



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

Case reference : **LON/00BE/LSC/2022/0138**

Property : **Flat 28 Suffield House,
Alberta Estate, Berryfield Road
London SE17 3QB**

Applicant : **MRS GEORGINA KYERE**

Representative : **Ms Teigaga**

Respondents : **LONDON BOROUGH OF SOUTHWARK**

Representative : **Mr Cremin**

Type of application : **Determination of payability and
reasonableness of service charges pursuant
to s27A LTA 1985**

Tribunal : **Judge Shepherd
Oliver Dowty MRICS**

Date of Determination : **22nd February 2023**

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DETERMINATION

1. This is an application made pursuant to section 27A of the Landlord and Tenant Act 1985. The Applicant, Georgina Kyere is the leaseholder of premises at flat 28 Suffield House, Alberta Estate, Berryfield Road, London SE17 3QB (“The

premises”). The Respondents are the London Borough of Southwark. They are the freeholders of the premises. The application was received by the Tribunal on the 26th of April 2022 and heard on the 9th of January 2023. The Respondents were represented by Mr Cremin and the Applicant by Anita Teigaga MRICS. The premises consist of a 3 bedroom flat in a purpose built block. The applicants challenge relates to major works carried out by the local authority in 2015 to 2017. The value of the dispute was said to be £21,586.34.

2. In the application the Applicant states that in January 2010 the Respondents entered into a Qualifying Long Term Agreement (“QLTA”) with Breyers Group Limited (“Breyers”) in relation to the major works in Lot 1 Borough and Bankside which included the premises. The Respondents terminated the contract with Breyers in February 2013. A E Elkins Limited (“AE Elkins”) commenced works on the Applicant's building in December 2014. On the 29th of January 2015 the Respondents wrote to the Applicant proposing the appointment of AE Elkins because the Breyers contract had been terminated by mutual agreement. The letter stated that the enclosed notices were the formal consultation that was required before appointing AE Elkins. On the 22nd of April 2016 the Respondents wrote a further schedule 3 notice of intention specifying AE Elkins as its long term partner in a qualifying long term agreement referencing the 2008 notice. Following this the Respondents commenced works and issued a service charge demand for works over 2015 -16 of £12,951.80 and 2016 -17 of £8634.54 - a total of £21586.34
3. In the application the Tribunal were asked to determine whether the landlord had complied with the statutory requirements of section 20 Landlord and Tenant Act 1985 before entering into QLTA and carrying out works. If the consultation requirements were not carried out the Applicant’s service charge bill would be capped at £250 pounds in relation to works and £100 in relation to the QLTA.
4. At a Case Management hearing the issues were identified in broad terms as:
 - Whether the Respondents had correctly carried out consultation for the major works in question in accordance with the Service Charges (Consultation Requirements)(England) Regulations (SI 2003/ 1987) in particular schedules 1 and 3.
 - Whether notices served by the Respondents as part of the consultation were received by Applicant. She says she did not receive a notice of intention in April 2015 neither did she receive other notices sent by the Respondents.

5. The matter was listed for a day's hearing and the Tribunal were presented with a bundle of over 3000 pages. In the event because the issues were focused it was not necessary to have regard to the whole of the bundle.
6. There was no challenge to the payability of the service charges and therefore it is not necessary to examine the lease in any detail. Suffice to say it is a standard lease for a Right to Buy property.
7. Ms Teigaga provided a summary of her case before the hearing. This stated that the Respondents didn't follow the required formality in respect of both entering into a new QLTA (Sch 1) and the requirement to consult on major works (Sch 3). Following the mutually agreed termination with Breyers the Respondents awarded the contract to AE Elkins the reserve contractor. She said that a full consultation should have been carried out in order to appoint AE Elkins. She said that reserve contractors can be appointed but the respondent's board paper dated the 8th of July 2015 stated this is only in circumstances of extremely and persistent poor performance or termination. She said in addition that the requisite notices were not validly served at the Applicant's address and the Applicant only received copies of the notices following the completion of the major works in 2016 - 2017 as part of the correspondence on her non – payment. As a secondary point Ms Teigaga stated in accordance with the Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014 the service charge bill should have been capped at £15,000.
8. In their case summary the Respondents said that the consultation for the QLTA made it clear that AE Elkins were the reserve contractor and further consultation was not necessary given that the proposed division of work included a reserve contractor for lots 1-4 .
9. In a witness statement Sean Nicholson on behalf of the Respondents stated that the required consultation was served on all leaseholders. This was done by a mail merge of the basic notice with a list of names and addresses of leaseholders. The notices were printed and sent out by post. A notice of intention was sent out to leaseholders on the 17th of November 2008 in relation to the major works partnering contract. The Applicant's notice of intention was sent to 28 Southfield House. The Respondents received at least 83 observations from leaseholders in response to the notice of intention. The notice of proposal of the 22 January 2010 was sent to all leaseholders using the same procedure. He exhibited a copy of the mail list with the Applicant's address shown. 55 observations from leaseholders were sent in response to the notice of proposal. In addition to these notices the Respondents sent a letter to all leaseholders on the 25th of August 2009 advising of a hearing date in the Tribunal dealing with dispensation from consultation requirements. Mr Nicholson also states that the

