



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

Case Reference	: HAV/18UE/LDC/2025/0720
Property	: Alpha House, 12 Church Street, Ilfracombe, Devon EX34 8HA
Applicant	: Alpha House Freehold Management Co Ltd (landlord)
Representative	: Mr D Barnard, Director
Respondents	: Diana McDonald and others (tenants)
Representatives	: Ms McDonald, in person Mr D Graham, for Ms S Graham
Type of Application	: Application for dispensation from consultation requirements – s.20ZA Landlord and Tenant Act 1985
Tribunal Member(s)	: Judge M Loveday Mr A Hetherton MRICS IRRV (Hons)
Date of hearing/venue	: 20 February 2026 (Havant Justice Centre)
Date of decision	: 24 February 2026

DETERMINATION

Introduction

1. This is an application for dispensation from consultation requirements under s.20ZA Landlord and Tenant Act 1985 (“LTA 1985”).
2. The matter relates to Alpha House, 12 Church Street, Ilfracombe, Devon EX34 8HA, located in the angle of two streets in the centre of the town. It is described as a Victorian house c.1881 converted into four 3-bedroom and one 2-bedroom apartment during the 1970s. The walls of the front and side elevations are of local stone faced with brick and painted. The rear elevation is of local stone rendered with a traditional lime mortar and rough-cast finish.
3. The applicant is the lessee-owned landlord, and the respondents are the lessees. However, the only lessee objecting to the application is Ms Diana McDonald. Ms McDonald is the lessee of Flat 2, who is also a Director of the Applicant company. Flat 2 is a 3-bedroom flat on the third floor of the building.
4. The application was made on 18 September 2025. The application does not identify the major works in respect of which dispensation is sought. It was explained at the hearing that the works were listed in a spreadsheet of Drystone invoices in the bundle. The material entries are:

Invoice date	Invoice Amount	Flat 2 contribution
21.10.22	£5,786.22 (staircase)	£1,157.25
12.12.22	£5,684.21 (staircase)	£1,137.00
28.12.22	£568.80 (communal lights)	£ 113.76
04.01.23	£1,168.58 (new gutter and downpipe to front elevation)	£ 233.72
03.02.23	£3,399 (Supply scaffolding to rear)	£ 679.80
01.04.23	£792.00 (Supply scaffolding to rear)	£ 158.40
01.06.23	£3,068.57 (Works to main entrance steps)	£ 613.71
01.06.23	£18,370.08 (Works to rear elevation VAL 1)	£ 3,674.02

24.07.23	£16,357.84 (Works to rear elevation VAL 2)	£ 3,271.57
26.09.23	£20,734.03 (Fireproofing Works to Main Staircase 1)	£ 4,146.81

It was also confirmed the application was retrospective, in the sense that the costs had already been incurred and the charges demanded (and paid) by the lessees.

5. Directions were given on 18 November 2025, 6 January 2026 and 26 January 2026. The matter was originally directed to be determined on the papers, but it was subsequently re-listed for a video hearing on 21 January 2026. That date was vacated by consent and the matter further re-listed for a remote hearing on 20 February 2026. At the hearing, the Applicant appeared by its Director, Mr Desmond Barnard. Ms McDonald appeared in person. Mr Dominic Graham appeared on behalf of his partner Ms Sarah Graham, who was supportive of the application.
6. There are significant problems with the proceedings. The application itself does not identify the major works for which dispensation is sought. Although purporting to be a retrospective application or dispensation, there were no copies of service charge demands or accounts in the hearing bundle. Another problem was the state of the hearing bundle itself. On 26 January 2026, the Tribunal commented on problems with a previous version of the bundle and made a case management decision rejecting it. The current version of the bundle can only be described as chaotic. Almost none of the documents in it are in chronological order. It contains numerous ‘nested’ emails and screen shots of Whatsapp messages, with no attempt to edit them. Moreover, Ms McDonald objected to the omission of various documents, especially the Flat 2 lease. The Tribunal considered representations about the bundle at the start of hearing, and it was eventually decided to proceed with the application using the bundle as it was.

