



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

Case reference	:	CAM/00MG/LDC/2024/0029
Applicants	:	Milton Keynes City Council
Representative	:	Mari Roberts, Sharpe Pritchard
Respondents	:	All leaseholders of dwellings at the Properties who may be liable to pay a service charge towards costs incurred under the relevant agreement(s)
Properties	:	All properties in respect of which costs may be payable under the relevant agreement(s)
Tribunal member	:	Judge David Wyatt
Date of directions	:	22 May 2024

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

- **Whenever you send a letter or email to the tribunal you must also send a copy to the other parties and note this on the letter or email.**
- **These directions are formal orders and must be complied with. The parties are referred to the Tribunal Procedure (First-tier Tribunal) Rules 2013.**
- **If the applicant fails to comply with these directions the tribunal may strike out all or part of their case pursuant to rule 9(3)(a) of the 2013 Rules.**
- **If a respondent fails to comply with these directions the tribunal may bar them from taking any further part in all or part of these proceedings and may determine all issues against them pursuant to rules 9(7) and (8) of the 2013 Rules.**
- **Non-compliance could also result in the tribunal making a determination on costs pursuant to Rule 13 of the 2013 Rules.**

Application

- (1) The applicant seeks dispensation with the statutory consultation requirements in respect of proposed energy contracts for gas for communal heating and hot water supplied to some properties, and electricity for communal areas. It appears these are:
 - a. a proposed new (renewal) framework agreement for supply of gas and electricity said to be: “*with LASER – Local Authority South East Region - which is part of Kent County Council*”, described as an “*access agreement*”; and
 - b. proposed contracts with energy suppliers under that framework agreement (the applicant says the current and proposed new gas supplier is Total Energies, and the current and proposed new electricity supplier is Npower), described as “*call-off contracts*”.
- (2) Energy markets are known to be volatile, with suppliers submitting prices on the basis that they can be withdrawn at short notice. The applicant says the framework agreement enables local authorities to collectively buy energy on the wholesale market over longer periods of time. They say the current arrangements expire on 30 September 2024, so they propose to renew these for a four-year period from 1 October 2024. They say it is not practicable to seek to comply with the statutory consultation requirements, but four consultation meetings will be arranged for leaseholders.
- (3) Because the agreement(s) would be “*qualifying long term agreement*”(s) under section 20ZA of the Landlord and Tenant Act 1985, the relevant contributions of leaseholders through the service charge towards the costs payable under the agreement(s) would be limited to a fixed amount (currently £100) per accounting period unless the statutory consultation requirements, prescribed by section 20 of the 1985 Act and the Service Charges (Consultation etc) (England) Regulations 2003 (the “Regulations”) were complied with or are dispensed with by the tribunal.
- (4) The applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so. **In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. This application does not concern any issue of whether any service charges for any costs payable under the agreement(s) will be reasonable or payable.**
- (5) The above summaries are given only for case management purposes. Please refer to the application form and the other documents to be produced by the applicant (available from the online link to be provided by the applicant with their letter, or on request from the applicant, as directed below) for the information relied upon by the applicant in support of the application.

DIRECTIONS

1. The tribunal will determine this application on or after **29 July 2024** based on written representations, without a hearing, unless by **5 July 2024** any party makes a request for an oral hearing (or the tribunal decides on review of the bundle directed below that a hearing is necessary). If any party requests or the tribunal directs an oral hearing it shall take place on a date to be advised.

Service of documents

2. By **14 June 2024**, the **applicant** must take the following steps:
 - a) write to each of the respondents (and each of the resident associations said in the application to be accredited by the applicant) by email, hand delivery or first-class post, informing them:
 - i. of the application;
 - ii. that a copy of the application form and all supporting documents (including a copy of the current/draft proposed agreements with the full details of the relevant parties), with any personal details deleted or redacted, and a copy of these directions, are available online, advising them of the URL address and any details needed to view and download copies;
 - iii. that any opposition to the application needs to be prepared in accordance with these directions and sent to the applicants' representatives by **5 July 2024**;
 - iv. that if they wish to receive a printed copy of the documents and these directions they should write to the applicant, who will then send printed copies (again, with any personal details deleted or redacted);
 - v. that as the application progresses additional documents will be added to the website, including the final decision of the tribunal, stating clearly that the final decision is likely to be uploaded on or after **19 August 2024**; and
 - b) Confirm to the tribunal by email that this has been done and stating the date(s) on which this was done.

Any opposition to the application

3. Those respondents (leaseholders) who **oppose** the application shall by **5 July 2024** send to the **applicant's representatives**:
 - a) the reply form attached to these directions, completed by the relevant respondent;
 - b) a statement in response to the application, with copies of any evidence and other documents upon which they wish to rely; and

- c) if they have requested a hearing, their dates to avoid for the period described below.

