



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

Case reference : **LON/00AY/LDC/2026/0013**

Property : **William Bonney Estate,
Lambeth London SW4**

Applicant : **The Mayor and Burgesses of the London
Borough of Lambeth**

Respondents : **Leaseholders at the Property**

Type of application : **Dispensation from statutory consultation requirements**

Tribunal : **Judge Nicol**

Date of decision : **19th May 2026**

DECISION

The Tribunal grants the Applicant dispensation under section 20ZA of the Landlord and Tenant Act 1985 from the statutory consultation requirements in respect of substantial works carried out to existing provision at the property providing communal hot water and space heating.

Reasons

1. This application for dispensation from the statutory consultation requirements under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) has been determined on the papers. A hearing was not held because the Tribunal directed that the case was suitable for the paper track and the parties did not object.
2. The Applicant is the freeholder of the subject property, an estate composed of 7 purpose-built 4-5-storey blocks that share communal facilities and infrastructure, composed of 182 flats, of which 67 are held on long leases. The Respondents are the lessees of those flats.
3. Under section 20 of the Act and the Service Charges (Consultation Requirements) (England) Regulations 2003, when the cost of building

works exceeds the threshold of £250 per flat, consultation must be carried out with the lessees. In this case, works were required as described by the Applicant:

6. The Estate is served by a communal heating system which previously comprised four boilers. During a routine inspection carried out by the Council's qualifying long-term agreement contractor, T Brown Group ("the Contractor"), it was identified that two of the four boilers had failed and were no longer operational. The Estate was therefore currently operating on only two remaining boilers.
7. The remaining two boilers are required to provide space heating across the Estate and domestic hot water to properties at 46–69 William Bonney Estate. Due to the reduced capacity of the system, the remaining boilers are under significant strain and are struggling to meet demand. The Contractor advised that continued reliance on the remaining boilers presents a material risk of further failure, which would result in the loss of heating and hot water to affected properties.
8. The failed boilers are old, out of warranty, and beyond economical repair. They have previously been cannibalised for parts in order to keep the remaining boilers operational, and manufacturer replacement parts are no longer available. As a result, no temporary or interim repair solution is viable, and the failed boilers cannot be safely or reliably returned to service.
9. In light of the condition of the plant, the lack of available replacement parts, and the importance of maintaining heating and hot water services during the winter period for health, hygiene, and welfare reasons, the Council concluded that the only viable course of action was to proceed urgently with remedial works.
10. A Work Order (Ref: 3990547/1) was raised under the Council's repair and maintenance contract with the Contractor. A quotation in the sum of £83,371.51 was provided by the Contractor for the execution of the works under the qualifying long-term agreement ...
11. The proposed works comprise the removal from site of two redundant boilers and the installation of one new Hoval commercial gas boiler rated at 500kW, together with the installation of a plate heat exchanger (PHEX). The works include isolation of the system, draining down, removal of the faulty boilers, supply and installation of the new boiler with a new flue and alterations to the boiler suite, refilling of the system, venting, testing, and commissioning upon completion.
12. A Justification Report dated 3 December 2025 produced by a Commercial Heating Engineer ... confirms that the works are urgent and unavoidable. The report explains that continued operation of the communal heating system in its current state presents a significant risk of complete service failure, which would result in the

loss of heating and hot water during the winter period. Such an outcome would pose a health and safety risk to residents and cause significant inconvenience. Immediate action was therefore required.

13. The works are currently underway and are expected to conclude imminently.
 14. These works are being carried out by the Contractor, and are currently at or near completion. These were qualifying works, and the 2003 Regulations were applicable. Due to the urgency of the works on health and safety grounds, and the impracticability of any temporary solutions, the decision was made to proceed with the works without consultation.
 15. To ensure that the Leaseholders are aware of the cost of the total works, and in the spirit of the regulations, the Council has written to all Leaseholders on 23 December 2025 explaining why these works are required, what their estimated contribution is expected to be and that the Council will be applying to the First-tier Tribunal for retrospective dispensation from the requirements to consult. The Council has also provided them with a FAQ sheet which addresses some of the questions they may have, and has made an assurance to have regard to any written observations received in response, insofar as is possible given that the works have commenced. ...
 16. The Respondents will be required to pay a rateable share plus management fee as per the terms of their lease and will be included within their actual invoice for financial year 2025/26, which is expected to be issued on or around October 2026. The cost of the works per Leaseholder is estimated as in the range of £377 - £620.
4. On 5th January 2026, the Applicant made an application to the Tribunal for dispensation from those consultation requirements under section 20ZA(1) of the Act. The Tribunal issued directions on 20th March 2026 with provision for any lessee who objected to make representations. None have taken the opportunity.
 5. The Tribunal may dispense with the statutory consultation requirements if satisfied that it is reasonable to do so. The Supreme Court provided further guidance in *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854:
 - (a) Sections 19 to 20ZA of the Act are directed to ensuring that lessees of flats are not required to pay for unnecessary services or services which are provided to a defective standard or to pay more than they should for services which are necessary and provided to an acceptable standard. [42]
 - (b) On that basis, the Tribunal should focus on the extent to which lessees were prejudiced by any failure of the landlord to comply with the consultation requirements. [44]

- (c) Where the extent, quality and cost of the works were unaffected by the landlord's failure to comply with the consultation requirements, an unconditional dispensation should normally be granted. [45]
 - (d) Dispensation should not be refused just because a landlord has breached the consultation requirements. Adherence to the requirements is a means to an end, not an end in itself, and the dispensing jurisdiction is not a punitive or exemplary exercise. The requirements leave untouched the fact that it is the landlord who decides what works need to be done, when they are to be done, who they are to be done by and what amount is to be paid for them. [46]
 - (e) The financial consequences to a landlord of not granting dispensation and the nature of the landlord are not relevant. [51]
 - (f) Sections 20 and 20ZA were not included for the purpose of transparency or accountability. [52]
 - (g) Whether or not to grant dispensation is not a binary choice as dispensation may be granted on terms. [54, 58, 59]
 - (h) The only prejudice of which a lessee may legitimately complain is that which they would not have suffered if the requirements had been fully complied with but which they would suffer if unconditional dispensation were granted. [65]
 - (i) Although the legal burden of establishing that dispensation should be granted is on the landlord, there is a factual burden on the lessees to show that prejudice has been incurred. [67]
 - (j) Given that the landlord has failed to comply with statutory requirements, the Tribunal should be sympathetic to the lessees. If the lessees raise a credible claim of prejudice, the Tribunal should look to the landlord to rebut it. Any reasonable costs incurred by the lessees in investigating this should be paid by the landlord as a condition of dispensation. [68]
 - (k) The lessees' complaint will normally be that they have not had the opportunity to make representations about the works proposed by the landlord, in which case the lessees should identify what they would have said if they had had the opportunity. [69]
6. The Tribunal's role in this application is limited to determining only if the statutory consultation requirements may be dispensed with. As stated in the Tribunal's directions, "This application does not concern the issue of whether any service charge costs will be reasonable or payable."
7. Based on the evidence in the Applicant's 70-page bundle of documents, the Tribunal accepts the account quoted above. Given the lack of objection to the works, let alone evidence of any prejudice to any lessee, the Tribunal has determined that it is reasonable to dispense with the statutory consultation requirements.

Name: Judge Nicol

Date: 19th May 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).