

HM Courts and Tribunals Service  
First-Tier Tribunal (Property Chamber) Residential

Our ref: LT054/1856/1031/423761.00032  
Your ref: LON/00AZ/LDC/2017/0093

DX 134205 Tottenham Court Road 2

22 August 2017

**BY EMAIL ONLY**

Dear Sirs

**URGENT**

**Application for Dispensation of Consultation Requirements under s.20ZA Landlord and Tenant Act 1985**

**Applicant: London Borough of Lewisham**

**Case Reference: LON/00AZ/LDC/2017/0093**

We are instructed on behalf of the Applicant in relation to an application for dispensation of consultation requirements under s.20ZA Landlord and Tenant Act 1985.

We are in receipt of the Tribunal's directions dated 15 August 2017. We note that direction 7 requires *"the Applicant to send to each leaseholder a copy of the application with any accompanying documents, these directions and the tribunal's covering letter and shall place a copy of them all in the hall/notice board at each block and shall by 23 August 2017 confirm to the Tribunal that this has been done."*

We refer to the Witness Statement of Alan O'Connell dated 11 August 2017. The Tribunal will note that there are 4,681 leaseholders to serve this application on. Given the number of Respondents, the Applicant proposed that they would upload all documentation and correspondence received in relation to the application to their website and would provide hard copies to any Respondent/leaseholder that requested them. The Applicant wrote to the Respondents/leaseholders on 9 August 2017 to confirm this. A copy of this letter is attached for your ease of reference.

Given the time and expense that will be required to make copies of the Application, Witness Statement and Directions and to send this by post to 4,681 leaseholders we respectfully request that the Tribunal amend direction 7 to state as follows:-

**"The Applicant shall upload to their website a copy of the application with any accompanying documents, these directions and the tribunal's covering letter, and shall by 23 August 2017 confirm to the tribunal that this has been done".**

Alternatively, if the Tribunal deems it necessary for hard copies to be served on all leaseholders, we request that the deadline of 23 August 2017 is extended to **6 September 2017** with the consequence that all further directions are delayed by 2 weeks.

We should be grateful if this letter could be passed to the Tribunal Judge as a matter of urgency and we thank you in advance for your assistance in this matter.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Megan Churchill', written in a cursive style.

Clarke Willmott LLP

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Enc.



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09 August 2017

Dear LESSEE,

Leasehold property:

**Notice of Intention for Dispensation of consultation requirements relating to a Long Term Agreement for Energy Supply**

We are writing to advise you that Lewisham Council is planning to enter into a long-term contract with the Crown Commercial Services (the "Agreement") in relation to the supply of electricity to the **communal** areas of all leasehold properties owned by Lewisham Council. For the avoidance of doubt, the Agreement will not affect individual utility contracts you have within your property for your own electric or gas supply.

As a leaseholder, you are required to contribute towards the costs of the energy supply to communal areas in so far as they are attributable to the building and/or estate which includes your property. These costs are recovered through the service charge.

The service charge legislation provides that we must consult leaseholders before entering into a 'Qualifying Long Term Agreement' which may result in payments in excess of £100 per annum per leaseholder (that is not to say that you will have to make payments in excess of £100 in this instance). The current contract for the supply of energy to the communal areas expires on 30 September 2017 and we therefore hope to enter into a new contract by 1 October 2017.

We intend to obtain the most competitive energy price for you. It is, however, not possible to carry out the consultation process under the current service charge legislation. We are planning to enter into a 'Risk Managed Flexible Purchasing' contract with the Crown Commercial Services (CCS), a central government procurement body who purchase energy directly from the energy market taking advantage of the collective energy demand from central and local government. The CCS purchases energy, in this case, six months in advance of the contract start date, trading within that time to secure the lowest cost.

The energy is then transferred to the licensed energy supplier who previously secured the 'cost to service' contract; how much it costs to manage the energy contract, but not the supply of energy. This method of energy procurement, considered 'Best Practice', 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, the practice to date which is inherently riskier. We feel this process serves leaseholders interest by obtaining the lowest prices for energy supply, with enhanced terms and conditions negotiated by CCS. If we were forced to comply with this process, additional costs would be incurred as we would not be able to enter into any contract prior to 1<sup>st</sup> October 2017 and would face 'Out of Contract' rates, which roughly equate to double the current prices. It should be stressed that were we to continue with previous practice we would still have to apply to the First Tier Tribunal for consultation dispensation, as energy markets are so volatile that prices are available, at best, for a matter of hours prior to being re-priced. We therefore intend to make an application to the First-Tier Tribunal Property Chamber (Residential Property) for dispensation of the consultation requirements in relation to the proposed Agreement so that not only can we obtain the most competitive prices but also enjoy greater customer protection. We invite you to make written observations in relation to the proposed Agreement.

Full details of the Agreement and proposals with **Crown Commercial Services; an Executive Agency of the Cabinet Office** who will deal with procuring energy supply on our behalf can be inspected at [<http://ccs-agreements.cabinetoffice.gov.uk/contracts/rm999>].

If you have any questions about this letter or wish to make an observation about the proposed Agreement, please email [homeownerservices@lewishamhomes.org.uk](mailto:homeownerservices@lewishamhomes.org.uk).

In order to minimise costs, all future correspondence and documentation relating to the application for dispensation (including copies of the application, the directions and/or decision of the First-Tier Tribunal Property Chamber) will be displayed on our website. Please go to [[www.lewishamhomes.org.uk/communalelectricity](http://www.lewishamhomes.org.uk/communalelectricity)].

If you are unable to access this page, please do not hesitate to contact Home Ownership Services on the details above and we will arrange for the relevant documents to be posted to you.

Yours sincerely,



Bhavna Patel  
Leasehold Consultation Officer