London Region

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AA/LSC/2024/0208**
Property	**:**	**Various Properties at Petticoat Square and Petticoat Tower, Middlesex Street Estate, Middlesex Street, London, E1**
Applicants	**:**	**Jeffrey Boloten (425 Petticoat Square)** **Damien Vaugh (22D Petticoat Tower)** **Philomena Levy (208 Petticoat Square)** **Ray Ruzzaman (603 Petticoat Square)** **Rob Valenta (18C Petticoat Tower)** **Angela Kennedy (16C Petticoat Tower)** **Gailie and Simon Anderson (433 Petticoat Square)** **Anne Kilroy (18D Petticoat Tower)**
Representative	**:**	**Mr Jeffrey Boloten**
Respondent	**:**	**The Mayor and Commonalty and Citizens of the City of London**
Representative	**:**	**Mr Edward Blakeney (counsel)**
Type of application	**:**	**An application under section 27A Landlord and Tenant Act 1985**
Tribunal	**:**	**Judge Tueje** **Mr Stead BSc (Hons) MSc (H-W)**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of hearing	**:**	**16th June 2025 and 11th August 2025**
Date of the decision	**:**	**31st October 2025**

DECISION

Decisions of the tribunal

(1) The Tribunal makes the following determinations:

(i) The costs of installing the new communal heating system claimed from 2019 to 2024 inclusive are reasonable.
(ii) The Respondent has complied with the section 20 statutory consultation requirements in relation to replacing the heating and hot water system.
(iii) The running costs of the new heating and hot water system are reasonable
(iv) The estimated service charges relating to the new heating and hot water system for 2024/2025 are reasonable.
(v) We make no determination in respect of service charges relating to the heating and hot water system for the period 2025 to 2030.
(vi) To the extent that there is a claim before the Tribunal for compensation to be paid to Ms Levy, that claim is struck out pursuant to rule 9(2).

(2) The applications under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 are refused.

THE APPLICATION

1. By an Application dated 13th May 2024, the Applicants sought a determination under section 27A as to the amount payable in respect of the service charges for the cost of replacing the central heating and hot water system in their buildings for the periods 2023 and 2024. The Tribunal issued a directions order dated 13th June 2024.

2. By an Order 1 form dated 30th September 2024 the Applicants sought permission to expand the service charge periods being disputed to cover from 2019 to 2024 inclusive, and for future years from 2025 to 2030. The Tribunal issued an amended directions order dated 24th October 2024 granting permission to the Applicants to do so.

3. The Tribunal was provided with the following documentation:

3.1 An electronic hearing bundle comprising 1271 pages;
3.2 The Applicants' agenda for the hearing;
3.3 The Respondent's skeleton argument dated 15th June 2025;
3.4 Respondent's supplementary skeleton argument dated 8th August 2025;
3.5 Second witness statement of Lachlan MacDonald dated 9th June 2025;
3.6 A 63-page supplementary bundle;
3.7 Extracts from Dilapidations: The Modern Law and Practice 7th edition; and

3.9 An e-mail sent to the Applicants on 25th March 2025 by Judith Finlay, the Respondent's Executive Director of Community and Children's Services.

4. The Applicants had not included a dispute regarding the cold water distribution system in the Application, nor did they apply for permission to amend their claim to include a challenge of the reasonableness of those costs. However, in the Tribunal's standard Scott Schedule, and in the witness statement of Mr Rose dated 15th March 2025, the Applicants dispute the cost of the cold water distribution system.

5. The Respondent relies on a statement of case, and a witness statement from Mr Lochlan MacDonald, the Respondent's Asset Programme Manager, which are both dated 21st February 2025. Mr MacDonald also gave evidence on behalf of the Respondent at the final hearing.

6. The Applicants' Reply was submitted on 21st March 2025. After receiving the Applicants' Reply and Mr Rose's witness statement, on 8th April 2025 the Respondent sought permission from the Tribunal to rely on a second witness statement from Mr MacDonald. The Tribunal allowed the Respondent to do so providing Mr MacDonald's second witness statement was submitted by 7th May 2025. It seems the Tribunal's decision was communicated to the Respondent on 2nd May 2025, but it received the directions order on 8th May 2025, making it impractical for the Respondent to comply with it. In the event, Mr MacDonald's second witness statement dated 9th June 2025 was sent to the Applicants on that date.

7. The Applicants opposed the application arguing the Respondent had failed to comply with the Tribunal's direction and so should not be allowed to rely on a further witness statement which was served late.

8. In our judgment the Tribunal had already agreed in principal that the Respondent should be allowed to rely on Mr MacDonald's second witness statement, but it was impractical for the Respondent to comply with the timescale bearing in mind the date it received the directions order. The witness statement was not extensive: it consisted of 7 pages. Therefore, we consider there was sufficient time between 9th June 2025 when it was sent, and the hearing on 16th June 2025, for the Applicants to consider the contents. Accordingly, we gave the Respondent permission to rely on Mr MacDonald's second witness statement.

9. Also at the hearing on 16th June 2025, the Applicants confirmed they wished to challenge the costs of the cold water distribution system as part of these proceedings. The Respondent objected to this.

10. After hearing submissions from both parties, the Tribunal concluded it would not be in the interests of justice to allow the Applicants to pursue a challenge regarding

the costs of the cold water distribution system within these proceedings, for the detailed reasons given during the hearing. In summary, the Applicant's claimed the replacement heating and hot water system and the cold water distribution system had originally been different projects but the costs were subsequently merged, they were part of the same contract using the same contractor and so should be dealt with as part of this Application. As stated, the Respondent objected, it disputed the projects had been merged, pointing out there had been separate consultation. It also argued the application was clear and did not refer to a challenge regarding the cold water distribution system, nor had the Applicants applied to amend the application to include this. Accordingly, the Respondent's statement of case and evidence did not address these costs, Mr Blakeney argued it was not in a position to deal with this issue, and it would be contrary to the interests of justice to allow the Applicants to raise an issue in these circumstances.

