FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/32UB/LDC/2025/0640**
Properties	**:**	**Properties at: Toot Lane, Parthian Avenue, Clifton Road, Bartol Crescent, London Road, Elizabeth Road, Carlton Road & Hurle Crescent**
Applicant	**:**	**Lincolnshire Housing Partnership Limited**
Represented by	**:**	**Forbes Solicitors LLP**
Respondents	**:**	**The Residential Long Leaseholders – See Annex A**
Type of Application	**:**	**Landlord and Tenant Act 1985 – Section 20ZA**
Tribunal Members	**:**	**J Fraser FRICS** **J Bissett FRICS**
Date of determination	**:**	**14th January 2026**
Date of decision	**:**	**20th March 2026**

DECISION

DECISION

1. The application to dispense with the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 and The Service Charges (Consultation Requirements) (England) Regulations 2003, in respect of the Works carried out at the properties, is granted.

2. The Works carried out comprise the roof replacement works at various properties, with a total cost of £676,401.03 (assumed to include VAT). No other works are included in this application and determination.

REASONS

Background

3. This is an application made by Lincolnshire Housing Partnership Limited ("the Applicant") dated 25 June 2025, for dispensation of the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 ("the Act") and The Service Charges (Consultation Requirements)(England) Regulations 2003 ("the Consultation Requirements") for the Works as follows: the replacement of roof coverings, including replacement tiles, battens, underfelt, gutters, downpipes, fascias and soffit boards along with insulation levels being increased as required. The Works took place at various blocks of flats ("the Properties") at the following addresses:

    a) Hurle Crescent, Boston, PE21
    b) Parthian Avenue, Wyberton, Boston, PE21
    c) London Road, Wyberton, Boston, PE21
    d) Elizabeth Road, Boston, PE21
    e) Bartol Crescent, Boston, PE21
    f) Clifton Road, Fishtoft, Boston, PE21
    g) Carlton Road, Boston, PE21
    h) Toot Lane, Fishtoft, Boston, PE21

4. Directions were given by this Tribunal on 17 October 2025, inter alia, it was stated that the matter would be determined by way of written submissions and that the parties were invited to inform the Tribunal if they wished to make oral representations at a hearing. No such applications have been received by the Tribunal and the determination has proceeded based on the written submissions provided to us.

5. We have not inspected the Properties which are understood to comprise various small blocks of flats.

The Law

6. Section 20 of the Act provides:

    (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) dispensed with in relation to the works or agreement by (or on appeal from) a 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.*

(4) *The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement-*

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or

(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) *An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be the appropriate amount-*

(a) an amount prescribed by, or determined in accordance with, the regulations, and

(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with the regulations.

(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"*

7. In the event that the requirements of Section 20 have not been complied with, or there is insufficient time for the consultation process to be implemented, then an application may be made to the First-tier Tribunal pursuant to section 20ZA of the Act.

8. Section 20ZA of the Act provides:

> (1) *Where an application is made to a tribunal for a determination to dispense with all or any 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 section (3) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.*

9. In **Daejan Investments Ltd v Benson [2013] UKSC 14** it was determined that a Tribunal, when considering whether to grant dispensation, should consider whether the tenants would be prejudiced by any failure to comply with the Consultation Requirements.

10. In **Wynne v Yates and others [2021] UKUT 278 (LC)** Upper Tribunal Judge Elizabeth Cooke said at paragraph 39:

> "*There must be some prejudice to the tenants beyond the obvious fact of not being able to participate in the consultation process."*

11. In **Marshall v Northumberland & Durham Property Trust Ltd [2022] UKUT 92 (LC)** at paragraph 64 Deputy Chamber President Martin Rodger KC said:

> *"Mr Marshall QC submitted that an absence of prejudice cannot be assumed simply because there is a need to undertake work urgently (by which I mean within too short a period to allow the full statutory procedure to be followed). I agree."*

12. Therefore, the Tribunal must consider whether the Respondents would suffer relevant prejudice by granting the Applicant dispensation from the Consultation Requirements. In the first instance, it is for the Respondents to identify the prejudice caused.

The Applicant's submission

13. The Applicant is a Non-Profit, Registered Provider of Social Housing. They own (either freehold or leasehold) or manage, over 12,000 residential properties which comprise a mixture of social housing rented tenancies, shared ownership leaseholds and reversionary interests on long leases. The properties are let under a variety of tenancies and leases. Those properties let on short-term tenancies are social housing, the Applicant has a statutory repairing duty and does not seek to recover the costs of the works from the tenants. Therefore, they are not party to the proceedings.

