FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/30UF/LDC/2024/0061**
Property	:	**Sandhurst Court, 3-5 South Promenade, Lytham St Annes, FY8 1LS**
Applicant	:	**Sandhurst Court Management Limited**
Applicant's Representative	:	**Rowan Building Management Ltd**
Respondents	:	**The residential long leaseholders**
Type of application	:	**Application for dispensation under s.20ZA of the Landlord and Tenant Act 1985**
Tribunal members	:	**Judge P. Forster** **Judge S. Westby** **Mr I James FRICS**
Date of Decision	:	**23 May 2025**

DECISION

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Decision

Pursuant to s.20Z of the Landlord and Tenant Act 1985, the Tribunal grants dispensation from the consultation requirements of s.20 of the Landlord and Tenant Act 1985 in relation to the communal fire doors and proofing carried out in March 2022 to Sandhurst Court, 3-5 South Promenade, Lytham St Annes, FY8 1LS.

Background

1. This is a retrospective application under s.20ZA of the Landlord and Tenant Act 1985 ("the Act") to dispense with the consultation requirements of s.20 of the Act. These requirements ("the consultation requirements") are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 ("the Regulations").

2. The application is made in respect of Sandhurst Court, 3-5 South Promenade, Lytham St Annes, FY8 1LS ("the Property") registered with title number [] at HM Land Registry. The Property, as described by the Applicant, is a purpose built block of 17 residential flats.

3. The Applicant is Sand Hurst Court Management Ltd. the management company named in the respective leases to which the service charge is payable.

4. The Respondents are the leasehold owners of each of the 17 flats.

5. The flats located within the Property are subject to long residential leases. All the leases are granted on similar terms and include a covenant by the leaseholder to pay the 'rent and maintenance charge' as defined in the lease to the management company.

6. The works carried out to the Property are "qualifying works" within the meaning of s.20ZA(2) of the Act and are works in respect of which each lessee will have to contribute more than £250 by way of service charge by virtue of the terms of the lease set out above.

7. The only issue for the Tribunal to determine in this matter is whether it is reasonable to dispense with the consultation requirements.

8. The Tribunal issued directions on 4 February 2025. It considered that the application could be resolved by way of submission of written evidence but invited any of the parties to apply for hearing if so desired. No such application has been made and the Tribunal therefore convened on 23 May 2025 to consider the application in the absence of the parties.

Grounds for the application

9. The qualifying works included communal and individual fire door replacement work and communal fireproofing. The works were deemed as emergency works based on a fire safety report dated 14 January 2021 prepared by Manchester Fire Compliance and the fact that the building has a 'stay put' fire evacuation strategy with several vulnerable residents.

10. The previous managing agent completed and distributed a notice of intention to all the Respondents. The Applicant obtained several contractor quotes and distributed/informed the Respondents at an annual general meeting but no s.20 notices of estimates were formally issued to them ahead of the works.

11. The Applicant states that most of the work, 60% of the total cost, related to individual owner flat doors and 40% of the cost related to communal fire doors and proofing. The Applicant states that according to the leases the front door of each flat is non-structural and are not used in common by the owners and occupiers of more than one flat and therefore are part of the individual Respondent's demise. Dispensation is sought only in respect of the communal works.

12. The Applicant asks the Tribunal to grant dispensation in respect of the communal works, which it considers having been so urgent as to warrant avoiding the delay that compliance with the consultation requirements would have entailed.

Response to the application

13. There has been one response to the application, this is from Mr P and Mrs A Whiston the leasehold owners of flat 11.

14. Mr & Mrs Whiston refer to a 'Management Overview' in 2020 and a previous s.20 notice of intention dated 12 May 2020 relating to the replacement of apartment and communal doors. This was issued by a previous managing agent. The proposed works were not carried out. The history of events is recited.

15. Mr & Mrs Whiston do not accept that they are responsible under the terms of their lease for the door to their flat which they say is part of the structure of the Property and therefore included within the common parts of the Property and the responsibility of the Applicant.

16. The point made by Mr & Mrs Whiston is that the issue of the fire safety works had been under consideration for a long time before the new managing agent was appointed and nothing was done to progress matters.

17. Mr & Mrs Whiston state that the Applicant 'had plenty of time to comply with all Section 20 Notice requirements and that they lost the opportunity for contractors that quoted competitive prices under the Section 20 Statement of Estimates dated 3 June 2019 to undertake the works at that time, or following the communal Fire Risk Assessment report that was released in January 2021'.

18. The fire safety works were not completed until March 2022. Mr & Mrs Whiston say that if the Applicant had undertaken the works earlier the costs would have been less than they are now.

The Law

19. 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'.*

20. 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 s.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'.

21. "Qualifying works" for this purpose are works on a building or any other premises (s.20ZA(2) of the Act), and s.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 (s.20(3) of the Act and regulation 6 of the Regulations).

22. 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'.*

23. 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.

Reasons for the decision

24. The Tribunal must decide whether it was 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, why the works are required, 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.

25. The Tribunal had regard to the principles laid down in Daejan Investments Ltd. v Benson [2013] I WLR 854 upon which its jurisdiction is to be exercised.

26. The consultation requirements are intended to ensure a degree of transparency and accountability when a landlord 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.

27. 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, or where all the leaseholders consent to the grant of a dispensation.

28. Mr & Mrs Whiston do not say that the works were not necessary. The works concerned the safety of the Property and the occupants who live there. Additional factors include the 'stay put' strategy in case of a fire and the potential vulnerability of some of the occupants.

29. Mr & Mrs Whiston criticise the Applicant for the delay in undertaking the works. It is apparent that there are a number of issues between the parties which are separate from these proceedings. Any delay made the works more urgent.

30. The application only relates to the communal works and not to the Mr & Mrs Whiton's front door. The question of whether their door is part of the structure of the Property and therefore part of the communal parts is not within the scope of these proceedings.

31. The prejudice identified by Mr & Mrs Whiston is any increased cost of the works resulting from the Applicant's alleged delay. Any prejudice that may have been suffered arises from the timing of the works and not from the Applicant's failure to implement the s.20 procedure.

32. The Tribunal finds that it was reasonable for the works to proceed without the Applicant first complying with the s.20 consultation requirements. The balance of prejudice favoured permitting such works to proceed without delay.

33. The Tribunal emphasises the fact that it has solely determined the question of whether or not it is reasonable to grant 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 Respondent. The Tribunal makes no findings in that regard and, should they desire to do so, the parties 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 a service charge.

23 May 2025
Judge P Forster

ANNEX

Apartment 1	Mr and Mrs Smith
Apartment 2	Mr and Mrs Ashcroft
Apartment 3	Mr Lindsay
Apartment 4	Mr and Mrs Underwood Jones
Apartment 5	Mr and Mrs Shelmerdine
Apartment 6	Ms Gardner
Apartment 7	Stephen & Ruth Brenda Abrahams
Apartment 8	Mrs Collier
Apartment 9	Mr Rattan
Apartment 10	Mr and Mrs Walker
Apartment 11	Mr Prytherch
Apartment 12	Mr P and Mrs A Whiston
Apartment 14	Mrs Peacock
Apartment 15	Mr and Mrs Roberts
Apartment 16	Mr and Mrs Leigh
Apartment 17	Mr Duxbury
Apartment 18	Mr Wilcock

RIGHT OF APPEAL

A person wishing to appeal against this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, that person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.