Your Guide to Leasehold

Almost all 'owned' flats in England and Wales are leasehold, as are many houses. As a long leaseholder you have bought the exclusive right to live in your property for a fixed number of years ("the Term"). The ownership of the structure and common parts of a building containing flats is usually retained by the landlord. The responsibility for maintenance of the structure, the upkeep of common parts, placing of insurance and provision of services usually rests with your landlord (who may or may not be the freeholder).

A lease is a legal term used in property law to describe a particular type of property contract. In many respects a lease is similar to any other type of contract: it is a private contract between you and your landlord and sets out the rights and duties of both parties. Your lease will allow you to occupy the property for a fixed number of years: typically for 99 or 125 years when first granted.

The length of the lease reduces over time from the date when it was originally granted. The outstanding term will therefore depend on what was left when you took over the lease. The lease will also expire automatically at the end of the term, although most long leaseholders have a statutory right to stay on as renting tenants at the end of the lease, buy the freehold or extend their lease.

Other Guides:

Glossary

Common parts – those parts of the building enjoyed by everyone and not forming an exclusive part of anybody's flat.

First Tier Tribunal (Property) – part of the formal courts and tribunals system where judgements are made about service charge disputes.

Freeholder – owns the land on which the building(s) is built. May also be the Landlord.

Freehold Company – a company that owns the freehold, the shares in which are usually owned by the leaseholders. Often described as 'having a share of the freehold'.

Ground Rent – the annual charge payable to the freeholder for the continuing right to occupy the property. The amount payable will be set out in the lease. It may only be a nominal amount ("a peppercorn") or it may be reasonably substantial.

Head Lessor – the landlord may grant a lease of the whole building to a party (company or individual) who then grants 'under leases' to the leaseholders of individual flats. In this scenario, the Head Lessor becomes the landlord of the individual flats.

Landlord – either owns the building (as freeholder), has a long lease on it or is a 3rd party within the lease with rights to recover Service Charges towards the costs of maintaining the building and common parts and providing services.

Lease – a private contract between you and your landlord which sets out the rights and duties of both parties. Your lease will allow you to occupy the property for a fixed number of years: typically for 99 or 999 years when first granted.

Leaseholder – the person who has bought a lease which gives them the right to occupy the flat for a fixed number of years ("the term"). Can also be called 'lessee', 'flat owner', but usually referred to as 'tenant' in legislation.

Management Fees – The fees paid to managing agents or the costs directly incurred by the landlord, in managing the building and arranging the services. This is usually only a small element of the total service charge.

Manager – may be managing agent or may be the landlord managing the property directly with their own staff.

Managing Agent – is a company appointed by the landlord to run and manage the building and any services. The cost of their services is covered by a management fee which is usually only a very small element of the total service charge.

Property Manager – the person who actually manages the building, usually an employee of the Managing Agent.

Reserve Funds/Sinking Funds – money collected towards future major works and replacements. Held in trust, on behalf of the building, to ensure money is available when the works are required.

Residents' Management Company (RMC) – a company set up to deliver the services on behalf of the landlord under the terms of the lease. The company is a party to the lease (as landlord) and all leaseholders are usually shareholders.

Service Charges – Service Charges are monies collected to maintain the structure of the building and common parts and cover the cost of any services provided. These include; repairs, cleaning, lift servicing, gardening, on-site staff, utilities, managing agent's fees, in fact any service that is provided under the lease.

Service charge year – the lease will state when the service charge year starts and ends. It will also state what accounting information the landlord should provide at the end of the service charge year.

Term – Your lease will allow you to occupy the property for a fixed number of years: typically for 99 or 999 years when first granted. This is known as the term. The remaining right of occupancy reduces year by year from the date when it was originally granted.

Other Guides:

What is a Lease?

The lease sets out exactly what you have bought, what is exclusively yours and what is shared; what services the landlord must deliver and what proportion you must pay.

The wording of leases can vary from property to property and you will always need to refer to the specific wording of your own lease which details what you have agreed.

Some typical things to look for within a lease:

Length of Lease

- This is known as the term – The same lease is passed on every time the flat is sold, so the length of the lease keeps reducing. Most mortgage companies will only lend on a lease that has more than 80 years remaining. Leaseholders (in most instances) have a legal right to purchase an extension to their lease but it is important to seek professional advice on this.

Financial

- Payment of Ground Rent – How much are you required to pay and when? Does it increase every few years?
- Service Charge – what does it cover and when is it due? How is your proportion of the service charge calculated e.g On a percentage, or square footage of the whole building?
- Interest Charges and penalties for late payments?
- How are surplus and deficit payments dealt with following the service charge year end?
- Is there a reserve fund or sinking fund?

