



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

Case Reference : HAV/21UG/LDC/2026/0073

Property : North Block, Clifford Court, 2-4 Clifford Road,
Bexhill on Sea, East Sussex, TN40 1QQ

Applicant : Clifford Court Residents Limited

Representative :

Respondent : The leaseholders of Clifford Court

Representative :

Type of Application : To dispense with the requirement to consult
lessees about major works section 20ZA of the
Landlord and Tenant Act 1985

Tribunal Members : Tribunal Judge Bowden

Date of Decision : 10 July 2026

DECISION

This is a formal order of the Tribunal which must be complied with by the parties.

Communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.

Summary of Decision

- (1) 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 relation to the works to renew the lift suspension ropes and restore the lift to service.**
- (2) The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

Background

1. The applicant is Clifford Court Residents Limited
2. The respondents are the leaseholders of Clifford Court ('the Lessees').
3. The applicant seeks 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. The application was received on 27 April 2026.
4. The property is described as:
 - a. Clifford Court is a residential building comprising:
 - South Block (Flat 1 - 7)
 - North Block (Flats 8 - 14).
 - b. Each block has four storeys.
 - c. Each block is served by its own passenger lift (single) which is essential for access to upper floors.
 - d. Each floor has 2 flats.

- e. Each flat has 2 bedrooms.
 - f. The property was built in 1974 - 1975, approx. 51 years old.
5. The applicant explains that:
- a. One of the lift's suspension ropes had reduced in diameter. Advice from Allianz Insurance Lift engineer that all suspension ropes now need to be renewed.
 - b. The lift has been placed out of service.
 - c. The works are planned to be carried out as soon as possible.
 - d. The Allianz Insurance Lift Engineer recommended that the lift suspension ropes be replaced.
 - e. IONA Lift Maintenance company placed lift out of service.
 - f. IONA have provided a quote.
 - g. The applicant is seeking a second quote from HiWire to ensure competitive tendering and value-for-money for leaseholders.
 - h. The block's only passenger lift is currently out of service which has rendered all floors inaccessible to residents who rely on the lift, the majority of whom are vulnerable and/or elderly, including a very elderly resident who was hospitalised, and the ambulance staff had to carry him down the stairs. He is still in poor health. The health conditions of this gentleman and other elderly residents require access for mobility issues, deliveries (food shopping, parcels), medical care access, etc.
6. The Tribunal gave Directions on 11 May 2026 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.
7. The Directions stated that the Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal within 7 days of the date of receipt of the Directions. No party has objected to the application being determined on the papers.
8. On 10 June 2026, the application was automatically struck out because the applicant did not confirm to the Tribunal in compliance with

paragraph 14 of the 11 May 2026 Directions that the documents were served on the Respondents or seek any further additional time from the Tribunal to do so

9. On 17 June 2026, the applicant applied to have the application reinstated (application dated 16 June 2026 and received 17 June 2026). The applicant confirmed in their email dated 17 June 2026, that their property management company, Oakfield, had notified the leaseholders of the application for reinstatement on 16 June 2026.
10. On 24 June 2026, the application was reinstated, and further directions were made listing the steps to be taken by the parties in preparation for the determination of the dispute, if any. The 24 June 2026 Directions stated that the Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal within 7 days of the date of receipt of the Directions. No party has objected to the application being determined on the papers.
11. The 24 June 2026 Directions stated that the applicant must send to the Tribunal confirmation that it had sent the Statement of Rules and procedures together with a copy of the application (if not already sent) to each Respondent.
12. On 24 June 2026, the applicant confirmed via email that it had sent all leaseholders the required documents.
13. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works, and 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.

The Law

14. 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.

15. The relevant section of the Act reads as follows:

S.20 ZA Consultation requirements: 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 longterm agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

16. 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.
17. 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 in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor 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.
18. 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).
19. 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.

20. 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 so whether dispensation in respect of that should be granted.
21. Relevant prejudice is concerned with whether the Lessees have been deprived of a realistic opportunity to:
 - a. challenge the appropriateness of the proposed works; or
 - b. secure that the works are carried out at a lower cost, or by a different contractor, than might otherwise have been the case
22. 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 of works arising or which have arisen. If dispensation is granted, that may be on terms.
23. There have been subsequent Decisions of the higher Courts and Tribunals of assistance in the application of the Decision in Daejan, but none are relied upon or therefore require specific mention in this Decision.

Consideration

24. The consultation requirements are a means to an end, and not an end in themselves. The Tribunal's task is not to punish procedural non-compliance, but to consider whether the absence of consultation has caused, or is likely to cause, the tenants to pay more than is reasonable or to pay for works which are inappropriate.
25. The question the Tribunal asked itself was whether, in all the circumstances, and having regard to the issue of relevant prejudice, it is reasonable to dispense with the statutory consultation requirements.
26. The Directions attached a reply form for the respondents to complete to confirm whether they agreed with the application or not, and if opposed, to provide a statement setting out why they oppose.

27. The applicant by email dated 06 July 2026 confirmed that it had not received any objections.
28. The reasons why dispensation from consultation requirements is said to be required are set out in the witness statement of Sharon Freeman, Director of Clifford Court Residents Limited, the freeholder and management company, as follows:
 - a. The lift is currently out of service following failure of the suspension ropes.
 - b. There is an urgency and impact on Residents because the lift is the only means of assisted access to the floors in the North Block. The building is occupied by a number of elderly and vulnerable residents. One resident, aged over 80, was recently hospitalised, and ambulance staff were required to carry him down the stairs due to the lift being out of service.
 - c. The continued absence of a functioning lift poses a serious risk to health, safety and welfare. Including restricted access for those with mobility issues and difficulty with essential daily activities. There are emergency access concerns.
29. The Applicant says in those circumstances, it is not reasonably practicable to delay the works.
30. Ms Freeman goes on to say that:
 - a. A specialist lift contractor (IONA Lift Maintenance) has provided a quotation for the required works.
 - b. A further quotation is being sought to ensure competitive pricing and value for money.
 - c. The Applicant has acted reasonably and in good faith in progressing the works.
31. Given the nature of the works and in order to reduce the impact and risk to residents of not having a working lift and restore essential access, the Tribunal is satisfied that the qualifying works were of an urgent nature.

The qualifying works are the works to renew the lift suspension ropes and restore the lift to service.

32. There has been no objection to the dispensation of the consultation requirements from any of the Lessees. None of the Lessees have therefore asserted that any prejudice has been caused to them.

Findings

33. The Tribunal considered all the evidence submitted by the parties and applied its expertise and experience in determining the application.
34. The Tribunal found that the lack of consultation had not caused, or was likely to cause, the Lessees to pay more than is reasonable or to pay for inappropriate works, especially in circumstances where the applicant was seeking competitive quotes.
35. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential delay and deterioration.

Determination

36. The Tribunal determines that it is reasonable to dispense with all of the formal consultation requirements in respect of the qualifying works to the building as described in this Decision.
37. This Decision is confined to the determination of the issue of dispensation from the consultation requirements in respect of the qualifying works described in this decision.
38. The Tribunal has made no determination on whether the costs are payable or reasonable. If a Lessee wishes to challenge the payability or reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
39. In reaching this decision, the Tribunal has taken account of the fact that no party has objected to the application. The leaseholders have had the opportunity to raise any objection, and they have not done so. The Tribunal does, however, direct that the dispensation is conditional upon

the applicant or their agent sending a copy of this decision to all leaseholders so that they are aware of it.

Name: Tribunal Judge Bowden

Date: 10 July 2026

RIGHTS OF APPEAL

1. A written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.