



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

Case Reference	:	CHI/21UD/LSC/2022/0106
Property	:	18 Bohemia Road (basement, middle ground floor and top floor maisonette) St Leonard's-on-Sea TN37 6RB
Applicant	:	Susan Wilson 18A basement flat Maria Zajackowska 18 ground floor flat Danielle Mitten 18 top floor flat
Representative	:	Susan Wilson
Respondent	:	RMB 102 Limited
Representative	:	Daniel Paige of Austin Rees Management Company
Type of Application	:	Determination of Service charges. Section 27A of the Landlord and Tenant Act 1985
Tribunal Members	:	Judge Cohen Judge Tildesley OBE Mrs A Clist MRICS
Date and venue of Hearing	:	14 February 2023 at Havant Justice Centre
Date of Decision	:	19 April 2023

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the estimated on account service charges in the sums of £4,903, and £5,071 respectively for the years ending 24 March 2022 and 24 March 2023 are no greater amounts than are reasonable and are, therefore, payable by the leaseholders in the contributions set out in the decision below.
- (2) The Tribunal decides that the total amount demanded of £12,480.96 on account for the major works to the property is no greater amount than is reasonable and is payable by the leaseholders in the contributions set out in the decision below.
- (3) The Tribunal does not make orders either under section 20C of the Landlord and Tenant Act 1985 or under Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

The Application

1. On 15 September 2022 the Applicants sought determinations pursuant to section 27A of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) and also relief under section 20C of the 1985 Act and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“**the 2002 Act**”) as to the amount of service charges and (where applicable) administration charges payable by the Applicants in respect of the service charges for 2020, 2021 and future years from 2022 to 2027.
2. Although the Applicants refer in their application to a possible right to manage application and there being issues under the Building Safety Act 2022. There is no right to manage application before the Tribunal nor any issue arising from the Building Safety Act 2022 for the Tribunal to decide. The Applicants did make an application for dispensation from consultation. It is the lessor, not the leaseholder, who might apply for dispensation. This application, by the Applicants as leaseholders, is therefore misconceived and the Tribunal need not deal with it.
3. The relevant legal provisions are set out in the Appendix.
4. On 10 January 2023 the Tribunal directed that the Application would be limited to the years in which a demand was issued, namely, 2020, 2021 and 2022. The Tribunal also directed that the Application would be heard on 14 February 2023.
5. The hearing took place on 14 February 2023 with the Tribunal sitting together at the Havant Justice Centre and Ms Wilson and Mr Paige appearing by CVP video platform.

6. The First Applicant, Susan Wilson appeared in person representing at the hearing herself and the Second and Third Applicants, respectively, MJ and B Zajaczkowska and Danielle Mitten and the Respondent was represented by Mr Paige of Austin Rees Management Company (“**ARM**”).

The Background

7. The Property is a Victorian mid-terraced conversion into three flats, arranged over three – four storeys including the addition of a dormer-roof. The lowest floor, (which has been referred to throughout the hearing both as ground and basement level interchangeably) is accessible via street level with a private entrance. The first and second floors are accessed via an external staircase off the pavement to a communal entrance at the first floor. Internally, the communal hallway provides access to the first floor flat with a staircase leading to the second floor flat. From the photographs available from Google, the exterior of the front elevation appears to be a painted-rendered finish, appearing tired. It is understood that the front garden falls within the title of the lower-floor flat, now paved to provide off-road parking.
8. The Applicants produced a bundle of photographs 14 of which showed the condition of parts of the Property before the Applicants undertook repairs. Ms Wilson had taken eight photographs and Ms Zajaczkowska had taken six. These showed (amongst other things and according to their captions) two cupboard areas (one housing the gas meter) full of discarded items, the old front door in disrepair, the electric power supply in need of upgrade and the hallway prior to redecoration. There were also eight photographs captioned as showing the parts of the Property after works arranged by Ms Wilson.
9. The freeholder owner is the Respondent. The Respondent holds the freehold under title no ESX 111344. There are three leases. The Applicant’s lease was granted for a term expiring of 99 years from 29 September 1986, so expiring in 2085. The tribunal understands that the other two leases were granted for terms of 125 years from 25 March 2015,expiring in 2140. Ms Wilson purchased her lease in 2021.
10. The managing agents are Austin Rees Management Company (“**ARM**”) whose director, Mr. Daniel Paige appeared for the Respondent at the hearing.
11. The three flats are as follows:

