



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

**Case Reference** : **LON/00AW/LDC/2024/0507**

**Property** : **44-46 Egerton Gardens, London  
SW3 2BS**

**Applicant** : **The Wellcome Trust Limited**

**Representative** : **Ringley Law LLP  
(lee.harle@ringleylaw.co.uk)**

**Respondent** : **The leaseholders of the 11 flats  
listed on the schedule attached to  
the application**

**Representative** : **None**

**Type of Application** : **An application under section 20ZA  
of the Landlord and Tenant Act  
1985 for dispensation from  
consultation prior to carrying out  
works**

**Tribunal Members** : **Mr I B Holdsworth FRICS**

**Date of Decision** : **13 November 2024**

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**DECISION**

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## **Decisions of the Tribunal**

The Tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the works to repair, replace and clean the gutters and hoppers (the “**Gutter Repair works**”) at the property 44-46 Egerton Gardens, London SW3 2BS as required under s.20ZA of the Landlord and Tenant Act 1985 (“**the Act**”) for the reasons set out below. The total cost of the works is advised at £8,283 inclusive of vat and contingencies.

**This application does not concern the issue of whether any service charge costs will be reasonable or payable. The leaseholders will continue to enjoy the protection of Section 27a of the Act.**

The Tribunal directs the Applicant to send a copy of this Decision to the leaseholders and to display a copy in the common parts of the buildings.

## **The application**

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with carrying out Gutter Repair works at 44-46 Egerton Gardens, London SW3 2BS (the “**property**”).
2. An application was received by the First-tier Tribunal dated 18 September 2024 seeking dispensation from the consultation requirements. Directions were issued to the Applicant on 25 September 2024.
3. The Directions required the Applicant to advise the Respondents of the application and provide them with details of the proposed works including costs.
4. The relevant legal provisions are set out in the Appendix to this decision.

## **Parties’ submissions**

5. This matter was determined by written submissions. The Applicant submitted a bundle of relevant materials to the Tribunal.
6. No submissions were received from any Respondent.

## The background

7. The property which is the subject of this application comprises a four storey purpose built block of 7 flats. The Tribunal are told the gutters and hoppers failed in or around July 2024 and rainwater began to spill onto the masonry and penetrate flat 7. The Tribunal understand necessary repair works were subsequently carried to the gutters, and hoppers to ensure effective operation. These works were completed in August 2024. This application seeks retrospective dispensation from the statutory consultation for these works.
8. In the brief statement of case Ringley Law LLP explains that the failure of the guttering and hoppers in or around July 2024 led to spillage onto the external masonry of the property. Flat 7 was particularly affected by the rainwater as it penetrated internal wall surfaces and caused extensive damage.
9. We are told following the failure of the guttering and hoppers Ringley Chartered Surveyors were appointed to specify necessary repairs works and, if appropriate instruct and supervise contractors. No consultation was undertaken with the 11 leaseholders due to the urgency of the repair.
10. The Tribunal is provided with a single cost estimate for the Gutter Repair works. A quote of £7,530 inclusive of vat from Rosco and Perlini, dated 18 July 2024. A contingency sum of 10 % is added to this cost by the Applicants. The total cost of the works estimate for which dispensation is sought is **£8,283 inclusive of VAT**.
11. The Wellcome Trust decided to instruct Rosco and Perlini, but no justification is given in the written submissions for the choice of contractor or why only one quotation was obtained.
12. The Applicant contends that the Gutter Repair works were needed urgently to reduce the water damage to the premises and particularly flat 7.
13. This determination relies upon a bundle of papers which included the application, the Directions, Application, Photographs, a brief Statement of Case, and copy of a specimen lease.
14. The only issue for the Tribunal to consider is whether it is reasonable to dispense with the statutory consultation requirements in respect of the Gutter Repair Works. **This application does not concern the issue of whether any service charge costs are reasonable or payable.**

### **The determination**

15. The Tribunal has considered the papers lodged. There is no objection raised or submitted by the Respondent leaseholders.
16. The Applicants demonstrate a need to carry out the works urgently to mitigate the impact of water damage to the property. It is apparent from the Applicants submission flat 7 was badly affected by the water spillage and any delay to the works may have caused a health and safety risk to the leaseholder residents.
17. The Tribunal has not identified any prejudice to the leaseholder caused by the failure to comply with the statutory consultation procedure on this occasion.
18. It is for these reasons the Tribunal is satisfied it is appropriate to dispense with the consultation requirements for the Gutter Repair works.
19. **It is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**
20. **This decision does not affect the right of the Respondents to challenge the costs, payability or the standard of work should they so wish.**

**Valuer Chairman:** Ian B Holdsworth **Date:** 13 November 2024

## **Appendix of relevant legislation**

### **Section 20 of the Act**

- (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) a leasehold valuation 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 tenant’s 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.

## **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).