



Discretionary Freehold Purchase

This leaflet gives some information about buying the freehold of your building under Westminster's Discretionary Freehold Purchase scheme.

It is not a comprehensive guide and you must take professional advice if you decide to proceed.

Eligibility

To qualify for Discretionary Freehold Purchase:

- ◆ The building must be self-contained and have at least two flats in it.
- ◆ At least half the flats in the building must be sold.
- ◆ At least half the number of flats in the building must take part in the purchase.
- ◆ All the lessees must agree to the sale (even if they do not want to take part in the purchase).
- ◆ The majority of tenants must agree to the sale.
- ◆ No more than 25% of the building can be for non-residential use (for example, shops).
- ◆ If a lessee owns more than two flats in the building, they can't take part in the purchase.
- ◆ The Council must agree to the sale.

This is a discretionary scheme and it is unlikely that the Council will agree to sell the freehold if there are any factors which could complicate the sale.



You can't apply for Discretionary Freehold Purchase if you qualify for the statutory scheme. The main difference is that, under the statutory scheme, two thirds of the flats in the building must have been sold.

Potential advantages

These could include:

- ◆ the ability to organise works to the building yourselves
- ◆ the ability to extend your own leases at low cost
- ◆ possible lower service charges
- ◆ an increase in the saleability, and possibly the value, of your homes.

Responsibilities

Your responsibilities would include:

- ◆ managing the day-to-day running of the building
- ◆ organising general maintenance
- ◆ arranging for major works to be carried out
- ◆ collecting service charges
- ◆ insuring the building

Lessees

Lessees who bought their homes under the Right to Buy scheme

It is a condition of Right to Buy purchases that if you sell your home within the first few years of buying, you have to repay some or all of the discount to the Council. This will still be the case if the freehold is sold.

When you bought, you were given information about works that the Council intended to do over the next few years, and the likely cost of these works. The Council may be limited in what it can charge you, but you will not have any protection against works costs if the freehold is sold.



Rent to Mortgage lessees

Rent to Mortgage lessees are included when calculating the percentage of flats owned in the building.

They can take part in the purchase of the freehold, even if they have not made a final payment to the Council.

The outstanding percentage value of their flats will still be owed to the Council, and will have to be paid to the Council if, for example, they sell their homes.

The discount repayment rule still applies.

Shared ownership / flexible ownership lessees

If shared ownership lessees own 100% of their home:

- ◆ they are included when calculating the percentage of flats owned in the building
- ◆ they can take part in the purchase of the freehold.

If shared ownership lessees own less than 100% of their home:

- ◆ they are not included when calculating the percentage of flats owned in the building
- ◆ they can't take part in the purchase of the freehold
- ◆ the Council will take 999 year leasebacks on their flats
- ◆ the purchasing lessees will be responsible for the shared ownership lessees' costs.

Once they own 100%, they (or their assignees) can buy into the freehold at the open market value, at any time.

The discount repayment rule still applies.

Lessees who do not take part in the purchase

Any lessees who do not take part in the freehold purchase must agree to the sale, and sign a deed to release the Council from its obligations as landlord and freeholder.

The purchasing lessees will be responsible for the non-purchasing lessees' costs.



The non-purchasing lessees (or their assignees) can buy into the freehold at the open market value, at any time.

Lead lessee

You will need to choose one lessee to be the 'lead lessee' for your purchase. We will contact this person if we have any questions, and send all correspondence to them. They will contact us with any questions and keep all the other lessees informed.

Outstanding payments

Any outstanding ground rent, service charges, major works costs, or any other money owed to the Council by any lessee (not just purchasing lessees) must be paid on completion.

Tenants

Consultation

We will ask the tenants in your building for their views about the sale of the freehold.

The majority of tenants must agree to the sale, for example, if there are two tenants, both must agree. You cannot buy the freehold if the majority of tenants do not agree.

New tenants

If a tenant moves, the Council will re-let the flat to another tenant. You will not have any say in who the new tenant is.

Leasebacks

If you buy the freehold, you will not become the tenants' landlord.

The Council will take 999 year leasebacks on any tenanted flats in the building. The leases will be similar to your own.



Service charges on a leaseback flat

For each leaseback flat, you can charge the Council a percentage of the reasonable day-to-day running costs of the building. We will let you know the percentage for each flat.

You do not charge the Council ground rent.

You should send Leasehold Operations an estimated service charge bill in April and October each year, to cover the next six months. At the end of each financial year, you must produce a statement of actual expenditure.

The Council has the right to inspect accounts, receipts and supporting documents.

You must consult with the Council (and every lessee) before you let some long-term contracts, for example, managing agents, cleaning, insurance.

If you do not follow the correct consultation procedure, you will not be able to reclaim your full costs. The Leasehold Advisory Service (LEASE) leaflet, 'Section 20 consultation', gives detailed information about consultation. LEASE can be contacted on www.lease-advice.org or telephone 020 7374 5380.

Major works and leaseback flats

For each leaseback flat, you can charge the Council a percentage of major works costs. We will let you know the percentage for each flat.

You must consult with the Council (and every lessee) before you carry out major works.

You can't start works before you have followed the consultation procedure. If you do not follow the correct procedure, you will not be able to reclaim your full costs.

The LEASE leaflet, Section 20 consultation, gives detailed information about consultation.

