



Enfranchisement Guide



A guide to enfranchisements

Dear Resident

Thank you for enquiring about a enfranchisement, also known as 'buying the freehold'.

There are two main types of enfranchisement, enfranchisement of a house and collective enfranchisement.

- Enfranchisement of a house usually takes around 6-12 weeks to process. This period begins once our solicitors are appointed and an undertaking for the fees has been agreed,
- Collective enfranchisement is complex in nature and can take around 12-18 weeks to process. This period begins once our solicitors are appointed and an undertaking for the fees has been agreed,

Unfortunately, if you are in arrears, we would be unable to commence the process until any outstanding balance has been cleared.

Please note that you will need to instruct solicitors to start this process, as this is a legal process involving the the transfer of an interest in land.

Warm Regards
Meghan Rank
Homeownership Manager

Enfranchisement of a house

The Leasehold Reform Act 1967 gave long leaseholders of houses the right to buy their freehold ('enfranchisement').

To qualify for enfranchisement under the Leasehold Reform Act 1967, there are certain conditions that must be met depending on the type of house and statutory definition.

For a leaseholder to qualify for enfranchise, they must

- have a long lease; or
- have the lease of the whole house
- own 100% of the property (in the case of shared owners) if your lease includes a clause which allows the freehold to be transferred once a leaseholder owns the remaining share in the property- you do not qualify.

For the property to qualify, the house must be a building which is reasonably considered a house, divided vertically from any adjoining house. It does not matter if the building has been divided into flats as long as you have the lease of the whole house.

It is important to always get independent legal advice.

Pages 4- 10 is a step by step guide on how to begin the process of enfranchisement of a house.

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Step 1- Appoint a Solicitor

The first step is to appoint a solicitor to distinguish if you are able to apply for enfranchisement. There are certain criteria that needs to apply to qualify.

The process can involve complex legal procedures, and the correct notice needs to be served to the landlord. It is vital that you use a specialist solicitor and surveyor to ensure the process is completed correctly.

Conveyancing also covers the legal work involved in transferring ownership of a property from the seller to the buyer. It includes checking the documents confirming ownership, Land Registry and local authority searches, and preparing the contract for the sale.

Once you have appointed a solicitor, they should contact Hastoe via solicitorequiries@Hastoe.com. This email is for solicitor use only and no resident enquiries will be responded to.

2a

Step 2- Valuation

You now need to obtain a valuation from a RICS Surveyor. Until we have received the valuation, we are not able to assist you.

It is your responsibility to arrange and pay for a valuation. This must be done by an accredited RICS surveyor.

The surveyor/valuer will help you with the following:

- whether you have the right to buy the freehold and, if so, which valuation method would be used;
- carrying out the valuation;
- advising you on the possible purchase price, based on experience and preparing of 'best and worst case' valuations;

Recommendations

While we cannot recommend any company specifically, Hastoe have worked previously with McDowells on lease extensions. We are not affiliated with them and cannot guarantee any level of service. Their details can be found below.

Email : Valuers@mcdowalls.com

Phone: 0208 472 4422

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2b

Step 2- Valuation

Due to The Leasehold Reform Act 1967 being amended and extended over the years, the rules for calculating the premium/price are complicated.

Not all surveyors specialise in this kind of work, and you should make careful enquiries relating to the practice's experience of the leasehold law before asking them to act for you. You can contact the Royal Institution of Chartered Surveyors for advice on local practices.

Your appointed surveyor will be able to guide you. More information can be found here: <https://www.lease-advice.org/advice-guide/leasehold-houses-valuation/>

Valuations are only valid for 6 months. Where valuations expire- the homeowner is responsible for getting an extension.

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Step 3- Serve Notice

Once you have appointed a solicitor and got a valuation, the next step is to serve notice to the freeholder applying for enfranchisement.

You can start the process by serving a “Tenants Notice” on the freeholder. The service of this notice creates a contract between both sides to grant and accept the freehold transfer. Your landlord then has two months to formally respond with counter-terms.

