



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

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| Case Reference | : HAV/00MR/LDC/2025/0641 |
| Properties | : Balmoral Court, 43-45 Clarence Parade, Southsea, Hampshire, PO5 2ES |
| Applicant | : Balmoral Court Residents Company (Southsea) Ltd |
| Respondent | : Rory Sheen |
| Type of Application | : To dispense with the requirement to consult lessees about major works Section 20ZA of the Landlord and Tenant Act 1985 |
| Tribunal Members | : Regional Surveyor J Coupe FRICS Mr M.J.F. Donaldson FRICS |
| Date of Hearing | : 21 October 2025 |
| Date of Decision | : 14 November 2025 |

DECISION

Decision of the Tribunal

The Tribunal grants the application for retrospective dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to the replacement of fifteen communal doors.

Background to the application

1. The Applicant seeks retrospective dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (the “1985 Act”) from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. The application was received on 23 April 2025.
2. The Applicant is the landlord of the Property.
3. The application relates to the replacement of fifteen communal doors to meet increased fire safety specifications.
4. One objection was received to the application, that being from Mr Rory Sheen, leaseholder of Flat 16 and Flat 25. Mr Sheen is a Director of the Applicant Residents Company.
5. The Tribunal did not inspect the Property as it considered the documentation and information before it sufficient to proceed with this determination.
6. **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 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**

Hearing

7. The hearing took place online, using the Tribunal’s CVP system. The Applicant was represented by Mr Justin Martindale, leaseholder and Director of the Applicant Residents Company. He was accompanied by fellow leaseholders Mr Neil Treadwell, Mrs Christina Birkby, Mr Adrian Saunders, Mr Peter Brotton, each of whom are also Directors of the Applicant. Mr Michael O’Connor, a leaseholder and former Director of the Applicant was present. The Respondent, Mr Rory Sheen, was in attendance and represented himself.

8. The Tribunal had been provided with a bundle comprising 481 pages, the contents of which were noted.

The issues

9. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. The Tribunal has in this decision made no determination on whether the costs are payable or reasonable. It is open to any of the Respondents to apply to the Tribunal pursuant to section 27A of the 1985 Act if they have objections on that basis.

The Applicant's case

10. The Applicant seeks dispensation for the replacement of fifteen communal doors in shared areas of the building. The qualifying works were carried out in three phases:
- Phase 1: Three doors replaced in October 2023
 - Phase 2: Six doors replaced in April 2024
 - Phase 3: Six doors replaced in August 2024
11. Mr Martindale stated that the Applicant is the registered proprietor of the freehold interest in the property and that leaseholders are shareholders. The Directors of the Applicant are all leaseholder volunteers, assisted by a professional managing agent.
12. The Applicant accepts that statutory consultation was not undertaken, attributing this to an administrative oversight during a period of major works, regulatory changes, and a change of managing agents in January 2023.
13. Mr Martindale stated that leaseholders were regularly updated via newsletters between June 2021 and December 2023, including notice of the requirement to replace communal doors.
14. Mr Martindale explained that following a Fire Risk Assessment in 2021, initial rectification works were completed at modest cost. Subsequently the works were found to be non-compliant, necessitating further works. In March 2022, the Applicant was advised that the communal doors were beyond economic repair and required full replacement to meet fire safety standards.
15. The works were mandatory, not discretionary. The Applicant considered itself under a legal duty to comply with regulations and ensure residents' safety, and that all works should meet accredited standards.
16. Five firms were invited to quote, with three submitting compliant quotations. To mitigate risk, the works were staged. Phase 1 served as a test before proceeding with Phases 2 and 3. The total cost was £22,860.

17. Mr Martindale stated that the Applicant acted reasonably and in good faith, ensuring the works were completed to a high standard by an accredited contractor.
18. Mr O'Connor stated that the Respondent suggested two firms, but neither demonstrated the required accreditation nor submitted quotations.
19. While the Respondent replaced his own door at a lower cost, the Applicant contends that the doors were not comparable in specification or certification.
20. Mr Martindale argues that the Respondent suffered no prejudice from the failure to consult, as the works were market-tested, costs were reasonable, and consultation would not have altered the specification required for compliance. The omission was an administrative oversight without material impact.

The Respondents' case

21. Mr Sheen contends that the application stems from prolonged mismanagement by the Applicant. Mr Sheen alleges exclusion from decision-making and the absence of meeting minutes.
22. Mr Sheen stated that although he was appointed as a Director in January 2022, he was not invited to meetings or included in discussions. While he initially agreed to focus on a specific project, he expected to receive invitations and minutes as per his entitlement.
23. Mr Sheen asserts that the Applicant's initial attempt to meet fire safety regulations was inadequate, causing wasted time and leaseholder expense. He argues that the subsequent engagement of a second contractor resulted in significantly higher costs for works he claims exceeded mandatory specifications.
24. Mr Sheen stated that he replaced his own door in the block for £625, far less than the sum expended per door by the Applicant. Although he recommended two contractors, neither submitted quotations. Mr Sheen accepted that these firms lacked the accreditation required by the Applicant but disputes the necessity of such accreditation.
25. Mr Sheen claims prejudice from the failure to consult, stating he lost the opportunity to challenge scope and specification, formally nominate contractors, and question value for money. He further alleges governance failures and lack of accountability.
26. Mr Sheen argues that, if consulted, he would have nominated a competent and lower-cost contractor, challenged quotations, and raised governance concerns.