Flat No	Floor	Name of leaseholder	Service charge %age
2	Basement	Susan Wilson	27.95

1	Ground floor	Maria Zajaczkowska	27.95
3	First floor and loft	Danielle Mitten	44.10

The Lease

12. The Respondent produced Ms Wilson's lease dated 30 June 1989 as a specimen of all three leases. The relevant terms of the lease are as follows.

Definitions

Clause 1 In this Lease:

(f) "The Service Obligations" means the obligations undertaken by the Landlord to provide the services and other things specified in Clause 6.

(g) "The Service Charge" means the cost of the Service Obligations.

(h) "The Tenants Contribution" towards the Service Charge shall be such a sum as shall be equal to the proportion which the rateable value of the Flat bears to the rateable value of the Building.

Tenants Covenants with the Landlord and other Tenants

Clause 5 The Tenant covenants with the Landlord and as a separate covenant with each other tenants of the Building as follows: -

ACCOUNTING YEAR:

(a)(i) in this Clause the accounting year of the Landlord means the year from the 25th day of March to the 24th day of March in the year next following or such other accounting year as may in future be adopted by the Landlord and the due dates mean the 25th March and the 29th September in every year

PROVISIONS FOR PAYMENTS OF TENANTS CONTRIBUTION:

(iii) on the due dates to pay to the Landlord such sums on account of the Tenants Contribution as the Landlord or its agents may reasonably consider sufficient (together with the contribution paid or payable by the other tenants and by the Landlord under Clause 7(c) to meet the Service Charge for the period until the next due date.

- (iv)(a) the Service Charge shall be prepared by the Landlord or his authorised agent who shall certify the actual expenditure during each accounting year and whose certificate ("the Certificate") shall be conclusive as to the expenditure.
- (b) on payment of the Service Charge by the Tenant the Tenant shall be permitted to inspect the vouchers and receipts for expenditure referred to in the Certificate
- (v) within twenty eight days of the receipt of the Certificate of the total expenditure on Service Obligations incurred by the Landlord for the previous accounting year to pay to the Landlord the Tenants Contribution less any amount or amounts which the Tenant may already have paid in advance
- (vi) within twenty eight days of demand to pay to the Landlord the same percentage as the Tenants Contribution of any sum or sums actually expended by the Landlord or which it might be urgently necessary to expend which expenditure the Landlord cannot meet from funds in hand.

Clause 6 sets of the Landlords Covenant's which includes keeping the main structure in repair, keeping the building comprehensively insured and employing managing agents.

The Issue

- 13. On 10 January 2023 the Tribunal directed that the Application would be limited to the years in which a demand was issued, namely, 2020, 2021 and 2022. The Tribunal discovered at the hearing that Ms Wilson, the lead Applicant, acquired the leasehold on 10 February 2021. This meant that Tribunal was only concerned with the on account service charges for the years 25 March 2021 to 24 March 2022, and 25 March 2022 to 24 March 2023, and the demand for major works to the exterior of the property.
- 14. During the hearing Mr Paige submitted details of the service charges paid and unpaid by each of the Applicants. Mr Paige advised that MJ Zajaczkowska and B Zajaczkowska had owned Flat 1 from 17 September 2020; and Ms Mitten assumed ownership of Flat 3 in November 2019. The arrears owned by each leaseholder as at 14 February 2023 are set out below. In respect of Flats 1 and 3 the arrears related to the non payment of the demand for major works to the exterior of the property dated 15 September 2022. The leaseholders for those Flats had paid the on account service charges The arrears for Ms Wilson included amounts owing for the service charge on account for the year ending 24 March 2022 as well as the sum demanded for the major works.

