FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/42UE/LDC/2025/0626**
Property	**:**	**Mere View Court, Thompson Close, Haughley, IP14 3GQ**
Applicant	**:**	**Victoria Trawford**
Respondent	**:**	**All leaseholders of dwellings at the Property**
Type of application	**:**	**Section 20ZA Landlord and Tenant 1985 – To dispense with the requirement to consult leaseholders about the works**
Tribunal member(s)	**:**	**Judge Adcock-Jones**
Venue	**:**	**Decided on the papers at 197 East Road, Cambridge, CB1 1BA**
Date of decision	**:**	**12 June 2025**

DECISION

Decision of the Tribunal

The Tribunal grants an order dispensing with the consultation requirements imposed under section 20 of the Landlord and Tenant Act 1985 in respect of works relating to the repair of pipework to prevent the potential collapse of the ceiling.

The Application

1. The Applicant seeks an order pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") for a dispensation of the consultation requirements imposed under section 20 of the 1985 Act and set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 ("the 2003 Regulations") in respect of works relating to the repair of pipework to prevent the potential collapse of the ceiling.

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Hearing

2. The parties did not request a hearing and so the matter was dealt with on the papers.

Background

3. The Property comprises of 32 flats in an extra care facility including four one-bedroom properties and twenty eight two bedroom properties. All properties are leasehold.

Directions

4. The Tribunal issued directions on 1 May 2025 providing for service of the Application, directions, description of the relevant works for which dispensation is sought, estimate of the costs of the relevant works and any other evidence relied upon on the Respondents being the leaseholders of dwellings at the Property who may be liable to pay a service charge to contribute towards the costs of the relevant works.

5. Provision was further made for the Respondents to be given an opportunity to respond to the Application and the Tribunal did not receive any responses from the leaseholders.

Inspection

6. The Directions issued did not provide for an inspection of the Property and no request for an inspection was made by the Parties. The Tribunal did not consider an inspection to be necessary or proportionate to the issue.

The Applicant's Case

7. The Applicant's case is set out in the application dated 7 May 2024 and is made by the Housing and Care Manager of the Property. Housing 21 is the landlord of the Property.

8. The Applicant has provided a description of the works for which dispensation is sought and these relate to significant pipework repairs for a number of the flats within the Property.

9. The Application states that works were due to an emergent situation where the structure of the building would be at risk and the health and safety of the residents could be seriously affected. The risk would be the failure of the structure of the ceiling, which could have collapsed, had the works not been completed.

10. The Applicant has provided the following evidence for works undertaken to the Property:

Document	**Item**	**Cost**
Email from Smart AIM Solution Limited dated 24 February 2024	Confirmation of works completion	-
Estimate from Smart AIM Solution Limited dated 16 January 2024	Estimate setting out repairs required	£24,019.94 inclusive of VAT

11. The sample lease dated 22 August 2007 provides at clause 5(2) to keep the Property insured against risks as set out within the Lease and to maintain repair redecorate renew and improve "the pipes sewers drains cisterns and tanks and other gas electrical drainage ventilation and water apparatus and machinery in under and upon the Building or the Estate" per clause 5(3)(b).

12. The leaseholder's obligations relating to service charges are set out under clause 3(2)(b) and further at clause 7 which provides for the service charge payment mechanism.

13. Accordingly, the Lease provides for the landlord's obligation to repair the items subject to the Application.

The Respondent's Case

14. The Tribunal is satisfied of the evidence provided in respect of the letter dated 8 May 2025 that the Respondents have been served in accordance with the Directions.

15. Whilst the Directions invited representations from the Respondents, no representations have been received, although the Tribunal has noted the list of residents who have signed to confirm that they do not object to the Application.

16. For the sake of completeness, it would have been of further assistance if such document had included the date of signature. Further, the list does not include those leaseholders who have deceased and the Tribunal notes that a signature by the executors or administrators of the deceased's estate would have sufficed.

The Law

17. Section 20 of the 1985 Act provides that:

(1) Where this section applies to any qualifying works……., 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 leasehold valuation tribunal.

18. The effect of section 20 of the 1985 Act is that the relevant contributions of tenants to service charges in respect of "qualifying works" are limited to an amount prescribed by the 2003 Regulations unless either the relevant consultation requirements have been complied with in relation to those works or the consultation requirements have been dispensed with in relation to the works by (or on appeal from) the tribunal.