funding of the works was entirely from the capital works budget. Attached to his witness statement is evidence confirming service at least on a general basis. Also attached to the witness statement is a settlement agreement made between the Respondent and Breyers.

The hearing

10. Ms Teigaga represented the Applicant and Mr Cremin represented the Respondents. She said that her client had not received the Notice of Intention sent on 22nd April 2015 re the works. She reinforced the point that Breyers contract had ended in 2013 and A&E Elkins were not the original contractor. She highlighted the settlement agreement at page 3171 the bundle. She accepted that AE Elkins had been named as the reserve main contractor and were appointed following the termination. She said that a further consultation should have been carried out with AE Elkins named as the contractor.
11. Mr Cremin said that the Upper Tribunal had effectively endorsed the validity of the consultation in relation to the QLTA in the case of [2011] UKUT 438 (LC). He then repeated the consultation process that was outlined in the witness statement of Mr Nicholson.
12. The key document in the consultation process is the notice of proposal sent on the 22nd of January 2010 to all leaseholders. Amongst other things the notice explains what the long - term agreements are and invites observation on the notice. Attached to the notice is a statement which provides details of the tender process. Significantly the statement then states that AE Elkins were the reserve contractor.

Determination

13. Attached to this determination are the relevant consultation requirements which are contained in The Service Charges (Consultation Requirements) (England) Regulations 2003 in particular Schs 1 and 3. The consultation to set up a QLTA are extensive (see Schs 1 and 2). The consultation in respect of qualifying works to which a QLTA applies is more limited. The rationale being that once a QLTA is in place the contractor will have an exclusive right to carry out the proposed works. The Applicant's complaint seems to be that because Breyer's services were dispensed with the Applicant were required to repeat the works consultation exercise in relation to AE Elkins. This requirement for re-consultation is not apparent from Schedule 3 which is not surprising because

the contractor has already been appointed to the QLTA at this point in the consultation process. The real question is therefore are the Local Authority obliged to re-consult in relation to the setting up the QLTA because a contractor's services have been dispensed with when a substitute has been named in the original consultation process? The answer in the Tribunal's view is no. Practically it would be extremely onerous. AE Elkins were named as the reserve contractor in the consultation. They were the lead contractor on other works. Their schedule of rates were available to be viewed according to Mr Cremin. The local authority took steps to appoint the reserve contractor when Breyers services were dispensed with. The fact that this was via a settlement agreement does not mean that the contract was not terminated. In any event it was difficult to ascertain exactly how the Applicants were prejudiced by this turn of events.

14. In relation to the issue of service the Tribunal accepts that the Applicants were served with all relevant notices. Mr Nicholson's evidence confirmed that the Applicants were on the list of addressees in the mail merge at the time of the QLTA consultation. A number of responses were received at the time. On a balance of probabilities it is more likely than not that the Applicants were served with all relevant notices during the process including the notice of intention dated 22nd April 2015.

15. Finally in relation to the residual argument as to the application of The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014 the Tribunal accepts Mr Cremin's evidence that the directions don't apply because relevant assistance of the type defined in the directions could not be relied upon in this case.

16. Accordingly for these reasons the Application is dismissed.

Judge Shepherd

22nd February 2023

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.

Annex - The Service Charges (Consultation Requirements) (England) Regulations 2003

LANDLORD AND TENANT, ENGLAND

The Service Charges (Consultation Requirements)

(England) Regulations 2003

Law In Force

1.— Citation, commencement and application

(1) These Regulations may be cited as the Service Charges (Consultation Requirements) (England)

Regulations 2003 and shall come into force on 31st October 2003.