Facts

7. Despite the confusing material in the bundle, the Tribunal was eventually able to establish the basic sequence of events.
8. At all material times until recently, the lessee Directors self-managed the property without the help of a managing agent. We were told the Applicant does not (or did not) have a bank account. Instead, all management functions were undertaken by the Directors themselves. There were occasional resident meetings (described by Ms McDonald as “house meetings”) and the bundle includes minutes for meetings on 25 July 2023 and 18 July 2024, 24 April 2025. These minutes do not suggest they are formal meetings of members or Directors of the company.
9. The Applicant acquired the freehold in 2021. Prior to that date, it is clear the premises were in very poor state and that they required extensive works. There is a dry rot report by Drystone Property Care Ltd dated 27 September 2021 following an inspection on 24 September 2021. The covering letter of the report shows it was directed to Mr B Turnbull, the then lessee of Flat 1. The report was prepared by Mr Barnard, who was and is a director of Drystone. At the time, Mr Barnard had no connection with Alpha House. But in any event, the initial dry rot report identified longstanding and “well-established” infection apparently caused by a blocked/leaking downpipe to the rear of the building. Mycellium growth and fruiting bodies were found in several flats. The report recommended extensive works:
 - “1. Dry rot can under ideal conditions spread its growth rapidly in search of fresh food source through inert materials such as brick and masonry, and must be professionally eradicated without delay in order that further more extensive works are not required.
 2. It is essential that all organic material is removed from within the structure of the building. To this end any timber lintels, timber fixing grounds or bonding timbers within the wall structures must all be removed.

3. We are of the opinion that the infection is well established and has spread extensively throughout the property.

4. At this stage we are unable to determine the full extent or scope of the works required to eradicate the current infection and suggest that some stripping out and investigative work is carried out in each of the properties subject to the necessary consents being obtained.

5. Once the necessary stripping out work has been carried out, we will then be able to provide a fixed price quotation for the works.

6. I cannot stress the importance of having the property treated in a timely manner. In this instance time really is of the essence.”

But it cautioned that:

“GENERAL NOTES

It must be noted that whilst dealing with dry rot (*Serpula lacrymans*) it is not always possible to fully assess the extent of the outbreak until all exposure works have been finally completed. In the unfortunate event of further works being required, beyond those which can presently be identified within our report, supplementary estimates will have to be submitted.”

It also made the following comments about costs:

COSTS

The cost of the exploratory works at this stage cannot be fully quantified and we suggest that the a [sic] budget sum of between £2-3000.00 be allowed for these works.”

10. Mr Barnard explained that Drystone carried out the exploratory works recommended in the initial report. There was then a further inspection on 28 January 2022 and a further report dated 15 February 2022. The covering letter was addressed to Mr F Perry (Flat 3). It found dry rot in parts of the Basement Flat and in Flats 1, 2 and 3, which had infected floors, floor joists and windows. In particular, in Flat 2 (Ms McDonald’s flat), the “very extensive infection” had caused the bathroom floor to drop and timber sash box windows and lintols to fail. The second report also included recommendations:

“2. It is essential that all organic material is removed from within

the structure of the building. To this end any timber lintels, timber fixing grounds or bonding timbers within the wall structures must all be removed.

3. On completion of all necessary preparation work the following dry rot eradication treatment will be applied by our operatives. All areas of masonry will be drilled using 10mm drill bits approximately 225mm centres on a slight downward angle into 2/3 thickness of the walls.

4. This drilling process is to be repeated on all internal and external walls from lower ground floor level up to the wall plate level of the roof.

