Case ref: LON/00BA/LSC/2016/0436

Property: Various flats at Octavia Close and Rawnsley Avenue, Mitcham, Surrey

Background Information:

In 2009 Merton Council surveyed it's tenants to ascertain their views on transferring all of their housing stock to a housing association. It was portrayed as the only viable option for a good repairs and regeneration program. Residents were given options on what type of Housing Association they would like and opted for one that was small and local and used local contractors. Merton Priory Homes was set up as a charitable organisation and the stock was transferred to them. The council told residents that they felt that it would be beneficial to have the help and experience of a larger organisation and Merton Priory Homes became part of Circle Anglia and known as Circle Housing Merton Priory (CHMP). This is not a charity and is definitely not the small local company that residents wanted.
CHMP entered into long term qualifying agreement with various contractors. During the consultation they said that 'Making sure that our service meets our customer's expectations and achieves the best value for money will be at the top of our list and we want customers to be involved in the selection'.
It has proved to be the more expensive option and residents had no say in which contractors were selected as they were told the proposed agreement would be the subject of public advertisement in the Official Journal of the European Union. United Living was one of the companies selected and they do use some local contractors but this costs a lot more than using the contractor directly.
CHMP have a poor reputation and seem to have shown no consideration for their leaseholders. They put forward a program of major works that had no regard for what work was actually needed or how leaseholders would pay for it. They included items that were obviously not necessary and their negligence in the production of the estimates further inflated the cost. Their initial consultations with leaseholders were divisive and unprofessional and proved to be of no benefit to leaseholders. All of this caused the leaseholders extreme stress and worry. In the booklet that was produced to encourage the transfer (WAT30) it says 'All works will be planned in full consultation with leaseholders affected to ensure that the costs are manageable and would not leave them in financial hardship'. It also mentions extended payments. None of these promises have been met
We are aware that another case has been brought against CHMP by the residents at Sadlers Estate in Mitcham, who have experienced similar problems to the leaseholders at Watermeads.
If CHMP had done their job properly and given more consideration to what the leaseholders, the residents association and the local councillors said, we would not have felt the need to bring this case to the tribunal.

Is the Section 20 valid?

On 7th October 2015 two section 20 notices were served on the leaseholders. One was for Asbestos removal by Erith Contractors with an individual cost of £560 (WAT1). The other was for window renewal, replacement of flat roof covering & associated works by United Living (WAT2) with individual costs ranged from £21,770 up to £28,410. Both Section 20 notices included a £60 administration charge. They arrived in the same envelope with one covering letter. The asbestos removal would not be necessary if the other works were not being done; therefore it is part of the same set of work and could have been included in the same section 20. This would have saved every leaseholder £60 and we would like this fee removed from the final bill.
At the beginning of August 2015, a full asbestos survey was carried out on all of the blocks of flats on the estate by Pennington Choices (WAT3) and billed through the service charge. A full report was prepared, and would have been received by CHMP before the issue of the section 20. Val Watson confirmed this in a telephone call to Pennington Choices. We requested a copy of the report

but have yet to receive it. We saw no evidence of asbestos removal during the course of the work and CHMP should have known it was unnecessary.

