

ALEP factsheet

The role of a solicitor

Solicitors have a key role in enfranchisement, whether they are:

- Acting for leaseholders individually or collectively in the purchase of their freehold or extending their leases under the Leasehold Reform legislation; and/or
- Acting for Landlords (freeholders) in relation to notices served by tenants.

Enfranchisement is a complicated area of law and the formal (statutory) route involves a specific process that leaseholders need to follow and a strict timetable that must be adhered to. As leasehold is a specialist area of property law, it's a good idea to seek legal advice before entering into any leasehold agreements.

What does a solicitor do in leasehold enfranchisement?

If you are buying a leasehold property, then your solicitor will need to look through the lease and its terms on top of all the normal legal work involved in buying a property. They will also have to deal with the landlord and/or management company as well as the vendor's solicitor.

Once your property solicitor or conveyancer has received the memorandum of sale from the estate agent, the first thing they will ask the seller's solicitor for is a copy of the lease. This is the contract that exists between the leaseholder (that will be you once you own the property) and the freeholder, also known as the landlord.

The lease gives the leaseholder the right to occupy the property for a set period subject to specific conditions that will be written into the lease. It is important that your solicitor gets a copy of the lease and looks through it to make sure they, and ultimately you, understand your rights and obligations under the lease.

Your solicitor should be able to provide you with a 'report on title' which includes a summary of the main provisions of the lease so you can understand what is required of you. Some of these obligations can include:

- **Paying ground rent.** Your lease may initially require you to pay a fixed amount of ground rent. But there may be a clause that allows the landlord to increase this rent in years to come.
- **Service charges.** This covers the costs the landlord incurs maintaining the building each year. For example, cleaning communal areas or fixing the roof. It also covers the cost of the management company.
- **Future work.** The service charge may also allow for a sinking fund to cover your contribution to future planned improvements to the building and communal areas.
- **Administration charges.** The freeholder and/or the management company may levy extra charges if you ask them to do something connected to you buying/selling or using your property. For example, if you ask them to provide replies to leasehold property enquiries or if you need them to consent to alterations to the property.

One of the most important things your solicitor needs to do is find out how long is left on your lease. The remaining term of your lease could affect your ability to get a mortgage. Most lenders won't offer mortgages on properties with less than 70 years left on the lease and some will want over 80 years.

What does my solicitor need to check on the lease?

As well as checking the length of the remaining lease your solicitor or conveyancer should also make a number of enquiries about your lease to the landlord. These include:

- **Charges.** What charges will you be liable for as the leaseholder? This will include the service charge and ground rent. Your solicitor should also check when these payments are due and how much they will be.
- **Planned major works.** Are any renovations or repairs planned for the property that could affect the value of your home, or your enjoyment of it, or the service charge.
- **Balance of the service charge account.** Service charges are usually based on an estimate of what the landlord thinks will be spent over the year. They should produce an end of year statement to show how much has been spent and how much is left in the account.
- **Sinking fund.** This is a fund to deal with any building work on the property. Your solicitor should check if your lease includes a sink fund. If it does then what the balance is and if that is sufficient to cover any planned works.
- **What you can use.** Your solicitor needs to check exactly what the boundaries of your leasehold property are. For example, if you are buying a top floor flat does this include rights over the loft space.
- **What you can do.** Your solicitor should also check the lease for any restrictions on what you can do to your property. Are you allowed to renovate the space without permission? Leasehold conveyancing tends to take longer than conveyancing on a freehold property. This is simply because there is more work for your solicitor to do and they have to wait for another party – the landlord – to respond to their enquiries.

Conveyancing on a leasehold property is also usually more expensive than the legal costs for buying a freehold property. This is because your solicitor has to complete extra work checking the lease and making enquiries with the landlord.

Visit the Find a Practitioner page on the ALEP website to find a trusted professional in your area:

<https://www.alep.org.uk/find-a-practitioner>

-ENDS-