



A leaseholder's guide to

Your Right of First Refusal

Section 5 offer notices under the
Landlord and Tenant Act 1987

01 • AT A GLANCE

You have received an offer notice

Your landlord wants to sell the freehold or part of your building, and the law requires them to offer it to you first. That offer has arrived as a section 5 notice, and a clock has already started.

The right of first refusal is contained in Part I of the Landlord and Tenant Act 1987. Where it applies, a landlord cannot dispose of the freehold — or a head lease — without first offering it to the qualifying leaseholders on the same terms. Failing to do so is a criminal offence.

It is also, for many buildings, the cheapest and fastest opportunity to buy the freehold that will ever arise. The price is what the landlord is asking rather than a figure fixed by statutory valuation, and there is no marriage value to pay. The difficulty is the timetable.

THE DEADLINES THAT MATTER

2 months	the minimum period the notice must allow for the leaseholders to accept the offer
Over 50%	of the flats let to qualifying leaseholders must join in the acceptance notice
2 months	the further minimum period to nominate a purchaser — only 28 days on an auction sale
4 weeks	into the nomination period, after which withdrawing makes you liable for the landlord's costs
12 months	how long the landlord is then free to sell elsewhere if you do not accept
Criminal	failing to serve an offer notice is an offence, not merely a breach of duty

These are statutory minima. A notice may allow longer, and some of the later periods can be extended by agreement — but the deadline for accepting the offer cannot.

The best chance you may get

Leaseholders who receive a section 5 notice often treat it as junk mail from a landlord they have never met. It is the opposite: an opportunity that will not come round again for at least a year, and possibly never.

Cheaper than enfranchisement, and quicker

A collective enfranchisement claim under the 1993 Act requires a statutory valuation, a negotiation between surveyors, marriage value where leases are short, and often a Tribunal. A right of first refusal purchase requires none of that. The price is the price the landlord has stated, and if it is more than the building is worth you simply decline.

In practice a Part I purchase frequently completes in a fraction of the time, at a fraction of the professional cost, and at a price no higher than a Tribunal would have determined.

	Right of first refusal	Collective enfranchisement
What triggers it	The landlord choosing to sell	You, at a time of your choosing
The price	The landlord's stated price, or the hammer price	A statutory formula, with marriage value below 80 years
Who decides it	You accept or decline; nobody arbitrates	The Tribunal, if it is not agreed
If you miss it	The landlord may sell elsewhere for 12 months	Nothing is lost; you can claim again

The non-residential test is far more generous here. Part I applies where non-residential floor area does not exceed 50% of the building. For collective enfranchisement the limit is still 25%. A mixed-use building that cannot enfranchise today may nonetheless have a full right of first refusal — which makes an offer notice the only realistic route to the freehold for a great many blocks with shops beneath.

But the clock is unforgiving

Two months sounds generous until you try to canvass a building, agree who pays what, incorporate a company and take a view on price. Nothing obliges the landlord to extend the deadline, and if it passes they are free for twelve months to sell to whoever they like at no lower a price.

The commonest way this right is lost is not refusal. It is delay.

03 • WHICH NOTICE IS IT?

The five kinds of offer notice

Section 5 requires an offer notice. Which of the following sections it must comply with depends entirely on how the landlord proposes to sell. Check the section cited at the top of your notice before anything else.

Section	When it is used	Key periods
5A	A sale by contract — the ordinary case, at a stated price	2 months to accept, then at least 2 months to nominate
5B	A sale at public auction	2 months to accept, then at least 28 days to nominate, plus an election before the auction
5C	The grant of an option or a right of pre-emption	2 months to accept, then at least 2 months to nominate
5D	A transfer not preceded by a contract	2 months to accept, then at least 2 months to nominate
5E	Applies in addition, where the price is not wholly in money	As above, with an additional right to acquire on statutory terms

What the notice must tell you

Whichever section applies, the notice must identify the premises and the interest the landlord proposes to dispose of, state the principal terms including the consideration required, state that it constitutes an offer capable of acceptance by the requisite majority, and specify both the acceptance period and the nomination period. On an auction sale it must also deal with the auction date, and give the time, place and auctioneer either in the notice or in a further notice.

TWO THINGS TO CHECK IMMEDIATELY

That the notice actually complies with the section it cites. A notice that misstates the terms, gives too short a period or is served on the wrong people may be invalid — but you should never assume invalidity and let the deadline pass. Protect the position first and argue afterwards.

