



## Leasehold Enfranchisement Guidance

Lease Extensions  
New Leases  
Rights of First Refusal

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### An explanation of some words used in this guidance

- Tenant means the leaseholder.
- Landlord means the freeholder or someone who is entitled to receive ground rent from the tenant.
- Enfranchisement means the exercise of the tenant's right to acquire the freehold.
- Nominee means the person or persons appointed by the Qualifying Tenants to acquire the freehold of their block of flats on their behalf. The Nominee Purchaser may also be a company which has been set up by the tenants to fulfil the same purpose.

***This guidance document is also available in Welsh. Please contact the tribunal for a Welsh version of this document.***

## Part 1 - Introduction

### What does this guidance cover?

This guidance is designed to explain the procedures which will be followed in dealing with applications to the Leasehold Valuation Tribunal (LVT), including those under:

1. The Leasehold Reform Act 1967 to determine:
  - the price to be paid by the tenant for the acquisition of the freehold of his/her house, and if required, the terms to be contained in the conveyance;
  - the ground rent to be paid by the tenant for a 50 year extension to the lease of his/her house, and if required, the terms to be contained in that lease;
  - the amount of the landlord's reasonable costs incurred in dealing with an application to acquire a freehold or extend a lease.
  
2. The Leasehold Reform Housing and Urban Development Act 1993 (as amended) to determine:
  - the price to be paid by the Nominee Purchaser, on behalf of the qualifying tenants, to acquire collectively the freehold of their block of flats;
  - any amounts due to the landlord by any tenants under the terms of their leases or collateral agreements, at the time of the conveyance of the freehold to the Nominee Purchaser;
  - the premium to be paid by a tenant to acquire a new lease to run for 90 years beyond the expiry of the current lease, in substitution for the existing lease;
  - the amount of the landlord's reasonable costs incurred in dealing with an application to acquire a freehold or a new lease.
  
3. Part 1 of the Landlord and Tenant Act 1987 to determine various matters arising from the disposal of a landlord's interest in a block of flats where the qualifying tenants wish to exercise their right to first refusal.

### Language Preference

The LVT welcomes receiving correspondence in Welsh or English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding. The Tribunal also welcomes phone calls in Welsh or English.

You may submit forms, documents and make written representations to the LVT in Welsh or English.

### What is the Leasehold Valuation Tribunal?

The Leasehold Valuation Tribunal (LVT) is the formal name given to the group of people who are appointed to decide applications relating to freehold enfranchisement and lease

extension. The Leasehold Valuation Tribunal is independent of the parties to an application and cannot give legal advice.

### Who will deal with an application?

From the time an application is made to the LVT, a number of different people will deal with the paperwork involved and the parties. These include the following.

#### The Clerks

The clerks will deal with correspondence. When an application is made, it is the clerk who receives the paperwork and checks that there is sufficient information for the application to go forward. The clerks will continue to deal with the paperwork until the parties have received a final decision in the case. The clerks are able to speak to parties about the procedures relating to the application. They cannot give general legal advice or advice about the law relating to a particular application.

#### The Tribunal Members

The Chair of the Tribunal, who will usually be a lawyer, is responsible for the smooth running of the proceedings and will write up the reasons for the tribunal's decision.

Other members of a tribunal may be lawyers, surveyors, other professional persons or lay persons. Lawyers are appointed by the Lord Chancellor whilst other members are appointed by the Welsh Ministers.

When a tribunal is set up to consider an application there will usually be three, but occasionally two, members including the Chairperson. Sometimes a chairperson sitting alone will exercise the powers of the tribunal. This will usually be when dealing with procedural and related matters although, in limited instances, a chairperson sitting alone can hear and determine the application.

#### The President

The President, assisted by a Vice President, has overall responsibility for the work of the LVT and is particularly responsible for the members. The President decides which members should be appointed to hear and decide a particular case. They will not be involved in the decision in a case unless they sit as a member of the tribunal.

### Can the LVT make decisions about all aspects of disputes concerning freehold enfranchisement and lease extension?

No. The LVT has a limited jurisdiction and some applications, such as disputes over a tenant's entitlement to enfranchise, must be made to the County Court.