During the initial consultation period several concerns were raised which were not answered within the specified time although CHMP sent emails apologising for this (WAT4). The response to Malcolm Sailing (WAT5) mentions a report by Langley Roofing that suggests the roofs should be replaced. Langley is a roofing supplier so it is in their interest to advise this. They are the supplier that was used for the major works. When Val Watson asked to see survey of the roofs and the electrical work she was told there hadn't been any and was not offered the roof report (WAT6). Val Watson also queried the cost of, and the need to replace, the rising lateral main. The response said that it had been tested by an electrician and work needed to be carried out (WAT7). This turned out to not be the case. Another query was with regard to cleaning the windows, and the response to this was finally received on 28th July 2016 (WAT8). Simon Edgell, the chair of the residents association, raised observations to the section 20 on behalf of all the leaseholders (WAT9). CHMP did not send him a written response, instead Mark Jones entered into negotiation with the residents association and said the consultation was ongoing and work would not start until both sides had reached an agreement. Mark Jones sent regular updates about the progress of the consultation to Simon Edgell (WAT10). The residents association in conjunction with our local councillor, Peter McCabe, managed to prove that there were several errors in the original cost price build up (CPBU) (WAT11). It was found that the costing of the windows contained a formulaic error and was grossly overpriced and that some of the procedures used to decide what work needed doing were unprofessional (getting contractors and suppliers to decide what work they wanted to quote for). One of the issues regarding the original pricing was that the blocks were not priced individually. The 5th schedule of the lease says that the leaseholder is only responsible for paying their percentage of their own block. This led to such problems as leaseholders being expected to pay for damage to other blocks roofs, and leaseholders in the blocks of ten flats were being charged for back doors that don't exist. It was also uncovered that there had been no proper surveys of the roofs or for the proposed electrical work. The contractor who would be carrying out the work was asked to walk around the estate and 'scope for work'(WAT6). The residents association commissioned their own survey on one of the roofs (RSOC7), which showed that complete renewal was not necessary. They also questioned the necessity of replacing the rising lateral main which was later proved to be unnecessary. On 6th June 2016 CHMP sent out new letters for the section 20 (WAT12) and produced revised CPBUs (WAT13). When the new letters and CPBUs were issued, we were not offered a further consultation period by CHMP. We were told they would now be instructing their Partnering Contractor, United Living to commence with the sequence of works to the estate. The residents association believed we were still in consultation with Circle and the revised section 20 raised a new set of issues that we had no chance to question. The comparison chart (WAT14) shows how much the work and the costs changed and we believe the original section 20 was so flawed that it should have been re-issued and the leaseholders given a further consultation period.

The second CPBU has less information on it regarding quantities and unit costs, and still contains errors. We were told that individual item costs were removed due to commercial sensitivity. It is unclear why it is now commercially sensitive when it wasn't on the original CPBU. It does however, make it more difficult to see what we are being charged for. Identical items for different blocks have different charges and the blocks of four flats are being charged for communal windows, which they don't have. One of the blocks of four has been charged for two crash decks when they only have one stairwell. This became more obvious when we produced our own comparison tables for block and individual charges (WAT 15 & 16). The amount of errors is incredible considering the email sent by Mark Jones to explain why the process was taking so long (WAT17). In it he says it is because they are 'working through the figure with a fine toothcomb to ensure no errors'. When CHMP made it clear that they were not prepared to engage in any further discussions with the residents association Simon told them that we were left with no other option than taking our case to the tribunal. This prompted CHMP to invite Simon to a meeting to see if anything further

could be done. Details of this meeting are included (WAT 18). CHMP responded with a letter saying they didn't feel they had done anything wrong and could do no more (WAT19).
Because of the amount of errors, provisional sums and lack of information it is difficult to accurately assess what charges will be and whether they are offering value for money. It also says on both editions of the CPBUs that the total excludes VAT, which means leaseholders have not been given a true representation of what they are expected to pay.

There are officially no blocks of five flats on the estate. The block on the corner of Octavia Close and Rawnsley Avenue (89-93 Octavia Close/1-5 Rawnsley Avenue) is a block of ten flats. The leases for these flats (WAT 20 & 21) both state on page 24 that they have to pay one tenth of the block charge. CHMP are charging them one fifth of half of the block, which has led to the flats at 89-93 Octavia Close having different charges to the ones at 1-5 Rawnsley Avenue. This is a clear contravention of their leases.

In Summary

Admin charge for asbestos section 20 should be removed.
Section 20 served on 7th October had so many errors that leaseholders could not properly assess the work or the cost.
Questions were not answered within the specified time.
Answers to questions were later found to be incorrect. Rising lateral main. Leaseholder told roof surveyed and beyond economical repair, and electrics surveyed and need upgrading.
When an amended section 20 was served we were given no consultation period.
Original consultation was not formally ended and not all questions were answered. We have never been given a proper answer to what electrical work was being done and why the costs are so high.
CPBU says prices exclude VAT.

