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FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BA/LSC/2015/0527**
Property	:	**14 Robinson Road, London SW17 9DW**
Applicant	:	**Ms Karen Hattersley (Flat D); Ms Tolulope Elizabeth Morana (Flat B); Mr Akwasi Obeng Agyeman Botwe (Flat C)**
Representative	:	**Ms Lorna Morgan (Harmens Management)**
Respondent	:	**South London Ground Rents Limited**
Representative	:	**Mr David Bland (In-house lawyer)**
Type of application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal members	:	**Judge Robert Latham** **Mr Trevor Johnson FRICS**
Date and Venue of Hearing	:	**10 March 2016 at 10 Alfred Place, London WC1E 7LR**
Date of decision	:	**20 April 2016**

DECISION

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Decisions of the Tribunal

(1) The Tribunal determines that the sums demanded by the Respondent for service charges for the period 2 April 2013 and 12 February 2014 are payable and reasonable. All these service charges have been paid. Since 12 February 2014, the property has been managed by the 14 Robinson Road RTM Co Ltd, a RTM Company controlled and managed by the Applicants.

(2) In so far as this Tribunal has jurisdiction to determine the service charges falling due prior to 2 April 2013, we determine that the service charges demanded and paid to Newservice Limited for the service charge years 2009/10 to 2012/3 are payable and reasonable.

(3) The Tribunal does not make any order for the Respondent to reimburse the Applicants with any of the tribunal fees which they have paid.

The Application

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the Act") as to the amount of service charges payable by the Applicants in respect of the service charge years 2009/10 to 2013/4.

2. 14 Robinson Road, London, SW17 9DW ("the property") is a three storey detached property which consists of four self-contained flats all held on long leases. There are three applicants:

   (i) Ms Karen Hattersley occupies Flat D which is on the first floor. She has held the leasehold interest since 20 March 2008.

   (ii) Ms Tolulope Elizabeth Morana (nee Jegede) occupies Flat B which is on the first floor. She has held the leasehold interest since 7 July 2008; and

   (iii) Ms Akwasi Obeng Agyeman Botwe occupies Flat C which is also on the first floor. She has held the leasehold interest since 4 September 2006.

   Mr Adano, the ground floor tenant, has played no part in these proceedings. He has held his interest since 4 October 2013. This flat was previously occupied by Mr Khan.

3. The Respondent acquired the freehold interest on 2 April 2013, their interest being registered on 3 May 2013. The freehold interest had been

held by Newservice Limited since about 2005. On 11 March 2009, an administrator was appointed in respect of the Company. There was a property purchase agreement between the Respondent and the Administrator (at p.137). The Company was dissolved on 4 June 2015. Since that date, it has had no legal existence.

4. On 12 April 2014, 14 Robinson Road RTM Co Ltd ("the RTM Company") acquired the right to manage the property pursuant to the provisions of the Commonhold and Leasehold Reform Act 2002. On 14 August 2014, the RTM Company issued an application under Section 94(3) in respect of accrued uncommitted service charges (LON/00BA/LUS/2014/0004). On 26 November 2014, a Tribunal struck out this application on the basis that the application was misconceived. Ms Morgan represented the RTM Company in these proceedings.

5. On 23 December 2015, the Tribunal gave Directions (p.241). The matter was set down for hearing at 10am on 10 March. On 10 December, the dates specified in the Directions were varied. The date fixed for the hearing was not changed.

(i) By 22 January 2016, the Respondent was required to send the Applicants copies of all relevant documents. On 2 February, the Respondent complied with this Direction. The Respondent contends that the Applicants already had copies of all the documents that were disclosed, the RTM Company now holding all the relevant documents in respect of the property.

(ii) By 15 February, the Applicants were required to serve their Statement of Case setting out which of the service charges are disputed and why. On 24 February, the Applicants served their Statement of Case (at p.190). The Applicants attached the small number of documents upon which they intended to rely (at p.195-212).

(iii) By 22 February, the Respondent was permitted to file a short Reply. On 8 March, the Respondent complied with this Direction.

(iv) By 29 February, the Applicants were required to serve a Bundle of Documents. The Applicants failed to do so.

(v) On 8 March, the Respondent served their own Bundle of Documents. This extends to over 611 pages of double sided documents.

