

Leasehold Enfranchisement

Lease Extensions

New Leases

Rights of First Refusal

Guidance on procedure

4

Part One	
Introduction	02
Part Two	
Making an application	07
Part Three	
How the LVT will process your application	08
Part Four	
The hearing and the decision	14
Annex A	18
Annex B	19

Part 1

Introduction

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 Purchaser 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 fulfill the same purpose.

What will this guidance tell me?

This guidance is designed to tell you about 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 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;¹
 - 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.

¹ This is the position pending the introduction of that part of the Commonhold and Leasehold Reform Act 2002 which deals with the right to enfranchise.

This guidance does not tell you about the law which affects your case. For this you should refer to guidance issued by the Department for Communities and Local Government (DCLG) (previously the Office of the Deputy Prime Minister). Details of where you can obtain this guidance are included at Annex A to this booklet.

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.

LVTs are organised by Rent Assessment Panels, which collectively form the Residential Property Tribunal Service (RPTS). There are five Panels in England. Their addresses and telephone numbers can be found at Annex B to this booklet.

Who will deal with the 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 Case Officers

The case officers are the administrative staff who will deal with correspondence. On receipt of an application, it is the case officer who receives the paperwork and checks that there appears to be sufficient information for the application to go forward. The case officer will continue to deal with the paperwork until you have received a final decision in your case. The case officers are able to

speak to you about the processes and procedures relating to the application. They cannot give general legal advice or advise you about the law relating to the application. Each Rent Assessment Panel has a Regional Manager who is responsible for the work of the case officers. Their names are included at Annex B.

The Tribunal Members

There are two types of member:

1. **The Chairman:** He or she is appointed to be a Chairman by the Lord Chancellor. A Chairman will usually be a lawyer or a valuer (a surveyor who has expertise in valuation). The Chairman is responsible for the smooth running of the proceedings and will write the reasons for the tribunal's decision.
2. **Other members:** Other members are appointed by the Secretary of State for Communities and Local Government. Again, they may be lawyers or valuers or lay people. They will have particular expertise which will assist in reaching a decision in your case.

The Panel President

Each Panel has a President, who is assisted by one or more vice presidents, who has overall responsibility for the work of the Panel, and is particularly responsible for the members, deciding which members should be appointed to hear and decide a particular case. They will not be involved in the decision in your case unless they are a member of the tribunal dealing with the hearing. Their names are given at Annex B.

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 or contact the:

Leasehold Advisory Service (LEASE)

2nd Floor, 31 Worship Street, London EC2A 2DX

Tel: 020 7374 5380

0845 345 1993

www.LEASE-advice.org

or a Citizen's Advice Bureau

In London there is also a free legal advice service at the Legal Advice Centre at the College of Law, London WC1 (Tel: 020 7291 1230).

Do I need to have professional representation?

No. The LVT is able to deal with unrepresented parties. However you should give careful consideration as to whether you would like someone else to speak for you, especially if the case is complex. If you decide that you need assistance you may wish to employ a lawyer or a surveyor.

Part 2

Making an application

How is an application made to the LVT?

For your convenience, application forms are available from the Rent Assessment Panel offices. All forms should be completed as fully as possible. When completing the forms, please ensure that any documents that are requested are included or a brief explanation given where you are unable to provide them.

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

The LVT case officers can assist if you are unsure which forms you need to complete.

Do I 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 3

How the LVT will process an application

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

First, the application will be acknowledged. If the applicant does not receive an acknowledgement within 14 days of sending it, they should contact the Panel office to make sure that it has arrived. Next, the application will be checked by a case officer to ensure that the applicant has supplied sufficient information to enable the application to proceed. If important information is missing, the case officer may write to request that the applicant send this to the Panel office.

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 Chairman 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 you attend. If a PTR is not arranged and you feel that you would benefit from a PTR hearing, you may write to the case officer and request one.

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 Chairman, 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 Chairman 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 you have an opportunity to comment on them and, if you wish, to request that different directions be given. If provisional directions set a hearing date for your case and that date is not convenient, you should notify the LVT office as soon as possible.

Will I need an expert to help me with my case?

This depends on the type and complexity of the case.

Expert evidence is sometimes needed where the dispute involves 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 tribunal 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 you wish to apply for a postponement you should send in a written request. You should send a copy of the request to all of the other parties to the application. You 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?

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

What happens if I reach agreement with the other party?

If you reach agreement on all of the issues raised in the application and the case is settled, you should notify the LVT in writing as soon as possible. You 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 all the parties agree and the LVT considers it to be appropriate, then cases can be determined 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 Part 4 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. In panels outside London, arrangements will be made for the hearing to take place at a local venue. The proceedings are orderly but informal.

Each party is given an adequate opportunity to explain their case. Usually the applicant will present his/her case first and the other party will follow afterwards. The LVT will include a Chairman 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, however, to make either party's case for them.

Will I 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 I 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 its decision and the reasons for it after the hearing and normally 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.

There are specific rules which allow a landlord to recover some of the costs involved in preparing for enfranchisement. You 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 I am unhappy with the LVT's decision, how do I appeal?

Any party can appeal against an LVT's decision to the Lands Tribunal. Permission to appeal must be given by either the LVT concerned or the Lands Tribunal. Any application for permission (leave) to appeal must be made to the LVT within 21 days of the date the decision was issued to the parties, although the LVT has power to extend that time in exceptional cases. The application should set out the grounds for appeal. The Lands Tribunal will not accept any application for leave to appeal unless leave has first been refused by the LVT. Following a refusal of leave by the LVT, parties have 14 days to seek leave from the Lands Tribunal. The LVT cannot reconsider its own decision.