Tenants who apply to buy their homes once the freehold is sold

Once a tenant has bought their home, they (or their assignees) can buy into the freehold at the open market value, at any time.



The sales process

The process may vary, but is generally:

Application	Send in the application form with a cheque for £100. The form must be signed by all the lessees who want to take part in the purchase. If several people own one flat, they must all sign the application form.
Eligibility and Consultation	We check whether the building and the lessees qualify. We ask the tenants, and any lessees who do not want to take part in the purchase, for their views.
Valuation/Offer	If enough people agree to the sale of the freehold, and the property seems to qualify, we arrange for the freehold to be valued, and send you an offer of sale.
Approval	The Council provide consent to the sale.
Solicitors	Our solicitor sends the paperwork to your solicitor. The lessees and their mortgage companies sign the documents.
Exchange of Contracts	You exchange contracts, pay a deposit, and a completion date is set.

Time limits

Once our solicitor has sent out the paperwork to your solicitor, you have three months to exchange contracts.

Costs

The valuation

The valuation is made up of:

◆ The freeholder's interest

This includes compensation for loss of ground rent and the fact that the properties will not revert back to the Council when the leases expire.



◆ **Marriage value**

Marriage value is the potential increase in the value of your flat when you have bought the freehold.

You do not pay marriage value if you have more than 80 years left on your lease.

◆ **The value of other elements**

For example, garages.

◆ **Hope / development value**

This is an amount to compensate the Council for any loss as a result of selling the freehold, for example, an extra room could be created in an attic.

You can't appeal against the valuation.

The LEASE leaflet 'Collective Enfranchisement – valuation' explains how freehold valuations are calculated. The leaflet refers to the rules of statutory freehold purchases, but the method of calculating the valuation is the same.

The Council's costs

You will have to pay the Council's costs for dealing with your application, whether the sale completes or not. Our costs will include our valuer's and our solicitor's fees.

Please send a cheque for £100 as your initial payment, made out to 'City of Westminster', with your application.

You will need to make more payments later as more costs are incurred, for example, when the freehold is valued.

Your costs

As well as paying the purchase price and our costs, your own costs may include surveyor's fees, legal fees, Land Registry fees, stamp duty land tax, the costs of any non-purchasing lessees and the cost of setting up a company.



Survey

We recommend that you have a survey done so that you are aware of the building's condition and any works that are needed, before you buy the freehold.

There may be asbestos in the common parts of the building. If you would like your local estate office to arrange for an asbestos survey to be carried out, please contact them direct. You will be charged for this.

Your solicitor

When you accept the offer of sale, you will need to give us your solicitor's details. One solicitor will act for all of you in your purchase.

Types of leases

Although most of our leases are similar, there are some variations, and each lease will need to be checked by your solicitor.

Management companies

If there are more than four flats taking part in the purchase, you will need to set up a management company. The management company will buy the freehold.

Each purchasing flat owns a share in the company and has one vote.

The company must allow for new shares to be allocated / assigned to new owners and allow for the recovery of expenses which are not covered by leases.

Your solicitor can help you with setting up the company.

There are obligations that come with setting up a company, for example, holding an annual general meeting, producing accounts. You will need to look into this in detail.

The Companies House website has information about setting up and running a company, www.companies-house.gov.uk.

Parking spaces / garages / store sheds

If you rent a parking space, garage or store shed from the Council, you will be able to continue to do so if you wish, but the cost will increase as you will no longer be a lessee of the Council.

If you move, you will not be able to pass on the parking space etc to the new lessee.



Insurance

You will need to arrange building insurance to start the day that you exchange contracts.

As it can take some time to arrange, please start looking for suitable insurance as soon as possible.

Initially, you should take out a policy for 12 months or less. The Council's interest will need to be noted on the policy.

Your solicitor will be required to provide proof of your insurance to our solicitor before completion.

Prior to completion

Once a completion date has been set you must stop paying service charges, as any outstanding charges will be added to the final amount you pay on the day of completion.

This means that you will be required to cancel any standing order arrangements that you may have with your bank or building society.

After completion

The purchasing lessees own the freehold and have the responsibilities that the Council had as landlord and freeholder before the sale took place. Each flat (where the lessees took part in the purchase) owns an equal share in the freehold.

Where the Council has taken leasebacks, the Council becomes your lessee. If any lessees did not take part in the purchase, they become your lessee.

All the obligations contained in the leases remain.

You will not be able to increase the number of storeys in the building, or to increase or decrease the number of flats in the building, or to use the building for anything other than as a residential property.

If you sell your flat, your share of the freehold passes to the new lessee.



Before you apply

Meet with / speak to all the other lessees:

- ◆ Make sure that enough people are committed to buying the freehold.
- ◆ If there are any lessees who don't want to take part, make sure that they agree to the other lessees buying the freehold.
- ◆ Discuss how you might manage the building.
- ◆ Agree a means of paying initial costs.
- ◆ Choose your lead lessee.

Speak to any tenants in the building. Make sure that enough of them agree to you buying the freehold.

Discretionary Freehold Purchase application

I / we would like to apply to buy the freehold of:

Signed	Name (printed)	Flat

Date

Our lead lessee's (the person to contact and send correspondence to) details are:

Name	Flat	Telephone no	Email address

I / we enclose a cheque for £100, made out to City of Westminster.