11. In our judgment it would be prejudicial to the Respondent to allow the Applicants to pursue a challenge not included in the original application, and in respect of which there had been no application to amend. We were not in a position to determine the factual dispute about whether replacing the heating and hot water and the new cold water distribution system were part of the same project, but the application form referred only to the former costs. We therefore agreed with the Respondent that it would be contrary to the interests of justice to determine this issue as part of the existing application.

12. After dealing with the above procedural matters, at the hearing on 16th June 2025 Mr Rose gave evidence on behalf of the Applicants. He had previously written to the Tribunal on 10th April 2025 stating he no longer wished to rely on paragraphs 5 to 15 of his witness statement. However, at the hearing, he sought to rely on those paragraphs, while maintaining he did not want to rely on them. Due to this lack of clarity, and to ensure no evidence was excluded that the Applicants wished to rely on, the Tribunal proceeded on the basis that Mr Rose's entire witness statement formed part of his evidence.

13. However, during the hearing, it became apparent that further evidence was required from the Applicants regarding the costs which they say are reasonable for the replacement of the central heating and hot water systems. Accordingly, the hearing was adjourned part-heard, with directions allowing the Applicants to complete the Tribunal's Schedule of Disputed Service Charges in respect of each Applicant, and to provide a witness statement dealing with how those amounts had been calculated. The Respondent had the option of providing a witness statement in reply.

14. Ahead of the adjourned hearing on 11th August 2025 the Applicants submitted a supplementary bundle, it included a witness statement from Mr Vaugh, who gave evidence regarding the alternative cost of installing individual electric heating in the Applicants' properties, the Tribunal also heard evidence from Mr MacDonald,

and closing submissions from Mr Boloten and Mr Vaugh on behalf of the Applicants, and Mr Blakeney on behalf of the Respondents.

15. Included in the additional documentation submitted by the Applicants was a new request for compensation of £1,950 to be paid to Ms Philomena Levy for the inconvenience caused to her by the works. The Applicants had not made a written or oral application to include this claim.

THE BACKGROUND

16. Insofar as the terms of the various Applicants' leases are relevant to this application, there is no material difference in the provisions of the leases.

17. Clause 1 of the lease defines *"the Manager"* as the Respondent's Housing Manager, and clauses 1 and 2 define *"the Building"* to mean Petticoat Tower or Petticoat Square.

18. Clause 4 sets out the leaseholder's obligations, sub-clause 4(4) specifically deals with the payment of service charges by the leaseholder.

19. Sub-clause 4(6) prohibits leaseholders from carrying out certain works or repairs; it reads (original emphasis):

> *Not to decorate the exterior of the premises (including the exterior of any entrance door) make any structural alterations or structural additions to the premises or any part thereof or remove any of the Landlord's fixtures without the previous consent in writing of the Corporation and without prejudice to the generality of the foregoing not:*
>
> *(a) erect or set up or suffer to be erected or set up on any part of the premises any erection or building or*
> *(b) cut injure alter or divide the premises or any part thereof or*
>
> *(c) make any alteration or addition to the premises either in height or projection or*
>
> *(d) unite or annex the premises or any part thereof to any premises adjoining or*
>
> *(e) insert or drive nails or screws or sink plugs or make any fixing whatsoever to the walls of the premises*
>
> ***SAVE THAT** in the event that the Corporation shall have disconnected or removed the installations and equipment relating to the services referred to in paragraph 3(c) of the Fifth Schedule hereto the Tenant may at its own cost and expense install in the premises*

a central or other heating and hot water system ("the system") provided always that:

(i) any necessary building or other consents have been previously obtained (including that of the Manager such consent not to be unreasonably withheld) for the installation of the system and

(ii) all terms conditions and requirements of such consents and all appropriate regulations are fully and effectively complied with and

(iii) the system is installed in a good and workmanlike manner with new sound and proper materials and to the satisfaction of the Manager (whose approval of the system shall not constitute a warranty or representation of any kind)

***AND** the system shall be the property of the Tenant and may be removed by the Tenant at any time*

***AND** in the event that the Tenant removes the system to make good all damage caused to the premises or the adjoining or neighbouring property of the Corporation and to redecorate such parts of the premises as are affected by such removal*

20. Clause 5 of the lease contains the landlord's obligations, including its obligation to provide the services specified in the Fifth Schedule to the lease. These are contained in sub-clause 5(2) which reads:

(a) That so far as is practicable the Corporation will maintain the services to the premises set out in Parts I and II of the Fifth Schedule hereto (except the services set out in Clause 1(5) of Part I of the Fifth Schedule hereto)

(b) Until the expiration of the notice of discontinuance as is hereinafter provided in paragraph 3(c) of the Fifth Schedule hereto or so far as is practicable the Corporation will maintain the services to the premises set out in Part I Clause 1(5) of the Fifth Schedule hereto

21. Part I of the Fifth Schedule sets out the services the landlord will provide. Paragraph 1 reads:

The service maintenance repair renewal and insurance (where applicable) of such of the following services and installations as are in upon or under the Building (until such time as the Corporation shall elect to discontinue such services and installations as is hereinafter provided in paragraph 3(c) hereof) namely:

...

