
**THE LONDON BOROUGH OF SOUTHWARK
HOMEOWNER ARBITRATION TRIBUNAL
RULES**

JURISDICTION AND DEFINITIONS:

1. The following matters arising on or since 1st January 1995 may be referred to the Homeowner Arbitration Tribunal (“the Tribunal”):
 - (i) Alleged unreasonable behaviour in the Right to Buy process.
 - (ii) Alleged breaches of covenant, unless excluded by the following rules.
2. The Tribunal may never hear disputes relating to:
 - (i) Whether to dispense with or to modify the landlord’s requirement to consult leaseholder before carrying out major works.
 - (ii) Whether to vary long leases of flats.
 - (iii) Whether a right to manage company (RTM) is entitled to acquire the right to manage.
 - (iv) The amount of costs reasonably incurred by the landlord (or other party to the lease other than the landlord and tenant) or a manager appointed in association with the exercise of the right to manage.
 - (v) The amount of accrued service charges (that are not committed) to be paid by the landlord or a third party or a manager to an RTM.
 - (vi) Whether to appoint a manager of premises containing long lease flats and who that manager should be.
 - (vii) Compensation for the compulsory purchase of land.
 - (viii) Discharge or modification of land affected by a restrictive covenant.
 - (ix) Compensation for the effect on land affected by public works.
 - (x) A tree preservation order.

- (xi) The valuation of land or buildings for Capital Gains Tax or Inheritance Tax purposes.
 - (xii) A right to light dispute.
 - (xiii) Compensation for blighted land.
 - (xiv) The Electronic Communication Code, including disputes relating to masts and other telecommunications equipment.
 - (xv) The liability to pay a service charge and administration charge (and by whom, to whom, how much and when a charge is payable).
3. The decision of the Tribunal will be final and binding upon the parties. This is an arbitration within the meaning of the Arbitration Act 1996. Neither party may take the dispute to court after the decision of the Tribunal pursuant to section 58 Arbitration Act 1996 unless they wish to challenge the substantive jurisdiction of the Tribunal, they can demonstrate a serious irregularity. These rules exclude the right to appeal on a point of law under section 69 Arbitration Act 1996.
4. The Tribunal shall have the power: -
- (i) To declare the respective rights and responsibilities of the Homeowner and the Council.
 - (ii) To order works to be carried out up to the value of £50,000.
 - (iii) To award compensation; any such compensation will be made from funds derived from Homeowners and freeholders paying a service charge. The Tribunal must consider the Council's relevant compensation policies before making any award.
5. Some of these rules require certain things to be done within a number of days. When a deadline falls on a weekend, public holiday, or any other day when Southwark Council's offices are shut then the deadline will be moved forwards to the next working day.

COUNCIL OBLIGATIONS AND POWERS:

6. The Council shall maintain a Homeowners Arbitration Panel and a Homeowners Arbitration Tribunal for the resolution of certain disputes between Southwark Right to Buy applicants, Southwark Council Homeowners, ("the Applicant") and Southwark Council ("the Council").
7. When the Applicant and the Council have referred a dispute to the Tribunal, the parties shall be bound by the decision of the Tribunal and the decisions of that Tribunal shall be enforceable in the Courts.
8. The Council shall appoint an independent legal adviser to administer and advise the Tribunal.

9. The Customer Experience Team shall have the power to prescribe, amend, add to or alter the rules regarding the conduct of proceedings of the Tribunal after consultation with the Homeowners' Forum.

