



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

Case Reference	:	HAV/18UH/LDC/2026/0143
Property	:	Dolphin Court, Powderham Terrace, Teignmouth, Devon TQ14 8BL
Applicant	:	Dolphin Court (Powderham Terrace) Management Company Limited
Respondents	:	(1) C Wills (Flat 1) (2) Jane Branch (Flat 2) (3) Jennifer Harford (Flat 3) (4) John and Sue Sherwin (Flat 4) (5) Jean Roy (Flat 5) (6) Peter and Jean Cox (Flat 6) (7) Martin Darlington and Michelle Villancuva (Flat 7) (8) Kevin and Steve Brailey (Flat 8) (9) Luke and Mary Tucker (Flat 9)
Type of Application	:	To dispense with the requirement to consult lessees about major works under section 20ZA of the Landlord and Tenant Act 1985
Tribunal Members	:	Judge N Pointon Mr M Ayres FRICS
Date of Hearing	:	Determination on papers
Date of Decision	:	24 September 2026

DECISION

Summary of the 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 proposed works of repair to the lift, as outlined in the application. The Tribunal has made no determination on whether any costs incurred or to be incurred in connection with those works are reasonable or payable.**

Background

2. This is an application under s. 20ZA of the Landlord and Tenant Act 1985 (“**LTA 1985**”) for dispensation of the requirement to consult lessees imposed by s. 20 LTA 1985.
3. The Applicant is Dolphin Court (Powderham Terrace) Management Company Limited, the landlord in respect of 9 leasehold flats comprising Dolphin Court, Powderham Terrace, Teignmouth, Devon TQ14 8BL.
4. The Respondents are the lessees of those 9 flats.
5. The application concerns the lift which serves the building. The lift has been out of service since 5 June 2026. On 12 June 2026 the Applicant wrote to all leaseholders with a quote of £9,570 inc. VAT to repair the lift, inviting them to forgo the s. 20 consultation process. Some declined, though we are not told which. On 7 August 2026 the Applicant wrote again to all leaseholder, this time with a further quote of £9,840 inc. VAT, again inviting them to forego the s. 20 consultation process. Again some declined, but again we are not told which. On 11 August 2026 this application was made seeking to dispense with the need to consult.
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, nor 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. Works are ‘qualifying works’ if the relevant contribution of any tenant to their cost is more than £250 (reg. 6 of the Service Charge (Consultation

Requirements) (England) Regulations 2003). Before carrying out such works, the landlord must follow the consultation requirements prescribed by s. 20 LTA 1985 and Schedule 4 to the Service Charge (Consultation Requirements) (England) Regulations 2003. If the landlord fails to do so, then the contributions of tenants towards the costs under that agreement is limited to £250.

8. Section 20ZA empowers the Tribunal to dispense with those consultation requirements, either prospectively or retrospectively, if the Tribunal thinks it is reasonable to do so. The question is whether it is reasonable to dispense with the consultation requirements; the question is not whether the works or agreement itself, or any costs incurred in connection with them, are reasonable.
9. The leading decision on the approach to the exercise of the s. 20ZA jurisdiction is ***Daejan Investments Ltd v Benson*** [2013] UKSC 14; [2013] 1 WLR 854. Lord Neuberger PSC, with whom Lords Clarke and Sumption JJSC agreed, explained at [44] that:

“...the issue on which the [Tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements.”
10. This question of prejudice to the tenant is “*the main, indeed normally, the sole question*” for the tribunal (***Daejan*** at [50]). The financial consequences for the landlord of granting or declining dispensation are not relevant, nor is the nature of the landlord (***Daejan*** at [51]).
11. The factual burden of demonstrating some relevant prejudice falls on the tenant (***Daejan*** at [67]). 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).

