



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

Case Reference	: MAN/30UK/LDC/2024/0029
Premises	: Flats A-F Springbank, 90 Fishergate Hill, Preston, PR1 8PL
Applicant	: Places for People Homes Ltd.
Representative	: Residential Management Group Ltd.
Respondents	: various Residential Long Leaseholders
Type of Application	: dispensation from consultation requirements -s.20ZA Landlord and Tenant Act 1985
Tribunal Members	: Judge P Forster Judge S Westby Mr P Mountain
Date of Decision	: 28 March 2025

DECISION

Decision

Compliance with the consultation requirements of s.20 of the Landlord and Tenant Act 1985 is dispensed with in relation to Flats A-F Springbank, 90 Fishergate Hill, Preston, PR1 8PL in respect of fitting a new fire door to the electrical cupboard, fitting fire and smoke intumescent strips and filling all holes/gaps with fire retardant material and sealing with fire rated mastic.

Background

1. The First-tier Tribunal has received an application dated 2 April 2024 under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a decision to retrospectively dispense with the consultation requirements of s.20 of the Act. Those requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application was made on behalf of Places for People Homes Ltd. (“the Applicant”), in respect of Flats A-F Springbank, 90 Fishergate Hill, Preston, PR1 8PL (“the Premises”). The respondents to the application are the long leaseholders of the flats within the building. A list of the respondents is set out in the annex hereto.
3. The only issue for the Tribunal to determine is whether it is reasonable to dispense with the consultation requirements.
4. The application states that the Premises is situated in the centre of Preston occupying an L-shaped corner plot and is one of two separate three-storey blocks of 12 flats with a separate communal entrance designated as 90A-F Fishergate Hill.
5. The Applicant was made aware of an issue pertaining to the service cupboards in the Premises. The door to the electrical cupboard is not in compliance with the required standards due to the presence of holes and gaps. The door, in its current state, does not meet the requisite safety standards and thus poses a potential fire hazard to the surrounding structures in the event of a fire.
6. The works in respect of which a dispensation is sought are fitting a new fire door to the electrical cupboard, fitting fire and smoke intumescent strips and filling all holes/gaps with fire retardant material and sealing with fire rated mastic. The works are as specified in Beara Property Ltd.’s undated invoice no. 661510.

7. The Applicant deemed the works to be of immediate necessity with respect to the safety of occupiers and visitors to the Premises that it appointed Beara Property Ltd to carry out the works which were completed on 19 December 2023. The cost of the works was £2,715.00 exclusive of VAT.
8. The Applicant states that due to the degree and nature of the works it was not able to formally consult the respondents.
9. The Applicant seeks retrospective dispensation because the works were urgent and needed to be done without delay.
10. The works are “qualifying works” within the meaning of section 20ZA(2) of the Act.
11. On 14 January 2025, the Tribunal issued directions and informed the parties that, unless the Tribunal was notified that any party required an oral hearing to be arranged, the application would be determined upon consideration of written submissions and documentary evidence only. No such notification was received, and the Tribunal therefore convened on the date of this decision to consider the application in the absence of the parties.
12. The directions included at paragraph 5 a provision that required the Applicant to write to each of the respondents informing them of the application and providing them with information about the application process. The Applicant’s representative has confirmed that this was done and that the deadline for responses from the respondents has passed.
13. A response was received from John Whitaker, the leasehold owner of Flat E90. He observed that the urgency of the matter can only be judged from the date the Applicant became aware of the issue and this is not stated. Further, he states that the true cost is not £2,715.00 but £3,258.00 or £543.00 per leaseholder. Mr Whitaker says whether this was a reasonable charge can only be assessed by obtaining a number of quotes which the Applicant did not do. He says that the cost seem excessive and prejudicial to the Respondents.
14. In response, the Applicant states it was informed that the cupboard door needed to be replaced on 19 December 2023. It obtained a quote from Beara Properties Ltd. and instructed the contractor the same day. It is pointed out that the works cost £2,715.00 excluding VAT or £3,258.00 including VAT. It is stated that no complaints have been received about standard of the works. It is asserted that the costs were reasonable and that the Respondents have not suffered any prejudice.

Grounds for the application

15. The Applicant's case is that it was necessary to undertake these works quickly to adequately protect the occupants of the Premises. By implication, the Applicant's case is that the works relate to common parts of the Property which the landlord is obliged to maintain under the terms of the leases, with the costs associated therewith being recoverable from the tenants via service charge provisions incorporated within the leases. The Tribunal was provided with a specimen copy of the lease relating to Flat 90D.
16. The Applicant asks the Tribunal to grant dispensation in respect of the works, which it considered to be so urgent as to warrant avoiding the additional delay that compliance with the consultation requirements would be entailed.

The Law

17. 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.
18. 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.
19. "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 in 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).
20. 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.

21. 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.

Conclusions

22. The Tribunal must decide whether it is reasonable for the works to proceed without the Applicant first complying in full with the s.20 consultation requirements. These requirements ensure that tenants are provided with the opportunity to know about the 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.

23. 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.

24. It follows that, for the Tribunal to decide whether it was reasonable to dispense with the consultation requirements, there needs to be a good reason why the works should and could not be delayed. In considering this, the Tribunal must consider the prejudice that is caused to tenants by not undertaking the full 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 was an urgent need for remedial or preventative action.

25. In deciding the application, the Tribunal has had regard to the representations made by Mr Whitaker. The works were undertaken without any delay which is indicative of the urgency with which the Applicant attributed to the issue. The costs were as stated by the Applicant. The question for the Tribunal is whether the Respondents have suffered real prejudice due to the Applicant not complying with the s.20 consultation requirements. The works were necessary and urgent and on balance the Tribunal finds that it was reasonable for these works to proceed without the Applicant first complying in full with the s.20 consultation requirements. The balance of prejudice favours permitting such works to have proceeded without delay.
26. The Tribunal would emphasise the fact that it has solely determined the question of whether or not it is reasonable to grant a retrospective dispensation from the consultation requirements. This decision should not be taken as an indication that the Tribunal considers that the amount of the anticipated service charges resulting from the works is likely to be recoverable or reasonable; or, indeed, that such charges will be payable by the Respondents. The Tribunal makes no findings in that regard and, should they desire to do so, the parties will retain the right to make an application to the Tribunal under s.27A of the Landlord & Tenant Act 1985 as to the recoverability of the costs incurred, as service charges.

27 March 2025
Judge P Forster

List of Respondents

Mr Ivaylo Dimitrov & Miss Silviya Tsvetkova, Flat A, 90 Fishergate Hill, Preston, PR1 8JD

Mr Simon Basquill, Flat B, 90 Fishergate Hill, Preston, PR1 8JD.

Mr Sajid Hussain, Flat C, 90 Fishergate Hill, Preston, PR1 8JD

Mr Kevan Smith, Flat D, 90 Fishergate Hill, Preston, PR1 8JD

Mr John Whitaker, Flat E, 90 Fishergate Hill, Preston, PR1 8JD

Mr Graeme Wright, Flat F, 90 Fishergate Hill, Preston, PR1 8JD