The notice should include the following:

- Details of the Property
- Statement of Qualification
- Lease Details
- The Price Proposed
- The Proposed Terms
- Landlord's Response Date
- Signature
- Details of Other Landlords (if applicable)

Regulations

The procedure for buying the freehold is set out in the 1967 act and in the Enfranchisement Regulations. A link to this can be found here:

<https://www.legislation.gov.uk/uksi/1967/1879/made>

4a

Step 4 - Agree a premium

1. Once Hastoe has received the notice, we have have
 - A period of 21 days from the giving of the Initial Notice in which to request the information. Where this information is required it must be provided within 21 days.
 - A minimum period of 2 months should be given to the freeholder to issue a counter notice. The date should be specified within the notice.

2. Hastoe must serve a Counter-Notice which will either
 - agree to your right to the freehold and accept your terms (or propose alternative terms); or
 - not agree to your right and give reasons why not.
 - or neither admit nor deny entitlement, but state that an application is to be made to court for an order that the right to enfranchise cannot be exercised.

3. If the Counter-Notice disputes qualification to enfranchise, the purchaser must apply to the First Tier Tribunal, within two months of Counter-Notice.

4. After service of the Counter-Notice, if terms cannot be agreed, either party may apply to the Tribunal. This must be done at least two months from, but within six months of, the date of service of the Counter-Notice.

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Step 4 - Agree a premium

Once a premium has been agreed, Hastoe will refer the case to its solicitors to process. They will work closely with the buyers solicitors to complete the conveyancing process before completion.

Please note:

- The legal costs of both sides of using a solicitor or conveyancer are payable by the leaseholder.
- The leaseholder can withdraw from the right if the valuation is not agreeable and must do so within one month of the price being set but will not be able to apply again for 12 months. The leaseholder is still liable for the freeholder's costs and may be liable to pay compensation to the freeholder.
- In limited circumstances, Hastoe may reject a claim to enfranchisement. We will communicate this fully with you, outlining our reasons.
- There are exclusions whereby the leaseholder does not have the right to enfranchise.

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Step 5 - Completion

- Once all the paper work is in order, our solicitors will provide a completion date to your solicitors.
- On the completion date, all fees need to be settled.
- Once the matter has gone through completion, your solicitors will provide the documents to the land registry.
- Please note estate-based service charges may remain payable for communal spaces retained under the ownership of Hastoe.

Delays

- Please be advised that during busy periods, completion may take longer.
- Hastoe are not responsible for any expired valuation due to delays
- Hastoe are not responsible for any delays due to lease breaches, additional queries, missing information or non compliance.
- Where the purchasers solicitors fail to respond to queries within 3 weeks, we will assume the enfranchisement has been abandoned and close the file. All fees will still be due and payable.

Fees

As part of the enfranchisement process, you will incur some fees- these are over and above the premium payable.

As the homeowner/applicant you are responsible for paying (not limited to):

- 1.The valuation (survey)
- 2.Hastoe's administration fees
- 3.Hastoe legal fees
- 4.Premium for the freehold
- 5.Your own legal fees

It is important to note that if you choose to no longer pursue an enfranchisement once our solicitors have been appointed- you will still be liable for some or all of the fees.

Hastoe fees, our solicitors fees as well as the agreed premium are taken on completion. Your solicitor will have to agree to an undertaking of the fees as part of the process.

Fees

Hastoe Fees	Hastoe Solicitor Fees	Valuation Fees
£385	£870	Company dependent and paid directly to the appointed company

Fees are subject to change and do not include 3rd party fees such as the Land Registry.

Where it is a complex case, fees may increase.

If the process is aborted midway- all fees are still due and payable.

Collective enfranchisement

Collective enfranchisement is a legal right in the UK for qualifying leaseholders in a block of flats to join together and buy the building's freehold from the landlord, allowing them to own their property outright and gain control over management, some services, and ground rent. It's governed by the Leasehold Reform, Housing and Urban Development Act 1993 and requires specific conditions to qualify.

The process is quite complex and the correct notice needs to be served properly on the landlord, so it is advisable to use a specialist solicitor and surveyor when undertaking this process.

