



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

Case Reference : HAV/00HE/LDC/2025/0691

Property : The Spinnakers, Hillside Road, Falmouth,
Cornwall, TR11 4GZ

Applicant : Coastline Housing Limited

Representative : Nigel Vere-Stokes

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
Mr M E Williams FRICS

Date of Hearing : 26 May 2026

Date of Decision : 29 May 2026

DECISION

Decision of the Tribunal

- (1) 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 replace a fire alarm panel at the Property and provision of a waking watch whilst the works were carried out.
- (2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the Respondents as lessees through any service charge.
- (3) The Tribunal makes an order under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 in favour of the Respondents that none of the costs incurred by the Applicant in connection with these proceedings can be charged direct to the Respondents as an administration charge under the Respondents' leases.

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 28 July 2025.
2. The Property is described as a block of nineteen flats. It is estimated that it was constructed around 2010. It has a number of different tenures.
3. The Applicant is the landlord of the Property with responsibility to the leaseholders for the provision of certain services. The Respondents comprise its leaseholders.
4. The application relates to works to replace a fire alarm panel at the Property and provision of a waking watch whilst the works were carried out. The Applicant explained that the panel had totally failed such that it would not operate in the event of emergency.
5. The failure of the fire alarm panel was detected on 21 May 2025 and the waking watch commenced the same day. The works were started on 22 May 2025 and completed on 13 June 2025 with the waking watch ending three days later, all prior to the application being made.
6. The works were said to be urgent because of the total failure of the panel, meaning that the fire alarm would not sound in the event of emergency. The Applicant acknowledged that there had been an earlier fault with the system which was reported to it on 10 April 2024 but contended that this earlier fault did not prevent the alarm sounding in the event of

emergency. It accepted, however, that if the panel had been investigated earlier, the fault could have been remediated in a timely fashion, avoiding the need for the waking watch.

7. The Applicant obtained two quotations for the works and employed the contractor with the lower quote. It says that the cost of the works was £8,355 including VAT. The waking watch was an additional cost, which the Applicant reduced to a total of £7,791.00 following complaints being raised by the Respondents.
8. Given the urgency of the works, no consultation has not been carried out and the Applicant has applied for dispensation instead. However, the Applicant says that the leaseholders were informed of the requirement for the works.
9. Fourteen of the Respondents objected to the application for dispensation. Formal statements of objection were also received from The Spinnakers Residents Association, Nicola Bond and Suzi Todd. They acknowledged that the works needed to be done urgently but argued that if a proactive approach had been taken by the Applicant, a proper consultation could have occurred and the panel replaced more cheaply, potentially without the need for a waking watch.
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.

Hearing

11. The hearing took place online, using the Tribunal's CVP system. Kirsty Skinner and Chris Holding appeared for the Applicant. Suzi Todd, Nicola Bond, Gary MacFall and Craig Hartley appeared for the Respondents, with Ms Todd acting as spokesperson.
12. The Tribunal had been provided with a bundle from the Applicant comprising 218 pages including the objections and received. The contents of all these documents were noted.

Submissions

13. The Applicant relied on its statement of case and argued that the works needed to be carried out urgently due to the total failure of the fire alarm panel.
14. The Respondents similarly relied on their written objections. These contained arguments that, because issues with the panel had been identified from April 2024 and regularly chased, the subsequent total failure was wholly avoidable. They contended that if the Applicant had reacted more promptly, a consultation would have been possible and a cheaper works solution proposed. They argued that the Applicant's

failure had deprived them of this opportunity, pointing to the frequent turnover of managers and communication failures as emblematic of the issues. The Respondents say that by depriving them of the opportunity to consult, they had suffered prejudice.

