



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

**Case reference** : **LON/00AG/LDC/2022/0059**

**Applicant** : **Central & Cecil Housing Trust**

**Respondent** : **The tenants of the Applicant subject to variable service charge provisions**

**Property** : **Various properties throughout London**

**Date of decision** : **2 August 2022**

**Tribunal Member** : **Judge Dutton**

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**DECISION ON AN APPLICATION UNDER SECTION 20ZA OF THE  
LANDLORD AND TENANT ACT 1985**

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**DECISION**

**The Tribunal orders that there be dispensation from the consultation requirements under s20 Landlord and Tenant Act 1985 (the Act) for the reasons set out below**

**Background:**

1. The application made on 14 March 2022 relates to the Applicant's entering into Qualifying Long-Term Agreements (QLTA) for the supply of electricity and gas to its tenanted properties in October of last year. The details of those properties are set out in appendix A to a Statement of Case made by Deb Thomas Director of Development (London/Home Counties dated 14 March 2022).
2. This application has been dealt with as a paper determination as provided for in the directions issued by the Tribunal dated 12 May 2022. At the time of the determination, I had before me a bundle consisting of some 134 pages. This included the application, the directions, the statement of case with a number of exhibits to which I will refer to as necessary and a letter dated 26 May 2022 advising the tenants of the application with supporting documents and an explanation as to why the matter was proceeding in this way.
3. In addition, a note was provided indicating that flat 9 Erica House, 63 -65 Worple Road; flat 317 Vivian Court 128 – 134 Maida Vale; flat 502 Jacqueline

House, 52 Fitzroy Road and flat 405 Carole House, 80 Regents Park Road were no longer a part of the application.

4. The Statement of Case confirmed that the Applicant had entered into three utility contracts with EDF and SSE for the supply of electricity and with GazProm for the supply of gas. I am told that the existing fixed price contracts with these three companies expired on 30 September 2021 and needed to be renewed to avoid considerably higher charges in respect of supplies 'out of contract'. The variable costs to be recovered from the tenants would exceed £100 per annum and accordingly consultation would be required. However, to have delayed the matter to enable consultation to take place would have resulted in much higher prices for the supply of these utilities. Details are provided in the Statement Case to highlight these differences. The point is also made that in entering into these new fixed term contracts which will run until March 2023, provides certainty for the service charge budgets.
5. In addition, the Statement of Case explains that there has been a merger with Aster Group from December 2021 and that this will, subject to its renewal of the agreements it has in place, result in more power for bulk buying in March/April 2023.
6. These contracts have been entered into with the benefit of advice from Inenco, the Applicant's energy consultant. They have advised that although the costs under the new arrangements are higher than before they are still significantly less than would be the case on an 'out of contract' rate and further the volatility of market showed no slowing down of the increase in costs.
7. Details of the contracts with GazProm, SSE and EDF are included in the exhibits to the Statement of Case. Matters are complicated in respect of the electricity supply as it appears there are differing meter types (half-hourly and non-half-hourly), with EDF dealing with the half-hourly meters and SSE with the remaining, which is the larger portion of the Applicant's supply requirements. A spread sheet exhibited shows those properties which will be affected by which contract.
8. The Statement of Case avers that no prejudice has been caused to the tenants because of the lack of consultation. In the conclusion it is said that if the contracts had not been entered into when they did the costs to the tenants would have increased significantly. It is said by the consultant Inenco that for gas this could have been almost doubled in price and for electricity increased by over 30% on an 'out of contract' basis.
9. By an email dated 31 May 2022 Trower & Hamlins LLP, solicitors for the Applicant, confirmed that the directions for service of the application had been complied with. I am not aware of any objections from any tenant.
10. The reasons for requesting dispensation are fully advanced in the Statement of Case and do not need to be repeated at length in this decision. My only requirement is to determine whether it is appropriate to dispense with the consultation requirements.

## **FINDINGS**

11. I am satisfied that for the Applicant to be able to enter into the QLTA for the procurement of electricity and gas supplies it would not have been possible to undertake the consultation requirements as provided for in the Service Charges (Consultation Requirements) (England) Regulations 2003, schedule 1. A letter dated 26 May 2022 from the Applicant clearly set out the reasons for the application.
12. I have considered the Supreme Court Case of Daejan Investments Limited v Benson and other [201] UKSC 14 and do not consider that there is any prejudice caused to the tenants, indeed, it seems to me that given the well documented evidence of volatility in the gas and electricity market and the advice given by Inenco, that these arrangements should save the tenants money. I therefore conclude that it is right to dispense with the consultation requirements.
13. My only requirement is to consider whether or not it is reasonable to dispense with the statutory consultation requirements. My decision does not affect any other rights that any tenant may have.
14. In accordance with the direction 10 of the Tribunal dated 12 May 2022 the Applicant will upload a copy of this decision to its website within 7 days of it being sent to the Applicant.

**Tribunal Judge:** Judge Dutton

**Date:** 2 August 2022

### **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).