If you are in doubt as to whether the LVT can deal with your case you should take independent legal advice from a solicitor, a housing advisor, a Citizens Advice Bureau, or contact:

Leasehold Advisory Service (LEASE) Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX

Tel: 0207 832 2500

Fax: 0207 383 9849

Email: [info@lease-advice.org](mailto:info@lease-advice.org)

[www.LEASE-advice.org](http://www.LEASE-advice.org)

Does a party need to have professional representation?

No. The LVT is able to deal with unrepresented parties.

However a party should give careful consideration as to whether they would like someone else to speak for them, especially if the case is complex.

If a party decides that they need assistance they may wish to employ a lawyer or a surveyor.

How is an application made to the LVT?

Application forms are available from RPT.

All forms should be completed as fully as possible.

When completing the forms, applicants should ensure that any documents that are requested are included or a brief explanation given where they are unable to provide them.

Alternatively, an application may be made by letter, but all the relevant information and documents must be provided or the application may not be valid.

The LVT clerks can assist persons who are unsure which forms they need to complete.

Does an applicant have to pay a fee to make an application?

No. A fee is not payable for the types of application described in this booklet.

## **Part 2 - Making an application**

### What happens after an application form has been received by the LVT?

The application will be acknowledged within 14 days. If the applicant does not receive an acknowledgement within 14 days of sending it, they should contact the office to make sure that it has arrived.

Next, the application will be checked by a clerk to ensure that the applicant has supplied sufficient information to enable the application to proceed. If important information is missing, the clerk may write to request that the applicant send this to the office.

A copy of the application will be sent to any person named as a respondent on the application form.

### How will the LVT deal with the case?

The LVT can decide cases at a hearing, where applicants, respondents and their witnesses attend to give oral evidence and to explain their case in person.

Alternatively, if all the parties and the LVT agree, the case can be decided without a hearing and on the basis of a consideration of documents and written representations alone.

### What happens next?

When an application is complete, a Chairperson will look at the papers provided and will decide whether a Pre-Trial Review (PTR) is necessary or whether directions can be given immediately. (For an explanation of a Pre-Trial Review and directions see the following sections).

If a PTR is called it is recommended that parties attend.

If a PTR is not arranged and a party feels that they would benefit from a PTR hearing, they may write to the clerk and request one.

### **Part 3 - How the LVT will process an application**

#### What is a Pre-Trial Review (PTR)?

This is a short hearing to which all parties are invited to attend.

It is conducted by an LVT Chairperson, who may sit alone, or in some cases with either one or two other members.

The PTR is a relatively informal hearing to try and identify the issues in the case and to see if any part of the dispute can be resolved by agreement at that stage.

It is not a hearing of the issues and the LVT will not make any final decision on the case.

#### What happens at a PTR?

At the PTR the LVT will look at the application and the documents sent with it. All parties will be given an opportunity to speak. The purpose of the PTR is:

- to find out whether the parties are in agreement over some aspects of the case;
- to find out whether either party is able to make admissions about any part of the application. If any admissions are made, they will be recorded in writing for the LVT to use them at the hearing;
- to decide what further steps need to be taken to enable the application to come to a hearing;
- to decide if the application can conveniently be heard in conjunction with any others that deal with the same property/ issues;
- to set out the ground rules to enable the application to be heard in an efficient manner.

After the PTR the LVT will give directions setting out the steps to be taken by the parties to deal with the points mentioned above.

#### What are directions?

Directions are the orders made by the LVT which require the parties to take specified steps to ensure that all the necessary information about an application is provided.

The most common directions are to:

- indicate what information will be required by the LVT for the full hearing;
- provide a written statement of a party's case: this is a document which sets out what is in dispute and a summary of the arguments in support of that case;
- provide the other parties to the case with copies of documents which are relevant to the dispute;
- try to agree with the other parties which documents will be used at the hearing of the application and collate these into a bundle. If no agreement can be reached each party will be asked to produce their own bundle of documents. The pages on a bundle of documents should be numbered for ease of reference;
- include expert evidence in a report.

The directions will also set out a timetable for the full hearing of the application and often fix a time for the LVT to inspect the property.

Directions may be provisional.

#### What are provisional directions?

If a PTR is not held, a Chairperson may decide to make provisional directions.