5. Fungicidal wall solution will then be injected at pressures of between 50-60 PSI into all pre-drilled holes until full saturation and or refusal is achieved. It is essential that adequate masonry fungicide fluid is injected into the wall to create a toxic area, which will no longer have the capability to sustain further dry rot growth. On completion of mass irrigation, a top surface spray treatment will be applied to all areas until refusal, as a final sterilising measure.

6. Infected floor timbers will need to be removed and replaced with new pre-treated timber joists these should be isolated from the masonry

7. Floor timbers, free from infection, must be treated using a combined fungicide insecticide solvent-based preservative. This is both to supply long-term protection to the floor timbers against both fungal infection and wood boring beetle infestation and to neutralise any spores, which may have been distributed.”

It also advised extensive structural works, replacement of bathrooms and kitchens, replacement of all plumbing and electrical systems as well as making good.

11. There is no dispute Drystone undertook a wide range of works, which included dry rot remedial works to the interiors of the flats, as well as

works to the structure/common parts. These works were mainly to the interiors of the flats.

12. At the hearing, the Tribunal asked about how the cost of works was paid for and it soon became apparent why the bundle omitted material service charge demands and annual service charge accounts. Mr Barnard explained there were none. He said that prior to October 2022, the lessees paid separate contributions to Drystone for the dry rot works to their own flats. The works in the spreadsheet from October 2022 onwards related to what Mr Barnard described as “shared” areas. But Drystone did not issue any invoices to the Applicant for the “shared” area works. Instead, the contractor addressed separate invoices directly to each flat. Indeed, the invoices in the spreadsheet were not always addressed to the lessees of the flats. For example, many of Drystone’s invoices relating to Flat 3 were addressed to “Apple Camping”. Ms McDonald agreed she had never had a demand for payment from the Applicant company. The invoices were always rendered by Drystone.
13. In relation to the works contract itself, Mr Barnard readily acknowledged there were no specifications of works or written costs estimates. There was no written contracts between the Applicant and Drystone. Indeed, there was no secondary evidence at all of the terms of the agreement with Drystone. Mr Barnard stated that Drystone simply carried out the works that were needed, and then rendered invoices based on its time sheets. When asked what would have happened if there had been a dispute about the works (such as the rates charged), Mr Barnard said the arrangement was one of “trust”. He explained at the hearing that there was no contract administrator or managing agent supervising the works. But Drystone did work with quantity surveyors fire safety and fire safety specialists, and their professional fees were included in the sums invoiced to each flat.
14. In mid-2022, Ms McDonald began resisting further payment to Drystone. There is an email dated 6 March 2022 where Ms McDonald

paid £10,000, after having been reassured about the extent of the works. There is an email dated 18 July 2022 stating she disputed “the latest bill apportioned to my flat of £10,000”. Ms McDonald felt the bill “should be nearer the £3,000 mark” and asked if it could be “reduced significantly”.

15. By March 2023, the disputes between the Applicant’s other directors and Ms McDonald widened further. There is a series of Whatsapp messages from around this time, although the precise date and sequence of the messages is not entirely clear. But the gist is Ms McDonald wanted alternative estimates for the works. In one message, dated 1 April 2023, Ms McDonald stated that:

“I thought we legally have to have meetings, votes and agreements to move forward with any work on the freehold. I have already voiced my concerns and presented a more cost effective solution (I believe there legally have to be 3)

I’m interested to know how you are happy to agree to work when you don’t know how much it's costing?”

The exchange appears to end with a message from Robert Hill (Flat 4) that:

“Des has to sign the work off ... So he is not going to sign off other people’s work We need that certificate for the dry rot .. In order to move on to the next stages”

16. Ms McDonald has at all material times also been a Director of the Applicant company, although there is some dispute about her precise involvement in the various works projects. Mr Barnard suggested she was one of the key decision-makers, whereas Ms McDonald suggested she had no direct involvement. The Tribunal did not hear any live evidence to enable it to resolve this dispute. Suffice it to say that the correspondence suggests Ms McDonald took a close interest in the costs of the works. For example, there is an email from Mr Barnard dated 26 June 2023 which states:

“Diana has played a key decision-making role along with the other Directors of the freehold company. She has paid towards the

scaffolding and other joint cost items; she has also been helpful in assisting me to obtain alternative prices for taking down the fire escape as she thought that the cost estimated by your QS John Bennett was excessive. I also understand that either Dianna [sic] or her partner Toby discussed the scaffolding and costs with the scaffolder prior to it being erected”.