Whose Responsibility?

- Who is responsible for insuring the building?
- Who is responsible for utilities (electricity, gas, water etc.)?
- Window Frames/Balconies – who is responsible for maintaining and replacing?

Are there any other restrictions?

- Noise / musical instruments
- Pets
- Sub letting
- Number of persons who can live at the property
- Flooring within the property
- Alterations within the property
- Use of the property
- Hanging of washing and signage

Other things to look for

- Is there a communal heating system? If so, heating may only be provided during certain times.
- Requirements when you sell e.g. Deed of Covenant/Transfer Notice required?
- Can you carry out alterations or improvements? Is a licence required?
- When are external and internal decorations due?

Other Guides:

Who is Who in a Block of Leasehold Flats?

Freeholder – owns the land on which the building(s) is built. May also be the landlord. The freeholder is sometimes referred to as having a "reversionary interest". This just means the freeholder has the right to take possession of the property on expiry of the lease term.

Landlord – either owns the building (as freeholder), has a long lease on it or is a 3rd party under the lease with obligations to manage the building and provide the services under the service charge. The 3rd party is most commonly a Residents' Management Company.

Head Lessor – the landlord may grant a lease of the whole building to a party (company or individual) who then grants 'under leases' to the leaseholders of individual flats. In this scenario, the Head Lessor becomes the landlord of the individual flats.

Freehold Company – a company that owns the freehold, the shares in which are usually owned by the leaseholders. Often described as 'having a share of the freehold'. Residents' Management Company (RMC) – a company set up to deliver the services on behalf of the landlord under the terms of the lease. The company is a party to the lease (as landlord) and all leaseholders are usually shareholders.

Right to Manage Company (RTM Co) – Right to Manage(RTM) is a group right for qualifying leaseholders of flats to manage their own building in which they live through a special company set up by the leaseholders for that acquisition.

Leaseholder – the person who has bought a lease which gives them the right to occupy the flat for a fixed number of years ("the term"), usually well in excess of 21 years and often as long as 999 years when originally granted. Can also be called 'lessee', 'flat owner', but usually referred to as 'tenant' in legislation.

Residents' Association – a formation rather than a party to the lease and therefore will not be shown in the document. A residents' association (which is an informal representative body of flat owners and sometimes tenants) is different from a RMC (which is a formal, legal person) even though the body of its membership may be similar or identical.

Other Guides:

Who is Who in a Block of Leasehold Flats?

Residents' Management Company (RMC) – a company set up to deliver the services on behalf of the landlord under the terms of the lease. The company is party to the lease (as landlord) and all leaseholders are usually shareholders.

Managing Agent – a company appointed by the landlord to run and manage the building and any services. They will collect service charges from leaseholders in accordance with the terms of the lease. The service charges will include "Management Fees", which are their fees for this service. This is usually only a very small element of the total service charge. The client of the Managing Agent is either the Freeholder, the landlord, the RMC etc.

Property Manager – the person who actually manages the building, usually an employee of the Managing Agent.

On site staff/caretaker/porter/concierge/estate operatives – the staff who work on the development (usually bigger buildings/estates) to help with the day to day running. They report to the Managing Agent.

Tenant – if the leaseholder sub-lets their flat on a short term tenancy (usually on an assured shorthold tenancy), the occupier is referred to as a tenant. Their tenancy agreement is for a minimum of 6 months but can be for several years. Some leases do not allow sub-letting.

Other Guides:

Who has responsibility for what

Under the terms of your lease each party will have responsibility for maintaining different parts of the building and providing services. These responsibilities will vary from one lease to another but will generally follow a similar pattern.

The landlord will often employ a managing agent to fulfil responsibilities on his behalf. Although many responsibilities lie with the landlord, the costs will usually be recoverable as a service charge (including the management fee payable to any managing agent). See "What costs will I have to pay".

The structure

The landlord will have responsibility for the structure of the building. This will include repairs, maintenance and insurance (see below) of not only the structure but also any plant and machinery (such as lifts and communal boilers). The landlord will also have responsibility for communal areas, such as car parks, gardens, leisure facilities, etc. The landlord will recover the costs incurred in carrying out his responsibilities, as service charges from the leaseholders.

My flat

You will be responsible for keeping the inside of your flat and the fixtures and fittings in good repair. This is likely to include the floor boards, internal walls and the plaster of the ceiling and walls that divide your flat from your neighbour's. If you have a boiler, hot water cylinder, etc that serves only your flat, the upkeep of these will also be down to you. You may also be responsible for the maintenance of any balcony or external areas to which you have exclusive rights.

