and his case was supported by written submissions. The Respondent did not appear to be troubled at the hearing when presenting his case or asking questions. The Tribunal noted that the Respondent had participated in an earlier case management hearing by telephone, and according to the directions raised no issues about his speaking difficulties.
19. The Respondent also applied for an adjournment because his witness, Professor Max Kingsley, could not attend. There was some confusion about the status of Professor Max Kingsley. Apparently the Respondent originally instructed Professor Max Kingsley as his legal representative. Mr Ellison, however, was not prepared to release client information to him until he received certain assurances about Professor Kingsley's status, of which none was forthcoming. Judge Tildesley advised that he had dealt with a case involving Professor Kingsley which appeared to be that same one listed before Canterbury County Court on 8 March 2019. The Tribunal examined Professor Kingsley's witness statement and concluded that his absence would not have a material impact on the outcome of the case.
20. The Tribunal decided to proceed with the hearing.

The Property

21. The property which is the subject of this application is a Mid terrace back to back property constructed in the early part of the 20th century on ground, first and second floors, now converted into four flats. The property is of conventional brick construction under a pitch timber roof clad in slate. The former ground floor shop has been converted into a flat and is accessed off St Catherine's Street. The remaining three flats 17A, B and C are accessed from the rear.
22. The elevations are rendered. UPVc windows have been installed. The rear roof slope has been reclad in artificial slate as observed by the Tribunal. The rainwater goods to the front are choked with vegetation. Those to the rear are plastic and poorly arranged with the downpipe extending down the side of the outside steps leading to the upper flats.

23. There is a lightwell between the front and rear sections. The Tribunal inspected the interior of the rear ground floor for the purposes of seeing the lightwell. The Tribunal saw that it had been newly decorated. There is no pedestrian access to the lightwell as it is totally enclosed.

The Leases

24. The lease for Flat 17C was made between Holders Holdings (Bexhill) Ltd and Miss S Wilson and dated 24 July 1986 for a term of 99 years from 13 June 1986 on payment of a ground rent of £25 per annum for the first 33 years, £50 per annum for the next 33 years and £100 per annum thereafter [43-52].
25. Under clause 2(9)(i) the Tenant covenants to pay to the Landlord one sixth of the cost of:
- a) maintaining and repairing the roof main walls and foundations of the property and all pipes wires and cables used in common by the first and second floor flats and shop.
 - b) Insuring the said building in accordance with the Landlord's covenant hereafter contained.
 - c) To pay to the landlord one third of the cost of maintaining the pathway coloured brown on the said plan.
26. On 10 April 2000 a deed of variation between Aviran Reuvan and Richard Charles Thompson was executed. The deed was supplemental to the lease and added new clauses [53-55]. The ones relevant to this application were:
27. There shall be added to Clause 2(9)(i) a new sub-clause (d) as follows:
- “2(9)(i)(d) Painting with two coats of paint of suitable quality in a workmanlike manner all the wood iron and other parts of the exterior of the property heretofore or usually painted in every third year the time in each case being computed from the date hereof”.
28. There shall be added to Clause 2(9) a new sub-clause (iii) as follows:
- 2(9)(iii) To pay to the Landlord at the Landlord's option on account of the liability hereinbefore by this Clause 2(9) a sum as shall be estimated by the Landlord or his Managing Agents (if any) to be reasonably required on account of the items of expenditure in connection with the provision of the Works and Services hereinbefore specified in this Clause 2(9).

29. The lease for Flat 17A was made between Holders Holdings (Bexhill Ltd) and R C Thompson dated 31 January 1986 and for a term of 99 years from 3 December 1985. The lease replicated clause 2(9)(i) as in the lease of Flat 17C except that the contribution to the service charge was one third not one sixth. The lease was also subject to a Deed of Variation executed on 10 April 2000 which introduced the new sub-clauses of 2(9)(i)(d) and 2(9)(iii).

Issues

30. The Tribunal has identified the following issues:
- a) Whether the Applicant is the freeholder/landlord of the Property and entitled to recover the costs of the services provided under the leases for Flats 17A and 17C?
 - b) Whether the Respondent is liable to pay the service charges, and if so what amount?

Reasons

Whether the Applicant is the Freeholder and entitled to recover the costs of the services?

