

Key information for shared owners

This note is intended as a brief guide for Leaseholders (i.e. shared owners) of the key provisions of the shared ownership lease.

All leaseholders should carefully consider the terms of this note and the attached lease and discuss any issues that arise with his or her solicitor before entering into the lease.

How does shared ownership work?

Under a shared ownership lease, the leaseholder buys a 'share' of the property and pays rent on the remaining share of the property (which remains in the ownership of the landlord).

The leaseholder can buy further shares in the property (at the market value of those shares at the time of purchase), until he or she owns 100%. Buying further shares is referred to as 'staircasing'.

As the leaseholder buys further shares, the rent will be reduced proportionately to reflect the fact that the landlord's interest in the property has reduced.

Standard lease obligations

Although initially the property is not owned outright, the leaseholder does have the normal responsibilities of a full owner. This means, for example, that the leaseholder will be obliged to pay 100% of the outgoings relating to the property and to keep the property in good and substantial repair and condition.

The lease also contains other 'standard' obligations on the leaseholder. For example, the leaseholder will:

if applicable, need to contribute towards the costs incurred by the landlord in providing services (sometimes known as service charges);

need to seek the landlord's consent before making certain alterations; and

comply with regulations relating to the management of the building or the estate of which the property forms part.

Rent review

The rent will be reviewed periodically at the times set out in the lease. Typically, the rent will be reviewed every year. The reviewed rent will be increased in line with any proportionate increases in the retail prices index (RPI).

The rent will be reviewed on an 'upwards only' basis. This means that the level of rent will not go down when it is reviewed. However, any increase in the rent will be capped at a figure representing the RPI increase plus 0.5%. This means that where the RPI is zero or negative the most the rent can increase by is 0.5%.

A worked example demonstrating how the rent is recalculated at review is set out in Appendix 2 of the lease.

Disposals of or dealings with the property

Subject to the landlord's Right of First Refusal, referred to in paragraph 5 below, the leaseholders ability to sell or otherwise dispose of or deal with the property can be summarised as follows:

Assignment or Transfer

If the leaseholder assigns or transfers the lease before he or she staircases to 100%, the consent of the landlord must be obtained. Such consent is not required once the leaseholder has staircased to 100%.

Sub-letting

The leaseholder is not permitted to sub-let or part with possession of the property in any other way until the leaseholder staircases to 100% ownership of the property.

Landlord's right of first refusal

With a view to ensuring that the property remains in the ownership of people in need of shared ownership units there are restrictions on the transfer, assignment and subletting of the Property. The restrictions apply from the date that the lease is granted up to the date that the leaseholder staircases to 100%.

If the leaseholder gives the landlord notice that he or she wishes to sell his or her interest in the lease, the landlord can require the leaseholder either to surrender (or hand back) the lease to the landlord or assign the lease to a person nominated by the landlord, in both cases the price will be no more than the market value of the leaseholder's share of the property).

The landlord's right of first refusal does not apply if the lease is transferred or assigned as a result of the divorce or death of the leaseholder. It also does not apply after the leaseholder has staircased to 100% ownership of the property.

Mortgagee protection provisions

Loans from banks and building societies to leaseholders would often require leaseholders to take out mortgage indemnity insurance or other forms of additional security which would increase the expense to the leaseholder of acquiring a shared ownership interest in the property. So with the aim of cutting down or avoiding such expense arising (so that mortgage indemnity insurance is not required and encouraging banks and building societies to lend the shared owners), the landlord agrees that if the leaseholder defaults the landlord will compensate the lender for some part of any loss incurred if the proceeds from the sale of the leaseholder's share of the property are insufficient. For this reason the leaseholder's lender will need to obtain the consent of the landlord to the terms of the leaseholder's mortgage.

If the landlord has to cover some of the mortgage debt in this way the leaseholder will become liable to pay the landlord back. In such cases the landlord will be able to pursue the leaseholder to recover its loss and may also enforce any other security guarantees or insurance that were originally granted to the lender.

To assist the landlord and the lender in operating these compensation provisions, by signing the lease the leaseholder authorises the landlord and the lender to exchange personal information relating to the leaseholder in relation to various matters, including the terms of the lease, details of any arrears and any loan secured against the property.

Important notice regarding payment of the rent and lease obligations

You need to be aware that if the leaseholder fails to pay the rent reserved by the lease and/or fails to observe and perform his or her obligations in the lease the landlord may be entitled to terminate the lease (subject to the landlord obtaining any necessary court order). If the lease is terminated the leaseholder will lose (and will not be entitled to any compensation for), any shares in the property which he or she had acquired.

Variations to the standard form lease

Paragraphs 1 to 7 above summarise the key terms of the standard form shared ownership lease issued by the Homes and Communities Agency.

The landlord summarises below the terms of the lease that materially depart from the standard form:

This guidance note does not form part of the lease and is not to be taken into account in the interpretation of any provision in the lease. It is important that the leaseholder gets legal advice before entering into the lease.