It will be your responsibility to insure the contents of your flat. This may include things such as the kitchen units, wooden floors , carpets etc. Your contents insurance policy should also include thirdparty liability which will protect you if, for instance, a water leak from your flat causes damage to the flat below. Ask the landlord or their managing agents for clarification of what the landlord's policy covers then you will know what you should insure.

You will be responsible for the wires and pipes that provide electricity, gas and other utilities to your flat. You will usually be responsible for the maintenance of these "service media" from the point where the supply splits from the communal service into your flat. The property may have a communal TV aerial, the upkeep of which will form part of the service charges but you will have responsibility for the cables etc that serve only your flat. You may be required to use the supplier of the system for any repairs – this will ensure that there is no interruption of service for others in the building.

Other Guides:

Who has responsibility for what

Windows and the front door to my flat

The responsibility for repairing and / or replacing the entrance door to your flat and the windows within your flat vary widely from lease to lease.

If the responsibility lies with your landlord, you will be required to contribute through the service charge to the cost of works to all windows and doors within the building.

If the responsibility lies with you, you will usually require your landlord's consent to any proposed works other than repairs. The landlord may impose restrictions on what you can and cannot do and will require that replacement doors and fittings meet all required fire safety standards. See "Carrying out alterations or improvements".

Insurance

The lease will require the landlord to insure the structure, plant and machinery against certain standard perils. There are also legal requirements that the landlord must comply with such as public liability insurance and employers' liability insurance if there are any on-site staff, such as cleaners, caretakers, gardeners, etc.

The cost of insurance may be recovered by the managing agent or directly by the landlord. In either case, you can request a written summary of insurance cover which should be provided within 21 days.

In recent years it has become common for standard buildings' insurance policies to exclude certain risks such as terrorism. These risks are typically covered by additional policies for which your landlord may be able to recover the costs under the terms of your lease. If your block is not in a large urban area, you may feel that it is unreasonable for the landlord to insure against terrorism but ask yourself if you can afford to lose your home and whether the people of Lockerbie ever thought they would be the recipients of a major act of terrorism?

Other Guides:

Carrying Out Alterations or Improvements

Under the terms of your lease, you are likely to need your landlord's written consent before making any alterations or carrying out works to your property. This is because the structure of the building, fixtures and fittings actually belong to your landlord; you have the right to use them for the term of the lease and an obligation to keep them in good repair.

Type of Work

Works where consent is likely to be required are:

- Changing the layout of your property
- Changing the windows
- Installing wooden (or other hard covering) to floors
- Works to the electrics
- Works that involve a gas supply, eg installing a gas fire,
- Works to the plumbing eg installing new bathroom fittings or fitting a shower in a different place within the bathroom
- Installing of a new boiler
- Installing air conditioning

Works which are unlikely to require consent are:

- Redecoration within your property
- Replacing existing carpets with new carpets
- Replacing kitchen units providing the work does not include any electrical or plumbing works
- Installing a washing machine in the same position as the old one where no plumbing work is required

How will consent be given?

This will depend on the nature of the works. For small works, consent will be given by way of a simple letter. For more major works, a Licence to Alter will be required. Depending on the scale of the project, this may be drawn up by a solicitor, surveyor or structural engineer. The landlord is likely to include conditions within any Licence. These may include; hours of permitted work, use of communal areas, timescale within which the project must be completed, etc.

Whether consent is given by way of a simple letter or formal Licence to Alter, the document will include details of the works. For larger projects, it will include drawings, perhaps calculations provided by a structural engineer, details of any planning consent required etc. You may also require Building Regulations approval from the Council.

If, during the project, you change your plans, you will need to obtain further approval from your landlord. Your landlord's consent may include a future requirement for you to put the property back to how it was before you carried out the work.

Other Guides:

Carrying Out Alterations or Improvements

What costs will be involved?

Where your lease provides for you to undertake alterations or improvements with the landlord's consent, the law says that consent should not be unreasonably withheld but your landlord can make a reasonable charge for considering your plans and granting consent. The managing agent or landlord should provide a menu of charges for services provided to individual leaseholders outside those covered by the service charge. For major works, you may also be responsible for the landlord's reasonable legal, surveyor's and engineer's costs.

If your lease prohibits making any alterations or improvements you may be able to negotiate amendments to the lease with your landlord but he may seek a premium for agreeing to any amendment. Your home might be at risk if you undertake any works not permitted within your lease!

