



THE PROPERTY WIZARD

The Residential Leaseholders Guide

This guide will explain the terminology for the parts of your lease that you really need to understand in one simple guide!

For example, it will look at the Landlords Covenants i.e. what are they responsible for vs what you are responsible for. For example, if they are responsible for the windows, this will save you the hassle when the windows need replacing, or whether you are allowed to sublet if your circumstances change?

This guide looks simple because it's stripped back to remove the complicated jargon that most leases contain.

It's been designed for to use as a glossary when examining the details of your lease.

Contents:

Appeal	Page 5
Administration charges	Page 5
Alternative Dispute Resolution (ADR)	Page 5
Arbitration	Page 5
Barrister	Page 5
Breach of Covenant	Page 6
Commonhold	Page 6
Compulsory Acquisition Order	Page 6
Consent	Page 6
Conveyancing	Page 7
Covenant	Page 7
Deed of Variation	Page 7
Deferment	Page 7
Development Value	Page 7
Directions	Page 7
Dispensation	Page 8
Enfranchisement	Page 8
Estate management scheme (EMS)	Page 8
First-tier Tribunal	Page 9
Fixed administration charge	Page 9
Forfeiture	Page 9

Freehold	Page 10
Freeholder	Page 10
Ground Rent	Page 10
Grounds for Appeal	Page 10
Headlease	Page 10
Headlessee	Page 11
Hope Value	Page 11
Initial Notice	Page 11
Insurance Cover	Page 11
The Landlord	Page 11
The Lease	Page 11
Lease Renewal/Extension	Page 12
Lease Variation	Page 12
The Leasehold	Page 12
Leasehold Valuation Tribunal	Page 12
Leaseholder	Page 12
Long Leasehold	Page 12
Marriage Value	Page 12
Managing Agent	Page 13
Mediation	Page 13
Nominated Insurer	Page 13
Notice of Claim	Page 13
Order of Appointment	Page 14
Participation Agreement	Page 14
Preliminary Notice	Page 14
Recognised Tenants Association (RTA)	Page 14
Regulation	Page 14
Relativity	Page 15
Rent Demand	Page 15
Report on Title	Page 15
Reserve Fund	Page 15
Right of First Refusal	Page 15

Right to Buy	Page 15
Right to Manage (RTM)	Page 16
Section 146 Notice	Page 16
Service Charge	Page 16
Share of Freehold	Page 17
Shared Ownership	Page 17
Sinking Fund	Page 17
Solicitor	Page 17
Summary of Rights	Page 17
Tenant	Page 17
Term	Page 17
Third Party	Page 18
Tribunal	Page 18
Uncommitted Service Charges	Page 18
Upper Tribunal (lands Chamber)	Page 18
Variable Administration Charge	Page 18
Waiver	Page 18

Appeal

The act of challenging a decision of a legal authority to a higher legal authority with a view to reversing it. For example, it is possible to appeal a First-tier Tribunal (Property Chamber) decision to the Upper Tribunal (Lands Chamber) on certain grounds.

Administration charges

An Administration charge is any money the landlord demands from the leaseholder for granting approvals under the lease, for the provision of information or documents, for dealing with a failure by the leaseholder to pay ground rent or service charges, or in connection with a breach of the lease.

Alternative Dispute Resolution (ADR)

A variety of processes designed to help resolve conflicts and disputes in an informal and confidential fashion in order to avoid going to a court or a tribunal. Mediation is a common example.

Arbitration

A form of dispute resolution involving an independent arbitrator. Arbitration clauses can be found in some residential leases. They are sometimes seen as a way of providing a legal decision without going to court and can be less formal than court.

Arrears

Money that is owing by one party to another. This will usually be an amount owing by a leaseholder to a landlord which is payable under the lease, such as ground rent or a service charge.

Barrister

A type of lawyer who specialises in advocacy and representing clients in court. In practice, a client will usually instruct a solicitor to deal with a case who may then instruct a barrister to represent the client at court.