Applicant	Service Charges Arrears as at 14.2.23 (£)
MJ & B Zajackowska	3,446.77
Ms M Wilson	3,488.43
Danielle Mitten	5,504.10

15. The Tribunal is not required to consider and does not seek to address the following topics which were raised by Ms Wilson at the hearing, namely (1) the service charge demand for decorating and repairing the communal areas, and (2) the state of the property when Ms Wilson purchased it.
16. In the service charge year to 25 March 2020, ARM consulted with the then owners of the flats on a project at a cost of about £4,925 to repair the interior of the Property. Mr Paige informed the Tribunal that the action taken by Ms Wilson in arranging works without consulting with the freeholders meant that ARM cancelled this project and credited each lease owner with a share of the cost according to their respective contributions. The credits were made in March 2022 and were in the following amounts:
- Ms Wilson: £1,385.20
- MJ & B Zajackowska: £ 1,385.20
- Ms Mitten: £ 2,185.00
17. Asked about this Ms Wilson's initial reaction was that she had not had any money sent back to her. She later accepted that she had received a credit for what had been paid in respect of her flat by her predecessor.
18. In respect of the second matter the onus was upon Mrs Wilson to satisfy herself about the condition of the property before she purchased it.
19. The Tribunal received short witness statements from the Applicants Ms Z Zajackowska and Ms Mitten, each of whom said that ARM had not undertaken any repairs on behalf of the Respondent and that each had carried some items of repair and maintenance.

The On Account Service Charges for 2021/22 and 2022/23

20. There was no issue as to whether the specific items charged were recoverable within the terms of the lease. The disputes concerned the amounts charged and the servicing arrangements for the Property. The Tribunal holds that the service charges are all recoverable as a matter of contract under the terms of the lease.
21. The lease prescribes that the service charge year is the year from 25 March to the following 24 March or such other accounting years as may in future be adopted by the landlord. The documents from ARM refer to the accounting year being from 26 March to 25 March. That is the accounting year adopted. No point was taken by any of the parties as to this small discrepancy.
22. The Respondent produced statements by ARM of anticipated expenditure for the service charge years ending 25 March 2022 (where the anticipated expenditure was £4903) and 25 March 2023 (where the anticipated expenditure) was £5071.
23. In her evidence, the Tribunal asked Ms Wilson to comment on the breakdown in the statement of the anticipated charges for the year ending 25 March 2022. The Tribunal asked Mr Paige to reply. There follows a table listing the items and amounts estimated by ARM, Ms Wilson's comments as to the reasonableness of each, Mr Paige's answer and the Tribunal's finding as to each.

Item	Amount for year 2021-22	Applicant's comments	Respondent's	Tribunal's finding
Electricity commonway	£100	No electricity supply into the building; the supply is not metered	The electricity supply is to one flat for the whole Building and the Respondent is ready to reimburse to that owner the charges for the supply to the rest of the building. No reimbursement has been requested and the amounts to be reimbursed are held in reserve. It would cost £6,000 to £10,000 for UK Power Networks to install a power supply from the	Reasonably included. The Tribunal was satisfied on the evidence that this service is provided and that the charge is reasonable for those services.

Item	Amount for year 2021-22	Applicant's comments	Respondent's	Tribunal's finding
			street into the Building that would enable separate metering of each flat.	
Building Insurance Premium	£1375	Maybe reasonable but no confirmation of a policy being in place has been produced	A reasonable estimate; invoice produced	Reasonably included. The Tribunal was satisfied on the evidence, which included an invoice for the premium, that this service was provided and that the charge is reasonable.
General repairs	£600	What repairs? No such repairs seen by Ms Wilson	ARM budget for £200 repairs to each of the three flats. Unused amounts are retained in the service charge fund to offset future charges	Reasonably included; the Tribunal considered the provision of £200 per flat for general repairs was reasonable.
Miscellaneous	£420	For what items?	Surveys are required for fire safety, asbestos safety and reinstatement cost assessment for property insurance purposes; ARM seek to spread these surveys so that there is one each year	Reasonable. The Tribunal accepted Mr Paige's evidence that the costs of surveys were spread over a three year cycle.
Accountancy fees	£215	Need for an accountant is accepted; fee accepted as reasonable	An accountant certifies the service charge	Reasonable. The Tribunal considered that this fee would be at the lower end of the range of fees for the provision of

