

Share transfer properties: seven commonly asked questions

Buying an apartment can be a complex and daunting process. **Chrissie Thorne**, legal assistant from Viberts' property law team, runs through some of the questions her clients regularly ask about share transfers



WHAT exactly is a share transfer property? The most typical form of share transfer property is a flat within a block owned by a company. Technically speaking, you don't actually buy the flat, you buy shares in that company, which then gives you the exclusive right to occupy the flat.

Are there any restrictions I should be aware of?

Just as with buying any property, especially flats, there are likely to be things in the small print that you need to consider. For instance, some share transfer properties have age restrictions and only permit residents over a certain age – such as flats that are only for residents aged 55 or over.

There may also be restrictions on pets or whether children are allowed to live in the property. In situations such as these, the directors generally need to give prior consent on a case-by-case basis.

Are there additional charges I need to know about?

Companies often impose a monthly service charge, with all shareholders contributing to a central fund to pay for the property's expenses. This goes towards all the liabilities and expenses incurred by the company, along with maintenance costs, such as the cleaning of communal areas, and building insurance.

The monthly service charge may include a 'sinking fund' should there be any unexpected costs.

If you're buying a share transfer property, it's important to establish what the level of reserve is, especially if there hasn't been any recent building maintenance, so that there are no nasty shocks down the line.

Does the property require a fire certificate?

If the property isn't purpose built and is less than two-thirds owner occupied, it will need a fire certificate. If it doesn't currently have one, the company secretary will need to make an application to the fire service who will visit the property and issue a Notice of Requirements for works required.

These may include fire doors, sprinkler and/or alarm system, extinguishers and fire blankets. The share transfer company (indirectly the shareholders) will be liable for the costs involved. Once the works are complete, the fire service will revisit the property and, if all is in order, issue a fire certificate.

Who actually makes decisions about the running of the company/the property?

When you buy a share transfer flat, everyone who owns shares in the company that owns the property has a say on certain matters, and a democratic voting system will generally take place in shareholder or directors meetings on decisions concerning the property.

Do share transfer property purchases attract tax? Yes, they do. When you buy a share transfer property, you will have to pay Land Transaction Tax (LTT). The amount of LTT payable depends on the amount you are paying for your new property. LTT is the equivalent to Stamp Duty.

What happens before and after completion?

Share transfer purchases don't have to go through court, so they can be completed on any day of the week. The purchaser and the vendor will sign a Share Vending Agreement containing details of the property, the company, the purchase price and the shares being purchased. On the completion date, the purchaser's lawyer will transfer the consideration monies to the vendor's lawyer and, on receipt, keys will be released to the purchaser. Following completion, the company secretary will issue a new share certificate to the purchaser as proof of ownership of the shares and the purchaser's name will be included on the company registers.

Importantly, share transfer properties are deemed to be movable property in terms of your estate rather than immovable property and this can cause some potential unintended consequences.

If you would like any advice on your property purchase, please don't hesitate to get in touch with Chrissie Thorne on 632233 or email chrissie.thorne@viberts.com.

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