

# ALEP CONSTITUTION

*Updated April 2019*



## **Our Objectives**

Residential leaseholders in England and Wales have various rights in law to purchase their freeholds, extend their leases, and address issues relating to the management of their properties.

There is a wide range of information available to leaseholders and there are a number of different sources of advice that come from a variety of organisations operating in the enfranchisement sector. These include: government bodies, barristers, managing agents, project managers, solicitors, surveyors and valuers.

Many leaseholders are confused by the choices available to them and have not had the knowledge, inclination or perseverance to exercise their rights, whether in conjunction with their neighbours, or on their own. There are a variety of service providers who have recognised this and who assist leaseholders in relation to enfranchisement issues.

ALEP represents these diverse organisations with the following objectives:

- To promote best practice among members through an evolving code of practice.
- To provide potential clients with details of member organisations with sufficient knowledge, intent and capacity to provide a satisfactory service.
- To provide an avenue for recourse for dissatisfied clients of member organisations by means of an effective independent complaints procedure.
- To act as a forum for member organisations to exchange ideas and to increase standards throughout the sector.
- To represent members' interests to government, the press, other associations and the general public.

## **Code of Practice**

It is a strict condition of membership of ALEP that members accept and undertake to comply with ALEP's current Code of Practice.

This code requires members to:

### **In the interests of clients:**

1. Where dealing with private individuals as clients directly, to agree, in writing, the terms of engagement in as detailed a form as is reasonably possible. In particular, clarify lines of communication, the fee structure and the categories of other services for which additional fees may be charged, (i.e. "no hidden extras".).
2. Deliver services in accordance with the agreed terms of engagement and in compliance with all current applicable legislation, terms of leases, contract documentation, and good business practice.
3. Maintain adequate records of all transactions.
4. Maintain a current insurance policy and/or practising certificate as appropriate that adequately covers the member against proven claims for professional negligence. The minimum monetary value of this policy may be stipulated by the Committee.
5. Disclose to relevant parties any existing conflict of interest or any circumstances that may give rise to a conflict of interest and to declare any interest in any contractor or business employed to provide services in connection with the proposed transaction.
6. Actively and regularly consult the client or the client's leading representatives as per the terms of engagement before taking major decisions on their behalf.
7. Extend a courteous and professional service to freeholders, leaseholders and tenants

and to other members of the public.

8. Be honest at all times and open and transparent in all dealings and not make false representations.
9. Only process personal data provided as enquiries by ALEP in a way that is necessary to deliver the advice sought and not use it for direct marketing purposes.
10. Know and act within any limitations and be accountable for any recommended course of action.
11. To make only accurate claims about the skills or experience of the organisation or those working within it.
12. Ensure that the organisation has and operates a formal procedure for dealing with complaints from a client or from any other person.

#### **In the interests of ALEP:**

1. Make known and publicise the existence of the Code of Practice and provide details of the complaints procedure.
2. Provide adequate training to employees and agents, bringing to their attention the contents of this Code of Practice.
3. Use the logo or design of ALEP strictly in accordance with the guidelines for the use of that material.
4. Not to act in a manner which compromises or impairs, or is likely to compromise or impair the integrity of a member, the reputation of ALEP or the high standards of professional conduct expected of a member.
5. Not to place other members in a position where they might unwittingly breach any part of this Code of Practice.
6. Not to knowingly misrepresent facts or mislead any client or member concerning any aspect of the services they provide.
7. Respect confidential information to which they may in the course of their business become privy.
8. Subject to point 7 (above) to notify ALEP of any matter that might adversely affect the reputation of the industry or the Association.
9. Subject to point 9 above, process personal data provided as enquiries by ALEP in a lawful way.

## **Management**

ALEP is run by its Directors, an Advisory Committee, ('the Committee') and an Executive Committee ('the Executive Committee'). The members of the Advisory Committee are elected at a General Meeting of the Association which is normally held annually ('the AGM').

### **1. The Advisory Committee**

The Committee has as its President an individual whose expertise and standing in the enfranchisement industry is widely accepted.