The issues

15. 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, including the costs of the waking watch and management fees. 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

16. 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.
17. 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.
18. 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.
19. 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

20. 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.
21. 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
22. 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

23. Having read the evidence and listened to the submissions made at the hearing 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.
24. It is evident that a statutorily compliant consultation has not been carried out by the Applicant. Applying *Daejan*, the test for it was whether any Respondent has 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 any leaseholder has been prejudiced by paying for inappropriate works or paying an inappropriate amount as a result of the lack of consultation.
25. The Applicant believes that works to replace a fire alarm panel at the Property and provision of a waking watch whilst the works were carried out needed to be completed urgently because of the total failure of the panel, meaning that the fire alarm would not sound in the event of emergency. On the evidence before it, the Tribunal agrees with the Applicant’s conclusions. It finds that in the particular circumstances of this case, these works needed to be carried out urgently to avoid any further risk to residents. There was no time following the failure of the panel to carry out a consultation.
26. The Tribunal then considered the Respondents’ objections. Ms Todd succinctly and ably summarised these at the hearing; if the Applicant had acted earlier, the total failure could have been avoided and a proper consultation possible. They therefore argued that the Applicant’s failure deprived them of the opportunity to be consulted, this amounting to relevant prejudice.
27. We have sympathy with the Respondents’ position, the failures being clear from the written evidence and the answers given by the Applicant at the hearing. However, this is not relevant to the questions here, as set out above. The works themselves were appropriate to ensure that the fire alarm system worked. The works were done promptly and would have cost more if there had been a consultation at that point, by extending the length of the waking watch whilst a consultation occurred. Dispensing

with a consultation was appropriate and there is no suggestion of any matters that would have been raised had it occurred for these specific works. The works were appropriate and there are no inappropriate charges being made. Any contended failures to act sooner are not relevant to the question of dispensation for these works. Accordingly, the Tribunal finds that the Respondents have not suffered any relevant prejudice from the lack of consultation.

28. 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, any management fee charged by the Applicant and the cost of the waking watch. This was discussed at the hearing. The fact the dispensation is granted does not make these costs reasonable or prevent a challenge to them.
29. The Tribunal is of the view that, taking into account the findings above and that there have been no other objections to this application, it could not find prejudice to the leaseholders by the granting of dispensation relating to works to replace a fire alarm panel at the Property and provision of a waking watch whilst the works were carried out. The works were appropriate and leaseholders are not being asked to pay an inappropriate amount due to the lack of consultation. Challenges as to the payability and reasonableness of any amounts demanded for the works can be brought pursuant to section 27A of the 1985 Act.
30. As a result, the Tribunal believes that it is reasonable to allow dispensation in relation to the subject matter of the application.
31. The Tribunal considered whether the dispensation should be granted subject to any conditions. No 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.
32. 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 replace a fire alarm panel at the Property and provision of a waking watch whilst the works were carried out.
33. 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.

Costs

34. The Respondents had not applied for cost orders under section 20C of the Landlord and Tenant Act 1985 (“Section 20C”) and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“Paragraph 5A”). The Tribunal nonetheless invited submissions on the issue. The Applicant stated that it did not intend to recover the costs of the application from the Respondents in any event and that it was happy for this to be formalised through appropriate Tribunal orders.
35. The relevant part of Section 20C reads as follows:-
- (1) “A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before ... the First-tier Tribunal ... are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant...”.
36. The relevant part of Paragraph 5A reads as follows:-
- “A tenant of a dwelling in England may apply to the relevant ... tribunal for an order reducing or extinguishing the tenant’s liability to pay a particular administration charge in respect of litigation costs”
37. A Section 20C application is therefore an application for an order that the whole or part of the costs incurred by the Applicant in connection with these proceedings cannot be added to the service charge of the Respondents or other parties who have been joined. A Paragraph 5A application is an application for an order that the whole or part of the costs incurred by the Applicant in connection with these proceedings cannot be charged direct to the Respondents as an administration charge under their respective Leases.
38. In this case, the proceedings have only been brought because the Applicant has not undertaken a consultation process. They would not have been otherwise required. The Tribunal does not consider it equitable for a party to be charged for the costs of proceedings necessitated by the other party’s decision not to carry out a consultation. In addition, the Applicant will not suffer any prejudice from the making of such orders as it has stated it does not intend to recover its costs from the Respondents in any event. The Tribunal therefore determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act. The Tribunal accordingly makes an order in favour of the Respondents that none of the costs incurred by the Applicant in connection with these proceedings can be added to the service charge.
39. For the same reasons as stated above in relation to the Section 20C cost application, the Respondents should not have to pay any of the Applicant’s costs in bringing the application. The Tribunal therefore makes an order in favour of the Respondents that none of the costs incurred by the Applicant in connection with these proceedings can be

charged direct to the Respondents as an administration charge under their leases.

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.