



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

Case reference	:	CAM/26UC/LDC/2026/0029
Property	:	Kings Court, Lower Kings Road, Berkhamsted, HP4 2AS
Applicant	:	Kings Court (Berkhamsted) Management Company Limited
Representative	:	None
Respondent	:	The leaseholders of Flats 1 to 10 at the Property
Representative	:	None
Type of application	:	Application under section 20ZA of the Landlord and Tenant Act 1985 (the 1985 Act)
Tribunal	:	Judge Wendy Banks
Date of decision	:	15 June 2026

DECISION

Decision

- (1) The Tribunal grants the Applicant retrospective dispensation from the statutory consultation requirements under section 20 of the 1985 Act, in respect of the qualifying works referred to below.
- (2) The Applicant shall be responsible for serving a copy of this decision on all of the Lessees.
- (3) In granting dispensation, the Tribunal makes no determination as to whether any service charge costs are reasonable or payable under section 27A of the 1985 Act.

Reasons

Background

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985, as amended (“the 1985 Act”) for retrospective dispensation of consultation requirements in respect of certain “qualifying works” (within the meaning of section 20ZA).
2. The Applicant is the management company of Kings Court, Lower Kings Road, Berkhamsted, HP4 2AS (“the Property”), being 10 flats split over two blocks and served with a stairwell each. The building was constructed around 1985 and construction is a combination of brick and concrete with a tiled, pitched roof.
3. In late September 2024, water ingress was reported in Flat 7. Roof investigations identified failed GRP waterproofing to four valley channels, and the Applicant obtained quotations of £7,560.00 and £5,800.00, instructing the lower-priced contractor, Robert Green. Given the ongoing leak, proximity to electrics, mould growth and health and safety concerns, the Applicant treated the works as urgent and proceeded without completing the full section 20 consultation process, notifying residents on 4 November 2024 of works due to start on 14 November 2024. No objections were received at that time.
4. The Respondents are the leaseholders of the flats in the Property who are potentially responsible for the cost of the repair works under the terms of their lease.
5. By virtue of sections 20 and 20ZA of the 1985 Act, any relevant contributions of the Respondents through the service charge towards the cost of these works would be limited to a fixed sum, currently £250, unless the statutory consultation requirements prescribed by the Service Charges (Consultation Requirements) (England) Regulations 2003 were either complied with or dispensed with by the Tribunal. In this application, the only issue is whether it is reasonable to dispense with the consultation requirements.
6. **Any issue as to the cost of the works may be the subject of a future application by the landlord or leaseholders under section 27A of the 1985 Act to determine the payability of any service charge under the lease.**

The relevant law

7. Section 20ZA(1) of the 1985 Act states:

“Where an application is made to a Leasehold Valuation 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.”

8. In considering reasonableness, the Tribunal has considered the extent to which the Lessees would be prejudiced if the consultation requirements were dispensed with.
9. The Supreme Court provided guidance to the Tribunal on the application of section 20ZA(1) of the 1985 Act in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14. The principles can be summarised as follows:
 1. The main question for the Tribunal when considering how to exercise its jurisdiction in accordance with section 20ZA is whether there is real prejudice to the tenants flowing from the landlord's breach of the consultation requirements.
 2. The financial consequence to the landlord of not granting a dispensation is not a relevant factor. The nature of the landlord is not a relevant factor.
 3. Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
 4. The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
 5. The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs, including surveyor and/or legal fees, incurred in connection with the landlord's application under section 20ZA(1).
 6. The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying any "relevant" prejudice that they would or might have suffered is on the tenants.
 7. The court considered that "relevant" prejudice should be given a narrow definition. It means whether non-compliance with the consultation requirements caused the landlord to incur costs in an unreasonable amount, or to incur costs in providing services or carrying out works which fell below a reasonable standard.
 8. The more serious and/or deliberate the landlord's failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
 9. Once the tenants have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
10. The Tribunal has therefore applied the statutory provisions in accordance with the approach taken in *Daejan*.