Generally only members of ALEP may serve on the Committee, save in exceptional circumstances where an individual of sufficient standing in the field of leasehold reform or a related sector may be asked to serve on the Committee. If this is to be the case, the membership will be asked to confirm the appointment at the next AGM.

If, during the course of the year, vacancies on the Committee arise, then the Committee may appoint a suitable candidate to fill any such spaces on a temporary basis, subject to any such appointee standing for election at the next available opportunity (together with such other candidates as may stand at that time).

The appointment of individuals to the Committee shall be in accordance with the ALEP Election Procedure, details of which shall be published to members of the Association

from time to time.

There are normally two Advisory Committee meetings in any given year.

The composition of the Committee is currently as follows:

- Honorary President
- Solicitor Representative (x3)
- Valuer Representative (x3)
- Barrister Representative (x1)
- Managing Agent Representative (x1)
- Project Manager Representative (x1)
- Administration and Finance Officer (Non-voting)
- Company Directors
- Company Secretary

The Directors may decide during any year of the Company's business to expand or vary the composition of the Committee provided that it is in the best interests of the Association as a whole to do so. In which case any such change in the composition will normally be put to a vote of the members for ratification at the following AGM.

Members of the Committee serve in office for a term of two years from the date of their election after which time they must resign and seek re-election at the following AGM.

Members of the Committee have an indemnity from the membership of the Association in respect of all things done lawfully in the name of the Association.

Officers of the Company may also sit on the Committee and may also hold other offices within the Association.

## **2. The Executive Committee**

The day to day running of ALEP is dealt with by the Executive Committee.

The Executive Committee consists of the Company Directors.

The Executive Committee meets on a monthly basis and each Executive Committee meeting is attended by one visiting member of the Advisory Committee on a rotating basis.

Advisory Committee members who attend the Executive Committee meetings may be paid a disturbance allowance as a contribution towards the costs of their attendance.

Members of the Executive Committee are entitled to charge for their time and attendances either on a consultancy or on a cross-charging basis.

## **Directors**

The Company currently has four directors: Anna Bailey, Mark Chick and John Midgley.

Under the terms of this Constitution and the Articles of the Company the Directors agree to have regard to this Constitution and by the decisions of the Committee in deciding how to deal with the Company and its assets.

The Directors will look to the Committee to direct them as to how the Association is to be run in the best interests of its members.

## **Complaints Procedure**

The operation of a credible and effective complaints procedure gives clients of member organisations the confidence that they can seek and obtain redress where appropriate. ALEP members should each publicise their own complaints procedure in accordance with any professional or regulatory obligations that they operate within. In addition, on enquiry, they should also make clear to clients that they have the option to escalate their complaint to ALEP should they feel that they have not obtained sufficient redress.

The procedure for dealing with complaints is to be available in writing and shall be made available to the client and to any member of the public on request.

- Complaints should be made to the ALEP Complaints Committee within six months of the matter in question.
- The ALEP Complaints Committee will invite the member to respond.
- The ALEP Complaints Committee will make its decision.
- The decision may be to issue a warning, make a finding of 'no fault' or to decide to expel a member from ALEP.
- The Complaints Committee may take into account a member's previous complaints record when making its decision.
- If the decision is to expel the member from ALEP, the ALEP Advisory Committee reserves the right to publicise this.
- The outcome of any complaints procedure will otherwise generally not be made public.
- There will be a right of appeal from the decision of the Complaints Committee to ALEP's Appeal Committee whose decision shall be final.
- For the avoidance of doubt the function of the Complaints Committee in dealing with any complaint about a member is simply to make a finding as to whether the member in question has breached the terms of ALEP's Code of Practice in dealing with the matter with a view to deciding whether membership should continue. It will not make any finding as to whether the complaint raises any other issues such as professional negligence or breach of professional duty.
- The complaints procedure is not intended in any way to remove other avenues of redress that anyone using the services of an ALEP member may have with bodies that regulate the individual activities of members, such as the Solicitors Regulation Authority, The Bar Council or The Royal Institution of Chartered Surveyors.
- As ALEP is a not-for-profit organisation, it does not have the resources to offer an arbitration service relating to member complaints.