Charges imposed by your landlord or their managing agent are Administration Charges which must be reasonable. If you feel your landlord is seeking unreasonable charges, you can apply to the First-tier Tribunal (F-tT) to determine whether they are reasonable. You are strongly advised to seek advice before making any application to the F-tT. Free advice is available to leaseholders from the Leasehold Advisory Service at www.lease-advice.org

Why can't I just go ahead and carry out whatever work I want?

Your lease has been drafted to protect the interests of all parties, including your landlord and other occupiers of the building. Restricting what work can be undertaken and how, helps to ensure that nothing is done to:

- undermine the stability of the structure of the building
- invalidate the landlord's insurance cover for the building
- upset your neighbours and undermine their rights of occupancy

Your landlord (and their managing agents) also have obligations to ensure that fire safety standards are maintained and that is why you may require consent for replacing your front door or similar works. Your landlord will need to ensure that any replacement meets the protection requirements of the fire safety regulations.

If you undertake works without the required consent it can prove difficult and costly when you wish to sell your property. Your home might also be at risk if you undertake any works not permitted within your lease or without the required consent.

Other Guides:

What Costs will I have to pay each year

Service Charge

Service charges are monies collected to maintain the structure of the building and common parts and cover the cost of any services provided. These include; repairs, cleaning, lift servicing, garden, on-site staff, utilities, building insurance, managing agent's fees, in fact any service provided under the lease. See "The money – service charges and ground rent".

Ground Rent

The amount of Ground Rent payable, will be set out in the lease, it may only be a nominal amount sometimes referred to as 'peppercorn' or it may be something more substantial. The lease will set out how the Ground Rent is increased over the period of the lease and how often this is charged and increased. See "The money – service charges and ground rent".

Interest charges for penalties and late payments

Your lease will set out if there are any charges for penalties and late payments on the service charge and ground rent.

Contribution to a Reserve/Sinking Fund

Money collected towards major works. The lease will set out whether the landlord can set up a reserve/sinking fund and money must be kept in a trust account. See "Reserves and sinking funds".

There may also be other additional charges that you may have to pay during your time as a leaseholder that you need to be aware of.

Licence to Alter

If you wish to carry out alterations within your flat you may be required to pay the landlord's costs of issuing a licence in advance to carry out the alterations. See "carrying out alterations or improvements".

Extending your lease

If you wish to extend the length of your lease there will be a cost payable to the landlord. Specialist valuation and legal advice should be sought before embarking on this process. The Association of Leasehold Enfranchisement Practitioners (www.alep.org.uk) provide a database of qualified / experienced practitioners who specialise in this work.

Other Guides:

What Costs will I have to pay each year

Solicitors Enquires

When you come to sell your flat there may be a charge from either your landlord or managing agent in providing information and responses to solicitors' enquiries.

Deed of Covenant / Notice of Transfer

A cost associated with selling your flat and / or providing the landlord with a notice of transfer. Your conveyancer should provide you with details of all costs which will be payable on sale.

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- Section 20 information
- Shared ownership
- Common misconceptions about leasehold?
- Your leasehold home – making a complaint

The Money – Service Charges & Ground Rent

Ground Rent

When you purchase a leasehold flat, you purchase the right to live there for a given number of years ("the term"). Ground Rent is charged by the freeholder as rent for the land on which the block is built.

The amount of Ground Rent payable, will be set out in the lease. It may only be a nominal amount sometimes referred to as 'peppercorn' or it may be something reasonably substantial.

The lease will also set out how the Ground Rent is to be increased over the period of the term. These increases are called rent reviews. The rent reviews may set an exact amount for the increased rent or may set out some mechanism for agreeing the level of increase.

How often Ground Rent is charged will again be set out in the lease. It may be annually, half yearly or quarterly and will be demanded by the Freeholder using a prescribed form of words.

Service Charges

Service charges are monies collected to maintain the structure of the building and common parts and cover the cost of any services provided. These include; repairs, cleaning, lift servicing, gardening, on-site staff, utilities, buildings insurance, managing agent's fees, in fact any service that is provided under the lease.

The lease will dictate what service charges cover, when they are requested and how they are accounted for. Under legislation, the money is held in trust by the Managing Agent or Landlord for the benefit of the building. Except for the management fee, the money does not belong to the managing agent or landlord and must be accounted for separately.

Most leases state that a budget should be produced at the start of the service charge year. This is an estimate of what is likely to be spent during the course of the year and is prepared by the Managing Agent, Residents' Management Company or landlord; depending on the lease. The amounts you pay will be a proportion of the total. The lease will set out what percentage you are responsible for and the frequency of payments. At the end of the service charge year, accounts should be produced to show how the money has been spent and whether it is higher or lower than the budget estimate. The lease will say how any underspend/overspend is to be dealt with.