(2) These Regulations apply in relation to England only.

(3) These Regulations apply where a landlord—

(a) intends to enter into a qualifying long term agreement to which section 20 of the Landlord

and Tenant Act 1985 applies¹ on or after the date on which these Regulations come into force; or

(b) intends to carry out qualifying works to which that section² applies on or after that date.

SI 2003/1987 Page 1

2.— Interpretation

(1) In these Regulations—

“the 1985 Act” means the Landlord and Tenant Act 1985;

“close relative”, in relation to a person, means a spouse or cohabitee, a parent, parent-in-law,

son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, step-parent, step-son or step-daughter of that person;

[“cohabitee”, in relation to a person, means a person who is living with that person as if they were a married couple or civil partners;] ¹

“nominated person” means a person whose name is proposed in response to an invitation made as mentioned in paragraph 1(3) of Schedule 1 or paragraph 1(3) of Part 2 of Schedule

4; and “nomination” means any such proposal;

[“public notice” means notice [published, pursuant to the Public Contracts Regulations 2015, on the UK e-notification service (as defined by those Regulations)] 3 ;] 2

“relevant period”, in relation to a notice, means the period of 30 days beginning with the date of the notice;

“RTB tenancy” means the tenancy of an RTB tenant;

“RTB tenant”, in relation to a landlord, means a person who has become a tenant of the landlord by virtue of section 138 of the Housing Act 1985 (duty of landlord to convey freehold or grant lease), section 171A of that Act (cases in which right to buy is preserved), [section 180 of the Housing and Regeneration Act 2008] 4 or section 16 of the Housing Act 1996 (right of tenant to acquire dwelling)⁵ under a lease whose terms include a requirement that the tenant shall bear a reasonable part of such costs incurred by the landlord

as are mentioned in paragraphs 16A to 16D of Schedule 6 to that Act (service charges and other contributions payable by the tenant)⁶ ;

“section 20” means section 20 (limitation of service charges: consultation requirements) of the 1985 Act;

“section 20ZA” means section 20ZA (consultation requirements: supplementary) of that Act;

“the relevant matters”, in relation to a proposed agreement, means the goods or services to be provided or the works to be carried out (as the case may be) under the agreement.

SI 2003/1987 Page 2

(2) For the purposes of any estimate required by any provision of these Regulations to be made by

the landlord—

(a) value added tax shall be included where applicable; and

(b) where the estimate relates to a proposed agreement, it shall be assumed that the agreement will terminate only by effluxion of time.

3.— Agreements that are not qualifying long term agreements

(1) An agreement is not a qualifying long term agreement¹ –

(a) if it is a contract of employment; or

(b) if it is a management agreement made by a local housing authority² and—

(i) a tenant management organisation; or

(ii) a body established under section 2 of the Local Government Act 2000 [or section 1 of the Localism Act 2011]³ ;

(c) if the parties to the agreement are—

(i) a holding company and one or more of its subsidiaries; or

(ii) two or more subsidiaries of the same holding company;

(d) if—

(i) when the agreement is entered into, there are no tenants of the building or other premises to which the agreement relates; and

(ii) the agreement is for a term not exceeding five years.

(2) An agreement entered into, by or on behalf of the landlord or a superior landlord—

SI 2003/1987 Page 3

(a) before the coming into force of these Regulations; and

(b) for a term of more than twelve months,

is not a qualifying long term agreement, notwithstanding that more than twelve months of the term

remain unexpired on the coming into force of these Regulations.

(3) An agreement for a term of more than twelve months entered into, by or on behalf of the landlord

or a superior landlord, which provides for the carrying out of qualifying works for which public

notice has been given before the date on which these Regulations come into force, is not a qualifying

long term agreement.

(4) In paragraph (1)—

“holding company” and “subsidiaries” have the same meaning as in the Companies Act 1985⁴ ;

“management agreement” has the meaning given by section 27(2) of the Housing Act 1985⁵ ;

and

“tenant management organisation” has the meaning given by section 27AB(8) of the Housing

Act 19856 .

4.— Application of section 20 to qualifying long term agreements

(1) Section 20 shall apply to a qualifying long term agreement if relevant costs¹ incurred under the

agreement in any accounting period exceed an amount which results in the relevant contribution

of any tenant, in respect of that period, being more than £100.