Roofs

CHMP originally wanted to completely renew all of the roofs on all of the blocks of flats. CHMP were asked to provide details of the surveys that had been carried out but said that there weren't any. They said their project surveyor and planned partnering contractor had visited the estate to scope for work. It is not best practice to ask a contractor what work he would like to do.
It later emerged that Langley had surveyed the roofs in September 2014 and produced a report on their condition (RSOC6) but CHMP seemed to have no knowledge of this.
The residents association commissioned it's own survey of the roof on 53-64 Octavia Close (RSOC7). The report showed that the roof was in good condition and could last another 10-15 years with minimal maintenance. This prompted CHMP to order surveys of the roofs on all blocks by roofing supplier – IKO and then get consultants, Potter Raper Partnership to produce a report based on the survey (RSOC8). In the report Potter Raper concluded that, apart from a section of roof on 18-27 Rawnsley Avenue, the roofs were in reasonable condition. 18-27 Rawnsley Avenue is the only roof they recommend recovering. They recommend the other roofs have repairs and regular maintenance. IKO recommended that all roofs be recovered with IKO Ultra PrevENt waterproofing system. This shows it is not best practice to ask the supplier what work he thinks is needed.
Both of the surveyor's reports agreed that the roofs appeared to have been replaced in the last 10-15 years.
They also pointed out that the roofs were suffering because of a lack of maintenance and poorly fitted satellite dishes (page 5 of IKO report). CHMP have not maintained the roofs and have not enforced the rule of no satellite dishes. A majority of these satellite dishes belong to CHMP tenants and it is unfair to penalise leaseholders for damage caused by tenants or CHMP's lack of maintenance and poor repair work.
On page 4 of the Potter Raper report, they refer to the report by Langley Waterproofing Systems that was prepared following the survey on 23rd September 2014. We were not offered this when we asked about surveys but have since obtained a copy. It says that the insulation on 18-27 Rawnsley Avenue is dry but that maintenance is needed to stop the ingress of water. The later report says the

insulation is saturated and the roof needs replacing. If maintenance work had been carried out after the first report, further damage could have been prevented.
The houses on the estate that link the blocks of flats together have the same roof system. These have never been replaced but CHMP are not planning any work on them.
The blocks of twelve flats and the blocks of four flats have internal staircases with no windows. The only natural light source is roof lights in the ceiling above the stairwells. These consist of a louvred metal upstand with a perspex dome on top (WAT22 pictures 5 & 6). Both the Potter Raper and the IKO reports say the domes are fragile and need replacing. On the original CPBU the cost per unit was £3,393. On the revised CPBU this has increased to £4,717. We have been told they are this expensive because they are being specially made by the roofing contractor. Neither report says that the upstands needs replacing and the new upstands are twice the height of the original ones, which adds unnecessary expense. All of them were made the wrong size and had to have a section patched in and the finish around the inside on most of them is of a very poor standard (WAT 22 pictures 7 & 8). We obtained the specifications for the upstand (WAT23) and used them to obtain an estimate of £900 (WAT 24). The openings are a standard size. A dome of a higher specification than the roofing contractor is supplying can be obtained for £113 (WAT25). That is a total cost of £1013 and £500 would be a generous price for fitting. This would be a saving of £3,204 per roof light. There is no agreed price for roof lights under the qualifying long term agreement so these are quoted works.

In summary.
Most of the roofs do not need the amount of work being carried out.
Damage to the roofs is mainly down to poor maintenance and unauthorised work by CHMP tenants.
Roof lights are overpriced.
Upstands are an unnecessary cost and do not need to be double the original height.