6. On 22 February, the Respondent applied to strike out the application on the grounds of the Applicants' continued failure to comply with Directions. On 24 February, the Tribunal directed the parties to continue to provide documentation to the Tribunal as soon as possible

in accordance with the Directions. If either party considered that they had been prejudiced by the lack of compliance, they were directed to raise it before us.

7. The relevant legal provisions are set out in the Appendix to this decision.

The Hearing

8. The hearing was listed for 10.00. The Respondent appeared represented by Mr David Bland, an in-house lawyer for the Regis Group which controls the Respondent Company. There was no appearance from the Applicants.

9. At 10.45, the Tribunal telephoned Ms Lorna Morgan who has represented the Applicants in these proceedings. She stated that she was unaware that the case was to be heard on 10 March. She seemed to think that the hearing had been adjourned. There was no foundation for this belief. She indicated that she could travel from Willesden within an hour. We therefore adjourned the case until 12.30.

10. At 12.30, Ms Morgan had still not arrived. The Tribunal had received no explanation for her delay. We therefore commenced the hearing. Ms Morgan arrived at 13.00. She stated that she had been delayed by traffic. Ms Morgan is the sole practitioner of Harmens Management. She has qualified as a Solicitor, albeit that she does not currently hold a practicing certificate. She appeared as a lay advisor.

11. None of the Applicants attended the hearing. None of them have filed any witness statement. Ms Morgan sought to raise a range of issues outside the scope of her Statement of Case. We are satisfied that she should have ensured that all relevant matters were set out in the Applicants' Statement of Case.

12. Ms Morgan raised a number of issues on behalf of the Applicants:

(i) Challenges are made to a number of items of expenditure included in the service charge accounts for the years 2009/10 to 1013/14. She contends that the Tribunal has the jurisdiction to determine all these claims albeit that the Respondent has only held the landlord interest since 2 April 2013 and the service charges have been paid to Newservice Limited.

(ii) The landlord has failed to operate the service charge account in accordance with the terms of the lease, in that the service charge accounts have not been properly certified. This is a pre-condition to the payability of the service charges. Albeit that the sums demanded have

been paid, she contends that they should now be disallowed. She argues that the Respondent is now obliged to refund sums paid to Newservice Limited as a result of the provisions of Section 3 of the Landlord and Tenant (Covenants) Act 1995.

(iii) Ms Morgan also suggested that the managing agents had been Piers Management Limited, a Company controlled by the Regis Group. She was clearly wrong on this. All the documentary evidence confirms that the managing agents have been Salter Rex who had initially been appointed by the Receiver.

13. Mr Bland raised a number of point in response to the application:

(i) The Respondent has only managed the property between 2 April 2013 and 12 February 2014 when the RTM Company had acquired the right to manage. The Respondent has only been responsible for the service charge accounts in the year 2012/13. The RTM Company had been responsible for the service charge accounts for 2013/14. The RTM Company is controlled by the Applicants. Yet, the Applicants have failed to disclose any service charge accounts for this year.

(ii) He disputed that the Respondent could be liable for any service charges that had been demanded and paid whilst the landlord's interest was held Newservice Limited.

(iii) He referred to a number of County Court judgments against the tenants in respect of arrears of service charges. Copies of these judgments were not available. However, it is apparent that:

(a) A default judgment was made against Ms Hattersley, the lead Applicant, on or about 5 November 2014 in the sum of £20,628.39 (see p.255).

(b) On 13 August 2012, a mortgagee had paid £19,729.80 into Mr Botwe's service charge account. Mr Bland indicated that this was to discharge a default judgment. Ms Morgan did not dispute this (see p.281).

(iv) Mr Bland argued that it was not open to the tenants to go behind these judgments. These service charges have been subject to a determination by a court. Ms Morgan sought to argue that a default judgment was not a final determination and that it was open to this Tribunal to go behind these. She stated that Ms Hattersley had made an unsuccessful attempt to set aside her default judgment. Her argument was that the tenant had not admitted that the service charges were payable and that there had been no determination by a Court on the merits. We reject that argument. Section 27A(4)(c) expressly precludes

this Tribunal from determining any matter which has been subject to determination by a court. A default judgment is a determination by a court, albeit an administrative one because the defendant has not disputed the claim. There has to be some finality to litigation. If a litigant decides not to defend a legal claim, it is not open to a party to attempt to re-litigate the matter in later proceedings.

