

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: MIDLAND HEART LIMITED

Capacity: LANDLORD

Address (including postcode):

20 BATH ROW, BIRMINGHAM, B15 1LZ

Address for correspondence (if different from above):

SAME AS ABOVE

Telephone:

Day: 0345 602 0540 Evening: N/A Mobile: N/A

Email address: utilities@midlandheart.org.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: GUY GRANT

Reference no. (if any)

Address (including postcode):

20 BATH ROW, BIRMINGHAM, B15 1LZ

Telephone:

Day: n/a Mobile: 07923438288

Email address: utilities@midlandheart.org.uk Fax:

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

Please see attached.
In relation to the checklist in section 13, as we have approximately 1800+ leaseholders we will find it difficult to attach each copy of the lease to this document.
For reference the leases will cover the following areas;
West Midlands Nottinghamshire Worcestershire Staffordshire Leicestershire Herefordshire Gloucestershire

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)

The application for Dispensation effects all properties receiving either Landlords Lighting or District Heating within Midland Heart Limited from a studio flat on a ground floor to a four bedroom property on a 14th floor tower block.

There is a total of 1829 Domestic Properties, both Leasehold and Tenanted, over a number of flats and blocks.

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

Given the number of properties the answer given is to the best of my knowledge.

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:

Due to the large volumes of energy required, the contracts for the Housing Association are classed as a non-domestic supply. Market volatility means that prices in the non-domestic gas and electricity retail markets are often only held for a few hours and don't permit compliance with compliant Section 20 consultation. Added to this, energy prices have risen significantly compared to where they were two years ago and are expected to remain high for some time to come.

Midland Heart Limited are committed to provide the best value services for our tenants and wish to take a more risk managed approach to the procurement of energy. Being in the market as early as possible and for as long as possible provides the best opportunity for risk managed procurement. There are currently opportunities to buy long term energy at prices significantly lower than the current "spot" market. This opportunity might be time limited and as such Midland Heart Limited want to secure these on behalf of our tenants whilst available.

By having a long-term contract with a supplier, the Leaseholders and Tenants will have a longer term to have stable and fairer prices. A long-term agreement will also allow for easier budgeting. This will help the buyer, Midland Heart Limited, to manage their expenses more efficiently and will also prevent any surprise increases further down the line.

For further information, please refer to the associated document entitled "Justification for S20 Dispensation".

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:

22nd-25th January 2023, 29th January 2023, 2nd February 2023, 13-14th February 2023, 19th April 2023.

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):

N/A

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.

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:** _____

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.

Midland Heart Limited are seeking dispensation for energy contracts we intend to enter into effective from 1 October 2024.

Midland Hearts' current broker is Inspired Energy Plc, with whom we entered an agreement on 1 October 2019 between Midland Heart and Inspired Energy Plc (the "Master Agreement"). Under the existing Master Agreement, all of the Applicants' energy supplies have already been procured up to 30th September 2024. Midland Heart intend to procure for a new broker ahead of the expiry of the Master Agreement on 30th September 2024 in order to implement our agreed procurement strategy from 1st October 2024 onwards. The agreed procurement strategy has been reviewed with our current broker, Inspired Energy Plc, and includes seeking this dispensation to allow flexibility for securing

energy volumes beyond 12 month windows, with the intention of reducing price risk volatility and hopefully shielding residents from potential future energy shocks, such as have recently been experienced. The energy supplies would be flexibly sourced using an established Public Contracts Regulations 2015-compliant framework agreement.

Note the Master Agreement (and an intended replacement agreement entered into with Inspired Energy Plc or an alternative broker) is not an agreement for which the Applicants are required to consult tenants under section 20 of the Landlord and Tenant Act 1985 because, throughout the currency of the Master Agreement (and its replacement), the amount payable by any tenant paying a service charge will be less than £100 in any 12 month accounting period. The Master Agreement (and its replacement) is, however, referred to as a way to reference the multiple gas and electricity supply contracts, which Midland Heart intends to enter into. The agreement will be in respect of energy supplied between 1st October 2024 and 30th September 2028, and be entered into from late 2023 onwards (after re-tendering for energy broker services and subject to obtaining the dispensation), depending on favourable market conditions.

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

There are 1829 properties whose Residents will be subject to the Qualifying Long Term Agreement. We propose we will write to all Residents to:-

1. Inform them of the application
2. Advise them a copy of the application is on our website -which will be updated as the application processes
3. Inform them how they can request a hard copy of the application

Given the number of residents concerned and the cost of mailing, we do not contemplate any further mailings to Residents

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

Midland Heart is seeking dispensation from all of the consultation requirements of section 20 because they would be able to swiftly enter multiple, longer-term gas and electricity supply contracts, taking advantage of more competitive energy prices. The Applicants would not be able to secure those significant costs savings for the benefit of their residents if they carried out a meaningful section 20 consultation, since energy is a commodity and trades on the energy markets. With prices changing minute by minute, competitive quotations for energy are only held for a matter of hours rather than the full 60 days (two 30-day periods) needed to consult with residents in accordance with section 20.

The energy market remains volatile, and wholesale market pricing remains significantly higher than seen consistently before the Covid lockdown in 2020. Actively monitoring the markets and obtaining advice from their broker would enable the Applicants to procure further out into the future and secure longer term pricing. This in turn would offer price security and budget certainty, and would benefit residents by keeping their service charge for the costs of energy lower and more stable.

In addition, Midland Heart would be unable to provide estimated costs to residents which would be required if they were to comply fully with the Service Charges (Consultation Requirements) (England) Regulations 2003. The energy would be purchased as and when a competitive price was identified by our broker on the wholesale energy market and so they would not be able to advise residents of the cost in advance of contract placement. Midland Heart will be provided by our broker with a bespoke energy procurement service to enable them to

manage energy costs by seeking out the most competitive prices. Several brokers act in this capacity for a number of private registered providers. The energy market continues to be volatile, and the residents would benefit from any reduction to forecast increases for the duration of the contract. The period of the agreements would be from 1st October 2024 to 30th September 2028.

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, 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
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.