FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/29UE/LDC/2026/0080
Property	**:**	White Fields Court, 1 Manley Close, Kent, CT16 3NA
Applicant	**:**	McCarthy & Stone Retirement Lifestyles Limited
Respondents	**:**	The leaseholders of the Property
Type of Application	**:**	To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
Tribunal Member(s)	**:**	Tribunal Judge H Lumby
Date of Decision	**:**	26 August 2026

DECISION

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Decision of the Tribunal

The Tribunal grants the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act) in relation to works to restore communal underfloor heating at the Property.

The background to the application

1. 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. This application was received on 8 May 2026.

2. The Property is described as a purpose-built block of 32 flats comprising of one and two bedroom apartments, with an age-restricted community for the over 55s, first occupied in 2014.

3. The Applicant is the landlord of the Property with responsibility to the leaseholders for the provision of services. The Respondents comprise the leaseholders.

4. The application relates to works to restore communal underfloor heating at the Property. A contractor called Rendesco attended the Property to carry out the works after Heat Pump 1 (Dimplex LA60 ASHP) failed due to loss of refrigerant and a low-pressure fault (0 bar), leaving no heating to communal areas. Engineers were said to have completed F-Gas-compliant leak detection and repairs, including sealing a hairline oil-line crack and tightening a leaking expansion valve joint. The system was pressure-tested to 28 bar, re-oiled, vacuum-tested, recharged with 20.9kg R417A and fully commissioned. Total costs were £374.40 (call-out) and £6,501.35 (repairs), both including VAT.

5. The works had been commenced at the time of the application.

6. The works were said to be urgent due to the heat pump failure leaving communal areas without heating and so creating an immediate risk to resident comfort and health & safety.

7. No statutorily compliant consultation has been carried out due to the urgency of the works and the Applicant therefore has applied for dispensation instead. The leaseholders are said to have been consulted through a dedicated meeting held on 14 January 2026, attended by the Operations Manager, House Manager and multiple homeowners, where the underfloor heating failure, proposed remedial works and the need for dispensation were fully explained and questions answered. Attendees were said to have confirmed that they were satisfied with the information provided. Following the meeting, an update letter dated 19 January 2026 was issued to all homeowners, explaining the works and the reasons for urgency.

8. The Applicant has confirmed that there have been no objections to the application for dispensation.

9. By Directions of the Tribunal dated 9 July 2026 it was decided that the application be determined without a hearing, by way of a paper case. No objections have been received to this approach. The Tribunal has reviewed the documentation provided and is satisfied that it remains suitable for a paper determination.

10. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.

11. This has been a paper determination which has not been objected to by the parties. The documents that were referred to are the application, a list of the Respondents and a specimen lease together with the Tribunal's Directions dated 9 July 2026, the contents of which have been recorded.

The issues

12. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the qualifying works. 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 as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

Law

13. Section 20 of the Landlord and Tenant Act 1985 (as amended) ("the 1985 Act") and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified form.

14. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.

15. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.

16. Section 20ZA relates to consultation requirements and provides as follows:

"(1) 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.

(2) In section 20 and this section—
"qualifying works" means works on a building or any other premises, and "qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
....
(4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
(5) Regulations under subsection (4) may in particular include provision requiring the landlord—
(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
(b) to obtain estimates for proposed works or agreements,
(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

Applicable test

17. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.

18. The Supreme Court came to the following conclusions:

a. The correct legal test on an application to the Tribunal for dispensation is: "Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord's failure to comply with the requirements?"

b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.

c. In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord's failure to comply.

d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.

e. The factual burden of identifying some "relevant prejudice" is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

f. The onus is on the leaseholders to establish:

i. what steps they would have taken had the breach not happened and

ii in what way their rights under (b) above have been prejudiced as a consequence

19. Accordingly, the Tribunal had to consider whether there was any "relevant prejudice" that may have arisen out of the conduct of the Applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above.

Consideration

20. Having read the evidence and submissions from the Applicant and having considered all of the documents and grounds for making the application provided by the Applicant, the Tribunal determines the dispensation issues as follows.

21. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether the Respondents have suffered any relevant prejudice, and if so, what relevant prejudice, as a result of that lack of consultation by the landlord. In doing so, it needed to focus on whether the leaseholders have been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.

22. The Applicant believes that works to restore communal underfloor heating at the Property needed to be completed urgently due to the heat pump failure leaving communal areas without heating and so creating an immediate risk to resident comfort and health & safety. On the evidence before it, the Tribunal agrees with the Applicant's conclusions.

23. In addition, there is no suggestion that the works were inappropriate or an inappropriate amount was being paid.

24. The Tribunal is of the view that, taking into account that there have been no objections to this application from the Respondent, it could not find prejudice to the leaseholders by the granting of dispensation relating to works to restore communal underfloor heating at the Property.

25. However, the Respondents should be aware that they have rights pursuant to section 27A of the 1985 Act to challenge the reasonableness and payability of the works. The fact the dispensation is granted does not make these costs reasonable or prevent a challenge to them.

26. As a result, the Tribunal believes that it is reasonable to allow dispensation in relation to the subject matter of the application.

27. The Tribunal considered whether the dispensation should be granted subject to any conditions. No specific conditions have been requested and it did consider that any conditions were appropriate. It therefore concludes that the dispensation should not be made subject to any conditions.

28. Accordingly, the Tribunal unconditionally grants the Applicant's application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 in relation to works to restore communal underfloor heating at the Property.

29. The Applicant shall place a copy of the Tribunal's decision on dispensation together with an explanation of the leaseholders' appeal rights on its website (if any) within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on its home page. It should also be posted in a prominent position in the communal areas. In this way, any leaseholder who has not returned the reply form may view the Tribunal's decision on dispensation and their appeal rights.

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

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.