Where the landlord is selling interests in more than one building, the transaction must be severed and each building dealt with separately. A single notice covering a portfolio is defective.

The building, the tenants, the majority

Three questions, and they must all be answered before the acceptance deadline rather than after it.

Does the building qualify?

- It contains two or more flats held by qualifying tenants, and more than half of all the flats in it are held by qualifying tenants.
- The internal floor area in non-residential use does not exceed 50% of the whole, disregarding common parts.
- The landlord is not an exempt landlord — local authorities and housing associations are outside Part I — and is not a resident landlord of premises that were not purpose-built as flats.

Are you a qualifying tenant?

Most long leaseholders are. A tenant is a qualifying tenant unless the tenancy is a protected shorthold tenancy, a business tenancy, one that ends when employment ends, an assured tenancy, or a protected or statutory tenancy. Anyone holding three or more flats in the building is not a qualifying tenant of any of them.

THE MAJORITY IS NOT WHAT MOST PEOPLE ASSUME

The acceptance notice must be given by qualifying tenants holding more than 50% of the available votes — and the available votes are the flats let to qualifying tenants when the acceptance period expires, not every flat in the building.

So in a block of ten flats where two are let on assured tenancies, the votes are eight and you need five, not six. Getting this wrong in either direction is fatal: too few signatures and the acceptance is ineffective; a delay while you chase a signature you never needed can cost you the deadline.

Is it a relevant disposal?

Most sales of the freehold or a head lease are. A long list is excluded, however, including the grant of a tenancy of a single flat, a mortgage, a gift to a family member, a transfer to an associated company held for at least two years, a disposal under a will or on intestacy, and disposals under a court order or compulsory purchase.

A sale by contract

This is the ordinary case: the landlord states a price and the leaseholders have two months to take it or leave it.

01

Read it, diarise it, and take advice**DAY ONE**

Note the date the acceptance period ends and work backwards. Obtain the title, identify every flat and establish which are let to qualifying tenants, because that determines the majority you need.

Check whether the price is realistic. A valuer can give a view quickly, and there is no point mobilising a building for a price nobody will pay.

02

Canvass the building and serve the acceptance notice**WITHIN THE ACCEPTANCE PERIOD**

The acceptance notice is a formal notice under section 6 given by the requisite majority. A letter, an email or a telephone call will not do, and neither will a notice signed by too few leaseholders.

Once a valid acceptance notice is served the landlord may not dispose of the interest to anyone but your nominated purchaser. That is the point at which the building is protected.

03

Nominate a purchaser**AT LEAST A FURTHER 2 MONTHS**

The leaseholders nominate the person who will acquire the interest – almost always a company incorporated for the purpose, so that participation can follow the flats rather than four individual names.

The company should exist, with agreed articles, before the nomination notice is served. Leaving incorporation until this stage is the second most common cause of delay.

THE ACCEPTANCE NOTICE IS A FORMAL DOCUMENT

It must be a notice under section 6, given by qualifying tenants holding more than half the available votes, and served on the landlord at the address the notice gives, within the acceptance period. Correspondence expressing enthusiasm is not an acceptance notice.

Serve it early. If a signature turns out to be from someone who is not a qualifying tenant, or a flat has changed hands, you want time to correct the position rather than discovering the problem after the deadline.

From nomination to completion

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The landlord responds**1 MONTH FROM NOMINATION**

Within one month of the nomination notice the landlord must either withdraw or become obliged to proceed, and must send the nominated person a form of contract on the terms set out in the offer notice.

If the landlord fails to send it in time, the Act treats them as having withdrawn – which has consequences for them rather than for you.

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Exchange of contracts**2 MONTHS FROM THE CONTRACT BEING SENT**

The nominated person then has two months from the date the form of contract was sent, or longer if agreed with the landlord, either to offer an exchange or to withdraw. Missing that period is treated as a withdrawal, and the right is lost.

Where the transaction is straightforward the parties sometimes dispense with a contract and proceed directly to completion. That is a matter of agreement, not a right.

06

Completion**IN ACCORDANCE WITH THE CONTRACT**

The transfer is completed, the price and the landlord's recoverable costs are paid, and the title is registered in the name of the nominated purchaser – which then becomes the landlord of every flat in the building.

If the landlord changes their mind

A landlord who has become obliged to proceed cannot simply walk away without consequence. Certain failures – not sending the contract in time, or not completing an exchange the nominated person has offered – are treated by the Act as a withdrawal by the landlord, with costs consequences and restrictions on what they may do next. If your landlord goes quiet after nomination, take advice rather than assuming the claim has failed.

