FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00BL/LDC/2025/0671**
Property	**:**	**Palace Court, Palace Street, Bolton, BL1 2DR**
Applicant	**:**	**Mosscare St. Vincent's Housing Group Limited**
Represented by	**:**	**Ward Hadaway 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	**:**	**13th 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 property, is granted.

2. The Works carried out comprise replacement of the lift and lift machinery at a cost of £95,600 excluding VAT. No other works are included in this application and determination.

REASONS

Background

3. This is an application made by Mosscare St. Vincent's Housing Group Limited ("the Applicant") dated 22 September 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 replacement of the lift and lift machinery at Palace Court, Palace Street, Bolton, BL1 2DR ("the Property").

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 Property, it is described in the application as follows:

> *"The Property is a 3-storey purpose-built development constructed in 2002, comprising 12, 2-bedroom residential flats and various common areas."*

6. The works to be carried out comprise replacement of the lift and lift machinery at a total cost of £95,600.00 excluding VAT.

The Law

7. 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"*

8. In the event 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.

9. 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.

10. 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.

11. 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."*

12. 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."

13. Therefore, the Tribunal must consider whether the Respondents would suffer 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

14. The Applicant provides copy leases and highlights the relevant clauses which govern the service charge arrangements. They say that the Works carried out are the replacement of the lift and lift machinery due to the existing lift having reached the end of its serviceable life. The total cost of the works is stated to be £95,600.00. They say that the lift was procured in March 2025, ready for commencement of works in September 2025.

15. They say that the cost of the Works was negotiated and agreed on the basis of a full statutory consultation carried out at a similar development, late 2024. They say that the lift was last replaced in 1981, was at the end of its serviceable life,

lift items did not comply with modern standards and that if high risk items failed it would result in the lift being out of use for weeks/months. They say that therefore they decided to procure a replacement lift before the ongoing maintenance and servicing costs exceeded the replacement cost. A tender analysis completed by the Gerald Honey Partnership (GHP), for the 2024 scheme at another development, is provided. The tenders for the other development ranged in price from £74,200 - £110,480. The lowest price was offered by Kone and they were awarded the contract to replace the lift at this other development. On this basis the Applicant instructed GHP to negotiate directly with Kone for the lift replacement works at Palace Court that are the subject of this application.

16. GHP prepared an analysis compared to other lift replacement projects they had knowledge of ranging from circa £78,472 - £86,000. They highlight that the other projects were for buildings with 3 – 4 floors, whereas the subject is six floors and that the increased cost quoted by Kone is therefore reasonable. Kone originally quoted £96,700, which following negotiation, was reduced to £95,600. GHP advised the applicant to proceed with the Kone quote and place an order.

17. It is not clear to the Tribunal why GHP describe the subject property as having six floors. It is described by the Applicant as a three-storey building.

18. The Applicant says that despite works having been commenced, they took some of the consultation steps so that the Respondents could "be involved with the overall Works project". They say that no observations or responses were received.

The Respondent's submissions

19. Dr Alison Taylor is the only Respondent to have provided submissions to the Tribunal. Dr Taylor objects to the application to grant dispensation. Dr Taylor says that the consultation requirement exist to; protect leaseholders from unexpected charges, to allow leaseholders to be informed of the works, provide the opportunity to comment, raise concerns and nominate contractors.

20. Dr Taylor challenges how it was determined that the lift was beyond reasonable repair, queries whether an independent survey was undertaken and queries when the contract to provide the lift was entered into, and then states: "*I object totally here as to why dispensation should be granted based on the lack of regard to the importance of why Section 20 exists in the first place to protect leaseholders from unexpected charges"*. Further, Dr Taylor observes that it appears that the urgent application has arisen only so that costs can be recovered from the leaseholders.

21. Further submissions are made that the consultation period wasn't complied with, works had started prior to, or during the consultation period and that observations were received by the Applicant, including the bundle for this application which included observations/objections. Dr Taylor queries what was the tender period, was it specific to Palace Court and how was the

contractor selected.

22. In summary, Dr Taylor says she has not been effectively and fairly included in the section 20 consultation process. No other objections have been received.

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 prejudice to the Respondents. The only objections to the application are those raised by Dr Taylor.

25. Dr Taylor's objections centre around the lack of proper consultation itself. However, this alone, is not sufficient to result in dispensation being refused. For the Tribunal to be satisfied that some prejudice exists, the Respondent needed to identify that prejudice. It was open to the Respondents to investigate whether they had suffered any prejudice and, if costs were incurred in investigating that prejudice, for example by instructing a solicitor and/or a surveyor, it was open to the Respondents to submit that reasonable costs incurred in doing so be paid by the Applicant, as a condition of dispensation. As an example, we are not provided with any alternative quotations, or evidence that the works were unnecessary or could have been done another way.

26. 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/o solicitor paid by the landlord.

27. Whilst we understand the submissions of Dr Taylor, 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. 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 prejudice the failure to consult had caused. We find that the Respondent has not identified any prejudice.

28. Accordingly, dispensation is granted, limited to the works set out above, namely the lift and lift machinery replacement works totalling £95,600 excluding VAT.

29. 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: 13th March 2026

Annex A – List of Respondent Leaseholders

1. Mr G J Connell
2. Miss R Collins
3. Miss M Mulvaney
4. Ms C R Linton-Ford
5. Mr S Flannigan
6. Mr R Heaton
7. Miss J Okhiria
8. Mr K Blenkinship
9. Mr L Ka Long
10. Mr P Cunliffe
11. Dr A Taylor
12. Miss S J Makinson & Mr D J Oliver

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).