Windows
The cost of the windows per flat works out as £4162 for the blocks of twelve flats. The estimate for the blocks of ten and five flats includes the cost of the communal windows. The blocks of four flats are also being charged for communal windows even though they don't have any. CHMP was asked what the cost of the communal windows is and they said it is £6421.49 (WAT26). This makes the cost per flat in the block of ten, £4541.98 and in the block of five, (which is half of a block of 10) £5184.12. There is obviously a problem with the estimate for the block of five as the cost per flat should be the same as the block of ten. The case of Sheffield v Oliver (RSOC11) was brought to my attention at a meeting with The Leasehold Advisory Service. What I found interesting about the case is that two hearings heard the same evidence but came up with opposite conclusions. The one thing that they did agree on was the reasonableness of the cost and that the tenant should not have to pay more than if she had replaced the windows herself. Both of the cases cited in the respondent's evidence are about whether or not the landlord has the right to change the windows. As our windows have already been replaced, either by the respondent or the leaseholder themselves, our case is about who should pay for the windows and how much. We are not contesting the cost of the communal windows in the blocks of ten flats, only the windows to the individual dwellings. I have included three separate quotes for windows using the same specifications as the major works (WAT27-29). The cost of the quotes is £2,364, £2,738 and £3,235.The highest of the quotes is from Unique Windows, which is the contractor used by the respondent for the major works. Leaseholders who still have the original windows are being forced to have windows fitted by CHMP. This is contrary to what most of the leases say and therefore they should not have to pay more than they could reasonably expect to pay if they got the job done themselves.
The following extracts are taken from the lease of 27 Rawnsley Ave (RSOC2)

Page 18 9. (2) of the lease states that the windows are part of the demise of the flat.
Several leaseholders have already changed their windows to white upvc double-glazing. CHMP were trying to make those leaseholders have their windows replaced. They have since said that if windows pass an inspection by their surveyor, they will be able to keep them but will still be

expected to pay towards all of the other windows in the block. Removing their windows from the final bill is equivalent to a leaseholder paying their percentage of the building cost for the windows. It is unfair for Leaseholders to have paid for their own windows and then be expected to pay towards the other flats in the block. The following section of the lease says:

Page 9 (iii) A fair proportion of the cost of any improvements carried out to the Demised Premises and the Building by the Landlord.

The following part of the lease says the landlord is only responsible for the frames and not any part of the building that the tenant is responsible for.

Page 14 (5) That subject to clause 7(2) hereof the Landlord will maintain and keep in such repair and condition as is adequate for the reasonable enjoyment of the dwellings in the Building by the Tenants thereof.
(i) the main structure of the Building including the foundations and the roof and roof timbers and all external parts of the building including window frames gutters and downpipes but not including parts of the building for the repair of which the tenant of any individual dwelling is liable.

There have been numerous phone calls and emails to CHMP regarding the windows and the terms of the lease. It is our argument that in paying for their own windows leaseholders have contributed the same percentage as they would have been expected to pay if their windows had been replaced as part of the major works. This is explained further in the email conversation between Val Watson and Mark Jones (WAT30). We have also included a section taken from a booklet that was produced to inform residents about the stock transfer from Merton Council to Merton Priory Homes. (WAT31) Under the heading 'How much would leaseholders have to pay' it says in bold print and capital letters –

IT IS IMPORTANT TO STRESS THAT LEASEHOLDERS AND SERVICE CHARGE PAYING FREEHOLDERS WOULD NOT BE PAYING FOR ANY IMPROVEMENTS IN TENANTS'PROPERTIES. IMPROVEMENTS IN TENANTS PROPERTIES WOULD BE PAID FOR ENTIRELY BY METRON PRIORY HOMES.

The windows in a tenants' property are for their use only. They do not reduce heating costs or enhance the living experience of anyone else in the block. The respondent replaced the windows on the ground floor of 18-27 Rawnsley in 2014. To my knowledge these windows were not charged to the leaseholders. If the respondent has not previously expected leaseholders to pay towards tenants' windows, why should they expect them to do it now?

