



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

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

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

Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

1. The Applicant has applied for a decision by this Tribunal that it may dispense with the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of qualifying works to update the telephone call system at the Property (“the Works”). The legal provisions referred to are explained in more detail below.
2. Unless there is full compliance with the consultation requirements, or a dispensation application is granted, the Applicant is prevented by law from recovering more £250.00 from each Respondent in respect of the cost of the Works. Therefore it has made the Application, which was dated 28 November 2024.
3. Directions were issued on 13 January 2025 requiring the Applicant to serve all the Respondents with full details of the Works and explaining why it had decided to seek dispensation rather than carry out a full consultation.
4. The Respondents were all given an opportunity to respond to the Application and make their views known as to whether the Tribunal should grant it. The responses received are referred to below.
5. The Application has been referred to the Tribunal for determination. This is the decision on the Application.

Law

6. The Landlord and Tenant Act 1985 (as amended) imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
7. Section 20 imposes an additional control. It limits the leaseholder’s contribution towards a service charge to £250 for works, unless “consultation requirements” have been either complied with or dispensed with. There are thus two options for a person seeking to collect a service charge for either works on the building or other premises costing more than £250. The two options are: comply with “consultation requirements” or obtain dispensation from them. Either option is available.
8. To comply with consultation requirements a person collecting a service charge has to follow procedures set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (see section 20ZA(4)).

9. To obtain dispensation, an application has to be made to this Tribunal. We may grant it if we are satisfied that it is reasonable to dispense with the consultation requirements (section 20ZA(1) of the Act).
10. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works or enter into the long term agreement, but to decide whether it would be reasonable to dispense with the consultation requirements.
11. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; if so, it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
12. The Tribunal may impose conditions on the grant of dispensation.
13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

The Application

14. The application sets out the rationale for the Works as follows:

The call system at Knaves Court has been increasingly unreliable and has been breaking down on a regular basis. The repairs are proving difficult due to the age of the system and there is a significant issue in being able to source parts. We are concerned that this may lead to tenants being left at risk and not being able to access help when needed. The urgency of this situation is what has led up to apply for dispensation

as we are not able to complete a Section 20 in the time frame in which the replacement is required.

The chosen Appello Smart Living Solutions system is currently the only fully digital emergency call system available that uses secure encryption to authenticate and encrypt both data and speech. There is a limited number of other digital systems that offer general functionality comparable to the old analogue systems but have limited health and safety features in comparison to the Appello system.

Many telecare and fire alarm calls are still delivered using devices that transmit across the analogue UK telecommunications infrastructure. However, as with television services, the infrastructure is changing from analogue to digital. As a result, Internet Protocol will become the default communications method, meaning analogue telecare systems will soon no longer work. BT have already announced they will not be offering analogue services after 2020, with the total switch off concluding in 2025. In addition to analogue systems becoming obsolete, legacy systems are becoming increasingly unreliable.

Housing 21 have recognised the safety and reliability issues created for residents because of this transition and since 2016 have taken a proactive stance to ensure that our systems are digital ready. We also wanted to ensure that the investment delivered suitable, fit for purpose systems that overcame existing legacy health and safety issues that affects emergency call systems. We therefore explored the market to ascertain what systems were available to achieve these requirements.

Although there a few systems that provide a digital service onsite, no other provider supports a fully encrypted digital onsite and offsite pathway . All aspects of the Appello connectivity are digital using Voice Over IP (VOIP) and the British Standard BS8521-2 which is the BS for signalling alarm calls to the monitoring centre over digital networks. Other systems use elements of analogue to digital conversion technology to get alarm calls successfully delivered to monitoring centres but do not provide the safety enhancements seen in the Appello system.

A crucial requirement is ensuring the system is capable of handling simultaneous calls. Traditional analogue systems will only allow 1 call to be made at any one time with any subsequent calls forming a queue. In addition if a fire alarm is activated traditional equipment may delay the fire call being received by the monitoring centre. Hybrid digital systems will allow 2 simultaneous calls, whereas the Appello system will allow unlimited calls raised and handled concurrently from any site. This is of particular importance on our Extra Care sites where up to 10,000 calls per month can be made from any one site. Having this capability is a significant enhancement in supporting the safety of residents.