(4) *Electrical and mechanical and plumbing services and installations (including water tanks water supply pipes and ducts soil and waste pipes and ducts electrical switchgear cables and ducts generators pumps and fans and heater panels located in the common parts)*

(5) *Heating and hot water installations and the control equipment connected therewith*

22. Paragraph 3 of the Fifth Schedule continues:

(a) Subject as mentioned in Sub-Clause (c) hereof the provision from the first day of October in each year to the thirtieth day of April in the year immediately following and at other reasonable times of heating to the premises and other flats or premises in the Building where such heating is controlled by the Corporation

(b) Subject as mentioned in Sub-Clause (c) hereof the provision of electricity gas or hot or cold water to the premises in any case where any of these are supplied to the premises through the Corporation and not directly from the statutory undertakers

(c) The Corporation at its absolute discretion at any time during the term may elect to discontinue the provision of such heating and or provision of hot water and of such election shall give to the tenant not less than twelve weeks' previous written notice so as to enable the tenant at his or her own cost and expense (and subject and in accordance with the provision of Clause 4(6) hereof) to install a suitable individual and independent system for the provision of central heating and/or hot water AND it is hereby agreed and declared by and between the parties hereto that upon the expiration of the notice as aforesaid the Corporation's obligations set out in paragraphs 3(a) and (b) hereof shall absolutely cease and determine

23. The Respondent engaged Butler & Young Associates to prepare a Conditions and Options report dealing with the communal heating and hot water system, a reissued copy of which dated June 2016 is exhibited to Mr MacDonald's first witness statement. Paragraph 2.2 of that report summarises the condition of the system at the time of the report as "fair to poor." As to the system's effectiveness and life expectancy, the report states (at paragraph 3.1):

As the majority of equipment is life expired maintenance costs will only increase with efficiency decreasing.

24. The Respondents subsequently engaged Pheonix Compliancy Management which prepared a feasibility study and report dated June 2018. It contains a detailed assessment of the system in place at the time, including the plant room, communal

and domestic boilers, the gas supply, space heaters, domestic hot water cylinders, pumps, and pipework.

25. Section 2.2 of that report describes the communal boilers as follows:

The boilers have reached their economic maintainable life span and should be replaced with a more modern and energy efficient type. Preferably a condensing model in accordance with current regulations and industry standard.

26. Section 3 of the report considered four options for replacing the heating and hot water system in the development. Option D dealt with installing a system that provided individual electric heating and hot water. Its conclusions regarding this option are (see paragraph 3.5):

In principle this could be the most attractive choice as it would mean the services are all contained within the dwelling. However under the requirements of the Building Regulations Part L the use of our electric type system is not allowed in its current arrangement, and would only be accepted by Building Control as a special dispensation as the regulation requires any new heating system to be more efficient than the previously installed system. Had no system been installed then it would be acceptable, however as the block has a gas fired communal system, electric heating will be less efficient and therefore cannot be used (see Building Regulations Part L1B photograph 35 clause A (ii).

Additionally, the incoming electrical services supply is undersized, and will require new incomer and new lateral mains to each dwelling and replacement of local consumer unit(s).

27. Paragraph 9 of the report concludes as follows:

Finally it is our conclusion that the communal heating option is preferred option as it offers more advantages for both the Client and residents primarily on practical constraints, and significant financial savings over the duration of its life cycle.

28. On 1st May 2018 the Respondent held a residents' drop in session to discuss replacement of the heating system. The notice advertising the meeting states:

At this session, officers will be on hand to

- *Give explanations of the options available;*
- *Outline the City's preferred course of action, and the reasons behind this;*
- *Listen to residents' feedback on the proposals*

29. The point of contact for this meeting was Mr MacDonald. Although he attended the drop-in session, he spoke to those renting properties on the estate, while his colleague Mr Hayes spoke to leaseholders. Therefore, when it was put to Mr MacDonald during cross examination that the information provided to leaseholders at the drop-in was inadequate, in particular that there was no discussion regarding the options available, he was unable to refute that. Mr MacDonald confirmed the 1st May 2018 was the only drop-in session organised for residents before works began.

30. The Applicants make numerous complaints about what they regard as inadequate advance information about what the works entailed. For instance they complain that the degree of disruption and the extent of the alterations required was not discussed. In particular, Mr Boloten argued, the Applicants were not informed that pipework would be fixed to the external façade of the Buildings, and that the works would transform the appearance of the Buildings.

31. The proposed works were discussed at a committee meeting of the Respondent's elected members in July 2018, based on a recommendation which estimated the cost of works as approximately £20,000 per leaseholder. The committee the works as recorded in a memorandum dated 24th August 2018.

32. Also during this period, the Respondent initiated statutory section 20 consultation. The documentation shows the Respondent applied Schedule 4 Part 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 ('the Regulations') when consulting leaseholders.

33. Pursuant to the Regulations, on 6th August 2018, the Respondent sent residents a Notice of Intention to Carry Out Qualifying Works, which described the works as follows:

1. Description of the proposed works to the Building. *The like for like replacement of the current communal heating and hot water system serving the estate. This will include new boilers, replacement distribution pipework, heat emitters and controls within dwellings, and minor making good works.*

34. Residents were informed of their right to propose a contractor, to submit written observations regarding the works to which the Respondent was obliged to have regard.