MAKING AN APPLICATION:

10. A Southwark Council Homeowner or group of Southwark Council Homeowners or a Southwark Council tenant who has submitted a Right to Buy application to the Council can refer a dispute to the Tribunal.
11. Any application to the Tribunal may only take place after the Council's formal complaints procedure has been exhausted or if both parties agree to the issue being referred to the Tribunal.
12. Any application to the Tribunal shall be in writing on the appropriate form provided by the Council, otherwise it will not be accepted. The applicant and the Council must sign an agreement that they shall be bound by the rules of the Tribunal and be bound by its decisions. The agreement must be signed and returned to the Customer Experience Team prior to the consideration of the application by the Tribunal. Applicants are recommended to obtain independent legal advice prior to referring a matter to the Tribunal.
13. Your application must state your name and address and must make clear what the dispute is that you want the Tribunal to settle. If your application does not make this clear, the Customer Experience Team may ask you for more information. If you do not give this information, the Customer Experience Team may reject your application.
14. The applications made to the Tribunal shall be regularly reviewed on paper each month by an independent chair. The independent chair may:
 - (i) Progress the application to a hearing, including estimating the time needed for the hearing itself;
 - (ii) Consolidate two or more applications if it appears that they cover the same issue;
 - (iii) Determine that the application is not suitable for the Tribunal for whatever reason;
 - (iv) Determine that the application is vexatious and should not proceed.

The Customer Experience Team shall inform the Applicant in writing of the Tribunal's reasons in these circumstances.

15. Within one week of the review of the application the Customer Experience Team shall send a copy to the relevant department of the Council. If you have been asked to provide more information, you should do so as soon as possible, in any event at least five working days after the request.

16. The Customer Experience Team shall inform the Applicant in writing that a copy of their application has been sent to the relevant department of the Council.
17. The Applicant must send to the Customer Experience Team all letters or documents that are relevant to the dispute which they wish to be considered at least one calendar month before any hearing date.
18. Any response to an application must be made no less than two weeks before a hearing date.
19. The Applicant should include all issues it wishes the Tribunal to consider in the application as the Tribunal may not be able to consider unrelated issues raised during any hearing.

BEFORE THE TRIBUNAL HEARING:

20. The Tribunal must convene not more than ninety working days after receipt of an application.
21. The Customer Experience Team shall give the Applicant and the Council not less than two weeks written notice of the date, time and place of the hearing of the Tribunal, which will consider the application in question.
22. The Applicant and the Council have the right to attend and/or be represented at any hearing of the Tribunal, and the right to call witnesses and cross-examine witnesses produced by the other party. Where any party intends to be legally represented at the Tribunal, they shall notify the other party of this at least one week before the hearing.

POSTPONING THE TRIBUNAL HEARING:

23. If the applicant or the Council asks for the Tribunal hearing to be postponed, the Customer Experience Team or the Tribunal may postpone it if the other party agrees. The Tribunal or an independent chair may also postpone the hearing of their own motion, if they consider it appropriate to do so.

WITHDRAWING AN APPLICATION:

24. An application can only be withdrawn if the applicant requests this in writing and the Council agrees. Once an application has been withdrawn it can only be reinstated if the Tribunal consents.

THE HOMEOWNERS ARBITRATION TRIBUNAL:

25. A Tribunal has three members; a Southwark Councillor, a Southwark Council Homeowner and an independent chair. The Tribunal members must be members of the Arbitration Panel.

26. The Arbitration Panel must comprise of at least three Southwark Councillor members, three Southwark Council Homeowner members and three independent chairs.
27. The Councillor Representatives are to be elected by, and from the elected Members of the Council. The cabinet members for complaints and housing are not eligible for election to the Tribunal Panel and cannot serve on the Tribunal.
28. The Homeowner Representatives are to be elected by and from the leasehold representatives at the Homeowner Council Annual General Meeting. An officer of the Council is not eligible to become or continue as a Homeowner member.
29. The Chairpersons are to be appointed jointly by the Councillor members and the Homeowner members. Elected Members of the Council and officers of the Council are not eligible to become or continue as Chairpersons.

