

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).

Applications should be sent as a Microsoft Word document by **email** to the relevant regional tribunal address shown in the Annex to this form. You must also send by email **the documents listed in section 13 of this form**. If you cannot access email or find someone to assist you in lodging your application by email, then a paper application will be acceptable although there may be a delay in dealing with this. Sending an application on paper will not be suitable in urgent cases.

You can now pay the **the fee (if applicable) by an on-line banking payment or by cheque/postal order enclosed with the application form.**

If you want to be sent online banking payment details by email, please tick this box

Please make sure a copy of the application is served on the other party/parties to the application. If you are unable to serve a copy on the other party/parties, please bring this to the tribunal's attention in the covering email or if sending by post in a covering letter.

Please do not send any other documents. 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 contact 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:

Reference no. (if any)

Address (including postcode):

Telephone:

Day: Mobile:

Email address: Fax:

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

3. 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).

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

Various different buildings comprising of Rented, Shared Ownership and Long Leaseholder Flats

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'S 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

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:

Please see attached witness statement of Laura Shellard for details of urgency.

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. Please ensure that the following are enclosed with your application and tick the appropriate box to confirm:

A copy of the lease(s).

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

EITHER

A crossed cheque or postal order made out to HM Courts and Tribunal Service for the application fee of £100 (if applicable) is enclosed. **Please write your name and address on the back of the cheque or postal order. Please also send a paper copy of your application with your cheque or postal order, regardless of whether you have already emailed the application.**

OR

You have ticked the box at the top of this form to say you want the relevant regional tribunal office to send you details on how to pay the application fee of £100 by on-line banking. **The unique payment reference the tribunal office supplies MUST be used when making your on-line banking payment.**

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

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.

Leasehold 5 Application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (08.20)

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

H	W	F	-				-			
---	---	---	---	--	--	--	---	--	--	--

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

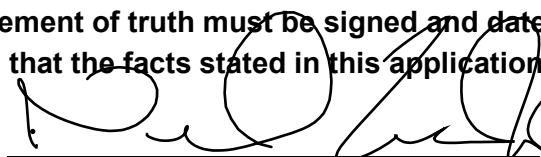
The 'Apply for help with fees' form will not be copied to other parties

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:

11/8/2021

GROUND 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.

1.1 The Applicants are part of the Notting Hill Genesis Group, which was formed in April 2018 as part of the merger of Notting Hill Housing and Genesis Housing Association. The group, through its subsidiaries, manages approximately 66,000 properties.

1.2 In 2019 it was decided that it would be desirable for the Applicants to enter into new agreements

with an energy broker and to use that broker to procure utility supply agreements. Since its merger in April 2018, the Applicants have operated on two separate sets of contracts for each legacy organisations but the Applicants are now looking to negotiate a single set of agreements for utilities. Those existing contracts expired on 31 March 2021.

1.3 The Applicants is obliged to comply with Public Procurement Regulations when entering into the intended agreements. One aspect of this obligation is that a standstill period of ten days must be allowed between the notification of bidders of the decision to award the contract and signing the contract with the successful bidder. The energy market does not operate in this way as bids are requested and contracts signed within a twenty-four-hour period for a fixed price contract or otherwise by 4pm on the date issued. The only way to reconcile these two constraining obligations is to use a third party intermediary ("TPI").

1.4 The Applicants entered into a TPI partnership with Inenco Group Limited as their Broker with

an

initial period of 3 years with an option to extend by a further 2 years to provide expert utility consultancy and invoice validation services. Entering into this partnership will allow the Applicants to take the desired longer term, strategic approach in purchasing energy on behalf of its residents and business. Inenco will assist the Applicants in ensuring that the utility contracts we enter into are best value for our residents by using established trading practices and account management services. Their work will also assist us in making sure that the invoices we receive and pay are being charged at the correct contractual rates to avoid situations where our residents are being overcharged.

1.5 However, like any TPI, Inenco will approach the market to obtain bids from energy companies to supply gas and/or electric across all of the properties within the Applicant's stock.

1.6 The nature of the Long Term Agreements mean that it is not reasonably practicable for the Applicants to give the required information at the notice of proposal stage of the consultation process and also to have regard to the Resident's observations as generally there has to be acceptance of prices offered in a small window of time. It is therefore not possible to act in the Resident's best interests as required by the Public Procurement Regulations whilst following the Section 20 Consultation procedure.