## **Members' Commitment to the ALEP Complaints Procedure**

In addition to their own complaints procedure, ALEP members shall cooperate with staff and any appointees of ALEP's Complaints Committee who:

- Are investigating a complaint or allegation made against a member.
- Have sent to the member a written enquiry relating to a member's alleged non-compliance with the Code of Practice.

## **Membership Criteria**

In order to become a member of ALEP, an individual or organisation operating in the enfranchisement sector should already have proven experience of leasehold enfranchisement projects. Membership applications are considered by the Executive Committee on a monthly basis.

Membership is by firm or organisation, rather than on an individual basis, except in the case of a sole trader. Where an individual practises under the trading style of an 'umbrella' organisation (such as a 'cloud based' law firm) the member is entitled to a listing as an individual member at that organisation on the basis that the organisation itself does not have expertise in the area of enfranchisement but that the individual does.

Members are organisations with staff and/or principals or are individual traders who can show at least two years' experience in leasehold enfranchisement. Members who are managing agents, project managers, solicitors or valuers must be able to show that, on an annual basis, they initiate at least two or more enfranchisement projects totalling at least 20 or more flats (or deal with a similar number of clients by way of lease extensions). They must also have two satisfactory references from clients and fellow practitioners relating to significant completed projects.

Members who are barristers will need to show that they have dealt with at least five cases at an appropriate level relating to enfranchisement in any given year. These may be by way of matters proceeding to a final hearing in the County Court, Higher Courts, First-tier Tribunal or the Upper Tribunal (Lands Chamber) or by way of paper-based advice relating to matters which have settled but which are of a suitable nature to support their application.

Each proposed barrister member will need to provide two supporting references to their application. At least one professional reference will be from an instructing solicitor; the additional reference may be from a surveyor or an instructing solicitor.

Only member firms with a valid subscription are able to use the ALEP logo and are able to attend all members' meetings and events. Member firms have the right to vote on any matters put to the membership for a vote, such as the election of Committee members. In such matters, the named lead contact for the member organisation is responsible for exercising its vote.

However, in relation to elections to the Committee or in relation to matters requiring a vote from member organisations, one vote is allowed per Chambers.

Where an organisation that has proven experience of leasehold enfranchisement projects holds this by virtue of the skills of one or more individuals and all of those individuals leave that organisation (and are not replaced), the organisation itself will cease to meet the requirements of membership of ALEP. In such circumstances the organisation's membership will cease immediately. There is a positive duty on the member organisation to inform ALEP immediately if it no longer qualifies for ALEP membership.

Where relevant specialist practitioners have left, the existing member organisation may be asked, by the Executive Committee, to re-submit a membership application together with an appropriate declaration that it still meets the criteria for membership of ALEP. Where individuals who have the necessary skills and experience move to another organisation, the new organisation may make an application for membership based on the skills and experience of those individuals subject to approval by the Executive Committee. Where such procedures apply, the new firm's application shall be treated separately and there shall be no automatic entitlement to membership on such basis.

## **Legal Status of Membership**

The legal estate and interests of ALEP are held by a company limited by guarantee, the Association of Leasehold Enfranchisement Practitioners Limited (CRN.626300) ("the Company").

The Company is run by its directors in accordance with the provisions of the memorandum and articles of association of the Company ("the Articles") and in accordance with the provisions of company law generally.

The directors have agreed under the terms of this Constitution to be bound by the decisions of the Committee in running the Company in the best interests of the organisation as a whole.

The directors agree to hold the beneficial interest in the Company on trust for the members from time to time of ALEP.

Membership of ALEP is a contractual benefit provided to members by the Company and arises by virtue of the payment of their membership subscription. In the event of non-payment of the subscription or termination of their membership such contractual rights will cease.