Breach of Covenant

A breach of a clause in a lease. This could be breaking an obligation or a prohibition that is spelt out in the lease. A classic example is a covenant for a leaseholder to pay a service charge towards exterior maintenance.

Collective enfranchisement

The collective purchase of the freehold by leaseholders in a building containing flats in accordance with the 1993 Leasehold Reform Housing and Urban Development Act, as amended by the 2002 Commonhold and Leasehold Reform Act.

Commonhold

An alternative form of ownership to leasehold and freehold where the freehold in the land is registered as commonhold. The commonhold is owned by unit holders and it is governed by a commonhold community statement. This is similar to co-propriété in France or co-ops in North America.

Compulsory Acquisition Order

Part III of the Landlord and Tenant Act 1987 (the 1987 Act) enables leaseholders to acquire the freehold of their building where a landlord is in consistent breach of its management obligations over a period of time. A compulsory acquisition order is obtained by application to the County Court.

Consent Order

An order of the court outlining an agreement reached by parties to litigation.

Consent

Where permission is needed by one party from another to carry out a certain action. An example of this could be a leaseholder requesting consent from the freeholder to carry out alterations to a flat where consent is required under the terms of the lease.

Conveyancing

The process of transferring a legal title to property from one party to another. It is advisable to engage a solicitor when buying or selling property.

Covenant

A lease covenant describes an obligation owed by one party to another. Examples: an obligation by a landlord to insure a building or for a leaseholder to obtain the landlord's consent before subletting.

Deed of Variation

A document which supplements an existing lease putting into effect a variation to that lease. An example could be a variation allowing a leaseholder to sublet their property where previously it had been prohibited.

Deferment

In the context of freehold purchase or lease extension, deferment refers to compensation which is payable to the landlord for future losses resulting from the sale or extension, such as the loss of ground rent.

Development Value

A factor taken into account for assessing freehold purchase of flats and houses. It refers to the value of any potential development leaseholder(s) can do following acquisition of the freehold. For example leaseholders acquiring the freehold of a building may be able to unlock value by converting the property back into a single house.

Directions

Directions are issued by a court or a tribunal to parties in a case. They may relate to the exchange of information and the general conduct of the case itself.

Dispensation

A party may apply to a court or a tribunal to avoid serving a notice under a legal procedure. If they succeed, the court or tribunal issues a dispensation from serving that notice.

An example could be a tribunal allowing a group of leaseholders to acquire the right to manage without serving a claim notice on the landlord because the landlord is absent.

Another example is a landlord applying to a tribunal to dispense with the need to serve a consultation notice in relation to major works where the works are urgent and the leaseholders will not be significantly prejudiced (e.g. the leaseholders can demonstrate to the tribunal that they would have made observations on estimates had they been properly consulted).

Enfranchisement

The purchase of a freehold interest in a house where the leaseholder of the house may buy the freehold. Can also be a building containing flats, where leaseholders get together to exercise a right to buy the freehold.

Estate management scheme (EMS)

An EMS is a scheme that regulates the use or appearance of a property that is within a specified area. An EMS allows the landlord to retain some management control over properties, amenities and common areas, where the freehold has been sold to the leaseholders. These schemes were either made under Section 19 of the Leasehold Reform Act 1967, or under Chapter 4 or Section 93 of the Leasehold Reform, Housing and Urban Development Act 1993.

To find out if your property is part of an EMS you should contact the First-tier Tribunal (Property Chamber).

First-Tier Tribunal

These are applications, appeals and references relating to disputes over property and land.

Residential property disputes can include:

- Rent increases for 'fair' or 'market' rates
- Leasehold disputes
- Leasehold enfranchisement
- Disputes about park homes
- Improvement notices and prohibition orders where your notice is under the Housing Act 2004
- Disputes about license's for houses in multiple occupation
- The right to buy your council home being refused because it's deemed suitable for elderly people

- Land registration matters may include:
- Disputes over a change to the land register
- applications to correct or cancel certain documents relating to registered land

- Agricultural land and drainage matters that we handle include:
- Disputes between agricultural tenants and landlords in relation to certain farming tenancies
- Applications in respect of certain drainage disputes between neighbor's.

