



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

Case Reference	: HAV/00ML/LDC/2026/0022
Property	: St Anns Well House, Farm Road, Hove, East Sussex, BN3 1FX
Applicant	: Claire Slade
Representative	: Gunnercooke LLP
Respondents	: The leaseholders of St Anns Well House
Type of Application	: 20ZA of the Landlord and Tenant Act 1985
Tribunal	: Judge Dovar
Date of Decision	: 18 th August 2026 ¹

DECISION

¹ [Amended under the slip rule 24.8.26](#)

Introduction

1. This is an application dated 2nd February 2026 for dispensation of the statutory consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 in relation to three items of major works. The three items are:
 - a. Urgent roof repairs carried out in 2024 at a cost of £8,400;
 - b. The installation and continued hire of scaffolding from October 2021 to support an external staircase. The cost was charge annually for the scaffold, being
 - i. £247.50 plus VAT for 2021-2022
 - ii. £243 plus VAT for 2022-2023;
 - iii. £165.38 plus VAT for 2023-4;
 - iv. £187.50 plus VAT for 2024-2025; and
 - c. Fire safety works in 2025 at a cost of £7,102.34.
2. On 29th April 2026, the Applicant applied to amend her application to include:
 - a. Additional roof and chimney works carried out in 2024, taking the total for the urgent roof works in 2024 to £13,068; and
 - b. A cautionary application for dispensation for what may be a qualifying long term agreement in relation to the provision of scaffolding.
3. On 13th May 2026, the Tribunal gave directions for the Respondents to indicate if they opposed the application (as amended) and if so, to set out a statement of their opposition together with evidence of that they would have done differently had consultation been carried out and to provide copies of all documents relied on.
4. Of the two Respondents who engaged in this application, Claire Dixon, sought more time to put in her objection as, amongst other matters, she required guidance from the leasehold advisory service. The Tribunal gave her more time.

Background

Property and the Parties

5. The Property is a purpose-built apartment block dating from the early 20th Century, containing 16 similar flats and arranged over ground and 3

upper floors. There are substantial balconies at first floor level to the front of the building; at the rear are steel-framed staircases serving the upper floor flats. The ground at the rear of the Property is a communal garden.

6. The Applicant has been the freeholder since February 2017; the freehold title includes 5 of the flats and the Applicant has indirect control of a further 2 flats through a company of which she is a director. The Respondents are the leaseholders of individual flats within the Property.
7. Only two leaseholders have responded to the application. Duncan Moore (for himself and Caroline Hynds) has confirmed a lack of objection, although he does consider that had they been consulted the leaseholders would have challenged the proposed works. He does not however set out with any proper detail what would have been said, nor how that would have resulted in different works or a reduction in cost.
8. In her response dated 16th June 2026, Claire Dixon actually objects to dispensation and asserts that there was real prejudice. I deal with her specific objections under each of the relevant headings below.

Previous Proceedings

9. This application follows a determination by the Tribunal (ref HAV/00ML/LSC/2025/0691) on 19th June 2026 of various challenges under s.27A of the 1985 Act to service charges levied in the years ending 2019 to 2024.
10. In relation to the roof works the Tribunal determined that the costs were reasonably incurred, but that the Respondent had admittedly not complied with the statutory consultation requirements with the result that in the absence of dispensation, the cost recovery was capped at £250 per leaseholder.
11. Further, the Tribunal considered a challenge to cost recovery for scaffolding based on the fact that the contract with Woodland Construction & Management was a qualifying long term agreement and therefore required consultation under s.20. At paragraph 76 the Tribunal determined that it was not such an agreement.

Prejudice

12. The touchstone of applications under s.20ZA is prejudice. In *Daejan v Benson* [2013] UKSC 14, the Supreme Court set out the test as whether there is real prejudice to the tenants flowing from the landlord's breach. The financial consequences for the landlord of not granting dispensation are not relevant to this assessment. The onus is on tenants to demonstrate what they would have done differently had proper consultation occurred, and what prejudice, if any, they have suffered.

13. In *Aster Communities v Chapman* [2021] EWCA Civ 660, the Tribunal was sympathetic to tenants, recognising that where the landlord's failure to consult forces a retrospective assessment of what might have occurred, prejudice may be inferred more readily. The Tribunal may grant dispensation conditional on the landlord taking steps to remedy or mitigate any prejudice, such as paying for an expert to advise tenants.
14. Where prejudice is established, the Tribunal has the power to grant dispensation on appropriate terms, such as reducing the service charge recoverable from tenants to compensate for any proven prejudice, or requiring the landlord to pay the reasonable costs incurred by tenants in investigating or demonstrating prejudice

Urgent Roof Repairs

15. The Applicant has blamed the lack of consultation for roof works on urgency. It is not clear how urgency is a relevant factor when it comes to assessing whether or not the leaseholders have been prejudiced by a lack of consultation. It may explain the lack of consultation but does not alleviate any prejudice that the tenants may have suffered as a result.
16. Claire Dixon asserts that there has been real prejudice caused by the lack of consultation. She is critical of the failure to carry out a full roof repair earlier. However, that matter, of historic neglect, has already been dealt with in the previous Tribunal decision.
17. More pertinently she says that had there been consultation she could have sought alternative quotations and she was deprived of the ability to influence the scope, sequencing and selection of remedial works.
18. Unfortunately she does not go any further. There is nothing concrete for me to determine that any actual prejudice has been suffered. The onus is on the tenant to show prejudice. I have little doubt that she would have raised objections, but I do not consider that she has demonstrated that had the consultation taken place she would have suggested something that would have resulted in works that were cheaper. She has not provided any detail of what she would have said or how that would have lessened the cost to the service charge. In order to make good her challenge she should have provide alternative quotes or shown what works were not necessary or how different sequencing could have achieved a better outcome. She has not done so.

Scaffolding

19. There are two elements to the provision of scaffolding on the basis that they constituted major works and so were capped at £250 per annum per leaseholder and secondly that the arrangement was a qualifying long term agreement, in which event the cap is £100 per annum per leaseholder.

20. The cost of the scaffolding was a yearly sum. For two out of the four years, the sum demanded exceeded marginally the statutory cap of £250. Whilst she has said that she would have objected to the scaffolding continuing to be provided by the contractor used, she does not provide any detail as to what the alternatives were or what the cost of the same would have been.
21. In light of the previous decision of the Tribunal, the second aspect does not call for consideration. The Tribunal has already found that this was not a qualifying long term agreement and therefore there is no need for dispensation.

Fire Safety Works

22. Claire Dixon's final challenge to dispensation suffers similar difficulties to her challenge to the roof works. She has not provided sufficient evidence as to what would have happened. She has alluded to obtaining alternative quotes, but she has not provided them. She also appears to accept that there were differences in scope between the works she had quotes for and the work carried out. These works followed a fire risk assessment. The scope of works was therefore not susceptible to being changed. It would seem that any quote would therefore not have been a proper comparable.

Conclusion

23. In light of the above, I am prepared to give dispensation to the works sought as identified above so that the ~~Respondent~~ Applicant is not limited by the statutory cap on recovering the costs incurred.

RIGHTS OF APPEAL

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

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.

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.