Insofar as it is necessary to do so, the Tribunal finds the truth lies somewhere between the two extremes advocated by the parties. Ms McDonald did not instigate the works. But she did work with Mr Barnard to reduce the cost.

17. The somewhat blurred contractual relationship with Drystone was further complicated by the fact that Flat 1 was sold to Alpha House Lettings Ltd in August 2023, Mr Barnard (who was a Director of Alpha House Lettings) became a Director of the Applicant company. Mr Barnard claimed not to have been involved in decision-making about the works, although that was disputed by Ms McDonald.
18. There then followed numerous exchanges between Ms McDonald and the other directors. Essentially, Ms McDonald refused to pay any more money, and the Applicant threatened further action. There is a letter dated 9 May 2023 from the Applicant’s solicitor. In response, Ms McDonald emailed on 14 May 2023, raising the issue of s.20 LTA 1985 for the first time. She said:

“To be clear I have not said I would not contribute towards essential work to be carried out on the Alpha House building, as understand my responsibilities both as a freeholder and leaseholder and do not see this as a dispute - I have merely requested that any further contract with me and the other lessees be under a Section 20 and know I am within my legal rights in requesting this. I have only received an ‘outline estimate’ for all further works to date including many expensive non-essential works - not a quote, and so I have fairly (and again within my legal rights) requested that all further essential works be put out to tender and properly quoted for in a

transparent manner to achieve a reasonable price including a time and payment schedule for lessees to go by, under the correct protocol - a Section 20 of the Landlord and Tenants Act 1985 as advised by another solicitor.

“The work I originally agreed to was based on a verbal quote of £25k, to eradicate dry rot in my flat. and since then I have made it very clear that I will only pay towards things with actual quotes in place in regards to the rest of the building as the costs have become so high. I cannot agree to something with an unlimited budget, and I don't see how anyone else can any more. In doing so I feel I am acting for the good of the Alpha House Management Company Ltd of which i am one of the directors and so have chosen to cc other directors into this email in my continued quest for transparency.”

19. The exchange of correspondence includes emails in 2023 about the involvement of Ms McDonald's mortgagees, Principality Building Society. In an email dated 3 August 2023 from Mr Robert Hill (using the email address alphahousemanagement@gmail.com), Mr Hill stated:

“There is no service charge nor has there ever been? We are looking towards setting this up as soon as we have resolved the bank account issues.”

Ms McDonald forwarded this to the mortgagees on 3 August 2023, telling them “I hope you can see there is no service charge as made clear by the chairman in the email below”. By this stage, Drystone had already issued all but one of the invoices listed in the spreadsheet.

20. The 18 July 2024 meeting minutes record the following:

“A proposal that all essential communal work under £250 per flat can be agreed with a directors majority vote, but anything above this will lawfully have the Section 20 notice protocols applied. Future works are to be paid for from the sinking fund and topped up when necessary, using this system. RH, DB, DM all in agreement.”

It was common ground there were no earlier minutes, although the applicant suggested there were earlier house meetings.

