



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

Case reference : **MAN/00BL/LDC/2024/0073**

Property : **1-36 Victoria court, Stocks Park Drive, Horwich,
Bolton, BL6 6DF**

Applicant : **Victoria Court Property Management Limited**

**Applicant's
Representative** : **Rebecca Walton MTPI**

Respondents : **Various Long Residential Leaseholders**

**Type of
Application** : **Landlord & Tenant Act 1985 - Section 20ZA**

**Tribunal
Members** : **Mr N Swain MRICS
Ms J O'Hare MRICS**

**Date of Paper
Determination** : **20 June 2025**

DECISION

DECISION

1. Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the tribunal makes a determination to dispense with the requirement to consult with the Respondents on the works to 1-36 Victoria Court, Stocks Park Drive, Horwich, Bolton, BL6 6DF as described in Schedule 1.

REASONS

The Application

2. The application ('the Application') was made on 25 September 2024 by Victoria Court Property Management Limited ('the Applicant'). It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by section 20.
3. Dispensation is sought for the re-pointing of the Property to resolve serious damp issues ('the Works').
4. The Works are to be carried out to 1-36 Victoria Court, Stocks Park Drive, Horwich, Bolton, BL6 6DF ('the Property'), comprising 36 self-contained residential apartments arranged over three storeys. The Applicant is the management company for the Property and the Respondents are the leaseholders of the 36 residential apartments. A sample lease evidences a current lease term of 125 years commencing on 31 January 1991.
5. The Applicant's statement of case avers that:

The Applicant seeks dispensation from the full consultation requirements under Section 20 of the Landlord and Tenant Act 1985 due to the owners and residents at Victoria Court having respiratory/health concerns and the damp/mold/water ingress causing them further problems, so it was important to proceed with the repairs as quickly as possible to resolve these issues.

The Applicant was unable to comply fully with the consultation requirements because:

- *Owners and tenants at Victoria Court already suffer from severe health concerns and the damp/mould/water ingress was starting to cause further issues for them as well as impacting their mental health.*
- *The damages being caused to the interior of the flats was becoming progressively worse and mould/damp was spreading quickly.*
- *Obtaining quotes for these works was a lengthy process and considerable time had already been spent doing this. The directors of the management company felt that delaying the works/repairs to consult the section 20 process will cause further health issues for the owners and they wanted to prevent this.*

The Applicant believes it is reasonable for the Tribunal to grant dispensation on the basis that the leaseholders have not suffered any prejudice, or any prejudice can be appropriately addressed.

6. The Application seeks dispensation for the works detailed in Schedule 1.
7. Directions in the present case were issued on 25 March 2025. The Applicant submitted a bundle of papers including a statement of case and supporting documents. None of the Respondents submitted a statement to the tribunal opposing the Application and the Applicant has confirmed that none of the Respondents has submitted any objections to the Application directly to itself.
8. The Applicant indicated that it would be content with a determination on the papers. The tribunal considered this to be appropriate because none of the Respondents opposed the Application, neither party had requested a hearing and because there was sufficient information before the tribunal to reach a decision. It was unnecessary to conduct an inspection of the Property in view of the matters in issue.

The Law

9. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 2. Section 20ZA subsection (1) provides that the tribunal may make a determination to dispense with consultation requirements 'if satisfied that it is reasonable to dispense with the requirements'.
10. The tribunal considers the Supreme Court case of *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*') to be the leading case on dispensation. In *Daejan* Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants. Lord Neuberger went on to hold that a tribunal is permitted to grant dispensation on terms, including compensating leaseholders for any prejudice suffered by requiring a landlord to reduce the amount claimed as service charge, and including an order for costs.

Findings of fact and Reasons for decision

11. None of the Respondents have submitted a statement of case opposing the Application. There is no evidence before the tribunal that any of the Respondents consider themselves to be prejudiced in any way by the absence of a section 20 consultation exercise.
12. The Applicant engaged with the Respondents on its proposals to undertake the Works.
13. The tribunal finds that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant proceeding with the Works without first carrying out the section 20 consultation.

14. The Respondents have made no representation as to any condition the tribunal might impose in granting dispensation, and there is no evidence of any cost being incurred by the Respondents that should appropriately be met by the Applicant.
15. In these circumstances, the tribunal considers it reasonable to dispense with consultation requirements unconditionally. Accordingly, the tribunal makes a determination under section 20ZA of the Act to dispense with the requirement to consult with the Respondents under section 20 in relation to the Works.
16. The tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works are of a reasonable standard or whether the element intended to be recovered by way of service charge is payable, within the meaning of sections 19 and 27A of the Act. The tribunal's decision does not include or imply any determination of such matters.

Schedule 1

‘the Works’

1. Grind out and re-point sections of failed pointing amounting to 194 square metres.

Schedule 2

Extracts from legislation

Landlord and Tenant Act 1985

Section 20

(Subsections (1) and (2):)

(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 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 under the agreement.

Section 20ZA

(Subsection (1))

(1) Where an application is made to a tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.