



Understanding your lease



The lease

WHEN YOU PURCHASE YOUR PROPERTY, YOU WILL BE REQUIRED TO SIGN A LEASE.

This is a legally binding contract which states both your rights & responsibilities as the leaseholder, and the rights and responsibilities of your landlord.

Leases are written in legal language and can be difficult to understand, so we have produced this guide to help explain some of the main clauses and terms of a typical lease. Leases vary from development to development, and this guide does not exhaustively cover every clause and condition - so it is important that you read through your own lease thoroughly, and speak to your solicitor if it contains any wording which you do not understand. Your solicitor will discuss the lease with you so you are clear and understand your legal requirements and those of the Landlord.

We would recommend you keep your copy of the lease in a safe place throughout your time as a leaseholder, as you may need to refer to it in the future.

What is a Lease?

A lease is a contract giving the right to occupy and use your property for a set period of time, (this set period of time is referred to as the 'term' of the lease). The lease is a legally binding contract between yourself as a leaseholder, and the landlord.

Everything you and your landlord do in relation to your property and the wider development is governed by the conditions of your lease. This guide has been written to assist you in understanding the complexities of this important legal document.

Your landlord

The landlord of your development is responsible for maintaining your building and its grounds. Below is a list of some of the most common tasks carried out by landlords:

- Cleaning and gardening
- Repairs to the communal areas
- Maintaining mechanical equipment and services (for example the lift, fire equipment and communal television system)
- General repair, maintain and improve the development including the structure, exterior, roof and foundations
- Managing the development's service charge income and expenditure
- Ensuring leaseholders abide by the terms of the lease

The landlord is London Borough of Lewisham and Lewisham Homes manage the properties. However, at some developments we may not own the building, as we were invited by the developer to provide the affordable homes as part of a wider development.

In these circumstances there will be an additional lease between the developer of the building and us. This is known as the 'head lease'. Your property's lease will in these circumstances refer to the head lease to clarify certain conditions. At these developments it is common that the developer will employ a private managing agent to physically manage the development and enforce the terms of the lease on their behalf.

For more information on private managing agents please refer to our 'We can help explain our service charges' guide. Please speak to your legal advisor to ascertain whether the development you are buying into is directly owned and managed by us, or whether it is owned by a private developer and managed by a private managing agent.

It is important you know and understand who owns your development, who your landlord is and who manages the development.

The sections of your lease

Your lease comprises of a number of sections. In this guide we will explain the conditions found in the different sections in a typical shared ownership lease. However, the contents and layouts of leases do vary between developments, so your own lease may differ slightly from the lease format that this guide follows. A shared ownership lease is a standard model lease set by Homes England, formerly the Homes and Communities Agency who administer affordable housing on behalf of the Ministry of Housing, Communities and Local Government.

The market sale lease is very similar to this lease with the sale roles and responsibilities. The private sale lease where you are buying outright or the Help to Buy Equity Loan lease may have slight variants on the lease. For example, the shared ownership lease will have details about selling and the rent on the unsold share most of which will not apply to the private sale options.

Land Registry prescribed clauses

HM Land Registry is a non-ministerial government department that registers the ownership of land and your property.

Upon completion of your purchase, your solicitor will register your ownership of your home with the HM Land Registry and, also registers a copy of your signed lease. Within this section of the lease you will find our leases typically start with a list of information which will be held on your property's land registry entry.

This entry will include the HM Land Registry title number, your name, the date the property was first registered as occupied (date of lease), the landlord's name and the price paid for the property.





Particulars

The particulars state information regarding the purchase of your individual flat /house such as the purchase price of your property, the percentage of equity you have purchased and initial specified rent you have to pay on the equity share you do not own (shared ownership properties only). This section also states whether you have purchased a parking space- either as a right to use or demised to the property, as well as states the commencement date of the lease.

The commencement date is the point in time from which your lease term commences. For example, if your lease is for 125 years, then it will expire in exactly 125 years from this date. Most leases are now 990 years from the commencement date.