The Lease

21. Before turning to the law, a brief mention should be made about the lease terms. The bundle includes a copy of the lease of Flat 3 dated 17 October 2008. Ms McDonald suggested the lease of Flat 2 was much shorter than this, but the Tribunal did not have a copy of the Flat 2 lease. In any event, the Flat 3 lease is for a term of 999 years from 1 May 2008 at a ground rent of £100pa. By clause 3(vii) of the Flat 3 lease, the lessee agreed:

“(vii) at all times during the said term to pay and contribute by way of payment to the Lessor or (if so desired by the Lessor) to the Lessees for the time being of the remainder of the Lessor’s property one-fifth or a rateable or due proportion of the expenses of (a) insuring the House and (b) carrying out and discharging the repairs services and other expenses specified in Clauses 4(iv) and 4(v) hereof and in each case such proportion in the case of difference to be settled by a Surveyor jointly appointed by the Lessor and Lessee or in accordance with the Arbitration Act 1951”

22. The Tribunal proceeds on the basis that this fairly rudimentary service charge provision appears in the flat leases, whilst acknowledging that Ms McDonald does not accept it necessarily appears in the lease of Flat 2.

The Law

23. Major works costs are limited by s.20 Landlord and Tenant Act 1985:

“20 Limitation of service charges: consultation requirements

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

- (a) complied with in relation to the works or agreement, or

- (b) except in the case of works to which section 20D applies, dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- ...
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Dispensation is dealt with under s.20ZA LTA 1985.

20ZA Consultation requirements: supplementary

- (1) Where an application is made to the appropriate 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

...

- (4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

The material consultation requirements appear in Pt.2 of Sch.4 to the Service Charge (Consultation Requirements) (England) Regulations 2013, but it is unnecessary to set these out here.

24. The statutory context of s.20ZA(1) LTA 1985 was explained by Lord Neuberger in *Daejan Investments Ltd v Benson* [2013] UKSC 14 at [42]:

“[42] So I turn to consider s.20ZA(1) in its statutory context. It seems clear that ss 19–20ZA are directed towards ensuring that tenants of flats are not required (i) to pay for unnecessary services or services which are provided to a defective standard, and (ii) to pay more than they should for services which are necessary and are provided to an acceptable standard. The former purpose is encapsulated in s 19(1)(b) and the latter in s 19(1)(a). The following two sections, namely ss.20 and 20ZA appear to me to be intended to reinforce, and to give practical effect to, those two purposes. This view is confirmed by the titles to those two sections, which echo the title of s 19.”

25. The legal principles underpinning s.20ZA were more recently summarised by Judge Cooke in *RM Residential v Westacre Estates* [2024] UKUT 56 (LC); [2024] L. & T.R. 19 at [9] to [12]. Again, by reference to *Daejan v Benson*:

“9. That provision gives the FTT a discretion to dispense with the requirements. The Supreme Court in *Daejan Investments Ltd v Benson* ... explained how that discretion is to be exercised. At paragraph 44 Lord Neuberger said:

‘44. Given that the purpose of the [consultation requirements] is to ensure that the tenants are protected from (i) paying for inappropriate works or (ii) paying more than would be

appropriate, it seems to me that the issue on which the LVT should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the Requirements.

46. I do not accept the view that a dispensation should be refused in such a case solely because the landlord seriously breached, or departed from, the Requirements. That view could only be justified on the grounds that adherence to the Requirements was an end in itself, or that the dispensing jurisdiction was a punitive or exemplary exercise. ...

50. In their respective judgments, the LVT, the Upper Tribunal and the Court of Appeal also emphasised the importance of real prejudice to the tenants flowing from the landlord's breach of the [consultation requirements], and in that they were right. That is the main, indeed normally, the sole question for the LVT when considering how to exercise its jurisdiction in accordance with section 20ZA(1).'

10. As Lord Neuberger pointed out at paragraph 65, that is the relevant prejudice and no other:

‘The tenants can always contend that they will suffer a disadvantage if a dispensation is accorded; however, as explained above, the only disadvantage of which they could legitimately complain is one which they would not have suffered if the [consultation requirements] had been fully complied with, but which they will suffer if an unconditional dispensation were granted.’