A summary of the basic process is as follows:

1. Appointing a solicitor
2. Checking Eligibility (of the building, the tenants etc)
3. Organising for Enfranchisement
4. Choosing the Nominee Purchaser
5. Assessing the Purchase Price
6. Serving the Initial Notice
7. Counter Notice

This should not be confused with another process called Right to Manage (RTM)

1

Step 1- Appoint a Solicitor

The first step is to appoint a solicitor to distinguish if you are able to apply for collective enfranchisement. There are certain criteria that needs to apply.

Conveyancing also covers the legal work involved in transferring ownership of a property from the seller to the buyers. It includes checking the documents confirming ownership, Land Registry and local authority searches, and preparing the contract for the sale.

Once you have appointed a solicitor, they should contact Hastoe via solicitorequiries@Hastoe.com. This email is for solicitor use only and no resident enquiries will be responded to.

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Step 2- Checking eligibility

Once you have appointed a solicitor, first 'official' step is check if you are eligible.

1. To qualify the building must:-

- Contain at least two flats
- At least two-thirds of the flats must be owned by qualifying leaseholder. (A qualifying leaseholder is essentially a leaseholder who has a lease that was in excess of 21 years when first granted.

2. If more than 25% of the internal floor area of the building, excluding any common parts, is neither used or intended to be used for residential purposes then the building will not qualify. This could be shops, offices etc.

3. If the building qualifies, you will then need to establish that there are enough qualifying leaseholders for a successful action. The minimum number of participating leaseholders must equal half the total number of flats in the building; for example, if there are 10 flats in the building, at least five of the flats owned by qualifying leaseholders must participate in the action. It should be noted that where there are only two flats in the building, both flats of qualifying leaseholders must participate.

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Exclusions

1. You will not be considered a qualifying leaseholder if

- the landlord is a charitable housing trust and the flat is provided as part of the charity's functions;
- the leaseholder owns more than two flats in the building. This is either jointly with others or solely in their own name. Please note where this applies these flats will be discounted from the two-thirds;
- They have a business or commercial lease.

2. There is no right of collective enfranchisement where:-

- the building is a conversion into four or fewer flats and
- not a purpose-built block; and
- the same person has owned the freehold since before the conversion of the building into flats; and
- he or an adult member of his family has lived there for the past 12 months.

3. Some properties are completely excluded from collective enfranchisement:

- buildings within a cathedral precinct;
- National Trust properties;
- The freehold includes any track of an operational railway, including a bridge or tunnel or retaining wall to a railway track;
- Crown properties although the Crown is not bound by the legislation.

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Step 3- Participation Agreement

Where sufficient numbers are prepared to proceed, on the basis of whatever outline costs can be estimated, it is strongly recommended that all participating leaseholders enter into a formal participation agreement amongst themselves to govern joint actions prior to and during the collective enfranchisement procedures. These can include rights of voting, the negotiation and agreement of terms and the individual leaseholder financial contributions.

This is particularly important for large blocks where difficulties or delays in reaching decisions could endanger the application. It can also be useful to record in an agreement what will happen after the freehold is acquired.

In small blocks, or where amounts involved are small, it may be possible to dispense with the agreement by everyone paying their share up-front. With a structure in place, leaseholders will be able to agree the means and finance to move to the next stage.

Hastoe do not get involved in any discussions or disputes between qualifying leaseholders.

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Step 4- Select a Nominee Purchaser

The Nominee Purchaser is the person or company named in the Initial Notice, who will acquire the freehold and become the new landlord.

The Nominee Purchaser must be decided upon at an early stage, in that they conduct the later stages of the process and, on completion, will be responsible for the management of the building.

The Nominee Purchaser can be a person, one of the tenants, or a corporate person, a trust or, more probably, a company formed by the leaseholders for the purpose.

The most common format is a company wholly owned by the leaseholders and, if this is the vehicle chosen by the participating leaseholders, the company must be established prior to being put named in the Initial Notice.

