

The Rt Hon Robert Buckland QC MP
The Ministry of Justice
102 Petty France
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United Kingdom

26 March 2020

Dear Lord Chancellor

Re: COVID-19 and the Tribunal System

We appreciate the decision of Regional Tribunal Judge Powell on 19 March 2020 to suspend directions in relation to ongoing Tribunal applications - amongst other types of case – to determine the terms of acquisition in collective enfranchisement and lease extension claims under the Leasehold Reform Housing and Urban Development Act 1993 (“the 1993 Act”) and also welcome the fact that the First Tier Tribunal (Property Chamber) has stated in its new guidance that new applications may be filed by email.

The new guidance further states that the Tribunal application fee may now be paid by cheque or postal order within 28 days of the application. This timescale should be kept under review because on a practical level firm’s chequebooks are often kept at a different location to the practitioner working from home, delays are being experienced with the post at this time and, of course, it is all subject to individuals not falling ill.

We would ask the Government to consider a further measure in these unprecedented times with the “lockdown” which includes the closure of Tribunal venues.

Tribunal applications under the 1993 Act have to be made within six months of a landlord serving a counter notice on the tenant(s). The law does not allow the statutory deadline to be extended by voluntary agreement between the parties.

If a tenant fails to submit an application by the deadline, the claim is deemed withdrawn. This can have an adverse impact on the tenant. The tenant could not start a new claim until at least 12 months have elapsed since the date of the deemed withdrawal (or 2 years if a buyer has taken the benefit of a seller’s notice). The price payable for the freehold or the extended lease is at risk of being substantially increased on the second claim. The tenant would also have spent money on wasted legal and valuation costs - not only their own but those of the landlord that they are still legally obliged to pay.

To help rectify this matter ALEP calls on the government to extend statutory deadlines for filing applications to determine terms of collective claims, lease extensions and right to manage by a period of three months once the current 'lockdown' period is over. This simple act will provide applicants with a reasonable period of time to prepare their applications to the Tribunal.

Once the current pandemic is over and the country returns to "normality", we would urge a review of the Tribunal processes in order to modernise them and make them more resilient. The Tribunal should - as a matter of course (rather than simply as a temporary fix to address the present situation) accept online applications and allow for fees to be paid electronically.

The current situation within the leasehold sector has clearly demonstrated that the Tribunal system needs to be modernised and digitised. It is difficult at this moment to see any positives coming out of the crisis, but one may be a revamp of the Tribunal system (when time and resources allow) to ensure any future crises do not impact upon the statutory timeframes within the system.

Yours sincerely

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Founder and Director

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cc. Housing Minister, The Rt Hon Christopher Pincher MP