



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

**Case reference** : **LON/00AG/LDC/2025/0816**

**Applicant** : **Mr Martin Kingsley of K&M Property Management Ltd (Tribunal Appointed Manager)**

**Property** : **1- 12 Frognal Court, Finchley Road, London, NW3 5HL**

**Representative** : **In person (written representations)**

**Respondent** : **Leaseholders of 1-12 Frognal Court as per the attached Schedule**

**Representatives** : **Dr Kory in person (written representations); the other respondents did not object to the application**

**Type of Application** : **Landlord and Tenant Act 1985 Act - Section 20ZA**

**Tribunal Members** : **Mr Charles Norman FRICS Valuer  
Chairman  
Mr John Stead**

**Date of Decision** : **28 October 2025**

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**DECISION**

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## **Decision**

1. The application for dispensation from the consultation requirements in respect of works to comply with an Environmental Protection Act Notice for the roof is **GRANTED** unconditionally.

## **Reasons**

### **The Applicant's Case**

2. Application to the Tribunal dated 1 August 2025, was made for a dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985 ("the Act") (set out in the appendix). The application related to compliance with a Notice served under section 80 of the Environmental Protection Act 1990 ("the Notice").
3. The Applicant is a Tribunal appointed manager of Frognaal Estate by virtue of a varied management order made on 12 June 2025 (Case Ref LON/00AG/LVM/2024/0607). This extended the appointment until 10 December 2029.
4. That Notice which was served on 5<sup>th</sup> June 2025 required actions and works that may be summarized as follows:
  - Instruct a competent surveyor to carry out a thorough investigation of the design and condition of roof including rainwater goods and all deficiencies likely to contribute to water penetration to bathroom ceilings at flats 2,4 and 6 and determine most appropriate remedial works
  - Provide a copy of the investigation report to the council and carry out works recommended in the report
  - Consider employing a specialist contractor for leak detection.
  - Make good works disturbed.
  - Leave the whole area sound and weatherproof.
  - Carry out necessary repairs to affected ceilings
5. The Applicant provided a copy of a surveyor's report dated 19 September 2025 prepared by Mr. Andy Tomaso MSc MRICS MCIArb MPTS of Silver Grey Associates Ltd. This opined that the liquid waterproof membrane had prevented water ingress, but that this was disputed by Dr Kory. The report annexed many photographs.

### **Directions**

6. Directions were issued on 19 August 2025 that the matter be dealt with by written representations, unless any party made a request for an oral

hearing, which no one did. The directions required that by 2 September 2025 the application be sent to lessees, with the directions and publicity to be given to the application in the block. Leaseholders opposing the application were required by 16 September 2025 to complete a Reply Form and send it to the applicant and Tribunal. The applicant was required to prepare and serve an indexed and paginated bundle by 30 September 2024. The applicant was required to serve this on the Tribunal and only those lessees who had served a Reply Form. The applicant confirmed that the application and directions had been sent to all lessees and publicity given in the common parts.

### **The Property**

7. From the application form and bundle, the property is a block of 12 flats in a residential building, forming part of Frognal Estate.

### **The Leases**

8. The Tribunal was supplied with a sample lease. However, the Tribunal makes no finding as to payability or reasonableness of the costs to be incurred as that is outside the scope of this application.

### **The Respondents' Cases**

9. One objection was received from Dr Agnes Kory, which may be summarized as follows. The problem was not new and preceded the service of the notice. The applicant's surveyor advised that without full coverage/renewal rectification of issues was unlikely. Only a partial repair was carried out. Dr Kory's flat had been destroyed in the past following partial repairs. The surveyor had modified his advice to say that a liquid waterproof roof system should be applied to the whole block.
10. The lowest point on the roof is above Dr Kory's flat and therefore previous partial repairs have solved the issues. Full roof repair or replacement is needed, although this would be costly. Dr Kory stated that the floorboard and beam in her flat rotted and broke despite previous partial repairs and she was concerned about structural collapse.

### **The Law**

8. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions. In *Daejan* at para 46 stated "The Requirements are a means to an end, not an end in themselves, and the end to which they are directed is the protection of tenants in relation to service charges, to the extent identified above. ...the Requirements leave untouched the fact that it is the landlord who decides

what work needs to be done, when they are to be done, who they are to be done by, and what amount is to be paid for them.”

9. Lord Neuberger also said the consultation requirements have to be considered alongside section 19 and section 27A of the Act. Those provisions limit recoverable service charges to costs reasonably incurred for works of a reasonable standard.
10. In *Marionette Limited v Visible Information Packaged Systems Limited* [2002 EWHC 2546 (Ch), Mr Justice Warren stated (at paragraph 95) that “ ‘works’ are, in my judgment, restricted to the physical works involved in repair or maintenance and the cost of those works is the charge made by the contractor carrying out those works for doing so”.

## **Findings**

11. The Tribunal accepts the applicant’s case that there was an urgent need to carry out surveys and works to meet the obligations imposed by the Notice. Although the Tribunal has carefully considered Dr Kory’s objection, this appears to relate to the scope of work. *Daejan* held that the scope of work is a matter for the landlord under the consultation requirements. Therefore, as far as the current application is concerned, the Tribunal has not identified any relevant prejudice to Dr Kory, if dispensation is granted.
12. The question of whether the costs incurred are reasonably incurred and payable is outside the scope of the application. However, Dr Kory, in common with all respondents, retains her rights under sections 19 and 27A of the Act to have such matters assessed on appropriate application to the Tribunal. Those rights are not removed by the grant of dispensation.
13. For the reasons given above, the Tribunal also finds that the professional services referenced within this application are not ‘works’ subject to the statutory consultation process. This includes surveyors’ fees and any fees relating to tracing services. Therefore, for those matters dispensation is not required.
14. For the above reasons, the Tribunal grants dispensation unconditionally, in relation to the works referenced in the application.

Mr Charles Norman FRICS  
Valuer Chairman

28 October 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.

### **Respondents**

Ms Natasha Brown & Mr Laco Perez (Flat 1)  
Mr L M Brassey (Flat 2)  
Philip & Louise Rahmanou (Flat 3)  
Mr and Mrs D Gilnert (Flat 4)  
Mr I Mani (Flat 5)  
Dr Agnes Kory (Flat 6)  
Haka International Limited (Flat 7)  
Dr S Nag-Chaudhury (Flat 8)

## **Appendix**

### **Section 20ZA Landlord and Tenant Act 1985**

(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 which shall be subject to annulment in pursuance of a resolution of either House of Parliament.