



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

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Case reference : **LON/00AG/LDC/2025/0922**

Property : **5-8 Frognal Mansions, 97 Frognal,
London, NW3 6XT**

Applicant : **Roca Wimbledon Ltd**

Representative : **Mr Thacker**

Respondent : **The leaseholders, Ms Samsonenko as
objector**

Representative : **Ms Samsonenko in person**

Type of application : **Dispensation from consultation
requirements under Landlord and
Tenant Act 1985 section 20ZA**

Tribunal members : **Judge R Percival
Mr J Stead BSc (Hons), MSc**

**Venue and date of
hearing** : **10 Alfred Place, London WC1E 7LR
10 April 2026**

Date of decision : **14 September 2026**

DECISION

Procedural

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 28 October 2025. Directions were issued on 17 November 2025, and further directions on 4 February 2026.
2. The directions provided for a form to be distributed to those who pay the service charge to allow them to agree or disagree with the application. Before us was Ms Samsonenko, a leaseholder, who objected.
3. Copies of the legislation referred to in this decision and other sources of free legal information are set out in the appendix to this decision.

The property and the works

4. The property is part of a large block of mansion flats. In ownership terms, the block as a whole is divided, broadly vertically, into four sections. The section we are concerned with is the second from left as one looks at the building from the road. The freehold is held, under its own registration number, by Frognal Mansions (5-8) Limited. 5-8 Frognal Road comprises nine flats.
5. In the application form, the applicant, which is the current managing agent for the property, described the works in these terms:

“Suspected rising damp in the common areas of the building, namely the corridors. We are obtaining a damp survey and remedial works to rectify the issue. The survey will be instructed and any remedial work undertaken.”
6. By the time of the hearing, remedial works following the delivery of the damp survey had been undertaken.

The hearing

Introductory

7. Mr Thacker, the building manager, represented the Applicant. Ms Samsonenko was the only leaseholder to object. As is normal in respect of an application for dispensation pursuant to section 20ZA, the leaseholders as a whole are identified as the respondents, and are bound by this decision.

The challenge

8. Most of the information provided in the bundle related to the survey. Ms Samsonenko's case was also directed, at least principally, against the survey.
9. Mr Thacker's view was that it was the costs of the survey that were before us.
10. Ms Samsonenko, however, argued that we should consider both the costs of the survey and those of the by-then carried out remedial works together. There had been no consultation on the remedial works or the survey.
11. At the hearing, we told the parties that we would proceed on the basis that both the survey and the remedial work were in issue. We did not formally so determine, on the usual basis that we would formally make decisions in our written decision.
12. When considering the issue immediately after the hearing, we came to the conclusion that we should decide whether the survey and the remedial work constituted a single set of works of works, applying the criteria set out in *Phillips and another v Francis and another* [2014] EWCA Civ 1395, the leading case on determining the scope of a set of works for the purposes of section 20ZA. In doing so, we considered that while the two elements were not undertaken by the same contractor, they related to the same problem and the same elements of the building and were closely proximate in time. The remedial works flowed directly from the results of the survey. Accordingly, at that point, we concluded that they should be considered together.
13. The survey was a rising damp survey commissioned from a company called Watts Group Ltd, and carried out by a chartered surveyor. The cost was £3,240, including VAT. The cost of the subsequent remedial works was £1,740 including VAT.
14. The threshold for the consultation requirements is £250 per flat (Services Charges (Consultation Requirements)(England) Regulations 2003, regulation 6).

Rose v Bracknell Gate Properties Ltd

15. However, since the date of the hearing, the Tribunal has become aware of *Rose v Bracknell Gate Properties Ltd* [2025] UKUT 386 (LC), [2026] H.L.R. 11. The case was decided on 24 November 2025, and published in 2026 in the Housing Law Reports.
16. In that case, Judge Johns KC considered the definition of "qualifying works" as used in sections 20 and 20ZA, which is set out in section

20ZA(2). The definition reads “‘qualifying works’ means works on a building ...”. In *Rose v Bracknell Gate Properties Ltd*, the judge considered the issue was whether “works on a building” referred only to the physical works on a building, or whether it also included the cost of professional services associated with physical works.

17. In doing so, the judge referred to the earlier case of *Marionette Limited v Visible Information Packaged System Limited* [2002] EWHC 2546 (Ch). That was a case decided on the wording of section 20 of the 1985 Act before it was wholly substituted by new drafting by the Commonhold and Leasehold Reform Act 2002. In *Rose v Bracknell Gate Properties Ltd*, Judge John found that the conclusion in that case that professional fees were not subject to the consultation requirements applied equally to section 20 as it is now in force.

