FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/29UP/LDC/2026/0180
Property	**:**	2 Lyons Crescent Tonbridge Kent TN9 1EX
Applicant	**:**	2 Lyons Crescent RTM Company Ltd
Representative	**:**	Catherine Leeson
Respondent	**:**	The Leaseholders
Representative	**:**	None
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	**:**	Mr I R Perry FRICS
Date of Decision	**:**	18th November 2026

DECISION

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Summary of the 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 repairs to the lift. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

Background

2. 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 3 February 2025.

3. The Property is described in the application as a 'block of 10 flats built in 2008 all owned on a leasehold basis". "The block also has a lift which is important to the elderly and infirm residents".

4. The Applicant explains that:

> 'The lift at 2 Lyons Crescent is nearly 20 years old and is not currently working. It needs some major repairs and the company we use to services and repair the lift has quoted £4,200 (inc. VAT) for the work, this is the lowest we could get it.
>
> We have approached other companies, such as Absolute Lists for quotes but they are asking £1,000 to visit and do so.
>
> All leaseholders have been emailed with:
> 1. The costs of the repair by our current lift contractor, Absolute Lifts.
> 2. Details of the S.20 process and asked whether they would rather apply for an exemption. Of the 10 flats, 7 leaseholders (flats A, C, D, E, F, G, H) said they would like us to apply, 1 has recently died and 2 did not respond. None objected.
> 3. Leaseholders have also been told that local contractors are asking us to pay £1,000 for a quote and we have declined to pay this. If any of them want us to pay the fee and get another quote they have been asked to let us know and we will."

5. The Applicant is seeking dispensation "So that the repairs can be carried out as soon as possible. For elderly residents in the flats above ground level the lack of a lift is difficult".

6. The Tribunal issued Directions on 16th October 2026 listing the steps to be taken by the parties in preparation for the determination of the dispute, if any.

7. The Directions stated that 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.

8. 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 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

9. 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.

10. 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 long-term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

11. 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.

12. 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.

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

14. 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.

15. 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 prior to the major works and so whether dispensation in respect of that should be granted.

16. 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.

17. If dispensation is granted, that may be on terms.

18. There have been subsequent Decisions of the higher Courts and Tribunals of assistance in the application of the Decision in Daejan but none are relied upon or therefore require specific mention in this Decision.

Consideration

19. 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.

20. No replies were received by the Tribunal.

21. On 18th October 2026 the Applicant's representative confirmed that the Leaseholders had all been informed of the Application.

22. On 9th November 2026 the Applicant confirmed that no objections had been received. 7 Respondents had supported the Application, 1 Leaseholder has died and 2 leaseholders did not reply.

23. Having considered the Application and prior to undertaking this determination, I am satisfied that a determination on the papers remains appropriate, given that the application remains unchallenged.

24. The reason why dispensation from consultation requirements is said to be required is that the occupiers are in need of a lift to the upper floors. Some are elderly and some disabled.

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

26. None of the Lessees have therefore 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.

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

28. This Decision is confined to determination of the issue of dispensation from the consultation requirements in respect of lift repairs. 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.

29. In reaching my decision I have taken account of the fact that no party has objected to the application. The leaseholders have had opportunity to raise any objection, and they have not done so.

30. As a condition of dispensation, the Applicant is required to send a copy of this decision to all leaseholders.

RIGHTS OF APPEAL

31. 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 by email at rpsouthern@justice.gov.uk

31. 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.

32. 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.

33. 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.