Other Guides:

The Money – Service Charges & Ground Rent

If you are unhappy with the amount of service charges you are being asked to pay or the level of service that is being delivered, a leaseholder has a legal right to challenge the Service Charges in the First Tier Tribunal (Property).

Reserve Funds/Sinking Funds

This is money collected regularly towards major works which will be due over the years, for example, external redecoration or lift replacement. It is collected over several years so that there is not a huge spike in the amount needed in the year when the works are carried out. All reserve / sinking fund money must be kept in a trust account. The lease will set out whether the landlord can set up a reserve / sinking fund and what the money can be spent on. It is best practice for the landlord to have a five or ten year major works plan (for larger developments this may cover a much longer period) against which contributions are collected.

Read your lease, it sets out all of the rights and obligations of each party in detail.

Other Guides:

Reserve and Sinking Funds

Many leases provide for a contribution towards a reserve fund or sinking fund in the service charge payment. Although reserve funds and sinking funds are technically different things, it has become common for either term to be used in residential leases and this paper uses the term reserve fund to cover both types. They are funds built up, over a number of years, to cover the cost of significant expenditure. That expenditure can either be planned and recurring, such as redecoration every 5 or 6 years or more major one-off replacements such as replacing a worn-out lift.

It is good practice for landlords to collect service charge contributions to build up reserve funds where the lease allows. By law, all service charge money collected must be held 'on trust' for the benefit of the leaseholders throughout the life of the development.

Think of it as being like operating a current account and a savings account. Your service charge contributions are placed in a current account which is held on trust, separate from the landlord's money. Every time you make a service charge payment, a small amount is transferred from the current account and invested in a savings account (the reserve fund). All of the day to day costs of running the development are met out the current account. The intention is that when major works are required, the money is available in the savings account to cover the anticipated costs of those works.

The reserve fund should not be used to subsidise day to day service charge costs, nor to offset the effects of under budgeting. If day to day service charge expenditure is higher than anticipated in a financial year, leases typical provide for additional funds (a balancing charge) to be collected from leaseholders to fund the overspend. Any overspend should not be taken out of the reserve fund as this will reduce the level of funds available when major works are required.

A well-managed reserve fund benefits everybody. The landlord can plan for expected works knowing the funds will be available. Leaseholders make small additional contributions throughout the life of the development and are therefore, not required to make large additional payments at the time the works are required. As properties change hands, the identity of leaseholders changes. A reserve fund spreads the cost of major items throughout the life of the development, with every individual leaseholder making contributions throughout the time they own the property. The cost is spread amongst all leaseholders who have benefited from using the building and is not met solely by the one person who happens to own the lease at the time the works are being undertaken. Funds are not refundable to the outgoing leaseholder on sale but the fact that funds have been saved is attractive to potential purchasers.

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Reserve and Sinking Funds

It is good practice for landlords to prepare, and regularly update, planned maintenance and capital expenditure plans related to the condition of the development. These are often referred to as CapEx Plans. You should expect to see the level of reserve fund contributions being based upon the CapEx Plan i.e. the amount of money being collected is related to planned expenditure in the future. If necessary, ask the landlord how the level of reserve fund contributions has been calculated. It should relate to the future requirements of the building and not be kept artificially low to the benefit of current leaseholders (which is a detriment to future leaseholders).

Some leases (common in retirement properties) provide for a contribution into the reserve fund out of sale proceeds whenever the lease is sold. This is typically a percentage of the sale price or a percentage of any increase in value since purchase. These leases are designed to keep the monthly (or annual) service charge costs at a more affordable level by deferring the reserve fund contributions until the leaseholder has received a capital receipt out of which a one-off contribution can be made.

With either type of reserve fund (regular contribution or resale contribution), there is no guarantee that there will be enough money in the fund to pay for works when required. Leaseholders may still be required to make additional one-off contributions if sufficient funds have not been saved at the time the works are required.

Before purchasing a lease, you should therefore request information about the amount of money currently held in any reserve fund and how that relates to planned works over the next few years. You should also request information on how the level of your likely contributions has been calculated and whether that is based on an up to date assessment of the condition of the building and a CapEx plan for the future.

Other Guides:

Section 20 Information

Consultation - Introduction

This is section number 1 of a 3-part series looking at Section 20 consultation

Other information sheets explain about leaseholders' obligations to pay for works and services through a service charge. Where your landlord intends to undertake works at significant cost or enter into a long term agreement, he may have to consult with you first, if he wishes (as is very likely) to fully recover the costs as service charges.

