



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

**Case Reference** : **LON/00BK/LDC/2025/0881**

**Property** : **Marsham Court, Marsham Street,  
London SW1P 4LA ( the “Property”)**

**Applicant** : **Marsham Court Management**

**Representative** : **Haus Block Management**

**Respondents** : **154 leaseholders  
at the Property**

**Representative** : **None**

**Date of Application** : **16 September 2025**  
**Revised Application** : **27<sup>th</sup> March 2026**

**Type of Application** : **An application under section 20ZA of  
the Landlord and Tenant Act 1985 for  
retrospective dispensation from  
consultation prior to carrying out  
works**

**Tribunal** : **Tribunal Judge Ian Holdsworth**

**Date and venue of  
hearing** : **16 April 2026  
Remote**

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**DECISION**

The Tribunal determines to allow this application to dispense retrospectively with the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 in respect of works to remove or encapsulate asbestos located in the boiler room at the Property ( the “**Asbestos works**”) necessary to mitigate the risks identified by the AsMatt Ltd report ( the ‘**AsMatt report**’) provided these works fall under the Landlord’s obligations contained in the leases of the flats.

**This application does not concern the issue of whether any service charge costs will be reasonable or payable. The leaseholders will continue to enjoy the protection of Section 27a of the Act.**

The Tribunal directs the applicant to send a copy of this Decision to the leaseholders and to display a copy in the common parts of the building.

## **The Application**

1. The applicant made an application on 16 September 2025 to dispense with the consultation requirements imposed by Section 20 of the Landlord and Tenant Act (the “**Act**”). The application affects some 154 leaseholders at Marsham Court, Marsham Street, London SW1P 4LA (the “**Property**”) whose names are annexed to the application form. The applicant asserts that it was necessary to remove asbestos or encapsulate asbestos materials in the boiler room as identified in the AsMatt re-inspection survey report dated 17 July 2025.
2. On 13 November 2025 the Tribunal gave directions. A reply form was attached to the directions to be completed by the leaseholders who oppose the application.
3. An initial determination was made on the papers following the 16 September 2025 application. The information provided to the Tribunal to make that determination was incomplete, and this led to several misconstrued statements in the Tribunal decision. The Tribunal set aside that decision and directed that the applicants should submit a new hearing bundle complete with all relevant information. This was done by 27<sup>th</sup> March 2026, and it is this bundle upon which the Tribunal has relied in making this revised determination.
4. The Tribunal notified the applicant that they would determine the application based on written representations unless any party requested an oral hearing. There was no request from any leaseholder or applicant for an oral hearing.

## **Background**

5. The Building is a multi-storey purpose block built consisting of 154 flats and one commercial unit. These units are divided into four cores with two communal entrances. The property was built in or around 1937.
6. In July 2025, AsMatt Ltd carried out an inspection of the boiler room which revealed extensive asbestos cladding and insulation which posed a contamination risk to persons required to work in that location. The report made recommendations for removal or encapsulation of this potentially dangerous material.
7. Three cost quotations are provided in the bundle for the Asbestos works, and these are as follows:

- £18,360 exclusive of VAT submitted by AsMatt dated 18 July 2025;
- £21,300 exclusive of VAT offered by Full Circle Compliance dated 17 July; and
- £21,330 exclusive of VAT given by Decontaminate Asbestos Services ( “**Decontaminate**’ ) dated 6<sup>th</sup> August 2025.

Gawen Cox of Langley Taylors Building Consultancy llp who acted as a supervising surveyor on behalf of Haus Block Management adjudicated the quotations and secured from each contractor a likely commencement date for the works (see Applicants Bundle AB page 86). Decontaminate gave a start date 3 weeks earlier than the other contractors and although more expensive than AsMatt were selected to undertake the works. Decontaminate then commenced work on the Asbestos works on or around 6<sup>th</sup> October 2025.

8. The Applicants confirmed in their Statement of Case that they did not carry out any consultation with the leaseholders prior to carrying out either the asbestos works. They contend the Asbestos works were urgent and essential and that any delay would have had a material impact on the well-being of the residents at Marsham Court. They said that the periodic inspections of the gas fired central heating boiler had lapsed because of the potential contamination threat from the asbestos in the boiler room.
9. The Tribunal notes that the only issue which we are required to determine is whether it is reasonable to dispense with the statutory consultation requirements.