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Step 5- Valuation

You now need to obtain a valuation from a RICS Surveyor/ valuer who will guide you on:

- Providing 'best and worst' valuation advice in order to inform the leaseholders of the possible outcome of the negotiations;
- Advising on the amount of the offer to be made in the Initial Notice;
- Negotiation and settlement of the price;
- Advice on structural and repair condition and implications for future maintenance costs/service charges;
- Advice on future management.

In considering the likely purchase price, the leaseholders' liability for the freeholder's costs should also be kept in mind. The eventual cost to each leaseholder will be the share, not only of the cost of the freehold but also of both the freeholder's reasonable legal and valuation costs and also the participating leaseholders' legal and valuation costs.

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Step 5- Valuation

Leaseholders should take all possible steps to ensure their chosen adviser(s) have full knowledge and experience of the legislation, practices and procedures.

For more information on valuations, please visit :

<https://www.lease-advice.org/advice-guide/collective-enfranchisement-valuation/>

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Step 6- Serving notice

1. Prior to the serving of the Initial Notice leaseholders will need to collect all necessary information to ensure that the Initial Notice is correct/valid and to respond to challenges from the landlord following service of the Initial Notice
2. The Initial Notice must be correctly served on the freeholder(s) and must include correct information on the interests of the participating leaseholders and any intervening interests.
3. By law, the initial notice must include the following.
 - details of the property to be acquired, including a plan. Without a plan, the notice can be declared invalid. This must include details of any additional land the leaseholders wish and have a right to acquire, e.g. garages, and any proposed rights of way over land not acquired;
 - a statement of the grounds on which it is claimed that the specified premises qualify for the right of collective enfranchisement on the relevant date (date of service of the Initial Notice);
 - details of any leasehold interests to be acquired, e.g. an intervening head lease, and any flats subject to mandatory leaseback to the freeholder;
 - the price proposed, including a price for any intermediate interests;

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Step 6- Serving notice

continued

- the full names and addresses of all the qualifying leaseholders in the property and sufficient details of their leases to show that they are long leaseholders. This will require details of the date the lease was entered into, the date of commencement and the term;
 - the name and address of the Nominee Purchaser;
 - the date by which the freeholder is to provide the Counter-Notice (at least two months after service of the Initial Notice is given).
 - The Notice must be signed by or on behalf of all the participating leaseholders. Leaseholders in England are no longer required to sign the Initial Notice personally.
4. The law provides a right for leaseholders to serve notices on the freeholder, the landlord (if different) or any other persons with an interest in the property, requiring details of that interest. You can therefore require from the landlord details of any other freeholders, any intermediate leases, including the name and address of the lessee and the terms of the lease.

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Step 6- Serving notice

continued

5. The Initial Notice triggers the statutory procedures for acquiring the freehold and the Nominee Purchaser is liable for the freeholder's reasonable costs as from the date they receive the Initial Notice. It is therefore important that the Initial Notice is complete and contains no inaccuracies or misdescriptions, because, although these may in some cases be corrected by application to the county court, it is an area of expense to be avoided. An incomplete Initial Notice can be rejected as invalid.
6. A protection for the enfranchising leaseholders is provided by the right to register the Initial Notice with the Land Registry.
7. The service of the Initial Notice also fixes the 'valuation date' as the same date that the Initial Notice is served.
8. Where an Initial Notice is withdrawn, or deemed to be withdrawn, a new Initial Notice cannot be served again for another 12 months, beginning with the date of the withdrawal.

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Step 7- Counter Notice

1. Once the freeholder has received the notice, they have
 - A period of 21 days from the giving of the Initial Notice in which to request the information. Where this information is required it must be provided within 21 days.
 - A minimum period of 2 months should be given to the freeholder to issue a counter notice. The date should be specified within the notice.

2. The landlord must serve their Counter-Notice which will either
 - agree to your right to the freehold and accept your terms (or propose alternative terms); or
 - not agree to your right and give reasons why not.
 - or neither admit nor deny entitlement, but state that an application is to be made to court for an order that the right to enfranchise cannot be exercised on the grounds the freeholder intends to redevelop the whole or a substantial part of the premises or specify any leaseback proposals

3. If the Counter-Notice disputes qualification to enfranchise, the Nominee Purchaser must apply to the court, within two months of Counter-Notice, for declaration that Initial Notice is valid.