CHMP have conceded that the lease says the landlord is only responsible for the frames. Their answer to this was:-

We have also had confirmation from Circle's legal team that where a leaseholder has had their windows previously replaced (assuming the above mentioned certificates and approval), the glazing for the replacement apartment/dwelling windows should not be payable by those leaseholders. Therefore this element of the charge will be removed from their statement and they will only be expected to contribute towards the cost of the frames and of course the replacement of any communal windows (frames and glazing) in the block. (WAT10)

Just removing the cost of the glass does not satisfy the terms of the lease. Double glazed windows units can be put in a frame but do not consist of a frame (WAT32). The original windows in the flats were metal sliding casements in a wooden surrounding frame. When the double glazed window units are installed, the wooden frame is removed and not replaced. CHMP expect the leaseholders to still pay for hinges, handles, transoms, mullions and casements, all of which are parts of a window.

In Summary

Blocks of four should not be charged for communal windows.
CHMP have agreed that the lease says leaseholders are responsible for their own windows.
Therefore:

Leaseholders who haven't replaced their own windows should not pay more than it would cost if they got the job done themselves.
Leaseholders who have replaced their own windows should not have to pay towards anybody else's windows.

Electrics

Block Address	Electrical Cost per block	Cost Per Leaseholder
25-36 Octavia Close (12 flats)	£4,751.69	£395 97
43-46 Octavia Close (4 flats)	£5,321.97	£1,330.49
53-64 Octavia Close (12 flats)	£5,848.08	£487.34
89-93 Octavia Close (5 flats)	£5,821.71	£1,164.34
1-5 Rawnsley Avenue (5 flats)	£2,286.21	£457.24
18-27 Rawnsley Avenue (10 flats)	£11,164.70	£1,116.47
38-49 Rawnsley Avenue (12 flats)	£12,820.98	£1,068.42
56-59 Rawnsley Avenue (4 flats)	£1,878.79	£469.70
67-78 Rawnsley Avenue (12 flats)	£4,569.20	£380.77

The charges for Electrical Services vary greatly between the blocks. CHMP originally wanted to replace the rising lateral mains and they sent leaseholders letters stating that their electricity would not be reconnected if they didn't have an electrical inspection report done (WAT33). The residents association argued that it wasn't necessary to replace the rising lateral main. They pointed out that there was no survey done and it was later proved that the work was unnecessary. The only electrical services in the communal areas of each block are the lighting in the stairwells and the porch lights. There is also an electrical cupboard for each stairwell that contains the fuse boxes and landlords power. We asked for more information on the charges and were told in an email from Mike Beasey (WAT34):-
Circle are unable to provide you with a breakdown of the electrical repairs at this time. The cost of electrical repairs to your building has been robustly market tested in order to demonstrate Value for Money. This has been independently verified by consultants Calford Seadon.
The cost of electrical repairs to any building, even buildings of similar size, will vary depending on the extent and nature of repairs required in order that the building is compliant to current electrical regulations.
The cost between the blocks of flats varies by over £8,000. Calford Seadon must have a description of what was being done so that they could verify that it was value for money. As the leaseholders are expected to pay for this work we should be given the opportunity to either see the report prepared by Calford Seadon or be told what work is being undertaken. Without this information it is impossible to see where over £12,000 could be spent on electrical repairs and lighting to two stairwells in a three-storey block when an identical block is priced at less than £5,000. I approached CHMP asking to view the electrical work in the hope that we could agree what should be charged for before the tribunal hearing. I received an obstructive email from their solicitor (WAT35). After further negotiation we were told we could have limited access. At the time of writing this the inspection hasn't taken place. The CPBU includes a cost for installing emergency lighting. This had already been installed in 2014(WAT22 pictures 1 & 2). CHMP recently removed this and replaced it with cheap plastic 2D fittings (WAT22 picture 3). The lights they took out had sensors and were not on all the time. The new lights did not have sensors and were on all the time. CHMP have subsequently removed these lights from the internal communal areas and replaced them again with LED sensor lights(WAT22 picture 4). I asked the site manager why the lights kept changing. He told me that when the sensors were put in the first time, they were not compatible with the fittings and the batteries kept running down. CHMP decided to change them to the cheap, non sensor lights but the residents complained about light pollution and the cost for them being on all the time. In response to this, CHMP changed them again. It is unfair to expect leaseholders to keep paying for

