FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AW/LDC/2025/0936**
Property	**:**	**Chesil Court, Chelsea Manor Street, London SW3 5QR**
Applicant	**:**	**Chesil Court RTM Limited**
Representative	**:**	**Heidi Benningfield of Hillgate Management, managing agents for the Applicant**
Respondents	**:**	**The residential leaseholders of the Property**
Type of application	**:**	**Dispensation from compliance with statutory consultation requirements**
Tribunal member	**:**	**Judge P Korn**
Date of decision	**:**	**29 April 2026**

DECISION

Description of hearing

This has been a remote hearing on the papers. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in an electronic bundle, the contents of which I have noted. The decision made is described immediately below under the heading "Decision of the tribunal".

Decision of the tribunal

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application, although the parties should note the contents of paragraph 24 below.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ("**the 1985 Act**") from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.

2. The qualifying works which are the subject of this application comprise the upgrading/replacement of the fire alarm system. The Property is a block of 68 residential flats which is over 18 metres high. The Property is managed by a right-to-manage company assisted by managing agents.

Applicant's case

3. The Applicant's managing agents state that it was noted that the Property's fire alarm system was aged and that parts were not readily available. The panel held over 70 faults that could not be cleared, and there was a visit from the London Fire Brigade scheduled and it was felt prudent to upgrade the alarm system as quickly as possible in order for it to be compliant and for residents to be safe. The intention was for the system to be upgraded to the standard needed for a high rise building with linked alarms to the flats.

4. The managing agents discussed the position with the Applicant's board of directors and presented relevant information. The board then voted to upgrade the fire alarm system and to apply for dispensation from formal consultation for the sake of speed and the safety of the residents. The managing agents informed the other leaseholders of this decision at the AGM and sent out further information to leaseholders when the contractor was selected and then sent out full information about the system proposed. They state in the application that dispensation is required in order to get the system in place as quickly as possible so as to ensure the safety of the residents and of the building, because a panel holding 70 faults is not safe and breaches fire safety guidelines.

5. The hearing bundle includes a Fire Alarm Maintenance Report by Pyrotronix Fire & Security showing various failings in the fire alarm system. It also contains a quote for the work, and the managing agents state that they opted for a linked fire alarm with a stay put policy as the compartmentation did not pass safety standards. They acted on the

advice of the fire brigade and a representative from the Building Safety Alliance at a conference.

Responses from the Respondents

6. Out of the 68 leaseholders only 2 have responded to the application, Therese Hewlett and Ushma Parmar. Neither of those leaseholders expressed a wish for an oral hearing, and Ushma Parmar has made no written submissions or objections to the application.

7. Ms Hewlett initially stated that she would not be making any written submissions, but it appears that this was as a result of ill health at the time. Ms Hewlett later applied for and was granted an extension of time in which to make representations, and she has given a witness statement which is dated 13 February 2026.

8. In her witness statement, Ms Hewlett states that a Fire Risk Assessment ("**FRA**") was completed in April 2024 and remained valid until March 2026 and did not identify a requirement for immediate full replacement of the fire alarm system. Notwithstanding this, the replacement works proceeded prior to the commissioning of an updated FRA.

9. Ms Hewlett adds that fire alarm panel faults were known when the Applicant assumed management on 1 April 2025, and at the Annual General Meeting held in June 2025 the fire alarm system was recorded as being outdated and having several faults, and reference was made to upgrading the system urgently. On 28 April 2025 a quotation was obtained from Pyrotronix and on 29 May 2025, a further quotation was obtained from DPJ Contractors. These quotations were not circulated to all leaseholders when obtained and were provided to her only upon specific request.

10. Ms Hewlett goes on to state that the issue of panel faults was known from April 2025, that no statutory consultation was undertaken before works commenced on 5 November 2025 and that the works did not proceed continuously and were only completed in January 2026. Leaseholders were not given the opportunity to comment on scope, specification, method of installation, or overall financial exposure prior to commencement. She submits that in the circumstances dispensation should not be granted unconditionally. If the tribunal is minded to grant dispensation, she requests that it be subject to appropriate conditions, including preservation of leaseholders' rights to challenge the reasonableness and recoverability of costs, and that the costs of this dispensation application should not be recoverable through the service charge or reserve fund.

The relevant legal provisions

11. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited … unless the consultation requirements have been either (a) complied with … or (b) dispensed with … by … the appropriate tribunal"*.

12. Under Section 20ZA(1) of the 1985 Act *"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…, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"*.

Tribunal's analysis

13. The Applicant has explained why the works were considered urgent and why, therefore, it seeks retrospective dispensation from compliance with the statutory consultation process.