(v) He stated that the Administrator had appointed Salter Rex to manage the property and that this arrangement had continued until the RTM Company had assumed the management of the block. He asserted that Salter Rex had done the best to manage the property in difficult circumstances. On the one hand, they were acting for a landlord which was in Administration; on the other the tenants were not paying their service charges.

(vi) Having acquired the freehold interest, the Respondent had regularised the position. On 22 October 2014, it had paid over £32,037.15 to the RTM Company in respect of accrued uncommitted service charges (see p.173). This had enabled the RTM Company to put the necessary repairs in hand.

(vii) Mr Bland contended that Salter Rex had sought to manage the property in accordance with the terms of the leases. He disputed that strict compliance with the contractual terms was a condition precedent to the payment of the service charges.

(viii) In a Skeleton Argument, Mr Bland urged the Tribunal not to go outside the scope of the issues raised by the Applicants in their Statement of Case. He argued that the application was wholly lacking in merit.

The Leases

14. There are two types of lease:

(i) Flats A and B are subject to a Type 1 lease. The lease for Flat A, dated 31 August 2004 is at p.567. The Tribunal has also been provided with the lease for Flat B which is also dated 31 August 2004.

(ii) Flats C and D are subject to a Type 2 lease. The lease for flat C, dated 16 February 2006 is at p.600. This was granted after Newservice Limited had acquired the freehold interest. The Tribunal has also been provided with the lease for Flat D which is dated 25 August 2005.

15. The Type 1 Lease is at p.567. The tenant's covenant in respect of the service charge is at Clause 4(8)). This requires the service charge to be certified by the landlord's surveyor so soon as practicable after 30 June

in each year. The certificate is to be supplied to the tenant and specify a summary of the expenses and outgoings incurred or chargeable by the landlord. As soon as possible after the signing of the certificate, there is to be a reconciliation between the actual expenditure and any interim service charge which has been paid.

16. The Type 2 lease is at p.600. The tenants' obligation to pay the service charge is in the Fifth Schedule. The tenant is required to pay an interim maintenance charge. Paragraph 7 provides that as soon as practicable after the expiry of each accounting period, the landlord or its agent shall serve on the tenant a certificate, where appropriate endorsed by accountants, specifying the total expenditure, the amount of the interim maintenance charges that have been paid and the amount of any excess or deficiency.

17. Ms Morgan contends that the relevant landlord has not served the relevant certificates that have been required. This is a pre-condition to the payment of any service charge. Even where the tenant has paid the service charge to a previous landlord, if the strict conditions specified in the lease have not been followed, the tenant can now recover the sum paid from the subsequent landlord.

18. The Tribunal cannot accept this argument. We have regard to the following passage from the judgment of the Deputy President, Martin Rodger QC, in *Pendra Loweth Management Limited v North* [2015] UKUT 0091 (LC) (at [50]):

> "50. Nonetheless, a failure on the part of the Management Company to provide annual certified accounts does not seem to me to suspend the lessee's obligation under clause 10 to pay the Estimated Service Charge on demand. There is simply no connection between the performance by each of the parties of their respective obligations. The obligation to pay the Estimated Charge is not expressed as being subject to the production of the audited accounts, and the Management Company is in a position to make an estimate each year whether or not the accounts are available. There is therefore no practical reason to treat the production of the accounts as a condition of payment."

19. We do not accept that strict compliance with the certification provisions is a condition precedent to the payment of the service charge. It rather specifies the machinery that should be followed by the landlord. Failure to follow that procedure may be relevant to the reasonableness of the service charge.

20. Neither do we accept that if a tenant wrongly paid a service charge to Newservice Limited, it is now entitled to recover that sum from Respondent landlord. Section 3 of the Landlord and Tenant (Covenants) Act 1995, relates to the transmission of the benefit and burdens of any covenant. Section 3(3) provides:

"(3) Where the assignment is by the landlord under the tenancy, then as from the assignment the assignee—

(a) becomes bound by the landlord covenants of the tenancy except to the extent that—

(i) immediately before the assignment they did not bind the assignor, or

(ii) they fall to be complied with in relation to any demised premises not comprised in the assignment; and

(b) becomes entitled to the benefit of the tenant covenants of the tenancy except to the extent that they fall to be complied with in relation to any such premises.

