



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

**Case reference** : **LON/00BK/LDC/2024/0215**  
**Applicant** : **Harley House Freehold Ltd**  
**Representative** : **Julie Kaye (Ref: Harley B6 LIFT)**  
**Respondent** : **Leaseholders of Harley House, 28-32  
Marylebone Road, London, NW1 4PR**  
**Property** : **Harley House, 28-32 Marylebone Road,  
London, NW1 4PR**  
**Tribunal** : **Judge Adrian Jack**  
**Date of decision** : **5<sup>th</sup> November 2024**

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**DECISION**

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1. The applicant landlord has by an application dated 29<sup>th</sup> July 2024 applied pursuant to section 20ZA of the Landlord and Tenant Act 1985 for dispensation from the statutory consultation requirements in respect of repairs to the lift in Block 6 of Harley House. The lift was taken out of service due to safety concerns around a worn bearing on the divertor wheel. The estimated cost of the works is £18,656.00 plus VAT. Some of the cost of the works, divided over the 107 flats in the blocks comprising the premises, will exceed the £250 threshold beyond which a statutory consultation under section 20 of the Landlord and Tenant Act 1985 is required unless dispensation under section 20ZA is granted.
2. The Tribunal gave directions on 16<sup>th</sup> September 2024 and these were complied with. No respondent tenant has objected to the grant.
3. The Tribunal has seen emails dated 8<sup>th</sup> and 15<sup>th</sup> July 2024 from the tenants of flats 83 and 85 and an email dated 22<sup>nd</sup> September 2024 from the tenant of flat 83. These emphasize how dependent they are on the lift to gain access to their flats due to mobility issues. One tenant had in fact had to move out temporarily.
4. The applicant describes the problem in these terms:

“The lift in Block 6 of Harley House was taken out of service on Friday 21<sup>st</sup> June 2024 due to safety concerns around a worn bearing on the divertor wheel at the top of the lift shaft. Following a specialist’s attendance on Monday 23<sup>rd</sup> June and a further attendance from a technician on Tuesday 24<sup>th</sup> June it was confirmed the divertor would need to be removed and repaired offsite. The divertor is estimated to have a diameter of 960mm, a width of 130mm and an approximate weight of 100-125kg. Unfortunately the lift in question is a bottom drive traction lift and in order to carry out the repair the following is required: suspension of the lift car, propping of the counterbalance weight and a scaffold, both within the lift shaft and externally.

Access to the top of the shaft is extremely tight and furthermore the lift will have to be suspended on a counterbalance scaffold once the divertor is taken away for repair. Once removed, the divertor, which is a heavy metal wheel, would need to be carried over the roof of Harley House, past a number of potential trip and fall hazards (hazards exacerbated by the weight and size of the divertor) to a scaffold where it would be transported to ground level for repair. Other methods of removing the divertor from the building have been considered and discounted because they involve removing and replacing a skylight (likely to increase works and costs and potentially increasing damage to the building) or carrying the divertor down the internal stairway. The applicant is concerned about the potential risk of this to the contractors and to those occupying and visiting Block 6 as well as potential damage to the internal common parts, which have recently been refurbished at the leaseholders’ costs. The process of preparing the Risk Assessment and Method statement for accessing, transporting and replacing the divertor has been an ongoing process, which has taken some time due to the complicated nature of the works involved...

On 26 July 2024, all leaseholders were sent a letter by the applicant’s managing agent enclosing a Notice of Intention to Carry Out Work along with a copy of the initial estimate from Arrow Lifts. The covering letter to leaseholders explained that the full cost of the works is not yet known and that additional works may be required to allow the lift’s divertor wheel to be removed and repaired. The covering letter and the Notice explain the works that need to be carried out and invite all leaseholders to provide their written observations on these works by 9 August 2024. The Notice explains to leaseholders that a shortened consultation period of 10 working days is being employed as the works are urgent and the lift is a vital facility for the residents in Block 6. It is for this reason that leaseholders are not invited to nominate a person from whom an estimate should be obtained but the applicant has confirmed that regard will be had to all observations received from leaseholders. For the reasons explained elsewhere in this application, the works have already been instructed and so quotes from different contractors will not be

obtained and the second stage of the consultation process will not be carried out. However, the applicant is keen to ensure transparency and communication with leaseholders is maintained and a revised estimate of costs will be provided to leaseholders once it is obtained from Arrow Lifts...

As explained above, the works to be carried out relate the repair of the lift that serves Block 6 of Harley House. That lift is currently out of service and has been since 21 June 2024. As a consequence the leaseholders and occupiers of the flats located within Block 6 currently have no lift access to their properties, which is making access for those located on the upper floors of the Block very difficult and hindering deliveries.”

5. None of these assertions have been challenged. I accept that the application is urgent. Some occupants of the building are unable to use stairs without pain and discomfort. One of the leaseholders has moved out and is paying for alternative accommodation, whilst another is effectively stranded at home.
6. In my judgment, this is a quintessential example of a case where dispensation should be granted. The works are urgent. A failure to carry them out would cause disproportionate harm to at least two of the tenants. The applicant has consulted with the tenants in a reasonable manner given the time constraints. No tenants have raised objections to the works.
7. I emphasise that this application does not concern the issue as to whether any service charges raised in respect of the works to the lift are reasonable and payable.

### **DETERMINATION**

Dispensation is granted pursuant to section 20ZA of the Landlord and Tenant Act 1985 in respect of major works to the lift in block 6 of Harley House.

**Signed: Judge Adrian Jack**

**Dated: 5<sup>th</sup> November 2024**

## **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).