

How do I extend a freehold lease in the UK?

With very few exceptions, leaseholders of flats are eligible to extend their lease by 90 years at zero ground rent, once they have owned a property for two years. The process is governed by statute, so it's essential for leaseholders to get specialist legal and valuation advice.

The process.

There are strict legal procedures and timetables for lease extension. In simple terms, the process is:

- the leaseholder gives the landlord a *notice of claim*, stating an amount they are willing to pay for the new lease
- the landlord must respond within two months with a *counter-notice* stating whether the claim is accepted and the amount they are willing to accept for the new lease
- the parties are then free to negotiate the terms of the new lease, including a mutually acceptable price
- if a settlement can't be reached, either party may apply for the matter to be determined by a tribunal
- once the terms and price of the new lease are agreed (or determined by the tribunal) the parties have two months in which to complete. This deadline may be extended by a further two months, dependent on payment of interest and other conditions.

Timescale.

It's impossible for the process to be closed in less than four months from service of the notice of claim. It very often takes nine to fifteen months, depending on the complexity of the case, the negotiations, and whether or not the matter has to be determined by a tribunal.

The premium is calculated as though the transaction had happened on the date of the notice of claim, but is not actually paid to the landlord until completion of the new lease. Delays, therefore, are not in the landlord's favour.

Costs.

Legislation allows the landlord to recover a 'reasonable' proportion of his legal and valuation fees from the leaseholder.

The transaction constitutes the 'acquisition of an interest in property' and is therefore subject to Stamp Duty Land Tax at the appropriate rate, payable by the leaseholder.

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The valuation.

the price the leaseholder pays is compensation for this. The leaseholder also has to pay 50% of the *marriage value* (see below).

The landlord's interest.

The landlord's interest comprises two main parts:

The ground rent. The ground rent under the proposed lease is £nil. If the landlord has been receiving rent under the present lease they will have suffered a loss. The higher the ground rent and the longer the term of the lease, the greater the compensation figure the leaseholder will be liable for.

The reversion. When a lease expires, the property reverts to the landlord. The effect of granting the proposed lease is to delay the landlord's reversion by a further 90 years. With a fairly complex formula for assessing the compensation payable by the leaseholder, it is strongly advised to take professional advice on this.

Marriage value.

Marriage value assesses incremental value accruing to the leaseholder as a result of the landlord's co-operation. It is a legal requirement to pass 50% of this value to the landlord. As a broad guide, the marriage value payable is highest when a lease has 30-40 years to run and/or in cases where the lease has a high ground rent. None will be payable where the existing term exceeds 80 years, regardless of the level of ground rent.

Middleton advice.

This is a complex area, but with significant potential benefits for the leaseholder.

Thanks:

Timothy J Martin MRICS, Partner,
Marr-Johnson & Stevens.