

Residential Property Tribunal for Wales
Y Tribiwnlys Eiddo Preswyl
Leasehold Valuation Tribunal

Case Reference : **LVT/0024/11/25**

Property : **Flatholm House, Prospect Place, Ferry Court,
Cardiff CF11 0AU**

Applicant : **Prospect Place Management (Cardiff)
Ltd**

Respondent : **Emily Spence, 38 Flatholm House**

Type of Application : **Landlord & Tenant Act 1985 – Section 20ZA**

Tribunal Members : **Judge Caroline Hunter
Tribunal Member Hefin Lewis
Tribunal Member Juliet Playfair**

Date of Decision : **5 August 2026**

FURTHER DECISION

Summary Decision

1. The Tribunal decides that the conditions have been met and the dispensation is granted.

Background

1. This case concerns an application made by Prospect Place Management (Cardiff) Ltd (the Applicant) for dispensation under s.20ZA, Landlord and Tenant Act 1985 from the consultation requirements imposed by section 20 of the 1985 Act regarding work to deal with the failure of the roof on a block of flats at Flatholm House, Prospect Place, Ferry Court, Cardiff CF11 0AU. The application was opposed by the Respondent, the leaseholder of Flat 38, Flatholm House. The dispensation was sought because ingress of water to the Respondent's flat from the roof made the works urgent.
2. On 2 April 2026 the Tribunal granted dispensation from the consultation requirements in s.20 of the Act, but on the following conditions:
 - a. Disclosure as the final as-built specification and drawings (as applicable), together with the agreed scope of works;
 - b. Providing the full warranty/guarantee term (including issuer, scope, exclusions, workmanship cover, inspection/QA regime and claims process) and confirm whether the warranty excludes the existing substrate, fixings, or termination details (this should be the actual guarantee not a sample);
 - c. Providing evidence of BROOF(t4) classification for the installed build-up and Part L (Wales) complication/U-value calculation or written confirmation explaining why such documentation is not required;
 - d. Confirming the Building Control position and provide any approvals/notifications/sign-off or written confirmation explaining why such documentation is not required.
3. The decision required the conditions be met within 30 days of the decision. It continued that:

The applicant can apply with reasons for an extension for the period. If after the 30 day period (or any extended period) the respondent, is of the view that

any condition has not been met, she may apply for a hearing to determine whether it is met or not.

4. On 5 May 2026 the Applicant sent a response to the conditions with documents attached. On 30 May 2026 the Respondent emailed the Tribunal and the Applicant stating that in her view the conditions had not been complied with in full. She set out five reasons for this.
5. On 16 June 2026 the Tribunal asked the Applicant to respond to the five points raised by the Respondent by 7 July 2026. The emailed stated:

After receiving that response, the Tribunal will decide whether the conditions have been met or not or need to be amended. Further, the Tribunal will decide whether a further hearing is necessary to reach a decision on these questions.
6. On 7 July 2026 the Applicant sent a report by Terry Davis MCIOB of TD Roofing Consultants (the TDRC report). The Applicant's email stated:

In response to the five questions set out, we had requested TDRC to undertake an independent technical review of the questions raised by the Respondent concerning the roof refurbishment works undertaken at Prospect Place, Cardiff Bay. We deemed this the best way to proceed as we wanted to make sure all technical questions raised were answered appropriately.
7. The reply of the Respondent, sent on the same day, was that the 'further response still does not show that the Tribunal's conditions have been complied with in full.' She explained her reasons for this, reiterating the five points of the 30 May email and adding a sixth one. This final point related to a case study of 'Garland Tower Bridge' included in the TDRC report. In as far as that provides answers the Tribunal's conditions, we agree with the Respondent that it cannot do so.
8. The Applicant then sent a 'technical clarification' from TDRC later that day. However, the Respondent was still not satisfied that the conditions had been met in full and she explained why in her email on 8 July 2026.

9. On 14 July 2026 the parties were informed that due to the death of the original surveyor member of the Tribunal, Mr Hefin Lewis had been appointed to the Tribunal in order to decide whether the conditions had been met. Given the detailed written responses by both parties, the Tribunal has taken the view that a further hearing is not necessary in reaching a decision.

Decision

10. We make our decision dealing with each condition in turn. Before doing so we return to the Supreme Court decision in *Daejan Investments Limited v Benson and others* [2013] UKSC 14 of 'real prejudice to the tenants flowing from the landlord's breach of the Requirements' (para. 50). We have taken the same approach to the question of whether the conditions have been met.