The lease plan

Your lease will contain a plan highlighting the 'demise' of your property. The demise is the area of the development you are purchasing (i.e. your flat or house. This is normally marked in red).

If your property has a balcony or patio area, then this may be highlighted in a different colour on the plan. This is because you have been given the right of sole use for this area, but not the legal ownership of it. This gives the landlord the responsibility to carry out repairs in this area – however it is your responsibility to keep this area clean and clear of clutter.

If you have purchased a specific parking space, then this will be highlighted and outlined in a relevant colour on your lease plan. Most parking spaces are sold on a 'right to use' basis, rather than the purchaser being given full legal ownership of the space.

Therefore, you should clarify on what terms your space is being sold to you with your legal advisor, as well as ascertain who is responsible for maintaining this space.

Definitions and interpretation

This section of your lease clarifies some of the wording and expressions used in your lease.

Date

The date the lease commences from will be inserted (usually handwritten). This will be the date of the first purchase of your property.

Parties

This states who your landlord is as well as confirms the initial leaseholder(s) of your property.

When a property is resold, the wording of the lease will not be amended, but the HM Land Registry's records will be updated to reflect the new leaseholders of the property.

The letting terms

This section states that you as the leaseholder, is given the guarantee of being the leasehold title holder of your property on HM Land Registry records - in accordance with you purchasing your share, paying your rent and abiding by the terms of the lease.

Leaseholder's covenants

This large section of your lease comprises of the terms and covenants, which are the rules and regulations that govern both your home, and the development as a whole. By signing the lease you are legally bound to abide by these rules and allow us to take legal action against you should you break any of these terms and covenants.

Pay rent

If you are buying with shared ownership, you must pay your specified rent on time and in full. Specified rent is the monthly rent you pay to us for the share of the property you do not own. We strongly prefer our customers to pay by direct debit.

All buyers may also need to pay the landlord ground rent, which is an annual charge. Please speak to your solicitor to ascertain whether or not ground rent is payable at your development, and if so, how much it will be, how the ground rent increases and when it is paid as this is paid on demand and not with the service charge.

For many of our developments ground rent is only charged to leaseholders who have purchased 100% of their property. However, this is not always the case, so it is important you look into this with your solicitor.

Interest

We can charge you interest on any overdue rent payments.



Outgoings

As a leaseholder you are obliged to pay your share of the costs of managing, repairing, and maintaining the building and estate. For more information, please refer to our service charges guide.

Repairs

The lease requires you to keep the interior of your property clean and in a good state of repair.

Decoration

It is your responsibility to keep the interior of your property in a good state of decoration and to ensure that any redecoration you carry out is done in a suitable manner for ensuring the future sale of your property can be achieved.

Provide floor coverings

You must ensure that that any floor coverings in your property do not cause a disturbance to neighbours.

If you install a wood or laminate floor, then suitable noise reduction acoustic measures must be installed as part of the installed flooring. You must gain our approval to installing wood or laminate flooring beforehand. Failure not to do so may result in the flooring needing to be removed.

Repair damage to communal parts

If you, or a guest of yours, damage the communal areas of your development, then the landlord can charge you directly for the cost of repair, as well as an extra charge to cover administration costs.

Not to alter

You must not make any alterations to the exterior of your property and the communal areas of the development. This would include installing a gazebo or conservatory.

If you wish to carry out a structural alteration to your property, then you must seek our written permission in advance. There will be a cost for granting permission, and the landlord may need to project manage any alterations to ensure the works meet the regulatory approval and have no negative effect to the structure of the building. You will be charged all costs accrued by the landlord relating to this. The landlord reserves the right to refuse any requests for alterations and does not need to provide you with a reason for the refusal.

You are allowed to carry out minor non-structural alterations inside your home, for example installing shelves and a fitted wardrobe. However, the landlord's permission must be obtained for any larger non-structural alterations, for example installing a new kitchen or bathroom. This is to ensure that the proposed alteration meets all necessary building regulations, and has no negative effect to plumbing and drainage, and to communal services (e.g. communal heating). The landlord will also need to ensure the proposed alteration does not negatively affect neighbouring properties in terms of noise, risk of pipe leaks and risk of damage. The landlord also needs to ensure that the proposed alteration will not invalidate the terms of the building insurance and any building warranties that cover the development and your property.

