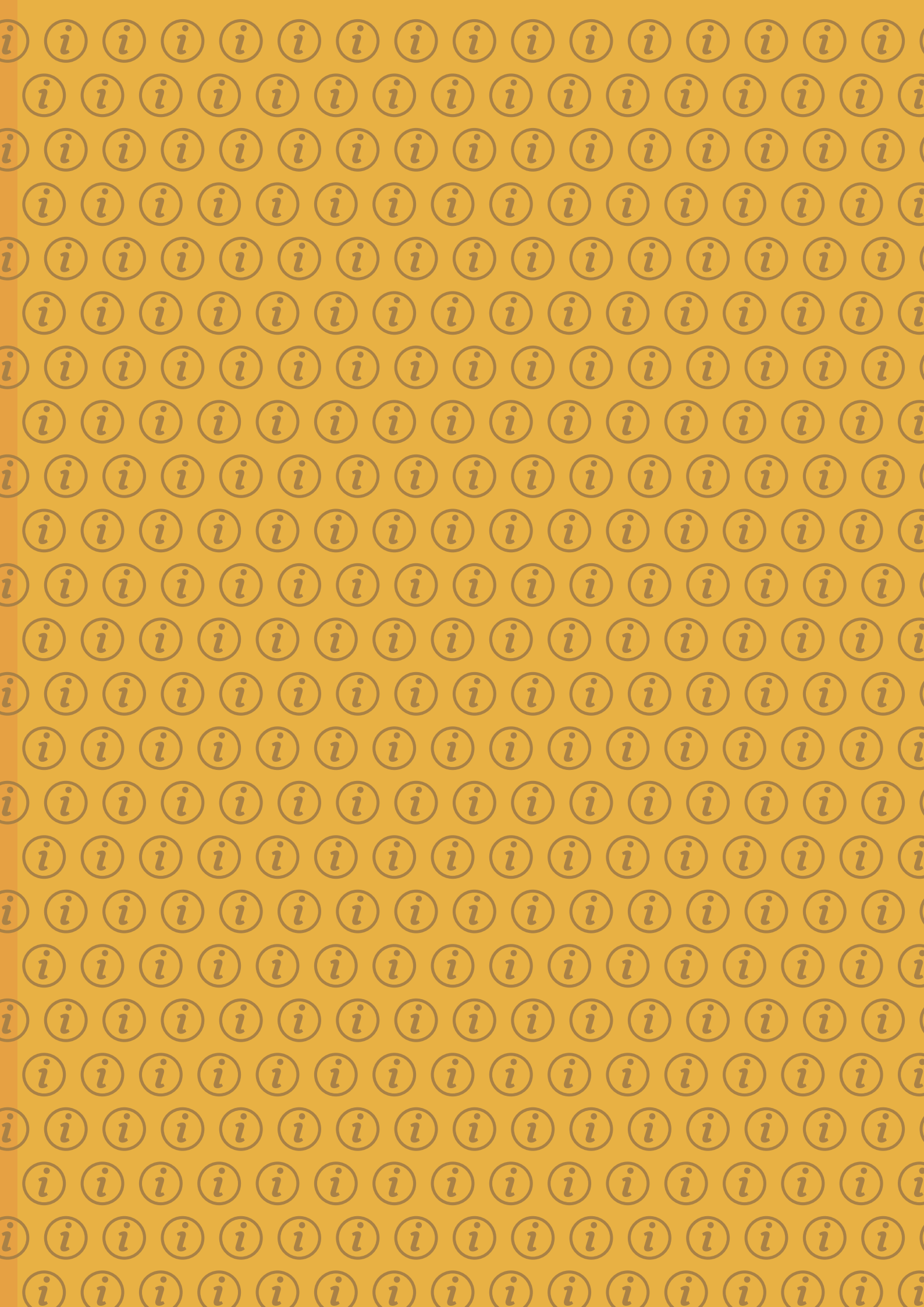


*We can help with*



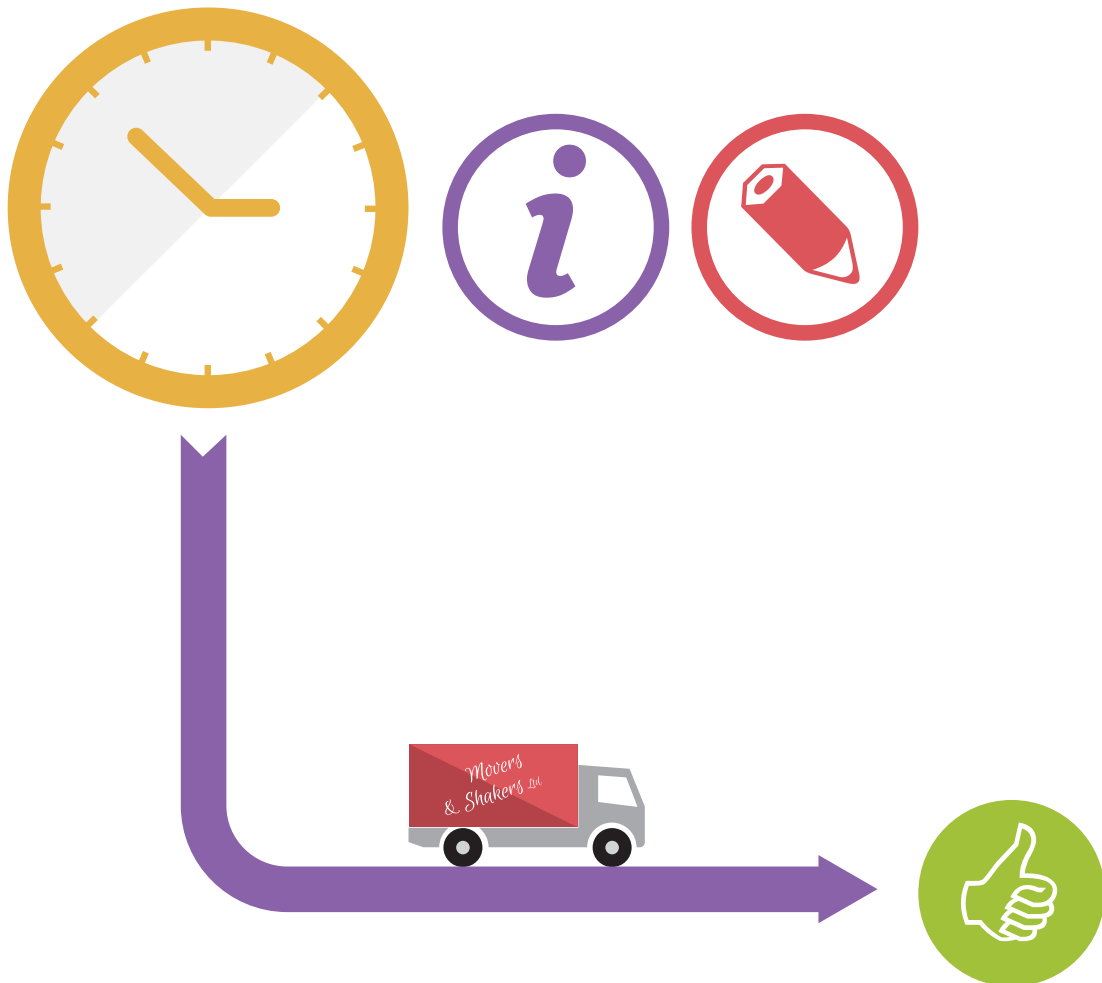
# LEASE EXTENSIONS





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## Introduction

Your lease will be a standard Homes and Communities Agency (formerly Housing Corporation) model Shared Ownership lease. These were first issued in the late seventies. Many of these leases would have been issued for a term of 99 years and the remaining term on your lease may have diminished significantly. This is known as being “short”. Many leaseholders will already be aware that when a lease becomes “short” its value reduces. There is of course no exact time when a lease is classed as “short” but generally it is thought to be that way when a lease falls below 80 years. A “short” lease may create difficulties for a leaseholder if they wish to sell or remortgage.



## Qualification for extending a lease

In order for a leaseholder to be able to claim the right to a leasehold extension, they must satisfy certain conditions:

- ◆ The existing lease must be for a term exceeding 21 years. There is no requirement that any particular period remains unexpired. A tenancy with a covenant providing for perpetual renewal is deemed a qualifying lease for these purposes.
- ◆ Leaseholders need to have owned the property for two years and any leaseholder who has owned it for less doesn't have an automatic right to extend.

### Important

A lease extension is a statutory right for 100%-owned flats, provided you meet the qualifying criteria stated within this guide. Please be aware that it is not a statutory right for a shared owner to have a lease extension granted (until their share is 100%), however Family Mosaic recognise the benefits of lease extensions for our leaseholders and offer an informal process where appropriate.



### IMPORTANT

#### *Please note*

This leaflet is intended as a brief guide to only some of the issues to be considered when extending a lease. It is essential in all cases that leaseholders seek their own specific advice since all circumstances are different and options other than extending the lease need to be considered in each case. These options are beyond the scope of this leaflet.

## My lease is short – what can I do?

A leaseholder who satisfies certain conditions has a “right” to be granted a new lease for an additional term of 90 years at a peppercorn rent. A Shared Ownership leaseholder can also have their lease extended, however they will continue to pay the rent on the unsold share in the same way as this is a fundamental clause of the lease.

