FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/00ML/LDC/2026/0084
Property	**:**	110 St James Street, Brighton BN2 1TH
Applicant	**:**	Shukran Everyday Ltd
Representative	**:**	Elizabeth Worton – Orbit Property Management Ltd
Respondent	**:**	The lessees named on the application
Representative	**:**	None
Type of Application	**:**	To dispense with the requirement to consult lessees under s.20 of the Landlord and Tenant Act 1985
Tribunal Member(s)	**:**	Judge D Gethin Ms T Wong
Date type and venue of Hearing	**:**	28 October 2026, On the papers
Date of Decision	**:**	28 October 2026

DECISION

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Summary of the Decisions of the Tribunal

1. **The Tribunal determines that those parts of the consultation requirements provided for by s.20 of the Landlord and Tenant Act 1985 ("the Act") which have not been complied with are to be dispensed with in relation to emergency works in the basement to address serious flooding.**

2. **Dispensation is granted on the condition that a copy of this decision shall be served by the Applicant upon all leaseholders at the Property.**

3. **The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**

The Application

4. 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. The application was received on 14 May 2026.

5. The Property is described in the application as:

> *150 to 200-year-old property comprising of a basement, retail unit on the ground floor and three 2-bedroom flats above*

6. The Applicant explains in the application that emergency repair works were required to the Property and explains that:

> *Commercial and residential tenants notified our team of serious flooding to the basement, and asked us to arrange for a contractor to attend as soon as possible to resolve. Report of the issue and works to resolve were all carried out on 24/04/2026*

7. Further:

> *The commercial tenant emailed our office cc'ing in all residential tenants requesting we attend urgently, we kept them all informed and up to date with the attendance of the emergency plumber and provided a copt [sic] of the report and invoice folowing [sic] this. All tenants were happy with this and in agreement.*

8. Dispensation is sought as:

The portion chargeable to the residential tenants exceeds £250, and so section 20 would have been required. Due to this being an emergency we are requetsing [sic] this through this form.

9. The lease of Flat 2, 110 St James Street, Brighton BN2 1TH has been provided ("the Lease"). It is understood that other leases in the building are on broadly similar or the same terms.

10. The Applicant has various obligations under the Lease, principally set out in Schedule 2 to the Lease, including "*maintaining and keeping in good and substantial repair and condition… the main structure of the Building including the foundations and the roof thereof with its gutters and rain water pipes… all such gas and water pipes drains and electric cables and wires serving the Building as are enjoyed by the Tenant in common with the owners or tenants of the other flats comprised in the Building…*" The lessees are required to contribute to the costs and expenses of the Applicant complying with its obligations pursuant to Clause 3(a)(ii).

11. The works fall within the responsibility of the Applicant and *may* be chargeable as service charges.

12. The Tribunal issued Directions on 9 July 2026 (which were sent to the Applicant on 13 July 2026) requiring the Applicant to send the Directions to the Lessees together with a form for them to indicate to the Tribunal whether they agreed with or opposed the application and whether they requested an oral hearing. If the Leaseholders agreed with the application, or failed to return the form, they would be removed as a Respondent although they would remain bound by the Tribunal's Decision. On 15 September 2026, the Applicant confirmed that they had served the Directions on the affected leaseholders.

13. The Directions stated that Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal within 14 days of the date of receipt of the Directions. No party has objected to the application being determined on the papers. The matter is therefore determined on the papers in accordance with Rule 31 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

14. 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, and whether they are recoverable from the lessees through the service charge, or the possible application or effect of the statutory protections for lessees including the

Building Safety Act 2022. The Lessees 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 Hearing

15. The matter was determined by way of a paper hearing which took place on 28 October 2026.

Particulars of the Application

16. The Applicant has applied for dispensation from the statutory consultation requirements in respect of emergency plumbing works to remedy serious flooding in the basement.

17. The Applicant provided no details regarding the cost of the works which have been carried out. The works have been commenced prior to a consultation because of the serious flooding in the basement which gave rise to a risk of wider property damage.

18. No copies of quotations or invoices from the contractors instructed were provided with the application.

19. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application did not concern the issue of whether any service charge costs will be reasonable or payable.**

20. No notice was received from any of the Respondents opposing the application. There is no suggestion of any prejudice arising from the failure to carry out the statutory consultation process

The Law

21. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide that where the lessor undertakes qualifying works (as in this case) with a cost of more than £250 per lease, the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.

22. Dispensation is dealt with by s.20ZA of the Act which provides:

> *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.*

23. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of *Daejan Investment Limited v Benson et al* [2013] UKSC 14.

