



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

Case Reference	: HAV/45UC/LDC/2025/0646
Property	: 47 Bayford Road, Littlehampton, West Sussex, BN17 5HN
Applicant	: Southern Land Securities Limited
Representative	: Together Property Management Ltd
Respondent	: The Leaseholders
Representative	: None
Type of Application	: To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
Tribunal Member	: Mr I R Perry FRICS
Date of Decision	: 6th October 2025

DECISION

Decision

The Tribunal determines that retrospective dispensation is granted to the Applicant under Section 20ZA of the Landlord and Tenant Act 1985 for the works completed at the property by Beck Roofing and Building Limited in March 2025 to remedy the damp penetration and damage to render. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

Background

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the Landlord by Section 20 of the 1985 Act. This retrospective application was received on 30 April 2025.
2. The Tribunal issued Directions indicating that the grounds for seeking dispensation that were provided by the Applicant were somewhat sparse and further information may be requested upon review of the application prior to determination.
3. The Property is described as a:

An early 19th Century, solid brick, mid terrace residence latterly converted to contain four self-contained flats. Constructed over ground, first and second floors
4. The Applicant explains that:

We were made aware by one of the leaseholders in the building damp and water ingres [sic] causing damage to the property due to blown render on the external wall.

As the works were deemed of an urgent nature Section 20 notices were not served, we have advised all Leaseholders of the works.

We seek dispensation for the urgent repairs carried out to rerender the external wall.
5. No indication of the cost of the works was provided to the Tribunal.
6. The Tribunal issued further Directions on 3rd October 2025 that unless more detailed information of the works, including the cost, were provided it was minded to strike out the Application.

Submissions

7. The Applicant's Representative responded on the same day providing 3 photographs of the wall showing cracks and damaged render and stated that

Following reports of damp in Flat 2, two independent contractors attended the property to assess the repairs required. Both noted that the external wall at the rear of the property had cracked, and the render was damaged, resulting in water ingress into the flat. It was recommended that, given the condition of the wall, the most appropriate course of action

would be to re-render the entire wall rather than carry out limited patch repairs to the most visibly affected areas. This approach was advised to prevent recurrence of water ingress and to ensure a long-term solution.

Due to the damp issues within Flat 2 and the associated health and safety risks to the residents, the works were instructed without delay. Leaseholders were notified prior to commencement and no objections were received.

I enclose copies of the contractor quotations, photographs taken before and after the works, and the final invoice for the completed repairs. Since the works were completed, we have received no further complaints regarding damp.

8. A quote for the works from Maguire and Son dated 13th October 2024 was provided in the sum of £5,900 plus VAT and a second quote from Beck Roofing & Building Limited was provided in the sum of £3,600 with no VAT payable.
9. An invoice for completing the works from Beck Roofing & Building Limited dated 25th March 2025 in the sum of £3,600 with no VAT was also provided.
10. No objections were received from the Respondents who had been notified in advance of the works but without an appropriate consultation document or process. No objections had been received.
11. **The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed or actual costs of the works, and 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.**

The Law

Section 27A Liability to pay service charges: Jurisdiction

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to—
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs,

maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

- (a) the person by whom it would be payable,
- (b) the person to whom it would be payable,
- (c) the amount which would be payable,
- (d) the date at or by which it would be payable, and
- (e) the manner in which it would be payable.

Section 20 Limitation of service charges: consultation

requirements provides that where the lessor undertakes qualifying works with a cost of more than £250 per lease, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement dispensed with by the Tribunal. An application may be made retrospectively.

Section 20ZA provides that on an application to dispense with any or all of the consultation requirements, the Tribunal may make a determination granting such dispensation “if satisfied that it is reasonable to dispense with the requirements”.

The relevant section of the Act reads as follows:

S.20 ZA Consultation requirements:

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.

- 12. The appropriate approach is taken by the Tribunal in exercise of its discretion was considered by the Supreme Court in the case of *Daejan Investment Limited v Benson et al* [2013] UKSC 14.
- 13. The leading judgement of Lord Neuberger explained that a Tribunal should focus on whether the lessee will be, or had been, prejudiced in either paying where that was not appropriate because of the failure of the lessor to comply with the regulation. The requirements were held to give practical effect to these two objectives and were a means to an end, not an end in themselves.
- 14. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebuff it. The Tribunal should be sympathetic to the lessee(s).
- 15. Where the extent, quality and cost of the works were in no way affected by the lessor’s failure to comply Lord Neuberger said as follows:

I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reasons): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.

16. The main, indeed normally, the sole question, as described by Lord Neuberger for the Tribunal to determine is whether or not the lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.
17. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of the works arising or which have arisen.
18. If dispensation is granted, that may be on terms.
19. There have been subsequent decisions of the higher Courts and Tribunals of assistance in the application of the Decision in Daejan but none are relied upon or therefore require specific mention in this Decision.

Consideration and Determination

20. The Tribunal is satisfied that following a report of damp within Flat 2, two independent contractors inspected the property and, with the managing agent, reached the opinion that the best remedy was to re-render the wall in question.
21. Two independent quotations were obtained, and the contract was awarded to the firm who had provided the lowest estimate, and with no VAT payable.
22. The Directions attached a reply form for the Respondents to complete to confirm whether they agreed with the application or not and, if opposed, to provide a statement setting out the reasons as to why they oppose it.
23. No replies in favour or in opposition were received by the Tribunal.
24. Having considered the Application and lack of any representation or objection from the Respondents, and prior to reaching a decision, the Tribunal is satisfied that a determination based on the papers and without an inspection or hearing is appropriate.
25. Damp penetration was reported to the managing agent who arranged for the property to be inspected by more than one builder. A plan of works was agreed and two quotations obtained. The lowest price quote was accepted, and the works were then completed.
26. There has been no objection to the dispensation of the consultation requirements and none of the lessees have asserted that there has been any prejudice caused to them.
27. The Tribunal consequently finds that it is reasonable to grant retrospective dispensation for the works.

The Tribunal determines that dispensation from the consultation requirements in Section 20 of the Act is granted.

This decision is confined to determination of the issue of dispensation from the consultation requirements. The Tribunal has made no determination on whether the costs are payable or reasonable. If a lessee wishes to challenge the payability or reasonableness of those costs, then a separate application under section 27A of the Act would have to be made.

28. As a condition of this dispensation the Applicant is required to forward a copy of this determination to each of the leaseholders within 14 days of receipt of this decision.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands 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. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.
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.