FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AH/LDC/2025/0692**
Property	**:**	**Harlequin Court, 234 Pampisford Road, Croydon. CR2 6DB**
Applicant	**:**	**Southern Land Securities Ltd.**
Representative	**:**	**Ms. K. Young of Together Property Management**
Respondents	**:**	**The Residential Long Leaseholders of Harlequin Court**
Representative	**:**	**Ms. H. Shehu of counsel, instructed by Setfords Solicitors**
Type of Application	**:**	**For the determination of an application for dispensation from the statutory consultation requirements**
Tribunal Members	**:**	**Judge S.J. Walker** **Tribunal Member Mr. A. Fonka FCIEH, CEnvH, M.Sc.**
Date and venue of Hearing	**:**	**6 August 2025** **10, Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**9 September 2025**

DECISION

Decision of the Tribunal

The Tribunal determines that the statutory consultation requirements shall be dispensed with in respect of the following works at Harlequin Court, 234 Pampisford Road, Croydon CR2 6DB

(a) the replacement of the pump providing water to the property;
(b) works to repair leaks to the water tank;

(c) the provision of a temporary water supply at the property; and
(d) pest control and associated works in the pump room

Reasons

The application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") dispensing with the statutory consultation requirements which apply by virtue of section 20 of the 1985 Act in respect of the following works;
   (a) the replacement of the water pump providing water to the property;
   (b) repairs to leaks in the water tank;
   (c) the provision of a temporary water supply at the property;
   (d) pest control and associated works in the pump room

2. The application was made on 28 March 2025 and stated that it was being made because the water supply to the property failed on 7 March 2025 and that urgent works were required as a result.

3. Directions were made on 11 April 2025 by Judge Latham. They required the Applicant to send copies of the application and the directions to the leaseholders and to display a copy of them in a prominent place in the common parts of the property. The Tribunal is satisfied that this was done.

4. The directions provided that those leaseholders who opposed the application were to complete a reply form and return it to the Tribunal by 16 May 2025.

5. The directions further provided that the application would be determined on the papers in the week commencing 16 June 2025 unless by 6 June 2025 any party requested a hearing.

6. On 16 May 2025 the Respondents applied for an extension of 28 days to the period in which they could submit submissions in opposition to the application. That application was granted and amended directions were issued on 30 May 2025. In addition, the Applicant informed the Tribunal that in the light of the objections they now required an oral hearing.

7. The relevant statutory provisions are set out in the Appendix to this decision.

8. Neither party requested an inspection, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

9. The Applicant prepared a bundle consisting of 294 numbered pages. References to page numbers throughout this decision are to the page numbers appearing in this bundle.

10. At the hearing the Tribunal also had a 9-page skeleton argument prepared by Ms. Shehu of counsel on behalf of the Respondents.

The Hearing

11. The Applicant was represented at the hearing by Ms Young. Five of the 12 Respondents attended, and they were represented by Ms. Shehu of counsel. The Tribunal did not have signed confirmation from each of the 12 leaseholders that they wished to be party to the proceedings, but this was confirmed orally by Ms. Shehu on their behalf.

The Background

12. The property comprises a purpose built block of 12 flats. The water supply to these flats is provided by means of a pump which is located in a small outbuilding located in the car park of the property. The issues in this case arise from the failure of the water supply on 7 March 2025.

The Lease

13. No evidence of title has been provided, but there is no issue as to the Applicant's entitlement to make this application.

14. A copy of a sample lease was provided to the Tribunal (pages 18 to 39). The Tribunal was satisfied that it included the usual obligations on the tenant to pay a contribution towards the expenses incurred by the landlord in performing its obligations under the lease. Those obligations include, among other things, an obligation to maintain the communal supply of water to the premises (para 2.2 of Schedule 4 – page 36).

The Issues

15. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. The Tribunal is not concerned with the issue of whether any service charge costs or legal costs will be reasonable or payable.

The Applicant's Case

16. The Applicant's case is set out in their application (pages 1 to 10) and the witness statement of Ms. Young (pages 72 to 79). Put simply, their case is as follows. In the morning of 7 March 2025, a Friday, the Applicant was informed that the water supply to the whole block of 12 flats had failed. Checks were made with Thames Water who confirmed that this was not a general outage. The Applicant therefore instructed contractors to attend the property. On arrival they discovered that the fault was with the pump's electric cables, which had been gnawed through by vermin. Later that day specialist pump engineers, the same contractors who had installed the pump, attended and advised that the pump had to be replaced. The Applicant instructed those contractors, DPT, to replace the pump, which was done on the following Monday, when the water supply was restored.