Consideration

12. The application was received on 22 August 2026, with directions given on 24 August 2026. The Respondents were provided with reply forms and directed to indicate whether they objected to the application and, if so, their reasons for doing so.
13. On 11 September 2026 the Applicant notified the Tribunal that it had received no objections from residents. Nor has the Tribunal received any such objections directly.
14. Having carefully considered the application and information submitted, the Tribunal satisfied itself that a determination on the papers remained appropriate, particularly given that the application is unchallenged.
15. The Tribunal is satisfied that the Applicant has established sufficient grounds for the grant of dispensation.
16. The subject matter of qualifying works is the repair of the lift which serves

the building. The Application itself asserts that the lift being out of service is affecting the owners of flats 3, 4, 5, 6, 7 and 9 *'who regularly use the lift some of which have body ailments which cause them difficulty in managing the stairs'*. The Applicant is concerned that following the full consultation process, coupled with any resulting cash call on leaseholders and the time taken to actually effect repairs, could see the lift out of service for a further 6 months.

17. The Applicant has not simply sought and presented a single quote for the works. On 12 June 2026 leaseholders were provided with a quote for £9,570.80 inc. VAT from Next Level Lifts. On 7 August 2026 they were provided with a further quote from Bay Line Lifts Ltd, for £9,840 inc. VAT. By the same email the Applicant explained that they had also consulted Ideal Lifts, who proposed to repair a particular part but that *'professional advice from Bay Line Lifts and further responses from Next Level Lifts advise that this part cannot be repaired therefore the Directors wish to discount Ideal Lifts'*. The Applicant has also procured a report from Richard Whiteley of Elevator Support Services (ESS) dated 15 July 2026. This is not a case in which the Applicant has simply declined to shop around at all.
18. A small point of confusion arises. The Applicant's email of 7 August 2026 attaches both the Next Level Lifts and Bay Line Lifts quotations. The body of the email accurately describes each of their quotations, but then proposes (beneath 'Next Steps') engaging Bay Line Lifts and making a cash call on leaseholders 'covering their quote of £9,570'. However, £9,570 was the quote provided by Next Level Lifts, not by Bay Line Lifts (who quoted £9,840). The email continues *'This quote will also provide a GSM unit which will provide the two way communication facility in the lift'*. When reviewing the quotes, it is clear that Bay Line Lifts does propose to supply the GSM unit, whereas Next Level Lifts' quotation makes no mention of it. The Application itself indicates that the Applicant wishes to instruct Bay Line Lifts *'at £8,200 plus VAT'*, and again refers to the supply of a GSM unit. The sum of £8,200 plus VAT is £9,840 inc. VAT.
19. It therefore seems clear that the Applicant wishes to proceed with Bay Line Lifts despite their quotation being slightly higher than that of Next Level Lifts, but that the two figures had been confused in the Applicant's email of 7 August 2006.
20. A landlord is not obliged to pursue the cheapest option and there may well be good reason for electing a more expensive course. In this case, the supply of a GSM unit appears to be regarded by the Applicant as a material point of distinction between the two quotations. The Tribunal is also mindful that, faced with this application which seeks to pursue that slightly more expensive option, no Respondent has objected nor asserted that any prejudice has been caused to them by the failure to consult. Even when the consultation requirements are followed and lessee(s) make observations in respect of the proposed works, the landlord is merely obliged to have regard to those observations (and is not obliged to follow them). The Tribunal is satisfied that a full consultation would not have produced a different outcome, other than causing delay to residents.
21. Of particular note is the Applicant's assertion that some lessees have difficulty in using the stairs because of *'body ailments'*. While the Tribunal

has no more detail than this, the prospect of an extended period in which those less bodily able to manage stairs must nevertheless do so does present an element of urgency which contributes to the Tribunal's determination that it is reasonable to dispense with consultation requirements in this case.

22. Accordingly, the Tribunal finds that the Respondents have not suffered any prejudice by the failure of the Applicant to follow the full consultation process.

DECISION

23. **The Tribunal determines that it is reasonable to grant dispensation from the consultation requirements under s. 20 LTA 1985 in relation to the proposed qualifying works in respect of repairs to the lift.**
24. **The Tribunal has not made a determination on whether any costs incurred or to be incurred in respect of those works are payable by way of service charge or reasonable in amount. 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.**
25. **In reaching our decision, the Tribunal has taken account of the fact that the Respondents have not objected to the application, despite having the opportunity to do so.**
26. **The Applicant shall provide a copy of this decision to all Respondents.**

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 to the First-tier Tribunal at the Regional office which has been dealing with the case.
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.