Section 20 Consultation Policy

Policy ref:	
Policy author /holder	Director of Neighbourhoods
Date approved:	March 2026
Approved by:	Customer Operations Assurance Group
Effective date:	March 2026
Review date:	August 2029

1 Purpose and anticipated outcomes

1.1 This policy covers all aspects of preparing and issuing Section 20 Notices in accordance with legislation, including giving guidance on the different consultation procedures, triggers for consultation and penalties for non-compliance.

1.2 The key objective of the policy is to provide guidance to colleagues on the requirements and processes involved in issuing compliant Section 20 Notices to customers to ensure that LiveWest recovers all monies legally due from customers where consultation under the Act is required. The term 'the Act' refers to section 20 of the Landlord and Tenant Act 1985, as amended by section 151 the Commonhold and Leasehold Reform Act (CLRA) 2002.

2 Scope and definitions

The scope of this policy applies to all LiveWest customers who pay a variable service charge (which includes some tenants, leaseholders and shared owners).

This policy does not apply to:

- Freeholders (although informal consultation is recommended)
- Market Rent tenants (as the rent must be inclusive of service charges)
- Intermediate Help to Buy tenants (as the rent must be inclusive of service charges)
- Any tenancy with a fixed service charge

Definitions

The following definitions apply to this policy only:

- **Customer** – The term customer includes all tenants who pay a variable service and shared owners, staircased shared owners and leaseholders who have purchased their property outright through the right to buy or acquire (RTB/RTA).
- **The 'Act'** – This refers to section 20 of the Landlord and Tenant Act 1985, as amended by section 151 the Commonhold and Leasehold Reform Act (CLRA) 2002.
- **Qualifying Long Term Agreement** - The definition of a Qualifying Long-Term Agreement (QLTA) is an agreement entered into by the landlord with a wholly independent organisation or contractor for a period of more than 12 months.
- **Qualifying work -** The term major works, or "qualifying works" which is the term used in the Act, means works (whether on a building or any other premises) the cost of which is recoverable from the leaseholder under the terms of the lease through the service charge
- **Public Notice** - A public notice allows firms and contractors to tender for work or long-term agreements. Prior to 1 January 2020, high-value notices were published to the Official Journal of the European Union (OJEU). With the conclusion of Brexit, high-value notices from the UK are no longer advertised on the OJEU. Now high value contracts must be advertised on the UK Find a Tender Service (FTS). The thresholds which determine if contracts are higher or lower value changes biennially, and vary in value for goods, works and services. Details of current thresholds can be found here: Government Procurement Thresholds

3 Overview of Section 20 consultation requirements

3.1 Under the terms of the lease or tenancy agreement, the landlord is responsible for the maintenance and upkeep of the external and communal parts of the building and estate. A proportion of the cost of this work is chargeable to customers who pay a variable service charge in accordance with the terms of the lease or tenancy agreement. As the cost of works can be significant, the law requires LiveWest as a landlord to carry out formal consultation in particular circumstances with customers who may be affected by the works or services.

3.2 We must consult relevant customers before we do any of the following:

- Carry out work which will cost any one leasehold property more than £250. This includes repairs, maintenance and improvements to the building and estate. Examples include lift repairs, roof replacement, cyclical decorations and window refurbishment.
- Enter into a long-term agreement (for more than 12 months) with outside contractors for works, supplies or services which will cost any one customer (leaseholders, shared owners and tenants) more than £100 a year. Examples include cleaning, grounds maintenance, surveying and insurance.

- Carry out work under a long-term agreement* where the work will cost any one leaseholder more than £250. Examples include cyclical decorations and day to day repairs. In order to carry out work under a long-term agreement, it is crucial to have already consulted about the agreement itself initially (sometimes this could have been years prior).

*It is important to remember that even after entering into a Long-Term Agreement with a contractor, and issuing the necessary notices, if that contractor is then employed to carry out specific works on the scheme that exceed the qualifying works trigger figure of **£250** Inc. VAT for any one property, then the **qualifying works under a long term agreement procedure** will need to be followed for those specific works.