21. It is only from the date of the assignment that any benefit or burdens pass. The relevant date in the current case is 2 April 2013. If a tenant wrongly paid a service charge to Newservice Limited or its Administrator prior to that date, that remains a matter between the tenant and the previous landlord.

22. Mr Bland disputed the suggestion that the relevant landlord had not complied wither the machinery specified in the lease. He referred us to the Service Charge Accounts for 2009/10 (at p.291). These were prepared by Salter Rex, (the managing agents) and Warren D Miskin (the Accountants) (at p.292). They were certified by the Accountants (p.295). There were budgets (see p.311). Appropriate adjustments were made between the interim service charges and the actual expenditure (see the ledger for Flat A at p.277). Thus even were we to accept Ms Morgan's submissions on the law, the Applicants have failed to satisfy us that the landlord failed to follow the machinery specified in the lease.

The Challenge to Service Charges

23. In their application, the Applicants challenge the service charges payable for the years 2009/10 to 2013/14. It is for the Applicants to satisfy us that the service charges have not been payable pursuant to the terms of their leases or that the charges have not been reasonably incurred. Ms Morgan has failed to satisfy us that any of these charges are not payable. She has adduced no evidence from any of her clients. Her case has been poorly prepared.

2012/3

24. The only set of service charge accounts for which the Respondent has been responsible are those for 2012/13. These are at p.307-311. The

Respondent was only liable for the period 3 May to 30 June 2013. Prior to May 2013, the property had been owned by Newservice Limited. Since 11 March 2009, an Administrator had been appointed in respect of the company. The Administrator had appointed Salter Rex to manage the property. The accounts are certified by Warren D Miskin, accountants.

25. In their application form (p.237), the Applicants challenge the following sums: (i) accountancy - £175 (the actual amount was £180); (ii) Insurance (including terrorism) - £2,516.98 (the actual amount was £2,671.90); and (iii) management fee - £1,560 (the actual amount was £1,248). In their Statement of Case, the Applicants only challenge the management fee ([19] at p.193). Ms Morgan adduced no evidence that any of these items were either not payable pursuant to the terms of the lease or that the sums charged were unreasonable.

26. In their statement of case, the Applicants suggest that the management fee should be reduced because of the substandard service. The Tribunal can see no justification for making such a reduction. Salter Rex charged £325 per flat + VAT. Some roof repairs were executed during this period (see p.479). We accept Mr Bland's submission that Salter Rex had done the best to manage the property in difficult circumstances.

<u>2013/14</u>

27. We have not been provided with the service charge accounts for 2013/14. This should have been prepared by the RTM Company under the control of the Applicants who have been managing the property since 12 February 2014. In the application form (p.238), the Applicants challenge three items: (i) freeholder's loans - £6,029.25; (ii) sum due to Salter Rex - £644.94; (iii) unpaid invoices - £3,746.96.

28. Details of the freeholder's loan are provided at p.13. Some of the invoices to which this relates are at p.24, 26, 29 and 30. These are not service charge items. These rather seem to relate to the dispute over the accrued uncommitted service charges. This dispute was resolved by a Tribunal on 26 November 2014 (see p.270). This is not a matter which this Tribunal will revisit.

<u>2009/10; 2010/11; 2011/12</u>

29. We accept Mr Bland's submission that the Respondent has no liability in respect of these service charges as they arose before the Respondent acquired the freehold and became landlord on 2 April 2013 and which had been paid to the previous landlord. Should we be wrong on this, we address this aspect of the Applicants' case briefly.

30. Mr Bland asked the Tribunal to accept that the Service Charge Accounts which had been prepared by Salter Rex and certified by Warren D Miskin accurately reflect the work that had been done. The accounts for 2009/10 are at p.291-52; 2010/11 at p.297-301; and 1011/12 at p.303-306. Mr Bland contended that the Applicants had failed to adduce any sufficient evidence to establish that the work had not been done, that the services charges were unreasonably high or that the works were not carried out to a reasonable standard. He was able to refer the Tribunal to a number of invoices, albeit that these did not cover all the items included in the service charge accounts. The reason for this is that the property is now being managed by the RTM Company.

31. Ms Morgan challenged a number of items including building repairs, electrical repairs, insurance premiums, cleaning and the management fee. Her attack was a broad one. Thus she disputed that the property had been cleaned twice a month, despite invoices to confirm this. Alternatively, if the property had been so cleaned, she contended that it had been unreasonable to do so, given the dilapidated state of the property. These alternative, and mutually inconsistent, arguments did not find favour with the Tribunal. Ms Morgan adduced no evidence from her clients to support these contentions.