19. "Qualifying works" are defined in s.20ZA of the 1985 Act as "works on a building or any other premises", and the amount to which contributions of tenants to service charges in respect of qualifying works is limited (in the absence of compliance with the consultation requirements or dispensation being given) is currently £250 per tenant by virtue of Regulation 6 of the 2003 Regulations.

20. Section 20ZA of the 1985 Act provides:

(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.

21. The basis on which this discretion is to be exercised is not specified.

22. The consultation requirements for qualifying works are set out in Schedule 4 of the Service Charges (Consultation Requirements) (England) Regulations 2003.

The Tribunal's Decision

23. The Tribunal referred to the authority of *Daejan Investments Limited v Benson et al* [2013] UKSC 14 which sets out the Tribunal's jurisdiction to dispense with the consultation requirements and the principles upon which that jurisdiction should be exercised.

24. The scheme of the provisions is designed to protect the interests of leaseholders, and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.

25. 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.

26. The Tribunal needs to consider whether it is reasonable to dispense with the consultation process. 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.

27. The burden is on the Applicant 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.

28. The Tribunal is satisfied that the works are qualifying works to which the provisions of section 20 of the 1985 Act and the 2003 Regulations apply.

29. The Tribunal noted from the papers that the Property has suffered from several leaks in the ceilings of the communal areas over the last couple of years which was resulting in continuous call out charges and water and heating being turned off. The Applicant asked Smart AIM Solutions Limited to carry out a full survey which revealed that there were over thirty active leaks in the ceilings and temporary plastic fixings on hot water pipes which were not suitable for long term use. There was also evidence of corrosion of the pipework.

30. The Tribunal also considered the various photographs produced showing the problems with the pipework within the Property. The Tribunal notes that it would have been of assistance to have been provided with Invoice 5272 as referred to in the correspondence of Smart AIM Solutions as only the estimate was provided. However, the Tribunal is satisfied that Smart AIM Solutions Limited were subsequently engaged after providing the estimate and the relevant works were carried out from the papers provided in the week of 23 to 26 April 2024.

31. The Tribunal is satisfied that the works are for the benefit of and in the interests of both landlord and leaseholders of the Property given that the works provide for the repair of the pipework within the Property and to prevent the risk of ceiling collapse which would result in substantial Property damage and a risk to residents' health and safety if allowed to continue without expedient repair.

32. The Tribunal again records that no response to the Directions from the Respondents was received and the list of signatories confirming no objection to the application as included within the papers, although again the Tribunal notes that no confirmation appears to have been sought from the executors or administrators of the estates of deceased leaseholders. Therefore, none of the leaseholders objected to the grant of dispensation.

33. The Tribunal considered any financial prejudice suffered by the leaseholders due to the failure to consult. Whilst it would have been prudent to have provided the Tribunal with other quotations, the Tribunal is satisfied that no financial prejudice appears to have occurred.

34. The Tribunal has taken into consideration that the leaseholders have not had the opportunity to be consulted under the 2003 Regulations. However, the works were urgent given the extent of the pipework repair required. The Tribunal also notes that the works would likely be required to facilitate the insurance of the Property.

35. The Tribunal is satisfied that whilst the leaseholders were not initially given an opportunity to make comments on the works or nominate a contractor, again it is noted that they have not objected to the application and signed a document to confirm as such. Whilst they initially lost the opportunity to make observations and to comment on the works or to nominate a contractor, they do not appear to have suffered any significant prejudice. The Tribunal notes if the works were not carried out, then the potential prejudice to the leaseholders and increased risk of damage would be significant.

36. Accordingly, the Tribunal having considered the evidence, is satisfied that it is reasonable to dispense with the consultation requirements as requested by the Applicant. The Tribunal therefore makes an order that the consultation requirements are dispensed with in respect of the repairs to the pipework to prevent the collapse of the ceiling.

37. This application relates solely to the granting of dispensation. If, when they are charged, the relevant leaseholders wish to contest the reasonableness of the costs, or challenge any service charge, then they retain the right to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

Name: Judge Adcock-Jones **Date:** 12 June 2025

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).