Share of freehold and collective enfranchisement

What it means for leaseholders to own the freehold together, how it can happen, and the duties that come with it.

Some leaseholders own the freehold of their building together. This is often called a "share of freehold". It gives the most control over the building, and brings the most responsibility, so it is worth understanding before you pursue it.

How it happens

- **Voluntary sale.** The freeholder agrees to sell the freehold to the leaseholders, usually to a company they form for the purpose.
- **Collective enfranchisement.** Qualifying leaseholders can, under the Leasehold Reform, Housing and Urban Development Act 1993, require the freeholder to sell. There are qualifying conditions, such as the proportion of flats held on long leases and the number of leaseholders taking part. The reforms of recent years have changed some of these rules, so check the current position.
- **Inherited or developer arrangements.** Some buildings are set up from the start with the freehold held by a company owned by the leaseholders.

What changes

- The company becomes the landlord. It owns the building and is bound by the landlord's obligations in every lease.
- Leaseholders become members of the company, and usually its directors take the decisions.
- Ground rent and the freeholder's income, where any, stay within the building.
- Lease extensions can be granted by the company, on terms the members agree.

What does not change

You still pay service charge for repairs and services, and someone must still do the work. Owning the freehold does not remove the duty to maintain, insure and comply with the law. If anything, it puts these duties more squarely on the leaseholders.

What to weigh up

- **Price and costs.** Buying the freehold has a purchase price and professional fees, and where the right is used there may be costs payable to the landlord.

- **Participation.** All leaseholders will not want to take part, and the arrangements need agreement.
- **Governance.** A company needs directors, accounts, filings and meetings, and someone has to do the work.
- **Risk.** Directors carry legal duties and, in the case of owners, the building's liabilities.

> Take advice early. A solicitor experienced in enfranchisement should lead the legal process, and an accountant should check the company's structure and tax position.

Next steps

1. Confirm the lease position of each flat.
2. Ask the freeholder whether a voluntary sale is possible.
3. Take advice on the statutory route if the freeholder will not agree.
4. Plan how the building will be managed afterwards.

General information, not advice on your circumstances. Leasehold law is detailed and changes: check the current position and take advice before acting. Leasehold Clarity is provided by Leasehold Clarity Limited (company no. 16963931), with management and professional services from Murphy Thompson Moore LLP (LLP No. OC314041).