1.7 For the immediate future the Applicants do not intend to enter into a utility supply agreement which would amount to a QLTA. Instead it has entered into a single-year agreement for the period from 01 April 2021 until 31 March 2022. But it does intend to enter into such a qualifying long term agreement for terms during the remainder of the brokerage contract.

1.8 The agreements to be signed by the broker on behalf of the Applicant are the QLTA's for which the Applicant is seeking dispensation with the requirements the Consultation Regulations 2003.

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

2.1 The Applicants completed their consultation of their Home Ownership and Care Residents and Support Residents in June 2021 and their remaining Housing residents in July 2021. A sample of the consultation letters sent by the Applicants to their Home Ownership and Care and Support Residents is enclosed with the Witness Statement of Laura Shellard at exhibit LS1 and the consultation letters sent to the Applicant's remaining Housing Residents are in substantially the same form. The letters advise Residents of the proposed dispensation application, the reasons behind it and the effect on the consultation process.

2.2 All Residents have, of course, been invited to comment on the proposed contract and the

imminent application. The Applicants have received a number of responses from the Residents and are continuing their ongoing effort to effectively communicate and engage with the Residents in order to alleviate any concerns that they may have.

2.3 The Applicants confirm that they will respond to any future observations received. The Applicants also intend to send a letter to the Residents following issue of the application to the Tribunal. The letter will advise the Residents that the application has commenced and invites Residents to contact the Applicants should they wish to be supplied with a full copy of the application and its accompanying documents. In addition to the above, the Applicant will:

- Advertise the application on its website;
- Publish the outcome of the application on its website; and
- Publish the outcome of the procurement exercise on its website.

2.4 The Applicants have not appended copies of the leases as there is not a standard lease. The leases have considerable variations between tenancies in each area and therefore it would be impractical to provide copies of every lease. However, all of the leases require the Residents to contribute towards the costs that will be incurred by the Applicant under the intended agreements with utility suppliers.

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

3.1 Energy is a commodity and trades on the energy market with prices changing minute by minute so competitive quotations for energy are only held for a matter of hours. This means that though the Applicant would ideally wish to consult residents to fulfil their consultation requirements, the Applicant is prevented from doing so in accordance with the consultation regulations.

3.2 The purpose of fixing a unit price for the supplier of gas and electricity is to the benefit of all the Residents who will be able to take advantage of the Applicants' purchasing power and economies of scale. By using a TPI to buy gas and electricity through the wholesale energy market, the Applicants are complying with Best Practice. The Pan-Government Energy Project recommended that all public sector organisations buy their energy through an aggregated, flexible, risk-managed framework managed by energy experts.

3.3 Specifically, the Applicants are unable to comply with Schedule 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003 1987). The nature of the long term agreements mean that it is not reasonably practicable for the Applicants to give the required information at the notice of proposal stage of the consultation process and have regard to the Resident's observations as there has to be acceptance of prices offered in a small window of time.

3.4 The Applicants respectfully request that due to the nature of the application that the information enclosed will enable the FTT to deal with the application on the papers alone, without a hearing.

3.5 The Applicants therefore seeks dispensation of the consultation requirements under Section 20ZA of the Landlord and Tenant Act 1985 to enable the Applicants to contract with the successful bidder for the supply of gas and electric for heating and power to the communal areas of the Applicants' stock.

ANNEX: Addresses of Tribunal Regional Offices

NORTHERN REGION

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

Telephone: 01612 379491

Fax: 01264 785 128

Email address: RPNorthern@justice.gov.uk

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

Telephone: 0121 600 7888

Fax: 01264 785 122

Email address: RPMidland@justice.gov.uk

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

Telephone: 01223 841 524

Fax: 01264 785 129

Email address: RPEastern@justice.gov.uk

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

Telephone: 01243 779 394

Fax: 0870 7395 900

Email address: RPSouthern@justice.gov.uk

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

Telephone: 020 7446 7700

Fax: 01264 785 060

Email address: London.RAP@justice.gov.uk

DX 134205 Tottenham Court Road 2

This office covers all the London boroughs.

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

To receive a paper copy of this privacy notice, please call 0300 123 1024/ Textphone 18001 0300 123 1024.