



**RST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

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| Case reference | : | LON/00BC/LDC/2025/0655 |
| Properties | : | Multiple Properties managed by Notting Hill Genesis as per the application |
| Applicant | : | Notting Hill Genesis (Landlord) |
| Respondents | : | As per the amended Appendix to the Application |
| Type of application | : | To dispense with the requirement to consult leaseholders about a long-term agreement for the supply of electricity |
| Tribunal | : | Judge N O'Brien Mr R Waterhouse FRICS |
| Date of hearing | : | 25 September 2025 |
| Date of decision | : | 24 October 2025 |

DECISION

1. The Applicant is granted dispensation from compliance with paragraphs 2 to 8 of Schedule 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of the procurement of gas and electricity supply to the common meters supplying its buildings for the period 1 April 2027 to 31 March 2031.
2. The grant of dispensation is conditional on the Applicant's compliance with the conditions set out in the annex to this decision.

Background

3. This is an application by Notting Hill Genesis Housing (NHG) for dispensation from the statutory obligation to consult its leaseholders in respect of a contract which it proposes to enter for the supply of gas and electricity to its properties. NHG is a registered provider of social housing and manages over 60,000 properties in the Greater London area. The

majority of these properties are let to short term tenants but approximately 25,000 properties have been sold to leasehold owners who generally purchased their properties via a shared ownership arrangement. Those leaseholders pay variable service charges for services provided by the Applicant. One such service is the provision of gas and electricity to over two hundred communal gas meters and five thousand communal electricity meters installed in NHG's buildings.

4. It is clear from the responses to the application that the amount of energy supplied to the leaseholders via these meters varies significantly. At one end of the scale a leaseholder could be simply paying for communal lighting in the hallway of a converted house; at the other end of the scale some of the leasehold properties are situated in buildings with a communal system for the supply of heating and hot water.
5. On 24th February 2022 the tribunal granted an application by NHG for dispensation from the relevant statutory consultation requirements in respect of a qualifying long-term agreement (QLTA) for the supply of gas and electricity to its communal meters in the Greater London area for the period commencing 1 April 2024 and ending 31 March 2026 (case reference LON/00AU/LDC/2021/0209).
6. The grant of dispensation was subject to the following conditions;

The Applicant will, within 14 days of entering into an agreement through Inenco Group Limited for the procurement of gas and or electricity for the period of the TPI Partnership agreement:

- 1. Disclose all administration costs and other costs and charges associated with such procurement.*
- 2. Disclose details of the main points of each procurement agreement, in particular the unit costs, the length of the contract, protection against price changes and a short summary to support the basis upon which they entered into the procurement agreement(s). This information must be placed on the NHG web site for the Respondents to view.*

7. On 17 February 2025 the tribunal received a further application from NHG again seeking dispensation from the consultation requirements in respect of the procurement of gas and electricity to be supplied to all of its communal meters in the Greater London area. The application initially sought dispensation in respect of the contracts for the supply of gas and electricity from 1 April 2026 to 31 March 2031. That period has subsequently been amended to 1 April 2027 to 31 March 2031. We were told at the hearing that, due to the passage of time since the application was sent to the tribunal, the Applicant has already agreed a contract for the supply of gas and electricity for the year 31 March 2026 -1 April 2027. It does not require dispensation in respect of that contract due to its duration. The Applicant named the leasehold owners listed in an appendix to its application as Respondents.

The Proceedings

8. Directions were issued on 28 February 2025 with a view to having the matter determined on the papers. Seventy two Respondents objected to the application, however a number of the objections were raised on the basis that the Respondent in question was either a freehold owner or social tenant and not a leasehold owner and should not be included in the application as they had no liability to pay variable service charges. The Applicant subsequently sent a revised list of Respondents to the tribunal on 30 April 2025.
9. The tribunal received a number of requests for a hearing from the participating Respondents, and the matter was considered at a hybrid video hearing on 25 September 2025. A number of employees of the applicant attended the hearing in person with counsel for NHG, Mr Maltz. Three participating Respondents attended the hearing remotely; a Ms Marks of Flat 27 Ockham Building, 10 Limasol Street SE16 3GE; Ms Uzila of Flat 22 Angel Lane London SE17 3FH and Mr Unni of Flat 16 1 Danson Mews, London SE17 3FL. All three gave evidence and had the opportunity of cross examining the witness called by the Applicant.
10. We were provided with a bundle of 449 pages prepared by NHG and a skeleton argument provided by Mr Maltz. The bundle contains a statement from Mr Amarpal Rehan, employed by NHG as an Energy Manager. Mr Rehan attended the hearing, gave oral evidence and answered questions put to him by the Tribunal and the Respondents. NHG also relied on the statement of Mr Tom Owen, employed by NHG as a Disputes and Consultation Manager, however he was unable to attend the hearing. His evidence goes primarily to service of the application on the Respondents and the history of the previous dispensation application.

