



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

Case Reference	:	HAV/00MS/LDC/2026/0013
Property	:	The Boathouse, 100 Riverdene Place, Bitterne Park, Southampton, SO18 1ER
Applicant	:	McCarthy & Stone Retirement Lifestyles Limited (Landlord)
Representative	:	In-house
Respondent	:	The leaseholders
Representative	:	No representation
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	:	Tribunal Judge Pattni-Evans
Date of Decision	:	23 June 2026 (Paper Determination)

DECISION

Summary of the Decision

- (A) 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 major works to the communal lift.

(B) The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

(C) The Tribunal gives reasons for the decision below.

The Application

1. The Applicant applied under Section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for dispensation from consultation requirements imposed by Section 20 of the Act.
2. The application was received on 22 January 2026.
3. The Tribunal gave Directions on 8 May 2026, explaining that the only issue for the Tribunal is whether, or not, it is reasonable to dispense with the statutory consultation requirements, and not the question of whether any service charge costs are reasonable or payable. The Directions Order listed the steps to be taken by the parties in preparation for the determination of the dispute, if any.
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. This Decision is made on that basis and following a paper determination.

Scope of Works

6. The Property is described as a purpose-built block of flats comprising 50 one- and two-bedroom apartments in an age-restricted community for those over 60, opened in 2019.
7. The scope of works described in the application is as follows:

During the routine service to the only lift by Orona on 30/6/2025, one suspension rope was found damaged but still serviceable.

At the routine inspection on 29/9/2025, Allianz reported that one rope was now severely damaged and another showed significant wear. Both require immediate replacement.

It was also noted that the in-car two-way communication system failed to connect to the external monitoring centre when the House Manager was off site. Additionally, the car guide oil trays were full and should be emptied within one month to prevent spillage onto the pit floor.

Orona quoted £10,800.00 (inc. VAT) for the completion of these works (TV = £7,466.67).

8. It is therefore understood by the Tribunal that the scope of the dispensation application is limited to major works required to the communal lift.

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. The leading judgment of Lord Neuberger explained that a tribunal should focus on the question of whether the lessee will be or had been prejudiced, either by paying where that was not appropriate or by paying more than appropriate because of the lessor’s failure to comply with the regulations. The requirements were held to give practical effect to those two objectives and were “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, for the Tribunal to determine is therefore whether, or not, the lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and, if so, whether dispensation in respect of that should be granted.
16. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges for works arising or which have arisen. If dispensation is granted, it may be granted on terms.

Decision

17. The Tribunal has considered the application form dated 22 January 2026 and the accompanying documents which includes a copy Lease. The Second Schedule of the Lease provides for easements, rights and privileges for the tenants, extending to use of the lifts. The repairing obligations contained in the Lease are set out in the Sixth Schedule, Landlord Covenants, clause 2.1, which says as follows:

As often as may reasonably be required to maintain, repair, cleanse, repaint, decorate and renew the Building and the Estate not otherwise demised by this or any Other Lease including (but without prejudice to the generality of the foregoing):

[...]

The passages, staircases, landings, lifts, entrances and all other parts of the Building enjoyed or used by the Tenant in accordance with the terms hereof in common with all or any of the other tenants or occupiers of the Building [...]

18. The application explains that an “N1 Letter of Intent” was issued on 8 July 2025 by the landlord to the leaseholders concerning works required to the communal lift as described at paragraph 7 above. This letter had the effect of initiating a consultation period from 15 July 2025 to 19 August 2025 during which no comments or queries were received from the leaseholders.
19. The application therefore identifies that steps akin to a consultation were undertaken, although not the full process as set out in the statutory framework of the 1985 Act.
20. These steps involved:
- a. A further update to leaseholders via a newsletter issued on 29 September 2025.
 - b. Formal notification of intention to complete the works and of the present application to the Tribunal.
 - c. On 4 December 2025, the leaseholders were invited to attend a dispensation meeting.
21. The Applicant says that the decision to proceed without completing the full statutory consultation process or obtaining multiple quotations was made only after a careful assessment of the circumstances. The Tribunal accepts that explanation and the efforts made to engage leaseholders on the matter. There was an urgency to the works given that the lift is the sole communal lift, which many of the residents rely on for essential access to their homes.
22. Finally, the Tribunal has taken into account the fact that no party has objected to the application. The leaseholders have had an opportunity to raise any objection, and they have not done so.

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

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

25. This application is not about the proposed costs of the works, whether they are recoverable from the leaseholders as service charges, or the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of the costs and the contribution 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.