17. In the meantime, the Applicant made alternative arrangements for the provision of water to the property. Initially a water bowser was ordered. The Applicant's case was that issues arose between the provider of the water bowser,

DavLav, and some of the leaseholders. As a result, the water bowser was recalled and a supply of bottled water on a pallet was provided instead.

18. In order to avoid ongoing problems caused by vermin in the pump room the Applicant instructed contractors to carry out pest control works in the pump room. Also, in the course of the works to replace the water pump it became clear that there was a leak to the water tank, and the contractors were also instructed to deal with this.

19. The total cost of the works involved was £22,978.55 plus VAT. This is well above the prescribed limit on the cost of works without consultation. The Respondents were notified of these final costs on 27 March 2025 when they were also informed that this application had been made.

The Respondents' Case

20. The Respondents' case is set out in the skeleton argument from Ms. Shehu. It is submitted that the Respondents have suffered prejudice because of a failure by the Applicant to consult about the works to be carried out. It is also alleged that the works were carried out inefficiently (para 14).

21. It is contended that the Respondents "*had strong views with regards to the works and would have made relevant suggestions by way of challenging how appropriate the works were and how appropriate the cost of the works was*" (para 18). Complaint is made that there was a lack of quotes and it is argued that the leaseholders would have demanded a tendering process to be undertaken (para 19). It is contended that the "*nature of the works was not urgently required all at once*" and that the costs of the pest control work and the provision of a water bowser could not be justified (para 20).

22. At para 22 it is asserted that if the leaseholders had been consulted they would have sought tenders to find the cheapest quote, used the outdoor tap for the water supply, challenged the necessity of replacing the whole pump, insisted on a cheaper quote for cleaning, suggested a temporary measure to protect the pump from vermin rather than the immediate and extensive pest control works which were undertaken, and they would not have sent water to the property on two occasions.

23. Complaint is made that the Applicant failed to make any attempts to engage the leaseholders in the decisions surrounding the works, whilst it is accepted that in the case of Re St. Francis Tower, Ipswich, the fact that leaseholders had been engaged through meetings and written communications was relevant when allowing a dispensation (para 27).

24. The Respondents expressly argue that the works in this case were not urgent (para 30), and that the Applicant's response to the failure of the water supply was "*disproportionate*" (para 35).

The Tribunal's Decision

25. The first question is whether or not the costs of the works are such that the question of consultation becomes relevant. There is no doubt that the question of consultation is relevant in this case.

26. There is no doubt that in this case the Applicant has not complied with the statutory consultation requirements. Given the factual circumstances that is hardly surprising. Indeed, Ms. Shehu herself in the course of oral argument accepted that given the timescales involved in the carrying out of statutory consultation, some dispensation would be appropriate in this case.

27. However, despite this, the Tribunal was impressed by the steps taken by the Applicant to keep the Respondents informed. The Tribunal accepted Ms. Young's oral evidence that she sent e-mails to a generic e-mail address to which all leaseholders had access. The evidence provided by the Applicant shows a large number of e-mails being sent to the Respondents with information about what was happening and what works were being undertaken (see pages 106 to 128). There is no doubt that the Respondents were being kept informed. In addition, there were ongoing demands from some of the Respondents for works to be carried out immediately (see pages 86 and 87 for example).

28. The information provided by the Applicant included the provision of quotes when they became available – for instance two quotes for the pest control work were sent to the Respondents on 14 March 2025 (page 118). The Tribunal also accepted Ms. Young's oral evidence that she sent quotes when they became available and that she was not able to provide a full breakdown of costs earlier because she did not have that information herself. The final costs were provided on 27 March 2025 (page 128). This notification also contains notification that this application had been made, though the correspondence makes it clear that the application was clearly being referred to before that date – see the e-mail sent on 14 March which refers to the costs being *"detailed to the tribunal as part of the case*". The Tribunal also noted Ms. Young's evidence that their management systems automatically identified cases where costs may exceed the permitted limit so that necessary consultation can be undertaken.

29. In any event, it is not enough for the Respondents to show that there has been a failure to carry out the required consultation. As is made clear by the Upper Tribunal in the case of Holding & Management (Solitaire) Ltd. -v- Leaseholders of Sovereign View [2023] UKUT 174 (LC), the consultation requirements are not an end in themselves and can be dispensed with if there is no relevant prejudice to the leaseholders (para 21). In other words, the mere fact that a leaseholder has not been able to participate in a consultation process is not, of itself, a bar to the granting of a dispensation.

30. Whilst there is a legal burden on the Applicant to show that a dispensation should be granted, there is a factual burden on the Respondents to identify some relevant prejudice that they would or might have suffered if the dispensation is granted.

