



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

Case Reference	: HAV/24UF/LDC/2026/0106 HAV/24UF/LDC/2026/0108
Property	: Cray House 40 Stoke Road Gosport Hampshire PO12 2LB
Applicant	: Cray House Residents Company Limited
Representative	: KJD residential property Management Limited
Respondent	: The Leaseholders
Representative	: None
Type of Application	: To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
Tribunal Member	: Mr I R Perry FRICS
Date of Decision	: 15 th July 2026

DECISION

Summary of the Decision

- 1. The Applicant is granted retrospective 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 Waking Watch and installation of a temporary alarm system. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

Background

- 2.** The Applicant has submitted two applications under Section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation requirements.
- 3.** The applications were received on 11 June 2026.
- 4.** The Property is described as:

BLOCK OF 24 FLATS, HAS LOWER GROUND CAR PARK, LIFT TO UPPER FLOORS (LIVING ACCOMODATION) 4 FLOORS
CURTAIN WALLING TO FRONT OF BLOCK ABOVE ENTRANCE
RENDER/CLAD/KREND TYPE COATING TO MOST OF UPPER FLOOR EXTERIOR SURFACE.
SHOP TO THE GROUND FLOOR, LEFT OF ENTRANCE,
RENOVATED OFFICE BLOCK APPROX 1998/1999 AS LEASE STARTS YEAR 2000.
21 FLATS ON 3 FLOORS AND 3 PENTHOUSE FLATS ON THE ROOF.
- 5.** The Applicant explains that:

HAMPSHIRE & I. O. W. FIRE & RESCUE SERVICE HAS, FOLLOWING AN INSPECTION ON 5.6.2026 DEMANDED IMMEDIATELY A WAKING WATCH (24/7 FIRE WARDENS) BE APPOINTED UNTIL A NEW TEMPORARY ALARM SYSTEM CAN BE FITTED OR EVACUATE 24 FLATS- AS A RESULT OF A B2 CERTIFICATE FOR THE TEST UNDER SUCESSFUL TRIBUNAL REF: HAV/24UF/LDC/2025-0745. A WAKING WATCH VERBAL AND EMAIL APPOINTMENT WAS REQUIRED IN THIS EMERGENCY - HOWEVER IT COMES AT A £ 1344 PER DAY COST. ANYTHING OVER 5 DAYS MEANS OVER THE £6000 SECTION 20 LIMIT.

The first application relates to an emergency waking watch, and dispensation is said to be sought because:

THE EMERGENCY WAKING WATCH IS AN ESSENTIAL CHARGE OF £ 1344 PER DAY COST. ANYTHING OVER 5 DAYS MEANS OVER THE EXTREMELY RESTRICTIVE £6000 SECTION 20 LIMIT.
WE ARE CURRENTLY SEEKING FUNDING FROM THE BUILDING SAFETY FUND TO COVER/REIMBURSE THESE FEES AND APPLY FOR FUNDING FOR THE DEMANDED NEW ALARM SYSTEM

PRIOR TO THE DEMANDED REPLACEMENT OF THE EXTERNAL
WALL CLADDING

The second application relates to an emergency alarm system, and dispensation is said to be sought because:

THE EMERGENCY TEMPORARY ALARM SYSTEM IS AN ESSENTIAL
ITEM LIKELY TO COST £ 30,000
THEREFORE THE EXTREMELY RESTRICTIVE £6000 SECTION 20
LIMIT IS PREVENTING THIS BEING ENACTED.
WE ARE CURRENTLY SEEKING FUNDING FROM THE BUILDING
SAFETY FUND TO COVER/REIMBURSE THESE FEES PRIOR TO
THE DEMANDED REPLACEMENT OF THE EXTERNAL WALL
CLADDING

6. **The only issue for the Tribunal is whether or not 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

7. 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.
8. 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 long-term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
9. 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.
10. 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.

- 11.** 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).
- 12.** 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.
- 13.** 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.
- 14.** 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.
- 15.** If dispensation is granted, that may be on terms.
- 16.** 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.

Directions

- 17.** The Tribunal issued directions on 18th June 2026 stating that:-
- 18.** *The applications are to be determined on the papers without a hearing in accordance with rule 31 of the Tribunal Procedure Rules 2013 unless a party objects in writing to the Tribunal within 7 **days** of the date of receipt of these Directions.*
- 19.** *If any party requests an oral hearing it shall take place at a time and place to be advised.*
- 20.** *Suitability for a paper determination will be reviewed upon receipt of the Respondent replies, and a hearing may be ordered requiring a payment of fee.*

Provision of these Directions

- 21. Immediately** on receipt of these Directions the **Applicant** shall send them including the Statement of Rules and procedures together with a copy of the application (if not already sent) to each Respondent and shall by **23 June 2026** confirm to the Tribunal that this has been done.

IF THE APPLICANT FAILS TO INFORM THE TRIBUNAL BY THE SAID DATE THE APPLICATION WILL BE STRUCK OUT WITHOUT FURTHER NOTICE.

- 22. The Applicant's case**
The applications shall stand as the Applicant's case.

- 23. The leaseholders' case**
The Respondents shall by **30 June 2026**:

Complete the attached reply form and send it to the Tribunal (electronically) and to the Applicant; **and, if they oppose the application:**

- A statement setting out why they oppose the application
- Evidence of what they may do/have done differently if the Applicant were or had to comply with the full statutory consultation process
- Copies of all documents to be relied upon **not** already included in the Applicant's bundle

Note: The Tribunal will assume that those Respondents not returning the attached form and those agreeing to the application do not wish to receive any further communications from the Tribunal including a copy of the determination unless a specific request is made. The determination will, however, be binding on all leaseholders.

The Applicant's reply/update

- 24.** The Applicant must reply to any objection by way of a statement and any additional documents by **6 July 2026** which must be sent to the Tribunal and to the objecting Respondents.
- 25. If no objections to the application from the Respondents are received the Applicant must confirm to the Tribunal by 2 July 2026 that no objections have been received.**
- 26.** The application will then be determined on the papers or further Directions issued accordingly.

Determination

- 27.** The Tribunal received one reply agreeing to the works.
- 28.** On 7th July 2026, the Applicant's representative confirmed that they had not received any objections to the application from the Respondents.
- 29.** Having considered the application and prior to undertaking this determination, I am satisfied that a determination on the papers remains appropriate, given that the application remains unchallenged.
- 30.** The reason why dispensation from consultation requirements is said to be required is that Hampshire and Isle of White Fire and Rescue Service, following an inspection on 5th June 2026, demanded immediately a Waking Watch until a temporary alarm system could be installed in anticipation of the replacement of unsafe cladding.
- 31.** There has been no objection to the dispensation of the consultation requirements from any of the Lessees.
- 32.** None of the Lessees have therefore asserted that any prejudice has been caused to them. 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 potential problems.
- 33.** The Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.
- 34.** The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the major works to the building as described in this Decision.
- 35.** This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the Waking Watch and installation of a temporary alarm system. 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.
- 36.** In reaching my decision I have taken account of the fact that no party has objected to the application. The leaseholders have had opportunity to raise any objections and they have not done so.
- 37.** As a condition of dispensation, the Applicant is required to send a copy of this decision to all leaseholders.

RIGHTS OF APPEAL

- 38.** A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk
- 39.** 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.
- 40.** 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.
- 41.** The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.