Other relevant advancements provided by the Appello include

- 3 second connection speed to the monitoring centre*

- *Application for functionality on personal devices*
- *Flat to flat video calling*
- *Wi-Fi provision enabling customers to access the internet in their home.*
- *Bluetooth provision enabling accessories to be added to help with simple tasks like answering the door from their chair.*
- *An application to allow residents to use the system on a tablet from the comfort of their chair, whilst the main system is still mounted on the wall and permanently powered as the British Standards mandate.*

To interconnect all the properties into a central system and achieve the same functionality, service and assurance to all of our residents, would not be possible with a hybrid of two separate systems onsite.

At this stage of delivering the digital upgrade with Appello, we are unable to tender a directly comparable system as Appello are the only supplier a digital solution with the desired functionality.

15. All Respondents were, the Tribunal has been assured, served with the application form and with the Directions dated 13 January 2025, which contained a reply form every Respondent could use to signify their agreement or opposition to the application.
16. Seven response forms were received by the Tribunal. Six consented to the Application. One response form did not indicate either way whether the application was approved.

Discussion and decision

17. The Tribunal accepts the rationale for making the Application. The grant of dispensation is likely to be at a lower cost and be administratively more efficient than carrying out the processes of full compliance with section 20 of the Act. No Respondent appears to the Tribunal on the basis of the responses received to have suffered or be likely to suffer any prejudice as a result of the grant of the Application.
18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
19. This decision does not operate as a determination that any costs charged to any Respondent for utility costs are or would be reasonably incurred. They may well have been, but that is an entirely different issue, and Respondent's remain at liberty to challenge such costs under section 27A of the Act in the future should they wish.

Appeal

20. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days

of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)

Appendix

Schedule Of Respondents

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2. Mrs Karen Drayton	Flat 16 Knaves Court
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10. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works or enter into the long term agreement, but to decide whether it would be reasonable to dispense with the consultation requirements.
11. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; if so, it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
12. The Tribunal may impose conditions on the grant of dispensation.
13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

The Application

14. The application sets out the rationale for the Works as follows:

The call system at Knaves Court has been increasingly unreliable and has been breaking down on a regular basis. The repairs are proving difficult due to the age of the system and there is a significant issue in being able to source parts. We are concerned that this may lead to tenants being left at risk and not being able to access help when needed. The urgency of this situation is what has led up to apply for dispensation

as we are not able to complete a Section 20 in the time frame in which the replacement is required.

The chosen Appello Smart Living Solutions system is currently the only fully digital emergency call system available that uses secure encryption to authenticate and encrypt both data and speech. There is a limited number of other digital systems that offer general functionality comparable to the old analogue systems but have limited health and safety features in comparison to the Appello system.

Many telecare and fire alarm calls are still delivered using devices that transmit across the analogue UK telecommunications infrastructure. However, as with television services, the infrastructure is changing from analogue to digital. As a result, Internet Protocol will become the default communications method, meaning analogue telecare systems will soon no longer work. BT have already announced they will not be offering analogue services after 2020, with the total switch off concluding in 2025. In addition to analogue systems becoming obsolete, legacy systems are becoming increasingly unreliable.

Housing 21 have recognised the safety and reliability issues created for residents because of this transition and since 2016 have taken a proactive stance to ensure that our systems are digital ready. We also wanted to ensure that the investment delivered suitable, fit for purpose systems that overcame existing legacy health and safety issues that affects emergency call systems. We therefore explored the market to ascertain what systems were available to achieve these requirements.

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A crucial requirement is ensuring the system is capable of handling simultaneous calls. Traditional analogue systems will only allow 1 call to be made at any one time with any subsequent calls forming a queue. In addition if a fire alarm is activated traditional equipment may delay the fire call being received by the monitoring centre. Hybrid digital systems will allow 2 simultaneous calls, whereas the Appello system will allow unlimited calls raised and handled concurrently from any site. This is of particular importance on our Extra Care sites where up to 10,000 calls per month can be made from any one site. Having this capability is a significant enhancement in supporting the safety of residents.

Other relevant advancements provided by the Appello include

- 3 second connection speed to the monitoring centre*

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- *Flat to flat video calling*
- *Wi-Fi provision enabling customers to access the internet in their home.*
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To interconnect all the properties into a central system and achieve the same functionality, service and assurance to all of our residents, would not be possible with a hybrid of two separate systems onsite.

At this stage of delivering the digital upgrade with Appello, we are unable to tender a directly comparable system as Appello are the only supplier a digital solution with the desired functionality.

15. All Respondents were, the Tribunal has been assured, served with the application form and with the Directions dated 13 January 2025, which contained a reply form every Respondent could use to signify their agreement or opposition to the application.
16. Seven response forms were received by the Tribunal. Six consented to the Application. One response form did not indicate either way whether the application was approved.