The Committee can terminate rights of membership and reserves the right to do so. In the event of termination of membership rights, the Company will take such steps to amend any published list of its members. Any membership fees paid during the year of termination will not be refunded.

In the event that a membership is terminated for whatever reason, the former member undertakes to immediately cease use of the ALEP logo and any associated marketing products and to return any un-used marketing materials to ALEP. Likewise, any reference to ALEP on the former member's website, letterhead, or in any marketing material or advertising is to be removed immediately. ALEP reserves the right to publish a list of non-members or former members.

For the avoidance of doubt the intellectual property in the ALEP logo and any other materials remains with ALEP at all times and members have a royalty-free licence to use these items for the duration of their membership only.

## **Member Communication**

ALEP communicates information to members that is relevant to the industry with a view to promoting knowledge, best practice and communication.

The following communication tools are used:

- Conferences - to raise the profile of the sector and improve the professionalism of practitioners. These are open to members and non-members.
- ALEP events such as informal drinks events - to allow members to network with other enfranchisement professionals in a relaxed manner.
- Attendance at non-ALEP events such as property exhibitions - to raise the profile of ALEP amongst potential clients and to attract new members.
- Other activities as deemed appropriate by the Committee.

## **Power to Amend**

The Company reserves the ultimate right to amend this Constitution and its Articles as it sees fit.

Any amendments to the Constitution will be put to the Committee, although any amendments of substance will normally be put to the membership at the following AGM.

Changes to the Articles of the Company will be put to the Committee prior to adoption.

This Constitution is a statement of intent and is not intended to be a prescriptive legal document. It sets out the framework under which ALEP aims to conduct its business. Any

dispute arising as to the construction or interpretation of the Constitution shall be referred to the Directors whose decision shall be final.

## **Regulation and Compliance**

A complaints committee ("the Complaints Committee") is appointed by the Committee on an annual basis and comprises four members of the Advisory Committee. In the event that a Complaint is received then two members of the Complaints Committee shall be appointed by the EC to deal with this and shall form a Complaints Panel for the purposes of dealing with any one particular complaint.

In the event that a complaint or allegation about a member would place one or more members of the Complaints Committee elected to sit on any Complaints Panel in a position of actual or perceived conflict of interest, then they shall stand down from that Committee and another member of the Complaints Committee shall stand in their place. If there are no further members of the Complaints Committee available, then one or more members of the Committee shall stand in their place.

In the event of an appeal against the decision of the Complaints Committee, the matter will be referred to the Appeals Committee which will comprise two members of the Committee who have not dealt with the matter previously. The decision of the Appeals Committee shall be final.

## **Funding**

Subscription fees are set by the Committee each year.

Where a member organisation can join under more than one category (e.g. an entity that is both a firm of surveyors and managing agents), the second entity will obtain a reduced subscription in respect of its annual membership which will normally be half the price of membership.

Where a member organisation has a secondary membership in this way, the member shall have only one vote and therefore shall be deemed to be only one member of the Association for this purpose.

Any events, activities or media produced by ALEP should be self-financing (i.e. there will normally be a charge to attend such events with a discount for ALEP members). ALEP is managed on a day to day basis by DRIVE Marketing Ltd.

The Committee will set a budget and decide on expenditure in any given year and will lay a set of the Company's accounts before each AGM for review by the members.

Where a member organisation or individual provides services to ALEP, these may be charged for provided that these are contracted for (in advance) on an arm's length basis. Where a member of the Committee or their organisation is involved in the provision of services to ALEP that member shall not take part in any vote or decision taken by the Committee to elect to recommend that the Company purchase such services.

Whilst members of the Committee may be reimbursed for out of pocket expenses incurred in relation to ALEP activities, there is a general understanding that Advisory Committee members may not charge for their time to attend Advisory Committee meetings or for attendance at conferences or other events, except if they are contracted to provide services at these or where such attendance forms part of a paid engagement properly contracted for on an arm's length basis with the Company.

## Contact Details

### Association of Leasehold Enfranchisement Practitioners (ALEP)

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Folkestone  
CT20 1JU

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