Representations – The Applicant

11. The Applicant's description of the qualifying works, as set out in its statement at pp33-34 of the bundle, is as follows:
12. Towards the end of September 2024, water ingress was reported within Flat 7. The owner of the property contacted the Applicant to report a large amount of water running down an internal wall within the flat, which was initially suspected to originate from Flat 10, the property located directly above.
13. The Applicant considered it necessary to instruct a competent person without delay to inspect the roof, understanding that the ingress was likely originating from a fault in its waterproofing capability. A&D Roofing & Builders carried out an investigation of the roof and identified that the GRP, which serves to waterproof the valley channels, had failed on four out of the six valleys.
14. A&D Roofing Limited summarised its findings by telephone and provided a scope of works and quotation to erect scaffolding, remove the failed GRP valleys, and supply and fit new GRP lining to the valleys identified as causing the leaks. The cost of the remedial works was split between two quotes, with a combined total of £7,560.00, to enable the Applicant to itemise separately the costs of remediating the valleys directly above the affected properties and to address the leaks into Flats 7 and 10 as a priority. Upon reviewing the estimate, the Applicant noted that the works would exceed the section 20 threshold for the Property.
15. The Applicant sought to benchmark this cost to ensure value for money. Robert Green was approached to submit a quotation using the same specification, and his quotation was more competitive than the original estimate, at £5,800.00.
16. Concurrently, as the water was visibly running towards electrical installations within the property, notably a wall socket and aerial outlet, the Applicant considered it necessary to investigate the internal plumbing within Flat 10. No evidence was found that the water ingress was caused by a plumbing defect.
17. The Applicant ultimately decided, knowing that the leak damage would likely worsen during the winter months, to instruct Robert Green, as the most competitive tenderer, to remediate the valleys without formal consultation under section 20 of the Landlord and Tenant Act 1985.
18. The roof repair works were not subject to the section 20 consultation process, despite the costs exceeding the statutory threshold, as the Applicant considered the works to be urgent.
19. The urgency arose from ongoing water ingress affecting the building, resulting in leak damage, mould growth and water penetration close to electrical installations within the affected flats. Further delay risked

additional damage to the properties and potential health and safety concerns for residents.

20. The presence of persistent leaks and mould growth was considered likely to affect the habitability of the affected flats over time if the issues worsened. It was therefore considered unreasonable to delay commencement of the works for the duration of the section 20 consultation process, which would ordinarily take approximately 60-90 days.
21. Robert Green was subsequently instructed to carry out the repairs as he had provided the more competitive quotation for the works.
22. A notice was issued to all residents on 4 November 2024, advising that the works would commence on Thursday 14 November 2024 and inviting residents to raise any questions or observations before commencement. No observations or objections were received at that time.

Representations – The Lessees

23. The Tribunal has not received any representations from the Lessees.

Determination

23. As set out above, the Tribunal may grant dispensation “...*if satisfied that it is reasonable to dispense with the requirements*”.
24. In making its decision the Tribunal has regard to the extent to which any real prejudice has arisen to the Lessees as a result of the Applicant breaching the consultation requirements.
25. No objections or representations have been received by the Tribunal from the Lessees. In this regard, the Lessees have received the Tribunal Directions and are therefore considered to have been given ample opportunity to submit representations should they have so wished.
26. The Tribunal therefore considers that it has not seen any evidence of prejudice to the Lessees. Furthermore, it is apparent from the submissions that the required works were necessary and that further delay would have risked further damage to the Property and potential health and safety concerns for residents.
27. The Tribunal consequently grants dispensation from the remaining consultation requirements of section 20 of the Landlord and Tenant Act 1985.
28. In granting dispensation, the Tribunal makes no determination as to whether any of the resultant service charge costs are reasonable or payable. The Applicant shall comply with the requirements set out under the section headed “Decision” above.

Name: Judge Wendy Banks

Date: 15 June 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).