Discussion and decision

17. The Tribunal accepts the rationale for making the Application. The grant of dispensation is likely to be at a lower cost and be administratively more efficient than carrying out the processes of full compliance with section 20 of the Act. No Respondent appears to the Tribunal on the basis of the responses received to have suffered or be likely to suffer any prejudice as a result of the grant of the Application.
18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
19. This decision does not operate as a determination that any costs charged to any Respondent for utility costs are or would be reasonably incurred. They may well have been, but that is an entirely different issue, and Respondent's remain at liberty to challenge such costs under section 27A of the Act in the future should they wish.

Appeal

20. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days

of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)

Appendix

Schedule Of Respondents

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

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

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

Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

1. The Applicant has applied for a decision by this Tribunal that it may dispense with the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of qualifying works to update the telephone call system at the Property (“the Works”). The legal provisions referred to are explained in more detail below.
2. Unless there is full compliance with the consultation requirements, or a dispensation application is granted, the Applicant is prevented by law from recovering more £250.00 from each Respondent in respect of the cost of the Works. Therefore it has made the Application, which was dated 28 November 2024.
3. Directions were issued on 13 January 2025 requiring the Applicant to serve all the Respondents with full details of the Works and explaining why it had decided to seek dispensation rather than carry out a full consultation.
4. The Respondents were all given an opportunity to respond to the Application and make their views known as to whether the Tribunal should grant it. The responses received are referred to below.
5. The Application has been referred to the Tribunal for determination. This is the decision on the Application.

Law

6. The Landlord and Tenant Act 1985 (as amended) imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
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18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
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Judge C Goodall
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PROPERTY)**

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

Type of application : **An application under section 20ZA of
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the dispensation of the consultation
requirements in respect of qualifying
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Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

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11. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; if so, it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
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13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

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The Application

14. The application sets out the rationale for the Works as follows:

The call system at Knaves Court has been increasingly unreliable and has been breaking down on a regular basis. The repairs are proving difficult due to the age of the system and there is a significant issue in being able to source parts. We are concerned that this may lead to tenants being left at risk and not being able to access help when needed. The urgency of this situation is what has led up to apply for dispensation

as we are not able to complete a Section 20 in the time frame in which the replacement is required.

The chosen Appello Smart Living Solutions system is currently the only fully digital emergency call system available that uses secure encryption to authenticate and encrypt both data and speech. There is a limited number of other digital systems that offer general functionality comparable to the old analogue systems but have limited health and safety features in comparison to the Appello system.

Many telecare and fire alarm calls are still delivered using devices that transmit across the analogue UK telecommunications infrastructure. However, as with television services, the infrastructure is changing from analogue to digital. As a result, Internet Protocol will become the default communications method, meaning analogue telecare systems will soon no longer work. BT have already announced they will not be offering analogue services after 2020, with the total switch off concluding in 2025. In addition to analogue systems becoming obsolete, legacy systems are becoming increasingly unreliable.

Housing 21 have recognised the safety and reliability issues created for residents because of this transition and since 2016 have taken a proactive stance to ensure that our systems are digital ready. We also wanted to ensure that the investment delivered suitable, fit for purpose systems that overcame existing legacy health and safety issues that affects emergency call systems. We therefore explored the market to ascertain what systems were available to achieve these requirements.

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A crucial requirement is ensuring the system is capable of handling simultaneous calls. Traditional analogue systems will only allow 1 call to be made at any one time with any subsequent calls forming a queue. In addition if a fire alarm is activated traditional equipment may delay the fire call being received by the monitoring centre. Hybrid digital systems will allow 2 simultaneous calls, whereas the Appello system will allow unlimited calls raised and handled concurrently from any site. This is of particular importance on our Extra Care sites where up to 10,000 calls per month can be made from any one site. Having this capability is a significant enhancement in supporting the safety of residents.

Other relevant advancements provided by the Appello include

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- *Flat to flat video calling*
- *Wi-Fi provision enabling customers to access the internet in their home.*
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To interconnect all the properties into a central system and achieve the same functionality, service and assurance to all of our residents, would not be possible with a hybrid of two separate systems onsite.

At this stage of delivering the digital upgrade with Appello, we are unable to tender a directly comparable system as Appello are the only supplier a digital solution with the desired functionality.

