



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

<b>Case Reference</b>	<b>: MAN/ooBN/LDC/2024/0613</b>
<b>Property</b>	<b>: 8 King Street, Manchester, M2 6AQ</b>
<b>Applicant</b>	<b>: Glasgow City Council</b>
<b>Applicant's Representative</b>	<b>: Residential Management Group</b>
<b>Respondents</b>	<b>: The Residential Long Leaseholders (see Annex)</b>
<b>Type of Application</b>	<b>: Landlord &amp; Tenant Act 1985 – s 20ZA</b>
<b>Tribunal Members</b>	<b>: Judge Richard Dobson Mason LLB Mr John Elliott MRICS</b>
<b>Date and Venue of the Hearing</b>	<b>: Determined on the papers without a hearing</b>
<b>Date of Decision</b>	<b>: 18 June 2025</b>

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**DECISION**

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## **DECISION**

**(1) The Tribunal unconditionally grants the Applicant's application for dispensation under s 20ZA Landlord and Tenant Act 1985 from the consultation requirements contained in s 20 thereof, in relation to repair works to reinstate the hot water and heating supply to the property at 8 High Street, Manchester, M2 6AQ.**

## **REASONS**

### **Background**

1. The Applicant is Glasgow City Council who brings the application ("the Application") via its agent, Residential Management Group.
2. The Application relates to 8 High Street, Manchester, M2 6AQ ("the Property").
3. The Respondents are the long leaseholders of the 21 residential apartments ("the Apartments") within the Property.
4. The Property was not inspected by the Tribunal, but the Applicant describes it as a multi-use 5-storey grade 2 listed building, converted in c. 19<sup>th</sup> Century, and sited on the corner of Deansgate and King Street in Manchester City Centre, comprising a basement, ground, and 3 upper floors. There are 9 high street retail units at ground level, and the Apartments are located on the 1<sup>st</sup> to the 3<sup>rd</sup> upper floors.

### **The application**

5. On 12 November 2024, the Applicant made the Application under s 20ZA Landlord and Tenant Act 1985 ("the Act") to dispense with the consultation requirements of s 20 of the Act, as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 ("the Consultation Requirements").
6. The Application is brought in respect of work commissioned by the Applicant to repair the hot water supply to and heating supply at the Property ("the Works").
7. The Works were completed on 24 January 2024 and, accordingly, the Application is for retrospective dispensation.

### **Directions**

8. Directions were made by a Legal Officer on 21 February 2025 ("the Directions") requiring sequential filing and service of the parties' statements of case and evidence in support.

## **The hearing**

9. The Application was determined on the papers on 18 June 2025. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties consent to, or do not oppose it.
10. The Applicant, in the Application, requested a paper determination, which was ordered by paragraph 7 of the Directions.
11. The parties were notified, by paragraph 3 of the Directions, that unless any party informed the Tribunal that they required an oral hearing the matter would be resolved by way of written representations. No such objections were received from the parties.

## **The Applicant's case**

12. The Applicant filed and served a statement of case dated 7 March 2025 in support of the Application setting out, in summary, the following: -
  - a. It was notified on 14 January 2024 that there was an issue with the hot water supply to and heating system at the Property.
  - b. It instructed an out-of-hours contractor, Rescom Ltd, to attend the Property.
  - c. Thereafter, it instructed the suite building maintenance contractor, Prime Management Group Limited ("Prime"), to investigate the matter.
  - d. Prime reported that the flue had come apart and caused the system to lock out, and so the flue was refitted. However, this did not fix the problem and so further inspections were undertaken by them. The temperature on the water pumps were readjusted and some of the individual heating units in the Apartments were checked, noting that the units were unresponsive. Ultimately, Prime concluded that the pumps were faulty.
  - e. On 21-22 January 2024, the Applicant obtained quotes for the Works from Prime, of £5,250 plus VAT, and another contractor, MCR Gas Homecare Ltd ("MCR"), of £4,143 plus VAT.
  - f. The Applicant accepted the quote from MCR, and, on 24 January 2024, the Works were completed.
  - g. The Respondents have not been prejudiced by the lack of compliance with the Consultation Requirements. The Applicant's understanding of prejudice is that this would occur if the Works resulted in an unreasonable financial cost to the leaseholders because the Works: -
    - (a) Were unnecessary or inappropriate.

- (b) Were carried out to an inappropriate standard.
- (c) Resulted in an unreasonable amount of costs.
- h. The Apartments house vulnerable residents, including babies and elderly people. The Works were urgent due to that fact, and to ensure that the use of the water and heating system did not pose a risk to the residents generally.
- i. There have been no further issues with the hot water supply and heating system since the Works were carried out.
- j. It has a duty of care to the residents and acted promptly to resolve the issue.
- k. MCR submitted the lowest quote and is a plumbing, heating and boiler specialist, and a Napit, MAX and Ideal Accredited Installer.
- l. It maintained communication with the residents of the Property via the residents' online portal and received no opposition from the residents or the leaseholder.
- m. The Works were necessary and urgent and were carried out by a reputable contractor.
- n. As a result of the above, there was no prejudice to the leaseholders, and it is therefore reasonable to dispense with the Consultation Requirements.

### **The Respondents' case**

- 13. The Tribunal received a response to the Application from 2 of the Respondents.
- 14. Ms Victoria Lei-Plant sent an email to the Tribunal dated 21 February 2025 stating, in summary, the following: -
  - a. She was concerned about any increase in service charges payable as a result of the Works.
  - b. The original company who carried out the building and conversion work should be held accountable for their poor-quality work.
  - c. She was concerned about any damage or water leak into her apartment whilst the Works are carried out, and whether the Works would cause her tenant to end their tenancy due to the Works being carried out.
- 15. Mr Matthew Warner submitted a bundle of documents, and a witness statement dated 11 May 2025 stating, in summary, the following: -
  - a. It was unclear whether the Applicant intends to seek to charge the VAT element of the cost of the Works to the leaseholders.