THE TRIBUNAL HEARING:

30. A Councillor Member must not sit as a member of the Tribunal if the dispute concerns applicants from the councillor's own Ward.
31. A Homeowner Representative must not sit as a member of the Tribunal if the dispute concerns applicants from the ward in which their property is situated.
32. An independent chair must not sit as a member of the Tribunal if the dispute concerns applicants who are connected in any way with the chairperson's business or social interests.
33. A member of the Tribunal must not sit as a member of the Tribunal if the dispute is one where the member has previously assisted or advised the Applicant. All conflicts of interest must be declared by members of the Tribunal.
34. The Tribunal is to be chaired by the independent chair.
35. The Tribunal must not consider a dispute in the absence of any member of the Tribunal, but may proceed in the absence of any party. Where the Council does not send a representative this will be considered to be acceptance of the application.
36. The independent legal adviser must attend hearings of the Tribunal.
37. If the applicant or the representative of the Council fails to attend the hearing of the Tribunal, the Tribunal may still proceed, at the discretion of the Tribunal.
38. The Tribunal may adopt whatever procedure it deems appropriate provided it allows all parties to put their case fully and ensures that all parties have a fair and reasonable hearing and within the procedures outlined in these rules. In particular, the Tribunal must allow all parties to attend, to be

represented, to be accompanied by a friend or adviser, to bring witnesses and to put questions to witnesses brought by the other party/parties. A Member of the Council may not be the adviser, friend or representative of any party to the Tribunal.

39. Unless all parties and the Tribunal agree otherwise, only the following people may be present during the Tribunal's hearings: The Applicant and the Applicant's friend, adviser or representative; the Council's representative; witnesses; members of the Tribunal, the independent legal adviser, and staff of the Customer Experience Team.
40. The Tribunal may call expert witnesses and obtain reports from experts.
41. The Tribunal and any expert the Tribunal has commissioned can view any relevant property which is in the possession of the Council or the applicant.
42. The Tribunal may order the Council and/or the applicant to allow any property, which is in their possession to be viewed by the other parties (who may be accompanied by their representative, adviser or friend and by an expert).
43. The Tribunal may adjourn or, if it seems more convenient, decide that the dispute should be considered anew by a differently constituted Tribunal.

THE TRIBUNAL'S DECISION:

44. Whilst the Tribunal is considering its decision, all persons except the Tribunal members and the independent legal adviser must leave the hearing room.
45. If the Tribunal members cannot unanimously agree on their decision, the decision of the majority is to be the decision of the Tribunal. The Tribunal shall record its decision in writing and include in that decision its findings on material questions of fact and its reasons. If the decision is not unanimous, the decision must include the reasons for the minority's dissent.
46. A copy of the decision shall be sent to all parties and the independent chair of the Tribunal panel within thirty working days of the hearing of the Tribunal.
47. Any award of money will normally be payable within six weeks of the date of the decision.
48. Legal representation should not normally be necessary. If the Applicant does decide to be legally represented any costs incurred are the sole responsibility of the Applicant. The Tribunal shall not have the power to order one party to the dispute to pay another party's legal costs, nor shall the Tribunal have the power to order one party to pay the professional fees incurred by another party.

SETTLEMENT OF THE APPLICATION:

49. If the parties settle the dispute, then the Tribunal shall terminate the substantive proceedings and, if so requested by the parties and not objected to by the Tribunal, shall record the settlement in the form of an agreed award.
50. An agreed award shall state that it is an award of the Tribunal and shall have the same status and effect as any other award on the merits of the case.

CORRECTION OF AWARD OR ADDITIONAL AWARD:

51. The Tribunal may on its own initiative or on the application of a party correct an award so as to remove any clerical mistakes or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award, or make an additional award in respect of any claim which was presented to the Tribunal but was not dealt with in the award.
52. The powers in Paragraph 48 above shall not be exercised without first affording the other parties a reasonable opportunity to make representations to the Tribunal.
53. Any application for the exercise of those powers contained within Paragraph 48 must be made within one calendar month of the date of the award or such longer period as the parties may agree.
54. Any correction of an award shall be made within one calendar month of the date the application was received by the Customer Experience Team or, where the correction is made by the Tribunal on its own initiative, within six weeks of the date of the award or, in either case, such longer period as the parties may agree.
55. Any additional award shall be made within two calendar months of the date of the original award or such longer period as the parties may agree.
56. Any correction of an award shall form part of the award.

CONFIDENTIALITY:

57. Distribution of case papers to third parties is prohibited, unless when legal advice is being sought, as this has implications for confidentiality, privacy, and data protection.