

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: London Borough of Hounslow

Capacity: Landlord

Address (including postcode):

Leasehold Services , Hounslow House, 7 Bath Road, Hounslow TW3 3EB

Address for correspondence (if different from above):

Telephone:

Day: 0208 583 3787

Evening:

Mobile:

Email address: leaseholdservices@hounslow.gov.uk

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

full list of addresses attached

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):

Brentford Towers Residents Association , C/O Cornish House Concierge, Green Dragon Lane, Brentford, TW8 0DN

Telephone:

Day:

Evening:

Mobile:

Email address:

secretary.btra@gmail.com

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 Council received dispensation from the tribunal in respect of the previous contract with LASER in 2016. The case reference was LON/00AT/LDC/2015/0121. We are seeking dispensation on the same grounds.

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 current contract expires in October 2020. LASER requires a commitment from the Council immediately that it wishes to continue with the existing arrangement to enable it buy energy now if the prices are low without having to wait and miss out a window of opportunity

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:

19th - 23rd October 2020

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: 28/8/20 _____

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 Council provides communal electricity through landlords lighting in blocks, estate lighting etc which is recharged through the annual service charge, and

Communal gas through the district heating and communal heating networks in some blocks were district/communal heating is provided which is recharged through the annual service charge

The Council uses insufficient energy to effectively access wholesale markets individually and therefore needs to be part of a consortium for the purchase of utilities. Best practice recommends that the public sector aggregate their buying power through consortia in a risk managed approach to minimize exposure to unfavourable pricing, and that this is what the Council has done. Kent County Council (KCC) – through LASER - manages a consortium of 120 local authorities and aggregates members' energy volumes to deliver better value contracts for councils. KCC operate a 4-year framework agreement with energy suppliers that enables them to continuously purchase energy through the wholesale energy market at very competitive rates. Going through the wholesale market is in line with Best Practice as recommended by the OGC Energy Strategy Team (Treasury) advice.

The flexible procurement framework contracts allow LASER to buy energy up to four years before it is used. This forward buying means that LASER can secure prices for the future whenever the market looks favourable. Gas and electricity is bought in 'clips', energy prices are fixed for 12 months from each October and the prices are based on the average price from all the clips bought in the previous years. Buying energy in this way can 'smooth' the market so that the prices paid don't swing so far from year to year. The smoothing effect does mean that at times the market may fall below the prices achieved by LASER, but taking a longer view flexible procurement has delivered prices around 4% below the market average.

The Councils Energy Team along with the London Energy Project carried out an in depth study into procurement of energy'. The LEP is authority-led, authority-owned and independent of commercial market influence, to enable London authorities to work together effectively and combine their £0.5 billion annual spending power, so authorities get more for less from the supplier dominated utilities market. This is a stable and long-term approach to intelligently navigate rapid change in the authority business environment and corresponding volatility in the commercial utilities market – both of which signal unwelcome cost pressure and unprecedented demands on authority management. Other CPBs offering energy supply procurement options which are available for the Council to access have been evaluated and none offer any advantages over the LASER offer

The Council has approximately 3000 leasehold properties in its stock. As this procurement contract constitutes a Qualifying Long Term Agreement (under Commonhold Leasehold Reform Act 2002) because the fee that is paid to LASER for its service and fuel costs (resulting from the contract) are service chargeable to leaseholders.

This application has become necessary to comply with the Service Charges Consultation Requirements) (England) Regulations 2003, for the proposed contract for 2020 - 2024

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

No consultation has been undertaken regarding this contract. The Council would normally carry out full statutory consultation following the Commonhold and Leasehold Reform Act 2002 (section 20 as

amended) in any cases where the annual cost of the service could exceed £100 per annum for any one leaseholder.

Although this is less likely for the cost of communal electricity, it could be relevant for the cost of communal gas (via the provision of domestic hot water and heating) in this contract.

The Council is unable to comply with the full requirements to consult on the LASER proposals in view of a new contract coming into place on [date] and therefore applied for dispensation from the First Tier Tribunal. Similar to the consultation undertaken by the Council in 2015, if this dispensation is granted, we will circulate a copy of that decision. The Council is and has always been committed to keeping costs low for its leaseholders and is using the LASER contract with the best interests of tenants and leaseholders at heart. Leaseholders have not been prejudiced by the Council using the LASER contracts'

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

PROPOSED 2020-2024 LASER CONTRACT

The current contract expires in October 2020. LASER requires a commitment from the Council immediately that it wishes to continue with the existing arrangement to enable it buy energy now if the prices are low without having to wait and miss out a window of opportunity. Apart from savings, LASER had been chosen because of the fully managed option (includes consolidated billing, one of many associated aspects)- this is an invaluable service to London Borough of Hounslow as is the case across most London boroughs- and not many Central Purchasing Bodies offer this.

LASER's current flexible frameworks have performed extremely well against the Major Energy Users Council MEUC. For the contract year October 2018 to September 2019; our portfolio (Corporate & Housing) for electricity is -15% below MEUC market average with gas -12.5% below market average. This equates to avoided costs of £245k/pa for Housing stock.

However, given the need to commit to LASER immediately for the proposed contract, the Council is seeking the dispensation from the Tribunal for all schedules of the section 20 consultation requirements.

The Council is unable to fully comply with the process for appointing a Central Purchasing Body, provide the leaseholders with a statement as to the actual or estimated unit cost or hourly or daily rate of charge for the electricity and gas supply or an estimate of the extent of each of the leaseholder's contributions or of the total expenditure.

As the Council is unable to comply with Schedule 2 Paragraphs 4(4), 4(5), 4(6) and 4(7) of the Service Charge (Consultation Requirements (England) Regulations 2003; it therefore seeks dispensation under section 20ZA Landlord and Tenant Act 1985 from Schedules 1, 2, 3 of The Service Charges (consultation requirements) (England) Regulations 2003 for the proposed contract (to run from 2020 - 2024).

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

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, Tyne-side (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

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.