Item	Amount for year 2021-22	Applicant's comments	Respondent's	Tribunal's finding
				accounting services.
Management fees	£750	Unreasonable; no management takes place.no alternative figure proposed; "difficult to put a figure on a non-event".	ARM budget £220 plus VAT for each flat each year to cover service demands, arranging repairs, accounting, fire assessments, arranging insurance cover and ad hoc repairs. This is a reasonable provision based on data from the portfolio under management by ARM	Contrary to the Applicants' case, the Tribunal finds that ARM provided services for which this level of fee is reasonable. The services are as described by Mr Paige.
Fire systems maintenance	£800	Ms Wilson could not find an invoice from Brighton Fire Alarms for that amount	This is an annual charge and the invoice was produced by Mr Paige.	On the evidence ,the Tribunal found this to be a reasonable amount to charge.
Contingency	£600	For what?	This is for large scale repairs if required and is reconciled in the year end accounts	The Tribunal considered that this provision is reasonable, large-scale repairs having to be funded by the Applicants.
Gutter clearance [Not an item for year to 25 March 2022 but was an item estimated at £240 in year to 25 March 2023].		Not applicable for the year to 25 March 2022		

24. The comments in the table above apply equally to the breakdown of items in the statements of anticipated service charge expenditure for the

service charge year to 25 March 2023. The only difference between the breakdowns for those two years was the gutter clearance item of £240 in the later year. Ms Wilson did not dispute that the gutters had been cleaned. The Tribunal finds the cost to be reasonable in amount.

25. The Tribunal is required to address two questions when considering service charges on account: (1) Whether there is authority under the lease to recover the costs as on account service charges, and (2) whether the charges are reasonable.
26. The Tribunal is satisfied that clause 5(a)(iii) of the lease gives authority to recover service charges on account.
27. In regard to the second question section 19(2) of the 1985 Act provides that

“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”.
28. The effect of section 19(2) is to modify the contractual obligation so that no greater amount than is reasonable is payable before the relevant costs are incurred. The language of the subsection suggests that the statutory ceiling applies at the time the leaseholder’s liability arises. If, at that date, the on-account payment is greater than a reasonable sum, the leaseholder’s contractual obligation is to pay only the lesser reasonable sum.
29. In the Upper Tribunal decision of *Charles Knapper and others v Martin Francis and Rebekah Francis* [2017] UKUT 3 LC Para 30. Martin Rodger QC Deputy Chamber President indicated:

“In principle it seems to me that the FTT was correct in disregarding matters which became known only after the appellants’ contractual liability arose. Those facts did not turn what had been a reasonable sum into an unreasonable sum. The question of what sum ought reasonably to be paid on a particular date, or ought reasonably to have been paid at an earlier date, necessarily depends on circumstances in existence at that date, and should not vary depending on the point in time at which the question is asked”.
30. The decision in *Knapper* established the principle that the question of the reasonableness of the proposed amount should be assessed against the circumstances known at the time of the demand.
31. Martin Rodger QC, however, in the later decision of *Avon Ground Rents Limited v Mrs Rosemary Cowley and Others* [2018] UKUT 92(LC) emphasised that whether an amount is reasonable as a payment in advance is not generally to be determined by the application of rigid rules, but must be assessed in the light of the specific facts of the particular case. In this regard Martin Rodger QC at [51] referred to the

Lands Tribunal decision in *Parker and Beckett v Parham* LRX/35/2002:

“It is not inconsistent with the Tribunal’s decision in *Knapper* for the likelihood of a particular event occurring during the period covered by an advance payment to be taken into account in determining the reasonableness of the amount of the payment. In *Parker* the Tribunal mentioned at several points that the certainty that works would be carried out, and thus the certainty of the anticipated costs, were matters which it was permissible to take into account in considering the reasonableness of the advance payment: “if the cost of the works is uncertain, so that there is a wide range of possible outcomes around the amount that the LVT has found to be reasonable, that could well be something that could affect the reasonableness of an advance payment” .