(2) In paragraph (1), “accounting period” means the period—

(a) beginning with the relevant date, and

(b) ending with the date that falls twelve months after the relevant date.

(3) [In] 2 the case of the first accounting period, the relevant date is—

SI 2003/1987 Page 4

(a) if the relevant accounts are made up for periods of twelve months, the date on which the period that includes the date on which these Regulations come into force ends, or

(b) if the accounts are not so made up, the date on which these Regulations come into force.

[(3A) Where—

(a) a landlord intends to enter into a qualifying long term agreement on or after 12th November 2004; and

(b) he has not at any time between 31st October 2003 and 12th November 2004 made up accounts relating to service charges referable to a qualifying long term agreement and payable in respect of the dwellings to which the intended agreement is to relate, the relevant date is the date on which begins the first period for which service charges referable to

that intended agreement are payable under the terms of the leases of those dwellings.

] 3

(4) In the case of subsequent accounting periods, the relevant date is the date immediately following

the end of the previous accounting period.

5.— The consultation requirements: qualifying long term agreements

(1) Subject to paragraphs (2) and (3), in relation to qualifying long term agreements to which section

20 applies, the consultation requirements for the purposes of that section and section 20ZA are the

requirements specified in Schedule 1.

(2) Where public notice is required to be given of the relevant matters to which a qualifying long

term agreement relates, the consultation requirements for the purposes of sections 20 and 20ZA,

as regards the agreement, are the requirements specified in Schedule 2.

(3) In relation to a RTB tenant and a particular qualifying long term agreement, nothing in paragraph

(1) or (2) requires a landlord to comply with any of the consultation requirements applicable to that

agreement that arise before the thirty-first day of the RTB tenancy.

6. Application of section 20 to qualifying works

For the purposes of subsection (3) of section 20 the appropriate amount is an amount which results

in the relevant contribution of any tenant being more than £250.

7.— The consultation requirements: qualifying works

(1) Subject to paragraph (5), where qualifying works are the subject (whether alone or with other

matters) of a qualifying long term agreement to which section 20 applies, the consultation requirements for the purposes of that section and section 20ZA, as regards those works, are the

requirements specified in Schedule 3.

(2) Subject to paragraph (5), in a case to which paragraph (3) applies the consultation requirements

for the purposes of sections 20 and 20ZA, as regards qualifying works referred to in that paragraph,

are those specified in Schedule 3.

(3) This paragraph applies where—

(a) under an agreement entered into, by or on behalf of the landlord or a superior landlord,

before the coming into force of these Regulations, qualifying works are carried out at any time on or after the date that falls two months after the date on which these Regulations come into force; or

(b) under an agreement for a term of more than twelve months entered into, by or on behalf of the landlord or a superior landlord, qualifying works for which public notice has been given before the date on which these Regulations come into force are carried out at any time on or after the date.

(4) Except in a case to which paragraph (3) applies, and subject to paragraph (5), where qualifying

works are not the subject of a qualifying long term agreement to which section 20 applies, the

consultation requirements for the purposes of that section and section 20ZA, as regards those works—

(a) in a case where public notice of those works is required to be given, are those specified in Part 1 of Schedule 4;

(b) in any other case, are those specified in Part 2 of that Schedule.

(5) In relation to a RTB tenant and particular qualifying works, nothing in paragraph (1), (2) or (4)

requires a landlord to comply with any of the consultation requirements applicable to that agreement

that arise before the thirty-first day of the RTB tenancy.

SCHEDULE 1

CONSULTATION REQUIREMENTS FOR QUALIFYING LONG TERM AGREEMENTS

OTHER THAN THOSE FOR WHICH PUBLIC NOTICE IS REQUIRED

Regulation 5(1)

Notice of intention

Law In Force

1.—

(1) The landlord shall give notice in writing of his intention to enter into the agreement—

(a) to each tenant; and

(b) where a recognised tenants' association¹ represents some or all of the tenants, to the

association.

(2) The notice shall—

(a) describe, in general terms, the relevant matters or specify the place and hours at which a description of the relevant matters may be inspected;

SI 2003/1987 Page 7

(b) state the landlord's reasons for considering it necessary to enter into the agreement;

(c) where the relevant matters consist of or include qualifying works, state the landlord's reasons for considering it necessary to carry out those works;

(d) invite the making, in writing, of observations in relation to the proposed agreement;

and

(e) specify—

(i) the address to which such observations may be sent;

(ii) that they must be delivered within the relevant period; and

(iii) the date on which the relevant period ends.

