



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

Case Reference : **LON/00AW/LDC/2025/0697**

Property : **18 Cadogan Square & 39 Pont Street,
London SW1X 0JS**

Applicant : **31-39 Pont Street Freehold Limited**

Respondents : **The leaseholders of the Property**

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(s)** : **Tribunal Judge H Lumby**

Date of Decision : **9 February 2026**

DECISION

Decision of the Tribunal

The Tribunal grants the application for the 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 structural works to gutters and timbers falling within the landlord's repair obligation.

The background to the application

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.
2. The Property is described as a mansion block. The works were required to Flat 4, 18 Cadogan Square; this is on the first floor and has a section to the south which is covered by a lower pitch roof with clerestory roof lights and surrounded by parapet gutters.
3. The Applicant is the landlord of the Property with responsibility for the repair of the structural elements of the building. The Respondents comprise its leaseholders.
4. The leaseholder of Flat 4 was given consent to carry out works to their demise. However, during the course of the works, internal damage was discovered said to have been caused by the gutters above and the timber joists. Works of repair/maintenance were carried out to these items by the leaseholder of Flat 4 in order to avoid delay to the rest of their works. Those works are agreed to have been within the landlord's repair responsibility with the cost recoverable through the leaseholders' service charge. The leaseholder of Flat 4 has therefore sought reimbursement for the cost of these works.
5. The works the subject of the application are limited structural works (gutters & timbers). The agreed cost of the Applicant's element is said to be £14,807.48.
6. The works were said to be urgent to enable the leaseholder of Flat 4's works to remain on schedule. The works had been commenced at the time of the application.
7. The works were carried out by the leaseholder of Flat 4 rather than by the landlord. As a result, no consultation has not been carried out and the Applicant has applied for dispensation instead.
8. The Applicant has confirmed that no objections have been received from the Respondents.
9. By Directions of the Tribunal dated 19 November 2025 it was decided that the application be determined without a hearing, by way of a paper case. No objections have been received to this approach. The Tribunal

has reviewed the documentation provided and is satisfied that it remains suitable for a paper determination. The possible hearing set for 25 February 2026 is unnecessary and so will not take place.

10. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.
11. This has been a paper determination which has not been objected to by the parties. The documents that were referred to are contained in a 84 page bundle provided by the Applicant. It comprises the Applicant's application, a specimen lease, a list of the Respondents, a defect report identifying the required works, an Excel sheet detailing the costs and the Tribunal's Directions dated 19 November 2025, the contents of which have been recorded.

The issues

12. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. The Tribunal has made no determination on whether the costs are payable or reasonable. If a leaseholder wishes to challenge the payability or reasonableness of those costs as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

Statute

13. Section 20 of the Landlord and Tenant Act 1985 (as amended) ("the 1985 Act") and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified form.
14. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.
15. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.
16. 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.

Case law

17. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.
18. 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:
 - i. what steps they would have taken had the breach not happened and
 - ii in what way their rights under (b) above have been prejudiced as a consequence
19. 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

- 20. Having read the evidence and submissions from the Applicant and having considered all of the documents and grounds for making the application provided by the Applicant, the Tribunal determines the dispensation issues as follows.
- 21. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondents have suffered any relevant prejudice, and if so, what relevant prejudice, as a result of that lack of consultation by the landlord. In doing so, it needed to focus on whether the leaseholders have been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.
- 22. The Applicant believes that the structural works to gutters and timbers the subject of this application fall within the landlord's repair obligation and needed to be carried out; the leaseholder of Flat 4 doing the relevant works enabled their own works to remain on schedule. On the evidence before it, the Tribunal agrees with the Applicant's conclusions and considers the leaseholder of Flat 4 doing these works was a sensible approach which limited disruption.
- 23. The Tribunal is of the view that, taking into account that there have been no objections to this application from the Respondents, it could not find

prejudice to any of the leaseholders by the granting of dispensation relating to structural works to gutters and timbers falling within the landlord's repair obligation.

24. As a result, the Tribunal believes that it is reasonable to allow dispensation in relation to the subject matter of the application.
25. Accordingly, the Tribunal grants the Applicant's application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to structural works to gutters and timbers falling within the landlord's repair obligation.
26. The Applicant shall place a copy of the Tribunal's decision on dispensation together with an explanation of the leaseholders' appeal rights on its website (if any) within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on its home page. It should also be posted in a prominent position in the communal areas. In this way, any Respondents who have not returned the reply form may view the Tribunal's eventual decision on dispensation and their appeal rights.

Name: Tribunal Judge H. Lumby

Date: 9 February 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).