CHMP's mistakes. As we will have already been charged for the lights in 2014, we should not pay for any further work in replacing them.
The electrician and his assistant were on site for two – three weeks and seemed to average one stairwell per day. We spoke to him about the work he was doing and he said he had queried why he wasn't replacing the lights with sensor lights. Other than the lights, he was upgrading fuse boxes, and installing earth bonding to some of the blocks. We managed to take photos of the electrical cupboards while he was working in them at 18 – 27 Rawnsley Avenue (WAT36). He never mentioned any work on the Ryefield boards and the electricity to these flats was not turned off.
We asked the site manager about the work the electrician had done. He confirmed that he was replacing communal lighting and fuse boxes. He also confirmed that he spent roughly one day per stairwell and each block had the same work done.
As we have no definitive description of what electrical work has been done we have included some examples of cost in the hope they will be relevant (WAT37 - 39). Most of the electrical work was quoted work not covered by the qualifying long term agreement.

In summary
Lighting had already been replaced in 2014.
Lighting was changed twice during the work.
Question about what we are paying for has never been answered.
Costs are high and seem random.

Scaffolding

The price for scaffolding has increased since the first CPBU. Scaffolding is charged by the metre and the blocks have been measured incorrectly, which has resulted in overcharging. Blocks of ten and blocks of twelve are the same size but are being charged for different lengths of scaffolding. This proves that the original measurements are incorrect.
The crash decks should be the same cost for every stairwell but they are not. This means that some of them must be incorrect. One that is definitely incorrect is 43-46 Octavia, which has been charged for two crash decks but only has one stairwell.

Miscellaneous

Prepare and paint Doors to stores both sides incl. Frames, architraves etc.	The cost for the two blocks of five is high compared to the same work in a block of ten. The cost should work out the same.
Reinstalling satellite dishes to weighted rigs (prov sum)	The blocks of five are each being charged the same cost as a block of ten. The cost should be half of a block of ten.
EXT144 Hack repair sand cement render	The blocks of five are each being charged the same cost as a block of ten. The cost should be half of a block of ten.
Building control	This is not needed as none of the roofs were replaced
Rainwater CCTV survey (prov sum)	Unsure why this would be needed.
Raise soil pipes / services and adapt (incl. any testing) required for installation of new roof covering (prov sum)	CHMP have agreed this is unnecessary and will not be charged for.
Raising existing cabling on roof, gathering together and running in proprietry cable trays	What is the cabling for? If it is for satellite dishes it should not be charged to leaseholders who have said they don't have a satellite dish.
Setting aside roof mounted plant and later reinstalling (prov sum)	Unclear what this is as satellite dishes are charged for elsewhere.

Party wall awards	The roofs on the flats are separated from the houses by a parapet wall so party wall awards are unnecessary
Allowance for Building Notice / Planning Application	This has been charged entirely to 1-5 Rawnsley Avenue.
Quoted works £590 + 10.55% for hire 60ft diesel articulated boom hire for one day. Quoted works £187.74 allowance for operator & fuel, costs to be confirmed upon completion.	This has been charged entirely to 1-5 Rawnsley Avenue. We asked the site manager about this and he had no knowledge of any need for it. It was not seen on site during the course of the works.
Contingency	As this is a percentage of the total cost, overcharging errors and unnecessary provisional sums mean the contingency sum is higher than it should be. This means the overall section 20 estimate is higher than it should be and allows CHMP more margin for error than is reasonable.

Transparency of charges

Because of past experience with our service charge bills and CHMP's previous history of allowing their contractors to overcharge for work (WAT40), we would like to have access to invoices and a full breakdown of the charges. It is only by seeing a full breakdown of the final charges, similar to the CPBU, that we can be certain that items that should be removed from the bill, like windows that have already been replaced prior to the section 20, have not been charges for. We would also like CHMP to consider a longer payment plan than the proposed two years.

Statement of Truth

I believe that the facts stated in this statement of case are true to my best knowledge and belief.

Signed: ……..

Valerie Watson
Representative for the leaseholders of
The Watermeads Estate, Mitcham.

Date: …….