31. The Tribunal finds the following facts:
- a) The Applicant confirmed his identity by production of his passport during examination in chief.
 - b) The Applicant has the same name and address as which appears on the Proprietorship Register for the freehold property under Title number DT75595.
 - c) His name and address appears as the landlord on the invoices issued by Ellis and Partners, the managing agent for the property.
 - d) The Applicant instructed the various contractors to carry out building works on the property and is liable to pay their invoices for the works.
 - e) The Applicant was responsible for the conversion of the shop into residential premises.
 - f) The Applicant instructed the Respondent's company in 2005 Hometel Limited to act as the managing agent of the property [113].

- g) The Respondent tendered payment of the insurance and ground rent to the Applicant.
 - h) The Applicant supplied a TR1 in respect of the property which was a draft and did not advance his case.
 - i) The signatures on the Deeds of Variation did not correspond with the Applicant's signature on other documents included in the bundle. The Applicant said that his Uncle Alfie Boyle signed the Deeds on his behalf.
 - j) The Respondent's assertion that the owner of the property was a 60 year old man living overseas was based on hearsay. Although the Tribunal is not bound by strict rules of evidence, failure to meet those rules goes to weight.
32. The Tribunal is satisfied from the above findings that the Applicant's case for being the freeholder is based on solid foundations. His name and address appears on the Registered Title for the property. The Applicant has been held out as the landlord for the property. The Applicant has treated the property as his own by authorising various works to be carried out at his cost in first instance. Moreover the Respondent has regarded him as the owner by tendering payment of various charges which the Respondent is contractually obliged to meet under the terms of his leases with the freeholder. The Respondent's case, on the other hand, is largely based on innuendo and hearsay.
33. The Tribunal finds that the Applicant is the freeholder and the person entitled to receive the charges which the Respondent is obliged to meet under the leases for Flats 17A and 17C.
34. The Tribunal finds that Applicant was entitled to instruct Ellis and Partners as managing agent

Whether the Respondent is liable to pay the service charges, and if so what amount?

35. Under clause 2(9)(i) of the leases for Flats 17A and 17C the Respondent is liable to pay a service charge to the Applicant. The extent of the Respondent's liability is not wide and confined to the costs of repair maintenance and decoration of the external structure and pathway and the costs of insuring the building. The leases are typical repair and insurance ones which bear no resemblance to modern residential leases.
36. The Tribunal was not impressed with the quality of the Applicant's evidence to substantiate the sums claimed as service charges.

37. The 2017 figure of £2,910.93 for service charge, insurance and inspection in respect of Flat 17A was derived from a balance figure recorded in the statement of account at [68]. The figure comprised £200 for yearly inspection charge, £1,065 quarterly service charge in advance (3 entries), £112.26 insurance, £474 External Maintenance Phase 1, £560.67 External Maintenance Phase 2, £474.00 Courtyard Decoration works recharge and £25 yearly ground rent. The 2017 figure of £1,698.38 for service charge, insurance and inspection in respect of flat 17C was based on a balance brought forward recorded on the demand dated 21 December 2017 [78] and broken down into its constituent parts as set out in the statement of account recorded at [79] plus an additional quarterly service charge of £117.50. The constituent parts replicated the breakdown for Flat 17A except that the quarterly service charges were half that for Flat 17A (£177.50). As were the charges for external maintenance Phase 1 and 2 (£237 and £280.33), and Courtyard Decoration works (£237). Interestingly the charges for the inspection fee of £200 and insurance of £112.26 for Flat 17C were the same as those for Flat 17A.
38. Turning now to the 2017 claims of £6,493 and £3,246 for “roofing repair and maintenance” for Flats 17A and 17C they were derived from sums quoted in letters sent by Mr Simpkin, Director of Ellis and Partners, dated 13 March 2017 and 8 June 2017 stating that the roof works had been completed and payment was now required. The letters did not contain the necessary information to constitute a demand. The name and address of the landlord were not identified in the letters, and the costs of these works did not appear in the statement of the service charge statements for Flats 17A and 17C.
39. The 2018 figures for Flats 17A and 17C of £780 (building maintenance) and £1,306.70 (service charge, insurance and inspection); and £390 (building maintenance) and £803.33 (service charge, insurance and inspection) respectively comprised of the roof works recharge (corresponding to the figures identified as building maintenance) recorded in the 6 September 2018 demands [76] [86] plus an arithmetical calculation in pencil for the outstanding amounts. It appeared to the Tribunal the calculation was arrived at by deducting the 2017 service charge from the brought forward balance recorded on the demands. The resulting calculation appeared to include costs for the inspection charge, roof inspection and the quarterly service charge. The service charge account on the reverse of the demand did not contain details of all the charges making up the arithmetical calculation.
40. The Tribunal finds the following:
- a) Although the deed of variation enabled the Applicant to collect service charges in advance, the Applicant gave no explanation for how he arrived at the sums in question for the payments on

account. Normally the reason for payments on account is to pay for impending works. The Applicant, however, was making separate demands for those costs.