- Applications from valuation officers to enter premises to carry out certain valuations.

The First-tier Tribunal (Property Chamber) has 5 regional offices throughout England that deal with settling of disputes in relation to leasehold property and the private rented sector. They deal with various matters including service charge disputes, lease variations and the determination of premiums for freehold purchase and lease extensions. This tribunal covers matters previously heard by the Leasehold Valuation Tribunal in England.

Fixed administration charge

An administration charge that is fixed by the lease. For example, a lease might expressly state how much a leaseholder is obliged to pay for a license to sublet. Most administration charges specified in leases tend to be variable.

Forfeiture

Forfeiture means the lease can be terminated and the property reverts to the freeholder. This could arise if the leaseholder breaches the terms of the lease.

An example could be a failure by a leaseholder to maintain their flat. The law restricts the use of forfeiture even where the lease has been breached; however, if you find yourself in this situation you should seek legal advice. If an alleged breach is not admitted or agreed by the leaseholder the landlord will have to apply to the First-tier Tribunal or a court for a determination of the breach before they can start any forfeiture action.

Freehold

The ultimate title in property. By being the owner of a freehold you own the building, and the land it stands on, outright and forever.

Freeholder

Owens the freehold of a property which can include a building and other property or land.

In a block of flats, for example, the freeholder would own the land and the actual building. A leaseholder will own a flat within that property on a lease for a fixed length of time, but the freeholder will own the property outright. The freeholder is usually responsible for the repair and maintenance of the exterior and common parts of the building. At the end of the lease, the flat ownership reverts to the freeholder.

A freeholder is also commonly referred to as the landlord.

Ground Rent

A payment made by the leaseholder to the freeholder under the terms of a lease.

Grounds for Appeal

Relates to matters and issues that are being relied on by a party in order to achieve a specific outcome. This could be, for example, appealing a First-tier Tribunal decision. These cases can be appealed to an Upper Tribunal (Lands Chamber). One possible ground of appeal here could be where it is believed the Tribunal wrongly interpreted or wrongly applied the relevant law.

Headlease

This is usually a superior lease over a building. Out of this headlease, subleases are granted. The common scenario is a headlease over a building containing flats which in turn grants subleases to individual flats in a building.

Headleasee

The person/entity that holds a headlease.

Hope Value

The value that can be attached to potential benefits leaseholders will gain when they buy the freehold from their freeholder. For example, when leaseholders buy the freehold they may gain a benefit where a leaseholder who did not participate in the purchase pays the new freeholder money for a lease extension.

Initial Notice

A notice given to a freeholder by leaseholders of flats in a building informing the freeholder they are acquiring the freehold in accordance with the 1993 Leasehold Reform Housing and Urban Development Act. This notice is given in accordance with Section 13 of the 1993 Act.

Insurance

It is common for the lease to require the whole building or a part of the building to be insured against risks such as fire, lightning, subsidence and even terrorism. Building insurance is usually but not always the responsibility of the landlord although the lease will usually require the leaseholder to pay a share of the cost.

Landlord

The party who grants the lease. There may be layers of landlords. For example the freeholder (who owns the building forever) may grant a lease of the whole building to a leaseholder who may then grant further subleases of the individual flats.

Lease Extension Premium

The sum of money that the leaseholder pays in exchange for a longer lease.

Lease Extension

A residential lease is granted for a specific term. At the expiration of this term, the property reverts to the landlord. Once a lease has been granted, the term immediately begins to get shorter. If you wish to sell a leasehold property, you may need to extend the lease in order to maintain its value.

