



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

Case Reference	:	MAN/00BN/LDC/2025/0627
Property	:	Express Networks, 1-5 Luna Street, Manchester
Applicant	:	Philip J Davies (Holdings) Plc
Representative	:	Horizon Block Management Ltd
Respondent	:	The Residential Leaseholders of the Property
Type of Application	:	Dispensation pursuant to s20ZA Landlord and Tenant Act 1985.
Tribunal Members	:	Judge R Anderson Mr A Davis
Date of Hearing:		5 February 2026
Date of Decision	:	3 August 2026

DECISION

Decision: Dispensation is granted subject to conditions.

Factual Background

1. Express Networks 1 is a six-storey building (including a basement garage) in Manchester City Centre. It comprises 22 flats on the 3rd and 4th floors, while the ground, 1st, and 2nd floors are occupied by commercial units. The building was converted to its current use in around 2002. The building features a concrete and steel frame construction, with glazed aluminium-framed curtain walling.

2. The Applicant is the owner of the building, the Respondent's are the 22 long leaseholders.

The Application

3. The Applicant applies under section 20ZA(1) of the Landlord and Tenant Act 1985 for dispensation from the statutory consultation requirements in respect of urgent roof works carried out to "Terrace Area 2" of the Property in November 2024 amounting to £5517.00 plus VAT ("the Works").
4. The Applicant's case is that the Works were undertaken following a significant water ingress reported to the Applicant on 16 September 2024.

The Responses

5. The Respondents do not dispute that the works were necessary. However, they oppose the grant of dispensation, or alternatively submit that any dispensation should be granted only subject to conditions.
6. In summary, the Respondents advance the following objections.

Absence of a Genuine Emergency

7. The Respondents submit that the need for works was **foreseeable** and did not arise from a sudden or unexpected event. They state that roof leaks had been reported by leaseholders over a number of years and that the Applicant had previously addressed those issues by way of repeated temporary or "patch" repairs rather than long-term remedial works.
8. On that basis, the Respondents contend that the urgency relied upon by the Applicant arose, at least in part, from its own historic approach to maintenance, and that there was sufficient opportunity for consultation, even if on an abbreviated basis.

Nature and Scope of the Works

9. The Respondents submit that the works undertaken went beyond emergency patch repairs and amounted instead to planned renewal works requiring specification and design input.
10. They contend that the nature of the works was such that proper consideration could and should have been given to alternative scopes of work or alternative methods of addressing the roof defects, and that consultation would have allowed those matters to be explored.

Lack of Competitive Tendering and Cost Scrutiny

11. The Respondents assert that:

- the works were awarded to a contractor already on site carrying out other works;
- no evidence has been provided that competitive quotations were sought; and
- there is a risk that costs were inflated or untested as a result.

12. They submit that consultation would have enabled leaseholders to challenge the choice of contractor, propose alternative contractors, and obtain independent advice on whether the quoted costs represented value for money.

Alleged Prejudice to the Respondents

13. The Respondents submit that they have suffered prejudice as a result of the absence of consultation in that they were deprived of:

- the opportunity to comment on whether the works were necessary in their full extent;
- the opportunity to consider alternative solutions or specifications;
- the opportunity to seek independent professional advice prior to the works being carried out; and
- the opportunity to scrutinise and challenge the cost of the works before liability for service charges was incurred.

14. They further rely on the scale of historic roof expenditure at the property and the persistence of roof-related issues as demonstrating the importance of independent scrutiny.

Conditioned Dispensation

15. While inviting the Tribunal to refuse dispensation, the Respondents submit in the alternative that, if dispensation is granted, it should be subject to conditions designed to address the prejudice identified. In particular, they seek a mechanism by which the scope and cost of the works can be assessed independently, and by which any unreasonable or unnecessary costs can be identified and excluded from recovery through the service charge.

The law on dispensation

16. The statutory basis for the application is found in s20ZA Landlord and Tenant Act 1985:

20ZA Consultation requirements: supplementary

(1) Where an application is made to [the appropriate 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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17. The leading judicial guidance in how to apply the tribunal's discretion is set out in the supreme court decision of *Daejan Investments v Benson* [2013] UKSC 14, the Supreme Court, allowing the appeal (Lord Hope of Craighead DPSC and Lord Wilson JSC dissenting), held that:

- *The correct legal test on an application to the Tribunal for dispensation is: "Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord's failure to comply with the requirements?"*
- *The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.*
- *In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord's failure to comply. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.*
- *The factual burden of identifying some relevant prejudice is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.*
- *The onus is on the leaseholders to establish what steps they would have taken had the breach not happened and in what way their rights under (b) above have been prejudiced as a consequence.*

18. Accordingly, the Tribunal has to consider whether there was any prejudice that may have arisen out of the conduct of the applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above and, if so, whether any conditions should be applied to that dispensation.

Tribunal's findings

19. The Tribunal is satisfied that the works were of a nature which required prompt action. In those circumstances it would not have been practical to comply with the full statutory consultation process before the works were undertaken.

20. However, the Tribunal also accepts that:

- the roof had been the subject of ongoing issues over a number of years;
- the works undertaken were more extensive than minimal temporary repairs; and
- the Respondents were wholly deprived of the opportunity to comment on the scope, specification or cost of the works, or to suggest alternative contractors.

21. The Tribunal is not in a position on this application to determine whether the costs of the works were reasonable. That remains a matter capable of determination under section 27A of the 1985 Act.
22. Nevertheless, the Tribunal considers that the Respondents have demonstrated a real risk of relevant prejudice arising from the absence of consultation, namely the loss of an opportunity to obtain independent professional scrutiny of the works and their cost at the time they were proposed.
23. In those circumstances, the Tribunal considers that it would be disproportionate to refuse dispensation outright, but equally that it would not be reasonable to grant dispensation unconditionally.
24. As part of its consideration of *Daejan*, the tribunal noted it had the power to impose conditions that would have the effect of ensuring that the any prejudice was mitigated. In this case the Tribunal found that that the prejudice to the Respondents could be mitigated in 2 ways. The first is to provide a condition that the Applicant shall pay up to a reasonable cap set by the Tribunal for a building surveyor to review the works and that the Applicant to not recover their legal costs of this application or the instruction of a surveyor through the service charge.

Determination

25. **Dispensation is granted** under section 20ZA(1) of the Landlord and Tenant Act 1985 in respect of the works.
26. **The dispensation is granted subject to the following conditions:**
 - i. The Applicant shall pay the reasonable fees and expenses, capped at **£20,000**, of an independent chartered building surveyor to be jointly agreed by the parties (or, in default of agreement, appointed by the Tribunal).

The surveyor shall be instructed to review the scope, specification and execution of the works and to report on whether, in their opinion, the works were reasonable and appropriate in extent and cost.

The surveyor's fees up to the stated cap shall be borne by the Applicant and shall not be recoverable through the service charge.

Any issue as to the appointment of the surveyor or the scope of the instruction may be referred back to the Tribunal.

- ii. The Applicant shall not recover their legal costs of this application through the service charge.

27. It is emphasised again that the dispensation does not affect the leaseholders' ability to challenge the service charges pursuant to s.27A Landlord and Tenant Act 1985.

**Judge R Anderson
3 August 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 should be made on Form RP PTA available at:

<https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).