### **Statutory Duties to Consult**

10. The obligation to consult is imposed by Section 20 of the Act. The proposed works are perceived as qualifying works. The consultation procedure is prescribed by Schedule 3 of the Service Charge (Consultation Requirements) (England) Regulations 2003 (“**the Consultation Regulations**”). Leaseholders have a right to nominate a contractor under these consultation procedures.
11. The Landlord is obliged to serve leaseholders and any recognised tenants association with a notice of intention to carry out qualifying works. The notice of intention shall, (1) describe the proposed works, (2) state why the Landlord considers the works to be necessary, and (3) contain a statement of the estimated expenditure. Leaseholders are invited to make observations in writing in relation to the proposed works and expenditure within the relevant period of 30 days. The Landlord shall have regard to any observations in relation to the proposed works and estimated expenditure. The Landlord shall respond in writing to any person who makes written representations within 21 days of those observations having been received.

12. Section 20ZA (1) of the Act provides:

*“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’*

### **Determination**

13. This determination relies upon a bundle of papers of 141 pages which include the application, the Directions, a Statement of Case, a copy of an order 1 form , copy of an Asbestos Re-inspection Survey Report, Three quotations for asbestos remedial works, copies of relevant correspondence and a copy of a specimen lease.
14. The Supreme Court’s decision in the case of **Daejan Investments Ltd v Benson and Ors [2013] 1 W.L.R. 854** clarified the Tribunal’s jurisdiction to dispense with the consultation requirements and the principles upon which that jurisdiction should be exercised.
15. The scheme of consultation provisions is designed to protect the interests of leaseholders, and whether it is reasonable to dispense with any requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose. The purpose of the consultation requirements is to ensure that leaseholders are protected from paying for works which are not required or inappropriate, or from paying more than would be reasonable in the circumstances.
16. The Tribunal needs to consider whether it is reasonable to dispense with the consultation. Bearing in mind the purpose for which the consultation requirements were imposed, the most important consideration being whether any prejudice has been suffered by any leaseholder because of the failure to consult in terms of a leaseholder’s ability to make observations, nominate a contractor and or respond generally.
17. The burden is on the landlord in seeking a dispensation from the consultation requirements. However, the factual burden of identifying some relevant prejudice is on the leaseholder opposing the application for dispensation. The leaseholders have an obligation to identify what prejudice they have suffered because of the lack of consultation.
18. The Tribunal is satisfied that the works were of an urgent nature and they were for the benefit of and in the interests of both landlord and leaseholders in the Property. The Tribunal are mindful of the potential health and safety risks to persons accessing the boiler room with an extant asbestos contamination risk and the restriction these risks placed on the maintenance staff of the communal gas boiler.

19. The Applicants tell the Tribunal in their Statement of Case that the communal boiler is typically turned on at or around 1<sup>st</sup> October of each year. By timing the Asbestos works to begin early October 2025 there was only a slight delay in starting the communal heating boiler at the Property. This ensured continuity of heating supply to the residents at a time of the year associated with colder temperatures and inclement weather.
20. The Applicants also advised in their Statement of Case that the gas safety certificate had lapsed at the Property because gas safety engineers were unable to access the boiler room due to the Asbestos contaminates. The Asbestos works removed this obstacle to access and the safety engineers inspected and validated the communal boiler mid-October 2025 following completion of the works.
21. The Tribunal noted that no leaseholders objected to the grant of dispensation. This suggests that the benefit of carrying out these works urgently is recognised by the residents of the premises.
22. The Tribunal addressed its mind to any financial prejudice suffered by the leaseholders due to any failure to consult. They did not identify any such prejudice.
23. The Tribunal has taken into consideration that the leaseholders have not had the opportunity to be consulted under the 2003 Regulations. In view of the circumstances under which the works became necessary the Tribunal does not consider that the leaseholders, in losing an opportunity to make observations and to comment on the works or to nominate a contractor, were likely to suffer any relevant prejudice.
24. The Tribunal having considered the evidence is satisfied that it is reasonable to dispense with the consultation requirements in this case. In the circumstances, the Tribunal makes an order that the consultation requirements are retrospectively dispensed in respect of the necessary works identified in the AsMatt report to remedy the identified asbestos material contamination to the boiler room subject to these works falling under the landlord's obligations under the leases of the flats.

**Chairman:** Ian B Holdsworth Valuer Chairman

Dated: 16 April 2026