



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

Case Reference : **LON/00AW/LDC/2025/0673**

Property : **40- 43 Onslow Gardens London
SW7 3PY**

Applicant : **The Wellcome Trust limited**

Representative : **Cluttons LLP**

Respondent : **All leaseholders of 40- 43 Onslow
Gardens London SW7 3PY**

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 Member : **Tribunal Judge I B Holdsworth**

Date of Decision : **10 June 2025**

DECISION

Decisions of the Tribunal

The Tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the works to repair the defective roof and rainwater goods (the “**Roof Works**”) responsible for the water ingress at Flat 14 42 Onslow Gardens London SW7 3PY (“**the Property**”) as required under s.20ZA of the Landlord and Tenant Act 1985 (“**the Act**”) for the reasons set out below.

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 necessary and essential Roof Works above Flat 14 42 Onslow Gardens London SW7 3PY.
2. An application was received by the First-tier Tribunal dated 10 March 2025 seeking dispensation from the consultation requirements. Directions were issued to the Applicant on 25 April 2025. These Directions required the Applicant to advise the Respondent of the application and provide them with details of the proposed works including costs.
3. The statutory provisions referred in making this decision may be consulted at: www.legislation.gov.uk/ukpga/1985/70/section/20ZA

Parties’ submissions

4. This matter was determined by written submissions. The Applicant submitted an 83-page bundle of relevant materials to the Tribunal.
5. No submissions were received from the Respondents.

The background

6. The property which is the subject of this application comprises a four storey with basement, terraced period property converted into 19 self-contained flats. The property dates from the nineteenth century and is of

a traditional brick and stucco construction beneath a shallow pitched roof.

7. In the brief statement of case submitted by Cluttons LLP, the Tribunal are told in October 2024 the property manager received a report of water ingress to flat 14. This was investigated and immediate remedial works were undertaken. These proved ineffective and contractors were instructed to inspect and provide advice on more comprehensive remedial works to remedy the defect.
8. This inspection discovered the water ingress originated from a blocked box gutter situated above flat 14. At times of high rainfall this box gutter became overwhelmed and spilled water onto the nearby masonry. This had led to water penetration into flat 14 which had dampened internal walls, damaged plasterwork and threatened the integrity of electrical wiring. The contractors proposed a remedy that included the installation of a sealed pipe within the existing box gutter void to direct any surplus water away from the Property and into a downpipe. There was also a need to carryout repairs to make good water damage caused to the interior flat 14.
9. Following the inspection Cluttons LLP instructed J Fitzgerald multi service contractors to carry out the necessary works. The work was completed in March 2025. The work was undertaken without leaseholder consultation to avoid delay and the associated risks to the safety and well-being of the tenant at flat 14. The Tenant had contacted the Environmental Health Officers at Royal Borough of Chelsea and Kensington to express a concern about his personal safety and the habitability of the dwelling.
10. The Tribunal are provided with a Roof Works cost estimate at page 81 of the bundle This is prepared by J Fitzgerald contractors in the sum of £4,390 +vat. Cluttons LLP accepted this quote and instructed the contractor to carry out the specified work.
11. The Applicant contends that Works were needed urgently to reduce the probability of injury to the tenant and reduce the likelihood of consequential damage to the Property. They confirmed that no consultation with leaseholders was carried out prior to the commission and undertaking of the works.
12. This determination relies upon a bundle of papers which included the application, the Directions, Application, a brief Statement of Case, a photograph and copy of a specimen lease.
13. The only issue for the Tribunal to consider is whether it is reasonable to dispense with the statutory consultation requirements in respect of the Cornice and Turret Works. **This application does not concern**

the issue of whether any service charge costs are reasonable or payable.

The determination

14. The Tribunal has considered the papers lodged. There is no objection raised by the Respondent leaseholders.
15. There is a demonstrated need to carry out the works urgently to obviate the risk to the tenant of Flat 14 and the other residents of the building. The Tribunal are told the repairs were essential works to prevent a significant volume of water from penetrating Flat 14, causing extensive damage to internal finishes, built-in joinery and ceiling plasterwork. It is also claimed the dampness had caused the build up of mould to the internal surfaces of the property.
16. The Tribunal has also had regard to the guidance provided in the Supreme Court's decision **Daejan Investments Ltd v Benson and Ors [2013] 1 W.L.R. 854** in making this determination. This clarified the Tribunal's jurisdiction to dispense with the consultation requirements and the principles upon which that jurisdiction should be exercised.
17. No representations were received from leaseholders following notification of this S20ZA application. The Tribunal has not identified any financial or other prejudice to the leaseholders caused by the failure to comply with the statutory consultation procedure on this occasion. There was also a demonstrated need to undertake the works.
18. It is for these reasons the Tribunal is satisfied it is appropriate to dispense with the consultation requirements for the Roof 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:** 10 June 2025

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).