

LEASE EXTENSION OF A FLAT - GUIDELINES

Why extend your lease?

In almost all cases, your lease runs for a period or term of 125 years from the date the first flat in your building was sold. The amount of time left is sometimes known as the 'unexpired term'. The value of your property decreases as the term of the lease gets shorter. At the end of the lease term, you have to return your flat to the council as the landlord.

If your lease has less than 99 years remaining, then you might think about extending the lease. This is particularly important if your lease has just over 80 years remaining, as lease extension becomes much more expensive when a lease falls below 80 years.

As the number of years on the lease runs down, this may also eventually affect a leaseholder's ability to get a mortgage against the property. The Council of Mortgage Lenders says that it may be difficult to get a mortgage where the lease has less than 60 years left to run.

We can give you general advice about extending your lease, but we cannot tell you what you might have to pay for it. You can get an estimate by using a calculation tool you can find on-line, for example on the Website of LEASE, The Leasehold Advisory Service

Who can apply to extend their lease?

To be able to extend your lease, you must have owned your flat for at least two years. You then have the right to purchase a new lease for a term of 90 years on top of the number of years left on your existing lease. Your extended lease will have very similar conditions to your old one.

If you do not qualify to apply to buy the freehold under the 'enfranchisement' rules, or if there are not enough people interested in buying the freehold this way, you can still apply on your own to extend your lease as long as you have owned your flat for two years.

You will have to pay to extend your lease, so you will need to think very carefully if it is going to be worthwhile doing this.

You have to propose the price you think you should pay. You will also have to pay our costs as well as your own legal and valuation costs.

Your lease extension rights

To extend a lease, you can exercise your legal right after you've owned the property for two years, when you'll be able to add 90 years to the existing lease on a flat at peppercorn rent, which would reduce your ground rent to zero

The formal process involves getting the property valued and starts with you or your solicitor serving a 'Tenant's Notice' on the freeholder. Negotiating a leasehold extension and the price you'll pay for it can be complicated and time-consuming, so we recommend taking professional advice.

Costs of extending a lease

The cost of extending a lease depends on a whole host of factors. You will have to pay the landlord a premium to extend the lease. You may also have to pay *marriage value (see below) if there are fewer than 80 years left on your lease when you come to extend it. The shorter the lease on a flat is, the more expensive the premium will be.

The freeholder also has the right to request a deposit of £250 or 10% of the cost of the proposed new lease, whichever is greater. You'll need to pay your own valuation fee and solicitor's fee, and the 'reasonable' costs of the freeholder, which can include their valuation costs and legal fees too.

Leaseholders sometimes worry that any improvements they have made to the property could make their lease extension more expensive, but any renovations made by a current or previous leaseholder must be disregarded when the cost of the lease extension is calculated.

What to do if you and the freeholder can't agree a price

If you are not able to extend your lease by negotiating with the freeholder, you or your solicitor can serve notice on them and compel them to comply. The freeholder would then serve a counter-notice, stating whether your right to extend your lease is accepted. If an agreement still can't be reached, you can apply to a tribunal (see below) and have the price decided there.

Step by Step Guide

Before you start the procedure, you need to:

- Check you are eligible - To be a qualifying leaseholder you must have owned a long lease (with an original term over 20 years) for the past two years.
- Choose and instruct professional advisers - a surveyor and a solicitor
- Make sure you have the money you will need to complete the procedure: Your solicitor's fees, your surveyor's fees, the premium, the Council's Solicitor's fees, surveyor's fees and conveyancing costs. As well as any costs for referral to the Tribunal

There is a legal framework, based on the provisions of the Leasehold Reform, Housing and Urban Development Act 1993, in which the Council MUST grant you a lease extension, if you have owned the property for at least two years. Once we have confirmed you are eligible to extend your lease, you will need to instruct a solicitor to deal with the legal aspects of your case.

1. It is advisable to use a solicitor to draft and serve the section 42 notice on the Council

2. Your surveyor visits your property and prepares a valuation which will tell you what they believe the premium should be and how much you should offer to your landlord.
3. Based on the surveyor's valuation, your solicitors prepare your Section 42 notice and send it to the Council
4. The Council then must serve a counter-notice by the date stated in the Section 42 Notice. This date must be at least two months from the date you serve the tenant's notice.
5. The counter-notice will state whether we accept you have the right to extend your lease and whether we agree your premium (price) or want more, based on our own valuation.
6. If the Council accepts you have a right to extend your lease but disputes the price then, not earlier than two months after the counter-notice, either party can apply to the First Tier Tribunal (Property Chamber) to determine the price.
7. If you have not agreed terms, or applied to the Tribunal, within 6 months of the date of the counter notice, you will be deemed to have withdrawn your notice. You would then have to wait a further 12 months before you can serve another.
8. If Terms are agreed, your solicitors will deal with the Council's solicitors to prepare the new lease reflecting the terms that have been agreed
9. The leaseholder is required to pay the Council's reasonable legal and surveyors costs associated with the granting of the extended lease. This will normally be the cost of the Council's surveyor's valuation and solicitor's charges relating to the receipt of the section 42 notice and the conveyancing process.
10. If there is a dispute over the reasonableness of these costs, it can be referred to the Tribunal to determine

What you have to do?

If you decide to apply to extend your lease, you will need to serve us with a formal notice. Please send your formal notice to Sales and Leasing, Town Hall, 1 Town Square, Barking, Essex IG11 7LU

***Marriage value** is the increase in the value of the property following the completion of the lease extension, reflecting the additional market value of the longer lease