35. Subsequently, on 28th August 2019, the Respondent sent leaseholders a Notice of Estimates for Qualifying Works setting out the estimated works as follows:

BSW Heating Limited:

i. Petticoat Tower: £1,688,063.96
ii. Petticoat Square: £2,490,756.84

iii.	*Total:*	***£4,178,820.80***

Cenergist:

i.	*Petticoat Tower*	*£1,758,244.32*
ii.	*Petticoat Square:*	*£3,289,191.10*
iii.	*Total:*	***£5,047,435.42***

Smart Managed Solutions:

i.	*Petticoat Tower*	*£1,996,977.57*
ii.	*Petticoat Square:*	*£2,718,305.43*
iii.	*Total:*	***£4,715,283.00***

TSG Building Services plc:

i.	*Petticoat Tower:*	*£1,058,288.57*
ii.	*Petticoat Square:*	*£1,545,372.8*
iii.	*Total:*	***£2,603,661.43***

36. The Notice of Estimates informed leaseholders that subject to leaseholder observations, which it invited, the Respondent intended to appoint TSG Building Services plc, which appointment was subsequently approved by a committee of elected members. In his second witness statement, Mr MacDonald states that it was after the contract was let that detailed designs were prepared, so these had not been available for discussion at the information session held with residents in May 2018. Mr MacDonald adds that he was not involved in the delivery of the project.

37. The observations received in response to the Notice of Intention mainly raise the inadequacy of consultation, disputing the need to replace the existing system, the increasing estimated costs, and whether alternative options were properly considered, including an observation that there appears to have been no consideration of installing individual electric heating and hot water because the Respondent has provided no information about that. The Respondent addressed these observations, which were enclosed with its letter to residents dated 28th August 2019. Its response to the latter observation was as follows:

As well as replacement of a communal system on a like for like basis, the other main options considered were continued maintenance and repair of the current system, or replacement with individual heating systems within flats. The reports the City have had undertaken have drawn the conclusion that the heating and hot water system is nearing the end of its economic life. The report concluded that much of the equipment is now in a phase where it becomes more expensive to repair than replace.

Individual heating systems within flats would have required reconfiguration of dwelling spaces to accommodate the individual boilers, flues, pipes etc to meet regulations. Furthermore, this would have required annual checks on all properties the City are responsible for, so increasing overall maintenance costs.

These options were put to committee who made the decision to approve the replacement of the communal system on a like for like basis.

At the session, certain other options were put forward by residents:

- *Electric Heating (either communal or individual): This was not considered as the running costs of electric heating are higher than gas, this would necessitate considerable expansion of the electrical supplies within blocks and in all likelihood require an increase in the size of the electrical supplies into blocks. There are also regulatory issues surrounding the use of electricity alongside a gas network. For these reasons, this was not put forward to committee.*

- *Grant Funded Wall Insulation – I made enquiries with a firm that have previously carried out grant aided works for the City of London. Their advice was that there was no scope for external or grant funding of works as would be required at Middlesex Street estate.*

- *Leaseholders also asked about the possibility of opting out of the communal system. After discussions with home ownership and Comptrollers and City Solicitors, this option cannot be pursued. The heating and hot water is communally provided and leaseholders are obliged to pay towards this as stipulated in their leases. To remove individual properties would mean that the mechanics of calculating and then recharging of service charges would need complex reorganisation.*

I apologise that the above conclusions were not communicated when they were originally raised, but they were addressed and considered.

38. The Applicants also complain about the substantial increased cost of these works, arguing that poor management has caused or contributed to the increased costs, and that they have received inadequate notification regarding the increases. Mr Rose complains the Respondent has agreed uplifts which are billed to leaseholders without formal notification to them about the increasing costs. He considers the Respondent's mismanagement of the project has led to the increase, accordingly the Respondent should be liable for the increases. As an example, he states, leaseholders should not bear the increased costs resulting from the delay caused by the Respondent obtaining planning permission because it should have been aware before works began that planning permission would be required. Furthermore, the Respondent has asbestos management contracts and should therefore have foreseen the need to deal with asbestos found while the works were being carried out.

39. In his witness statement, Mr Rose disputes that the amounts charged to leaseholders are proportionate and accurate compared to the value of the works carried out. He therefore concludes the amount charged to the Applicants for these

works are disproportionate, and they are owed an adjustment or rebate. As an alternative position, Mr Rose states if the amounts charged to leaseholders are proportionate to the works carried out, the figures disclosed to leaseholders must have been inaccurate, or the costs, for instance management surcharges, have not been adequately disclosed or explained.

40. In his witness statement Mr Rose also states the section 20 consultation was inadequate. He notes a meeting was held with residents, but no designs or options were presented to residents at the meeting or before works began. The Applicants' Reply points out the notice of resident's meeting states options would be discussed, but this did not happen. It was only apparent once works began that external pipework would be fitted with intrusive pipework installed internally, without adequate prior consultation.

41. The Respondent states works were due to begin in early 2020. However, due to COVID-19 commencement was delayed until July 2021, and were delayed further when the Respondent had to apply for planning permission to instal pipework to the external façade of the Buildings. In response to criticism from the Applicants about why this had not been anticipated, Mr MacDonald stated the works were planned on the basis that pipework could be installed along the podium, for which planning permission would not be required. However, once detailed designs were prepared it was recognised this option would require double the amount of pipework, and to avoid this, the Respondent applied for planning permission for approval to fit pipework to the external façade. He adds running the pipework though the existing risers would require decommissioning the existing heating and hot water system and decanting all resident, and was therefore not feasible.

42. In the event, planning permission was obtained in July 2022. Due to the unexpected delay, Mr MacDonald states the Respondent then had to wait for TSG to complete other projects before it was ready to commence works in November 2022.

43. Mr Vaugh argued that by removing the old heating system, paragraph 3(c) of the Fifth Schedule was invoked, meaning the Applicants should now have the option of installing individual heating in their properties. Mr Blakeney disputed that this provision has been engaged, and points out that the Respondent has not sent a notice of discontinuance, which is a requirement under paragraph 3 (c).