Section 20 of the Landlord and Tenant Act 1985 ("Section 20"), specifies when and how consultation should take place. It is a prescriptive process which can take several months and involves at least two (possibly three) notices at different stages of the process. These sheets aim to explain what each of those notices should contain and your rights to respond by making observations.

The consultation does not seek your approval for any works or services. The primary purposes are to give you an opportunity to make observations on the landlord's proposals, to give you an opportunity to propose a contractor from whom the landlord may seek an estimate and to require the landlord to demonstrate that value for money is being achieved.

Section 20 applies to physical "works on a building" and to any services provided under a "qualifying long term agreement" ("QLTA"). The next 2 sheets in this series look at each of those consultation processes in turn:

Myth buster

There are a few common misconceptions about Section 20 consultation:

- **The consultation is on proposals to spend service charge monies.** It is not part of the service charge collection regime. Your obligations to pay service charges and estimated 'on account' service charges are detailed in your lease. It is likely, therefore, that you will be asked to contribute to estimated costs at the start of the financial year. This is likely to be before the consultation has been completed or even before it has commenced.
- **How do I know how much the proposed works are likely to cost if I am being asked to contribute before estimates have been received?** Your lease is likely to provide for a service charge to be payable 'on account' based on a budget estimate. Your landlord will make an informed estimate in exactly the same way as they estimate other costs that will be incurred throughout the year. The actual costs will be reflected in any balancing statement / service charge accounts at the end of the financial year.

Other Guides:

Section 20 Information

- **Is it necessary to consult under Section 20 if the money is already held within the reserve fund?** Yes. Consultation is about spending service charge money. A reserve fund is made up of service charges collected in advance and consultation will be necessary (on works which exceed the cost threshold) before the money is spent.
- **Does the landlord have to use the contractor I proposed?** No. The choice of contractor lies with the landlord. There are obligations to seek a price from at least one proposed contractor (where applicable) and to include such prices in the Statement of Estimates but the landlord may choose to use another contractor.

Consultation - Qualifying Works

This is section number 2 of a 3-part series looking at Section 20 consultation. You should read sheet number 1 first to fully understand the context.

Section 20 consultation is most commonly required where the landlord has identified a need for physical works to the building or equipment (e.g. lift) and wishes to recover the costs as service charges.

The Regulations state that the most that any one leaseholder can be required to contribute to a set of "works on a building" is £250 unless consultation has been complied with or dispensation has been obtained from a First-tier Tribunal. Your landlord will, therefore, consult with you before undertaking any works where the estimated contribution from you or any other leaseholder is more than £250.

In an emergency situation the landlord may consult with you in a more limited / quicker way and seek dispensation from a Tribunal to allow the works to proceed quickly.
You will first receive a "Notice of Intention". This should:

- Describe the proposed works in general terms
- State the landlord's reason for considering those works to be necessary
- Invite you to propose a contractor from whom the landlord should consider seeking an estimate
- Give you a period of at least 30 days to make any observations on the proposed works and detail the name and address of where those observations should be sent.

Other Guides:

Section 20 Information

If you have any observations on the proposed works it is important that you send them (in writing) to the person named within the notice, within the 30 day period. You may make whatever observations you like but common observations relate to the need, the extent or the timing of the proposed works. If you do not make any observations, you may have difficulty if you later seek a determination from a tribunal that works were not necessary or were not necessary to the degree undertaken and costs were not reasonably incurred. Having had regard to all observations received, the landlord will obtain at least two estimates of cost for those works.

You will then receive a further notice including a "Statement of Estimates", that will:

- Detail at least two estimates of cost. One of those estimates must be from a person (company) totally unconnected with the landlord.
- Include a summary of observations received following the first notice and a response as to how the landlord has had regard to those observations
- Give you a further period of at least 30 days to make any observations on the estimates and detail the name and address of where those observations should be sent.

Having had regard to any further observations, the landlord may place a contract for the works with the person he considers most appropriate. If that person did not provide the lowest estimate or was not proposed by one or more leaseholders, the landlord must send you a further notice explaining why the successful contractor was chosen and how he had regard to any further observations received. You should receive this statement within 21 days of the contract being placed. It does not provide any further opportunity for observations because the contract has already been placed. Its purpose is to advise you why the successful contractor was chosen.

The landlord does not need to send you a statement of reasons for awarding the contract if the successful contractor submitted the lowest estimate or was proposed by a leaseholder at the first consultation stage.

If your landlord is a local authority or housing association, they have to comply with European Procurement Regulations before entering into costly contracts. In these circumstances, the consultation regulations contain alternative procedures at both notice stages. The most notable differences are that you will not be given an opportunity to propose a contractor because the contract is advertised by 'public notice' and following a procurement exercise, you will only receive details of one estimate. You will still have opportunities to make observations at both notice stages.

