12641

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AU/LSC/2017/0378**
Property	:	**9 Highbury Grange, London N5 2QB**
Applicant	:	**Mr W Heneker of Lamberts Chartered Surveyors**
Representative	:	**None**
Respondent	:	**Mr P and Mr N Boulting (flat 1)** **Mr H Soma and Ms C Hudon (flat 9a)** **Prof Robert Cressey (flat 9b)**
Representative	:	**None**
Type of application	:	**Liability to pay and/ or the reasonableness of service charges.**
Tribunal members	:	**Mr N Martindale FRICS** **Mr P Roberts DipArch RIBA**
Venue	:	**10 Alfred Place, London WC1E 7LR**
Date of decision	:	**20 February 2018**

DECISION

Decision

(1) The Tribunal determines that of the sums remaining in dispute, NIL is payable by any of the respondents, as leaseholders through the service charge, for the works carried out to the building.

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(2) The Tribunal was not asked to make an order under section 20C of the Landlord and Tenant Act 1985.

Application and Directions

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the respondents for specific works, carried out in the service charge year of 2016/ 2017.

2. Directions were issued from this Tribunal, by Judge Mohabir, on 7 November 2017. The relevant legal provisions are set out in the Appendix to this decision.

3. The original application related to: a) Service charge costs incurred in 2016/17 for major works in the sum of £8,762. And b) Service charge costs to be incurred in 2017/ 18 in respect of further major works in the sum of £217,327.

4. At the 7 November 2017 hearing the applicant agreed to withdraw item b) above and sought determination only of item a) above. The hearing only dealt with item a) the service chargeable sum of £8,762.

5. This Tribunal was not asked to determine any administrative charges which might have fallen due under the leases or on freehold flats under the terms of the management appointment.

Hearing

6. The Directions provided for a hearing on 12 February 2018 at a Tribunal hearing room Alfred Place WC1. All of the parties attended except for Ms Hudson. Ms Xiao Dong Wang attended in support of Professor Cressy. The freeholder was not party and was not present.

Background

7. The property which is the subject of this application is a large former early Victorian house which in more recent years had been converted into 10 flats of varied size layout and position. Of these, 4 are retained in the freehold ownership of the landlord, whilst the other 3 are held on long leases. There are two small flats in the basement (flats 9a and 9b), and a large two level maisonette on the top two floors (flat 1) with the remaining freehold flats between.

8. Neither party requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

9. The Applicant is the Tribunal Appointed Managing Agent Mr Heneker and makes this application to collect sums, spent on the property, through the variable service charge provisions of the 3 leasehold and equivalent powers of the 4 freehold flats provided for under his terms of appointment.

10. The lease provisions setting out the liability to pay a service charge and the proportions due from each leasehold and freehold flat were not in dispute. Neither were the lease provisions determining the extent of each demise nor of the liability on parties to carry out repairs to individual flats or the common parts.

Issues

11. The Tribunal received three bundles: One from the applicant Mr Heneker; one from Professor Cressy, who whilst a respondent, was essentially supportive of the application; and a third from the Messrs Boulting and Soma who all resisted the application.

12. The applicant and respondent had identified that the payability and/or reasonableness of service charges to the sum of ££8,762 expended on works at the property in the single accounting year of 2016/17, were in dispute.

13. The Tribunal had to determine four issues: 1) Whether the S.20ZA consultation process requirements had been met. 2) Whether the cost of the works had been reasonably incurred. 3) Whether the cost was reasonable. 4) Whether the standard of the work was reasonable.

Applicants and Respondents Cases

14. The Tribunal proceeded by hearing in turn from each party on each matter they had been asked to address in their particular directions.

15. The basement flat (9b) towards the front of the property is held by Professor Cressy and had suffered from damp for a long time. Before the Tribunal had appointed Mr Heneker, management of the whole property, such as it was, remained the responsibility of the freeholder. However matters at the property had evidently got so bad that an earlier Tribunal had, on application of some or all of the then leaseholders, appointed a Manager to take control.

16. Although flat 9b had been damp, it had also been occupied by a longstanding tenant, however this occupier had left sometime in 2016 at relatively short notice. Whilst that tenant had been prepared to put up with the damp condition of the bathroom, Professor Heneker considered that a new tenant or perhaps in the longer term, a buyer of the flat, would require this damp problem dealt with. With the flat

newly but unexpectedly vacant Professor Cressy was keen to get works required to this part of the basement at least, carried out.

17. There had evidently been correspondence between the leaseholders, Mr Heneker and succession of building surveyors appointed by him to draw up a detailed schedule of works to the whole building; to consult, tender and appoint a contractor. The works in outline, were listed in Schedule C of the decision of the Tribunal which had first appointed the Manager some two years earlier, and an appointment which is due to expire later this calendar year.