44. Mr Rose's witness statement continues:

Delays due to cost of materials, the COVID pandemic or other factors could or should have been factored into the design and build nature of the project and its contracts, leaving the contractor or the corporation to bear the costs without passing them on directly to leaseholders.

45. The Respondent accepts the overall costs have increased, and points to the combined impact of Brexit and COVID-19 leading a shortage of skilled individuals, particularly of those willing to work on this comparatively complex project at the rates being offered. He states that the impact of these factors is substantially increased labour costs in addition to the rising cost of materials. He also states changes to the original scope of works has increased the cost too. For instance when residents objected to the loss of cupboard space the heat interface unit within some properties were relocated, which led to the discovery of asbestos which required removal by specialists. Mr MacDonald states that the asbestos was not previously detected because there was no asbestos in the originally intended location. However, the Respondent maintains that even allowing for the increase in costs, these still remain lower than the next quote obtained.

46. In accordance with its obligation under the leases, the Respondent provides heating throughout the Estate from 1st October of each year until 30th April the following year. However, Mr MacDonald states that after works began, and after the old communal heating was switched off in May 2023, the contractors advised that due to the poor condition of the old pipework, switching the old system back on could cause flooding. Therefore, the old heating system has not been used since spring 2023.

47. As a result of their concerns, some leaseholders requested consent to install individual heating within their properties at their own expense, and to pay for ongoing maintenance costs. These requests were referred to the Respondent's elected members. At a council committee meeting on elected members on 1st November 2023, nine out of 11 members voted to reject the leaseholder's proposals for the following reasons:

    47.1 Installing and maintaining the new system would increase costs;

    47.2 The replacement communal heating system supports renewable and sustainable heats sources in the long term;

    47.3 Individual electric heating would overload the existing limited electrical infrastructure, which would require a major upgrade to cope

48. The Applicants dispute that a few leaseholders installing individual electric heating in their properties would have the impact on the electrical infrastructure that the Respondent claims. Mr Vaugh pointed out that because the heaters would accumulate heat during off peak times, this would not overload the system.

49. As at the date of the final hearing the works to replace the heating system are still ongoing, with some objecting leaseholders refusing to allow access for internal works to be carried out. Consequently the Respondent has warned that it is prepared to issue injunctive proceedings to obtain access. Furthermore, as a result

of the old heating system being switched off, the properties where the new heating system has not yet been installed are without any central heating. The Respondent has offered fan heaters to affected residents, but it seems that the lack of any central heating has meant that some residents who had previously refused access for internal works to be carried out have now relented.

50. Another criticism the Applicants make, which reflects some of the observations made during the consultation process, is that replacing the old communal heating system with a gas-powered heating system is contrary to the Respondent's Climate Action Strategy. The Applicants maintain that their proposed alternative is more closely aligned with those objectives. The Respondent's response is that the new heating system has the capability to support renewable and sustainable heating in the future, at which point the gas powered system would become an emergency back-up system. Furthermore, the Respondent argues, the Tribunal does not have jurisdiction to determine reasonableness on the basis of alleged non-compliance with its Climate Action Strategy.

51. The final section of Mr Rose's witness statement deals with the heating costs. It criticises the new on-demand heating system which does not limit household usage, and which he says, has resulted in higher costs in the last two years, and last year heating costs exceeded £300,000 across the Estate for the first time.. Therefore, Mr Rose complains that multiple occupiers who would use more heating and hot water pay the same amount as a single person occupying a property of the same size. He points out billing has not been converted to individual metering, which had been promised. Additionally, the removal of the BMS, which had previously ensured that if mild weather resulted in higher temperatures between October to April, the communal heating would be switched off. During his oral evidence, Mr Rose stated the Respondent had agreed residents should not be charged for heating during October 2022, due to the failure of the BMS meaning the heating was switched on even though it was unseasonably warm. Mr Blakeney put it to Mr Rose that the Respondent had agreed to review heating costs but had not accepted the costs were unreasonable. This issue is dealt with in e-mails that were not present at the 16th June 2025 hearing, but were contained in the supplementary bundle prepared for the adjourned hearing. However, Mr Rose did not give evidence at the adjourned hearing, Mr Vaugh did not deal with these in his evidence and Mr MacDonald was not cross examined about the e-mails.

52. Mr Rose states residents have complained about the performance of the new system, and that he and others have been advised by the Respondent and the contractor, to keep their heating on for long periods to achieve 21°C. Mr MacDonald's oral evidence was that residents are likely to have been advised to keep their properties heated at a constant minimum to protect and promote wellbeing and a healthy domestic environment.

53. The Applicants state that heating costs have increased under the new system, yet the heat output is inadequate and the promise of individual metered billing has not

been implemented. They rely on a survey of residents on 16th January 2024 in which 72% stated they were not dissatisfied with the new heating system.

54. In relation to individual billing, Mr MacDonald states that the Respondent still intends to introduce this. Mr MacDonald points out that the survey was of 18 residents, and of the 222 households where the new hearing system has been installed, the Respondent has received 32 complaints. He points out that a number of the 32 complaints were due to the occupiers not fully understanding how to operate the heating system to its maximum efficiency. He further states that the contractors advise that until the new system is installed in all properties it will not work at the maximum efficiency. He also states that the higher heating costs result from the need to run two heating systems, until the old system is fully decommissioned. He adds, fuel costs have also increased in recent years.

55. The final issue raised by the Applicants and argued at the hearing was that by refusing the Applicants the option of installing their own individual heating, they were being denied consumer choice and taking responsibility for the interior of their own flats. The Applicants continue that there is an imbalance in the lease which under paragraph 3(c) of the Fifth Schedule allows the Respondent to notify leaseholders if it decides to discontinue providing communal heating, but there is no corresponding option for leaseholders.

