



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

**Case Reference** : **BIR/00CN/LDC/2025/0001**

**Property** : **Pegasus Court, 55 Hill Village Road, Sutton Coldfield, West Midlands B75 5BH**

**Applicant** : **Pegasus Court (B75) RTM Company Limited**

**Representative** :

**Respondents** : **Leaseholders of Pegasus Court listed in the Appendix**

**Type of Application** : **An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation of the consultation requirements in respect of qualifying works**

**Tribunal Member** : **Judge D Barlow**

**Date of Decision** : **18 September 2025**

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**DECISION**

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## **DECISION**

- (1) The Tribunal grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of Qualifying Works to upgrade the Careline telephone system.
- (2) In granting dispensation, the Tribunal makes no determination as to whether any service charge costs referable to the Careline upgrade works are payable or reasonable.

## **BACKGROUND**

1. Pegasus Court is a 3 Storey purpose-built block of retirement flats. The residents depend on the availability of functioning landlines and personal alarms systems. Following the digital switchover of the Careline telephone system some residents were left without access to this essential emergency service.
2. The Applicant seeks dispensation under Section 20ZA the 1985 Act from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. The application, received on 20 January 2025, relates to 'Qualifying Works' to procure an upgrade to the Careline system. Some residents are unable to access the service and there is an urgent need for this to be rectified quickly.
3. Dispensation is sought because the time taken to comply with the consultation requirements presents an unacceptable risk to those residents that are unable to access the system.
4. The Applicant confirms that it will obtain two competitive quotes for the upgrade to ensure good value and will only then proceed with the works. The leaseholders will be notified of the intended works which will be funded from the reserve fund.
5. The Applicant confirmed that on that the application and directions had been sent to each of the lessee Respondents on 24 March 2025.
6. No objections have been received to the application and no request made for an oral hearing. The application is therefore determined on the papers received in accordance with Rule 31 of the Tribunal's procedural rules.
7. The only issue for the Tribunal is whether it is reasonable to dispense with any statutory consultation requirements. This decision does not concern the issue of whether any service charge costs relating to the proposed works will be reasonable or payable.

## THE LAW

8. The relevant section of the Act reads as follows:

*20ZA Consultation requirements:*

*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.*

9. The matter was examined in some detail by the Supreme Court in the case of ***Daejan Investments Ltd v Benson*** [2013] 1 WLR 854. In summary the Supreme Court noted the following:

- i. The main question for the Tribunal when considering how to exercise its jurisdiction in accordance with section 20ZA (1) is the real prejudice to the tenants flowing from the landlord's breach of the consultation requirements.
- ii. The financial consequence to the landlord of not granting a dispensation is not a relevant factor. The nature of the landlord is not a relevant factor.
- iii. Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
- iv. The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
- v. The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs (including surveyor and/or legal fees) incurred in connection with the landlord's application under section 20ZA (1).
- vi. The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some "relevant" prejudice that they would or might have suffered is on the tenants.
- vii. The court considered that "relevant" prejudice should be given a narrow definition; it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.

- viii. The more serious and/or deliberate the landlord's failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
- ix. Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

### **Evidence**

- 10. The Applicant's case is as set out at paragraph 1-6 above.

### **Determination**

- 11. I accept there is an urgent need to provide a reliable and sustainable emergency call system to Pegasus Court to ensure the safety of its vulnerable residents. No lessee has objected to the proposed works or the application for dispensation in relation to the consultation process.
- 12. The test that I must apply in determining whether dispensation may be given is that set out by the Supreme Court in the *Daejan* decision referred to above. It is clearly to the lessees' long-term advantage that the current system is upgraded with a digital system that is capable of reliably providing an essential service to all residents for the foreseeable future. No lessee has objected, and the Tribunal has no reason to speculate that any would be prejudiced by granting dispensation.
- 13. The Tribunal therefore grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of the proposed upgrade of the Careline telephone and digital emergency call system.
- 14. In granting dispensation, the Tribunal makes no determination as to whether any service charge costs referable to the proposed works are reasonable or payable.

D Barlow  
Deputy Regional Judge

APPENDIX  
Schedule of Leaseholders

1.	Flat 1 Pegasus Court	Mrs E Bottomley
2.	Flat 2 Pegasus Court	Mrs V J Tripp
3.	Flat 3 Pegasus Court	Mr B Tipton
4.	Flat 4 Pegasus Court	Mrs Poole
5.	Flat 5 Pegasus Court	Mrs M C Williams
6.	Flat 6 Pegasus Court	Mrs N Sanders
7.	Flat 7 Pegasus Court	The Estate of Mrs D King
8.	Flat 8 Pegasus Court	Mrs H B M Campbell
9.	Flat 9 Pegasus Court	Mr G C & Mrs J M Green
10.	Flat 10 Pegasus Court	Mr R A & Mrs S V Kendall
11.	Flat 11 Pegasus Court	Mr D G & Mrs C A Cole
12.	Flat 12 Pegasus Court	Mrs M D Matthewman
13.	Flat 14 Pegasus Court	Mrs M Ward
14.	Flat 15 Pegasus Court	Mr G A & Mrs M Cox
15.	Flat 16 Pegasus Court	The Estate of Mrs H Davis
16.	Flat 17 Pegasus Court	Mr D J & Mrs C E Frost
17.	Flat 18 Pegasus Court	Mr W Brown
18.	Flat 19 Pegasus Court	Mrs B Matthews
19.	Flat 20 Pegasus Court	Mr L G Williams
20.	Flat 21 Pegasus Court	Mr D M & Mrs J G Mitchell