- b) The Applicant supplied no invoices to substantiate the costs claimed.
- c) The Applicant provided two quotations for the roof work and the lead gully from D J Roofing Limited dated 13 January 2017 in the sum of £7,320 and £3,000.24 which were addressed to a Mr Nelson Lamb, and a quotation of £3,900 for scaffolding from Acorn Home Improvements dated 29 September 2016 which expired in December 2016. The customer in this quotation was named as “Avi” but it related to the “Shop Front”. The quotations did not constitute evidence that the Applicant had incurred these costs. They were not invoices. The quotations from D J Roofing were addressed to Mr Lamb. The quotation on scaffolding was addressed to the shop front and may have been the costs associated with the shop conversion which may not be a cost recoverable under the service charge.
- d) The Applicant provided no explanation regarding the entries for external maintenance phase 1 and 2. The Tribunal was not made aware by the Applicant of external works to the property except the works to the roof and the decoration of the lightwell, which raised the possibility of whether the Applicant had double counted the costs of the roof works.
- e) Similarly the Applicant claimed an amount described as “roof works recharge” in 2018. The Tribunal does not know whether the costs are additional to or part of the 2017 claim for roof costs of £6,493 and £3,246 set out in letters sent by Mr Simpkin (see paragraph 38 above).
- f) The works of “external maintenance phase 1 and 2, “the roof repairs and maintenance”, and “courtyard decoration” meet the definition of qualifying works which attracts the consultation requirements under section 20 of the 1985 Act, and found in Service Charge (Consultation Requirements) (England) Regulations 2003 Schedule 4 Part 2 (Qualifying Works for which public notice is not required).
- g) Essentially the requirements are that the landlord must give notice in writing of his intention to carry out qualifying works to each tenant. The notice must, amongst other things, describe the proposed works or specify when and where a description of them may be inspected, state the landlord's reasons for considering it necessary to carry out the proposed works, invite observations and specify the time within which and address at which such

observations should be made. If observations in relation to the proposed works are made within the relevant period the landlord must have regard to those observations. If any nominations are made the landlord must try to obtain an estimate from the nominated person.

- h) The landlord, following this initial consultation process, must obtain estimates for the carrying out of the proposed works and supply, free of charge, a statement of estimates and invite observations from the tenants on the statement of estimates.
- i) Finally where the landlord enters into a contract with a person for the qualifying works (other than a nominated person or the person who submitted the lowest estimate) he must, within 21 days of entering into the contract, give notice in writing of entering into the contract to each tenant and any recognised tenants' association.
- j) The Applicant adduced no evidence that he had complied with the consultation requirements in respect of the three sets of qualifying works. When Counsel was pressed on this point, he referred to the letters of Mr Simpkin at [60 & 62] demanding payment for the roof works and asserted that Ellis and Partners were a reputable firm of managing agent which must have followed the correct procedures.
- k) The Applicant supplied no evidence to substantiate the cost for insuring the property. The 2017 statements of account for the two flats included an amount of £112.26 for insurance. The Applicant provided no figure for insurance in respect of the 2018 claim. Also the 2017 claim specified the same contribution of £112.26 for each of the two Flats. This ran contrary to the proportion that the leaseholder of each Flat was required to contribute to the service charge including insurance. Thus the Respondent was required to contribute one third of the costs for Flat 17A and one sixth of the costs for Flat 17C. It, therefore, follows that the amount claimed for Flat 17C should be half that for Flat 17A. The Tribunal notes that the Respondent accepted his liability to contribute to the insurance costs.
- l) The Applicant included an amount of £200 described as the “yearly inspection charge” for each Flat in each year. The Applicant informed the Tribunal that this was the fee charged by the managing agent. The Tribunal pointed out to Counsel that there appeared to be no provision in the lease for the Applicant to recover the costs of management through the service charge, and no specific authority to engage agents and recover their fees. Counsel relied on the new Clause 2(9)(iii) introduced by the Deed of Variation which mentioned “Managing Agents”, and this constituted the sole reference in the lease to that position. The Tribunal was not persuaded by Counsel’s argument. Clause

2(9)(iii) makes no reference to the fees of managing agent and their recovery through the service charge. Finally the Tribunal observes that the inspection charge of £200 was the same for both Flats which again ran contrary to the one third and one sixth proportions.

m) The 2018 charge included an amount of £41.67 and £20.83 respectively for Flats 17A and Flat 17 C for roof inspection. The Applicant did not provide any details of this charge. The Tribunal considers that it may be part of the costs for the roof works.

n) Finally the sums claimed included an amount for ground rent which is not within the Tribunal's jurisdiction.