18. Judge John quoted this passage from the earlier case:

"95. For section 20 to apply, there must be 'qualifying works', a term itself defined in subsection (2) set out above. The definition shows that 'works' are contemplated as being effected 'on' a building or other premises; 'works' are, in my judgment, restricted to the physical works involved in repair or maintenance and the cost of those works is the charge made by the contractor carrying out those works for doing so. This is also very much the flavour given by subsection (4)(c) requiring a description of the works to be earned out to be given in the notice which has to be served on the tenants: that provision seems to me to be inapposite to cover professional services provided by an independent person as part of the works which need to be described.

96. Of course, the contractor's price will reflect all the work which needs to be done by him to complete a project and will no doubt reflect a proportion of his general overheads: indeed, it may be that the contractor himself has to undertake some design work or to deal with building consents from local authorities. There can be no doubt, however, that the total contractual sum is a cost 'incurred on the carrying out of any qualifying works' within subsection (1). Nor can there be any doubt, to my mind, that the estimates 'for the works' required by subsection (4)(a) include the whole cost which the contractor estimates he will charge for delivery of the completed project.

97. The position in relation to a separate fee chargeable to the landlord, whether of a designer in preparing a project, or a professional supervising the execution of a project, is not so clear. Those professional fees are certainly incurred in relation to the works (being qualifying works) and it may well be correct, although it is unnecessary to decide, that these fees are 'incurred on the carrying out of any qualifying works' within

subsection (1) especially in the case of supervisory fees incurred in relation to an actual project in contrast with design fees incurred in relation to a proposed project.

98. However, in my judgment, the services for which such fees are paid are not part of the works themselves as I have identified them. The works are the physical works which subsection (4)(c) requires to be described; and it is only in respect of those works that estimates are required to be provided by subsection (4)(a). It can no doubt be said that this approach fails to give effect to the obvious policy of the legislation which is (a) to let tenants know what it is going to cost them to have repairs carried out and (b) to give them the opportunity to object. I fully understand that objection to the construction which I think that the language of the section leads to; the answer, I think, is that tenants will readily recognise that repairs of any significant scope will be likely to require supervision and that relevant costs, to be recoverable, are subject to the 'reasonableness' provisions of section 19. Accordingly, I do not consider that there was any need for the notice served under section 20 to deal with the professional fees of [surveyors and consulting engineers].”

19. The judge concluded that this analysis was correct, and that it applied with equal force to section 20 as now amended.

Determination

20. The effect of *Rose v Bracknell Gate Properties Ltd* is that the fees for the survey conducted by Watts Group are not subject to the section 20 consultation requirements. The applicant therefore does not need dispensation from those requirements under section 20ZA in respect of those costs.
21. As we explained above, insofar as the cost of the remedial works were before us (a position that, at least initially, the applicant did not agree with), they were before us on the coat tails of the costs of the survey. We do not consider that, given our conclusion as to the costs of survey, that we can properly consider that the costs of the remedial works alone are before us.
22. But if we are wrong about that, it is unlikely that the remedial works alone triggered the consultation requirements. There are nine flats in 5-8 Froggnal Mansions. The threshold for section 20 to take effect would be £2,250, if the service charge was divided equally. It may be that the proportions of the service charge are unequal, but even if they are, it is unlikely that the service charge for any one flat would breach the £250 threshold.

Rights of appeal

23. 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 London regional office. The application should be on form RP-PTA, which is available on the Tribunal's website, or by application to the case officer.
24. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
25. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
26. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge R Percival

Date: 14 September 2026

APPENDIX: SOURCES FOR FREE LEGAL MATERIALS

Legislation

The legislation referred to in this decision may be found at:

<https://www.legislation.gov.uk/ukpga/1985/70>

<https://www.legislation.gov.uk/ukpga/2002/15/contents>

Case Law

The dedicated website for Upper Tribunal (UT) cases, which are binding on this Tribunal, is:

<https://landschamber.decisions.tribunals.gov.uk/Aspx/Default.aspx>

The search engine does not allow for free text searching. Sufficient information to use the provided search engine (such as the date of the case or the parties names) may be available via a google search.

Alternatively, the official National Archive website is at:

<https://caselaw.nationalarchives.gov.uk/>

This has a better search engine, but does not contain UT decisions before 2015, and there may be gaps in its provision thereafter.

The National Archive website can also be used for finding cases in higher courts, including those referred to in UT decisions.

Alternatively, many UT decisions, and most other important cases in all courts, are available on:

<https://www.bailii.org/> .

Bailii stands for British and Irish Legal Information Institute. It is a charity that has published free caselaw for many years, and has in some cases loaded up earlier case law.