

Leasehold properties advice

The advice contained here is for both current and prospective owners of leasehold properties.

Before you buy a leasehold property, you need to pay particular attention to the terms of the lease. Other than in Scotland, most flats and maisonettes and a few other properties are leasehold.

Your legal advisers are responsible for checking the lease for you, but they do not normally see the property. The surveyor may note specific features that may have legal consequences. These matters will be set out in section I of your Report and you should give a copy of the report to your legal advisers immediately.

Unless it says otherwise, the surveyor will assume that all the terms of the lease which might have an effect on the value are standard and that only a small ground rent is payable.

The surveyor also assumes that:

- if there are more than six properties in the building, the property is managed either directly by the freeholder or by a professional managing agent;
- if there is more than one block in the development, the lease terms apply (except for upkeep of common roads, paths, grounds and services) only to the block the property is in;
- you have the right of access over all shared roads, corridors, stairways and so on, and the right to use shared grounds, parking areas and other facilities;
- all the leases are the same in all important respects if there is more than one leaseholder;
- there is no current dispute, claim or lawsuit relating to the lease;
- the lease has no particularly troublesome or unusual restrictions;
- the unexpired term of the lease is 85 years (that is, the lease has at least 85 years still to run); and
- the property is fully insured.

When calculating the reinstatement cost, the surveyor assumes that the property is insured under a satisfactory policy covering the whole building. (The 'reinstatement cost' is the cost of rebuilding an average home of the type and style inspected to its existing standard using modern materials and techniques and in line with current Building Regulations and other legal requirements.)

Your legal advisers should check the full details of any lease. You should also ask your legal advisers the following questions.

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- (a) Are the other flats occupied by owners or tenants?
- (b) Is there a management company or a managing agent (or both) correctly set up to deal with running and maintaining the block the property is in?
- (c) Who is the 'dutyholder' under the *Control of Asbestos Regulations 2012*? Your legal advisers should also get confirmation that an asbestos register and current management plan are in place, and confirmation of any associated costs that you may have to pay.
- (d) Is there a suitable maintenance and replacement fund, with suitable reserves, to deal with:
 - general cleaning;
 - maintaining and repairing the shared parts;
 - repairs to the main structure;
 - shared heating systems; and
 - repairing and maintaining lifts and so on?
- (e) How much is the ground rent?
- (f) How much was the last paid maintenance or service charge and what period did it cover?
- (g) Are the service charge accounts satisfactory and up to date?
- (h) Are there any existing or likely management problems or disputes, or any known repairs or programmed work still to be carried out, which would affect the level of the maintenance or service charge to be paid?
- (i) Are services regularly and satisfactorily maintained and are there satisfactory and current certificates for:
 - any lifts;
 - the fire escapes and fire alarms;
 - the security systems;
 - any shared water and heating systems; and
 - other shared facilities?
- (j) Is the liability for repairs clearly set out for repairs to the property, to the shared parts and the main structure?
- (k) Is the liability for repairs shared equally between leaseholders and is there a suitable process for settling any disputes which may arise in this area?
- (l) Is it the management company or each individual leaseholder who is responsible for the building insurance, and is there a block insurance policy?
- (m) Are there any unusual restrictions on the sale of the property?

If the property is a leasehold house, it is not likely to share responsibilities with other building owners, and so may not involve management companies, service charges and so on. You should ask your legal advisers to confirm this. You may also want them to investigate the possibility of buying the freehold (which might be complicated).