32. As set out in the table above the Tribunal found that the Respondent had based its estimates for the various service charge heads on previous year’s expenditure or on a plausible rationale for anticipated costs. The Applicants supplied no evidence of alternative quotations to suggest that the estimated amounts were excessive. The Applicants’ principal grievances were with the costs of ARM and with the condition of the building. The Tribunal is satisfied that ARM has provided services in connection with the property and that the level of fee charged by the ARM was in the bounds of reasonableness. The Tribunal observes that ARM took action in respect of the condition of the building by carrying out section 20 consultations on repairs to the communal areas and more recently on major works to the exterior of the property. The Tribunal notes that the Respondent cannot progress the major works unless the Applicants put the Respondent in funds by paying their service charges.
33. The Tribunal finds that the estimated service charges in the sums of £4,903, and £5,071 respectively for the years ending 24 March 2022 and 24 March 2023 were no greater amounts than are reasonable and are, therefore, payable by the leaseholders in the following contributions:

The Leaseholder	Service Charge Year 2021/2022 (£)	Service Charge Year 2022/2023 (£)
MJ & B Zajaczkowska	1,370.39	1,417.34
Ms Wilson	1,370.39	1,417.34

Ms Mitten	2,162.22	2,236.31

The Service Charge Demand for Major works

34. On 15 September 2022 the Respondent demanded from the leaseholders on account service charges for the proposed major works to the property. The Respondent adjusted the original amount demanded by giving a credit of £419.25. The adjusted amounts demanded from the leaseholders were as follows MJ & B Zajaczkowska : £3,488.43; Ms Wilson: £3,488.43, and Ms Mitten: £5,504.10 making a total of £12,480.96.
35. On 12 April 2022, OA Building Services Limited (“OA”) gave to each of the Applicants a notice of intention to carry out works pursuant to section 20 of the 1985 Act. The works were described as repairs to render, joinery, the boundary wall, sundry repairs, repairs to the dormer, roof, chimney stack and fire wall and external decoration. The accounts of the Respondent company record that OA is an associated company of ARM
36. In this first round of consultation with the Applicants, OA invited the Applicants to comment or make observations on the works proposed and or to nominate contractors who should be invited to tender. The specification of the works was not enclosed but the applicants were informed that it could be inspected at OA’s offices. The consultation closed on 15 May 2022. The Applicants did not respond to this consultation or nominate contractors to be approached.
37. On 30 May 2022 Martin and Bowles submitted a tender at the price of £12,108. This proved to be the lowest of 4 tenders received with a fifth firm declining to quote.
38. On 17 August 2022, ARM issued demands to the Applicants for service charges to cover the proportionate share of each Applicant of the liability for the front elevation external decorations at a total price of £12,108. On 15 September 2022 ARM sent amended demands by giving credit to each leaseholder in the sum of £419.25.
39. On 18 August 2022 OA issued to the Applicants a statement of estimates detailing the outcome of the tender process and inviting observations. The deadline for so doing was stated to be 20 September 2022. The total cost of the front elevation external decorations was:

Cost of works as per tendered £12,108.00

Professional fees at 12% £1,452.06

CDM fee £420.00

Total £13,980.96

40. The delay between 30 May 2022 and 18 August 2022 was attributable to the time taken by the OA to chase the fifth contractor for its quotation (which in the event it did not produce).