11. So, the consultation requirements are not an end in themselves, and failure to consult is not something to be punished. On many occasions the urgency of the work will have been such that the landlord obviously did the right thing, and acted in the tenants' best interests, in going ahead without waiting to go through the consultation process; see for example *Holding and Management (Solitaire) Ltd v Leaseholders of Sovereign View* [2023] UKUT 174

(LC) , where the landlord acted swiftly to get a fire alarm system installed so as to put a stop to the financial haemorrhage caused by the maintenance of a waking watch. Whether or not the work was urgent, if the tenants have not been prejudiced as a result of the failure to consult then dispensation should normally be granted, and it can be granted subject to conditions.

12. The sort of prejudice that will have a bearing on dispensation is where the tenants can show that they would have been able to suggest a better or cheaper way of doing the work: see for example *Marshall v Northumberland & Durham Property Trust Ltd* [2022] UKUT 92 (LC) where the tenant had expertise such that if he had been consulted he would have made suggestions which would have resulted in the work being done more cheaply. As a result, dispensation was granted on condition that the cost to leaseholders was limited to the sum the landlord would have had to spend had the tenant been consulted.”

Jurisdiction

26. At the hearing, the Tribunal raised the question whether the application related to service charges at all. The answers given by the parties to this question did not differ greatly. Mr Barnard firmly stated that the Applicant did not consider the arrangement with Drystone involved service charges at all. The only reason the Applicant had applied for dispensation was that Ms McDonald had said compliance with the full s.20 LTA 1985 consultation process was necessary. Mr Graham explained the Applicant had therefore been advised by solicitors to apply for dispensation. Ms McDonald initially said that “maybe they are not service charges”. She considered the individual leaseholders were liable to pay Drystone, not to pay anything to the Applicant. The Tribunal also notes the August 2023 correspondence involving the mortgagees, where both Mr Hill and Ms McDonald agreed there was “no service charge”.
27. Although the parties seem to agree the application does not relate to service charges, neither of them is legally represented. For the sake of

completeness, the Tribunal therefore explains why it considers they are correct on the point.

28. The issue is whether there are any “service charges” within the meaning of s.18(1) LTA 1985. This provision states that:

“(1) In the following provisions of this Act “service charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent—

- (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord’s costs of management, and
- (b) the whole or part of which varies or may vary according to the relevant costs.”

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.”

29. The Tribunal considers that whatever the nature of the legal relationship between the lessees and Drystone, there was no contractual relationship between Drystone and the Applicant. This is because:

- (a) The Applicant is (or was) a dormant company with no bank account.
- (b) The two Drystone dry rot reports were addressed to the lessees of two flats, not to the Applicant.
- (c) Separate invoices were rendered by Drystone directly to the lessees in their names.
- (d) No service charge demands were issued by the Applicant to the lessees seeking any contribution to the costs.
- (e) In at least one case, it appears invoices were not even rendered to the lessee of the relevant flat.
- (f) The works in this application followed on from other dry rot works. It is accepted the earlier works involved separate bespoke arrangements with the lessees of individual flats. But there is no

evidence of any contractual document replacing those existing arrangements with an agreement by the Applicant to assume liability to pay Drystone.

30. It follows from the above that “the whole or part of” the charges invoiced by Drystone to the lessees did not vary “according to the relevant costs” within the meaning in s.18(1). This is because the “relevant costs” were not “incurred ... by or on behalf of the” Applicant landlord. The costs were instead incurred by the individual leaseholders. Moreover, the costs were not incurred “in connection with the matters for which the service charge” was payable under clause 3(vii) of the lease of Flat 3 (or any similar provision in Ms McDonald’s lease). This is because the costs were incurred in connection with *ad hoc* arrangements between Drystone and the individual lessees.
31. How does that conclusion effect the application? Unlike s.27A LTA 1985, the Tribunal’s jurisdiction to dispense under s.20ZA LTA 1985 does not expressly refer to “service charges”. But, given the context of s.20ZA, as emphasised by Lord Neuberger in *Daejan v Benson* at [44], the Tribunal may only exercise its powers to dispense where “service charges” have been levied or may be levied. In this case, there are no “service charges”, as defined by s.18(1) LTA 1985, and none are proposed. The Tribunal has no jurisdiction to dispense under s.20ZA LTA 1985.