18. The Tribunal heard that there had been considerable disappointment amongst leaseholders at the apparent quality, speed and enthusiasm of the work from the surveyors. There was for example, great concern as to which works were to be done to the whole; in what order, to what specification, to what quality and price, as discussed at a meeting in May 2016 (Mr Soma & Ms C Hudson excepted) but little appeared to have been resolved.

19. Among these extensive works was a single item No.21, in the original Appendix C (to the decision of the Appointment of a Manager), being: Item of disrepair *"Damp in structural walls to east basement flat."* Remedy *"Protect occupier's possessions. Replace defective plaster. Dry coat walls. Check conditions of damp proof course. Redecorate."* Est. cost *"£2,000"* over *"10 weeks"*. However the schedule clearly stated that these costings were indicative only and that a detailed specification would be needed. It was only this item which concerned this Tribunal.

20. It appeared to the Tribunal that no detailed investigation of the damp to this flat, nor a detailed specification, nor a tender process with the necessary two stage prior consultations had been completed prior to the works commencing. Neither had the applicant sought prior (or post) works dispensation from some of all of the S.20ZA consultation requirements from the Tribunal.

21. The matter of the damp to the basement was not addressed by the surveyor appointed by Mr Heneker and no solution was brought forward. Frustrated by the lack of progress in either deciding what was to be done, by whom and at what cost, Professors Cressy volunteered to progress matters and invited two quotes from reputable specialist damp proofing contractors to deal with the work.

22. The area that Professor Cressy sought to cure was the water ingress to the basement affecting the bathroom to flat 9b. This had been a former storage space located under what would have been the front hallway, landing and external front stone steps to the whole house. It would never have been intended for anything other than storage.

23. According to Professor Cressy this area, floor walls and sloping ceiling basement space had apparently been 'waterproofed', perhaps when the house had first been converted into flats, but that over the years the methods, materials and quality of workmanship had failed and that this had adversely affected the internal accommodation.

24. Mr Boulting spoke of his frustration about the lack of progress in all of the works to the property, and more particularly of the failure by the surveyor to discuss with the leaseholders and to settle on and then tender a proper detailed specifications of all of these works, item 21 included. It was agreed that whilst flat 1 was like the other flats, undoubtedly adversely affected by the run down nature of the whole property, it was not so pointedly disturbed, like basement flats 9a and 9b, by the immediate problem of damp.

25. Mr Heneker referred to the October 2015 Notice of Intention of works to the property, which included this item. It appeared that this had not been followed up owing to the ongoing dispute between leaseholders as to the works to be carried out. In the meantime Professor Cressy had obtained two quotes for damp proofing work, based on specifications provided by each of the two specialist contractors who priced, Kenwood and Peter Cox. Significantly both contractors were invited by him to inspect, specify and price with the guarantee to be in his own name.

26. Professor Cressy passed these two quotes to Mr Heneker who then proceeded to stage 2 of the S.20ZA process about a year after the first stage, by informing the other leaseholders of them and inviting observations. Whilst there was some confusion as to exactly when these were provided by Mr Heneker to the other leaseholders, there was no dispute that the works commenced at the unilateral decision of and appointment by Professor Cressy of Kenwood Plc and that the work started before the consultation process had concluded sometime around the end of September 2016 and start of October 2016.

27. It was noted that the contracting parties to these works were Professor Cressy and Kenwood Plc, and not as one would expect, Mr Heneker as Tribunal appointed manager and Kenwood. Indeed the payment was made by Professor Cressy and the guarantee for the works is now in his sole name.

28. The Tribunal was told that by comparison Mr Soma's basement flat 9a also suffered from damp and we were provided with some details of the extent, nature and prices of works he had received quotes for. From these he attempted to show that even perhaps for a smaller area of walling, he had paid some £2500 (no VAT), but more importantly that he had received a quote from Kenwood which had been at around twice the price of the other two quotes. Mr Soma confirmed that he had commissioned one of the cheaper contractors to proceed.

29. The Tribunal was told by Professor Cressy that Kenwood was a plc whereas other quotes including that from the contractor Mr Soma had appointed had not been VAT registered but simply individuals whose guarantees might be questionable. Professor Cressy maintained that in order to receive a meaningful 10 year guarantee against damp failure he had to employ Kenwood Plc and that perhaps work by smaller contractors might not be to the same standard or with the same guarantees, citing the poor quality of the water proofing to his basement flat, provided when the property had first been converted.

30. In the case of flat 9a, there was no suggestion by Mr Soma that such damp proofing should have been paid for through the service charge, and it was unclear whether the work undertaken here had been carried out to the structure or simply to the interior surfaces. However the exact location and nature of the works and whether they were to the flat or the building was not raised.