41. When challenged about the inadequacies in the Applicant's evidence Counsel's response was that the Tribunal should trust the figures supplied by the managing agent and that he was confident that the agent would have adhered to the correct procedure. The Tribunal considers the response not good enough and displays a misunderstanding of the Tribunal's jurisdiction under section 27A of the 1985.
42. Essentially the Tribunal is required to consider three questions under section 27A : Are the service charges recoverable as a matter of contract under the lease?; Are the service charges reasonably incurred and or services are of a reasonable standard?; and Are there any other statutory limitations on recoverability (for example consultation requirements)?
43. The Tribunal formed the view that the Applicant treated the section 27A application as a money payment claim which it is not. The consequence is that the Applicant failed to address the three questions and disregarded the Respondent's challenges on reasonableness and compliance with the statutory limitations.
44. The Tribunal is left with doing the best it can on a poorly presented case.
45. The Tribunal disallows the following charges:
 - a) The amounts allocated for quarterly service charge in advance, external maintenance phase 1 and phase 2 and roof inspection because the Applicant has supplied no explanation for these charges.
 - b) The inspection fee of £200 because it is not authorised by the lease.
 - c) The ground rent because it is outside the Tribunal's jurisdiction.
46. The Tribunal allows the amount of £112.26 and £56.26 in 2017 and 2018 for the respective contributions to insurance from Flats 17A and

17C. Although the Applicant has supplied no information for the 2018 charge, the Tribunal makes the reasonable assumption that it would not be less than the charge for 2017. The Tribunal has halved the sum for Flat 17C to reflect the contractual obligation to pay one sixth of the charges. The Tribunal notes that the Respondent has accepted liability to pay a contribution to the insurance costs.

47. The Tribunal is satisfied from its inspection that the Applicant has incurred costs on courtyard decoration. The amounts claimed are £474 for Flat 17A and £237 for Flat 17C. The Tribunal finds that the courtyard decoration constitutes qualifying works, and is subject to the £250 limit where there has been no compliance with the consultation procedures. The Tribunal decides not to give the Applicant the opportunity to make an application for dispensation from consultation in respect of these works. The Applicant was represented by professional agents and Counsel and should have been aware of the need to make a dispensation application if the consultation procedures had not been complied with. The Tribunal, therefore, limits the contribution of Flat 17A for these works to £250. The contribution of Flat 17C is £237 which is below the £250 limit. The Tribunal having regards to its knowledge and expertise determines that the amounts of £250 and £237 are reasonable in respect of the costs for courtyard decoration.
48. The Tribunal is satisfied from its inspection that the Applicant has incurred costs on roof repairs. The Tribunal decides that the roof repairs constitute a single programme of works. The Tribunal has found that the Applicant has failed to comply with the consultation requirements in connection with these works with the result that the Tribunal limits the Respondent's contribution to these works for each Flat to £250. The Tribunal allocates this amount to the 2018 charge where an amount has been properly demanded for roof works under general maintenance. As found by the Tribunal, the letters of Mr Simpkin did not constitute a valid demand. The Tribunal leaves open the question whether the Applicant wishes to submit an application for dispensation and a new section 27A application to determine the reasonableness of the costs of the roof works.

The Tribunal's Decision

49. The Tribunal determines that the amounts payable by the Respondent in respect of the service charges for 2017 are £362.26 (£112.26 Insurance and £250 Costs of Courtyard decoration) for Flat 17A and £293.26 (£56.26 Insurance and £237 Costs of Courtyard decoration) for Flat 17C.
50. The Tribunal determines that the amounts payable by the Respondent in respect of the service charges for 2018 are £362.26 (£112.26 Insurance and £250 Costs of roof repairs) for Flat 17A and £306.26

(£56.26 Insurance and £250 Costs of Courtyard decoration) for Flat 17C.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
 - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
 - (a) "costs" includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
 - (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,

- (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
- (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
- (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

- (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]