



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

**Case Reference** : **BIR/41UD/LDC/2024/0020**

**Properties** : **Various Properties in the ownership of Longhurst Group as Landlord**

**Applicant** : **Longhurst Group Ltd**

**Representative** : **Sinade Livsey**

**Respondents** : **The Lessees**

**Type of Application** : **An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation of the consultation requirements.**

**Tribunal Member** : **V Ward BSc Hons FRICS – Regional Surveyor**

**Date of Directions** : **2 September 2024**

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**DIRECTIONS**

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## **IMPORTANT INFORMATION**

### **The parties should note in particular that:**

- These Directions are intended to assist the parties and the Tribunal in dealing with the application swiftly and economically. They are formal Orders and **must be complied with**. Failure to comply may result in the Tribunal refusing to hear the defaulting party's case and ordering that party to pay costs.
- 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.
- 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 Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("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 it pursuant to rules 9 (7) and (8) of the 2013 Rules.
- If a party wants to alter the directions or propose new ones, they must first seek the agreement of the other party and then apply in writing to the Tribunal.
- The Tribunal's address is:

First-tier Tribunal Property Chamber (Residential Property)  
Midlands Region  
Centre City Tower  
5 – 7 Hill Street  
Birmingham  
B5 4UU

0121 600 7888

**Email: [rpmidland@justice.gov.uk](mailto:rpmidland@justice.gov.uk)**

## Background

1. The Applicant Landlord seeks dispensation from all or some of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”).
2. Section 20 of the Act, as amended by the Commonhold and Leasehold Reform Act 2002, sets out the procedures landlords must follow which are particularised, collectively, in the Service Charges (Consultation Requirements) (England) Regulations 2003. There is a statutory maximum that a lessee has to pay by way of a contribution by way of a “qualifying long term agreement” (“QLTA”) unless the consultation requirements have been met or dispensation from the same has been granted. A qualifying long term agreement is an agreement for more than 12 months where the amount payable by any one contributing leaseholder under the agreement in any accounting period exceeds £100. In addition, there is a statutory maximum that a lessee has to pay by way of a contribution to “qualifying works” (defined under section 20ZA (2) as works to a building or any other premises) unless the consultation requirements have been met. Under the Regulations, section 20 applies to qualifying works which result in a service charge contribution by an individual tenant in excess of £250.00.
3. The Applicant holds either a freehold or superior leasehold title to the Properties that are the subject of this application. The Respondents are the leaseholders of the Properties.
4. The justification for seeking dispensation relates to the provision of a Gas Services Contract to provide gas safety checks and gas repairs. The following is a brief extract from the application form submitted by the Applicant.

*The applicant seeks total dispensation of the consultation requirements imposed by S.20 of the Landlord and Tenant Act 1985 (as amended) in regards to the long-term agreement entered to provide a Gas Services Contract.*

*The Gas Services Contract consists of a two tier service including gas safety check and gas repairs. The level of service provided is delivered in accordance with the lease.*

*Longhurst Group sought to obtain at least two quotes and through a framework approached 7 contractors providing tender opportunities. Additionally Longhurst Group sought to obtain a tender from a nominated contractor. Despite efforts to obtain more than one quote, out of the 8 contractors approached only one contractor provided a tender and estimate for the contract.*

*Given the challenging market and our large operational geographical area the awarded contractor was the only contractor who provided a bid and estimate for the tender. The awarded contractor already holds contracts within the area in which we operate.*

*The existing contract came with our previous contractor came to an end 22 September 2022. We entered into an emergency contract on 23rd September 2023 to allow sufficient time for section 20 to be undertaken to procure for a long term agreement.*

*Longhurst Group considered the impact of postponing the contract award further which would have meant the gas services contract would be awarded during the winter months when it is expected to receive an increase in heating repairs. Procuring such contract during the winter months could have an impact on leaseholders as it is expected to experience issues during mobilising and the impact is less with mobilising such contract during the summer months.*

5. **The only issue for the Tribunal to determine under this application is whether or not it is reasonable to dispense with the statutory consultation requirements.**

**This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

## **DIRECTIONS**

6. **By 20 September 2024, the Applicant** shall write to each of the Respondents concerned by email, hand delivery or first-class post, setting out the following:
  - (a) Informing them of the application;
  - (b) Providing a copy of these Directions;
  - (c) Advising them that a copy of the application (**with all personal leaseholder details deleted\***), supporting documents, a copy of these directions and a statement setting out the details of the consultation carried out, will be available on the Applicant's website, advising them of the URL address, and notifying them that any response to the application should be made by 18 October 2024 using the Reply Form at the end of these Directions;
  - (d) Informing the Respondents that if they wish to receive a printed copy of the application and these Directions they should write to the Applicant (email: [sinade.livsey@longhurst-group.org.uk](mailto:sinade.livsey@longhurst-group.org.uk)) by **4 October 2024**, who will then

send printed copies (**again any personal leaseholder details to be deleted\***);

(e) Advise the leaseholders that as the application progresses additional documents will be added to the website, including the final decision of the tribunal.

