

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 Landlord and Tenant Act 1985

It is important that you read the notes below carefully before you complete this form.

This is the correct form to use if you want to ask the Tribunal to dispense with all or any of the consultation requirements set out in section 20 of the Landlord and Tenant Act 1985 and in the Service Charges (Consultation Requirements)(England) Regulations 2003.

A fee is payable for this application (see section 13 for Help with Fees). Please note that fee changes were made on 25 July 2016 in respect of all applications made on or after that date. The new fees are set out in this form.

Please send your completed application form and fee (if applicable), together with the documents listed in section 13 of this form to the appropriate regional Tribunal. (See the Annex to this form for regional office addresses). **Please do not send any other documents.** If and when further evidence is needed, you will be asked to send it in separately.

If you have any questions about how to fill in this form, the fee payable, or the procedures the Tribunal will use, please call the appropriate regional office.

If you are completing this form by hand please use BLOCK CAPITAL LETTERS.

1. DETAILS OF APPLICANT(S) (if there are multiple applicants please continue on a separate sheet)

Name:

Capacity:

Address (including postcode):

Address for correspondence (if different from above):

Telephone:

Day:

Evening:

Mobile:

Email address:

Fax:

Representative name and address, and other contact details: Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting for you.

Name:

Clarke Willmott LLP

Reference no. (if any)

LT054/1774/423761.32

Address (including postcode):

1 Georges Square, Bath Street, Bristol, BS1 6BA
DX 78247 Bristol 1

Telephone:

Day: 0345 209 1127

Mobile:

Email address:

rebecca.white@clarkewillmott.com

Fax: 0345 209 2519

2. ADDRESS (including postcode) of SUBJECT PROPERTY (if not already given)

Various properties as listed in the schedule in exhibit AO1 to the Witness Statement of Alan O'Connell dated 11 August 2017

3. BRIEF DESCRIPTION OF BUILDING (e.g. 2 bedroom flat in purpose built block of 12 flats)

Various different buildings comprising of long leasehold flats

4. DETAILS OF RESPONDENT (S) the person against whom an applicant seeks determination from the tribunal – this will only be the landlord's managing agent if they are a party to the lease. If there are multiple respondents, please continue on a separate sheet.

Name:

Capacity:

Address (including postcode):

Reference no. for correspondence (if any)

Address for correspondence (if different from above):

Telephone:
Day: Evening: Mobile:

Email address: Fax:

Note: If this is an application by a landlord, then usually all tenants liable to pay a service charge for the costs in question should be joined as respondents. If tenants are not joined in this way, the landlord should provide the Tribunal with a list of the names and addresses of service charge payers. If this is not possible or is impractical, then a written explanation must be provided with this application.

If you are the landlord/management company making the application please omit, if known, the telephone/fax numbers and email address of the respondent(s) when completing Box 4 and include them on a separate sheet. This is because the application form may be copied by the tribunal to other appropriate persons (e.g. other service charge paying leaseholders in the building or development).

5. DETAILS OF LANDLORD (if not already given)

Name:

Address (including postcode):

Reference no. for correspondence (if any)

Telephone:
Day: Evening: Mobile:

Email address:

Fax:

6. DETAILS OF ANY RECOGNISED TENANTS' ASSOCIATION (if known)

Name of Secretary

Address (including postcode):

Telephone:

Day:

Evening:

Mobile:

Email address:

Fax:

7. DISPENSATION SOUGHT

Applicants may seek a dispensation of all or any of the consultation requirements in respect of either qualifying works or long-term agreements.

Does the application concern qualifying works?

Yes No

If Yes, have the works started/been carried out?

Yes No

Does the application concern a qualifying long-term agreement?

Yes No

If Yes, has the agreement already been entered into?

Yes No

For each set of qualifying works and/or qualifying long-term agreements please

complete one of the sheets of paper entitled '**GROUND FOR SEEKING DISPENSATION**'

8. OTHER APPLICATIONS

Do you know of any other cases involving either: (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application?

Yes No

If Yes, please give details

The Applicants have previously made applications in relation to the supply for energy and were granted

dispensation in 2004, 2007, 2010 and 2013. A copy of the Leasehold Valuation Tribunal's decision from 2013 is attached at exhibit AO3 to the Witness Statement of Alan O'Connell dated 11 August 2017

9. CAN WE DEAL WITH YOUR APPLICATION WITHOUT A HEARING?

If the Tribunal thinks it is appropriate, and all the parties and others notified of their right to attend a hearing consent, it is possible for your application to be dealt with entirely on the basis of written representations and documents and without the need for parties to attend and make oral representations. ('A paper determination').

Please let us know if you would be content with a paper determination if the Tribunal thinks it appropriate.

Yes No

Note: Even if you have asked for a paper determination the Tribunal may decide that a hearing is necessary. Please complete the remainder of this form on the assumption that a hearing will be held. Where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

10. TRACK PREFERENCES

We need to decide whether to deal with the case on the Fast Track or the Standard Track (see Guidance Note for an explanation of what a track is). Please let us know which track you think appropriate for this case.