The Application

11. The Applicant wishes to procure energy on the wholesale market by engaging a third-party intermediary, Inenco Group Ltd, as broker. The brokerage agreement with Inenco is not a qualifying long-term agreement because the cost to each leaseholder is less than £100 per annum. The Applicant considers that by purchasing energy in this way it can avoid being adversely affected by large fluctuations in the price of energy, as occurred at the time of the start of Russia's invasion of Ukraine. By way of example Mr Rehan at paragraph 2 of his statement states that the Applicant was quoted 7p per kWh for electricity and 2.5p per kWh for gas by a wholesale supplier in January 2025. By way of a contrast he told us in his oral evidence that immediately after the invasion of Ukraine the price of electricity per kWh was 'in the 50p's'. Secondly the Applicant considers that it can take full advantage of its purchasing power as a large institutional purchaser if it enters into a longer-term agreement with a wholesale energy supplier. In his witness statement Mr Rehan explains that it will not be possible for the Applicant to purchase energy at a fixed price and for a fixed period on the wholesale market and also comply with the Section 20 consultation process. He explains that any price offered by a wholesale energy supplier is available for a 24-hour period only, thus making it impossible to consult with leaseholders as regards its choice of supplier and allow the requisite 30-day consultation period for their

observations before entering into any agreement, as required by the 2003 Consultation Regulations.

12. The Applicant considers that the most cost-effective way for it to supply energy to its communal meters is to enter into a long-term agreement with a wholesale energy supplier via its broker. As Mr Maltz submitted, the effect of refusing dispensation would be that the Applicant would have to enter into an energy supply agreement on a year-by-year basis, as a contract which lasts for 1 year or less is not a qualifying long-term agreement, and consequently there would be no obligation to consult with leaseholders. The Applicant considers that this would potentially leave it more vulnerable to future fluctuations in the price of energy.
13. The grant of dispensation will permit the Applicant to enter into an agreement to secure the price it pays for energy for a period longer than one year. In short, whatever decision the tribunal reaches, there will be no consultation with leaseholders as regards the company with whom the applicant contracts for the supply of energy to the communal meters. The Applicant submits that this is a function of the way the wholesale energy markets operate rather than a reflection of any reluctance on its part to engage with its residents. Mr Maltz further pointed out that the bulk of the cost of the energy supply to the communal gas and electricity meters is paid by the Applicant itself and that it is in NHG's interest to secure as low and certain price as possible just as it is in the interests of the leaseholders.

The Respondents' Submissions

14. Ms Marks is a director of a RTM company which manages 4 blocks owned by the Applicant. She considers that following the grant of dispensation on the last occasion, the Applicant did not enter into an advantageous agreement with an energy supplier. She has doubts as regards the Applicant's ability to manage such contracts in the best interests of leaseholders and considers that the Applicant did not comply with the conditions which the tribunal attached to the last grant of dispensation. Ms Uzila's concerns were similar, although she told us that she did not object in principle to the grant of dispensation but was concerned about what she considered was a lack of transparency on the part of NHG. Mr Unni has some professional experience of the wholesale energy markets although it was not clear in what capacity. He considered that the grant of dispensation in 2022 did not result in a better deal for leaseholders and he made the point that the particular circumstances which pertained in the global energy markets in 2021-2022 no longer apply, and considered that there are no extenuating circumstances in existence now to justify the grant of dispensation. He was particularly concerned that there might be hidden fees and commissions recouped by Inenco from the supplier resulting in higher costs for leaseholders.
15. In answer to a number of questions put to him by both the Tribunal and the Respondents, Mr Rahen stated that the only payment to Inenco is a

flat rate of £28 per annum per meter, and that the agreement that NHG has with Inenco prohibits it from recouping any commission on the cost of the energy or from the energy supplier selected. Together with Mr Maltz, Ms Marks and Mr Unni, we accessed and considered the information that is presently available on the NHG website (<https://www.nhg.org.uk/utility-dispensation/>) as regards the current supply of gas and electricity to the communal meters. The price per kWh of gas and electricity for each meter was accessible albeit in a format that was not easy to read. Mr Rehen did not dispute Ms Marks' contention that all of the required information may not have been placed on the website within 14 days of the relevant contracts being entered into as directed by the tribunal on the last occasion, but considered that the information that is presently on the website does comply with the conditions attached to the last grant of dispensation. He accepted that it would be helpful for the leaseholders to have a single point of contact with NHG as regards compliance with any such conditions going forward, as one of the issues raised by Ms Marks was that when she tried to complain about a lack of compliance with the conditions imposed by the tribunal on the last occasion, she received no substantive response from NHG.