- **Confirm to the Tribunal by email that this has been done and state the date(s) on which this was done.**
- Inform the Tribunal of the names of the Respondents (if any) who have already informed the Applicant that they object to the application.

\* **For the avoidance of doubt, the schedule of leaseholders and copies of individual leases must not be shared.**

7. **By 18 October 2024, the Respondents** who oppose the application must:

- Complete the attached reply form and send it by email to the Tribunal and the Applicant; and
- Send to the Applicant, by email or by post, a statement in response to the application with a copy of the reply form. They should send with their statement copies of any documents upon which they wish to rely. A copy of any statement and documents sent to the Applicant must also be sent to the Tribunal (by email to [rpmidland@justice.gov.uk](mailto:rpmidland@justice.gov.uk))

8. **The Applicant must reply to any objection by 1 November 2024** which must be sent to the Respondent who objected and the Tribunal (by email to [rpmidland@justice.gov.uk](mailto:rpmidland@justice.gov.uk)).

9. **The Applicant must by 15 November 2024:**

- Prepare a digital, indexed and paginated Adobe PDF bundle of all relevant documents for use in the determination of the application, containing all of the documents on which the landlords rely, including the application form, these and any subsequent directions, copies of any replies and/or observations from the leaseholders and any relevant correspondence with the Tribunal;
- Upload a copy of the bundle to their website;

- Write to each of the leaseholders who have sent a reply form to oppose the application, by email and/or post, providing them with a link to the uploaded bundle or, if they request one, a paper copy of the bundle;
- Provide to the Tribunal a copy of the bundle (by email to [rpmidland@justice.gov.uk](mailto:rpmidland@justice.gov.uk))
- Provide to the Tribunal, stamped addressed envelopes for all Respondents who have objected with postage for a document of approximately 20 pages.

## **HEARING**

17. The Applicant has indicated that they would be content with a paper determination to which the Tribunal at this stage agrees. If any Respondent requires an oral hearing, they are to advise the Tribunal and the Applicant when returning the reply form.

## **DECISION**

18. The Tribunal will send a copy of its eventual decision on dispensation to every leaseholder, who has objected and returned the reply form attached to these directions.
19. Furthermore, the Applicant shall place a copy of the Tribunal's eventual decision on dispensation together with an explanation of the leaseholders' appeal rights on their website within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on their home page. In this way, leaseholders who have not returned the reply form may view the Tribunal's eventual decision on dispensation and their appeal rights on the Applicant's website.

## REPLY FORM FOR RESPONDENTS

### Case References:

**BIR/41UD/LDC/2024/0020**

**Properties: Various Properties in the ownership of Longhurst Group as Landlord**

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**Please return this form to the Tribunal at the latest by 18 October 2024 preferably by email.**

Address:

Midland Residential Property First-tier Tribunal HMCTS 13th Floor, Centre City Tower, 5-7 Hill Street, Birmingham, B5 4UU.

Email: [rpmidland@justice.gov.uk](mailto:rpmidland@justice.gov.uk)

**and send a copy to the Applicant:**

Sinade Livsey

Longhurst Group 1 Crown Court, Crown Way, Rushden. Northants, NN10 6BS.

Email: [sinade.livsey@longhurst-group.org.uk](mailto:sinade.livsey@longhurst-group.org.uk)

**Please complete one answer only in each of section 1 and 2.**

	Yes
1. I/We support the application for dispensation from full consultation:	<input type="checkbox"/>
<b>OR</b> I/We do not support the application and object to dispensation being granted. Our statement of reasons is attached.	<input type="checkbox"/>

	Yes
2. I/We agree that the Tribunal may decide the matter on the basis of written representations only (no hearing):	<input type="checkbox"/>
<b>OR</b> I/We wish the Tribunal to hold a hearing.	<input type="checkbox"/>

**Date:** .....

**Print Name:** .....

**Signed:** .....

**Address:**.....

**Telephone numbers:** ..... / .....

**Email address:** .....

**Property that falls part of the :** .....  
**application if different from above.**