15. All Respondents were, the Tribunal has been assured, served with the application form and with the Directions dated 13 January 2025, which contained a reply form every Respondent could use to signify their agreement or opposition to the application.
16. Seven response forms were received by the Tribunal. Six consented to the Application. One response form did not indicate either way whether the application was approved.

Discussion and decision

17. The Tribunal accepts the rationale for making the Application. The grant of dispensation is likely to be at a lower cost and be administratively more efficient than carrying out the processes of full compliance with section 20 of the Act. No Respondent appears to the Tribunal on the basis of the responses received to have suffered or be likely to suffer any prejudice as a result of the grant of the Application.
18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
19. This decision does not operate as a determination that any costs charged to any Respondent for utility costs are or would be reasonably incurred. They may well have been, but that is an entirely different issue, and Respondent's remain at liberty to challenge such costs under section 27A of the Act in the future should they wish.

Appeal

20. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days

of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)

Appendix

Schedule Of Respondents

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

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

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

Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

1. The Applicant has applied for a decision by this Tribunal that it may dispense with the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of qualifying works to update the telephone call system at the Property (“the Works”). The legal provisions referred to are explained in more detail below.
2. Unless there is full compliance with the consultation requirements, or a dispensation application is granted, the Applicant is prevented by law from recovering more £250.00 from each Respondent in respect of the cost of the Works. Therefore it has made the Application, which was dated 28 November 2024.
3. Directions were issued on 13 January 2025 requiring the Applicant to serve all the Respondents with full details of the Works and explaining why it had decided to seek dispensation rather than carry out a full consultation.
4. The Respondents were all given an opportunity to respond to the Application and make their views known as to whether the Tribunal should grant it. The responses received are referred to below.
5. The Application has been referred to the Tribunal for determination. This is the decision on the Application.

Law

6. The Landlord and Tenant Act 1985 (as amended) imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
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Judge C Goodall
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PROPERTY)**

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

Type of application : **An application under section 20ZA of
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the dispensation of the consultation
requirements in respect of qualifying
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Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

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13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

The Application

14. The application sets out the rationale for the Works as follows:

The call system at Knaves Court has been increasingly unreliable and has been breaking down on a regular basis. The repairs are proving difficult due to the age of the system and there is a significant issue in being able to source parts. We are concerned that this may lead to tenants being left at risk and not being able to access help when needed. The urgency of this situation is what has led up to apply for dispensation

as we are not able to complete a Section 20 in the time frame in which the replacement is required.

The chosen Appello Smart Living Solutions system is currently the only fully digital emergency call system available that uses secure encryption to authenticate and encrypt both data and speech. There is a limited number of other digital systems that offer general functionality comparable to the old analogue systems but have limited health and safety features in comparison to the Appello system.

Many telecare and fire alarm calls are still delivered using devices that transmit across the analogue UK telecommunications infrastructure. However, as with television services, the infrastructure is changing from analogue to digital. As a result, Internet Protocol will become the default communications method, meaning analogue telecare systems will soon no longer work. BT have already announced they will not be offering analogue services after 2020, with the total switch off concluding in 2025. In addition to analogue systems becoming obsolete, legacy systems are becoming increasingly unreliable.

Housing 21 have recognised the safety and reliability issues created for residents because of this transition and since 2016 have taken a proactive stance to ensure that our systems are digital ready. We also wanted to ensure that the investment delivered suitable, fit for purpose systems that overcame existing legacy health and safety issues that affects emergency call systems. We therefore explored the market to ascertain what systems were available to achieve these requirements.

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A crucial requirement is ensuring the system is capable of handling simultaneous calls. Traditional analogue systems will only allow 1 call to be made at any one time with any subsequent calls forming a queue. In addition if a fire alarm is activated traditional equipment may delay the fire call being received by the monitoring centre. Hybrid digital systems will allow 2 simultaneous calls, whereas the Appello system will allow unlimited calls raised and handled concurrently from any site. This is of particular importance on our Extra Care sites where up to 10,000 calls per month can be made from any one site. Having this capability is a significant enhancement in supporting the safety of residents.

Other relevant advancements provided by the Appello include

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- *Flat to flat video calling*
- *Wi-Fi provision enabling customers to access the internet in their home.*
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To interconnect all the properties into a central system and achieve the same functionality, service and assurance to all of our residents, would not be possible with a hybrid of two separate systems onsite.

At this stage of delivering the digital upgrade with Appello, we are unable to tender a directly comparable system as Appello are the only supplier a digital solution with the desired functionality.

