

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/00MR/LDC/2026/0074
Property	:	Blake House, Gunwharf Quays, Portsmouth, PO13TH
Applicant	:	Gunwharf Quays, Residents Company Ltd
Representative	:	Dack Property Management Company Ltd
Respondents	:	The leaseholders
Representatives	:	None
Type of Application	:	Application for dispensation from consultation requirements – s.20ZA Landlord and Tenant Act 1985
Tribunal Member(s)	:	Judge M Loveday Andrew Hetherton MRICS
Date of hearing/venue	:	Decision on the papers without a hearing (Rule 31)
Date of decision	:	16 September 2026

DETERMINATION

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Introduction

1. This is an application for dispensation from consultation requirements under s.20ZA Landlord and Tenant Act 1985 ("LTA 1985") in respect of the costs of qualifying works. The application is dealt with on the papers without a hearing under r.21 Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

2. The application concerns Blake House, Gunwharf Quays, Portsmouth, PO13TH. The premises comprise a block of flats with 62 flats (a mixture of 1,2 and 3 beds) and a commercial unit underneath. The building is approximately 25yrs old.

3. The Applicant is a lessee-owned management company. The application includes a copy of a sample tripartite lease of apartment 216 dated 29 November 2002. By clause 8 and Sch.4, the Applicant is responsible for repairs to the "Main Structures". By Sch.2 para 2 and clause 1.1, the "Main Structures" expressly cover the "lifts" in the premises. There are provisions in the Lease for the Applicant to recover the costs from the lessees by way of a Block Service Charge. The Block Service Charge apportionment applicable to each flat appears in Sch.6 to the Lease. Most flats apply apportionments of between 1.06% and 3.32%. However, some three flats (described as Plots 210, 213 and 216) have apportionments of 0.88% and one (described as Plot 164) has an apportionment of 1%.

4. The Applicant employs Dack Property Management as its managing agent. In the application, Dack describes the qualifying works as follows:

> "The lift in Blake House broke down and it was identified by the lift contractor that the lift required a replacement hydraulic cylinder with new ram seals and oil. This work was essential to ensure the safe use of the lift. The work was carried out in February 2025 over 12 days."

There are copies of invoices dated 11 December 2024 and 12 March 2025 each for £11,937, inclusive of VAT. The total cost of the works was therefore £23,874.

5. It appears no Notices of Intention or other consultation notices were given to the lessees in respect of these works.

6. The application is dated 28 April 2026, and directions were given on 9 July 2026. On 24 August 2026, Dack confirmed that no representations had been received from any of the respondent lessees.

The Law

7. Major works costs are limited by s.20 Landlord and Tenant Act 1985:

> **"20 Limitation of service charges: consultation requirements**
>
> (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
>
> (a) complied with in relation to the works or agreement, or
>
> (b) except in the case of works to which section 20D applies, dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.
>
> (2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
>
> (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
>
> …
>
> (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be

taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

8. Dispensation is dealt with under s.20ZA LTA 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

…

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

The material consultation requirements appear in Pt.2 of Sch.4 to the Service Charge (Consultation Requirements) (England) Regulations 2013, but it is unnecessary to set these out here.

9. The legal principles underpinning s.20ZA were summarised by Judge Cooke in *RM Residential v Westacre Estates* [2024] UKUT 56 (LC); [2024] L. & T.R. 19 at [9] to [12]:

"9. That provision gives the FTT a discretion to dispense with the requirements. The Supreme Court in *Daejan Investments Ltd v*

Benson [2013] UKSC 14 explained how that discretion is to be exercised. At paragraph 44 Lord Neuberger said:

> '44. Given that the purpose of the [consultation requirements] is to ensure that the tenants are protected from (i) paying for inappropriate works or (ii) paying more than would be appropriate, it seems to me that the issue on which the LVT 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.
>
> 46. I do not accept the view that a dispensation should be refused in such a case solely because the landlord seriously breached, or departed from, the Requirements. That view could only be justified on the grounds that adherence to the Requirements was an end in itself, or that the dispensing jurisdiction was a punitive or exemplary exercise. ...
>
> 50. In their respective judgments, the LVT, the Upper Tribunal and the Court of Appeal also emphasised the importance of real prejudice to the tenants flowing from the landlord's breach of the [consultation requirements], and in that they were right. That is the main, indeed normally, the sole question for the LVT when considering how to exercise its jurisdiction in accordance with section 20ZA(1).'

10. As Lord Neuberger pointed out at paragraph 65, that is the relevant prejudice and no other:

> 'The tenants can always contend that they will suffer a disadvantage if a dispensation is accorded; however, as explained above, the only disadvantage of which they could legitimately complain is one which they would not have suffered if the [consultation requirements] had been fully complied with, but which they will suffer if an unconditional dispensation were granted.'

11. So, the consultation requirements are not an end in themselves, and failure to consult is not something to be punished. On many

occasions the urgency of the work will have been such that the landlord obviously did the right thing, and acted in the tenants' best interests, in going ahead without waiting to go through the consultation process; see for example *Holding and Management (Solitaire) Ltd v Leaseholders of Sovereign View* [2023] UKUT 174 (LC) , where the landlord acted swiftly to get a fire alarm system installed so as to put a stop to the financial haemorrhage caused by the maintenance of a waking watch. Whether or not the work was urgent, if the tenants have not been prejudiced as a result of the failure to consult then dispensation should normally be granted, and it can be granted subject to conditions.

12. The sort of prejudice that will have a bearing on dispensation is where the tenants can show that they would have been able to suggest a better or cheaper way of doing the work: see for example *Marshall v Northumberland & Durham Property Trust Ltd* [2022] UKUT 92 (LC) where the tenant had expertise such that if he had been consulted he would have made suggestions which would have resulted in the work being done more cheaply. As a result, dispensation was granted on condition that the cost to leaseholders was limited to the sum the landlord would have had to spend had the tenant been consulted."

Decision

10. The Applicant does not explain whether it seeks dispensation from all or only parts of the consultation requirements. It is therefore assumed that dispensation is sought from the entirety of the requirements of Pt.2 of Sch.4 LTA 1985.

11. There is no argument that any respondent has suffered the sort of prejudice referred to above. The Tribunal therefore orders under s.20ZA LTA 1985 that the consultation requirements of Pt.2 Sch.4 to the 2001 regulations are dispensed with in relation to the 2024-25 replacement of the hydraulic cylinder with new ram seals and oil in the lift of Blake House.

12. This decision does not deal with questions whether (1) the costs of the above qualifying works were reasonably incurred, or (2) the works were of a reasonably standard. Save as above, the parties retain the right to apply to the Tribunal for a determination of liability to pay service charges under s.27A LTA 1985 in respect of the qualifying works.

13. The Tribunal notes that dispensation is not required for all of the flats at Blake House. The consultation threshold of £250 is not met in relation to the four flats who must contribute less than 1.05% of the relevant costs of the lift works (£250/£23,874 = 1.05%). However, the Tribunal cannot tell which four flats are involved, since the descriptions of the units in the application and in Sch.6 to the Lease are different. Suffice it to say that dispensation is granted in relation to those flats for which dispensation is required.

Appeals

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.