There are two routes by which you can extend the lease and you must speak with your legal advisor for the best option for you before proceeding:

**Informal (For Outright and Shared Ownership Leaseholders)** – This is offered by Family Mosaic; it may be quicker and less costly in terms of legal fees. To proceed under this route you need to complete the informal procedure form and send this back to the Resident Sales Team at Family Mosaic so that we can instruct the valuer on your behalf.

**Formal (For Outright Leaseholders only)** – This is prescribed by law; to proceed by this route you will need to serve a statutory notice under section 42 of the Leasehold Reform Act 1993.

**This should be sent to the Resident Sales Team at Family Mosaic by email at: [resident.sales@familymosaic.co.uk](mailto:resident.sales@familymosaic.co.uk)** who will record this and forward you our solicitor’s details so that the formal process can commence.

Whether or not a leaseholder satisfies the conditions for the formal procedure does not prevent a leaseholder from trying to agree terms informally with their landlord.

There are advantages and disadvantages of proceeding informally or formally which will need to be discussed in all cases with your legal advisors.

## My lease is a Shared Ownership lease – does this make a difference?

Having a Shared Ownership lease will make a difference. In the case of Shared Ownership leases the amount of the premium payable to extend a lease will often mean that the better option for a leaseholder in these circumstances will be to buy a further share in the property or staircase out if possible, rather than extending the lease. In the event that extending the lease is chosen as the preferred option, rent under that Shared Ownership lease will continue to be payable for the share not purchased. Following final staircasing for a flat the issues of leases becoming short will of course remain.



## What costs are involved?

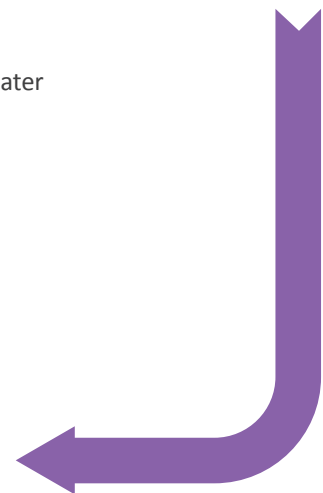
The up-front costs involved in a lease extension will depend on the lease you currently hold and the procedure you wish to follow (all figures are approximate based on a standard lease; if matters are particularly protracted further legal costs may be incurred):

### Informal procedure:

- ◆ Family Mosaic administration fee: £190 plus VAT
- ◆ Valuation fee: £300 – £375 plus VAT
- ◆ Family Mosaic solicitors costs for a standard lease extension: £450 – £550 plus VAT
- ◆ Family Mosaic solicitors costs for a property with a Head Lease: £700 – £950 plus VAT

### Formal procedure:

- ◆ Family Mosaic administration fee: £190 plus VAT
- ◆ Your lease extension valuation: This will depend on the valuer you appoint.
- ◆ Family Mosaic valuation fee: £300 – £625 plus VAT
- ◆ Deposit to Family Mosaic of £250 or 10% of the lease extension value, whichever is greater
- ◆ Family Mosaic solicitors for a standard lease extension: £450 – £550 plus VAT
- ◆ Family Mosaic solicitors costs for a property with a Head Lease: £700 – £950 plus VAT



## The informal or formal procedures

**The informal procedure** does not involve the service of any notices; in this case, matters are simply negotiated and agreed between the parties. The procedure is started by instructing Family Mosaic to carry out a lease extension valuation which you must pay for. This value is based on the full value of the property and not the share you own. On receipt of the valuation an offer is made to you. If you are happy with the offer you accept it and provide us with your legal advisor's details and we then instruct our solicitors to handle the transaction. If you are unhappy with the valuation and a value cannot be agreed then you would have to follow the formal procedure.

**The formal procedure** can often be more expensive to undertake. Its advantage is that once commenced, the leaseholder does have protection since a landlord simply cannot change their mind about going ahead or not and it enables a leaseholder to sell their property with the benefit of having the procedure in place. The formal procedure is started with service of a statutory notice by the qualifying tenant (leaseholder) under section 42 of the Leasehold Reform Act 1993 and the process then follows a prescribed route. It is essential to appreciate that you will only be able to serve such a notice after a considerable amount of preparation in advance. The leaseholder is liable for Family Mosaic's reasonable costs from the date the notice is served.

A notice which contains inaccuracies or misdescriptions can be corrected by application to the County Court but will delay proceedings. An incomplete notice can be rejected as invalid. The date the notice is served fixes the "valuation date". When it comes to determining the value of the new lease, this is the date where the values are effectively frozen – anything that happens subsequent to this date which increases or decreases the value of the lease will be ignored.

