



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

<b>Case number</b>	<b>MAN/00CX/LDC/2019/0010</b>
<b>Property</b>	<b>21 to 47 (odd numbers only) Victoria Road, Eccleshill, Bradford, BD10 8AQ</b>
<b>Applicants</b>	<b>Places for People Homes Ltd</b>
<b>Respondents</b>	<b>See Annex A</b>
<b>Type of Application</b>	<b>Landlord and Tenant Act 1985 – Section 20ZA</b>
<b>Tribunal Members</b>	<b>K M Southby (Judge) E Scull (Valuer Member)</b>
<b>Date of Decision</b>	<b>28 May 2019</b>
<b>Date Issued</b>	<b>6 August 2019</b>

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**DECISION**

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## DECISION

**The consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and in Schedule 1 of the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987) are dispensed with in respect of the proposed roof works as set out in Document 7 of the Case Bundle provided by the Applicant**

## BACKGROUND

1. On 22 February 2019 Places for People Homes Ltd (“the Applicant”) made an Application, to the Tribunal under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”), which sought dispensation from compliance with the consultation requirements provided for by section 20 of the Act. The requirements in question are those set out in Schedule 1 to the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the regulations”). The Application was in respect of proposed works to the roof and face of the mansard around the dormer projections as set out in Document 7 annexed to the Applicant’s Statement of Case.
2. The properties which are the subject matter of the application are numbers 21 to 47 (odd numbers only) Victoria Road, Eccleshill, being a development of 14 flats located in three distinct and co-joining blocks, constructed circa 2000.

## INSPECTION

3. The Tribunal inspected the exterior of the Property on 28 May 2019 and the matter was determined on consideration of the papers. Mr Dunne was present at the inspection on behalf of the Applicant. No written response was received from any of the Respondents to the application.

## LAW

4. Section 18 of the Act defines what is meant by “service charge”. It also defines the expression “relevant costs” as:

*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.*

5. Section 19 of the Act limits the amount of any relevant costs which may be included in a service charge to costs which are reasonably incurred, and section 20(1) provides:

*Where this section applies to any qualifying works ... the relevant contributions of tenants are limited ... unless the consultation requirements have been either—*  
*(a) complied with in relation to the works ... or*  
*(b) dispensed with in relation to the works ... by the appropriate tribunal.*

6. “Qualifying works” for this purpose are works on a building or any other premises (section 20ZA(2) of the Act), and section 20 applies to qualifying works if relevant costs incurred on carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.00 (section 20(3) of the Act and regulation 6 of the Regulations).

7. Section 20ZA(1) of the Act provides:

*Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.*

8. Reference should be made to the Regulations themselves for full details of the applicable consultation requirements. In outline, however, they require a landlord (or management company) to:

- give written notice of its intention to carry out qualifying works, inviting leaseholders to make observations and to nominate contractors from whom an estimate for carrying out the works should be sought;
- obtain estimates for carrying out the works, and supply leaseholders with a statement setting out, as regards at least two of those estimates, the amount specified as the estimated cost of the proposed works, together with a summary of any initial observations made by leaseholders;
- make all the estimates available for inspection; invite leaseholders to make observations about them; and then to have regard to those observations;
- give written notice to the leaseholders within 21 days of entering into a contract for the works explaining why the contract was awarded to the preferred bidder if that is not the person who submitted the lowest estimate.

## **EVIDENCE**

9. The Tribunal have received written representations from the Applicant that there have been ongoing leaks with three reported in 2014 and nineteen reported in 2015. Spot repairs were undertaken but did not provide a lasting remedy. In view of the frequency of the roof leaks a roof survey was conducted and it was concluded that the join of the pitched and mansard sections of the roof was a fault and that in addition to a double row of tiles in this section, the join should be redesigned.
10. The Applicant issued a Notice of Intention on 6 February 2017. No observations were made, no requests were received to inspect documents and no contractors were nominated. A specification was prepared and tenders were issued. Three returns were received. The Applicant failed to issue a notice to leaseholders at this point. This notice should have provided the leaseholders with details of the tenders. As a consequence the leaseholders missed the opportunity to inspect the documents and make observations.
11. The Applicant's explanation for this omission is that they incorrectly believed they were following Schedule 3 rather than Schedule 4, and therefore applied the wrong notice requirements. The contractor submitting the lowest estimate was selected for the works and the Leaseholders were advised of the successful contractor and the date the works were due to start.

