

Selling or Transferring Your Leasehold Property

1. Who is this note relevant to?

This note is relevant if you own the lease of a National Trust property.

Many cottages and other buildings are owned by the Trust but have been leased to a tenant, for varying lengths of time and on various terms and conditions.



Most National Trust leases are for short periods, such as six months or a year, and these are likely to contain provisions stopping the tenant, who owns the lease, from transferring that lease to another person. If you own such a lease and you wish to either leave the property before the lease ends or transfer the lease to someone else then you should contact the Rural Surveyor at your Regional National Trust Office to discuss your particular circumstances.

Other National Trust leases are for longer periods of up to 99 years. Longer leases will usually contain provisions stopping the transfer of the lease to another person **without the National Trust's permission** – see the example below. If your lease contains such a provision then it is very important that you have applied for and obtained our permission **before** you sell the property. If you do not do this there could be some serious legal consequences. The rest of this note explains what you need to do, what we will do, how long the process will take and how much it will cost you.

Example clause:

“Not to assign underlet or part with the possession of part only of the demised premises nor, without obtaining the Trust's prior written consent (which shall not be unreasonably withheld), to assign underlet or part with the possession of the demised premises or any part thereof.”

2. Why is the Trust concerned about the identity of its tenant?

Tenants play a key role in helping us to look after our leased properties, many of which are of historic interest in their own right. They not only support our work financially through the rent they pay, which contributes to the income available for our conservation work, but are also actively involved in the care of these special places, acting as informal custodians on our behalf.

It is therefore important for us to know our tenants and sometimes, depending on the type of property, level of rent, and the type and length of the lease, to be able to influence the identity of our tenants.

3. What should I do if I want to sell my leasehold property?

The first thing to do is to check what your lease says about transferring it to another person. If your lease allows you to transfer it then as soon as you can, after deciding to sell, you should inform your local Rural Surveyor at your Regional National Trust Office. This will enable us to decide what to do (see 4 below). At a later date once a potential buyer has been found you will also need to provide us with the full name and address of your buyer.



4. What will the Trust do if I want to sell my leasehold property?

When you have told us that you intend selling or transferring your lease to a third party we need to consider your application. Generally this involves us considering the terms of the lease and the property itself.

We will decide whether we need to inspect the property or not. We will not usually need to but depending on the type of property and the length and type of lease it may be something we wish to do. This is to check if there are any major problems with the condition of the property or with any other aspect of the lease.

Depending on the length and type of lease, and the rent charged, we may wish to carry out a credit check against your potential buyer.

We will tell you what we need to do before we can give you our consent and will ask you for any more information that we need.



Once we have had all necessary information we will tell you if we will give you our consent. If so then your solicitor will then need to deal with ours to document our consent. This document is called a “Licence to Assign” – see below. We will also tell you if we have any specific requirements as part of our consent. For example, if there are major outstanding repairs or unauthorised alterations we may ask your buyer to promise to carry out to specific building works to put the building back in to good condition/remove the authorised alterations.

If we refuse to allow you to transfer the lease to your potential buyer we will let you know as soon as we can giving you our reasons for our decision in writing.

Before we give our consent we need you and your potential buyer to sign a formal legal document called a “Licence to Assign”. This will be prepared by our solicitors, usually by our Legal Department whose address is shown below.

National Trust Legal Department
Heelis
Kemble Drive
Swindon SN2 2NA



Our solicitors will need to deal with yours to progress the Licence to Assign so it is important, to avoid delay, to tell your solicitor to contact our Legal Department as soon as possible after you have found a buyer. If the Licence to Assign is not in place before you sell your property there could be serious legal consequences.

The Licence to Assign does **not** legally transfer your property to your buyer which is done when you and your buyer enter in to a “Deed of Assignment”. We will not be involved with this which must be done at yours and your buyer’s cost.

5. How much will this cost?



Usually we will ask you to pay our legal costs for preparing and completing the Licence to Assign. In most cases we would not expect our costs to be more than £850 plus VAT, and they may well be less. But it does depend on the circumstances, and whether there are particular complications, and we will give you a more accurate estimate once we have considered your application and before any legal work is undertaken by the Trust.

In addition we may ask you to pay our surveyor’s costs for considering your request for our consent to you transferring your property to your buyer. We will tell you what this cost is likely to be when you have given us details of your proposed sale.

6. How long will the process take?

To avoid last minute hold ups or problems we recommend that you let us know as soon as you decide to sell your property by contacting in writing your Rural Surveyor at your Regional National Trust Office.

Once you have a buyer you should write to your Rural Surveyor providing him or her with details of your buyer and also with your solicitor’s contact details.

You should allow at least four weeks between giving us your buyer's details and completing your sale, in order to allow us to inspect the property, consider our position, tell you of our decision and to allow the solicitors to finalise the Licence to Assign.

7. Who should I contact if I have any questions?

Should you have any questions you should contact in the first instance your Rural Surveyor at your Regional National Trust Office.