32. Ms Morgan complained that the property had been in a state of substantial disrepair. She contended that the property was uninhabitable and that no service charge should be payable. She referred to an e-mail from Mr Khan dated 10 February 2011 (at p.206). He was the tenant of Flat A. He is not a party to these proceedings. We were referred to an e-mail from Ms Morana dated 27 April 2011 (at p.202) in which Ms Morana complained about the state of the property. In March 2010, her husband had fallen down stairs. She referred us to an e-mail from Ms Jegede, dated 3 April 2009 (at p.197) in which complaint was made that the property had been left insecure for two weeks.

33. On 11 March 2009, an Administrator had been appointed in respect of Newservice Limited. The Administrator appointed Salter Rex to manage the property. We accept Mr Bland's submission that Salter Rex had done the best to manage the property in difficult circumstances. On the one hand, they were acting for a landlord which was in Administration; on the other the tenants were not paying their service charges. We accept that the works to which reference is made in the service charge accounts were executed. This included some basic building repairs. On 15 December 2010, Salter Rex had prepared a detailed Schedule of Works (at p.343).

34. We do not accept that the condition of the property was as bad as Ms Morgan suggested. Mr Bland referred us to Google Maps photos of the property taken in August 2009 (at p.169); July 2012 (p.170) and

September 2014 (p.171). On 22 October, the Respondent had paid over accrued uncommitted service charges of £32,037.15 to the RTM Company which now had the funds to carry out the necessary repairs. Repairs are now underway as is recorded in the photo taken in May 2015 at p.172).

35. We are further satisfied that the cleaning services for which the tenants were charged were provided. There are a number of invoices at p.449-475. The photos taken on 6 November 2013 (at p.471-2) show the common parts to be in a reasonable condition.

36. This is not a claim for disrepair. The Applicants rather seek to challenge their liability to pay service charges. Ms Morgan has not satisfied us that any service charge items should be disallowed. The staler the case, the clearer the evidence should be.

Conclusions

37. Ms Morgan has raised a wide range of issues stretching back to 2009. We therefore summarise our conclusions:

(i) We are satisfied that the Respondent are only liable for the service charges demanded during the period that they owned and managed the property. The Respondent acquired the freehold interest on 2 April 2013. The RTM Company assumed the management of the property on 12 February 2014.

(ii) During this period, the property was managed by Salter Rex. We are satisfied that they operated the service charge account in accordance with the terms of the lease and that the tenants were liable to pay the service charges that were demanded and that these were reasonable.

(iii) In any event, we are satisfied that the lease only specifies the machinery as to how the service charge account should be operated. The strict compliance with that machinery is not a condition precedent to the liability to pay any service charge.

(iv) In so far as we have any jurisdiction to determine the service charges falling due prior to 2 April 2013, we are satisfied that the tenants were liable to pay the service charges demanded by Salter Rex and that these charges were reasonable.

(v) It is not open to the Applicants to challenge any of the service charges which have been subject to a determination by a court. This includes any service charge in respect of which there has been a default judgment.

38. To conclude, we accept Mr Bland's submission that this case is wholly lacking in substance and merit. This may reflect the manner in which the case has been pleaded, prepared and presented. We accept that the Applicants have had justified concerns about their living conditions during the period that their landlord was in administration.

Application under s.20C and refund of fees

39. At the end of the hearing, Ms Morgan applied for a refund of the fees that the applicants have paid in respect of the application and hearing[1]. The Tribunal declines to make such an order. The application has failed in its entirety.

40. In the application form, the Applicants apply for an order under section 20C of the 1985 Act. Had it been open to us to do so, we would not have made such an order. The application has failed. However, the Respondent is no longer managing the property. It is unable to pass on its costs through the service charge account. Its only option would be an application for a wasted costs order under Rule 13(1)(a) against either the Applicants or their representative or an application under Rule 13(1)(b) against the Applicants on the ground that they have acted unreasonably in bringing this application or in conducting these proceedings. There is a high threshold that must be met under either of these provisions. No such application was made at the hearing, but may be made within 28 days of our decision.

Robert Latham

20 April 2016

[1] The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

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.