After serving notice, Family Mosaic via their solicitors are entitled by law to require evidence of the leaseholder's title to the flat and their period of ownership. This allows 21 days. Family Mosaic also have the right to inspect the flat for purposes of a valuation, subject to three days' notice. Family Mosaic are entitled at any time after receipt of the Tenants Notice to require the payment of a deposit. This will be either 10% of the premium proposed in the Tenants Notice or £250, whichever is greater.

Family Mosaic via their solicitors will then serve their Counter Notice by the date specified in the leaseholder's notice. This will be within two months of us receiving the Notice.

Within our Counter Notice we have the following options:

- ◆ Agree your right to the new lease and accept the terms;
- ◆ Agree your right to the new lease and propose new terms;
- ◆ Reject your right and give reasons, which will need to be determined by the county court; or
- ◆ Claim the right to redevelopment.

Family Mosaic may claim the right to redevelopment if we can prove to a court that we intend to demolish and redevelop the building. This only applies to applications where the remaining period of the lease is less than five years from the date when the Tenants Notice was served.

If Family Mosaic failed to serve a Counter Notice by the date specified in the Tenants Notice then the leaseholder may apply to the court for a vesting Order, which basically requests the court to grant the new lease as per your Tenants Notice.

After Family Mosaic have served the Counter Notice, if a price cannot be agreed there is a minimum statutory period for negotiation of two months but no more than six months. If the price cannot be agreed or some parts of the lease, then after two months of the Counter Notice being served either party can apply to the Leasehold Valuation Tribunal (LVT) for an independent determination on the issue. Once the LVT has determined the price, Family Mosaic have the right to appeal to the Lands Tribunal, but may only do so with the leave of the LVT.

Once a Tenants Notice has been served and registered, it may be assigned to the lease. Therefore, a leaseholder can serve the notice and then sell the flat with the additional benefit of the application.

If a leaseholder who has the right to a new lease dies before making an application, their personal representative may exercise the right for a period of up to two years following grant of probate or letters of administration.

Within 14 days of the LVT's final decision (taking into account any appeals lodged) Family Mosaic must provide a draft lease to the leaseholder. Both parties must agree and enter into the contract within two months.

From the date the Tenant Notice is served, the leaseholder is liable for all legal fees and disbursements reasonably incurred by Family Mosaic, whether or not the application is successful.



# Leaseholders should be mindful of the following when considering a lease extension:

## 1. Am eligible to serve a formal notice?

As you would expect there are a number of matters that you will need to consider with your legal advisors before the answer to this question is known. In general terms you cannot serve a notice unless you have been an owner for at least two years. If you are in a building where other leaseholders apply to buy the freehold this will suspend a formal application for a lease extension.

## 2. Instructing professional advisors.

As mentioned, it is vital to instruct advisors at the earliest possible stage. Your advisors will generally be a solicitor who will deal with the preparation of the notices, handling of the procedure and completion of the lease extension documentation, and a valuer (RICS qualified) so that you can obtain details of the cost of extending the lease.

## 3. Establishing the finance and assessing the cost

It is vital to be aware of the cost of extending your lease and how you will pay for it. If a tenant (leaseholder) is extending their lease under the formal procedure they are required to pay the legal and surveyor's fees of their landlord. However, if you are agreeing a lease extension informally with your landlord they will also usually only do so on the basis that you pay their administration, legal and surveyors fees. In addition to these costs you will have to pay a premium i.e. price for the extension. The premium will be based on the difference between market value of the new lease you are applying for and the value of your existing lease.

## 4. In general terms leases are cheaper to extend when the lease term exceeds 80 years.

(1) Marriage Value. It is generally accepted that a lease extension is more valuable to a leaseholder than a landlord. The increase in the leaseholder's value is greater than the decrease of the landlord's interest, it is this difference in values that is known as "marriage value". The longer the existing lease the lower the marriage value will be. (2) If the lease is less than 80 years at the time of a leaseholder's notice then the landlord is paid one half of the marriage value. If the lease is more than 80 years no marriage value is payable.

## 5. A lease extension does not change any of the fundamental clauses within a Shared Ownership lease which isn't fully staircased i.e. Rents

A lease extension is not deemed a variation of the lease for rent purposes, which means that the original fundamental clause in the lease in respect of rent remains unchanged.

## 6. Values

A lease extension may initially increase the value of the lease, which in turn may affect the price of any future shares the shared owner may wish to purchase. However it should be remembered that market values can both increase or decrease.





This leaflet refers to Family Mosaic's policies and procedures for lease extensions with guidance from our legal advisors and in accordance with Homes and Communities guidance. Leases held under Landmark Housing Association, London Teachers Housing Associations and New Islington and Hackney Housing Association would be included within this guide.





## For further information please contact:

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