14. The leaseholders who are party to these proceedings, own the properties on a long leasehold basis. Sample leases are not provided on the basis that there are various iterations of the standard lease adopted due to the history of ownership of the properties. However, the Applicant says that all leases require the Applicant to keep in repair the structure and exterior of the dwelling-house and of the building in which it is situated (including drains, gutters and external pipes) and to make good any defect affecting that structure (Housing Act 1985, Schedule 6, Paragraph 14(2)) and the Applicant is typically entitled to recover the costs of doing so as a service charge under the terms of such leases (Housing Act 1985, Schedule 6, Paragraph 16A (1)).

15. In September 2022, the Applicant commenced a leaseholder consultation pursuant to Section 20 of the Landlord and Tenant Act 1985, as it had identified that the properties which are the subject of this application needed to have their pitched roof replaced. They say that the works needed doing as the roofs had reached the end of their anticipated lifespan in all of the identified cases. They further say that they were also required to comply with the Decent Homes Standard, which whilst not directly applicable to the leasehold properties, is applicable to rented properties within the same blocks which would be affected by the condition of the pitched roof.

16. The Applicant sent its Notice of Intention on Friday 23 September 2022. However, they say that they failed to allow the full 30 days in relation to the "relevant period", in that responses were required by 22 October 2022, only 29 days later. Further, letters would not be delivered until Saturday 24 September 2022 at the earliest. They say that in any event, no observations were received between 22 October and 27 October 2022.

17. The Applicant sent its Notice of Estimates to the Respondents, on 13 December 2022. However, the Applicant failed to allow the full 30 days in relation to the relevant period, in that responses were required by 12 January 2023, which whilst exactly 30 days later, did not allow for letters to be delivered. They say that they did not receive any observations between 13 and 14 January 2023.

18. The Applicant went on to award the contract and the roofing works were completed by November 2023. Following, complaints were raised when one of the Respondents complained about the consultation process.

19. The Applicant says that the "pressing safety requirements meant that the Repairs had to be carried out as a matter of urgency". They say that the Respondents are unlikely to have suffered any prejudice, that there was no contact from any affected leaseholders during the period when the consultation windows were prematurely closed, and that the Applicant believes that anyone who did have any observation to make would have done so.

The Respondent's submissions

20. There are a large number of objections to the Application from the Respondent long leaseholders. Around half of the objections are generic, using a proforma template. We set out these objections first.

21. The template objections are as follows: the consultation was not completed with sufficient time for proper observations and participation and therefore it does not meet the statutory consultation requirements, the Tribunal is invited to take the "procedural failure" into account when "assessing the reasonableness of any service charge costs claimed". The submissions then draws to the Tribunal's attention Section 19 of the Act and say that the cost of the works should not be regarded as "reasonably incurred within the meaning of Section 19", due to "the deficiencies in the Section 20 consultation process". As a result the Tribunal is requested to find that the consultation requirements have not been met, make a determination that any cost arising from the defective consultation should not be considered reasonably incurred under Section 19 of the Act, or to grant "such other relief or directions as it considers just and appropriate".

22. Detailed submissions are made by a further 17 respondents, contesting the application. Collectively, the submissions raise the following points; pre-acquisition surveys did not identify that the roof was in any serious state of disrepair with Mr Dickson and Ms Wiltshire providing copies of RICS Homebuyer Surveys, commissioned prior to their respective purchases of flats within the blocks. Pre-contract enquiries advised that no section 20 works were anticipated. No surveys or evidence has been provided by the Applicant to demonstrate that the roof was at the end of its lifespan. Costs increased substantially from when the roofing works were first considered by the Applicant several years earlier to the costs when the works were actually carried out. That the Tribunal should impose requirements for disclosure, an independent cost review and limits on recovery. That the prejudice suffered is the lack of compliance with the consultation requirements itself. That on previous occasions other works have not been carried out in accordance with the consultation requirements, which led to the Applicant having to cap recovery on another project at £250 per leaseholder. The Decent Homes Standard is not relevant to the long leaseholders and does not apply. The roof wasn't leaking or in need of repair. The works are improvement works not repairs. There has been poor communication with the Applicant with a lack of reply and failure to provide further information requested. Notices were not received and that some leaseholders were omitted altogether from the consultation that did place. The process has caused leaseholders psychological and financial harm. There were safety concerns during works. The lack of a proper consultation period denied the leaseholders the opportunity to consider a Right to Manage Application. That the burden of proof is on the Applicant to demonstrate that no prejudice has been caused. Receipt of correspondence was affected by a postal strike. More than 2 quotes should have been obtained. The cost is too high. No evidence that the works were urgent. The Applicant has not exercised its duty of care to vulnerable Respondents. Work is not completed to an acceptable standard and damage was caused to communal areas. The cost claimed will lead to financial hardship. That leaseholders who are now being asked to pay, were not the owner at the time of the work. That the costs should have been covered by, or subsidised from, the reserve fund. That due to their professional role and experience (BSc Quantity Surveyor), the leaseholder could have made a positive contribution. That the leaseholders were denied the opportunity to find alternative more competitive contractors and to complete independent surveys.