These are directions which will not take effect for a specified time, usually fourteen days. Whilst the directions are provisional parties have an opportunity to comment on them and, if they wish, to request that different directions be given.

If provisional directions set a hearing date for a case and that date is not convenient to a party, they should notify the LVT office as soon as possible.

#### Will parties need an expert to help them with their case?

This depends on the type and complexity of the case.

Expert evidence is sometimes needed where the dispute involves very technical matters.

Expert valuation advice may well be advantageous to a party's case.

If expert evidence is to be called on a particular issue, the expert will be asked to produce a report which contains the gist of the evidence in advance of the hearing, in order that all of the parties and the LVT may consider the evidence.

#### How does the LVT set a timetable for the hearing of a case?

The LVT will give time limits for complying with the directions.

It is vital that the timetable is adhered to.

Any failure to comply with the directions may prejudice a party's case and, in particular, the LVT may give less weight to evidence which is late or which takes another party by surprise.

In directions, the LVT may also give a date for the final hearing of the case.

In order to set a date it is necessary for an estimate to be made of how long the final hearing is likely to last.

This process is assisted if parties are able to give an indication of how many witnesses they might be calling and how long their evidence is likely to last.

The LVT may also decide that an inspection of the property is necessary and, if so, will also include this in the directions.

#### Can the date of the final hearing be changed?

A hearing before the LVT should take priority over other engagements.

Once the date has been fixed and the parties notified, the LVT will not permit a postponement unless a very good reason has been shown. This is necessary in the interests of justice to all parties and to ensure the efficient use of resources generally.

If a party wishes to apply for a postponement they should send in a written request. They should send a copy of the request to all of the other parties to the application.

Parties will be notified in writing whether or not a postponement has been granted.

#### Are there any further hearings before the full hearing?

The LVT can arrange further PTR hearings. This can follow the request of one or more of the parties or because the LVT considers it necessary. In addition the LVT can arrange for a “preliminary hearing”.

#### What is a preliminary hearing?

In exceptional cases, the LVT may be concerned that they do not have the power to deal with all or some of the issues raised by the applicant.

In such a case, a preliminary hearing will be arranged, at which, the parties will be given the opportunity to make representations.

Following the preliminary hearing, the LVT will give a written decision on whether it has power to proceed and, if so, it will issue directions.

#### Can an application be withdrawn?

An applicant can withdraw all or part of their application if they no longer wish to proceed. In this case they should notify the LVT in writing and should copy their letter to all other parties.

#### What happens if the parties reach agreement?

If the parties reach agreement on all of the issues raised in the application and the case is settled, the applicant should notify the LVT in writing as soon as possible. They should also ask the other party to write to the LVT with confirmation that the case has been settled.

Where a case is settled in this way, the application file will be closed and it will not be necessary to attend a hearing.

#### What procedure does the LVT follow to determine cases on consideration of papers alone?

If no party requests a hearing and the LVT considers it to be appropriate, then the case can be determined on consideration of the documents alone without the need for a hearing.



Paper considerations will usually be suitable for simple cases. However, there is no reason in principle why they should not also be used for more complicated cases, in particular where, for example, the issues do not involve decisions on contested evidence.

Where it has been directed that a case can be determined on consideration of the papers alone, the parties will be asked to provide all of the documentation by a specified date. An LVT will then be asked to consider the case. In some circumstances further information may be requested.

Once the LVT has reached its determination, a decision will be sent to the parties and the rights of appeal set out in this guidance will apply to that decision.

#### **Part 4 – The hearing and the decision**

##### What happens at the full hearing?

The full hearing is when the issues are heard and decided.

The proceedings are orderly but informal.

Each party is given an adequate opportunity to explain their case. Usually the applicant will present the case first and the other party will follow afterwards.

The LVT will include a Chairperson and one or two other members. At least one member of the LVT will be a surveyor who is an expert in matters of valuation.

The LVT will be careful to make sure that both parties have a fair hearing and put the points they want to make.

The LVT is not there to make either party's case for them.

##### Will a party be allowed to ask questions at the hearing?

Yes. After each party has presented their case, the other party will be able to ask questions about the points made. The LVT members may also ask questions. After all the parties have given their evidence and answered any questions, they will be invited to summarise their cases.