24. Lord Neuberger pointed out, at [40], that s.20ZA provides little guidance on how the dispensing jurisdiction is to be exercised, other than that the tribunal must be "*satisfied that it is reasonable to do so*".

25. He continued, at [41]:

> "*However, the very fact that s.20ZA(1) is expressed as it is means that it would be inappropriate to interpret it as imposing any fetter on the LVT's exercise of the jurisdiction beyond what can be gathered from the 1985 Act itself, and any other relevant admissible material. Further, the circumstances in which a s.20ZA(1) application is made could be almost infinitely various, so any principles that can be derived should not be regarded as representing rigid rules.*"

26. Having identified the purpose of the consultation provisions as being the protection of tenants from (i) paying for inappropriate works or (ii) paying more than would be appropriate, Lord Neuberger explained, at [44]-[45], that the issue on which tribunals should focus when determining an application under s.20ZA(1) was "*the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements*". If "*the extent, quality and cost of the works were in no way affected by the landlord's failure to comply with the requirements*" dispensation should normally be granted, because, "*in such a case the tenants would be in precisely the position that the legislation intended them to be – ie as if the requirements had been complied with*".

27. Lord Neuberger considered, at [46]-[47], that it would not be right to focus on the seriousness of the breach of the consultation requirements; the only relevance of the extent of the landlord's oversight was "*in relation to the prejudice it causes*". The overarching question was not whether the landlord had acted reasonably but was whether the tribunal was satisfied that it was reasonable to dispense with compliance.

28. In assessing the prejudice to the tenants if dispensation was granted Lord Neuberger explained, at [65], that it was necessary to take account only of the sort of prejudice which s.20 was intended to protect against: "*… the only disadvantage of which they could legitimately complain is one which they would not have suffered if the requirements had been fully complied with, but which they will suffer if an unconditional dispensation were granted.*"

29. Lord Neuberger concluded that dispensation could be granted on conditions. One such condition of dispensation could be to require that the landlord compensate the tenants for any costs they may have incurred in connection with the application under s.20ZA. At [64], Lord Neuberger considered that a landlord seeking dispensation was in a similar position to a party seeking relief from forfeiture, in that they were "*claiming what can be characterised as an indulgence from a tribunal at the expense of another party*".

30. Summarising his conclusions, at [71], Lord Neuberger said that: "*Insofar as the tenants will suffer relevant prejudice as a result of the landlord's failure, the LVT should, at least in the absence of some good reason to the contrary, effectively require the landlord to reduce the amount claimed as service charges to compensate the tenants fully for that prejudice. That outcome seems fair on the face of it, as the tenants will be in the same position as if the requirements have been satisfied, and they will not be getting something of a windfall.*"

31. The effect of *Daejan* has been considered by the Court of Appeal in *Aster Communities v Chapman & Others* [2021] EWCA Civ 660, which considered whether the Tribunal was entitled to impose a condition which reflected the relevant prejudice suffered by the lessees in responding to the landlord's application.

32. There have been other Decisions of the higher Courts and Tribunals of assistance in the application of the Supreme Court decision in *Daejan*, but none are relied upon or therefore require specific mention in this Decision.

The Objections

33. The Directions attached a reply form for the Respondents to complete to confirm whether they agreed with the application or not and if opposed, to provide a statement setting out why they oppose.

34. No objections were sent to the Tribunal and on 24 September 2026 the Applicant wrote to the Tribunal also confirming that no objections had been received.

35. None of the Lessees have asserted that any prejudice has been caused to them. The Tribunal finds that nothing different would be done or achieved in the event of a full consultation with the Lessees, except for the potential delay and potential problems.

The Decision

36. Having considered the application and prior to undertaking this determination, we are satisfied that a determination on the papers remains appropriate, given that the application remains unchallenged.

37. The reason why dispensation from consultation requirements is said to be required is the emergency nature of the works prevented the Applicant from consulting ahead of instructing contractors to attend. Given the nature of the works and the potential of further damage and disruption to the occupants, the Tribunal is satisfied that the qualifying works were of an urgent nature.

38. There has been no objection to the dispensation of the consultation requirements from any of the Lessees.

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

40. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the qualifying works to the building as described in this Decision.

41. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works for the repairs to remedy the serious flooding in the basement.

42. The Tribunal has made no determination on whether the costs are payable or reasonable. 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.

43. In reaching our decision we have taken account of the fact that no party has objected to the application. The Lessees have had opportunity to raise any objection, and they have not done so.

44. We therefore grant dispensation from the consultation requirements under s.20 of the Landlord and Tenant Act 1985, subject to a condition that a copy of this decision shall be served by the Applicant, or their agent, upon all leaseholders at the Property.

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 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. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.

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.