WHAT THE NEW COMPANY MUST DO STRAIGHT AWAY

Notify every leaseholder of the change of landlord and give an address for service – until that is done, ground rent and service charges are not lawfully payable. Then put the insurance in the company's name, issue the share certificates and diarise the Companies House dates. Our guide to owning your freehold covers what follows.

Section 5B: a sale at auction

Where the landlord intends to sell at public auction, the right works differently. You do not buy before the auction. You acquire the right to step into the successful bid afterwards.

The landlord's timetable

- The notice must be served not less than four months and not more than six months before the auction date.
- The acceptance period must end at least two months before the auction; the nomination period at least 28 days before it.
- If the notice does not state the time, place and auctioneer, a further notice giving those particulars must be served at least 28 days before the auction.

Yours

- **Accept**, by acceptance notice from the requisite majority within the period stated – at least two months.
- **Nominate**, within a period of at least 28 days after that.
- **Elect**, by notice served on the landlord not less than 28 days before the auction. Without this election the rest of the machinery does not engage.
- **Then step in**. If a contract is entered into at the auction, the landlord must send a copy to your nominated purchaser within seven days. Within 28 days of that copy being sent, the nominated purchaser accepts the terms and satisfies whatever the buyer had to satisfy – and the contract takes effect as though your company, not the winning bidder, had signed it.

WHY THE AUCTION ROUTE IS HARDER

The election notice is easy to miss and fatal to overlook. And you are agreeing to buy on auction terms at a price you will not know until the hammer falls, with 28 days to accept and a completion period that is short by any standard.

The funding therefore has to be arranged, and the money on the table, before the auction takes place. In practice that means the group must be fully committed and funded some weeks earlier than anyone expects.

What it costs, and what if you stop

There is no statutory price formula here, so the cost is the landlord's asking price plus your own professional fees — and, if you withdraw late, the landlord's.

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The price

Whatever the offer notice states, or the hammer price on an auction sale. It is not open to negotiation in the way an enfranchisement premium is, and it is not determined by a Tribunal. Your valuer's role is to tell you whether to accept it.

02

Your own professional fees

Your solicitor's fees, a valuation to test the price, and the cost of incorporating the company that will hold the freehold. All are ordinarily quoted at the outset.

03

The landlord's costs

You are not liable for these if you never accept, or if you withdraw before the end of the first four weeks of the nomination period. Withdraw after that and the landlord may recover the costs of the disposal incurred to that point.

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Contributions and the group

Liability for the landlord's costs after that four-week point is joint and several between the nominated purchaser and every leaseholder who signed the acceptance notice. A participation agreement and money held on account are not optional refinements.

If you do not accept

The landlord may sell elsewhere for twelve months. On a section 5A sale the price must be no lower than the notice stated and the other terms must correspond; on an auction sale it must still be sold at public auction on corresponding terms. If the landlord wants to sell for less, or on materially different terms, a fresh offer notice is required — so a decision not to accept is not always the end of the story.

THE FOUR-WEEK RULE IS THE REAL DECISION POINT

Up to the end of the first four weeks of the nomination period, the group can withdraw and owe the landlord nothing. After that, withdrawal exposes the nominated purchaser and every leaseholder who signed the acceptance notice to the landlord's costs of the disposal, on a joint and several basis.

So the four-week mark, and not the acceptance deadline, is the point by which the group must be genuinely committed and funded. Plan the canvassing and the money around that date.

Where the freehold was sold behind your back

Landlords fail to serve offer notices more often than they should, sometimes deliberately. The Act does not leave leaseholders without a remedy.

The right survives the sale

Where a relevant disposal has been made without an offer notice, the qualifying tenants may serve notice on the new owner requiring information about the disposal, and then a purchase notice requiring the interest to be transferred to their nominated purchaser on the same terms and at the same price the buyer paid.

That is a powerful remedy: it allows the leaseholders to acquire the freehold at the price a third party actually paid, which is frequently below what the landlord would have asked them for.

Strict time limits apply, and they begin to run from the moment you are told of the disposal or otherwise learn of it. If you have discovered that your building changed hands and you were never offered it, the position needs looking at now rather than when the next service charge demand arrives.

How leaseholders usually find out

- A service charge or ground rent demand arrives from a company nobody recognises.
- The managing agent changes without explanation, or stops responding.
- A leaseholder selling their flat is told by the buyer's solicitor that the freehold title shows a new proprietor.

