Shared Ownership

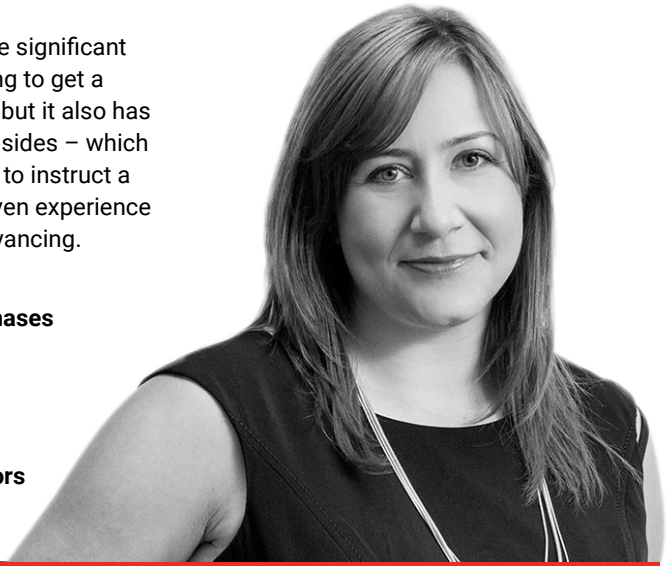
Your guide to buying, selling, staircasing and other shared ownership transactions

Attwaters Solicitors

Shared ownership is a government scheme that is also known as 'share to buy' or 'part buy, part rent'. It allows buyers to purchase a share – normally between 25% and 75%, but it can be as low as 10%) – in a property, and pay below-market-value rent on the remainder to a housing association. Because buyers only need mortgage finance on the portion of the property they own, they can get on the property ladder with much a lower deposit than if they were buying the property outright.

Shared ownership has some significant advantages for those looking to get a foot on the property ladder, but it also has its complications and downsides – which is why it's always advisable to instruct a reputable solicitor with proven experience in shared ownership conveyancing.
In this guide, we'll explore:

- **Shared ownership purchases**
- **Shared ownership sales**
- **Staircasing**
- **Related transactions**
- **About Attwaters Solicitors**



Shared ownership purchases

If you're looking to buy a shared ownership property, you must fulfil the following criteria:

- You must be over 18 years of age
- You must have an annual household income of under £80,000 (£90,000 in London)
- You must be unable to afford a property on the open market
- You can't own another home – if you aren't a first-time buyer, you must be in the process of selling your current property
- You need a deposit of (typically) 5%-10% of the equity share you are buying
- You should have a good credit history.

The purchase process

To get started, you must make an account with Share to Buy, the official site for shared ownership properties. This will allow you to search for suitable shared ownership properties and register your interest in particular properties with the relevant housing associations.

If you would like to move forward with purchasing a shared ownership property, the housing association will need you to put down a reservation fee and attend a financial assessment to see how much of the property you can afford to purchase.

You'll then need to consult with a mortgage broker or lender to secure mortgage finance on the share of the property agreed with the housing association.

You should also instruct an experienced solicitor as early as possible to minimise delays on your end of the transaction. They can support you with all the necessary paperwork, conduct property searches, liaise with the housing association's legal department on your behalf and generally ensure that everything is progressing as it should.

Your solicitor should also ensure you fully understand the transaction you are entering into, including the fact that your property will be leasehold and you will be a tenant, meaning there will likely be certain restrictions on what you are able to do with and in your property in accordance with the terms of your lease. As a tenant, you will also be liable to pay ground rent and service charge to your housing association in addition to your rent and mortgage payments.

Once your solicitor has reported back to you and you have confirmed that you are happy to proceed, the next step is the exchange of contracts. Please be aware that once contracts have been exchanged, you are legally obliged to buy the home and can't back out. You will also agree your completion date which is the day you get to move into your new home.

On the day of completion, your mortgage lender will release the funds needed to buy your share in the property to us, and your solicitor will forward the money on to the housing association. You can then pick up your keys, move in your belongings and enjoy your new home!

Stamp Duty Land Tax on shared ownership properties

Depending on your purchase price, there are two options when it comes to paying Stamp Duty on shared ownership properties.

Option 1:

You can choose to pay Stamp Duty on the full purchase price of the property - even if you are only buying a share.

This means that you won't have to pay any more Stamp Duty even if you later staircase your ownership (buy more shares in the property).

Please note that this option is only available if you will be the first owner of the property – your lawyer will let you know the options available for the property you are looking to buy.

Option 2:

You can choose to just pay Stamp Duty on the share of the property you are buying. After this, you usually won't have to pay any more Stamp Duty until you have staircased your ownership to at least 80%.

When you staircase the ownership of your property, further Stamp Duty is likely to be payable depending on your ownership percentage.

Shared ownership sales

Selling a shared ownership property is often more complex than selling a property on the open market. This is because, unless you've staircased your ownership to 100%, you only own a percentage of the property – your housing association owns the rest.

The sales process

The first step is to notify your housing association. Under the terms of the lease, they must be given 'first refusal' on the property – i.e., the right to buy it back from you or to find an eligible buyer themselves.

If your housing association doesn't manage to find a buyer in the allotted time – usually around two months – you can usually then proceed to sell your home on the open market.

Any deviations from this typical process can be found in the terms of your lease. For example, there may be a term that prohibits you from selling the property on the open market, or that gives your housing association the right of first refusal even if you own 100% of the property.