Lease Variation

If all the parties to a lease are unhappy with the terms of the lease, they can agree to vary them. Alternatively, only one of the parties to a lease can seek a variation under Part IV of the Landlord and Tenant Act 1987 by application to the First-tier Tribunal (Property Chamber).

Lease

The legal document that allows the holder to occupy a property for a specific period of time. It contains the terms of the contractual arrangement, such as what landlord costs can be recharged to leaseholders via a service charge, or any restrictions on the leaseholder's ability to sublet or make alterations.

Legal Costs

Reference to costs incurred by parties to legal proceedings. Courts and tribunals have powers to award costs for and/or against a party to proceedings.

Long Leasehold

A lease that was originally granted for a term of more than 21 years.

Marriage Value

The increase in the total value of a leasehold property following a lease extension or collective enfranchisement.

Managing Agent

Sometimes the landlord or the residents' management company carries out the management of the property direct; alternatively, a managing agent may be appointed to manage and maintain the building on behalf of the landlord, in accordance with the terms of the lease, current relevant legislation and codes of practice.

The agent takes instruction from the landlord, not the leaseholders, but should be aware of the leaseholders' wishes and requirements. The agent will receive a fee for day to day management which will usually be paid by leaseholders as part of the service charges. It is good and common practice for it to be a fixed fee per annum. Where major works are involved, the agent may charge an additional fee, which will normally be a percentage of the total cost of such works.

Mediation

A way of resolving disputes through effective communication and compromise. Mediation involves a third party acting as a go-between to ensure the parties are able to communicate with one another.

Nominated Insurer

A lease may require a leaseholder to insure the building or part of the building. Sometimes, and in particular with leasehold houses, the leaseholder may be obliged to insure with an insurer approved or nominated by the landlord.

Notice of Claim

A notice claiming a legal right granted by legislation such as the right to a new longer lease under s.42 of the Leasehold Reform Housing and Urban Development Act 1993, the right to manage under s.79 of the Commonhold and Leasehold Reform Act 2002 and the right to purchase the freehold of a leasehold house under the Leasehold Reform Act 1967.

Order of Appointment

Where the leaseholders of a block of flats have applied to the First-tier Tribunal (Property Chamber) in England or the Leasehold Valuation Tribunal in Wales for a manager to be appointed under Part II of the Landlord and Tenant Act 1987, the Tribunal can, if satisfied that the necessary grounds have been made out, and where it is just and convenient to do so in the circumstances, make an order appointing a manager.

Participation Agreement

Used to record the terms on which a leaseholder joins a Collective Enfranchisement or Right of First Refusal claim. For example, it will usually set out how much each leaseholder is liable to contribute to the purchase price.

Preliminary Notice

Before making an application to the First-tier Tribunal (Property Chamber) for the appointment of a manager or an acquisition order under the Landlord and Tenant Act 1987, a leaseholder may be obliged to serve a preliminary notice on the landlord setting out the landlord's failures and giving them a reasonable time to remedy them.

Recognised Tenants Association (RTA)

A tenants' association is a group of tenants (normally leaseholders) who hold houses or flats on leases/tenancies from the same landlord on similar terms. A Recognised Tenants' Association is one where the members have come together to represent their common interests so that the association can act on the tenants' behalf, and which has been recognised for the purposes of section 29 of the Landlord and Tenant Act 1985. An association is recognised either by notice in writing from the landlord to the secretary of the association, or by application to a First-tier Tribunal (Property Chamber).

Regulation

A procedural rule that is introduced to give effect to a piece of law enacted by the government.

Relativity

The relative value of a property held on an existing long lease compared to its freehold value. For example, Property A has 65 years remaining and based on the available evidence has a relative value of 80% (£86,400) when compared to its freehold value (£108,000).

In order to work out the marriage value payable during a lease extension or collective enfranchisement, it is necessary to consider the value of the remaining years on the lease (its un-extended value).

Rent Demand

Any demand for rent payable under a lease. For ground rent, the demand must be in a prescribed form.