(3) The notice shall also invite each tenant and the association (if any) to propose, within the relevant

period, the name of a person from whom the landlord should try to obtain an estimate in respect

of the relevant matters.

2.—

(1) Where a notice under paragraph 1 specifies a place and hours for inspection—

(a) the place and hours so specified must be reasonable; and

(b) a description of the relevant matters must be available for inspection, free of charge, at that place and during those hours.

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge,

a copy of the description.

3.

Where, within the relevant period, observations are made in relation to the proposed agreement by

any tenant or recognised tenants' association, the landlord shall have regard to those observations.

4.—

(1) Where, within the relevant period, a single nomination is made by a recognised tenants' association (whether or not a nomination is made by any tenant), the landlord shall try to obtain an estimate from the nominated person.

(2) Where, within the relevant period, a single nomination is made by only one of the tenants (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate from the nominated person.

(3) Where, within the relevant period, a single nomination is made by more than one tenant (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate—

(a) from the person who received the most nominations; or

(b) if there is no such person, but two (or more) persons received the same number of nominations, being a number in excess of the nominations received by any other person, from one of those two (or more) persons; or

(c) in any other case, from any nominated person.

(4) Where, within the relevant period, more than one nomination is made by any tenant and more than one nomination is made by a recognised tenants' association, the landlord shall try to obtain an estimate—

(a) from at least one person nominated by a tenant; and

(b) from at least one person nominated by the association, other than a person from whom an estimate is sought as mentioned in paragraph (a).

SI 2003/1987 Page 9

Preparation of landlord's proposals

Law In Force

5.—

(1) The landlord shall prepare, in accordance with the following provisions of this paragraph, at

least two proposals in respect of the relevant matters.

(2) At least one of the proposals must propose that goods or services are provided, or works are

carried out (as the case may be), by a person wholly unconnected with the landlord.

(3) Where an estimate has been obtained from a nominated person, the landlord must prepare a

proposal based on that estimate.

(4) Each proposal shall contain a statement of the relevant matters.

(5) Each proposal shall contain a statement, as regards each party to the proposed agreement other

than the landlord—

(a) of the party's name and address; and

(b) of any connection (apart from the proposed agreement) between the party and the landlord.

(6) For the purposes of sub-paragraphs (2) and (5)(b), it shall be assumed that there is a connection

between a party (as the case may be) and the landlord—

(a) where the landlord is a company, if the party is, or is to be, a director or manager of the company or is a close relative of any such director or manager;

(b) where the landlord is a company, and the party is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;

(c) where both the landlord and the party are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;

(d) where the party is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or

(e) where the party is a company and the landlord is a partner in a partnership, if any partner

in that partnership is a director or manager of the company or is a close relative of any such director or manager.

(7) Where, as regards each tenant's unit of occupation and the relevant matters, it is reasonably

practicable for the landlord to estimate the relevant contribution attributable to the relevant matters

SI 2003/1987 Page 10

to which the proposed agreement relates, each proposal shall contain a statement of that estimated

contribution.

(8) Where—

(a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (7); and

(b) it is reasonably practicable for the landlord to estimate, as regards the building or other premises to which the proposed agreement relates, the total amount of his expenditure under

the proposed agreement,

each proposal shall contain a statement of that estimated expenditure.

(9) Where—

(a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (7) or (8)(b); and

(b) it is reasonably practicable for the landlord to ascertain the current unit cost or hourly or daily rate applicable to the relevant matters,

each proposal shall contain a statement of that cost or rate.

(10) Where the relevant matters comprise or include the proposed appointment by the landlord of

an agent to discharge any of the landlord's obligations to the tenants which relate to the management

by him of premises to which the agreement relates, each proposal shall contain a statement—

- (a) that the person whose appointment is proposed—
 - (i) is or, as the case may be, is not, a member of a professional body or trade association; and
 - (ii) subscribes or, as the case may be, does not subscribe, to any code of practice or voluntary accreditation scheme relevant to the functions of managing agents; and
- (b) if the person is a member of a professional body trade association, of the name of the body or association.