Now you have a better understanding of the consultation process, it is a good time to re-read the myth buster section in sheet No 1.

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- Your leasehold home – making a complaint

Section 20 Information

Consultation - Qualifying Long Term Agreements

This is section number 3 of a 3-part series looking at Section 20 consultation. You should read sheet numbers 1 and 2 to fully understand the context. The process outlined below is similar to that outlined in sheet number 2 and some detail has therefore been omitted.

A "qualifying long term agreement" ("QLTA") is an agreement for works or services, for a period of more than a year, where the cost to any one leaseholder is likely to exceed £100 in any one year.

It is common for landlords to enter into annual agreements which are renegotiated and renewed each year. They are not QLTAs irrespective of the annual costs.

Agreements for several years will also not be QLTAs if no leaseholder is required to pay more than £100 in any year.

The Regulations provide some exceptions from being QLTAs requiring consultation. The most notable are:

- Some contracts on new developments entered into before there were any leaseholders
- Contracts between related companies owned or controlled by the landlord
- Contracts of employment; most typically concierge, porter, caretaker etc.

The consultation process for QLTAs is very similar to the process detailed in sheet no. 2 for qualifying works. You will receive a minimum of two notices and possibly three.

The Notice of Intention should describe the landlord's proposal in general terms and state why it is considered necessary. You will be given a minimum of 30 days to make any observations and propose a person from whom the landlord should consider obtaining an estimate.

The second notice will include a 'summary of proposals', giving you details of at least two proposals. The details will include the name and address of the contractor, the length of the proposed contract and an estimate of costs.

A third notice is, once again, only required if the contract is not awarded in accordance with the lowest price proposal or to a person proposed by a leaseholder.

Other Guides:

Section 20 Information

If your landlord is a local authority or housing association the European Procurement Regulations may apply and there is a revised consultation process as per Qualifying works (see sheet 1).

Qualifying Works Under A Qualifying Long Term Agreement

Landlords sometimes enter into qualifying long term agreements with contractors to undertake physical works over a number of years e.g. a 5 year agreement with a roofing contractor to undertake any roofing works that become necessary. You will be consulted on the QLTA (as above), at which point the contractor and pricing mechanism are finalised but the extent of future works is unknown. When proposed works are identified, you will receive one Notice of Intention. That notice will describe the works in general terms, explain why the works are considered necessary and state the estimated cost. It will give you a period of at least 30 days to make any observations, to which your landlord is required to respond, directly to you, within 21 days.

Other Guides:

Shared Ownership

Shared ownership is increasingly being offered by housing associations and private developers to assist those who cannot otherwise afford homeownership, to obtain a rung on that ladder.

Purchasers pay a lump sum 'premium' to reflect the value of a share in the property; typically, 25%, 50% or 75%. The level of rent set by the landlord is based on the remaining share. This is often described as buying a percentage share of the property and renting the remaining share but that is not strictly the case in law and there are some distinct differences from part owning / part renting:

Shared ownership properties are always sold on a leasehold basis and the shared owner takes on 100% of the leaseholder responsibilities i.e. the costs of maintaining the internal areas of the property are not shared with the landlord. Shared owners are also required to pay 100% of service charge contributions towards the landlord's costs of repair and other obligations. See "Who has responsibility for what?" Service charge obligations are not reduced to reflect the 'purchased' share of the property and are not shared with the landlord.

The legal status of shared owners is that of Assured Tenants with a contractual right to become owners (of houses) or leaseholders (of flats) by paying additional premiums to reflect the value of additional percentage shares up to 100%. This is known as staircasing. Not all shared ownership leases allow staircasing up to 100% but this should be made clear to you before paying an initial premium. Leases limiting the share to less than 100% are designed to ensure that the property is always retained as 'affordable housing' and shared owners wishing to obtain full ownership will need to surrender their shared ownership lease and purchase an alternative property.

The additional premium payable to staircase will reflect the value of any additional share and will be based on the full market value of the property at that time. The Landlord will assess the level of additional premium payable but there will usually be an option within the lease for both parties to agree to an independent valuation. There will be a number of costs involved in 'staircasing', these will include:

- Valuation fee
- Legal expenses
- Stamp duty
- Mortgage fees

Other Guides:

Shared Ownership

The mortgage market for shared ownership properties tends to be dominated by a few specialist lenders who also have additional terms and conditions to protect their interests. The lending market is therefore not as wide for this type of transaction and the mortgage fees may be higher.

Private developers may have no restrictions on purchasers but there are eligibility criteria you will need to meet if purchasing a housing association property.

