



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

Case Reference : HAV/00HG/LDC/2026/0112

Property : 3 Pearson Avenue, Plymouth, PL4 7DD

Applicant : Adeyombo Shonekan

Respondent : Cassie Stephens

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(s)** : Tribunal Judge H Lumby
Mr P Smith FRICS

Date of Hearing : 25 August 2026

Date of Decision : 4 September 2026

DECISION

Decision of the Tribunal

- (1) The Tribunal refuses the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to emergency structural repairs and a complete replacement of the main roof, alongside urgent mould eradication and ceiling structural work to the first floor flat. As a result, the Respondent's liability to contribute towards the cost of those works is capped at £250 in total.

The background to the application

1. 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. This application was received on 16 June 2026.
2. The Property is described as a standard mid-terrace Victorian/Edwardian building in the PL4 area. It is approximately 130 years old. The building is constructed over two storeys & has been converted into 2 separate residential units, being a ground floor flat and a first floor flat.
3. The Applicant is the freeholder of the Property with responsibility to the Respondent for the provision of certain services. The Respondent is the leaseholder of the ground floor. The Applicant rents out the first floor flat.
4. The application relates to emergency structural repairs and a complete replacement of the main roof, alongside urgent mould eradication and ceiling structural work to the first floor flat. These works have been completed.
5. Mould had appeared in the first floor flat before and works were carried out to remove this. Works to repair defective guttering were carried out in early 2026. The tenant of the first floor flat complained of new mould in April 2026, following which the Applicant's letting agents inspected and reported extensive mould. The letting agents suggested that it may be caused by water ingress from next door. The Applicant's attempt to contact the owners of the next door property, either direct or through the council, proved unsuccessful. The Applicant had recently had her own house re-roofed and she asked her roofing contractor from those works to inspect the Property; the contractor suggested the roof had failed and suggested replacement.
6. The works were said by the Applicant to be urgent to halt a severe, ongoing water ingress from the defective main roof, which she said has caused hazardous black mould growth across the ceiling and the walls of the first floor flat. She contends that immediate intervention was

required to protect her tenant's health and safety and preserve the building's structural integrity.

7. The Applicant only obtained a quotation from her existing roofing contractor, whom she said she trusted. That contractor (Roof Flow UK Limited) quoted £11,000 for the works and charged £12,200. Both the quotation and the invoice were incorrectly addressed to both the Applicant and the Respondent, even though only the Applicant procured the works.
8. Given the contended urgency of the works, no consultation has not been carried out and the Applicant has applied for dispensation instead. The Applicant says that the Respondent had previously expressed disinterest in getting involved in freeholder responsibilities so the Applicant argued there was no purpose in consulting her in any event.
9. The Respondent objected to the application for dispensation and required a hearing to consider the application.
10. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.

Hearing

11. The hearing took place online, using the Tribunal's CVP system. Both parties attended in person.
12. The Tribunal had been provided with a bundle from the Applicant comprising 152 pages including the Respondent's objection. The contents of all these documents were noted.

Submissions

13. The Applicant relied on her statement of case and argued that the works needed to be carried out urgently to protect her tenant and to avoid having to incur the cost of mould removal whilst other options were explored. She was desperate to get the works done and pointed to the internal photographs as evidence of the scale of the issue. She contended that the Respondent had previously shown an aversion to such matters and so consultation was pointless; instead her priority was her tenant. She acknowledged that there was no report from the roof contractor explaining its recommendation to replace the roof or the urgency to do so; however, she trusted the contractor and said it had recommended doing the works as soon as possible.
14. The Respondent similarly relied on her written objections, including the prejudice she said she had suffered by the lack of consultation. She said there was no evidence that the roof needed replacing or of the urgency of the required works. She argued that by being deprived of the opportunity

to be consulted, she had lost the chance to understand the true cause of the mould and the appropriate action to address it.

The issues

15. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. A key part of this, as explained at the start of the hearing, was whether the Tribunal was persuaded that the works carried out were urgent such that it was reasonable to proceed with the works without a statutorily compliant consultation.
16. The Tribunal has made no determination on whether the costs are payable or reasonable, including the increase from the quotation to the actual invoice. If a lessee wishes to challenge the payability or reasonableness of those costs as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made. This was made clear in the Tribunal's directions and the introduction at the start of the hearing.

Law

17. Section 20 of the Landlord and Tenant Act 1985 (as amended) ("the 1985 Act") and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified form.
18. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.
19. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.
20. Section 20ZA relates to consultation requirements and provides as follows:

"(1) 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.

(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.

....

(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.

Applicable test

21. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.
22. The Supreme Court came to the following conclusions:
 - a. 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?”
 - b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.
 - c. 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.
 - d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.

- e. 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.
- f. The onus is on the leaseholders to establish:
 - i. what steps they would have taken had the breach not happened and
 - ii in what way their rights under (b) above have been prejudiced as a consequence
- 23. Accordingly, the Tribunal had to consider whether there was any “relevant 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.

