		FIRST-TIER TRIBUNAL **PROPERTY CHAMBER** **(RESIDENTIAL PROPERTY)**
Case Reference	**:**	**MAN/16UD/LDC/2026/0009**
Property	**:**	**The 1,221 properties within Cumbria, Lancashire, Durham, Northumberland and Tyne and Wear Counties managed by the Applicant as listed in the Schedule of Properties – see Annex A**
Applicant	**:**	**Castles & Costs Housing Association Limited**
Applicant's Representative	**:**	**Devonshires Solicitors LLP**
Respondents	**:**	**The Residential Long Leaseholders and Assured Tenants – see Annex A**
Type of Application	**:**	**Landlord & Tenant Act 1985 – s 20ZA**
Tribunal Members		**Judge Richard Dobson Mason LLB** **Mr Simon Wanderer MRICS**
Type and Venue of the Hearing		**Determined on the papers without a hearing**
Date of Decision	**:**	**8 June 2026**

DECISION

(1) The Tribunal unconditionally grants the Applicant's application for dispensation under s 20ZA Landlord and Tenant Act 1985 from the consultation requirements contained in s 20 thereof, in relation to entering into a Qualifying Long Term Agreement with Sustainable Energy First for the purchase of supplies of electricity and gas for the Properties from 1 October 2028 to 30 September 2032.

(2) Service of this Decision shall be effected by the Applicant, who shall serve a copy on all Respondents within 14 days of the date on which it is sent to the Applicant by the Tribunal.

REASONS

Background

1. The Application relates to 1,221 properties within Cumbria, Lancashire, Durham, Northumberland and Tyne and Wear Counties managed by the Applicant as listed in the Schedule of Properties – see Annex A *("the Properties")*.

2. The Properties were not inspected by the Tribunal.

3. The Applicant is Castles & Coasts Housing Association Limited who brings the application *("the Application")*. The Applicant is a Registered Provider of Social Housing and is registered under the Co-Operative and Community Benefit Societies Act 2014, providing a range of tenancies and shared ownership homes in Cumbria, Lancashire, Durham, Northumberland and Tyne and Wear Counties. The Applicant is represented by Devonshire Solicitors LLP.

4. The Respondents are the tenants and leaseholders of the Properties charged for gas and electricity.

The application

5. On 26 January 2026, the Applicant made the Application under s 20ZA Landlord and Tenant Act 1985 *("the Act")* to dispense with the consultation requirements of s 20 of the Act, as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 *("the Consultation Requirements")*.

6. The Application seeks dispensation in respect of long-term portfolio purchase agreements for gas and electricity supply to the Properties *("the Agreements")*.

Directions

7. Directions were made on 23 February 2026 *("the Directions")* requiring, *inter alia*, sequential filing and service of the parties' statements of case and evidence in support, and any reply.

The hearing

8. The Application was determined on the papers on 8 June 2026. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 *("the Rules")* permits a case to be dealt with in this manner provided that the parties consent to, or do not oppose it within the requisite timescale.

9. The Applicant, in the Application, requested a paper determination. Paragraph 5 of the Directions identified that there was to be no inspection of the Property unless the Tribunal considers one is necessary at a later date.

10. The parties were notified, by paragraph 4 of the Directions, that they had 42 days from the date of the Directions to request an oral hearing. No objections / requests for an oral hearing were received from the parties within that timescale.

The Applicant's case

11. The Applicant filed and served a statement of case and witness statements from Liz Preston (Income Manager of the Applicant) and Daniel Luke Zac Rapley (Procurement Specialist Manager at Sustainable Energy First *("Sustainable")*) in support of the Application, setting out, in summary, the following: -

    a. On 1 June 2023, the Applicant entered into an agreement with Inenco Group Limited, now Sustainable, to procure gas and electricity from the wholesale market for the Applicant's properties from 1 November 2023 to September 2024 *("the Master Agreement")*.

    b. Sustainable' s role under the Master Agreement is to provide compliant energy supply contracts and procure energy from wholesale markets.

    c. Pursuant to a previous First-tier Tribunal Property Chamber (Residential Property) Decision dated 6 August 2024 granting unconditional dispensation, Sustainable secured the Applicant's current electricity and gas supplier, TotalEnergies Gas & Power Ltd, pursuant to a three-year portfolio purchasing agreement for the Applicant's properties from 1 October 2025 and 30 September 2028.

d. The Applicant now wishes to again instruct Sustainable to procure a new four-year portfolio purchase agreement for 1 October 2028 to 30 September 2032. This would be desirable because: -

   i. The Applicant must fulfil their obligation of providing energy services to their leaseholders and tenants.

   ii. The Applicant believes that by partnering with Sustainable, it can take advantage of their spend in the market and experience of forecasting in a difficult energy sector. Purchasing from the wholesale market generally secures competitive pricing which might in turn bring down the service chargeable element that the leaseholders and tenants pay.

   iii. The further in advance that the Applicant and Sustainable can procure energy for, the better prices the Applicant may be able to obtain.

e. Energy is a commodity and trades on the energy market. Currently, energy prices are typically changing 3-30% within the day and more than 100% over a year. With prices volatile, changing minute by minute, competitive quotations for energy are only held for a matter of hours.

f. Whilst prices are higher than normal, there is backwardation in the market meaning that energy is cheaper the further out it is placed.