Fast Track
 Standard Track

Is there any special reason for urgency in this case?

Yes No

If Yes, please explain how urgent it is and why:

The Applicants propose to enter into a 'risk managed flexible purchasing' contract by appointing the Crown Commercial Services ("CCS"), a central government procurement body who's framework has been designed to comply with the findings of the Pan Government Energy Project. The CCS employ Energy brokers at their own trading desk, purchasing directly from the market using sophisticated strategies (overseen by their Risk Management team) in advance of the participants contract start date. The Applicant intends for the energy purchases to begin on 1st October 2017 and close 31st March 2018, with supply contracts beginning on 1st April 2018.

Note

The Tribunal will normally deal with a case in one of three ways: on paper (see section 10 above) or 'fast track' or 'standard track'. The fast track is designed for cases that need a hearing but are very simple and will not generate a great deal of paperwork or argument. A fast track case will usually be heard within 10 weeks of your application. You should indicate here if you think your case is very simple and can be easily dealt with. The standard track is designed for more complicated cases where there may be numerous issues to be decided or where for example, a lot of documentation is involved. A standard track case may involve the parties being invited to a Case Management Conference which is a meeting at which the steps that need to be taken to bring the case to a final hearing can be discussed.

11. AVAILABILITY

If there are any dates or days we must avoid during the next four months (either for your convenience or the convenience of any expert you may wish to call) please list them here.

Please list the dates on which you will NOT be available:

12. VENUE REQUIREMENTS

Please provide details of any special requirements you or anyone who will be coming with you may have (e.g. the use of a wheelchair and/or the presence of a translator):

Applications handled by the London regional office are usually heard in Alfred Place, which is fully wheelchair accessible. Elsewhere, hearings are held in local venues which are not all so accessible and the case officers will find it useful to know if you or anyone you want to come to the hearing with you has any special requirements of this kind.

13. CHECKLIST

Please check that you have completed this form fully. The Tribunal will not process your application until this has been done and it has the following documents together with the application fee (if applicable).

A copy of the lease(s).

A statement that service charge payers have been named as respondents or a list of names and addresses of service charge payers

A crossed cheque or postal order for the application fee of £100 (if applicable) is enclosed.

DO NOT send cash under any circumstances. Cash payment will not be accepted.

Fees should be paid by a crossed cheque made payable to, or a postal order drawn in favour of, HM Courts and Tribunals Service.

Please note where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

Help with Fees

If you think you may be entitled to a reduced fee, the guide EX160A 'Apply for help with court, tribunal and probate fees' outlines how you can submit an application for Help with Fees.

You can submit your Help with Fees application online at www.gov.uk/help-with-court-fees or by completing the form EX160 'Apply for help with fees'. You can get a copy of the 'Apply for help with fees' form online at www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees or from your regional tribunal office.

If you have completed an online application for Help with Fees please enter the reference number you have been given here.

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If you have completed form EX160 "Apply for Help with Fees" it must be included with your application.

The 'Apply for help with fees' form will not be copied to other parties.

14. STATEMENT OF TRUTH

The statement of truth must be signed and dated.

I believe that the facts stated in this application are true.

Signed:



Dated:

11 August 2017

GROUNDS FOR SEEKING DISPENSATION

Please use the space below to provide information mentioned in section 7 of this form.

You will be given an opportunity later to give further details of your case and to supply the Tribunal with any documents that support it. At this stage you should give a clear outline of your case so that the Tribunal understands what your application is about. Please continue on a separate sheet if necessary.

1. Describe the qualifying works or qualifying long-term agreement concerned, stating when the works were carried out or planned to be carried out or in the case of a long-term agreement, the date that agreement was entered into or the proposed date it is to be entered into.

The Applicant seeks to enter into a Qualifying Long Term Agreement (QLTA) with the Crown Commercial Services ("CCS") for the procurement of energy supplies. The CCS are a central government purchasing department, employing commodities brokers to purchase the aggregated government energy requirement from the energy markets. Lewisham Council have used this arrangement for almost a decade with verifiable cost savings in comparison with in-house energy procurement. This form of procurement is considered best practice. The Applicant intends for the energy purchases to begin on 1st October 2017 and close 31st March 2018, with supply contracts beginning on 1st April 2018.

2. Describe the consultation that has been carried out or is proposed to be carried out.

Lewisham Homes, on behalf of the Applicant is currently in the process of sending a letter, a copy of which is exhibited at AO1 to the Witness Statement of Alan O'Connell dated 11 August 2017 to the Respondents. The letter explains that the Applicant intends to make an application for dispensation in relation to the QTLA.