Consideration

- 24. Having read the evidence and listened to the submissions made at the hearing and having considered all of the documents and grounds for making the application provided by the Applicant, the Tribunal determines the dispensation issues as follows.
- 25. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondent has suffered any relevant prejudice, and if so, what relevant prejudice, as a result of that lack of consultation by the landlord. In doing so, it needed to focus on whether the leaseholder has been prejudiced by being asked to pay for inappropriate works or being asked to pay an inappropriate amount as a result of the lack of consultation.
- 26. The Applicant believes that the works needed to be carried out urgently to halt a severe, ongoing water ingress from the defective main roof, which she said has caused hazardous black mould growth across the ceiling and the walls of the first floor flat. She contends that immediate intervention was required to protect her tenant’s health and safety and preserve the building’s structural integrity.
- 27. The Tribunal considered this, based on the evidence before it. It accepts that the mould issue in the first floor flat needed to be addressed. What is less clear is the cause of that mould.
- 28. The Applicant relies on the advice she says she received from her roofing contractor. However, there is no report produced by that contractor explaining its advice and there is no independent confirmation as roof failure as the cause. The Applicant said in evidence that it was her conclusion that the works needed to be done urgently, although she said it had advised they be done as soon as possible. The roofing contractor

provided a witness statement in the bundle but does not refer in it to the works being urgent. The person giving the statement also did not attend the hearing. The Applicant pointed to photographs of the works as evidence of the cause but these do not show any leaks or failure, they just evidence the works were done.

29. In addition, there were other possible causes of the mould that were properly investigated. No investigation had been carried out to establish whether the defective guttering remedied a few months before was the cause of the mould, for example by removing it and seeing whether it returned; the Applicant expressly said she did not want to incur the expense of removing the mould as an interim solution. The letting agents had suggested that the leak was from next door but the Applicant seems to have discounted this option because she could not get an ability to inspect there. We also heard that ivy had been removed from the rear of the Property, with black patches on the render clear from photographs; no investigation as to whether the render had failed so causing the mould was carried out.
30. The Tribunal therefore concludes that there is no evidence to support the Applicant's contention that the failure of the roof was the cause of the mould or that the works undertaken were required urgently. There were other potential causes that should have been investigated and no verification was obtained of the roofing contractor's advice. Instead, the Applicant proceeded with the roof works in the hope they would cure the issue, with the prime motivation being to avoid the cost of interim mould clearance. It concludes that this was not a reasonable approach; without knowing the cause of the mould, replacing the roof was potentially an unsuitable option with the Respondent therefore being charged for inappropriate works.
31. The Tribunal then considered the Respondent's objections. Many of these related to the cost of the works and so were not relevant to dispensation but could form the basis for a section 27A challenge, as referred to above. However, she also argued that the lack of consultation deprived her of the chance to understand the cause of the mould and so understand whether the roof replacement was appropriate. She says this amounted to relevant prejudice.
32. We agree with this argument. The Applicant has failed to show that the roof had failed and was causing the mould. Other credible alternatives were discounted and no separate verification of the roofing contractor's contended claims as to cause or urgency were carried out. The works may therefore have been inappropriate and so the Tribunal finds that the Respondent suffered relevant prejudice as a result of the failure to consult.
33. The Applicant has argued that there is no relevant prejudice because the Respondent would not have taken part in a consultation even if there had been one. She bases this on our past behaviour, citing a refusal to meet previously and the Respondent's email to the Applicant on 19

January 2026 and contained at page [93] of the bundle. In this she says she will “not be undertaking investigative work, contacting neighbours or assisting with management tasks. Please ensure that all property management matters are handled by you directly or by your letting agent”.

34. The Tribunal does not consider this to be a refusal to be consulted but instead a refusal to be directly involved in managing the building. In any event, the consultation requirements are mandatory unless dispensation is given.
35. As a result, the Tribunal considers that the Applicant has not rebutted the Tribunal’s findings that the Respondent suffered relevant prejudice.
36. The Tribunal is of the view that, taking into account the findings above, the Respondent would suffer relevant prejudice by the granting of dispensation relating to emergency structural repairs and a complete replacement of the main roof, alongside urgent mould eradication and ceiling structural work to the first floor flat. The Respondent has failed to demonstrate that the works were appropriate or that these works were urgent.
37. As a result, the Tribunal believes that it is not reasonable to allow dispensation in relation to the subject matter of the application. To allow dispensation would mean the Respondent is required to contribute towards potentially inappropriate works. Rather than verify the cause of the mould from credible options, she chose to proceed with these works without consultation. The Tribunal does not consider the approach taken reasonable or it to be reasonable to give dispensation.
38. The Tribunal considered whether the dispensation should instead be granted subject to any conditions. No conditions have been requested and it did consider that any conditions were appropriate. It therefore concludes that this is not a suitable alternative.
39. Accordingly, the Tribunal refuses the Applicant’s application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to emergency structural repairs and a complete replacement of the main roof, alongside urgent mould eradication and ceiling structural work to the first floor flat.

Costs

40. The Applicant has applied for the Respondent to be required to reimburse the Tribunal costs incurred in bringing this application.
41. In this case, the proceedings have only been brought because the Applicant has not undertaken a consultation process. They would not have been otherwise required. The Tribunal does not consider it equitable for a party to be charged for the costs of proceedings

necessitated by the other party's decision not to carry out a consultation, especially when that request for dispensation is refused. The Tribunal accordingly refuses the Applicant's request for a reimbursement order and makes an order in favour of the Respondent that none of the costs incurred by the Applicant in connection with these proceedings can be added to the service charge or charged direct to the Respondent as an administration charge under her lease.

Rights of appeal

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
2. 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.
3. 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.
4. 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.