- b. It is possible that the Applicant is seeking dispensation to avoid revealing the gas and / or boiler use of itself / the retail units.
- c. The Applicant has a history of complying with the Consultation Requirements which displays the Applicant's lack of knowledge of those requirements and have contributed heavily to excessive service charges, and it is therefore inappropriate for the Applicant to seek dispensation per the Application.
- d. He believes that the Applicant may have failed to maintain the boiler appropriately prior to the Works and feels that they could have been avoided if the servicing had been carried out annually and the lack of servicing would have been identified if the Consultation Requirements had been complied with.

16. Mr Warner wished to rely on 2 video recordings in support of the above. However, permission to rely on those recordings was refused by Order of Tribunal Judge Goodall dated 6 June 2025.

## **Issues**

17. The issue to be decided is whether it is reasonable to dispense with the Consultation Requirements and, if so, whether any conditions should be imposed.

## **The law**

18. The Works are “qualifying works” for the purposes of s 20ZA(2) of the Act and therefore the Consultation Requirements are engaged.

19. A failure to adhere to the Consultation Requirements limits each qualifying tenant’s contribution to the costs of the Works to £250 per service charge year unless dispensation is granted by the Tribunal.

20. S 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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.*

21. In *Daejan Investments Ltd v Benson* [2013] UKSC 14, the Supreme Court considered the proper approach to an application for dispensation under s.20ZA, noting that: -

- a. The purpose of the Consultation Requirements is to ensure that tenants are protected from paying for inappropriate works or paying more than would be appropriate for them.

- b. On that basis, the Tribunal should focus on the extent to which tenants were relevantly prejudiced in either respect by the failure of the landlord to comply with the Consultation Requirements.
- c. The Tribunal has the power to grant dispensation on such terms as it thinks fit, provided that such terms are appropriate in their nature and effect, including in relation to the recoverability cost of the works and / or the parties' costs incurred in connection with the application for dispensation.
- d. However, where the extent, quality and cost of the works were unaffected by the landlord's failure to comply with the Consultation Requirements, unconditional dispensation should normally be granted.
- e. The only disadvantage of which a tenant may legitimately complain is one which they would not have suffered if the Consultation Requirements had been fully complied with but which they would suffer if unconditional dispensation were granted.
- f. Although the legal burden of proof would be, and would remain, on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered would be on the tenants.
- g. Given that the landlord will have failed to comply with Consultation Requirements, and the Tribunal is having to undertake the exercise of reconstructing what would have happened, it may view the tenant's arguments sympathetically, for instance resolving in their favour any doubts as to whether the works would have costs less, or that some of the works would not have been carried out or would have been carried out in a different way. The more egregious the landlord's failure, the more readily the Tribunal would be likely to accept that tenants had suffered prejudice.
- h. The tenants' complaint will normally be that they have not had the opportunity to make representations about the works. Accordingly, the tenants have an obligation to identify what they would have said.
- i. Once the tenants have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
- j. Save where the expenditure is self-evidently unreasonable, it would be for the landlord to show that any costs of investigating relevant prejudice incurred by the tenants were unreasonably incurred before it could avoid being required to repay them as a term of dispensation being granted.

## **Determination**

- 22. The only issue for the Tribunal to consider under s 20ZA is whether it is reasonable to dispense with the consultation requirements.

23. Accordingly, the issues raised by the Respondents relating to who caused the Works to become necessary, who should ultimately pay for the cost of the Works, any increase in service charges, and the application of VAT are not relevant.
24. Furthermore, each application for dispensation is treated on its own individual merits, and so the Tribunal was not satisfied that the alleged history of non-compliance with the Consultation Requirements was relevant.
25. Finally, the concerns raised by Ms Lei-Plant regarding any damage to her apartment that may be caused by the Works, and the potential of her incurring loss by virtue of her tenant ending their tenancy on account of the same, disregarded the fact that the Works were completed some 13 months prior.
26. In the circumstances, the Tribunal is satisfied that the Works were necessary and urgent, considering a) that they related to the hot water supply to and heating system at the Property, and b) the vulnerability of some of the residents thereof.
27. The Tribunal finds that no relevant prejudice occasioned by the Applicant's failure to comply with the Consultation Requirements has been shown, and no evidence that the extent, quality and cost of the works were affected by that failure has been satisfactorily adduced.
28. In view of the above, the Tribunal is satisfied that it is reasonable to grant the Application without any conditions.
29. This determination does not affect the Respondents' right to apply to the Tribunal to determine the payability of the cost of the Works under the terms of the lease, or the reasonableness of the Works in terms of quality or amount, pursuant to s 27A of the Act.

**Judge Richard M. Dobson-Mason**  
**18 June 2025**

**ANNEX A**  
**List of Respondents**

Herjit Senghal

Mr Mark Gallagher

Lomond (K Street) Ltd

Mr David Warren

Mr Matthew Warner

Dr Benjamin Lewis

Ms Michelle Marks

Ms Victoria & Ms Amy Lei-Plant

Ms Sarah Horsley

Shurouq Alnisif & Saud Alhashem

Mr & Mrs Ip

Sood Haq

Mr Vladimir Falko

Mr Aaron Buckley

Sanchita Saha

Mr Joseph Lam & Ms Becky

Ms Amie Boothman

Mr David Warren

Mr Hugh Lee

Ms Alison Lancaster