56. Mr Blakeney argued that the course the Respondent pursued in replacing the heating and hot water was rational in the public law sense so it met the reasonableness requirement set out in Waaler v Hounslow

THE ISSUES

57. In the directions order dated 13th June 2024, the Tribunal identified the following issues for determination:

    57.1 Whether the costs of installing the new communal heating system claimed from 2019 to 2024 inclusive are reasonable;

    57.2 Whether the running costs of the new system are reasonable;

    57.3 Whether the Respondent complied with the section 20 statutory consultation requirements;

    57.4 Whether the estimated service charges for the period 2024/2025 are reasonable;

    57.5 Whether service charges for the period 2025 to 2030 are reasonable; and

    57.6 Whether to award Ms Levy compensation, and if so, what amount.

58. The Tribunal reached this determination after considering the parties' oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence. We also took into account correspondence between the parties contained in the hearing bundle.

59. This determination does not refer to every matter raised in these proceedings, or every document the Tribunal reviewed or took into account in reaching its decision. However, this doesn't imply that any points raised, or documents not specifically mentioned, were disregarded.

THE LEGISLATIVE FRAMEWORK

60. The relevant statutory provisions are set out in the Appendix below.

61. The definition of service charges at section 18 includes the costs payable in respect of insurance and management, among other things.

62. Section 19(1) limits the amount recoverable as service charges to an amount that is reasonably incurred, and for works or services carried out to a reasonable standard.

63. Section 20 limits the amount of service charges that are recoverable where consultation is required but not undertaken.

64. Schedule 4 Part 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 set out the relevant consultation requirements applying in this case.

DETERMINATION

Whether the cost of installing the new communal heating system is reasonable

The Tribunal's Decision

65. The costs of installing the new communal heating system claimed from 2019 to 2024 inclusive are reasonable

Reasons for the Decision

66. Our reasons for finding the service charges costs of installing the new heating system for 2019 to 2024 are reasonable are set out at paragraphs 67 to 80 below.

67. We remind ourselves that whether costs are reasonable under section 19 is assessed according to whether the costs are reasonably incurred and whether the works and/or services are carried out to a reasonable standard.

68. We are satisfied that the heating and hot water system needs to be replaced. This is recommended in the specialist reports obtained by the Respondents from Butler & Young Associates dated June 2016, and from Pheonix Compliancy Management dated June 2018. Both reports consider most of the old system was life expired and uneconomical to maintain. The reports also considered a variety of replacement options, with both concluding a new system of individual electric heating is not advisable, because, amongst other reasons, the existing electrical infrastructure could not cope. Although Mr Vaugh disagreed with that assessment, when questioned by Mr Blakeney, he accepted he had no expert of professional knowledge in this field.

69. It means that even though the Applicants' quotes for individual electric heating seems prima facie lower than the amount leaseholders are being billed for their proportion of the replacement communal system, because the specialist reports obtained by the Respondent advise against individual electrical heating, we find it is reasonable for the Respondent to follow the specialist advice and install a replacement gas-powered communal heating system.

70. Although Mr Vaugh disagreed with this position, and considered that the existing infrastructure could cope with some residents installing individual electrical heating, we prefer the specialist advice. Mr Vaugh accepted he has no specialist knowledge in this field.

71. Furthermore, the quotations the Applicants rely on are not comparable costs. In other words they are not like-for-like: the costs claimed by the Respondent is for a replacement gas-powered communal heating system, whereas the Applicants' costs relate to individual electrical heating systems. Therefore, it does not mean that the actual system installed by the Respondent's is over-priced, it simply means there may be a cheaper alternative. However, it is well established law that a landlord is not bound to choose the cheapest option. And as stated, the Applicants' cheaper option is considered inappropriate by the specialists engaged by the Respondent.

72. Yet further, the quotations relied on by the Applicants are subject to survey. It means these prices could change, so the final amount of the Applicants' alternative option is not yet clear.

73. By paragraph 1(5) of the Fifth Schedule the Respondent has agreed to provide "Heating and hot water installations and the control equipment connected therewith". This is a further reason why it is reasonable for the Respondent to install a communal replacement heating system. Notwithstanding the express

terms of the lease, the Respondent's elected members considered the request by some leaseholders to install their own heating system, but it refused their request, providing a reasoned response, which we find was reasonable.

74. We do not accept Mr Vaugh's argument that paragraph 3(c) of the Fifth Schedule has been engaged. We heard evidence that the old heating system has been switched off, but we do not consider that by doing so the Respondent has elected to discontinue providing heating and hot water. That is because the Respondent is installing a replacement system so that it can continue supplying heating and hot water. Furthermore, it has not given leaseholders the 12 weeks' written notice required by paragraph 3(c).

75. It is not disputed that the cost of the works have increased. The Applicants argue this increase is due to negligence and mismanagement including delays, resulting from the unanticipated need to obtain planning permission and dealing with asbestos, the cost of which they argue the Respondent should be liable for. However, the Applicants have not specified how the delays have led to an increase in costs. The Respondent counterargues that despite the increase in costs, they are still below the next highest estimate obtained in August 2019.

76. As to the reason for the delays, we do not consider these are due to negligence or mismanagement. We accept Mr MacDonald's evidence that the works were due to begin in early 2020, but were delayed due to COVID. We also consider that the consequent shortage of skilled workers exacerbated by Brexit was a contributory factor which was beyond the Respondent's control. We also accept that this necessitated waiting for TGS to complete other projects before it was ready to being these works.

