



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

Case Reference	: HAV/00HQ/LDC/2025/0637
Property	: 4 Drummond Road, Boscombe, Bournemouth, Dorset, BH1 4DS
Applicant	: Southern Land Securities Limited
Representative	: Together Property Management
Respondent	: David and Donna Fox - Flat 1 Joseph Lopes and Melissa Fish – Flat 2 David Flanagan – Flat 3 Nicki Samuels and Scarlett Harrop – Flat 4
Type of Application	: Application to dispense with the consultation requirements provided for by Section 20 of the Landlord and Tenant Act 1985, pursuant to Section 20ZA as amended.
Tribunal	: Judge T Hingston N. Robinson FRICS T. Wong
Date of Decision	: 18th July 2025

DECISION

The Tribunal determines that it is reasonable to grant dispensation from the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 in this instance.

BACKGROUND

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed by Section 20 of the 1985 Act. The application was received on 4 April 2025.

2. The property consists of an original detached house constructed circa 1890 over ground & first floor, which was converted into four self-contained flats around forty years ago.

3. Flat 1 has its own entrance door along the right-hand elevation, whilst the remaining three flats are accessed through a central staircase. Flat 2 is on the ground floor and flats 3 & 4 on the first floor.

4. The Applicant explains that:

'Following a site visit from a surveyor, the surveyor provided some photographs of the asbestos soffit and advised this is in a poor condition and considered dangerous as the asbestos board is damaged and fibres are exposed. As managing agent we have a duty to manage asbestos in a property. The asbestos is a deleterious material and must be treated as such with regards to it's issues on health. The fibres are exposed and although the soffits are external there is a risk of the fibres being inhaled by the occupants and other members of the public. The asbestos soffit does need to be removed and replaced as a priority and the go ahead was given with the lowest priced quotation as scaffolding is in place as this would be more cost effective.'

We would like to request a dispensation of Section 20 due to the health and safety aspects associated if the work was not carried out as a matter of urgency and the Section 20 process had to be followed.'

ISSUE TO BE DETERMINED

5. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works and/or whether they are recoverable from the leaseholders as service charges, or the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of the costs, and the contribution payable through the service charges.

RELEVANT LAW

6. Where Section 20 of the Landlord and Tenant Act 1985 applies (i.e. where the cost of works exceeds £250 per residential unit) the 'relevant costs' of tenants for the purpose of liability for service charges in respect of such works are limited to the same amount - £250 per unit - unless the consultation requirements have been *either* -

- (a) complied with, or
 - (b) dispensed with by the appropriate Tribunal.
7. The consultation requirements include regulations requiring the landlord to
- (a) provide details of the proposed works to tenants
 - (b) obtain a number of estimates
 - (c) invite tenants to propose persons or contractors from whom estimates should be obtained
 - (d) have regard to observations made by tenants, and
 - (e) give reasons for carrying out works or for engaging particular contractors in certain circumstances.
8. Under Section 20ZA of the 1985 Act (as above) an Application can be made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works. The Tribunal may make the determination if satisfied that it is reasonable to do so.
9. The question of when dispensation should be granted was examined in some detail by the Supreme Court in the case of *Daejan Investments Ltd v Benson* [2013] UKSC14 and [2013] UKSC 54. In summary the Supreme Court noted that the main question for the Tribunal, when considering how to exercise its jurisdiction in accordance with section 20ZA, is whether there is any real prejudice to the tenants flowing from the landlord's breach of the consultation requirements.

DETERMINATION

10. In this case the Tribunal is satisfied that the Applicant's representatives, Together Property Management, acted promptly and responsibly once an identified risk (from the damaged asbestos soffit) was notified to them by the surveyor. There is no suggestion or evidence that the tenants have been or will be prejudiced by the lack of consultation.

11. Of the four Respondent tenants of the flats in the property, Ms. Fish and Mr. Lopes (Flat 2) have agreed to the application, whilst the others have raised no objection.

12. As the scaffolding is in place and the works have begun, it would not be in anyone's interests for there to be further delay whilst the Section 20 process was conducted.

13. The Tribunal determines that action needed to be taken urgently because of the risk to public safety, and therefore dispensation is granted.

Right to Appeal

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