31. Whilst Mr Boulting agreed that work was needed to flat 9b the solution might have also involved or been better preceded by work to the ground around the basement walls outside, to the front stone steps, or indeed elsewhere, besides those to the underside of the front steps. itself. For example he referred to the poor condition of the wobbling brickwork in part of that area, which to him suggested the need for a much more comprehensive solution, even if that would delay getting the flat interior dry.

32. Although the total cost of the works including VAT came to £8,762, there being a few extra items which arose in their course, no contest was raised over this total figure or over its constituent parts by the parties. The applicant Mr Heneker and one respondent Professor Cressy sought to put the entire £8762 through the service charge. By contrast the other respondents (Professor Cressy excepted) sought to cap this item either at NIL or failing that, at £1750 (£250 x 7 flats).

Tribunal's decision

33. The Tribunal had to determine four issues: 1) Whether the S.20ZA consultation process requirements had been met. 2) Whether the cost of the works had been reasonably incurred. 3) Whether the cost was reasonable. 4) Whether the standard of the work was reasonable.

34. 1) The Tribunal determines that the S.20ZA consultation process had not been met. It was admitted by all parties that the second period for consultation on the quotes received, had not expired before the works commenced. This alone is sufficient for the statutory cap on contribution to these works from each flat, of £250, to come into effect.

35. 2) The Tribunal however also determines that the cost of the works had not been reasonably incurred by the managing agent. In fact it had been incurred by one of the leaseholders on their own part. Whether the work was to part of the demise at flat 9b or to the common parts was not raised by the parties.S.20ZA, although Mr Heneker had obtained, apparently through the 'agency' of Professor Cressy, quotes for work to the main walls of his flat, it was clear that these quotes were personal to him; that he and the damp proofing contractor were the only contracting parties; that he paid the bill in full and in turn was the sole recipient of the guarantee. From this we conclude that the works do not qualify as works by the Applicant carried out to common parts and therefore none of this sum can be put through the service charge.

36. 3) In light of the determinations at 1) and 2) above the Tribunal makes no determination on whether the cost of the works was reasonable.

37. 4) Similarly without the provision by the parties of any expert evidence on the quality of the work undertaken the Tribunal also makes no determination as to whether the standard of work was reasonable.

38. Although not an issue to be determined by this Tribunal, Professor Cressy made separate representations about the costs personally incurred in having to press, arrange, and pay for these works and in addition the costs of his involvement in these proceedings. However as was explained by the Tribunal at the hearing, these costs cannot be put through the service charge; the Tribunal is a low cost jurisdiction where the costs of 'winning' parties are not routinely awarded against the other.

39. Instead we directed his attention to Rule 13 of the Tribunal's statutory Rules of operation which sets out the circumstances where such an award may be occasionally made by the Tribunal. That said we expressed an informal view that the test of meeting such conditions was high and the award of such, relatively unusual. Should any party seek re-imbursement of such costs a separate application to the Tribunal, with supporting evidence, would be required.

Name: **Neil Martindale** **Date:** **20 February 2018**

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 of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
   - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
   - (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

(1) An application may be made to the appropriate Tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,
   (d) the date at or by which it is payable, and
   (e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate Tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
   (a) the person by whom it would be payable,
   (b) the person to whom it would be payable,
   (c) the amount which would be payable,
   (d) the date at or by which it would be payable, and
   (e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
   (a) has been agreed or admitted by the tenant,

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral Tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

<u>Section 20</u>

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate Tribunal .

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

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

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken

into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property Tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
- (aa) in the case of proceedings before a residential property Tribunal, to that Tribunal;
- (b) in the case of proceedings before a residential property Tribunal, to the Tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property Tribunal;
- (c) in the case of proceedings before the Upper Tribunal, to the Tribunal;

(d) in the case of arbitration proceedings, to the arbitral Tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or Tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
(a) specified in his lease, nor
(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Schedule 11, paragraph 2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Schedule 11, paragraph 5

(1) An application may be made to the appropriate Tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on the appropriate Tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—
   (a) has been agreed or admitted by the tenant,
   (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
   (c) has been the subject of determination by a court, or
   (d) has been the subject of determination by an arbitral Tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
   (a) in a particular manner, or
   (b) on particular evidence,
   of any question which may be the subject matter of an application under sub-paragraph (1).

2003 No. 1987 LANDLORD AND TENANT, ENGLAND The Service Charges (Consultation Requirements) (England) Regulations 2003

PART 2 CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS FOR WHICH PUBLIC NOTICE IS NOT REQUIRED

Notice of intention
8.—(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. 15 Inspection of description of proposed works

9.—(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. Duty to have regard to observations in relation to proposed works

10. 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. Estimates and response to observations

11.—(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; 16 (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. Duty to have regard to observations in relation to estimates

12. 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. Duty on entering into contract

13.—(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.