77. We disagree with Mr Rose's statement (see paragraph 44 above) that the Respondent should have foreseen the need to obtain planning permission and deal with asbestos. Nor do we consider it justified to criticise the Respondent for not anticipating planning permission would be required. That became necessary when the original plan to fit pipework to the internal façade turned out to be unfeasible. Similarly, with the discovery of asbestos, we accept the Respondent's explanation regarding why this was not recognised earlier. In other words, we accept that it was the unforeseen consequence of changing the location of the heat interface units where some residents complained about the loss of cupboard space that would result from the originally intended location. The Applicants do not challenge that some residents made this request, and if there has been an alteration to the original plans, a consequent increase in costs is unsurprising. Furthermore, some changes and some increase in costs are not unusual in a project of this scale. While the amount of the increase is substantial, we accept the Respondent's explanation provide a legitimate basis for the increases, and we do not consider these increases are due to the Respondent's negligence or mismanagement.

78. We agree with the Respondent that we do not have jurisdiction to determine whether the replacement system is unreasonable on the grounds that it is said to be in consistent with the Respondent's Climate Action Strategy. Our jurisdiction to determine whether service charges are reasonable relate to whether the costs are reasonably incurred and/or whether the works or services are carried out to a reasonable standard.

79. As to the Applicants' complaint that by refusing to allow them to install individual heating and denying them consumer choice, the Respondent is acting unreasonably, we consider that Waaler v Hounslow is relevant. In that case the Court of Appeal stated (see paragraph 20):

> *The Supreme Court gave extensive consideration to this question in Braganza v BP Shipping Ltd [2015] UKSC 17, [2015] 1 WLR 1661 . It was, I believe, agreed by all members of the court that the exercise of a contractual discretion is constrained by an implied term that the decision-making process be lawful and rational in the public law sense, that the decision is made rationally (as well as in good faith) and consistently with its contractual purpose; and that the result is not so outrageous that no reasonable decision-maker could have reached it*

80. As the Respondent was following specialist advice when deciding to install a new communal heating and hot water system, and when rejecting some leaseholders' requests to install individual heating, we do not consider the Respondent acted unreasonably in the *Waaler* sense.

Whether the running costs of the new system are reasonable

The Tribunal's Decision

81. The running costs of the new system are reasonable

Reasons for the Decision

82. Our reasons for finding the running costs of the new system are reasonable are set out below.

83. We accept the Respondent's argument that the global factors including the war in Ukraine have contributed to increased heating costs. We consider this is a widely publicised and generally accepted position. We also consider the Respondent's explanation that running two systems simultaneously to ensure all dwellings have both heating and hot water is a further contributory factor is a logical and credible additional contributory factor. As to the lack of efficiency of the new heating system, the Respondent claims that it cannot operate at maximum efficiency while

both systems are running. In our experience, this is a credible explanation, and the Applicants have not presented a persuasive counter argument on this point.

84. Under the terms of their leases, the applicants pay a fixed proportion of the heating costs. The amount charged is based on the apportionment specified in the lease, not on individual energy consumption or the number of occupiers in each dwelling. Although the applicants complain that the respondent has not yet installed the individual metres it previously promised, we do not consider it unreasonable that the current running costs are billed in accordance with the existing lease provisions. The absence of individual metres does not, in itself, render the respondent's current method of apportioning fuel costs unreasonable.

85. The removal of the BMS resulting in the communal heating being on in October 2023 even though the weather was unseasonably warm is another instance of unreasonable running costs relied on by the Applicants. Mr Rose dealt with this in his oral evidence, but the relevant e-mail correspondence was not available. When the e-mail correspondence was included in the supplementary bundle prepared for the adjourned hearing, Mr Rose did not give evidence. It means this correspondence has not been put to him, which undermines the weight we attach to this evidence. There are a number of difficulties with this aspect of the Applicants' case. The first is that they have not quantified what amount of the overall heating costs they claim is excessive. Secondly, by the express terms of paragraph 3(a) of the Fifth Schedule, the Respondent agrees to provide heating from October through to April, so irrespective of the removal of the BMS, by providing heating in October, the Respondent was acting in accordance with the terms of the lease. Although that on its own does not make the cost reasonable, we have also taken into account that residents have an element of choice about whether they have the heating on in their individual homes, because they can turn it down or switch it off if they chose. If they do so, then the heating costs would be minimal. If residents do not do so, that tends to undermine the Applicants' position that it was unreasonable to have the heating switched on in October. Considering all of these factors in the round, we do not consider the unquantified heating costs for October 2023 are unreasonable.

Whether the Respondent complied with the section 20 statutory consultation requirements

The Tribunal's Decision

86. The Respondent complied with the section 20 statutory consultation requirements

Reasons for the Decision

87. The relevant requirements of the statutory consultation are set out in the Appendix. In brief, these require the Respondent to give a written notice of

intention to each leaseholder which describes the works in general terms, the reasons the works are necessary, inviting written observations regarding the works and inviting nominations for contractors to carry out the works. The Respondent must have regard to any observations made. The Respondent must obtain at least two estimates, and try to obtain estimates from any nominated contractors, provide the estimates to the leaseholder, provide a summary of any observations received and invite observations on the estimates. The Respondent must have regard to any observations made.