Comply with requirements of public authorities

You must comply with all local, national public authority requirements.

Provide copies of notices

You must supply the landlord with a copy of any formal notice, order or proposal you receive in relation to your property.

Expenses of the landlord

You are duty bound to pay any costs and expenses incurred by the landlord on any property legal transaction or the costs incurred if the landlord needs to take action against you for breaching the terms of the lease.

Obtain consents

If any licenses, permits, inspection or external approval is required for any works or actions you carry out inside your property, then you must ensure these are obtained. For example, some works require a safety inspection from the local authority.

Landlord's right of inspection and right of repair

The landlord has the right to enter your property at a reasonable time (reasonable would normally mean pre-arranged unless it is an emergency) to inspect your property's condition and its fixtures and fittings. The landlord can then instruct you to carry out any necessary repairs and alterations, and to remove any alterations for which you have not received written permission to install.

The landlord can charge you for its costs accrued in managing this process.

Permit entry

The landlord is permitted to allow workmen into your property for the purpose of carrying out any works which fall under its remit, as per the terms of the lease. You must ensure you allow the landlord access quickly and without obstruction. For example, if a communal soil pipe is blocked, the landlord may need to send a plumber into your home to access the soil pipe from inside your property.

Yield up

When your lease expires or is terminated, you must ensure the property is returned to the landlord in a well maintained and clean condition.

Use

You must only use your home as a private residence, and not to run a commercial business from it. If you are buying with shared ownership or Help to Buy Equity Loan then your property must be your main place of residence and cannot be let.

Restrictions on use

The lease states the activities you must not do, for example:

- Sublet your property without our written permission in advance
- Do anything which will void the terms of the building insurance
- Cause a noise or disturbance (commonly defined as anti-social behaviour) to other residents or people living in the surrounding area, as well as the landlord's staff, contractors and agents

- Use your home for any illegal or immoral purpose.

Alienation

In property law, alienation refers to the capacity of a piece of property to be sold, assigned to someone else or sublet.

This section of your lease will detail the restrictions on your property in terms of subletting or underletting. Our leases will always state that you cannot sublet your property unless you have purchased 100% ownership of it.

Even at 100% ownership you must gain our permission and provide us with a copy of the tenancy agreement, names of tenants and your contact details.

We need to be able to contact you in relation to repairs, anti-social behaviour issues and consultations.

Pre-emption provisions

This section of the lease states the rules covering the legal requirements of certain property transactions, such as:

- Staircasing (only applicable to shared ownership)
- Selling your property (only applicable to shared ownership)
- Adding or removing names on the lease
- Re-mortgaging
- Subletting
- Restrictions registered against the property at the Land Registry
- Probate (what to do when a leaseholder dies)



Register disposals

On buying or selling a property, your solicitor needs to serve a legal document known as a 'notice' to the landlord to advise them of details of the owner and mortgage lender.

Without this notice being served, your property conveyancing is not complete. This means that if you are selling your home, you are responsible for any rent and service charge due until the notice is received. There is a fee for this service.

This also applies if adding or removing names onto the lease (for example if you wish to add your spouse to the lease), and also if you change lender.

Prevent loss of easements

You must not do anything that may affect the right to light of neighbouring properties (e.g. reduce the amount of sunlight received by a neighbouring flat). You must not obstruct any access to landings, stairwells and other communal parts of the development.

Leaseholder's further covenants

This requires you to observe and comply with the covenants stated in schedule 2. This will be discussed later in this guide.

Landlord's covenants

This section of the lease states the landlord's responsibilities in managing the development.

Quiet enjoyment

The landlord is obliged to ensure you can enjoy quiet and unimpeded use of your home.

Insure

The landlord must ensure your development is covered by building insurance. However, it is down to you to arrange your own contents insurance.