4 Our approach to carrying out Section 20 Consultation

4.1 Identifying if section 20 consultation is required

We will ensure that all works, supplies and services are reviewed during the procurement or commissioning phase to confirm if section 20 consultation is required and if the cost is to be recovered from customers via their service charge.
LiveWest may not be the superior landlord or in other words, LiveWest may not own and/or manage the development, so we will check that we are responsible for providing the services (such as cleaning or grounds maintenance) or carrying out the works (such as roof replacement or cyclical decorations).

4.2 Confirming if public notice is required

All high value contracts must be advertised on the UK Find a Tender Service (FTS). The thresholds which determine if contracts are higher or lower value changes biennially, and vary in value for goods, works and services. Details of current thresholds can be found here: Government Procurement Thresholds

Where we have to give a public notice, customers will not have the right to nominate a contractor to tender for the work or long-term agreement. We must however still carefully consider any comments and observations customers make about the work or services we are planning. We have a duty to have regard to observations. The law does not define 'have regard to,' although in some cases it means that the landlord must provide a response to the observations within 21 days.

4.3 Preparation of Section 20 paperwork

The Section 20 process is set out in law and is made up of four schedules, each dealing with a different situation. Please refer to the Section 20 procedure and process flow for detailed information (see Appendix A).

The content of the Section 20 notice and the procedure we must follow will vary depending on the type of contract and what it is we are planning to do (works or services). It also depends on whether we need to give a public notice. Each stage of the consultation process takes a minimum of 40 days and there can be up to 3 stages, depending on the schedule.

Generally, customers will get three separate notices under the section 20 process, one at each of the following stages:

- **Pre-tender stage (Notice of Intention):** before we invite contractors to tender for the work or services, we must advise relevant customers what we are intending to do and why we think it is necessary.
- **Tender stage (Notice of Estimates):** after we have received the tenders (estimates) we let customers know what estimates we have received from which contractor. Customers have the right to inspect tender documentation and estimates received.
- **Award of contract stage (Notice of Reasons):** when we award the contract to the successful tender. Technically a notice of reasons is only required if we are not appointing the contractor who provided the lowest quote. However, we should always write to follow up and confirm who we have appointed and when we expect the contract for works or services to start.

Where relevant, we will allow customers to nominate a contractor of their choosing that meets LiveWest's selection criteria. We will seek quotations from contractors that are nominated via the section 20 process. We are not obligated to appoint a customer nominated contractor but if we do not, we need to explain why.

4.4 **Reviewing and responding to customer feedback**

To allow customers to fully participate in the Section 20 process, we will:

- Provide a dedicated email address for customers to provide feedback on our proposals
- Consider accessibility requirements and make reasonable adjustments where practicable
- Have due regard to all customer feedback submitted to us by the deadline
- Provide an individual response to each customer who submits comments and observations
- Provide a written response to all customers to confirm the general comments and observations received and next steps

4.5 **Cost recovery**

The purpose of the consultation process is to seek the customer's views on our proposals and to make sure they are fully informed. It is also important to avoid reputational damage and ensure we are a compliant landlord. However, the implications of not complying with Section 20 consultation is to limit the amount we can recover from customers via the service charge or major works invoicing.

We will ensure that Section 20 notices are issued to all customers using fully compliant documentation which adhere to all regulatory, statutory and legal frameworks.

If notices are not served or any part of the procedure is not complied with then we are limited to collecting £250 per property under qualifying works and £100 per year per property under Qualifying Long-Term Agreements. LiveWest as the landlord would have to cover this loss.

As outlined, the potential financial consequences of non-compliance to LiveWest are severe and for this reason it is imperative that colleagues observe all aspects of this policy and the associated procedure.

5 Emergency works

The Section 20 procedure can be time consuming, and a situation may arise where we decide works required are of a nature that cannot wait for the Section 20 procedure to be carried out. For example, urgent lift repairs which exceed the Section 20 threshold (which is £250 for qualifying works).

The law allows for emergency situations through a process known as 'Dispensation.' There is often a mistaken belief that dispensation is an exemption from carrying out the section 20 consultation process – this is inaccurate. There is no such thing as section 20 exemptions and even if applying for dispensation, it is crucial to show we have complied with the spirit of Section 20 legislation by telling customers what needs to happen and why, inviting them to make observations and nominate a contractor if applicable. Leaseholders will be made party to the application to the First Tier Tribunal (FTT) if it concerns major works.