Report on Title

When a solicitor acts for someone buying a property, they will report on the status of the property to the buyer and, if applicable, to the buyer's mortgage lender.

Reserve Fund

A sum of money collected from leaseholders as part of their service charge contribution to meet expenditure on the building in future accounting years. This will often be set up to cover the future cost of major repairs, e.g. a new roof.

Right of First Refusal

A right whereby, in certain situations, the freehold of the building must be offered to the leaseholders before it can be disposed of to a third party.

Right to Buy

A right granted to tenants in local authority owned property to buy a lease of their flat or the freehold of their house.

Right to Manage (RTM)

A collective right which leaseholders in a building containing flats have the right to exercise, allowing them to take over management of their building.

The company that must be set up by the leaseholders when making a claim for the Right to Manage. It must be a company limited by guarantee and incorporate the prescribed RTM Model Articles of Association.

Section 146 Notice

A section 146 notice of the Law and Property Act 1925 is served by a landlord who wishes to commence forfeiture proceedings against a leaseholder following a breach of a lease. This notice must

- specify the breach complained of,
- importantly if the breach is capable of remedy, require the leaseholder to remedy the breach, and
- in any case, require the leaseholder to make compensation in money for the breach.

The leaseholder is afforded a reasonable time to remedy the breach if it is capable of remedy following service of the section 146 notice.

Court proceedings cannot be commenced unless the leaseholder fails, within a reasonable time, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money for the breach, to the satisfaction of the landlord.

Service Charge

A contribution payable by a leaseholder typically to a landlord, for a share of the cost of insuring, maintaining, repairing, and cleaning, etc. of the building.

Share of the Freehold

This essentially means that you will have a lease over your flat as well as a share in the freehold of the whole building. This may be a share in a company that owns the freehold. Alternatively, the freehold may be held by up to 4 individuals. It is important to understand the responsibilities involved in having a share in the freehold which may include liability with others to repair and maintain the exterior of the building and the common parts.

Shared Ownership

A hybrid between renting and owning property. A shared ownership leaseholder buys less than 100% of the equity in a property and pays rent on the rest. It is usually possible for the leaseholder to staircase their ownership to 100% by buying additional shares.

Sinking Fund

Often used interchangeably with the term reserve fund, the term sinking fund was originally used specifically to refer to money collected to cover the cost of future large individual items of expenditure such as a new roof, or replacement lift.

Summary of Rights

A prescribed document that must accompany a service charge demand and that sets out a leaseholder's rights and obligations in respect of service charges generally.

Tenant

A term that can be used to describe both people that own and people who rent their property but which is more often applied to people who rent.

Term

The period of time for which a lease is granted. Long leases are frequently granted for a term of 99 years or more.

Third party

A lease is usually made between two parties: a landlord and a tenant. However, it is also common for there to be a third party to the lease, such as a management company.

Tribunal

A body with the authority to determine legal disputes in a specific area of law. In a leasehold context, this will be the First-tier Tribunal (Property Chamber) in England and the Leasehold Valuation Tribunal in Wales.

Appeals are made from both to the Upper Tribunal (Lands Chamber).

Uncommitted Service Charges

Once a Right to Manage company has attained the Right to Manage, the manager of the building has a duty to hand over to it the uncommitted service charges, meaning money that has been collected but not yet spent on the building.

Upper Tribunal (Lands Chamber)

The tribunal that, in addition to other matters, hears appeals from the First-tier Tribunal (Property Chamber). Decisions of the Upper Tribunal are binding on the First-tier Tribunal.

Variable Administration Charge

An administration charge is variable when the amount of the charge is not fixed in the lease.

Waiver

In a landlord and tenant context, waiver has to do with a landlord's ability to forfeit the lease for a breach of covenant by the leaseholder. A landlord can inadvertently waive, or relinquish, his right to forfeit on certain breaches by continuing to treat the lease as still being in force by, for example, demanding further ground rent or service charges with knowledge of the breach.