## **CONCLUSIONS**

12. The Tribunal must decide whether it is reasonable for the works to go ahead without the Applicant first complying with the Section 20 consultation requirements. These requirements ensure that tenants are provided with the opportunity to know about works, the reason for the works being undertaken, and the estimated cost of those works. Importantly, it also provides tenants with the opportunity to provide general observations and nominations for possible contractors. The landlord must have regard to those observations and nominations.
13. The consultation requirements are intended to ensure a degree of transparency and accountability when a landlord (or management company) decides to undertake qualifying works. It is reasonable that the consultation requirements should be complied with unless there are good reasons for dispensing with all or any of them on the facts of a particular case.
14. It follows that for the Tribunal to decide to dispense with the consultation requirements, there needs to be a good reason why the works cannot be delayed. In considering whether or not it is reasonable to do so, the Tribunal must consider the prejudice that would be caused to tenants by not undertaking the consultation while balancing this against the risks posed to tenants by not taking swift

remedial action. The balance is likely to be tipped in favour of dispensation in a case in which there is or was an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation. The prescribed procedures are not intended to act as an impediment when urgent works are required.

15. The Tribunal agrees in the present case that the reasons advanced by the Applicant in support of the tribunal dispensing are reasonable. Indeed, the Respondents have not opposed the Applicant's request. The Tribunal accepts the evidence of the Applicant that the Property suffered from significant and frequent leaks and that therefore the works were necessary. The Tribunal also notes that the lowest tender received was selected and so the financial prejudice to the leaseholders is minimal. What they lost was the opportunity to comment and respond to the details of the tenders. However we accept that in the context of the works being driven by a desire on the part of the Leaseholders to get the roof fixed, as evidenced by their complaints, and the absence of their resistance to the application, the prejudice to the leaseholders in these circumstances is negligible. For this and the other reasons advanced by the Applicant the Tribunal agrees that it would be reasonable to grant dispensation.
16. In these circumstances therefore, the Tribunal agrees with the request and grants dispensation from compliance with all of the requirements set out in Schedule 1 of the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of the proposed roof works as set out in Document E of the Tribunal Documentation provided by the Applicant.
17. We have had regard to the correspondence which has been sent to leaseholders and the fact that no objections were raised by the respondent leaseholders. No one has suggested that these works were not urgently required. No leaseholder has suggested that they will be prejudiced were we to grant dispensation. We conclude on balance that it is reasonable for these works to proceed without the Applicant first complying with Section 20 consultation requirements. The balance of prejudice favours permitting such works to proceed without delay.
18. We would however emphasise the fact that the Tribunal has solely determined the matter of whether or not it is reasonable to grant dispensation from the consultation requirements. This decision should not be taken as an indication that we consider that the amount of the anticipated service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. We make no findings in that regard.

K. Southby (Judge)  
28 May 2019

## **Annex A**

### **List of Leaseholders**

Mrs Hemmie Watson	21 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr John Muston	23 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr & Mrs B Drake	25 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr & Mrs K Johnson	27 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr & Mrs G Scott	29 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr & Mrs D Hostler	31 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr & Mrs K Bland	33 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr D Tempest-Mitchell	35 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr John Marshall	37 Victoria Road, Eccleshill, Bradford BD10 8AQ
Ms Linda Tully	39 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mrs Dorothy Broadbent	41 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr & Mrs T Webster	43 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr Kenneth Kenzie	45 Victoria Road, Eccleshill, Bradford BD10 8AQ
Mr Neville Magloire	47 Victoria Road, Eccleshill, Bradford BD10 8AQ