



THE LEASE



What is a Leaseholder and a Freeholder?



What is Breach of the Lease?



What is Forfeiture of the Lease?



Can I sell my home?



The Lease

The lease is a binding contract that sets out the terms on which the landlord allows the leaseholder to occupy the property described in the lease.

The lease sets out the relationship between landlord and leaseholder, setting out the rights and responsibilities of each party. It is enforceable in law – neither party can simply walk away from a lease or decide to act outside the terms of it.

If all parties agree it is possible to vary the terms of the lease or in special circumstance, an application to the Leasehold Valuation Tribunal (LVT) can result in a variation being made.

The lease is used to:

- Check where responsibility lies – for example in respect of types of repair
- Check if there is provision in the lease to do something – for example to charge for a specific service or supply
- Ensure the landlord is meeting its obligations to the leaseholder



What is a Leaseholder and a Freeholder?

As a leaseholder you have bought the right to live in your property for a fixed number of years – initially, up to 125 years. The lease is a binding contract, enforceable in law that contains both your rights as leaseholder and the Council's rights as freeholder.

The freeholder owns the building in which you live in and is responsible for looking after the structure, exterior and common areas of the block.

As a leaseholder, you have to pay your flat's share of the Council's costs of maintaining the block and providing services.

The Service Charge is your share of the Council's costs in running the building.



What is Breach of the Lease?

If either the landlord or the leaseholder does not keep to the terms of the lease, this is known as a breach of the covenant.

A covenant is basically an agreement between the parties that they will perform certain duties or refrain from doing certain things whilst they remain parties to the lease.

There are various legal remedies that can be used to make the parties conform to the terms of the lease or 'remedy' the breach. These include:

- Seeking an injunction to prevent the action which forms the breach being carried out

- Seeking an order of 'specific performance' to compel an obligation to be carried out

In some circumstances, it is possible to take an action for damages to compensate for any breach.



What is Forfeiture of the Lease?

The lease will include a clause that allows a right of re-entry to the property by the landlord in case of serious persistent breach of the lease conditions by the leaseholder.

This is known as 'forfeiture'.

Forfeiture is enforced by the landlord serving appropriate notice on the leaseholder and then seeking an order for possession through the courts.



Can I sell my home?

You have the right to sell your home as long as you tell us within one month of the sale, and the transfer is properly carried out. You can also give it to someone or leave it to someone in your will. Your Solicitor should check details of all ground rent, service charges and insurance policies so that these can be taken into account when the transfer of the lease completes.

If you sell your lease or leave it to someone, you must make sure that it is done legally to protect your interest and the interests of the person you are selling or leaving it to. Unless there is a proper legal document to show that someone else is now the leaseholder, you are still liable in law for any charges for the property.

If you die and have not left a will, any appointed executors will have to decide what to do with the lease. Any service charges still unpaid will be charged against your estate. If you have anyone you want to leave your flat to, such as a partner or children, you should seriously consider making a will.