Repair redecorate renew structure

The landlord is duty bound to ensure the development is in a good state of repair. The landlord must replace any items in the communal areas which can no longer be repaired (e.g. rotten window frames). The landlord will generally redecorate the communal areas of the development (e.g. repaint hallways) every 5 to 7 years. The above also covers any balconies or patios you may have the right of use of.

Lighting and cleaning of common parts

The landlord is responsible for ensuring communal areas of the development are kept clean and tidy, as well as ensure communal areas have sufficient lighting.

Landlord's protection provisions

The landlord does not take liability for failures of the utility services such as gas, electric, water, and telephone connection, as a result of network problems outside the development. An example of such an occurrence is a water mains pipe bursting in the street.

The landlord cannot be blamed for any failures by its subcontractors, for example poor work carried out by the cleaning contractor. However, the landlord will take action if necessary, to improve the level of service.

The landlord reserves the right to alter the choice of utility services offered to you in relation to your service charge. For example, upgrading a development's communal television system to ensure high definition television can be received.

Lettings of other flats

Other residents in your development are required to follow the same rules that you do.

Enforce covenants in other leases

The landlord will take necessary action against those who break the rules and regulations of the development. These rules and regulations are known as the covenants of the lease.

Pre-emption obligations

The landlord will respond to any correspondence in relation to pre-emption provisions. For more information. Please refer to the section on pre-emption provisions.

Cesser of liability in respect of covenants

If the landlord sells its interest in your development to a new party (who would then automatically become your landlord), the previous landlord must immediately cease all responsibilities and actions at your development. The new landlord would then observe the covenants and conditions of your lease, without changing the terms of it.

Provisos

This section details the responsibilities of the landlord and leaseholder in certain scenarios that may arise throughout the term of your lease.



Limitation of landlord's liability

The landlord does not accept liability for any injury or damage to your property or possessions that may occur in the development. For example, if your bike is stolen, this would have to be claimed through your contents insurance.

Landlord's power to deal with other property

The landlord is allowed to build or erect any structure that it wishes on neighbouring land, as long as relevant permits and permissions are received (for example planning permission).

Power to alter commons parts

The landlord has the right to change the communal areas, as long as leaseholders are not substantially negatively affected by these alterations.

Party walls

All internal walls dividing individual properties are treated as party walls and are bound by the terms of the Party Wall Act 1996.

Suspension of rent in case of insured damage

If your property is destroyed or heavily damaged (e.g. by fire) and is no longer habitable and you have to live elsewhere, then either no rent or a fair proportion of rent will not be charged by the landlord until the property has been made habitable. This does not apply to service charges.

Frustration clause

If your property is damaged beyond repair or destroyed, then the landlord will pay you the acquired percentage share of any insurance monies they receive.

Expert determination

This section summarises qualifications required by professionals to determine certain transactions throughout the term of the lease. For example, if a valuer is required, they must be a member of the Royal Institute of Chartered Surveyors.

This section also requires the professional to confirm their service levels agreement and the responsibility of payment of their fee.

Service charge provisions

This section of the lease gives details about your service charge. For more detailed information, please refer to Family Mosaic's guide 'We can help explain our service charges'.

Covenant to pay

You must pay your service charge at the same time as paying your rent (if applicable).

When calculated

The level of service charge you pay is calculated prior to the commencement of the financial year that it covers. In most cases the financial year starts on 1st April.

How calculated

The landlord will estimate the costs of managing your development throughout the next financial year.

Service provision

This section of the lease explains the areas covered within the service charge.

Adjustment to actual expenditure

At the end of the financial year, the landlord will audit the service charge accounts, and ascertain whether there is an excess or a deficit on the account.



Landlord to contribute to reserve in respect of unlet parts

The landlord pays into the reserve fund for any unsold properties, or properties rented out by the housing association to tenants on a social housing basis.

Declaration re Landlord and Tenant Act 1985

The landlord and leaseholders are governed by the relevant government legislation in regard of service charges.