Determination

23. The Tribunal is being asked to exercise its discretion under section 20ZA of the Act. Section 20ZA (1) provides the Tribunal may do so where "*if satisfied that it is reasonable to dispense with the requirements*".

24. The only issue for the Tribunal to consider is whether granting dispensation would result in relevant prejudice to the Respondents. At paragraph 68 and 69 in Daejan, Lord Neuberger, President said:

> [68] *…. For the same reasons, the LVT should not be too ready to deprive the tenants of the costs of investigating relevant prejudice, or seeking to establish that they would suffer such prejudice. This does not mean that LVT should uncritically accept any suggested prejudice, however far-fetched, or that the tenants and their advisers should have carte blanche as to recovering their costs of investigating, or seeking to establish, prejudice. But, once the tenants have shown a credible case for prejudice, the LVT should look to the landlord to rebut it. And, save where the expenditure is self-evidently unreasonable, it would be for the landlord to show that any costs incurred by the tenants were unreasonably incurred before it could avoid being required to repay as a term of dispensing with the Requirements.*
>
> [69] *Apart from the fact that the LVT should be sympathetic to any points they may raise, it is worth remembering that the tenants' complaint will normally be, as in this case, that they were not given the requisite opportunity to make representations about proposed works to the landlord. Accordingly, it does not appear onerous to suggest that the tenants have an obligation to identify what they would have said, given that their complaint is that they have been deprived of the opportunity to say it. Indeed, in most cases, they will be better off, as, knowing how the works have progressed, they will have the added benefit of wisdom of hindsight to assist them before the LVT, and they are likely to have their costs of consulting a surveyor and/or solicitor paid by the landlord.*

25. Collectively, the leaseholders have set out comprehensive submissions on the reasons why they object to the granting of dispensation. The Tribunal's role in assessing whether the application should be granted is limited to considering whether the Respondents have suffered relevant prejudice due to the failure to consult. Whilst we are provided with detailed submissions from the Respondents, we are not provided any evidence that relevant prejudice has been caused. For example, we are not provided with any comparable quotations, or any reports setting out that works could have been done a different way. This was alluded to in the Respondent's submissions, they say "we were denied the opportunity to find alternative more competitive contractors and to complete independent surveys." Yet, they did not go and find those quotations and instruct such independent surveys. The purpose of these proceedings was to tell this Tribunal what they would have said during the consultation, had it been carried out in accordance with the Consultation Requirements.

26. We considered whether the Homebuyer Reports, prepared prior to acquisition of individual flats, could substantiate prejudice. Mr Dickson's report was carried out on London Road, with an inspection date of 8th December 2021. The roof is assessed as Condition Rating 2. It identifies a lack of ventilation, moss growth to the roof surfaces, a lifted lead flashing, a number of very uneven tiles and advises a further investigation of the valley gutters. Ms Wiltshire's report was prepared March 2021, on London Road (assumed to be a different block), it identified the roof as Condition Rating 1, with advice that the underfelt may be worn.

27. The Homebuyer reports have been prepared for a different purpose, they are to assist property buyers in making an informed decision on the condition of a single property, including communal areas and building elements. It is possible that a roof could be in reasonable condition and rated Condition Rating 1, yet also approaching the end of its expected life span. The two are not necessarily mutually exclusive. The reports were not prepared for the purposes of assisting these dispensation proceedings, refer to only two of the properties and were carried out around 15 and 24 months prior to the works commencing. We find that they do not meet the threshold for demonstrating that the Respondents have suffered relevant prejudice.