11. We return to our original decision that identified the alleged prejudice. This states in paras. 21 and 22:

While we understand the frustrations of the respondent given her and Mr Harthill's experience, the question for us is whether she has been prejudiced by the failure to undertake the consultation. Her concerns are not based on the price *per se* of the works but losing the opportunity to make observations on the proposals and the way they were going to be managed.

We note these questions were raised prior to the works starting, although some responses were made by Mr Selwyn, he did not deal with detailed technical questions. (Following the hearing Ms Theophanous for the applicant did provide a sample guarantee.) On the other hand, given the very technical nature of the questions, in relation to them the respondent was making observations in relation to 'relevant matters' ie 'the works to be carried out' (see the regulations, reg. 2). Accordingly, the obligation of the applicant was limited 'to having regard' to those observations (Sched 4, Part 2, para. 3). As such any prejudice was limited.

12. In our view any claim that the conditions have been met must be considered in the light of our original view that any prejudice was limited.

Disclosure as the final as-built specification and drawings (as applicable), together with the agreed scope of works

13. In their email of 5 May 2026 the Applicant provided two documents. The first was updated and unsigned Method Statement for 'Project works: Install new handrail to roof and overlay membrane onto existing roof' from the contractor for the work (Weather Guard Roofing Specialists). The second was from Proteus Waterproofing (the sub-contractor who provided the liquid applied membrane) which a specification of the works. In their email of 5 May 2026 the Applicant states in relation to this condition:

Proteus have deemed the existing system and substrate to be overlaid, to create a new full roof system. The only areas not included within the warranty are the parapets which would need to be fully encapsulated (boarded and new waterproofing with new drip trim to external edge installed) which would only be possible off a scaffolding, which wasn't available and I believe isn't available for the next phase of blocks due to be completed. The recommendations to these areas would be to tape the joints and coat them with new waterproofing to reduce any water ingress to the parapets.

As the Respondent noted in her email of 30 May this does not provide final as-built specification and drawings.

14. The TDRC report states:

Based upon TDRC's experience within the roofing and waterproofing industry, projects involving the overlay refurbishment of an existing waterproofing system do not typically generate bespoke as-built drawings unless specifically requested by the client as part of the contract documentation.

Where drawings are supplied by manufacturers, these are generally standard system details illustrating typical construction arrangements and installation requirements rather than project-specific records of existing roof details.

TDRC is not aware of any requirement within the agreed scope of works for bespoke as-built drawings to be produced for the completed roof overlay works.

15. In her email of 7 July 2026, Point 1 reiterates the failure to provide her with final as-built specification and drawings, together with the agreed scope of works. She states that:

The issue is that the Applicant has still not provided the final documentary record showing what was actually completed, what was deferred, and what was excluded from the warranted works.

16. In our view the Applicant provided the information sought. We take the TDRC report to mean that there were no final as-built specification and drawings. Accordingly, 'where applicable', everything available has been disclosed.

Providing the full warranty/guarantee term Including issuer, scope, exclusions, workmanship cover, inspection/QA regime and claims process) and confirm whether the warranty excludes the existing substrate, fixings, or termination details (this should be the actual guarantee not a sample)

17. This has been provided to the Applicant. The Respondent's Point 2 is that the guarantee:

...it confirms rather than resolves the concern about the existing roof construction, fixings and termination details.

The Tribunal specifically required confirmation whether the warranty excludes the existing substrate, fixings or termination details.

The TDRC report acknowledges that the warranty excludes inherent or latent defects associated with the existing roof construction, substrate and associated elements. [It] states that such exclusions are standard within refurbishment roofing warranties, where works involve overlaying an existing roof system rather than a full strip and replacement. That may be so, but it does not answer the specific issue before the Tribunal. The question is not whether such exclusions are common; it is whether, on this project, the retained roof construction and fixings were assessed, accepted and covered, or whether failures arising from those retained elements remain excluded.

18. The lack of inspection or QA information (the Respondent's Point 5) also goes to this condition. The TDRC reports states:

Based upon the information reviewed by TDRC, together with discussions and documentation made available, it is understood that representatives of the Proteus technical department attended site on a number of occasions during the refurbishment works to monitor progress, inspect completed elements of the installation, identify any snagging items requiring attention, and review the works prior to the issue of the Proteus manufacturer's guarantee.

TDRC further understands that the issue of the Proteus guarantee followed completion of the installation works and the satisfactory resolution of any matters identified during the inspection process.

19. The Respondent's reply to this is:

The Tribunal required the guarantee terms including the inspection / QA regime and claims process. The Applicant has not provided the underlying inspection reports, photographic QA records, defect/snagging records, sign-off reports, or final approval records. A technical opinion that inspections likely took place is not the same as providing the records required to evidence the QA regime.