15. All Respondents were, the Tribunal has been assured, served with the application form and with the Directions dated 13 January 2025, which contained a reply form every Respondent could use to signify their agreement or opposition to the application.
16. Seven response forms were received by the Tribunal. Six consented to the Application. One response form did not indicate either way whether the application was approved.

Discussion and decision

17. The Tribunal accepts the rationale for making the Application. The grant of dispensation is likely to be at a lower cost and be administratively more efficient than carrying out the processes of full compliance with section 20 of the Act. No Respondent appears to the Tribunal on the basis of the responses received to have suffered or be likely to suffer any prejudice as a result of the grant of the Application.
18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
19. This decision does not operate as a determination that any costs charged to any Respondent for utility costs are or would be reasonably incurred. They may well have been, but that is an entirely different issue, and Respondent's remain at liberty to challenge such costs under section 27A of the Act in the future should they wish.

Appeal

20. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days

of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)

Appendix

Schedule Of Respondents

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

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

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

Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

1. The Applicant has applied for a decision by this Tribunal that it may dispense with the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of qualifying works to update the telephone call system at the Property (“the Works”). The legal provisions referred to are explained in more detail below.
2. Unless there is full compliance with the consultation requirements, or a dispensation application is granted, the Applicant is prevented by law from recovering more £250.00 from each Respondent in respect of the cost of the Works. Therefore it has made the Application, which was dated 28 November 2024.
3. Directions were issued on 13 January 2025 requiring the Applicant to serve all the Respondents with full details of the Works and explaining why it had decided to seek dispensation rather than carry out a full consultation.
4. The Respondents were all given an opportunity to respond to the Application and make their views known as to whether the Tribunal should grant it. The responses received are referred to below.
5. The Application has been referred to the Tribunal for determination. This is the decision on the Application.

Law

6. The Landlord and Tenant Act 1985 (as amended) imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
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8. To comply with consultation requirements a person collecting a service charge has to follow procedures set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (see section 20ZA(4)).

9. To obtain dispensation, an application has to be made to this Tribunal. We may grant it if we are satisfied that it is reasonable to dispense with the consultation requirements (section 20ZA(1) of the Act).
10. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works or enter into the long term agreement, but to decide whether it would be reasonable to dispense with the consultation requirements.
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18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
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Judge C Goodall
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Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

Type of application : **An application under section 20ZA of
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Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

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13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

The Application

14. The application sets out the rationale for the Works as follows:

The call system at Knaves Court has been increasingly unreliable and has been breaking down on a regular basis. The repairs are proving difficult due to the age of the system and there is a significant issue in being able to source parts. We are concerned that this may lead to tenants being left at risk and not being able to access help when needed. The urgency of this situation is what has led up to apply for dispensation

as we are not able to complete a Section 20 in the time frame in which the replacement is required.

The chosen Appello Smart Living Solutions system is currently the only fully digital emergency call system available that uses secure encryption to authenticate and encrypt both data and speech. There is a limited number of other digital systems that offer general functionality comparable to the old analogue systems but have limited health and safety features in comparison to the Appello system.

Many telecare and fire alarm calls are still delivered using devices that transmit across the analogue UK telecommunications infrastructure. However, as with television services, the infrastructure is changing from analogue to digital. As a result, Internet Protocol will become the default communications method, meaning analogue telecare systems will soon no longer work. BT have already announced they will not be offering analogue services after 2020, with the total switch off concluding in 2025. In addition to analogue systems becoming obsolete, legacy systems are becoming increasingly unreliable.

Housing 21 have recognised the safety and reliability issues created for residents because of this transition and since 2016 have taken a proactive stance to ensure that our systems are digital ready. We also wanted to ensure that the investment delivered suitable, fit for purpose systems that overcame existing legacy health and safety issues that affects emergency call systems. We therefore explored the market to ascertain what systems were available to achieve these requirements.

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A crucial requirement is ensuring the system is capable of handling simultaneous calls. Traditional analogue systems will only allow 1 call to be made at any one time with any subsequent calls forming a queue. In addition if a fire alarm is activated traditional equipment may delay the fire call being received by the monitoring centre. Hybrid digital systems will allow 2 simultaneous calls, whereas the Appello system will allow unlimited calls raised and handled concurrently from any site. This is of particular importance on our Extra Care sites where up to 10,000 calls per month can be made from any one site. Having this capability is a significant enhancement in supporting the safety of residents.