Dispensation

32. It is therefore strictly unnecessary to consider whether dispensation would be granted. But given the submissions by both parties, the Tribunal will give its views on the substantive application, albeit fairly briefly.
33. First, it is not entirely clear all the works set out in the spreadsheet amounted to a single set of works, which is subject to (a) a single ‘cap’ of £250 per flat applicable to the whole of the works, or (b) separate limits of £250 per flat for (say) fire safety and other works. That may well be a

matter for another Tribunal. But for present purposes the parties assumed they were a single set of works, and that a single dispensation order was appropriate (as opposed to several separate ones).

34. Secondly, it is agreed that no part of the requirements in Pt.2 of Sch.4 to the 2013 consultation regulations were met. The Applicant therefore seeks dispensation from all these requirements, not just part.
35. Thirdly, subject to the above, the costs were plainly incurred in relation to “qualifying works”, as defined by s.20ZA(2) LTA 1985.
36. As to the substance of the application, Ms McDonald raised the issue of non-consultation at an early stage. She stated in correspondence in March 2023 that there should be alternative estimates. Mr Barnard’s email of 26 June 2023 suggests that, where she thought costs were excessive, Ms McDonald had assisted with obtaining “alternative prices for taking down the fire escape”, and this assistance proved “helpful”. Ms McDonald also suggested in submissions that a Quantity Surveyor had told her verbally that she had “paid 40% over the going rate for a top end finish”. Indeed, there is a 2023 Whatsapp message from Ms McDonald to that effect.
37. The Tribunal therefore considers that had Ms McDonald been consulted in accordance with Sch.4, she would have provided assistance similar to that given in relation to the scaffolding. The Tribunal also finds this assistance would have produced a “better or cheaper way” of doing the work, in the sense used by Judge Cooke. Although there is no direct evidence of the financial effect of Ms McDonald’s hypothetical assistance, the informal arrangements with Drystone (without any specification of works, quotations or works contract), would have been particularly susceptible to cost overruns. The secondary evidence of the quantity surveyor’s opinion, and Mr Barnard’s email of 26 June 2023 provides further support for the existence of real financial prejudice. Assuming jurisdiction, the Tribunal therefore finds it would not be

reasonable to dispense with the requirements of Pt.2 of Sch.4 of the 2003 consultation regulations in relation to the major works.

Decision

38. The Tribunal does not have jurisdiction to determine the application to dispense with consultation under s.20ZA LTA 1985. This is because the charges for the cost of the major works were not “service charges” within the meaning of LTA 1985 s.18.
39. If the Tribunal has jurisdiction, it is not reasonable to dispense with the requirements of Sch.4 of the 2003 consultation regulations in relation to the major works.

Appeals

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 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.
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.

APPENDIX

LANDLORD AND TENANT ACT 1985

20B Limitation of service charges: time limit on making demands.

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

LANDLORD AND TENANT ACT 1987

47 Landlord's name and address to be contained in demands for rent etc.

(1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—

(a) the name and address of the landlord, and

(b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.

(2) Where—

(a) a tenant of any such premises is given such a demand, but

(b) it does not contain any information required to be contained in it by virtue of subsection (1),

then (subject to subsection (3)) any part of the amount demanded which consists of a service charge or an administration charge ("the relevant amount") shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a

receiver or manager whose functions include the receiving of service charges or (as the case may be) administration charges from the tenant.

(4) In this section “demand” means a demand for rent or other sums payable to the landlord under the terms of the tenancy.