28. There is no dispute that the section 20 consultation was not properly carried out. However, the failure to consult at all, or fully in accordance with the procedure, does not in itself lead to a reason to reject the application to grant dispensation. Whilst each application will turn on the facts of that case, it is possible that an Applicant could have made no efforts to carry out a consultation at all and that dispensation could still be granted. The Tribunal's discretion is limited by the legislation and the case law. The burden was on the Respondents in the first instance to identify what relevant prejudice the failure to consult had caused. It was open to them to instruct a solicitor and/or a surveyor to assist in identifying any prejudice. The Respondents could have applied for the reasonable costs incurred in doing so to be recovered as a condition of granting dispensation.

29. We find that the Respondents have not identified any relevant prejudice. We understand and sympathise with the Respondents' detailed submissions however we are unable to reach a different conclusion based on the facts and evidence in this case.

30. Accordingly, dispensation is granted, limited to the works set out above, namely the roof Works, totalling £676,401.03 (assumed to include VAT).

31. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act as to the reasonableness and standard of the work and/or whether any service charge costs are reasonable and payable.

Signed: J Fraser
Chair of the First-Tier Tribunal
Date: 20th March 2026

Annex A – List of Respondent Leaseholders

Mr James Hamilton Godden
Ms Anne Kundrotas
Mrs Rachel Elaine Horne
Miss Kelly Marie Wright
Mr Adam David Dawson
Mr D Green & Mrs Theresa Green
Mr Neil Russell Corey
Ms Emma Jayne Appleby
Mr James Dickson & Mrs Jessica Dickson
Mr Michael Robert Massam
Mr Paul Wilson
Mr Christopher John Pettitt & Mrs Karen Lesley Pettitt
Mrs June Graham
Mrs Bull
Mr Terry Leslie & Mrs Teresa Frances Dobson
Ms Kathleen A S Wiltshire
Ms Marina Rodgers
Ms J Hudson & Mr E Tyrell
Mr Neville Hawkins & Mrs Olutumuninu Hawkins
Mrs Christine Ann Jackson-Parr
Mr Harish Varuaksha Kurup
Mr Peter Alan Sharman
Ms Susan Alice Markham
Mr Stephen Roy & Mrs Julie Ann Roy
Mr Steven John Truepenny & Miss Kelly Louise Nuttell
Patrick Property Limited
Mr Carl Reece
Mr Christopher John Melady
Mrs Glynis Jane George
Ms Irena Voitkevica
Mr Paul Dennis Reynolds Leary
Mrs Doreen Grant & Mr Ian Grant
Mr Timothy John Kingswood & Mrs Kelly Jane Kingswood
Mr Michael Wigglesworth
Miss Jackson
Mr David Ginders
Mr Keith Cartwright
Miss Ashlie Elenor Nuttell
Mrs Julija Dorozkina
Mr James Hamilton Godden
Mr Dennis Owen Househam & Mrs Margaret Househam
Ms Svetlana Gasicka
Miss Hayley Laughton
Mr Christopher George Bradshaw
Mrs Sandra Southerby & Mr Paul Southerby
Mr Anthony Cocks & Mrs Carol Cocks
Mr Luke Rowland
Ms E Harman
Mr Christopher Sansam & Mrs Caroline Sansam
Mr Paul Richard Wakefield & Mrs Angela Louise Wakefield
Ms Bekki A Goor
Mrs Arnold
Mrs Mary Armstrong
Mr Stephen Richard Turner & Mr Andrew Mark Turner
Mr Eric Hezzell
Mr Gary Pagden
Mr Geoffrey Thomas
Ms Jennifer Daphne Wilson
Ms M Green
Mrs Jennifer Ellen Johnson
Miss Georgina Martins
Mr Marius Wawrzyn & Mrs Ewa Wawrzyn
Mrs Norma Brown
Miss Mariola Zdzislawa Polak
Mr James Ronald Bartlett & Mrs Janet Bartlett
Mr Michael Trigg & Mrs Ismena Mary Trigg
Mr David Dooley & Mrs Bojang
Mr Eugen alupului
Mrs Julie Lennon
Mr Kyle Jackson & Ms Jasmine Clare
Miss Rosemary Baumber
Mrs Jenny E Watmore
Miss Lauren Palmer
Mr James Meeds
Mrs P A Atkin
Mr Anthony Comerie & Mrs S Comerie
Miss Agnieszka Wszelaka
Mrs A Skinner
Mr Mark Antony Everitt
Mr Paulius Leonavicius & Miss Svetlana Jermakova

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 to appeal 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 applications 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).