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

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| **Case Reference** | : | HAV/40UD/LDC/2026/0150 |
| **Property** | : | 14-36 Seaborough View, Crewkerne, Somerset, TA18 8JB |
| **Applicant** | : | Freehold Managers (Nominees) Limited |
| **Representative** | : | Warwick Estates Property Management |
| **Respondent** | : | The Leaseholders |
| **Representative** | : | |
| **Type of Application** | : | To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985 |
| **Tribunal Members** | : | Tribunal Judge Bowden<br>Tribunal Member Mr Waterhouse FRICS<br>Tribunal Judge Bello (W) |
| **Date of Hearing** | | 13 November 2026 |
| **Date of Decision** | : | 13 November 2026 |

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**DECISION**

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**This is a formal order of the Tribunal which must be complied with by the parties.**

**Communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.**

**Summary of 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 works, namely the roof repairs carried out by Xtra Maintenance Ltd and as set out in invoice SI-81409.**

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

**Background**

1. The applicant is Freehold Managers (Nominees) Limited.
2. The respondents are the Leaseholders together, the "Lessees".
3. 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 19 August 2026.
4. The property is described as:
   a. A 12-unit property, blocks 14-20, 22-28 & 30-36.
   b. The building height is 2 floors, approx. 3 metres.
   c. The flat sizes are unknown.
   d. Building era/age is assumed 1950-1979
5. The applicant explains that:

a. Flat 20 reported day light visible through the roof within their loft space, upon inspection, it was found that sections of the roofing felt had become hard and brittle, causing parts of it to breakaway and leave an opening.

b. To repair the opening, the roofing felt and any broken tiles will need to be replaced.

6. Following the inspection, the Applicant arranged a comparison cost from a company called NDN and raised a Section 20. The Applicant wanted to complete the works as soon as possible to avoid damage to the property if it rained.

7. The maintenance report from Xtra Maintenance Ltd (dated 13 July 2026), supplied by the Applicant with their application, states the following:

> *Attended site following reports of daylight visible through the roof within the loft space. I inspected the area by accessing the loft and found that sections of the roofing felt had become hard and brittle over time, causing parts of it to break away and leave an opening. I have temporarily blocked the hole to prevent further ingress.*
>
> *There are also two vents that extend up to the ridge tiles. I believe the required remedial work can be carried out externally without the need for internal access.*
>
> *Scaffolding will be required to provide safe access to the roof, with the ridge approximately 30 feet above ground level. This will enable the engineer to access the roof safely and carry out the necessary repairs. Approx 9m of scaffolding.*

8. The images in the Xtra Maintenance Ltd report supported its observations.

9. The Xtra Maintenance Ltd recommendation was:

> *Provide approximately 9 metres of scaffolding to allow safe access to the roof. The ridge is approximately 30 feet (9 metres) above ground level, and suitable scaffold access will be required to enable the engineer to safely carry out the necessary roof repairs, including reinstatement of the damaged roofing felt around the affected area.*

10. The Applicant obtained two quotes:

a. Xtra: £3,580 plus VAT

b. NDN: £3,750 plus VAT.

11. The Tribunal gave Directions on 13 October 2026 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.

12. The Directions stated that the Tribunal would determine the application on the papers received unless a party objected in writing to the Tribunal within 7 days of the date of receipt of the Directions. No party has objected to the application being determined on the papers.

13. The only issue for the Tribunal is whether 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 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**

14. Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the related Regulations provide that where the lessor undertakes qualifying works 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.

15. The relevant section of the Act reads as follows:

> *S.20 ZA Consultation requirements: 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 longterm agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.*

16. 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.

17. The leading judgment of Lord Neuberger explained that a Tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were a means to an end, not an end in themselves.

18. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if it had been 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).

19. Where the extent, quality and cost of the works were in no way affected by the lessor's failure to comply, Lord Neuberger said as follows:

> *I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.*

20. The main, indeed normally the sole question, as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not, the lessee will be or has been caused relevant prejudice by a failure of the applicant to undertake the consultation before the major works, and so whether dispensation in respect of that should be granted.

21. Relevant prejudice is concerned with whether the Lessees have been deprived of a realistic opportunity to:

    a. challenge the appropriateness of the proposed works; or

    b. secure that the works are carried out at a lower cost, or by a different contractor, than might otherwise have been the case

22. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen. If dispensation is granted, that may be on terms.

**Consideration**

23. The consultation requirements are a means to an end, and not an end in themselves. The Tribunal's task is not to punish procedural non-compliance, but to consider whether the absence of consultation has caused, or is likely to cause, the tenants to pay more than is reasonable or to pay for works which are inappropriate.

24. The question the Tribunal asked itself was whether, in all the circumstances, and having regard to the issue of relevant prejudice, it is reasonable to dispense with the statutory consultation requirements.

25. The Directions attached a reply form for the respondents to complete to confirm whether they agreed with the application, and, if opposed, to provide a statement setting out why they oppose. None of the Lessees has asserted that any prejudice has been caused to them.

26. The reason why dispensation from consultation requirements is said to be required is that the work to the roof is urgent, and there is a risk of damage to Flat 20 due to there being a hole in the roof.

*Findings*

27. The Tribunal considered all the evidence submitted by the parties, in this case the Applicant, and applied its expertise and experience in determining the issue before it.

28. The Tribunal found that the lack of consultation had not caused, or was likely to cause, the Lessees to pay more than is reasonable or to pay for inappropriate works.

29. The Tribunal finds that nothing different would have been done or achieved if there had been full consultation with the Lessees, except for the potential delay and further deterioration. This is because quotes were obtained and the most competitive supplier was used.

30. Given the nature of the works and to prevent further damage to the property, the Tribunal is satisfied that the qualifying works were of an urgent nature. The roof repair work quoted by Xtra Maintenance Ltd and as set out in invoice SI-81409 is the qualifying work.

*Determination*

31. The Tribunal determines 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.

32. This Decision is confined to the determination of the issue of dispensation from the consultation requirements in respect of the qualifying works described in this Decision.

33. 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.

34. In reaching this decision, the Tribunal has taken account of the fact that no party has objected to the application. The leaseholders have had the opportunity to raise any objection, and they have not done so. The Tribunal does, however, direct that the dispensation is conditional upon the applicant or their agent sending a copy of this decision to all leaseholders within 14 days of receipt so that they are aware of it.

**Name:** Tribunal Judge Bowden **Date:** 13 November 2026

**RIGHTS OF APPEAL**

1. A written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the date this decision is sent to the parties.
3. If the application is not made within the 28-day time limit, such 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 such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.

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