4. After service of the Counter-Notice, if terms cannot be agreed, either party may apply to the Tribunal. This must be done at least two months from, but within six months of, the date of service of the Counter-Notice.

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Step 8 - Refer to solicitors

- Once the qualification, terms and valuation have been agreed between parties, Hastoe will refer the case to its solicitors for progression.
- Our solicitors will handle all matters pertaining to the enfranchisement up to and including completion. On the completion date, all fees need to be settled.
- Once the matter has gone through completion, your solicitors will provide the documents to the land registry.
- Please note estate-based service charges may remain payable for communal spaces retained under the ownership of Hastoe.

Delays

- Please be advised that during busy periods, completion may take longer.
- Hastoe are not responsible for any expired valuation due to delays
- Hastoe are not responsible for any delays due to lease breaches, additional queries, missing information or non compliance.
- Where the purchasers solicitors fail to respond to queries within 3 weeks, we will assume the enfranchisement has been abandoned and close the file. All fees will still be due and payable.

Fees

As part of the collective enfranchisement process, you will incur some fees- these are over and above the premium payable.

As the homeowners/applicant you are responsible for paying (not limited to):

- 1.The valuation (survey)
- 2.Hastoe's administration fees
- 3.Hastoe legal fees
- 4.Premium for the freehold
- 5.Your own legal fees

It is important to note that if you choose to no longer pursue an enfranchisement once our solicitors have been appointed- you will still be liable for some or all of the fees.

Hastoe fees, its solicitors fees as well as the premium are taken on completion. Your solicitor will have to agree to an undertaking of the fees as part of the process.

Fees

Hastoe Fees	Hastoe Solicitor Fees	Valuation Fees
£385 per unit -If aborted part way- fees still apply	£2700 (estimated)	Company dependent and paid directly to the appointed company

Fees are subject to change and do not include 3rd party fees such as the Land Registry or court costs.

Where it is a complex case, fees may increase.

Things to consider

Collective enfranchisement offers leaseholders the opportunity to gain more control, increase property value, and enjoy financial benefits. However, it is essential to carefully consider the potential drawbacks, such as financial obligations, complex decision-making, and the time and effort required.

Financial Considerations

- **Purchase Costs:** Collective enfranchisement involves costs such as valuation fees, legal expenses, and the premium payable to the freeholder. These costs can be significant and should be carefully evaluated.
- **Shared Financial Responsibility:** Leaseholders become responsible for the ongoing maintenance and repair costs of the building, which may increase depending on the condition and requirements of the property.

Complex Decision-Making

- **Collective Decision-Making:** Managing a building collectively requires effective communication and decision-making among leaseholders, which can sometimes lead to disagreements or delays in reaching a consensus.
- **Shared Responsibilities:** Leaseholders must actively participate in the management of the building, including the appointment of managing agents, budgeting, and resolving any disputes that may arise.

continued

Things to consider

Time and Effort

- The collective enfranchisement process can be time-consuming, involving various legal and administrative steps, including serving initial notices, negotiations, and potentially tribunal applications.
- Potential for Disputes: While control is a major benefit, collective ownership requires effective collaboration. Disagreements among leaseholders over management decisions, costs, or future development can lead to internal legal conflicts or applications to the First-tier Tribunal.

Post Acquisition Responsibilities

- Management of the building is a full time role that requires dedication and knowledge. You will be taking on full responsibility for the management, maintenance, and repair of the entire building and its common areas. This includes decisions regarding major works, appointing managing agents, and administering service charge accounts in compliance with existing lease covenants.
- The new freeholder company must comply with all relevant landlord and tenant legislation, including strict rules around consulting leaseholders on major works and managing service charges. Failure to do so can lead to legal challenges from non-participating tenants.
- Participants are collectively responsible for funding ongoing expenses, building-wide maintenance, and establishing reserve funds. Poor financial management can lead to disputes among the new freeholders and potential legal action

Hastoe
 Group