



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

Case Reference	: HAV/29UP/LDC/2025/0749
Property	: 18 Pembury Road Tonbridge Kent TN9 2HX
Applicant	: Mrs Janet Clifford
Representative	: Management Consultancy for Business Ltd
Respondent	: Mrs Janet Clifford (ground floor and basements flats) Mrs Mira Craig (Flat A maisonette)
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	: 17 th December 2025

DECISION

Summary of the Decision

1. **The Applicant is granted 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 in relation to repair and decoration works required to prevent water ingress and damage to property. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

Background

2. 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. The application was made on 29th October 2025.
3. The property is described in the application as a 'large late Victorian 4 x storey semi detached house split up into 3 x s/contained flats' The property is rendered
4. The named Respondent is Mrs Mira Craig who occupies a maisonette on the upper two floors.
5. The Applicant explains that:

"The major external decorations are now due to be done. Several quotes have now been obtained for these works".

And states that:-

"We have issued the 2 x part S.20 Notices and issued demands for the funds, however, none of the lessees have so far settled these invoices. Therefore, we are issuing S.20Z application before going down the legal recover route".

None of the lessees have responded to previous demands for major works and we want a declaration of reasonableness from the FTT before we go down the legal debt recovery route".

The Applicant states that the works are urgent because:-

"Water ingress through the poorly decorated and degraded external areas of the external walls could affect the integrity of the property, if the works do not commence shortly".

6. The Tribunal issued Directions on 18th November 2025.
7. Mrs Janet Clifford is named as the Applicant and is also named as the Lessee of the Ground Floor Flat and Basement Flat.
8. External photographs were attached to the Application which show that external decoration and repairs are needed.
9. A Part One Section 20 Notice of Intention had been sent to the Lessees on 13th November 2024 which set out the proposed works
10. A Part Two Section 20 Notice with an estimate of works had been sent to the Lessees on 6th January 2025 which detailed estimated costs of the proposed works in the sums of £69,400 and £66,000, both subject to VAT. Two other contactors had declined to tender.
11. In addition to the costs above MCFB Ltd would charge a supervisory fee of 10% of the final agreed tender price plus VAT.
12. The quotes were based on a Specification of Works. The Managing Agent had accepted the lowest quote received
13. No responses had been received from the tenant of Flat A.
14. The Tribunal was provided with a copy of the lease for Flat A. This details the Lessor Company's responsibility to keep the property in good order, the Lessee's responsibility to contribute to "one half part of all costs charges and expenses incurred by the Company in performance of its obligations and obligations and the general conduct of its affairs and as more particularly (but not, sic, by way of limitation) specified in the Sixth Schedule hereto".
15. The Sixth Schedule requires the Company to "maintain, decorate and repair and renew the property".
16. **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.**

The Law

17. 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.

18. 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.

19. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of *Daejan Investment Limited v Benson et al* [2013] UKSC 14.
20. The leading judgment of Lord Neuberger explained that a Tribunal should focus on the question of whether the lessee will be, or had been, prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were a means to an end, not an end in themselves.
21. 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 rebut it. The Tribunal should be sympathetic to the lessee(s).
22. 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 reason): 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.
23. The main, indeed normally, the sole question, as described by Lord Neuberger, for the Tribunal to determine is therefore 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.
24. 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 works arising or which have arisen.
25. If dispensation is granted, that may be on terms.

26. 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

27. 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 why they oppose.
28. No replies were received by the Tribunal.
29. Having considered the application and prior to undertaking this determination, the Tribunal is satisfied that a determination on the papers remains appropriate, given that the application remains unchallenged.
30. The reason why dispensation from consultation requirements is said to be required is that repairs and decoration were needed to prevent water ingress through poorly decorated and degraded areas of the building. Some considerable time has elapsed since the works were first suggested. The Tribunal is satisfied that the works are necessary and urgent.
31. There has been no objection to the dispensation of the consultation requirements from any of the Lessees and the Agent has obtained competitive tenders.
32. None of the Lessees have therefore asserted that any prejudice has been caused to them. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential further delay and potential problems.
33. The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
34. The Tribunal consequently finds that it is reasonable to dispense with all the formal consultation requirements in respect of the major works to the building as described in this Decision.
35. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of repair and decoration as outlined in the Application.
36. 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.

37. In reaching this decision the Tribunal has taken account of the fact that no party has objected to the application. The leaseholders have had opportunity to raise any objection, and they have not done so.
38. As a condition of dispensation, the Applicant is required to send a copy of this decision to all leaseholders in the property.

RIGHTS OF APPEAL

39. 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 by email at rpsouthern@justice.gov.uk
31. 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.
32. 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.
33. 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.