41. On 26 August 2022 Ms Wilson emailed:

“I considered at the time, that there was no reason to respond to the first 30-day Notice, because no prices were included to enable an opinion to be formed ... I had already renewed the basement door and frame as an urgent matter of security ...

I cleared, and landscaped the front garden (edged red on my Deeds) which was piled high with rubble from the front wall, rubbish and unwanted rusting white goods.

The second 30-day Notice ... lists five contractors who have submitted extortionate quotes for "front elevation external decorations" (#8 of 8 the first 30-day Notice) to which I am objecting within the second 30-day Notice period, and wish to consult with the other leaseholders to source our own contractor to carry out "front elevation redecoration", as quoted.

It is also of concern that your Tenant Demand of 17 August 2022 pre-dates the second 30-day Notice, arousing in me suspicion of possible collusion with OA Surveyors”.

42. On 2 September 2022, ARM replied to say that:

“The Section 20 consultation process has ended. The quotes have been received and demands raised. We will not be retendering at this stage.”

43. This was incorrect. The consultation was due to close on 20 September 2022. On 15 September 2022 the Applicants made their applications to the Tribunal.

44. Mr Paige in his witness statement said that he understood that the Applicants have concerns over the reference made to joinery repairs being necessary, highlighting that the windows are of UPVC construction. Mr Paige added that the tender submissions confirm that a specific cost has not been assigned to general joinery repairs, however minor repairs to aspects such as the frame around the front door and also

the soffits and facias may be necessary when the project goes to site, hence why provision has been included, not for timber window frames which do not exist.

45. Ms Wilson contended that the amounts demanded for the major works to the property were excessive. Ms Wilson said that she had obtained quotations from two local builders who had said that they could carry out the works at a maximum cost of £3,000.
46. The question that the Tribunal has to decide is whether the amended on account service charge of £12,480.96 is an amount no greater than is reasonable. The Tribunal at this stage is not concerned with whether the Respondent complied with the statutory requirements regarding consultation. In *23 Dollis Avenue (1998) Ltd v Vejdani*, [2016] UKUT 365 (LC), it was held that the limitation in section 20 of the 1985 Act to the contribution payable by the tenant is referable to costs incurred by the landlord in carrying out the work rather than in respect of work to be carried out in the future. It is not necessary that there should be a valid consultation process before a sum in excess of £250 can be recovered by way of an interim service charge in respect of intended works.
47. The Tribunal finds that the Respondent conducted a competitive tendering exercise against a specification for the major works to the exterior of the property. The Respondent obtained four tenders for the works and it chose the lowest tender. In contrast it appeared that the Applicants had asked two local builders to provide oral quotations for various unspecified repairs and decorations to the exterior. The Tribunal considers that the Respondent's evidence is more reliable as to the likely costs for the major works. The Tribunal decides that the total amount demanded of £12,480.96. is no greater an amount than is reasonable and is payable by the leaseholders in the contributions identified above.
48. The Tribunal emphasises that it has made no decision on whether the Respondent has complied with the section 20 consultation requirements. This will only become an issue when the Respondent incurs the costs on the major works and if the Applicants choose to challenge the reasonableness of the actual costs.
49. With the benefit of hindsight, Ms Wilson might be thought to have been over hasty in arranging works without consultation with ARM when she first inspected the Property. Similarly and also with the benefit of hindsight, the Applicants' issue of these proceedings seemingly in reaction to the email from ARM that wrongly suggested that consultation on the proposed works had closed has not proved helpful. There is work to be done to the Property. As things stand at present, that will have to be work funded by the Applicants but procured by the Respondent's agents. The Tribunal trusts that with the advantage of having learned more about the other parties' positions, there can be constructive

dialogue going forward so that what needs to be done can be arranged without further rancour.

Decision

50. It follows that the Tribunal determines that the charges in issue were no greater amounts than are reasonable.
51. The applications made under section 20C of the 1985 Act and under paragraph 5A of schedule 11 of the 2002 Act therefore fail.

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 by email to rpsouthern@justice.gov.uk 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.