3. Explain why you seek dispensation of all or any of the consultation requirements.

Please refer to the Witness Statement of Alan O'Connell dated 11 August 2017 for a detailed explanation as to why the Applicant seeks dispensation in relation to the consultation requirements. However, in summary:

1. The energy market does not operate in a way to allow the Applicants to follow the Section 20 Consultation requirements and comply with the EU Procurement Regulations. The Applicants intend to enter into a 'risk managed flexible purchasing' contract by appointing the Crown Commercial Services ("CCS"), a central government procurement body whose framework has been designed to comply with the findings of the Pan Government Energy Project, recommending that all public sector organisations adopt aggregated, flexible and risk-managed energy procurement. The London Borough of Lewisham have been using this form of procurement for a number of years, with ensuing savings.
2. The CCS employ Energy brokers at their own trading desk, purchasing directly from the market using sophisticated strategies (overseen by their Risk Management team) in advance of the participants contract start date. They also seek bids from licensed Energy Suppliers who bid on the 'Cost to Serve' participants in terms of

invoicing, dispute resolution, contract management and distribution. The successful Energy Supplier is appointed for four years, also the duration of the CCS contract with participants. This method of procuring energy does not provide complete price transparency on the date that the participant signs to join the Aggregated Purchasing contract; it is only when the purchasing window has closed (prior to the supply start date) that the unit price for electricity can be calculated. This method of procurement has been used by Lewisham Council for many years and has consistently returned lower energy prices than buying a whole year's energy on a single day using the e-auction model. The Applicants feel this process serves leaseholders interest by obtaining the lowest prices for energy supply, with enhanced terms and conditions negotiated by CCS.

ANNEX: Addresses of Tribunal Regional Offices

NORTHERN REGION

HM Courts & Tribunals Service

Telephone: 01612 379491

First-tier Tribunal (Property Chamber) Residential
Property, 1st Floor, Piccadilly Exchange, Piccadilly
Plaza, Manchester M1 4AH

Fax: 01264 785 128

This office covers the following Metropolitan districts: Barnsley, Bolton, Bradford, Bury, Calderdale, Doncaster, Gateshead, Kirklees, Knowsley, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne, Oldham, Rochdale, Rotherham, St. Helens, Salford, Sefton, Sheffield, Stockport, Sunderland, Tameside, Trafford, Tyneside (North & South), Wakefield, Wigan and Wirral.

It also covers the following unitary authorities: Hartlepool, Middlesbrough, Redcar and Cleveland, Darlington, Halton, Blackburn with Darwen, Blackpool, Kingston-upon-Hull, East Riding of Yorkshire, Northeast Lincolnshire, North Lincolnshire, Stockton-on-Tees, Warrington and York.

It also covers the following Counties: Cumbria, Durham, East Cheshire, Lancashire, Lincolnshire, Northumberland, North Yorkshire and West Cheshire.

MIDLAND REGION

HM Courts & Tribunals Service

Telephone: 0121 600 7888

First-tier Tribunal (Property Chamber) Residential
Property, Centre City Tower, 5-7 Hill Street,
Birmingham, B5 4UU

Fax: 01264 785 122

This office covers the following Metropolitan districts: Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

It also covers the following unitary authorities: Derby, Leicester, Rutland, Nottingham, Herefordshire, Telford and Wrekin and Stoke-on-Trent.

It also covers the following Counties: Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.

EASTERN REGION

HM Courts & Tribunals Service

Telephone: 01223 841 524

First-tier Tribunal (Property Chamber) Residential
Property, Cambridge County Court, 197 East Road
Cambridge, CB1 1BA

Fax: 01264 785 129

DX 97650 Cambridge 3

This office covers the following unitary authorities: Bracknell Forest, West Berkshire, Reading, Slough, Windsor and Maidenhead, Wokingham, Luton, Peterborough, Milton Keynes, Southend-on-Sea and Thurrock.

It also covers the following Counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Northamptonshire, Oxfordshire and Suffolk.

SOUTHERN REGION

HM Courts & Tribunals Service

Telephone: 01243 779 394

First-tier Tribunal (Property Chamber) Residential
Property, Havant Justice Centre, The Court House,
Elmleigh Road, Havant, Hants, PO9 2AL

Fax: 0870 7395 900

This office covers the following unitary authorities: Bath and Northeast Somerset, Bristol, North Somerset, South Gloucestershire, Bournemouth, Plymouth, Torbay, Poole, Swindon, Medway, Brighton and Hove, Portsmouth, Southampton and the Isle of Wight.

It also covers the following Counties: Cornwall and the Isles of Scilly, Devon, Dorset, East Sussex, Gloucestershire, Hampshire, Kent, Somerset, Surrey, West Sussex and Wiltshire.

LONDON REGION

HM Courts & Tribunals Service

Telephone: 020 7446 7700

First-tier Tribunal (Property Chamber) Residential
Property, 10 Alfred Place, London WC1E 7LR

Fax: 01264 785 060

DX 134205 Tottenham Court Road 2

This office covers all the London boroughs.