



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

Case reference : **LON/00BB/LDC/2025/0819**

Applicant : **Rathbone Market Management
Company Limited.**

Respondent : **The Long Lessees of Flats 1 to 101 at 12
Rathbone Market and Flats 1 to 63 at 1
Bywell Place**

Property : **12 Rathbone Market, London E16 1GY
and 1 Bywell Place, London E16 1JW**

Tribunal : **Tribunal Judge I Mohabir**

Date of decision : **10 November 2025**

DECISION

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for *retrospective* dispensation with the consultation requirements in respect of repair work to the heating and hot water system at the properties known as 12 Rathbone Market, London E16 1GY and 1 Bywell Place, London E16 1JW (“the properties”).
2. 12 Rathbone Market is a purpose-built for mixed, although predominantly residential, use containing 102 units. 1 Bywell Place is a purpose-built for mixed, although predominantly residential, use containing 63 units.
3. The Applicant is the management company and a party to the leases granted in respect of the properties. It is responsible for providing services to the properties, including maintenance of the heating and hot water system. The Respondents are the long leaseholders of the residential flats in the building.
4. It is the Applicant’s case that, the Applicant become aware of issues with the heating and hot water system on 31 March 2025, namely a fault in the pressurisation unit.
5. The contractor, KCE FM, attended the properties on 31 March 2025. They found that the transfer pumps had faulty capacitors and that the transfer pumps, top-up pumps and solenoid valves needed replacing. Specifically, the repair work required 2 replacement transfer pumps, 2 top-up pumps and 4 solenoid valves to ensure the properties could receive heat and hot water.
6. KCE FM’s quote for the required works is dated 16 April 2025 in the sum of £7,162.56 including VAT.
7. The Applicant instructed KCE FM on 16 April 2025 to carry out the repair works. The works were completed on 5 August 2025.
8. The reason given by the applicant for not carrying out statutory consultation under section 20 of the Act it was thought to be detrimental to wait for the 2-3 months for the consultation process to take place, as this system is responsible for providing heating and hot water to 165 properties.
9. The Applicant confirms that it sent a detailed update out all to leaseholders detailing the reasons why the works are needed and why we are applying for dispensation from the consultation process.
10. By an application dated 10 July 2025, the Applicant applied seeking retrospective dispensation for the remedial works. On 24 September 2025, the Tribunal issued Directions requiring the Applicant to serve the Respondents with a copy of the application by 10 October 2025, which apparently was done on 6 October 2025. The Respondents were directed to respond to the application stating whether they objected to it in any way.
11. None of the Respondents have objected to the application.

Relevant Law

12. This is set out in the Appendix annexed hereto.

Decision

13. As directed, the Tribunal's determination "on the papers" took place on 10 November 2025 and was based solely on the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents, nor had they filed any evidence.
14. The relevant test to be applied in an application such as this has been set out in the Supreme Court decision in ***Daejan Investments Ltd v Benson & Ors*** [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. In other words, a tenant should suffer no prejudice in this way.
15. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the overall repair works to the heating and hot water system. The Tribunal is not concerned in this application about the actual cost that has been incurred.
16. The Tribunal granted the application for the following main reasons:
 - (a) The Tribunal was satisfied that the Respondents had been served with the application and the evidence in support and there has been no objection from any of them. The Tribunal attached significant weight to this. In other words, this is an unopposed application and the evidence presented to the Tribunal is unchallenged by the Respondents.
 - (b) In addition, the Tribunal took judicial notice of the fact that the Applicant had contemporaneously informed the Respondents of the need to carry out the repair work and that it would be making an application to the Tribunal seeking dispensation for the same reasons. Again, no objection was received from any of the Respondents.
 - (c) As the Tribunal understands it, the Applicant's case is not that the heating and hot water system was incapable of functioning, albeit with problems from time to time. Instead, the Applicant's case is put on the basis that the delay caused by it having to carry out statutory consultation would cause the Respondents' significant loss of amenity. On balance, the Tribunal accepted that argument and also attached weight to the fact that the loss of amenity caused by the delay of approximately 2-3 months in having to carry out consultation would unduly prejudice the Respondents.

- (d) Importantly, the real prejudice to the Respondents would be in the cost of the work and they have the statutory protection of section 19 of the Act, which preserves their right to challenge the actual costs incurred by making a separate service charge application under section 27A of the Act.
17. The Tribunal, therefore, concluded that the Respondents were not prejudiced by the Applicant's failure to consult, and the application was granted as sought.
18. It should be noted that in granting this part of the application, the Tribunal makes no finding that the scope and cost of the repairs are reasonable.

Name: Tribunal Judge Mohabir **Date:** 10 November 2025

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

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 a leasehold valuation 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.