What to do about it

- Obtain up-to-date official copies of the freehold title and establish the date of the transfer and the price paid.
- Take advice immediately on the time limits, which may already be running.
- Do not open a negotiation with the new owner before you know whether you have a right to require the transfer. It is a considerably stronger position than asking to buy.

And it is a criminal offence

Failure to comply with Part I without reasonable excuse is a criminal offence committed by the landlord, and by the officers of a corporate landlord. Prosecutions are rare, but the point has weight in correspondence – and it is a useful answer to a landlord who suggests the requirements are a technicality.

Two months is not long

Almost every failed right of first refusal fails for the same reason: the building could not organise itself quickly enough. What follows is what actually needs to happen, and in what order.

Week one

- Take advice on the notice and diarise the acceptance deadline. Obtain the title and the schedule of flats.
- Get a preliminary view on whether the price is worth paying. Everything else is wasted effort if it is not.

Weeks two to four

- Identify which flats are let to qualifying tenants, and therefore the majority you actually need.
- Write to every leaseholder with a single, clear explanation and a deadline of your own, well inside the statutory one.
- Agree in principle how the price and the costs will be divided, and how much each participant must put on account.

Weeks five to eight

- Settle and sign the participation agreement, and incorporate the company that will be nominated.
- Collect funds on account, including a contingency for the landlord's costs.
- Serve the acceptance notice with time to spare, not on the final day.

What tends to go wrong

- Waiting for unanimity when a majority is all the Act requires — and losing weeks persuading a leaseholder whose vote is not needed.
- Leaving incorporation of the nominee company until the nomination period has already started.
- Discovering at week seven that two flats are let on assured tenancies, and that the majority is different from the one you have been counting.
- Assuming the landlord will agree an extension. They are under no obligation to, and a landlord who would rather sell elsewhere has every reason to refuse.

THE REFORM POSITION

The right of first refusal was not substantially altered by the Leasehold and Freehold Reform Act 2024. The Law Commission has recommended reform of Part I, and the Government has said it intends to look at it, but nothing is in force and no timetable has been given. A notice on your doormat today is governed by the Act as it has stood since 1996.

Why instruct Arcadia Law

A right of first refusal is a race against a fixed deadline, run by a group of neighbours who have never done anything together before. That is as much a project management problem as a legal one.

Arcadia Law is a specialist leasehold practice. We act for leaseholder groups responding to offer notices and for landlords serving them, which means we know what a defective notice looks like and what a landlord will and will not concede.

How we work

- **We move at the speed the deadline requires.** The first conversation establishes whether the notice is valid, what majority you need and whether the price is worth having — usually within days of instruction.
- **We organise the group.** Canvassing letters, participation agreements, apportionment of the price, funds on account and the company that will be nominated, handled alongside the legal work.
- **Senior oversight throughout.** Every matter is supervised by a senior solicitor, with routine procedural work handled by our paralegal team so that costs stay proportionate.
- **Auction sales.** The section 5B timetable, the election notice and the funding that has to be in place before the hammer falls.
- **Where no notice was served.** Information notices, purchase notices and the recovery of a freehold that was sold without being offered to you.

ONE PIECE OF ADVICE ABOVE ALL OTHERS

Do not wait to see whether your neighbours are interested before taking advice. Establish first whether the notice is valid, what the price is worth and what majority you need — then canvass the building with answers rather than questions. Groups that consult a solicitor in the final fortnight are usually too late to be helped.



Arcadia Law is a member of the Association of Leasehold Enfranchisement Practitioners.

Where to start

If a notice has arrived, the useful thing to do today is to send it to us and tell us when it is dated.

01

Send us the notice

THE SAME DAY, IF YOU CAN

We will tell you which section it is served under, whether it appears valid, when the acceptance period ends and what majority you need to preserve the right.

02

We tell you whether it is worth taking

WITHIN A FEW DAYS

Whether the building qualifies, whether the price stands up, and what the purchase would involve. If the answer is that you should decline, we will say so.

03

We run it to the deadline

IMMEDIATELY AFTER THAT

Canvassing, the participation agreement, the company, the acceptance and nomination notices, and completion — with every statutory date diarised and explained.

SPEAK TO US

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This guide is provided for general information only and reflects our understanding of the law of England and Wales as at 25 July 2026. It is not legal advice and should not be relied upon as such. The right of first refusal operates to strict statutory time limits, and the application of the law depends on the facts of each building. If you have received an offer notice, take advice on your own position without delay.

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