



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

Case reference	:	CAM/00KF/LDC/2024/0605
Property	:	110 Oakleigh Park Drive, Leigh on Sea, Essex, SS9 1RU
Applicant	:	Long Term Reversions (Harrogate) Limited
Representative	:	Warwick Estates Property Management Limited
Respondent	:	All leaseholders/tenants of dwellings at the Property who may be liable to contribute towards the costs of relevant works
Representative	:	None
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	:	9 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 dormer(s) and flat roof areas.

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 repair of dormer(s) and flat roof works.

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 a building converted into three residential flats.
4. The Applicant is the landlord which has appointed Warwick Estates Property Management Limited as its managing agents.
5. The Applicant claims that the works urgently need to be carried out to prevent further water leaks which are causing water ingress into the Property. The Applicant asserts that they cannot wait until the section 20 consultation process has been completed and due to the change in season and frequency of rainfall increasing, the roof is further deteriorating and causing more damage to the Property.
6. A Notice of Intention dated 9 October 2024 has been issued to all leaseholders and a manual service charge demand and covering letter dated 9 October 2024 has been issued to all leaseholders, the latter noting that there are insufficient funds in the reserve fund to cover the full cost of the repairs.

Directions

7. The Tribunal issued directions on 13 March 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.
8. 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

9. 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

10. The Applicant's case is set out in the application dated 10 October 2024.
11. The Applicant has provided a description of the works for which dispensation is sought and these relate to;
- investigation costs for attendance to investigate roof leak of £420 inclusive of VAT, attendance to inspect damage in flat 110b of £165 inclusive of VAT;
 - initial works to strip the entire flat roof, re-level and complete a new three-layer torch on felt system including two layers of undercoat and a layer of top coat. The front third storey dormer was stripped back and re-felted - both works totalling £5,400 inclusive of VAT;
 - additional works identified during initial works to replace the dormer roof with a three layer torch on felt system, new zinc on the dormer with new soakers and cladding installed for £2,400 inclusive of VAT.
12. The Applicant has provided the following evidence for works undertaken to the Property:

<u>Document</u>	<u>Item</u>	<u>Cost</u>
JT Roofings Invoices	For completed works as set out in application	£5,000 plus VAT
Report from Xtra Maintenance Ltd	Shows damage in flat 110b	£350 plus VAT
Xrtra Maintenance Ltd Invoices	For initial investigations	£137.00 plus VAT
Xtra Maintenance Ltd Quotation	For initial investigations	£900 plus VAT for labour and £4,500 plus VAT for works
Chadwell Quotation	For initial works identified	£5,975.00 plus VAT
BB Roofing Quotation	Alternative quotation for works	£5,200 (no VAT)
Explanation of JT Roofings Appointment	-	-

13. The sample lease dated 17 May 1985 provides at clause 1(e) that “The expression “repair” includes rectification or making good of any defect

in the foundations or structure of the Building notwithstanding that it is inherent or due to the original design thereof”.

14. Clause 3(7) provides for the landlord’s covenant to “maintain repair decorate and renew those matters set out in Part 1 of the Fifth Schedule”.
15. Part 1 (ii) of the Fifth Schedule provides for “maintaining repairing decorating and renewing (a) the main structure and in particular the foundations the roof gutters and rainwater pipes of the Building”.
16. The leaseholder’s service charges are set out under clause 2(13) which provides for the contribution and payment of “the proportion” as set out in Part 5 of the First Schedule.
17. Accordingly, the Lease provides for the landlord’s obligation to repair the items subject to the Application.

The Respondent’s Case

18. The Tribunal is satisfied of the evidence provided in respect of the letter dated 20 March 2025 that the Application, Directions and requested information were served upon the Respondents on 20 March 2025.
19. Whilst the Directions invited representations from the Respondents, no representations have been received, although the Tribunal understands from the papers that the leaseholders subsequently opted to proceed with works being carried out by JT Roofing and Guttering.

The Law

20. 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.*

21. 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.
22. "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.

23. 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.

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

25. 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

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.
32. The Tribunal noted the contents of the description of works required by JT Roofing and Guttering and within the report of Xtra Maintenance Limited which was served upon the leaseholders. The Tribunal further notes the contents of the Notice of Intention and Demand which were served on the leaseholders and as referred to in the Application.
33. The Tribunal noted from the Xtra Maintenance Ltd report the description of the damage to flat 110b that the water ingress was causing brown water stains in the living room and bedroom noting that this occurred because of a fault with the roof. The extent of the damage is visible from the photographs provided by Xtra Maintenance Ltd.
34. 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 prevention of water ingress into the Building and the ensuing damage that has caused, per the photographs produced within the papers, and would undoubtedly continue to cause, if allowed to continue without expedient repair.
35. The Tribunal again records that no response to the Directions from the Respondents was received and therefore none of the leaseholders objected to the grant of dispensation.
36. The Tribunal considered any financial prejudice suffered by the leaseholders due to the failure to consult. The Tribunal is satisfied that quotations were obtained and notes that it appears from the papers that the leaseholders opted to proceed with JT Roofing and Guttering as their contractor of their choice.
37. 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 water ingress and damage that such ingress can cause. The Tribunal also accepts that seasonal changes would have led to increased waterfall which would have likely led to further damage. The Tribunal also notes that the works will be required to facilitate the insurance of the Property.
38. 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 appear to have subsequently nominated JT Roofing and Guttering. 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 are not carried out,

then the potential prejudice to the leaseholders and increased risk of damage would be significant.

39. 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 repair of dormer(s) and flat roof areas.

40. 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: 9 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).