Other relevant advancements provided by the Appello include

- 3 second connection speed to the monitoring centre*

- *Application for functionality on personal devices*
- *Flat to flat video calling*
- *Wi-Fi provision enabling customers to access the internet in their home.*
- *Bluetooth provision enabling accessories to be added to help with simple tasks like answering the door from their chair.*
- *An application to allow residents to use the system on a tablet from the comfort of their chair, whilst the main system is still mounted on the wall and permanently powered as the British Standards mandate.*

To interconnect all the properties into a central system and achieve the same functionality, service and assurance to all of our residents, would not be possible with a hybrid of two separate systems onsite.

At this stage of delivering the digital upgrade with Appello, we are unable to tender a directly comparable system as Appello are the only supplier a digital solution with the desired functionality.

15. All Respondents were, the Tribunal has been assured, served with the application form and with the Directions dated 13 January 2025, which contained a reply form every Respondent could use to signify their agreement or opposition to the application.
16. Seven response forms were received by the Tribunal. Six consented to the Application. One response form did not indicate either way whether the application was approved.

Discussion and decision

17. The Tribunal accepts the rationale for making the Application. The grant of dispensation is likely to be at a lower cost and be administratively more efficient than carrying out the processes of full compliance with section 20 of the Act. No Respondent appears to the Tribunal on the basis of the responses received to have suffered or be likely to suffer any prejudice as a result of the grant of the Application.
18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
19. This decision does not operate as a determination that any costs charged to any Respondent for utility costs are or would be reasonably incurred. They may well have been, but that is an entirely different issue, and Respondent's remain at liberty to challenge such costs under section 27A of the Act in the future should they wish.

Appeal

20. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days

of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)

Appendix

Schedule Of Respondents

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

Case reference : **BIR/ooCU/LIS/2024/0615**

Properties : **Knaves Court, High Street, Brownhills,
Walsall, WS8 6DJ**

Applicant : **Housing & Care 21 (Exempt Charity)**

Representative : **Nadine McCann**

Respondents : **The flat owners at the Property listed in
the Appendix**

Representatives : **None**

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

Tribunal member : **Judge C Goodall
Regional Surveyor V Ward FRICS**

**Date and place of
hearing** : **Paper determination**

Date of decision : **24 September 2025**

DECISION

Background

1. The Applicant has applied for a decision by this Tribunal that it may dispense with the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of qualifying works to update the telephone call system at the Property (“the Works”). The legal provisions referred to are explained in more detail below.
2. Unless there is full compliance with the consultation requirements, or a dispensation application is granted, the Applicant is prevented by law from recovering more £250.00 from each Respondent in respect of the cost of the Works. Therefore it has made the Application, which was dated 28 November 2024.
3. Directions were issued on 13 January 2025 requiring the Applicant to serve all the Respondents with full details of the Works and explaining why it had decided to seek dispensation rather than carry out a full consultation.
4. The Respondents were all given an opportunity to respond to the Application and make their views known as to whether the Tribunal should grant it. The responses received are referred to below.
5. The Application has been referred to the Tribunal for determination. This is the decision on the Application.

Law

6. The Landlord and Tenant Act 1985 (as amended) imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
7. Section 20 imposes an additional control. It limits the leaseholder’s contribution towards a service charge to £250 for works, unless “consultation requirements” have been either complied with or dispensed with. There are thus two options for a person seeking to collect a service charge for either works on the building or other premises costing more than £250. The two options are: comply with “consultation requirements” or obtain dispensation from them. Either option is available.
8. To comply with consultation requirements a person collecting a service charge has to follow procedures set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (see section 20ZA(4)).

9. To obtain dispensation, an application has to be made to this Tribunal. We may grant it if we are satisfied that it is reasonable to dispense with the consultation requirements (section 20ZA(1) of the Act).
10. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works or enter into the long term agreement, but to decide whether it would be reasonable to dispense with the consultation requirements.
11. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; if so, it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
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The Application

14. The application sets out the rationale for the Works as follows:

The call system at Knaves Court has been increasingly unreliable and has been breaking down on a regular basis. The repairs are proving difficult due to the age of the system and there is a significant issue in being able to source parts. We are concerned that this may lead to tenants being left at risk and not being able to access help when needed. The urgency of this situation is what has led up to apply for dispensation

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18. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
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Representative : **Nadine McCann**

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Representatives : **None**

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Tribunal member : **Judge C Goodall
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**Date and place of
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Date of decision : **24 September 2025**

DECISION

Background

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