Selling a shared ownership property can be more difficult because buyers must meet the shared ownership eligibility criteria outlined earlier in this guide. They must also have the financial means to purchase your current share in the property. So, if you have staircased up to 70% ownership prior to selling up, your buyer must be in a position to buy 70% of the property. These criteria may reduce your pool of buyers and make your property more difficult to sell.

Before the sale can take place, you must also pay out some fees to have your home valued by a surveyor from the Royal Institute of Chartered Surveyors (RICS), as well as to get hold of a copy of your Energy Performance Certificate (EPC). You will also have to pay for what is known as a 'leasehold pack' from your housing association – this is an information pack about your property that is provided to your buyer's solicitor so they can raise any enquiries they may have.

At this point, you should instruct a reputable solicitor with considerable shared ownership sales experience. Our team has been helping clients buy, sell and staircase shared ownership properties for over a decade, meaning we have experienced – and helped our clients successfully overcome – every possible complication along the way. If you are also buying a new property at the same time, we can help you with both transactions, ensuring each case progresses smoothly and proactively chasing up all other involved parties to minimise delays and stress wherever we can.

Shared ownership staircasing

After you have been living in your shared ownership property for a certain amount of time (as specified by your lease), you may be able to purchase additional shares in your home. How many additional shares you can buy will depend on your financial situation. There are two options for financing your purchase – you can either use (1) savings, or (2) remortgage your property to borrow more money. Most leases allow you to staircase up to 100% ownership, but in rare cases, this may be limited to 80% to ensure the property can still be sold on as an affordable home to local buyers.

Recently, the government introduced new staircasing rules that currently only apply to newer buyers of shared ownership homes who purchased their property after 1 April 2021. Existing homeowners must staircase according to the previous rules that applied when they bought their property.

Previous rules

Owners who bought their property before the new rules came into force must contact their housing provider and notify them that they want to staircase. Under the previous rules, the minimum you can staircase by is normally 10%. Depending on the lease, you may also only be permitted to staircase three times up to 100% ownership.

Firstly, as with selling a shared ownership property, you'll need to pay for a valuation performed by a RICS Chartered surveyor and instruct an experienced solicitor with a good track record for shared ownership conveyancing and staircasing cases. You must pay these fees each time you want to staircase. Most valuations last for three months so if you don't staircase within this time you may have to pay for another valuation.

New rules

If you bought your property under the new rules, you have the option to staircase your ownership by 1% every year for 15 years after completing your purchase. You won't need to have any independent valuations conducted during this process and, although there will be some legal fees, these will likely be significantly less than staircasing under the previous rules.

If you want to staircase by more than 1%, then you must do so by at least 5% under the new rules. This would be done in the normal way and require an independent valuation and other associated fees.

Related transactions

In addition to the purchase, sale and staircasing processes, property owners may also require assistance with other legal matters related to their shared ownership home which can be a little more complex than with other properties.

Shared ownership transfers of equity

Transfer of equity is the legal process of changing the ownership of a property. This might involve adding a new partner or a child to the property ownership, or removing an ex-spouse following a divorce, for example.

Transferring the equity of a shared ownership property is a slightly more complex process because you don't own 100% of the property. As your housing association owns the share of the property you pay rent on, you will likely have to ask their permission to add somebody else's name to the lease.

If you're adding somebody to a shared ownership lease, the household will also still need to meet shared ownership eligibility requirements. For example, your combined household income can't exceed £80,000 per year (£90,000 in London) and the person you are adding can't own another property.

Shared ownership remortgages

Shared ownership homeowners may have to remortgage their property for various reasons. The most common reason for remortgaging is the imminent expiry of a current mortgage deal; however, staircasing the ownership of a shared ownership property may also require you to remortgage, so that you can borrow the money you need to fund the additional shares you are buying.

Any time you take out a mortgage or remortgage, you must instruct a solicitor to advise you during the transaction. They are there to look through the mortgage terms and raise any issues they find. When remortgaging a leasehold property, your solicitor also has to carry out some checks that aren't necessary with a freehold property; for example, they will need to obtain a statement detailing your ground rent and service charge costs, and will want to know whether these costs are likely to increase.

If you're remortgaging in order to staircase your ownership, it is especially vital to have a solicitor on side with proven experience in shared ownership transactions, especially because most staircasing transactions have a three-month deadline before the valuation expires.

About Attwaters Solicitors

Finding a good solicitor's firm to deal with your shared ownership transaction can feel like a minefield. You want to be kept in the loop throughout the process and for the transaction to be completed smoothly and efficiently, without too many bumps along the way. It doesn't feel like too much to ask, does it?

Our Shared Ownership department certainly doesn't feel like it is too much to ask. With three specialist Solicitors and a Legal Assistant all specialising in this area of conveyancing, our team has wide expertise in shared ownership matters and can assist you with any transaction you may encounter.

And we're not just there for the initial transaction – we're here to support you throughout your journey as you purchase, staircase, remortgage and eventually sell your property.

To find out more about how we can assist you with your transaction, please feel free to get in touch with our Head of Shared Ownership Conveyancing, Sheri-Anne Mizon, on 0203 871 0007 or email her at sheri-anne.mizon@attwaters.co.uk.

We can support you with:

- **Shared ownership purchases and sales**
- **Staircasing (including back-to-back staircasing)**
- **Remortgaging**
- **Transfers of equity**

Our firm can also support you with the following:

- **Leasehold and tenancy matters**
- **Buying the freehold**
- **And much more.**

Where we are

Hertford **Ware** **Loughton** **Harlow** (by appointment only) **London** (by appointment only)

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