



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

Case Reference	:	HAV/00HQ/LDC/2026/0075
Property	:	Bath Hill Court, Bath Road, Bournemouth, Dorset, BH1 2HT
Applicant	:	Bath Hill Court (Bournemouth) Management Company Limited
Representative	:	Hawk Estates
Respondent	:	The Leaseholders of Bath Hill Court
Representative	:	No representative
Type of Application	:	To dispense with the requirement to consult lessees about major works under Section 20ZA of the Landlord and Tenant Act 1985
Tribunal Member	:	Judge Pattni-Evans
Date of Decision	:	23 June 2026 (Paper Determination)

DECISION

Summary of the Decision

The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements

imposed on the landlord by Section 20 of the 1985 Act in respect of the communal boilers to the building. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

The Tribunal gives reasons for the decision below.

The Application

1. The Applicant has applied under Section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation requirements imposed by Section 20 of the Act.
2. The application was received on 4 May 2026.
3. The Tribunal gave Directions on 11 May 2026, explaining that the only issue for determination is whether it is reasonable to dispense with the statutory consultation requirements. The Tribunal is not determining whether any service charge costs are reasonable or payable. The Directions Order set out the steps to be taken by the parties in preparation for determination of the application.
4. The Directions further stated that the Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal. None did. Having considered the application further and prior to undertaking this determination, the Tribunal is satisfied that a determination on the papers remains appropriate.
5. Accordingly, the Tribunal has determined the application on the papers.

Scope of the Works

6. The Property is described as two blocks of flats, built in the 1930s and containing 97 flats in total. The flats are a selection of sizes ranging from five-bedroom to two-bedroom flats.
7. The scope of the works described in the application is as follows:

Bath Hill Court has a responsibility to supply hot water and heating to all of the flats. Following successive mechanical breakdowns on 5 August 2025 and 19 January 2026, only two of the four installed boilers remain operational.

It is intended to purchase two new boilers to be fitted and to work with the two existing boilers. The new boilers would be attached to the current flue. The proposed date for fitting is around two weeks from the deposit being received.

Following a rigorous search for a “like-for-like” replacement that avoids the costs of a new flue and planning permission, a viable solution has been identified. While multiple suppliers were consulted, two quotations have been sought from MHL and Pure Gas Ltd.

Pure Gas quoted £43,388, but excludes the relocation of the existing secondary return pump from the flow pipe to the return pipe. This is included in MHL’s quote. We have been advised that to reposition the pump would cost £2,000, giving a total price for the Pure Gas route of £45,388.

I then obtained a revised price from MHL of £44,880.

Since January, when the second boiler broke down, we have had daily complaints that either no hot water was available or that the water from the hot taps was only tepid. This needs to be rectified as soon as possible.

8. The Tribunal understands the scope of the dispensation application to be limited to the boiler works.

The Law

9. Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.
10. Section 20ZA provides that on an application to dispense with any or all of the consultation requirements, the Tribunal may make a determination granting such dispensation “if satisfied that it is reasonable to dispense with the requirements”.
11. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of *Daejan Investment Limited v Benson et al* [2013] UKSC 14.
12. In the leading judgment, Lord Neuberger explained that the Tribunal should focus on whether the lessees have suffered, or would suffer, relevant prejudice as a result of the lessor’s failure to comply with the consultation requirements. Such prejudice may arise if lessees are required to pay sums which they should not have paid, or to pay more than would otherwise have been appropriate. The consultation

requirements were described as “a means to an end, not an end in themselves”.

13. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).

14. Where the extent, quality and cost of the works were in no way affected by the lessor’s failure to comply, Lord Neuberger said as follows:

“I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be — i.e. as if the requirements had been complied with.”

15. The “main, indeed normally, the sole question”, as described by Lord Neuberger, is therefore whether the lessees have suffered, or would suffer, relevant prejudice as a result of the Applicant’s failure to carry out the statutory consultation before undertaking the major works. That is the question which informs whether dispensation should be granted.

16. The question for the Tribunal is whether it is reasonable to dispense with the consultation process required by the Act. It is not whether the charges for the works are reasonable. If dispensation is granted, that may be on terms.

Decision

17. The Tribunal has considered the application form dated 4 May 2026 and the accompanying documents. The application explains that the Lease requires hot water and heating to be supplied to all flats.

Following mechanical breakdowns on 5 August 2025 and 19 January 2026, only two of the four installed boilers remain operational. The Applicant states that, as a result, it has received daily complaints of irregular supply of hot water. The Applicant therefore pursued this application to the Tribunal.

18. The Tribunal has considered the terms of the Lease. An example Lease for Flat 39, Bath Hill Court, Bath Road, Dorset, dated 21 November 1984 and made between Bath Hill Court (Bournemouth) Management Company Limited and Sonia Packer and Peter Packer, is annexed to the application. In particular, paragraph 10 of the Fifth Schedule requires the Lessor to:

Maintain at all reasonable hours a reasonable supply of hot water to the flats comprised in the Buildings by means of the existing or similar boiler and hot water system, provided that if the Lessor shall fail to perform this obligation by reason of any neglect, fault, breakdown, interruption or other cause whatsoever, the Lessor shall not be liable for any loss, damage or inconvenience which any lessee may sustain through any imperfect or irregular supply of hot water.

19. The Tribunal accepts the Applicant's submission that the Lease imposes obligations in relation to the provision of hot water to the flats. The Tribunal also attaches weight to the nature and importance of the proposed works, which concern essential services, namely the heating and hot water supply to the individual flats.

20. The Tribunal has also considered the Respondents' views, insofar as they have been provided. On 27 May 2026, the Tribunal received an email from Tony Hawksworth of Hawk Estates, on behalf of the Applicant, confirming that, in accordance with the Tribunal's directions, the Applicant had not received any objections from any of the Respondents.

21. The Tribunal has also received completed Respondent's Forms from 20 Leaseholders as follows: Flat 14, Flat 4, Flat 8, Flat 26, Flat 28, Flat 29, Flat 37, Flat 39, Flat 43, Flat 45, Flat 50, Flat 55, Flat 56, Flat 63, Flat 74, Flat 76, Flat 79, Flat 81, Flat 82 and Flat 86. All these responses record their agreement with the works taking place.

22. Accordingly, the Tribunal grants dispensation pursuant to Section 20ZA of the Act, for major works required to the boilers, subject to a condition that a copy of this Decision shall be served by the Applicant upon all Leaseholders at the Property.

23. For completeness, in making this determination, the Tribunal makes no findings as to liability to pay or the reasonableness of the estimated costs of the works.

24. This application does not concern the proposed costs of the works, whether those costs are recoverable from the Leaseholders as service charges, or the possible application or effect of the Building Safety Act 2022. The Leaseholders retain the right to make a separate application to the Tribunal under Section 27A of the Landlord and Tenant Act 1985 for a determination of the reasonableness of the costs and the amount payable through the service charges.

RIGHTS OF APPEAL

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to rpsouthern@justice.gov.uk.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.