88. We find that the Respondent sent a written notice of intention to the Applicants. A copy of this dated 6th August 2018 is in the bundle, as is a copy of the written observations received in response to the notice of intention, which satisfies us that the notice of intention was sent. The notice of intention describes the works to be carried out in general terms which meets the statutory requirements. Although Mr Boloten argued that the description used of the works being like for like was inaccurate because it did not reflect the transformation to the Buildings that the works would entail, we find the description although brief, it is sufficient for the purposes of section 20 consultation. While we accept Mr Boloten's submission that the Applicants may not have been given prior notice about the extent of the transformation, we do not consider that is a requirement of statutory consultation. As Mr MacDonald stated, the general description of replacing the heating and hot water system with like for like, reflects that the old and new systems are communal. We find that is adequate. We also take into account that the Respondent had held an information session on 1st May 2028, and that the Applicants criticised the lack of discussion regarding the different, and not designs were available. However, the Respondent has explained that designs were not available at that stage, and were only prepared after the contract was let. The meeting is not a requirement of the statutory consultation process, so although the Applicants would have liked more information to have been provided at this session, there was no requirement to hold the information session.

89. Another reason why the Applicants argue consultation was inadequate was because the cost of the works exceed the amount notified to them in the notice of estimates. However, we take into account that although consultation requires the Respondent to notify the Applicants about the estimates received, an increase in the estimated costs without further consultation does not vitiate the process.

90. There is no express or implied requirement to do so. Mr Blakeney argues that the purpose of consultation, as stated in Deajan v Benson, is to ensure leaseholders do not incur a reasonable amount of costs for works that are carried out to an unreasonable standard. For the reasons stated elsewhere in this determination, we do not consider either of these apply. But the stated purpose shows that providing the cost of the works are reasonable in amount, which we have found they were, if those costs exceed an initial estimate, that does not invalidate the process.

91. We are also satisfied that a notice of estimates was sent as there is a copy dated 28th August 2019 in the bundle. Although Mr MacDonald could not give direct evidence confirming the notice of estimates were sent out because this was done by a different department, we consider it more likely than not that these were sent out given that there is a copy in the bundle.

Whether service charges for the period 2025 to 2030 are reasonable

The Tribunal's Decision and Reasons

92. In our judgment, the estimated service charges for the period 2024/2025 as they relate to replacement of the heating and hot water are no greater than is reasonable for the reasons stated at paragraphs 67 to 85 above.

93. The reason we make no determination in respect of the service charge costs for 2025 to 2030 relating to replacing the heating and hot water system is that the Tribunal has not been provided with sufficient information regarding the actual and/or estimated service charge costs for this period in order for it to make a determination regarding the reasonableness of those service charge costs.

Compensation for Ms Levy

94. This claim is not included in the Application, nor has there been a request to amend the Application to include a claim for compensation by Ms Levy. In any event, the Tribunal does not have jurisdiction to award compensation for inconvenience. Therefore, to the extent that there is a claim before the Tribunal for compensation to be paid to Ms Levy, that claim is struck out pursuant to rule 9(2).

Costs

95. In light of our determination, the applications under section 20C and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 are refused.

Name: Judge Tueje Date: **31st October 2025**

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

APPENDIX
Extracts from the Landlord and Tenant Act 1985

18.— Meaning of "service charge" and "relevant costs"

(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.

19.- Limitation of service charges: reasonableness

(1) Relevant costs shall be taken into account in determining the amount of service charge payable for a period-

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provision 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.

20.- Limitation of service charges: consultation requirements

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsections (6) or (7) (or both) unless the consultation have been either-

(a) Complied with in relation to the works or agreement, or

(b) Except in the case of works to which section 20D applies, 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 payment of service charges) to relevant costs incurred on carrying out the works under the agreement.

(3) This section applies to qualifying works if relevant costs incurred or on carrying out the works exceed an appropriate amount.

27A Liability to pay service charges: jurisdiction

(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.

Schedule 4 Part 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003

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) invite the making, in writing, of observations in relation to the proposed works; and
(d) 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 for the carrying out of the proposed works.

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

4.—

(1) Where, within the relevant period, a 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 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).

(5) The landlord shall, in accordance with this sub-paragraph and sub-paragraphs (6) to (9)–

(a) obtain estimates for the carrying out of the proposed works;

(b) supply, free of charge, a statement ("the paragraph (b) statement") setting out–

(i) as regards at least two of the estimates, the amount specified in the estimate as the estimated cost of the proposed works; and

(ii) where the landlord has received observations to which (in accordance with paragraph 3) he is required to have regard, a summary of the observations and his response to them; and

(c) make all of the estimates available for inspection.

(6) At least one of the estimates must be that of a person wholly unconnected with the landlord.

(7) For the purpose of paragraph (6), it shall be assumed that there is a connection between a person and the landlord–

(a) where the landlord is a company, if the person 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 person 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 person 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 person 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 person 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.

(8) Where the landlord has obtained an estimate from a nominated person, that estimate must be one of those to which the paragraph (b) statement relates.

(9) The paragraph (b) statement shall be supplied to, and the estimates made available for inspection by–

(a) each tenant; and

(b) the secretary of the recognised tenants' association (if any).

(10) The landlord shall, by notice in writing to each tenant and the association (if any)–

(a) specify the place and hours at which the estimates may be inspected;

(b) invite the making, in writing, of observations in relation to those estimates;

(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.

(11) Paragraph 2 shall apply to estimates made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.

5. -

Where, within the relevant period, observations are made in relation to the estimates by a recognised tenants' association or, as the case may be, any tenant, the landlord shall have regard to those observations.

6.—

(1) Subject to sub-paragraph (2), where the landlord enters into a contract for the carrying out of qualifying works, he shall, within 21 days of entering into the contract, by notice in writing to each tenant and the recognised tenants' association (if any)–

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

(b) there he received observations to which (in accordance with paragraph 5) he was required to have regard, summarise the observations and set out his response to

them.

(2) The requirements of sub-paragraph (1) do not apply where the person with whom the contract is made is a nominated person or submitted the lowest estimate.

(3) Paragraph 2 shall apply to a statement made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.