20. The Respondent is wrong in her assertion in this question. The condition required the guarantee to be disclosed in detail, including the processes required for the guarantee to be valid. It was not our intention to police whether all processes had been met. The Tribunal condition only requires confirmation as to the existence of the guarantee and confirmation as to any exclusions. It does not require the applicant to confirm the process followed prior to its issue. This condition is met in terms of the information requested. The Respondent is now aware of the breadth of the guarantee.

Providing evidence of BROOF(t4) classification for the installed build-up and Part L (Wales) complication/U-value calculation or written confirmation explaining why such documentation is not required

21. In the email of 5 May 2026 the Applicant states:

Speaking with Rob Holden, MD of Proteus, they advised they do not need to supply evidence of meeting BROOF T4 because they used an overlay and the original roof was over concrete, so BROOF T4 is not required.

Proteus have certification for Proteus Pro-Cold® with PIR on a timber deck. The test data for this is completed as a full build up (substrate-waterproofing/finishes). As the test data is regarding fire penetration, we only test on combustible decks (timber) as they have a possibility of failure, whereas concrete decks would always pass. These buildings are all concrete deck types and therefore would outperform our BROOFT4 tested system, which are on Timber.

22. The TDRC report covers this issue as follows:

TDRC has reviewed the fire classification reports and technical information made available in connection with the Proteus waterproofing system. The documentation supplied confirms that Proteus Pro-Cold systems have been subjected to independent fire testing in accordance with EN 13501-5 and have achieved a BROOF(t4) classification for external fire performance. The reports supplied include tested build-ups incorporating Proteus Pro-Cold waterproofing systems applied over various roof constructions, including systems incorporating PIR insulation and existing single-ply waterproofing membranes.

In TDRC's opinion, the significance of these documents is that they demonstrate that the Proteus Pro-Cold system has undergone independent testing and has achieved recognised external fire performance classifications when installed in accordance with the tested configurations.

Furthermore, TDRC notes that the project specification was prepared by Proteus Waterproofing following inspection and assessment of the existing roof construction. The specification subsequently formed the basis of the

approved refurbishment methodology and the manufacturer's warranty issued following completion of the works.

23. Despite this the Respondent asserts (her Point 3) that this condition has not been met.

The Applicant has still not provided evidence of BROOF(t4) classification for the actual installed build-up, nor a sufficient project-specific explanation why such evidence is not required.

The TDRC report states that Proteus Pro-Cold systems have achieved BROOF(t4) classifications when installed in tested configurations. That does not prove that the actual installed Flatholm House build-up is BROOF(t4). This has been provided in terms of a written confirmation explaining why such documentation is not required

I do not say that the roof has failed BROOF(t4). The point is narrower: the Applicant has not evidenced BROOF(t4) classification for the actual installed build-up, nor provided a sufficient project-specific explanation why such evidence is not required.

The same applies to Part L (Wales). TDRC states that the existing roof construction would typically be expected to achieve a U-value in the region of 0.14–0.15 W/m²K, subject to confirmation by a formal thermal calculation. That confirms the problem: no formal project-specific U-value calculation has been provided. The Tribunal required a Part L (Wales) / U-value calculation, or a written explanation why such documentation was not required. That condition has still not been satisfied.

24. We are of the view that sufficient information has now been provided to meet this condition.

Confirming the Building Control position and provide any approvals/notifications/sign-off or written confirmation explaining why such documentation is not required.

25. In its email of 5 May 2025 the Applicant states in relation this condition:

Weatherguard are self-certifying so we are advised by them that they do not need to register the project with Building Control.

26. The Respondent's reply to this is (Point 4):

A statement that Weatherguard were "self-certifying" is not enough without the relevant competent person scheme details, registration details, scope of registration, compliance certificate or notification record. If the Applicant maintains that no Building Control documentation was required, it should provide a clear written explanation identifying the basis for that position.

27. We disagree. The Applicant relies on 'Weatherguard' being 'self-certifying as an explanation as to why Building Regulation documentation is not required.' The condition does not ask for details of registration in a 'Competent Person' or 'Approved Contractor' Scheme etc. Accordingly, the condition is met.

28. Finally, we remind the parties that this is only a determination whether it is reasonable to dispense with the consultation requirements. Accordingly, neither of the parties should take this as an indication that the Tribunal views the amount of anticipated service charges resulting from the works likely to be reasonable or indeed such charges will be payable by the respondent. The Tribunal makes no finding in that regard.

Signed:

A handwritten signature in black ink, appearing to read 'Caroline Hunter', is written over a light blue horizontal line.

Tribunal Judge Caroline Hunter (Chair)

Dated: 5 August 2026