Notification of any request for a hearing

- 4. If any respondent requests a hearing, or the applicant wishes to request a hearing, the applicant must as soon as possible apply to the tribunal for further directions, with their dates to avoid and all dates to avoid provided for the period from August to September 2024.

Bundle for the determination

- 5. The applicants shall prepare a bundle of documents in accordance with the annexed guidance. The bundle must contain all the documents on which the applicant landlord relies, including copies of:
 - a) the documents sent and made available to the respondents in accordance with paragraph 2(a) of these directions;
 - b) the confirmation sent in accordance with paragraph 2(b) of these directions;
 - c) any further directions; and
 - d) copies of any replies, statements and other documents from the respondents (there is no need to include any communication which only requests paper copies of the application documents without opposing or making any comment in relation to the application, if there is a large number of such requests, but it may be useful to have confirmation of how many such requests were made).
- 6. By **19 July 2024** the applicant must:
 - a) upload a copy of the bundle to their (or the relevant) website;
 - b) write to each of the respondents who have sent a reply form to oppose the application, by email and/or post, providing them with a link to the uploaded bundle and, if they request one, a paper copy of the bundle;
 - c) send to the tribunal a similar link to the uploaded bundle, that can be downloaded by the tribunal. The subject line of the email must read: “BUNDLE FOR PAPER DETERMINATION: [case reference number]”; and
 - d) deliver **two** hard copies of the bundle to the tribunal. If any respondent opposes the application, the tribunal will require an **additional** hard copy of the bundle.

General

- 7. The tribunal will send a copy of its eventual decision on dispensation to the representative of every represented respondent, and to any

unrepresented or other respondent, who have completed and returned the reply form attached to these directions. The applicant may wish to send copies of the decision directly to all respondents, but unless otherwise directed that will be a matter for them.

8. In any event, the applicant landlord shall place a copy of the tribunal's eventual decision on dispensation together with an explanation of the appeal rights on their (or the relevant) website **within seven days of receipt** and shall maintain it there for at least three months, with a sufficiently prominent link to both on their home page.

GUIDANCE FOR PREPARING BUNDLES

Format

- *hole punched in an A4 lever arch file (or fastened with treasury tags)*
- with an index on the first page
- **numbered page by page**, preferably at the bottom right of each page (remember you and the tribunal will need to refer to these page numbers to quickly direct everyone to each item to be discussed)
- in **date order**, earliest to latest, where practicable (especially correspondence and other relevant documents e.g. accounts, invoices, bank statements)
- *use a sensible number of section dividers/tabs (usually between 5 and 30) between key sections/documents (e.g. between statements of case)*
- do **not** use plastic wallets
- all contents should be A4 (unless you need to include A3 documents to make them legible; if so, punch one side only and fold them so they can be opened and read easily)

Contents

- as set out in the case management directions (including the application form, directions/orders, each party's statement of their case, witness statements, the lease or tenancy agreement where relevant, relevant reports/documents and all other documents which you or the other parties rely on)
- use good quality copies of all documents and **colour** copy plans/photographs
- you may wish to include a chronology
- try to present e-mails as individual items, not long chains, and leave out irrelevant automatic disclaimers/notices at the end of e-mails
- avoid duplicates or irrelevant correspondence

Agreeing the bundle

- the party responsible for preparing the bundle should send a draft index to the other party in good time in advance; the parties must co-operate in seeking to agree what the bundle should contain

General

- Remember that only those documents sent in properly prepared bundles are likely to be before the tribunal at the full hearing
- It can be appropriate to have separate bundles (e.g. one for the application, orders, witness statements and so on, and one for the documentary evidence such as accounts, invoices, bank statements, if this is bulky)
- If the tribunal has given permission for electronic bundles, they should be prepared as above (apart from the items in italics). They should be in PDF format. A large PDF bundle may be split into two for e-mail transmission.
- If you wish to produce video evidence, you will need to liaise with the tribunal in advance to ask to arrange this.

Reply Form for leaseholders

Case Reference:
Property:

ONLY COMPLETE AND RETURN THIS FORM IF YOU OBJECT TO THE APPLICATION

If you do object please complete and return this form by e-mail to the **applicant**.

	Yes	No
Have you enclosed a statement in response, to explain the reasons for your objection?	<input type="checkbox"/>	<input type="checkbox"/>
Do wish to have an oral hearing? If so, please provide your dates to avoid below.	<input type="checkbox"/>	<input type="checkbox"/>
Name address of any spokesperson or representative appointed for the leaseholder:		

Please also complete the details below:

Date:	
Signature:	
Print Name:	
Address of affected property:	
Your correspondence address (if different):	
Telephone:	
Email:	

If you have requested a hearing, please provide below your essential dates to avoid for August and September 2024.

Dates to avoid:	
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