The Property Institute

ADVICE NOTE

SECTION 20 CONSULTATION AND MAJOR WORKS

A guide to the S.20 consultation process for major works

CONTENTS

NOTE

As the leading trade body for residential leasehold management, TPI is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

IMPORTANT NOTE

By law, leaseholders must be consulted before a landlord carries out works above a certain value.

This guide explains the Section 20 consultation process for landlords, resident management companies and their managing agents in England and Wales.

IMPORTANT: The advice in this booklet needs to be read in conjunction with the decision in Phillips v Francis [2014] EWCA Civ 1395.

What is Section 20 Consultation?

Section 20 (S20) is a clause in the Landlord and Tenant Act 1985 intended to protect leaseholders from paying unnecessarily large sums for work carried out to their building.

In summary it says that a leaseholder's contribution to the cost of work will be capped if the landlord or their agent fails to follow set consultation procedures first.

Residents' Management Companies (RMCs) and Right to Manage Companies (RTMs) are included under the definition of a landlord for the purposes of S20.

At a glance

S20 procedures apply to work carried out by RMCs, RTMs or other landlords/ freeholders.

The procedure is prescribed in detailed regulations issued by the Government. Failure to follow the procedure can result in penalties.

The penalty for a landlord, RMC or RTM failing to consult properly before commencing work is that they will only be able to recover £250 per leaseholder — regardless of the final bill. This does not mean that every leaseholder can be billed £250 for works without consultation. Leaseholders can only be billed according to the proportions set out in their leases.

RMCs and other landlords who fail to consult lay themselves open to loss of income and claims for negligence.

Consultation is required with leaseholders and any Recognised Tenants Association (RTA).

(NOTE: where we refer to 'leaseholder' it also means any RTA).

What's the procedure?

A S20 consultation must be carried out if any one leaseholder's contribution to the work is estimated to, or does, exceed £250.

When calculating the estimated cost, VAT and any consultants' fees should be included (noting the professional fees point outlined below).

Here's what's involved:

- **Stage 1: the Notice of Intention.** A notice must be served setting out what works are proposed and why they need doing. It should invite comments and nominations of contractors from leaseholders.

- **Stage 2: the Statement of Estimates.** Once estimates for the works have been obtained, a notice must be served to all leaseholders detailing the costs, how to inspect them and inviting any comments.

- **Stage 3: the Notice of Reasons.** Once the contract is awarded, the landlord must send notice if they did not choose the cheapest estimate or a contractor nominated by the leaseholders. It must explain why they chose that particular option.

How long does S20 take?

For stages one and two, leaseholders must be given at least 30 days to reply with any comments. So even if estimates can be obtained quickly, S20 consultation will still take at least two to three months as a minimum. Indeed, agents are advised to allow slightly more than 30 days for comments in case of postal delays.

Surely S20 doesn't apply to RMCs and RTMs

Don't fall into the trap of thinking S20 consultation doesn't apply to you because everyone in your block is a member of the RMC. It applies to all landlords, RMCs and RTMs.

Even if a unanimous decision is made at your residents' meeting to go ahead with work, S20 consultation is still required by law. Just because a decision has been taken by shareholders, members or directors of a RMC/RTM, it doesn't mean that landlord and tenant law can be ignored.

What happens if we don't consult?

If you don't consult properly, you will be subject to a cap on what costs you can recover: the maximum costs leaseholders can be made to pay for the work will be limited to £250. This is regardless of the final bill.

So, let's say an RMC of a block of eight flats spent £5,000 on work to their building but did not consult properly. If the other leaseholders found out and objected, the maximum they could be made to pay by law would be 8 × £250 each. That's £2,000 assuming each leaseholder pays the same proportion of service charges.

Where would the rest come from? Well, very possibly, the RMC directors would be liable because they were negligent in not following S20 procedures.

You may argue that in your block, everyone knows each other and there won't be any arguments. But what happens if a flat is sold whilst the work is being carried out and a new leaseholder moves in? Or if the contractor fails to do a good job? Arguments may crop up then, and one or more leaseholders may well refuse to pay.

Can Tribunals dispense with S20 rules?

Yes. The First-tier Tribunal (Property Chamber) in England or the Leasehold Valuation Tribunal in Wales can dispense with S20 rules before or after works have been carried out; but only if a good case can be made. There can be costs attached to this process.

Do the Tribunals go easy if mistakes have been made?

In general, the Tribunals have interpreted S20 rules strictly.

Failing to consult may not be justified by an honest mistake, or complying with the 'spirit' of S20. The legislation makes no distinction between the professional landlord and a group of leaseholders managing their own block.

Are professional fees subject to S20 consultation requirements?

The general view has been that fees associated with qualifying works projects are not subject to the consultation requirements as the fees are not 'qualifying works'. We now have helpful clarification as a result of Ian Jonathan Rose v Bracknell Gate Properties Limited [2025] UKUT 386 (LC) in which the Upper Tribunal considered an appeal related to an electrical works qualifying works project which included sums for the services of various professional consultants who had involvement in the design, tender and consultation of the project.

The First-tier Tribunal initially determined that the professional fees were not 'qualifying works' and therefore consultation was not required. On appeal the Upper Tribunal held that professional services were not "qualifying works" which are defined as "… works on a building…" in section 20ZA(2) and were therefore not subject to the consultation requirements and the appeal was refused.

Final word

Section 20 consultation procedures may seem onerous and time consuming. But the legislation is there to protect leaseholders from paying unnecessarily high sums.

If you're an RMC/RTM director you still need to follow the rules, even if everyone in your block agrees to the work.

If you're not, it's still wise to brush up on the procedures so you know your rights when your landlord proposes major work to your block.

Further information

- The full reference for S20 consultation is 'S20 of the Landlord and Tenant Act 1985. As amended by the Commonhold and Leasehold Reform Act (CLRA) 2002.'
- TPI and the Leasehold Advisory Service have collaborated on a detailed guide to the S20 process, which includes template notices. Download from the TPI leasehold library: tpi.org. uk/leasehold-library
- Read the full service charge consultation requirements in England at: www.legislation.gov.uk/uksi/2003/1987/contents/made
- Read the full service charge consultation requirements in Wales at: www.legislation.gov.uk/wsi/2004/684/note/made

The Property Institute

The Property Institute
3rd Floor, 2–4 St George's Road
Wimbledon
London
SW19 4DP

Tel 020 7978 2607
info@tpi.org.uk
www.tpi.org.uk