As at December 2017, you will be eligible to purchase a shared ownership property if your combined annual household income is less than £80,000 (£90,000 in London.) and any of the following apply:

- You are a first time buyer
- You used to own a home but cannot afford to buy one now
- You are an existing shared owner

The housing association will also need to satisfy themselves that you can afford to meet all the obligations, including; mortgage payments, rent, service charges, council tax and other property outgoings.

Shared ownership is a specialist product requiring a smaller deposit and lower mortgage payments than owner-occupation / leasehold purchase. It is not necessarily the most appropriate option for all those considering homeownership and you should ensure that the product is fully explained and suitable for your longer term needs before committing to a 'purchase'.

Other Guides:

Common Misconceptions About Leasehold

I have bought my flat, you can't tell me what to do – you don't own the bricks and mortar or the land on which it is built; you have bought the right to live in the property for a long time. The lease tells you what you can and can't do, what your landlord must do, the services that must be provided and the amount you must pay for them.

I pay you £3,000 to manage my flat – The amount of the service charge paid to the managing agent as management fee is usually quite small – pence per day per flat. Most of what you pay covers the actual costs incurred in providing services, such as; cleaning, maintenance, insurance, utilities, on-site staff etc.

Can't you just write it off? – Service charges cover the actual costs incurred. They provide no profit. Communal living includes collective responsibility for shared costs. There is no 'magic pot' from which money can be taken to write off your share.
I bought my flat so I shouldn't have to pay service charges – You bought the exclusive right to live in the flat and use the common parts. The structure of the building and common parts still need to be maintained. The landlord retains the obligation to maintain these areas but also has the right to recover the costs incurred as service charges. The lease will tell you precisely what is exclusively yours and what rights and obligations you share with others.

I bought my flat so why do I need permission to alter my flat – You have bought a lease, giving you the right to occupy the property (without ownership), albeit for a very long time. You will almost certainly need a licence because the landlord is required to ensure that works do not have an effect on the structure of the building or the rights of other leaseholders. You can't do as you please, you must seek consent when the lease requires you to do so.

You are the managing agent and my washing machine doesn't work – The Landlord's and Managing agent's responsibilities usually stop at the front door of the flat. Your washing machine is your own personal property and your own obligation to repair / replace.

It's only a car parking space – why is there a service charge – Communal living includes collective responsibility for shared costs. Car parks require maintenance over the long term and often have all the common features of flats, sometimes even more. Entry systems, sprinklers, lighting, ventilation, pumps.
I live on the ground floor so why should I pay towards the lift costs –

Other Guides:

Common Misconceptions About Leasehold

The obligation to pay towards the upkeep of facilities is usually related to the right to use those facilities. You have a right to use the lift whether you need to use it or not. Occasionally leases do provide for all lift costs to be met by those leaseholders living on the upper floors but this is not the norm. It is much more usual for leases to provide for all leaseholders to cover a proportion of all communal costs.

Other Guides:

Your Leasehold Home - Making a Complaint

If I am unhappy with the service provided by my manager how do I complain?

Your manager should have a clear procedure for handling complaints about their services and this should be readily available upon request, either in hard copy or electronic form.

Can you tell me more about this procedure?

There should be no more than 3 stages to the procedure. It should tell you to whom complaints should be made in the first instance and the steps you can follow if you remain dissatisfied following each stage.

Is there a timescale that my manager is required to follow?

The whole procedure should take no more than 8 weeks and you should receive a full response at each stage of the complaint handling procedure. If your manager has good reason to be unable to respond within the prescribed response times, you should receive an explanation and be kept updated.

Do I have to complain in writing?

No. Your manager should not require you to complain in writing. You may complain verbally and your manager may respond verbally in turn. Your manager should clarify that you are happy with the response and a written record of your complaint and agreed outcome should be kept.

The complaint handling procedure should allow you the right to a face-to-face hearing with a person, or a panel at a senior level within the organisation. Your manager should also be willing to offer mediation and conciliation to try and resolve your complaint at an early stage.

What, if after all that, I remain dissatisfied?

Your manager should belong to a Government-approved redress scheme, or Ombudsman's Service. Details of this should be readily available and your manager is obliged to give you access to it. If you remain dissatisfied, you may refer your complaint to this body and your manager is bound by their decision.

Other Guides:

- WHat is a Lease?
- Who is who in a block of leasehold flats?
- Who has responsibility for what?
- Carrying out alterations or improvements
- What costs will I have to pay each year?
- The money – service charges & ground rent in leasehold homes
- Reserve & sinking funds
- Section 20 information
- Shared ownership
- Common misconceptions about leasehold?