Where there is a genuine emergency and there is not enough time to comply with the timescales in the legislation (a minimum of 40 days for each stage), we are able to apply to the First Tier Tribunal Property Chamber under Section 20(1) to dispense with consultation requirements for a particular programme of works for a scheme or a particular contract for services.

6 Dispensation

Dispensation is not guaranteed and the FTT determine if the circumstances are reasonable. It is always worth obtaining at least two quotes even in the case of emergency. We need to be able to prove that the leaseholders have not been prejudiced by the lack of consultation and if they are able to evidence the work could have been done cheaper, the FTT may limit us.

All FTT decisions are made public and if leaseholders or tenants object to the work or services, the FTT will not make a decision based on the papers and instead, an in-person hearing will be required. The burden of proof is on the customer to prove they have been prejudiced (by the lack of consultation) but the decision to apply to the FTT must not be made lightly. Customers still have the right to challenge the reasonableness of the service charge even if the FTT rule in our favour.

Applying for dispensation is time consuming and could cause reputational damage (due to the public nature of the determinations) so a decision must be made on the nature and costs of the work.

For example, if the estimated costs are £300 per household and it is a mixed tenure scheme with only 4 leaseholders then the potential loss is only approx. £200 (as without consultation, we're limited to recovering £250 per property for major works) which may be seen as an acceptable risk. However, if the financial risks are high then dispensation should be applied for as soon as possible. It is crucial to comply with the spirit of Section 20 legislation and still consult as far as possible (provide any quotes, ask for observations and comments) and tell customers we intend on applying for dispensation and what that means for them.

Dispensation should not be seen as a way around consultation or an easy process. Before applying for dispensation, it will be necessary to seek the approval of the Director of Neighbourhoods. Legal advice and assistance may also be required, and such costs cannot be passed on to customers.

7 Service standards, monitoring and review

7.1 This policy will be reviewed every three years and more frequently if there are major changes to either regulation or legislation.

7.2 We will review customer feedback and identify areas for service improvement on a continuous basis in order to improve performance and service delivery.

8 Legal considerations

8.1 The Landlord and Tenant Act 1985 - The phrase "Section 20 consultation" relates to the law in this area: Section 20 of the Landlord and Tenant Act 1985 first introduced the requirement on landlords to consult their leaseholders about works. The Commonhold and Leasehold Reform Act (*CLRA)* 2002 has introduced new requirements for this statutory consultation. Section 151 of the Act replaces the original provision, Section 20 of the Landlord and Tenant Act 1985 and introduces a new section 20ZA, with effect from 31 October 2003.

NB: The existing Sections 20A, 20B and 20C are not affected. The provisions under *CLRA* introduce different, more complicated procedures and extend the consultation requirements to include long-term contracts for services.

8.2 The 2003 service charge regulations refer to contracts 'for which public notice is required' (Schedule 2 and Schedule 4 (part 1)**.** These are contracts where the value involved will be of a level where certain procurement rules apply. In these cases, landlords must publish contract opportunities on the UK e-notification service called Find a Tender Service. In the case of both qualifying works and long-term agreements, the regulations provide a different procedure, removing the customers' opportunity to nominate a contractor. The relevant legislation can be found in The Service Charges (Consultation requirements) (England) Regulations 2003. www.legislation.gov.uk/uksi/2003/1987/contents/made

8.3 We will review any First Tier Tribunal determinations and Court cases to ensure our approach to Section 20 consultation is compliant with all legal requirements.

9 Linked / associated policies and other references

9.1 Below is a list of linked or associated LiveWest policies and procedures and to which our employees, contractors and other individuals are required to comply, as appropriate:

- Appendix A Section 20 Process Flowchart
- Service Charge policy
- Compliments, complaints and feedback policy

Version Control

Version Number	Date	By whom	Reason
2	March 2026	Service Charge Operations Manager	Full Review Amended minimum number of days due to change in postal deliveries Updated address required for serving the notice