If I am unhappy with the administration of my case, to whom should I complain?

If you have a complaint about the work of the Panel you should write to the Panel President. If you are unhappy with his or her response you can write to the Senior President at the RPTS Corporate Unit, 3rd floor, 10 Alfred Place, London WC1E 7LR. You will receive an acknowledgement within 2 working days of receipt of your complaint. A full reply will follow within 14 working days, or you will be advised of any delay. You are entitled to ask your M.P. to ask the Parliamentary Ombudsman to investigate your complaint.

Does the Human Rights Act apply to the LVT's 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 LVT. Article 8 is also relevant. This provides that everyone has the right to respect for his private life, his home and his correspondence – so that, for instance, any internal inspection of the property will only be undertaken with the consent of the occupier. In making their decisions, LVTs are obliged to have regard to the rights embodied in the Convention and where possible to interpret legislation consistently with those rights.

Annex A

DCLG guidance

Further reading

Among the Government booklets available from the Department for Communities and Local Government (previously the Office of the Deputy Prime Minister), you may want to consult:

Applying to a Leasehold Valuation Tribunal (97 HC 200)

A full list of DCLG booklets and copies of each are available from:

DCLG Free Literature

PO Box No 236

Wetherby LS23 7NB

Tel: 0870 1226236

Fax: 0870 1226237

Text phone: 0870 1207405

E-mail: odpm@twoten.press.net

Annex B

Panel information

Northern RPTS

President: Martin Davey

Regional Managers: Marj Foster and Beatrice Whipp (job share)

1st Floor, 26 York Street

Manchester M1 4JB

Tel: 0845 1002614

0161 237 9491

Fax: 0161 237 3656

Midland Rent Assessment Panel

President: Simon Duffy

Regional Manager: Maureen McCabe

2nd Floor, East Wing, Ladywood House

45-46 Stephenson Street

Birmingham B2 4DH

Tel: 0845 1002615

0121 643 8336

Fax: 0121 643 7605

Eastern Rent Assessment Panel

President: Bruce Edgington

Regional Manager: Ann Oates

Great Eastern House, Tenison Road

Cambridge CB1 2TR

Tel: 0845 1002616

01223 505112

Fax: 01223 505116

London Rent Assessment Panel

President: Siobhan McGrath

Regional Manager: Donald Brown

2nd Floor

10 Alfred Place

London WC1E 7LR

Tel: 020 7446 7700

Fax: 020 7637 1250

Southern Rent Assessment Panel

President: Robert Long

Regional Manager: Terry Pinker

1st Floor, 1 Market Avenue

Chichester PO19 1JU

Tel: 0845 1002617

01243 779394

Fax: 01243 779389

Corporate Unit

Senior President: Siobhan McGrath

Chief Executive: Michael Ross

3rd Floor, 10 Alfred Place

London WC1E 7LR

Tel: 020 7446 7750

Fax: 020 7580 5684

RPTS national helpline: 0845 600 3178

RPTS website: www.rpts.gov.uk

Disclaimer

The contents of this publication are correct at the time of going to press. please refer to the RPTS website for the current version.

RPTS Booklets/Leaflets

Code	Description
LVTL	Are you a Landlord, Tenant or Lessee? Can the Leasehold Valuation Tribunal help you to resolve problems?
GNL/10	Are you a Landlord, Tenant or Leaseholder? Can the Residential Property Service Help you? It helps thousands every year.
LE/4	Leasehold Enfranchisement
LVTB/3	Leasehold Valuation Tribunal (LVT): Service Charges, Dispensation with Charge Consultation, Administration Charges, Variation of Leases, Right to Manage, Appointment of Manager, Landlord's choice of insurer, Forfeiture.
FR/1	Rent Assessment Committees: Fair Rents Guidance on procedure
MR/2	Rent Assessment Committees: Market Rents Guidance on procedure
TA/5	Tenants Associations
HHSRS/9	Housing Act 2004: Housing Health & Safety Rating System Application and Appeals relating to Improvement Notices, Prohibition Orders, Demolition Orders, Emergency Measures (Unfit Properties)
EDMO/8	Housing Act 2004: Applications and Appeals in Respect of Empty Dwelling Management Orders under the Housing Act 2004
UWS/6	Unhappy with our service? Here's what we'll do
EOP	Equal Opportunities Policy
AR	Annual Report
DW	Document Wallet
RTB/7	Residential Property Tribunals: Determinations by Residential Property Tribunals as to whether a dwelling-house is particularly suitable for occupation by elderly persons.
CP	Corporate Plan
RPTS	Property Matters: An introduction to RPTS. What to expect at a Rent Assessment Committee or Leasehold Valuation Tribunal (Video/DVD)
Order From	Yoro Edmond RPTS 10 Alfred Place London WC1E 7LR Tel: 020 7446 7757 Fax: 020 7580 5684 or 020 7637 1250 Email: yoro.edmond@odpm.gsi.gov.uk



**Residential Property
Tribunal Service**

10 Alfred Place
London
WC1E 7LR

Telephone: 020 7446 7700

Facsimile: 020 7580 5684

National Helpline

0845 600 3178

Website

www.rpts.gov.uk

© Crown copyright 2006

LE/4-09/06