Mortgage protection

The lease contains the mortgagee protection clause, which ensures that if your property is repossessed, the lender receives its share of the sale proceeds first, before your landlord receives any money which it is owed. This section of the lease states the clauses which the landlord is required to abide by in relation to your mortgage in the case of repossession.

Stamp duty certificate as shared ownership

This is a clause in relation to the tax which may be payable on the purchase of this property. Please refer to your legal advisor as the level or natures of taxes can change.

Notices

This section details the addresses where notices need to be served.

Landlord and Tenant (Covenants) Act 1995 declaration

The covenants of the lease are for the benefit of the whole development.

Value Added Tax (VAT)

All fees payable within the lease do not include VAT where applicable, these will be payable at the current rate of VAT.

Charity clause

This is to confirm that we have charitable status.

The Schedules

When reading through the Covenants section of your lease you may have noticed several references to the schedules. This section of the guide will briefly explain the contents of each schedule.

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Schedule 1 - The Premises

This section of your lease states exactly which parts of your home belong to you, and which parts belong to the landlord.

Schedule 2 - Mutual Covenants

This is a list of a number of covenants (rules and regulations) which you must abide by.

Service media

You must not interfere with the communal television, telephone and broadband systems.

To observe covenants on landlord's title

On some occasions the development will have restrictions registered at the Land Registry which the landlord must apply on the development.

Parking and restrictions on parking

You must only use a parking space allocated to you. You may only park a roadworthy car or motorcycle on this space. The vehicle must be taxed or have a SORN notice. You are not allowed to park a commercial vehicle exceeding 15cwl. You must not park in areas where parking is not authorised or which obstructs access.

Noise

You must ensure that noise from your property does not cause a disturbance to other residents

Signs

You must not erect or install signs or notices in your windows, or the exterior of the premises. However, you are fine to put up notices on the residents' noticeboard, which is usually installed in our managed developments.

Washing

You must not hang washing outside of your flat. This includes hanging bedding over the sides of balconies.

Pets

You must ask the landlord for permission to keep a pet at your property.

We have a pet agreement form for completion which you must get approved. Permission for a large dog will not usually be granted. If you are found to have a pet (especially a dog) without the Landlord's permission, then the Landlord will usually demand you rehouse the pet.

You will be responsible for your pet and ensure it doesn't cause nuisance to residents or impact on resident's personal enjoyment of their home and wider development.

Decoration

You must not decorate any area of the development outside of your own property.

Aerials

You must not erect your own satellite dish or

television aerial. Our developments nearly always provide access to either Sky or Virgin Media via a communal system – however if you wish to access satellite TV from another satellite.

Please speak to the Sales Team to ascertain whether these satellites are included within the development's communal TV system.

If the development does not have this facility, then you will be unable to watch the channels found on these satellite systems, unless you can access them via the internet.

Use of common areas

- You must always ensure any entrance doors to your building are fully shut behind you for fire safety reasons
- You must not leave or store any items in the communal areas of the development (apart from designated storage areas such as a bike store) – this includes leaving shoes, boxes, bikes and buggies in hallways
- You and your children and visitors must not play any games or sport that may cause a disturbance to neighbours – for example ball games
- Children must not play in the hallways and other internal communal areas of the development

Windows

You must ensure the inside of the windows to your property are kept clean.

Flammable items

You must not store any flammable liquid or explosive gas or materials within your dwelling or communal areas – for example petrol and heating gas.

Balcony or patio

You must keep clean any private balcony or patio. You must not store any unsightly items on the balcony which are visible above the balcony rail.

Barbecues

BBQ's are not allowed on balconies for fire safety reasons.

Repairs

You must report any communal repairs to the landlord.

Doors

To ensure the safety of you but also to allow residents a safe route out of the block, there will be a requirement to check that flat front doors remain fire compliant at an interval to be determined, but as a minimum, on an annual basis and therefore access must be granted to the Landlord or their representative.



Refuse

You must use the bin store properly and in a responsible manner – for example, all rubbish must be placed directly into bins, and not dumped on the floor. Any large items which the bin men will not collect should be removed from the premises yourself or using the council’s dedicated bulk waste collection service.

