

**Residential property
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Buying the freehold of your leasehold house

Recent stories in the press have focused on some of the problems associated with leasehold houses, and the government has now promised to ban the creation of any new ones except in limited circumstances. But what should you do if you already own a leasehold house?

One possibility is to buy the freehold. Alison Muttock, a residential conveyancing expert with Crane and Walton LLP, at our Leicester office looks at the issue and answers some of your questions.

What is the problem with leasehold houses?

Generally, leaseholders have less control over their homes than freeholders and the ongoing costs of ownership are likely to be higher. As a leaseholder, you will have to pay ground rent and, usually, a service charge to your landlord. You probably need consent for certain events and will have to pay related professional costs.

In some properties with communal facilities, such as flats, shared ownership or retirement complexes, leasehold ownership makes sense. However, critics say there is often no justification for creating new leasehold houses, and some developers are motivated more by the continuing income stream from a lease than the interests of the homeowner. In some modern leases, the problem has been compounded by onerous ground rent provisions.

Not all leases are problematical though, and it is important to consider any on its individual merits.

Why buy the freehold?

Buying the freehold means that you will no longer have to pay ground rent or be subject to the other conditions imposed by your lease. Even if your lease does not contain any onerous provisions, this may still be a good option.

A lease is a depreciating asset. As the term shortens, the value of your property will decrease. At some point, this will make your home harder to sell and reduce your options for remortgaging. So, owning the freehold to your house is nearly always preferable to having a lease.

Can I make my landlord sell me the freehold?

The good news is that you may have the legal right to buy the freehold of your house even if your landlord does not agree. The rules for establishing if you are eligible are complicated, and your solicitor will be able to explain them to you more fully. Basically though:

- your property must be a house;
- your lease must be for a term of more than 21 years; and
- you must have owned the house for the preceding two years.

If you are buying a leasehold house from a previous owner, it may be possible for your seller to give the landlord the appropriate notice and to transfer the benefit to you. Then you would not have to wait for two years to start the process, and the price you pay to your landlord may be lower as a result.

How much will it cost to buy my freehold?

The cost of buying your freehold depends upon many factors, but there are two distinct elements; the premium and professional fees.

The premium is the price you must pay to the landlord to buy out his interest. The basis for determining this is set out in legislation. It reflects the market value of the freehold and the loss of ground rent to the landlord. If your lease has 80 years or more to run, the premium may also include an element of marriage value. This is the additional value of the freehold to you compared to other potential buyers. Its inclusion will generally result in a higher premium being payable, especially as the term of your lease decreases. So, it may make sense to buy your freehold sooner rather than later.

Professional fees include your legal and valuation costs, and some of your landlord's costs, for which you will also be liable. If the freehold costs more than £125,000, you will have to factor in the cost of stamp duty land tax too.

It is important to choose a solicitor and a valuer who are both experienced in leasehold enfranchisement and who can work well together. The provisions are complicated and there are many pitfalls for the unwary. For example, the legislation provides a strict timetable you and your landlord must observe. If you miss a deadline your claim may be deemed withdrawn and fail.

We will be able to give you a realistic indication of the likely costs at the outset, which will help you decide whether buying the freehold is right for you.

For further information about buying your freehold, or buying or selling a property in general, please contact any of our offices to speak with one of our experts.

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