(11) Each proposal shall contain a statement as to the provisions (if any) for variation of any amount specified in, or to be determined under, the proposed agreement.

(12) Each proposal shall contain a statement of the intended duration of the proposed agreement.

(13) Where the landlord has received observations to which (in accordance with paragraph 3) he

is required to have regard, each proposal shall contain a statement summarising the observations

and setting out the landlord's response to them.

Law In Force

6.—

(1) The landlord shall give notice in writing of proposals prepared under paragraph 5—

- (a) to each tenant; and
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.

(2) The notice shall—

- (a) be accompanied by a copy of each proposal or specify the place and hours at which the proposals may be inspected;
- (b) invite the making, in writing, of observations in relation to the proposals; and
- (c) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and

(iii) the date on which the relevant period ends.

(3) Paragraph 2 shall apply to proposals made available for inspection under this paragraph as it

applies to a description of the relevant matters made available for inspection under that paragraph.

7.

Where, within the relevant period, observations are made in relation to the landlord's proposals by

any tenant or recognised tenants' association, the landlord shall have regard to those observations.

8.—

(1) Subject to sub-paragraph (2), where the landlord enters into an agreement relating to relevant

matters, he shall, within 21 days of entering into the agreement, by notice in writing to each tenant

and the recognised tenants' association (if any)—

(a) state his reasons for making that agreement or specify the place and hours at which a statement of those reasons may be inspected; and

(b) where he has received observations to which (in accordance with paragraph 7) he is required to have regard, summarise the observations and respond to them or specify the place and hours at which that summary and response may be inspected.

(2) The requirements of sub-paragraph (1) do not apply where the person with whom the agreement

is made is a nominated person or submitted the lowest estimate.

(3) Paragraph 2 shall apply to a statement, summary and response made available for inspection

under this paragraph as it applies to a description of the relevant matters made available for inspection

under that paragraph.

SCHEDULE 2

CONSULTATION REQUIREMENTS FOR QUALIFYING LONG TERM AGREEMENTS

FOR WHICH PUBLIC NOTICE IS REQUIRED

Regulation 5(2)

Notice of intention

Law In Force

1.—

(1) The landlord shall give notice in writing of his intention to enter into the agreement—

(a) to each tenant; and

(b) where a recognised tenants' association represents some or all of the tenants, to the association.

(2) The notice shall—

SI 2003/1987 Page 13

(a) describe, in general terms, the relevant matters or specify the place and hours at which a description of the relevant matters may be inspected;

(b) state the landlord's reasons for considering it necessary to enter into the agreement;

(c) where the relevant matters consist of or include qualifying works, state the landlord's reasons for considering it necessary to carry out those works;

(d) state that the reason why the landlord is not inviting recipients of the notice to nominate persons from whom he should try to obtain an estimate for the relevant matters is that public

notice of the relevant matters is to be given;

(e) invite the making, in writing, of observations in relation to the relevant matters; and

(f) specify—

(i) the address to which such observations may be sent;

(ii) that they must be delivered within the relevant period; and

(iii) the date on which the relevant period ends.

2.—

(1) Where a notice under paragraph 1 specifies a place and hours for inspection—

(a) the place and hours so specified must be reasonable; and

(b) a description of the relevant matters must be available for inspection, free of charge, at

that place and during those hours.

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge,

a copy of the description.

3.

Where, within the relevant period, observations are made, in relation to the relevant matters by any

tenant or recognised tenants' association, the landlord shall have regard to those observations.

4.—

(1) The landlord shall prepare, in accordance with the following provisions of this paragraph, a

proposal in respect of the proposed agreement.

(2) The proposal shall contain a statement—

(a) of the name and address of every party to the proposed agreement (other than the landlord); and

(b) of any connection (apart from the proposed agreement) between the landlord and any other party.

(3) For the purpose of sub-paragraph (2)(b), it shall be assumed that there is a connection between

the landlord and a party—

(a) where the landlord is a company, if the party is, or is to be, a director or manager of the company or is a close relative of any such director or manager;

(b) where the landlord is a company, and the party is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;

(c) where both the landlord and the party are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;

(d) where the party is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or

(e) where the party is a company and the landlord is a partner in a partnership, if any partner

in that partnership is a director or manager of the company or is a close relative of any such director or manager.