31. The leading case of Daejan Investments Ltd. -v- Benson [2013] UKSC 14 makes it clear that the purpose of the consultation requirements is to protect tenants from (a) being required to pay for unnecessary works and (b) being required to pay more than they should for those works.

32. In this case there is little doubt that the works are necessary. The evidence clearly shows that the water supply to the property failed. Despite the surprising submissions made by Ms. Shehu that this was not a matter of urgency, the Tribunal is satisfied that urgent steps to restore the water supply were required.

33. It was suggested in the course of argument that the works were not urgent because they were caused by the Applicant's failure to prevent the vermin infestation which led to the failure of the water pump. Questions of historic neglect may be relevant to an application under section 27A of the Act, but are of little weight here. Whatever the reason for it, the Applicant was faced with the situation that the property had no water supply. That is undoubtedly a matter which requires urgent attention from any responsible landlord.

34. It was also suggested that the complete replacement of the water pump was not necessary as only some electrical circuits needed to be replaced. The Respondents have provided no expert or technical evidence to support this contention. On the other hand, the inspection report provided by the contractors stated that the *"Quickest and most sanitary option for site is to have a new booster set installed once the room is clean and sanitised*" (page 86), and the contractors further commented as follows;
"*The pump set was replaced as this was the quickest option to get the water back online. Pumps, inverter and all cabling needed replacing which would have taken longer due to lead time on getting parts into stock from suppliers. All the pipework and connection would have needed sanitising before anything was opened to make sure we didn't contaminate any water that may be provided to the flats*".

35. Clearly, with no water supply available to the property the landlord must make other arrangements. Whilst there is a conflict of evidence about the first DavLav delivery, there is no doubt that some alternative supply was required. Whilst it is not strictly necessary for the Tribunal to determine the issue of whether or not the first attempt to deliver water was prevented by some of the leaseholders, it noted the evidence contained at pages 90 to 92 from the water contractors which appears to corroborate the Applicant's case. The Tribunal is satisfied that it was reasonable for the Applicant to procure an alternative water supply.

36. With regard to the pest control works, the Respondents argue that less extensive works should have been carried out. It does not appear to be their case that no such works were required. In any event, the Tribunal is satisfied that, given the cause of the failure of the pump, and given the very extensive vermin problem, which is evidenced in the photographs at page 81, it was reasonable to carry out pest control works to prevent a recurrence of the water pump failure.

37. There was no suggestion that it was not appropriate to repair the leak to the water tank at the time that the other works were being carried out.

38. In the view of the Tribunal the Respondents have not met the evidential burden of showing that the works carried out by the Applicant were inappropriate.

39. Apart from the unsubstantiated observations that part only of the pumps could have been replaced, the Respondents have not set out what works they would have proposed if a consultation exercise had been conducted. There is no evidence of any alternative quotes or contractors and no evidential basis for any assertion that the costs charged by the Applicant's chosen contractors are excessive. At best there is mere speculation that it might have been possible to have the works done more cheaply.

40. In the view of the Tribunal the Respondents have also failed to meet the evidential burden of showing that the costs of the proposed works are too high.

41. The remaining objections from the Respondents are not relevant to the issue which the Tribunal has to determine. Whilst questions of historic neglect, delay by the Applicant, and the pursuit of warranty claims may be relevant to the question of whether or not the costs are reasonably payable for the purposes of an application under section 27A of the 1985 Act, they are not relevant to the question of whether or not the Respondents have suffered relevant prejudice.

42. In all the circumstances and for the reasons set out above the Tribunal is not satisfied that the Respondents have suffered prejudice under either limb of the Daejan test, and, therefore, it is satisfied that it is reasonable to dispense with the consultation requirements unconditionally.

Costs

43. In her skeleton argument Ms. Shehu made an application for the Respondents' costs (para 47). However, when pressed as to the basis of such an application, given the limited jurisdiction of the Tribunal to award costs, this application was withdrawn.

Name: Judge S.J. Walker **Date:** 9 September 2025

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.

- If a party wishes to appeal against 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.

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
  (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
  (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are 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.

(3) For this purpose -
  (a) "costs" includes overheads, and
  (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
  (a) only to the extent that they are reasonably incurred, and
  (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise

Section 20

(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) the appropriate 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 or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20ZA

(1) 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.

(2) In section 20 and this section –
"qualifying works" means works on a building or any other premises, and
"qualifying long term agreement" means (subject to subsection (3) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement –
(a) if it is an agreement of a description prescribed by the regulations, or
(b) in any circumstances so prescribed.

(4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord
(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
(b) to obtain estimates for proposed works or agreements,
(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements

(6) Regulations under section 20 or this section
(a) may make provision generally or only in relation to specific cases, and
(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.