16. We have also considered the written responses which the tribunal has received from the participating Respondents who did not attend the hearing. They do not add more in substance to the points raised by Mr Unni, Ms Marks or Ms Uzila.

The Relevant Law

17. Sections 20(1) of the 1985 Act provides protection to leaseholders by requiring landlords to consult with them before they enter into a QLTA for which a service charge will be payable. A QLTA is a contract for goods or services entered into for more than 1 year and in respect of which the leaseholder has to contribute more than £100 per service charge year. Schedules 1 and 2 of the Service Charges (Consultation Requirements)(England)Regulations 2023 in summary require landlords firstly to serve notice of intention to enter into a qualifying long term agreement and allow 30-day period within which the leaseholders can make observations (paragraph 1), and then provide the tenants with details of the contract they intend to enter and again give the tenants a further 30 days to make observations (paragraphs 2-8). The relevant schedule which applies in this case is Schedule 2. Failure to consult on a QLTA will limit each qualifying tenant's contribution to costs payable in respect of the QLTA to a maximum of £100. According to paragraph 14 of Mr Rehan's statement, the Applicant in this case has already complied with the first stage in the consultation process required by paragraph 1 of Schedule 2 of the 2003 Regulations.
18. The Tribunal has the power to dispense with the consultation requirements by virtue of s.20ZA(1) which provides:

"Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying

works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

19. The leading case in relation to the exercise of the power to dispense with leaseholder consultation is *Daejan Investments Ltd v Benson* [2013] UKSC 14. By a majority the Court concluded that securing compliance with the statutory consultation requirements was not an end in itself. ss.20 and 20ZA of the 1985 Act were intended to ensure that tenants are not required (i) to pay for unnecessary services or services which are provided to a defective standard, and (ii) to pay more than they should for services which are necessary. The tribunal should consider whether the tenants will suffer from any relevant prejudice. In this context relevant prejudice is prejudice that they would not have suffered if the consultation process had been followed and that they will suffer if unconditional dispensation is granted. The burden of showing that such prejudice has or will be suffered is on the tenants/leaseholders.

Our Decision

20. We will grant the dispensation in the terms sought by the Applicant. We do not consider that the Respondents have provided any evidence that they would suffer relevant prejudice if dispensation is granted. The Applicant cannot comply with the consultation requirements and negotiate a fixed price for the energy consumed by the communal meters for more than 12 months. There is no evidence that the leaseholders would pay less for the energy consumed by those meters if the Respondent were required to engage with the second part of the consultation process, and no evidence that they would pay less if the Applicant were required to limit the contracts it enters into to 12 months or less. Furthermore we accept the Applicant's evidence that it is preferable to fix the price it pays for energy over a longer period firstly to avoid sudden fluctuations in global energy markets, secondly to avail fully of the Applicant's purchasing power as a large institutional consumer and thirdly to give it certainty when forecasting its future budgetary requirements.
21. We reiterate what was said by the tribunal on the last occasion. Our decision in this case is in respect of the dispensation provisions under section 20 of the 1985 Act only. Any concern that any leaseholder has to the cost of supplying energy to the communal meters, and the quality of the services provided, is a separate matter, and their right to apply to the tribunal in respect of any such concerns are not affected by our findings in this application.
22. We were concerned that it appeared that the Applicant may not have complied fully with the conditions that were attached to the grant of dispensation on the last occasion. Mr Rehan told us that it was NHG's comms team which would have been responsible for including all the

requisite information on the website. When he was answering questions put to him by Ms Uzila Mr Rahen stated that going forward he would ensure that the correct information was included within the timeframe provided by the conditions. In the light of that assurance we will make the grant of dispensation subject to the same conditions as previously save that we will additionally require the Applicant to include on the relevant part of its website the email address of the person charged with ensuring NHG's compliance with the conditions set by the tribunal.

Name: Judge N O'Brien

Date: 24 October 2025

ANNEX 1

CONDITIONS OF GRANT OF DISPENSATION

The Applicant will, within 14 days of entering into an agreement through Inenco Group Limited for the procurement of gas and or electricity for the period of the TPI Partnership agreement:

- 1. Disclose all administration costs and other costs and charges associated with such procurement.*
- 2. Disclose details of the main points of each procurement agreement, in particular the unit costs, the length of the contract, protection against price changes and a short summary to support the basis upon which they entered into the procurement agreement(s).*
- 3. Provide leaseholders with contact details of the person responsible for ensuring that conditions(1) and (2) are complied with.*

This information must be placed on the NHG website for the Respondents to view

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber)