

Section 20 Consultation – Guidance for Leaseholders

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RESPONDING TO SECTION 20 CONSULTATION ON MAJOR WORKS AND LONG-TERM AGREEMENTS

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1. What is Section 20 Consultation?

Section 20 consultation is a process that your landlord (freeholder) must follow for consulting leaseholders about work to your building, or new agreements for work or services.

It applies if your landlord wants to do work or arrange a contract that will cost leaseholders more than a certain amount through your service charge.

It's intended to protect you from paying more than you need. It makes sure you're informed about planned work or services, the reasons for it, the costs and how contracts are awarded, and that you have an opportunity to comment.

Important

You cannot prevent your landlord from doing the work, or refuse to pay, if the work is needed. But you can raise any concerns, ask questions, and sometimes suggest a contractor to do the work. Your landlord must consider your comments.

You can also challenge your service charge if it's unreasonable, if you think the work is unnecessary, or if your landlord did not consult properly.

a. When does your landlord need to consult?

Your landlord must consult through the Section 20 process if they want to:

- do qualifying works – major works, such as repairs, maintenance and improvements, that will cost any one leaseholder more than £250 (including VAT), for example replacing or repairing the roof, or replacing a lift
- arrange a [qualifying long-term agreement](#) – an agreement for work or services that will last more than 12 months and cost any one leaseholder more than £100 a year (including VAT), for example a contract for waste management, maintenance, cleaning or gardening, or a contract for building work that is expected to last more than 12 months.
- do qualifying works under a long-term agreement – work that will cost any one

leaseholder more than £250 (including VAT), and is covered by an existing agreement with a contractor, such as a contract for building work

If the service charge is not split equally between all the flats, then your landlord must consult if the work or services will cost more than these thresholds for the flat that pays the largest share.

If the landlord [does not consult correctly](#), they may not be able to recover more than £250 (for major works) or £100 (for long-term agreements) from each leaseholder. However, your landlord can apply to a tribunal for permission not to consult, called dispensation.

Some types of contracts do not count as qualifying long-term agreements. These include:

- contracts that last for 12 months and need to be formally renewed each year, such as buildings insurance and contracts with a managing agent
- employment contracts, such as employing a caretaker
- an agreement between a holding company and its subsidiary, or between subsidiaries of the same holding company – for example if the landlord and a maintenance company are both owned by the same organisation

b. The consultation process

The landlord must consult each leaseholder, and any recognised tenants' association if there is one, by issuing Section 20 notices.

They must consult before they enter into a contract, unless they have been given permission not to consult. For example they might apply for permission not to consult if the work is urgent.

The process takes several months. There are usually 3 stages:

- [notice of intention](#), before the landlord invites tenders for the work or agreement
- [statement of estimates or notice of proposals](#), once they have estimates of the costs for the work or proposals for the agreement
- [notice of reasons for awarding the contract](#), when they've decided who will do the work or services

For [work under a long-term agreement](#), there is only one stage because the contractor who will do the work has already been chosen.

Each **NOTICE** must give you and any other leaseholders a chance to understand the proposed work or services and share your views. In some circumstances you can also nominate a contractor who may be asked to give an estimate.

Each **NOTICE** will tell you the deadline for responding. The legislation for the period in which you can respond refers to the "*date of the notice*" rather than the date it was issued or received. The tribunal has ruled that if a notice is posted, the "*date of the notice*" *should usually be treated as 2 working days after it was posted*.

c. If you have a public sector landlord

Some of your consultation rights might be different if your landlord is a public sector organisation such as a local authority or housing association.

Public sector landlords must show they are being fair and transparent when they hire contractors. They must follow rules for advertising contracts publicly using the government's Find a Tender service if they're over a certain value – this is called giving a public notice.

If your landlord needs to give a public notice, you will not be able to nominate a contractor. You'll still be able to make comments about the work or services.

d. The legislation

The rules about the consultation process are set out in [Section 20 of the Landlord and Tenant Act 1985](#), as amended by the [Commonhold and Leasehold Reform Act 2002](#).

The details are in regulations:

- [the Service Charges \(Consultation Requirements\) \(England\) Regulations 2003](#)
- [the Service Charges \(Consultation Requirements\) \(Wales\) Regulations 2004](#)

2. RESPONDING TO A NOTICE OF INTENTION

a. What It Is

To start the Section 20 consultation process for major works (qualifying works) or qualifying long-term agreements, your landlord must send each leaseholder and any recognised tenants' association a document called a Notice of Intention. This tells you about the work they intend to do or the agreement they propose, and the reasons for it.

This notice must:

- describe the works or services to be provided, or give a reasonable place and time where you can see a description free of charge
- give the landlord's reasons why they think the works or agreement are needed
- give the deadline to make comments (written observations), which must be 30 days from the date of the notice, and tell you where to send them
- explain that you have the right to nominate a contractor who you want to be invited to tender for the work, and you have 30 days to make a nomination (unless you have a public sector landlord and they advertise the contract publicly)

b. Examples

See an example for private sector landlords of:

- [a notice of intention to carry out work](#)
- [a notice of proposals to enter into a long-term agreement](#)

See an example for public sector landlords of:

- [a notice of intention to carry out work where public notice is not needed](#)
- [a notice of intention to carry out work where public notice is needed](#)
- [a notice of proposals to enter into a long-term agreement where public notice is not needed](#)
- [a notice of proposals to enter into a long-term agreement where public notice is needed](#)

c. How you can respond

You have 30 days from the date of the notice to reply in writing with your comments or objections. These are called your observations.

For example, you could:

- ask questions about the work and what will be included
- ask for more details if you think the information in the notice is unclear or incomplete
- challenge the need for the work if you do not think it's necessary
- ask about whether a reserve fund or sinking fund can be used to cover the cost
- suggest other ways of doing the work

If you have concerns about the planned work, you might want to get advice from a professional to help you respond. For example, you could speak to a solicitor about your rights or ask a surveyor or builder for advice about whether the work is necessary.

You do not have to respond, but it's a good idea to send observations if you have any concerns.

d. Nominating a contractor

The notice of intention will tell you whether you can nominate a contractor who you would like to do the work or services. You will not be able to nominate a contractor if you have a public sector landlord and they need to advertise the contract by giving a public notice.

To nominate a contractor, send their details in writing to the address given in the notice, within 30 days.

You could speak to some contractors first to get their advice on the work or services and the costs they would expect to charge, before deciding which one to nominate.

The notice should explain any criteria your landlord will use to choose the contractor, for example if they must have certain types of insurance, certificates or policies.

e. What happens next

Your landlord must consider all the comments (observations) they receive, within 21 days. They do not have to reply to you individually, but they must provide a summary of the comments and their response as part of the next stage.

They do not have to have a discussion with you about your comments. But if you think they have not properly considered your comments, you could [challenge them at a tribunal](#). They would need to show the tribunal that they had considered all the comments and had good reasons for not following your suggestions.

If any of the leaseholders or the recognised tenants' association have nominated a contractor, the landlord must try to get an estimate from:

- at least one contractor nominated by a recognised tenants' association
- at least one contractor nominated by leaseholders

If the leaseholders have nominated more than one contractor, the landlord must try to get an estimate from the contractor with the most nominations. If several contractors have the same number of nominations, the landlord can try to get an estimate from any of the contractors with the most nominations.

3. RESPONDING TO A STATEMENT OF ESTIMATES OR NOTICE OF PROPOSALS

a. What It Is

After reviewing the responses to the notice of intention, the landlord will get estimates or proposals from contractors for the work or services.

They will then send a statement of estimates (also called a landlord's contract statement) for major works, or a notice of landlord's proposals for long-term agreements, to each leaseholder, and any recognised tenants' association if there is one.

The notice must:

- give details of at least 2 estimates for the work or proposals for the long-term agreement
- give details of the contractors and any connection they have with the landlord
- include an estimate of how much you'll need to pay, if possible
- include a summary of the comments on the notice of intention (observations), and the landlord's response
- state that you have 30 days to make written observations on the estimates or proposals, tell you where to send them, and give the deadline

b. The estimates must include:

- at least one estimate from a contractor that is not connected to the landlord – for example if the landlord and the contractor are companies, they must not share any directors or have directors who are close relatives
- at least one estimate from a contractor nominated by leaseholders or a recognised tenants' association, if there were any nominations.
- The notice must include copies of the estimates or give a reasonable place and time when you can inspect them and take copies.

c. If you have a public sector landlord

The requirements for the notice are different if you have a public sector landlord and they need to advertise the contract by giving a public notice.

They do not need to provide at least 2 estimates or proposals. They'll send a statement of the proposed contract (for major work) or a notice of the proposal (for a long-term agreement).

This must include:

- the details of the proposed contractor, and any connection with the landlord
- an estimate of how much you'll need to pay, if possible
- a summary of the comments on the notice of intention (observations), and the landlord's response
- the proposal or contract statement, or details of a reasonable place and time where you can see it
- a statement that you have 30 days to make written observations on the estimates or proposals, and tell you where to send them, and the deadline

d. Examples

See an example for private sector landlords of:

- [a notice of estimates for major works](#)
- [a notice of proposals to enter into a long-term agreement](#)

See an example for public sector landlords of:

- [a notice of estimates for proposed work where public notice is not needed](#)

- [a contract statement for proposed work where public notice is needed](#)
- [a notice of proposals to enter into a long-term agreement where public notice is not needed](#)
- [a notice of proposals to enter into a long-term agreement where public notice is needed](#)

How you can respond

You have 30 days from the date of the notice of estimates or proposals to reply in writing with your comments (observations).

For example, you could comment on the cost of the estimates, or on the proposed contractors.

e. What happens next

Your landlord must consider all the comments they receive. They do not have to reply to you individually, but they must give a summary of the comments and their response as part of the next stage.

They will then choose the contractor to do the work or services.

4. NOTICE OF THE AWARD OF CONTRACT

a. What it is

As the last stage of Section 20 consultation on major works (qualifying works) or long-term agreements, the landlord may need to send a notice saying who won the contract, and the reasons, within 21 days of awarding the contract.

They do not have to send this notice if they're a public sector landlord that advertised the contract publicly, or if they have chosen either:

- the contractor with the lowest cost
- a contractor nominated by a leaseholder or recognised tenants' association

b. The notice must:

- include the reasons for awarding the contract, or give a reasonable place and time where you can see the reasons
- include a summary of the comments on the estimates or proposals, and the landlord's response, or give a reasonable place and time where you can see these

c. Examples

See an example for private sector landlords of:

- [a notice of reasons for awarding a contract to carry out works](#)
- [a notice of reasons for making a long-term agreement](#)

See an example for public sector landlords of:

- [a notice of reason for awarding a contract to carry out work](#)
- [a notice of reasons for entering into a long-term agreement](#)

d. What happens next

You do not need to respond to the notice of award of the contract.

After sending the notice, the landlord and the contractor can go ahead with the work or agreement.

5. RESPONDING TO A NOTICE OF INTENTION FOR QUALIFYING WORKS UNDER AN EXISTING LONG-TERM AGREEMENT

a. What it is

If your landlord plans to do major works (qualifying works) under a [qualifying long-term agreement](#) that is already in place, there is only one stage of Section 20 consultation.

They must send each leaseholder and any recognised tenants' association if there is one a notice of intention.

b. This notice must:

- describe the planned works, or give a reasonable place and time where you can see the description
- give the landlord's reasons why they think the works are needed
- include an estimate of the total cost of the works
- give the deadline to make written observations, which must be 30 days from the date of the notice, and tell you where to send them

c. Examples

See an example of:

- [a notice of intention to carry out work under a long-term agreement – for private sector landlords](#)
- [a notice of intention to carry out work under a long-term agreement – for public sector landlords](#)

d. How you can respond

You have 30 days from the date of the notice to reply in writing with your comments. These are called your observations.

For example, you could:

- ask questions about the work and what will be included
- ask for more details if you think the information in the notice is unclear or incomplete
- challenge the need for the work if you do not think it's necessary

You will not be able to nominate a contractor, as they have already been chosen.

e. What happens next

- Your landlord must reply directly to you about your observations, in writing, within 21 days.
- When the consultation period is over the landlord and contractor can go ahead with the work.

6. PAYING FOR MAJOR WORKS

a. Paying through your service charge

The process of Section 20 consultation on major works and long-term agreements is separate from the process for paying for the work.

Leaseholders must pay for their share of the cost of work or services for their building through the service charge. The details of what you need to pay for and when you'll be charged will be set out in your lease.

If there's a [reserve fund or sinking fund](#), this might be used to pay for some or all of the work.

Your landlord might be able to send you a bill for the work before they consult and before they do the work, if your lease says they can ask for payment of service charges in advance.

Even if your landlord can charge you in advance, they must still follow the consultation process before they start the work or set up the agreement for services.

b. Help with paying

There is usually no cap on how much leaseholders can be asked to pay for work on their building, as long as the charges are reasonable.

Costs can be high, and it's important to get help if you're having difficulty paying your service charge.

If you have a public sector landlord such as a local authority or housing association, they will usually offer a payment plan to help spread the cost of major works.

If you have a private sector landlord, you can ask if they offer payment plans or loans, but they are not obliged to.

Source: www.lease-advice.org