(4) Where, as regards each tenant's unit of occupation, it is reasonably practicable for the landlord

to estimate the relevant contribution to be incurred by the tenant attributable to the relevant matters

to which the proposed agreement relates, the proposal shall contain a statement of that contribution.

(5) Where—

(a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (4); and

(b) it is reasonably practicable for the landlord to estimate, as regards the building or other premises to which the proposed agreement relates, the total amount of his expenditure under

the proposed agreement,

the proposal shall contain a statement of the amount of that estimated expenditure.

(6) Where—

(a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (4) or (5)(b); and

(b) it is reasonably practicable for the landlord to ascertain the current unit cost or hourly or daily rate applicable to the relevant matters to which the proposed agreement relates, the proposal shall contain a statement of that cost or rate.

(7) Where it is not reasonably practicable for the landlord to make the estimate mentioned in

sub-paragraph (6)(b), the proposal shall contain a statement of the reasons why he cannot comply

and the date by which he expects to be able to provide an estimate, cost or rate.

(8) Where the relevant matters comprise or include the proposed appointment by the landlord of

an agent to discharge any of the landlord's obligations to the tenants which relate to the management

by him of premises to which the agreement relates, each proposal shall contain a statement—

(a) that the person whose appointment is proposed—

(i) is or, as the case may be, is not, a member of a professional body or trade association; and

(ii) subscribes or, as the case may be, does not subscribe, to any code of practice or voluntary accreditation scheme relevant to the functions of managing agents; and

(b) if the person is a member of a professional body trade association, of the name of the body or association.

(9) Each proposal shall contain a statement of the intended duration of the proposed agreement.

(10) Where the landlord has received observations to which (in accordance with paragraph 3) he

is required to have regard, the proposal shall contain a statement summarising the observations and

setting out the landlord's response to them.

5.—

(1) The landlord shall give notice in writing of the proposal prepared under paragraph 4—

(a) to each tenant; and

(b) where a recognised tenants' association represents some or all of the tenants, to the association.

(2) The notice shall—

(a) be accompanied by a copy of the proposal or specify the place and hours at which the proposal may be inspected;

(b) invite the making, in writing, of observations in relation to the proposal; and

(c) specify—

(i) the address to which such observations may be sent;

(ii) that they must be delivered within the relevant period; and

(iii) the date on which the relevant period ends.

(3) Paragraph 2 shall apply to a proposal made available for inspection under this paragraph as it

applies to a description made available for inspection under that paragraph.

Duty to have regard to observations in relation to proposal

Law In Force

6.

Where, within the relevant period, observations are made in relation to the landlord's proposal by

any tenant or recognised tenants' association, the landlord shall have regard to those observations.

7.

Where the landlord receives observations to which (in accordance with paragraph 6) he is required

to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom

the observations were made, state his response to the observations.

8.

Where a proposal prepared under paragraph 4 contains such a statement as is mentioned in sub-paragraph (7) of that paragraph, the landlord shall, within 21 days of receiving sufficient information to enable him to estimate the amount, cost or rate referred to in sub-paragraph (4), (5)

or (6) of that paragraph, give notice in writing of the estimated amount, cost or rate (as the case

may be)–

(a) to each tenant; and

(b) where a recognised tenants' association represents some or all of the tenants, to the association.

SCHEDULE 3

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS UNDER QUALIFYING

LONG TERM AGREEMENTS AND AGREEMENTS TO WHICH REGULATION 7(3)

APPLIES

1.—

(1) The landlord shall give notice in writing of his intention to carry out qualifying works—

(a) to each tenant; and

(b) where a recognised tenants' association represents some or all of the tenants, to the association.

(2) The notice shall—

(a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;

(b) state the landlord's reasons for considering it necessary to carry out the proposed works;

(c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;

(d) invite the making, in writing, of observations in relation to the proposed works or the landlord's estimated expenditure;

(e) specify—

(i) the address to which such observations may be sent;

(ii) that they must be delivered within the relevant period; and

(iii) the date on which the relevant period ends.

2.—

(1) Where a notice under paragraph 1 specifies a place and hours for inspection—

(a) the place and hours so specified must be reasonable; and

(b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge,

a copy of the description.

3.

Where, within the relevant period, observations are made in relation to the proposed works or the

landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord

shall have regard to those observations.

4.

Where the landlord receives observations to which (in accordance with paragraph 3) he is required

to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom

the observations were made, state his response to the observations.