##### What happens when the tribunal carries out an inspection?

The LVT may want to inspect the property to familiarise itself with it.

The directions often will tell the parties at approximately what time. Usually, the inspection is held on the morning of the hearing. In some cases, the LVT will arrange for an inspection during or at the end of the hearing.

The parties are entitled to attend the inspection and to draw the attention of the LVT to any physical aspect of the property that they wish them to see, but not to make any representations; those must be kept for the hearing.

Any internal inspection of the property will only be carried out with the consent of the occupier.

When will parties know the LVT's decision?

Occasionally an LVT will let the parties know the decision at the end of the hearing. Usually, however, the LVT will issue a document containing their decision and the reasons for it after the hearing and usually within six weeks.

Can the LVT order one party to pay the other party's costs?

No. Save in exceptional, limited, circumstances each party has to pay its own costs of the LVT proceedings. Those circumstances are where:

- a) an application has been dismissed on ground that it is frivolous or vexatious or otherwise an abuse of process;
- or
- b) a party has in the opinion of the LVT acted frivolously, vexatiously, abusively or disruptively or otherwise unreasonably in connection with the proceedings.

Furthermore, even in such a case the LVT may not award an amount in excess of £500.

There are specific rules which allow a landlord to recover some of the costs involved in preparing for enfranchisement. Parties can ask the LVT to decide how much those costs should be, where there is a dispute or uncertainty over the amount of such costs.

If a party is unhappy with the LVT's decision, how do they appeal?

Any party can appeal an LVT decision to the Upper Tribunal (Lands Chamber).

Permission to appeal must be given by either the LVT concerned or the Upper Tribunal (Lands Chamber).

Any application for permission (leave) to appeal must first be made to the LVT within 21 days of the date the decision was sent to the parties, although the LVT has power to extend that time, in exceptional cases, if a request for an extension is made within that time.

The application should set out the grounds for appeal.

The Upper Tribunal (Lands Chamber) will not accept any application for permission to appeal unless permission has first been refused by the LVT.

Following a refusal of permission by the LVT, parties have 14 days to seek permission from the Upper Tribunal (Lands Chamber).

See further guidance on appeal process.

Are LVT tribunal decisions publicly available?

All decisions made by Residential Property Tribunals/LVT's are open to the public. Any request to withhold a decision or personal details contained within that decision must be made in writing to the Residential Property Tribunal. The request should set out the reasons for wanting the decision withheld.

All requests will be considered on a case by case basis.

### Does the Human Rights Act 1998 apply to tribunal proceedings?

Yes. Parties to an application are entitled to the benefit of the provisions of the Human Rights Act 1998.

In effect, this entitles them to have their case determined in accordance with the European Convention on Human Rights.

Of particular relevance is Article 6 of the Convention which provides that parties have the right to a fair hearing within a reasonable time and before an impartial tribunal. This includes their right to put their case and to question the case brought by the other party and to be given reasons for the decision of the tribunal.

Also relevant is Article 8, which provides that everyone has the right to respect for their private life, their home and their correspondence and that any internal inspection of the property will only be undertaken with the consent of the owner or occupier.

In making their decisions, tribunals are obliged to have regard to the rights embodied in the Convention and where possible to interpret legislation consistently with those rights.

### Assistance to Parties

In this instance the term "participant" means an applicant, party, witness or other person taking part in proceedings relating to an application or an order of the tribunal is addressed.

To enable participants to effectively participate in the proceedings assistance will be provided (free of charge) if, for example, they are:

- unable to read or speak or understand the English language or the Welsh language;
- unable to read English or Welsh as a consequence of being temporarily or permanently blind or partially sighted;
- able to speak in English or Welsh, but is unable to read or write in English or Welsh;
- without hearing or speech.

The requirement for a tribunal to provide a participant with the services of a person to read, write, or explain the nature and content of documents does not include a requirement for a tribunal to give any legal advice, but includes a requirement to explain the procedural steps in the proceedings.

A participant is entitled to assistance whether or not the participant is represented by someone else.

A participant requiring assistance but not receiving it must at the earliest opportunity notify the requirement for assistance to the tribunal.

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Disclaimer

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