g. Dispensation would enable the Applicant and Sustainable to react to any given scenario within the day – thereby protecting the Respondents in terms of energy prices for a further 4-year period – and remaining flexible as to when precisely it enters into such an agreement to take advantage of optimum market conditions as they present themselves.

h. The Applicant is unable to comply with the requirements of the Consultation Requirements due to the dynamic nature of energy brokerage.

i. The Applicant must comply with Public Procurement Regulations. Under these regulations, a 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 contractors are obliged to sign within a 24-hour period. The only way to reconcile these two constraining obligations is to use a third-party intermediary, in this case, Sustainable, who will approach the marketplace multiple times per year, with acceptance of prices required within a small window of time. It is therefore not practicable to follow the Consultation Requirements, and therefore dispensation is sought.

j. The risk-managed strategy for procuring electricity and gas used by Sustainable and the Applicant is specifically designed to optimise purchasing decisions over time, rather than a fixed market position. It does not operate on a "quoted price" model, and, as a result, it is not possible for the Applicant or Sustainable to provide supplier quotes to the Respondents or the Tribunal.

k. The Applicant intends to communicate with the Respondents on the issue as far as possible and has sent letters to them dated 13 November 2025 advising of the intention to apply for dispensation. It has also updated its website in this regard, and served the Respondents with its bundle, containing, *inter alia*, its statement of case and evidence in support of the Application, in accordance with the Directions.

The Respondents' case

12. The Tribunal did not receive a response from any of the Respondents.

Issues

13. The issue to be decided is whether it is reasonable to dispense with the Consultation Requirements and, if so, whether any conditions should be imposed.

The law

14. The Agreements are "qualifying long term agreements" for the purposes of s 20ZA(2) of the Act, by virtue of them being for a term of more than 12 months, and therefore the Consultation Requirements are engaged.

15. A failure to adhere to the Consultation Requirements limits each qualifying tenant's contribution to the costs of any such qualifying long term agreement to £100 per accounting period unless dispensation is granted by the Tribunal.

16. S 20ZA(1) of the Act 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.

17. In *Daejan Investments Ltd v Benson* [2013] UKSC 14 *("Daejan")*, the Supreme Court considered the proper approach to an application for dispensation under s.20ZA, noting that: -

    a. The purpose of the Consultation Requirements is to ensure that tenants are protected from paying for inappropriate works or paying more than would be appropriate for them.

b. On that basis, the Tribunal should focus on the extent to which tenants were relevantly prejudiced in either respect by the failure of the landlord to comply with the Consultation Requirements.

c. The Tribunal has the power to grant dispensation on such terms as it thinks fit, provided that such terms are appropriate in their nature and effect, including in relation to the recoverability cost of the works and / or the parties' costs incurred in connection with the application for dispensation.

d. However, where the extent, quality and cost of the works were unaffected by the landlord's failure to comply with the Consultation Requirements, unconditional dispensation should normally be granted.

e. The only disadvantage of which a tenant may legitimately complain is one which they would not have suffered if the Consultation Requirements had been fully complied with but which they would suffer if unconditional dispensation were granted.

f. Although the legal burden of proof would be, and would remain, on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered would be on the tenants.

g. Given that the landlord will have failed to comply with Consultation Requirements, and the Tribunal is having to undertake the exercise of reconstructing what would have happened, it may view the tenant's arguments sympathetically, for instance resolving in their favour any doubts as to whether the works would have costs less, or that some of the works would not have been carried out or would have been carried out in a different way. The more egregious the landlord's failure, the more readily the Tribunal would be likely to accept that tenants had suffered prejudice.

h. The tenants' complaint will normally be that they have not had the opportunity to make representations about the works. Accordingly, the tenants have an obligation to identify what they would have said.

i. Once the tenants have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

j. Save where the expenditure is self-evidently unreasonable, it would be for the landlord to show that any costs of investigating relevant prejudice incurred by the tenants were unreasonably incurred before it could avoid being required to repay them as a term of dispensation being granted.

Determination

18. The only issue for the Tribunal to consider is whether, under s 20ZA of the Act, it is reasonable to dispense with the Consultation Requirements.

19. As set out above, the purpose of the Consultation Requirements, insofar as qualifying long term agreements are concerned, is to ensure that tenants are protected from unfair, long term financial commitments imposed by landlords.

20. The Tribunal must consider therefore whether the Respondents are 'relevantly prejudiced' by the failure to consult, and bear in mind the considerations set out above in Daejan.

21. The Tribunal is satisfied that the Agreements, and the Applicant's related approach, are in the best interests of the Respondents, being employed with the intention of protecting them from the volatile energy market and enabling the Applicant, by its agents, to obtain the best possible pricing for supply of electricity and gas to the Properties by reacting to the market and placing it further out.

22. Importantly, there was no response from any of the Respondents and, as such, no issue of “relevant prejudice” was raised.

23. The fact that previous Tribunals have made a similar finding based on similar facts also weighs in favour of that determination.

24. In conclusion, no “relevant prejudice” occasioned by the Applicant’s failure to comply with the Consultation Requirements has been shown or is found.

25. In view of the above, the Tribunal is satisfied that it is reasonable to grant the Application without any conditions.

26. This determination does not affect the Respondents’ right to apply to the Tribunal to determine the payability or the reasonableness of any service charges raised in relation to the supply of the electricity and / or gas to the Properties, pursuant to s 27A of the Act.

Judge Richard M. Dobson-Mason
8 June 2026

Annex A