Loss or theft

The landlord is not liable for any theft of your property that occurs at the development, or any damage caused by an intruder.

Gas inspections

If you have gas inside your flat, then you must ensure your boiler and gas appliances are serviced and maintained annually. The landlord reserves the right to demand that you provide proof of this – such as gas safety certificates.

Use

Neither you, your family, nor your visitors must:

- Do anything that may cause offence to another resident, a visitor to the development (including the landlord’s staff and contractors) or in the wider neighbourhood. For example, racist, homophobic, sexist, xenophobic and ageist behaviour
- Use threatening or violent language or behaviour to another resident, a visitor to the development (including the landlord’s staff and contractors) or in the wider neighbourhood
- Do anything which causes or is capable of causing a nuisance or offence to another resident, a visitor to the development (including the landlord’s staff and contractors) or in the wider neighbourhood

Management company

If a landlord sets up a management company to manage your development – then the Landlord has the right to make you become a member of this management company.

In reality this would mean you would be given the right to elect the members of a management committee – and you would not need to become actively involved in the running management company and your development, unless you willingly chose to.

Section 106 agreement

Your development may have been given planning permission as part of what is known as a ‘Section 106 agreement’. This clause of the lease states that you must abide by any covenants in the agreement which relate to your property.

Deed of easement

An easement deed is a legal term that means a person is granted a right of passage for a specific purpose to a small portion of land owned by someone else.

Easements can be granted for a number of reasons, such as the need to run a sewer or telephone line across someone else’s property, or the need to have a driveway across property owned by another party. An easement deed is the written legal document that asserts the legal right to the easement.

You are duty bound to agree to any easement deed required by a public or statutory authority – for example, the council or electrical grid operator.



Schedules 3 & 4 - Easement rights and privileges & exceptions and reservations

These sections state who can access which areas of your development, and for what reasons. For example, a lease would typically state the Landlord can enter your property at a reasonable time after giving prior notice, for the purpose of carrying out its obligations under the lease.

Schedule 5 - Rent review

Shared ownership only
This section confirms the formula by which your rent is increased each year.

Schedule 6 - Staircasing provisions

Shared ownership only
Here you will find the covenants governing the process of buying a further share in your property.

Schedule 7 - Assignment of whole to nominated purchasers

Shared ownership only
This section of your lease denotes the rules and covenants which must be observed when you come to sell your property, if you have not staircased to 100% ownership.

Schedule 8 - Surrender by leaseholders (pre-emption)

Shared ownership only
If you have not staircased and wish to sell your share of your property, then we have the right to purchase your share back from you. This section denotes the rules governing this process.

Schedule 9 - Defined terms

This section gives definitions and meanings for some of the terms used in your lease.

Execution page
This is the section of your lease which is signed by both the leaseholders and the landlord.



FAQs

Q. Who provides me with my lease following completion?

A. Your solicitor will provide you with your copy of the lease.

Q. What happens if I lose my copy of my lease?

A. We will be able to provide you with a copy, but there is a fee charged for this service. You can also obtain a copy of your lease from the Land Registry at a charge. We recommend that you obtain a copy of your lease from your solicitor at completion.

Q. Can I negotiate the terms of my lease?

A. No, the lease is non-negotiable.

Q. Can the landlord change the terms of my lease?

A. We would need to gain your permission in order to change the terms of your lease.

Q. What happens after the term of my lease expires?

A. The lease can be extended. This is not normally needed until the lease becomes “short” – has less than 80 years left. You can extend your lease.

Q. I have purchased the right of use of an allocated parking space, can I change this for a different space?

A. It depends on the wording of the individual lease and if any other parking spaces are available. Spaces will usually all be allocated at point of sale. If another space is available, it is likely that a deed of variation would need to be carried out, which would require you to pay legal fees for both yourself and us, as well as any associated Land Registry and mortgage lender fees. Agreeing to change a space (if available) is at our discretion.

For further information
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