27. Mr Sheen seeks refusal of dispensation or, alternatively, conditions limiting recoverable costs to £625 and requiring disclosure of information.
28. Mr Sheen also requests findings on alleged failures by the Applicant, including: ignoring urgent safety warnings from 2019; deprioritising fire safety; concealing previous works; misrepresenting legal requirements; and failing to hold meetings or keep minutes.
29. Finally, Mr Sheen requests an Order under Section 20C of the Landlord and Tenant Act 1985 preventing the Applicant from recovering the cost of this application through the Respondent's service charge.

Law

30. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide 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 has been dispensed with by the Tribunal. An application may be made retrospectively.
31. Section 20ZA relates to consultation requirements and provides as follows:

"(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.

(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.

....

(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.

32. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.
33. The Supreme Court came to the following conclusions:
 - a. The correct legal test on an application to the Tribunal for dispensation is: “Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord’s failure to comply with the requirements?”
 - b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.
 - c. In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord’s failure to comply.
 - d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.
 - e. The factual burden of identifying some “relevant prejudice” is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
 - f. The onus is on the leaseholders to establish what steps they would have taken had the breach not happened, and in what way their rights under (b) above have been prejudiced as a consequence.
34. Accordingly, the Tribunal had to consider whether there was any “relevant prejudice” that may have arisen out of the conduct of the Applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above.

Consideration

35. Having considered the written evidence and submissions, heard oral representations, and reviewed all documentation and grounds

advanced, the Tribunal determines the application for dispensation as follows.

36. It is accepted that no statutory consultation under Section 20 of the Act was carried out. However, the Tribunal finds that leaseholders were provided with regular newsletters from the managing agent, which included updates on ongoing works and the replacement of communal doors.
37. The Tribunal finds that the Applicant tested the market by inviting competitive tender from five contractors and that three quotations were received.
38. Although the Respondent was not formally consulted under Section 20 of the Act, the Tribunal finds that he proposed two contractors which the Applicant engaged with. However, neither contractor held the accreditation required by the Applicant and subsequently neither contractor chose to tender. The Tribunal finds that the Respondent did not identify any other contractor that he would have nominated.
39. The Tribunal finds that the Respondent's contention that the works were over-specified or that accreditation was unnecessary raise issues of reasonableness of cost and specification. Such matters fall within the scope of Section 27A of the Act and are not for determination in this dispensation application.
40. Similarly, the Respondent's argument that failure to consult prevented him from challenging value for money is not persuasive. The statutory mechanism for challenging costs remains available to the Respondent under Section 27A of the Act.
41. The Tribunal finds evidence of a breakdown in trust between the Board and the Respondent. However, no other leaseholder has objected to this application, and the Tribunal must focus on the statutory test of prejudice arising from the failure to consult.
42. The Respondent's request for findings outlined in paragraph 28, including on governance, safety warnings, and alleged misrepresentation falls outside the Tribunal's jurisdiction in this application and is therefore declined.
43. The Tribunal finds the Applicant advised leaseholders of the proposed works, invited competitive tender, engaged with two contractors nominated by the Respondent and proceeded with works they considered they were under a duty to carry out.
44. Accordingly, the Tribunal finds that, with the exception of the Applicant acting in a more timely manner, nothing different would be done or achieved in the event of a full consultation with the Respondent, except for potentially further delay and additional costs.

45. The Tribunal is therefore of the view that it could not find any relevant prejudice to the Respondent arising from the failure to consult on the replacement of fifteen communal fire doors. The Respondent's ability to challenge the reasonableness of the costs incurred remains unaffected through other statutory routes.
46. Accordingly, the Tribunal determines that it is reasonable to retrospectively dispense with the consultation requirements under Section 20 of the Act in respect of the major works as described.
47. **This decision is confined to determination of the issue of dispensation from the consultation requirements described. 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 Landlord and Tenant Act 1985 would have to be made.**
48. The Tribunal considered whether it was appropriate to impose any conditions in relation to granting dispensation. While the Respondent sought to cap costs at £625/per door, the Tribunal did not consider this reasonable, finding that the lower-cost and higher-cost doors differed significantly in specification and accreditation. Additionally, the Tribunal does not consider the Respondent's request for a condition requiring disclosure of documentation appropriate in this instance. Such information may be sought by alternative means.
49. The Tribunal considered whether any other conditions were appropriate and determined not. We therefore determine that no conditions should be added to the dispensation.
50. Accordingly, the Tribunal grants the Applicant's application for retrospective dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to the replacement of fifteen communal doors.
51. The Applicant shall send a copy of the Tribunal's decision to each leaseholder and shall display a copy in a prominent location within the Property for a minimum of twenty eight days.
52. In response to the Respondent's application under Section 20C, the Applicant confirmed that they do not intend recovering the costs of these proceedings through the service charge. However, for completeness, having found that dispensation should be granted, the Tribunal declines to make an Order under Section 20C preventing the Applicant from recovering the costs of this application through the service charge.

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 by email to rpsouthern@justice.gov.uk
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.