14. As is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key issue when considering an application for dispensation is whether the leaseholders have suffered any prejudice as a result of the failure to comply with the consultation requirements.

15. In this case, only one of the 67 Respondents has expressed any objections in relation to the failure to go through the statutory consultation process. In addition, whilst she has given a witness statement she has not requested an oral hearing. Whilst this may be for health reasons and therefore perfectly understandable, it means that neither the tribunal nor the Applicant has had an opportunity to test her evidence through cross-examination and therefore less weight should be placed on her evidence than if it had been available to be tested at a hearing.

16. Ms Hewlett states that the FRA completed in April 2024 did not identify a requirement for immediate full replacement of the fire alarm system. Whilst this is true, the concerns expressed by the managing agents about the fire alarm system were based on faults identified a year after the FRA was issued, and on the evidence before me there is no credible basis on which to conclude that the Applicant and its advisers reached their conclusion as to the urgency of carrying out these works otherwise than in good faith and on the basis of the information available to them at the time.

17. As regards Ms Hewlett's comment about the timeline, even assuming that the Applicant knew about the faults as early as 1 April 2025 it then (even by Ms Hewlett's own admission) obtained its first quotation for the work on 28 April 2025, which is not such a long gap. The Applicant then (again by Ms Hewlett's own admission) obtained a second

quotation on 29 May 2025, and therefore although the Applicant did not comply with the statutory consultation process it did at least go part of the way towards doing so by obtaining more than one quotation.

18. The information provided by the Applicant in support of its application for dispensation is quite thin, and therefore it is unclear for example why the work did not commence until 5 November 2025. Had the Applicant known that it would take until November 2025 for the work to commence then it might have had time to go through a full consultation process without delaying the works, but (a) it did not have the benefit of hindsight at the start of the process, (b) it might be that due to pressure of work any competent contractor would still have needed a lead-in time of several weeks before being available to start the work and (c) there may be other factors in relation to timing that the Applicant or its managing agents could have explained at a hearing.

19. Ms Hewlett notes that leaseholders were not given the opportunity to comment, but this is simply to restate the obvious consequence of a failure to consult. What is missing from Ms Hewlett's submissions, though, is any tangible evidence of actual prejudice suffered by leaseholders.

20. As is clear from the decision of the Supreme Court in *Daejan*, there needs to be enough evidence of actual prejudice such that the landlord then has a case to answer, in which case the burden then falls back on the landlord to rebut the leaseholder's case. As Lord Neuberger specifically puts it at paragraphs [67] and [68] of *Daejan*: *"the factual burden of identifying some relevant prejudice that they would or might have suffered [should] be on the tenants … but, once the tenants have shown a credible case for prejudice, the [tribunal] should look to the landlord to rebut it"*.

21. As noted above, the Applicant's statement of case is quite thin, and the Applicant should have made more effort when compiling it. However, 66 out of 67 leaseholders have expressed no concerns, and the only leaseholder to object (a) has not had her witness evidence tested at a hearing and (b) in my view has not made a basic case identifying some relevant actual prejudice as having been suffered, particularly if one bears in mind that in the case of works which are stated to be urgent for safety reasons the issue of safety is part of the factual matrix as to whether leaseholders have suffered prejudice through the landlord proceeding without waiting for a formal consultation process to take place.

22. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements and, given the possible urgency of the works, the lack of objection from 66 out of 67 leaseholders and the lack of evidence of actual prejudice, I consider that it is reasonable to dispense with the consultation requirements.

23. As is also clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any specific prejudice suffered by leaseholders. Ms Hewlett has requested the preservation of leaseholders' rights to challenge the reasonableness and recoverability of costs, and I can confirm that – regardless of my decision on dispensation – the leaseholders still have a separate right to challenge the reasonableness of the cost under section 27A of the 1985 Act.

24. Ms Hewlett has also requested that the costs of this dispensation application should not be recoverable through the service charge. This request should have been made by way of a formal cost application under section 20C of the 1985 Act, not least because this would then have given the Applicant an opportunity for a formal response. In any event, whilst I do not know whether the Applicant intends to recover the cost of making the dispensation application through the service charge, I do not see any good reason for making an order prohibiting the Applicant from putting that cost through the service charge. The dispensation application has been successful, the Applicant is a right-to-manage company which presumably does not have sources of funding other than the service charges, and Ms Hewlett has in my view not shown that it was inappropriate or unreasonable for the Applicant to have made the application.

25. Accordingly, I grant unconditional dispensation from compliance with the consultation requirements, although as stated above **this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works**.

Name: Judge P Korn **Date:** 29 April 2026

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).