

A Guide to Lease Extensions



Landlord Edition

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A Guide to Lease Extensions for Landlords

Entitlement

A lessee who has owned a flat or maisonette for more than two years has the right to claim a lease extension under the terms of the Leasehold Reform, Housing and Urban Development Act 1993 as amended. The lease will be extended by 90 years and the Ground Rent will reduce to a "peppercorn" (nil) rent.

Procedure

The procedure is activated by the service of a Notice signed personally by the lessee. The Notice must state the price considered to be appropriate to pay the landlord for the lease extension (The Notice must be served on the freeholder and any other landlord).

Price Payable

The Notice must state a bona fide price that the lessee wishes to pay for the lease extension. Kirkby Diamond provide valuation figures considered justifiable at First Tier Tribunal (Valuation Tribunal).



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Marriage Value

When a lease has less than 80 years to run the surveyor will include in the valuation a figure for Marriage Value representing an additional sum to be paid to the landlord to recognise the benefit to the flat owner of having a lease extension.

Intermediate Leasehold Interests

Where there are several leasehold interests Kirkby Diamond can provide the values (premiums payable) to each of the superior interests.

Sale of Flat or Maisonette

If a lessee wishes to sell the flat after the Notice has been served the benefit of the Notice can be assigned to the buyer. If this is not done the Notice will lapse at that point and the lessee will be liable for fees incurred to that stage.



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Liability for Fees

Once the Notice has been served the lessee is responsible for the reasonable costs incurred by the landlord in employing his own surveyor to prepare a valuation. The landlord can also claim his reasonable solicitor's fee for advising in connection with the service of the counter notice. The initial valuation fee is recoverable from the lessee.

Normally the lessor appoints Kirkby Diamond to negotiate the final settlement to avoid the significant costs of going to First Tier Tribunal. This is charged separately to the initial valuation fee and is not recoverable from the lessees.

Payment of Deposit

The landlord can request payment of a deposit of 10% of the price quoted in the Notice and this must be paid within 14 days of request.

Landlord's Counter Notice

The landlord MUST respond by serving the Counter Notice within 2 months of the Section 42 Notice date. A solicitor should prepare and serve the Counter Notice in good time.

The Landlord will normally make a counter proposal for a higher price for the lease extension. Negotiations usually follow between the party's surveyors. If it is not possible to agree terms then the First Tier Tribunal will determine the price to be paid. If any other issues arise concerning the terms to be offered apart from the price then these issues would also be referred to the Tribunal. The procedure will take some months to conclude if either party is difficult.

Tribunal Proceedings

Kirkby Diamond represent lessors at the First Tier Tribunal (Valuation Tribunal) hearing as Expert Witness or Advocate (where the issues only relate to the valuation).

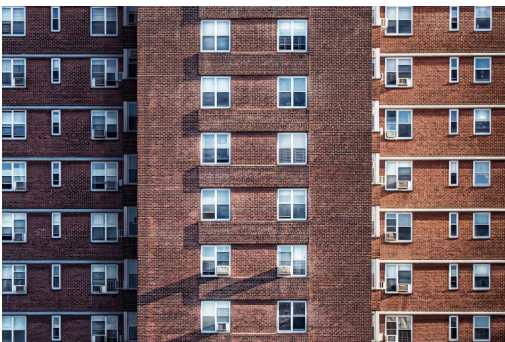


Photo by Vladimir Kudinov



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Withdrawal by a Lessee

A lessee cannot be required to take the lease extension once the price has been fixed. If for any reason a lessee is unable to proceed with the lease extension any deposit paid will be returned but the landlord will be entitled to recover the valuation fees incurred and the cost of the initial advice from his solicitor in responding to the Notice. However, the landlord cannot recover any other costs incurred in dealing with negotiations or in relation to the Tribunal proceedings.

Lease Extension Deed

Once the price for the lease extension is resolved the freeholder's solicitor will draft the Deed of Lease Extension and the lessee's solicitors will then deal with the conveyancing work required to enable the lease to be finally extended. At that point the lessee will be responsible additionally for the landlord's legal fees incurred in connection with this work as well as his or her own solicitor's fees.

Can the Freeholder Sell the Freehold of a Flat or Block of Flats?

The Landlord in general cannot sell the freehold to anyone else without first offering it to the flat owners. This is done by serving notice under Section 5 of the Landlord and Tenant Act 1987. If the majority of flat owners (and qualify) wish to buy they may do so through a nominee purchaser.

Kirkby Diamond can provide the valuation advice needed for this process. Kirkby Diamond Chartered Surveyors have dealt with a number of these situations.

This note is only a brief summary of the complex requirements set out in the legislation and is not intended to explain all of the issues that might arise in practice where a claim for a lease extension is made.



Click here to read more on the lease extension process



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