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PowellsLaw 

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## Why Equity Release is Making a Comeback



**Equity release was often dismissed as an option twenty or so years ago, yet now it's a rapidly growing area of consideration for people. Why the change?**

One reason for the growth in equity release as an option is that we are all living longer, and our accumulated wealth has to stretch over more years with more demands. The demise of final salary pensions and diminishing annuity rates mean that people are seeking alternative ways to fund their later years.

Home Owners are also using equity release to help their children get on the property ladder and also as an alternative to downsizing so they can access wealth tied up in a property without having to move.

The good news is that equity release is now properly regulated by the Financial Conduct Authority and overseen by the Equity Release Council.

If you are looking at equity release you must bear in mind that any equity release product you use will affect your estate. Professional advice is vital so that your financial arrangements are consistent with any wills, trusts and your overall intentions for your estate.

Like any other financial consideration, it will be right for some people and not for others. Taking advice on the legal aspects is essential, particularly as equity release involves diluting the ownership of your property. Without the right advice, you could be creating problems for the beneficiaries of your estate.

### **Who Can Apply?**

Anyone aged over 55 who owns a property can use equity release to unlock some of the value of their home.

### **How Does it Work?**

**There are two types of product: lifetime mortgage and home reversion plans.**

A **lifetime mortgage** is essentially a loan secured against your home, just like a regular mortgage. The difference is that you don't have to make repayments unless you choose to. The compounded interest is recovered from your estate after you die along with the capital sum paid out. Be aware that compounded interest can accumulate significantly over a few years.

With **home reversion plans** the lender will pay a sum of money in return for owning a percentage of your home. The amount paid is less than the market value and the lender will retain their percentage of any increased value of your home when you die. For example, a lender may give you £90,000 for a one-third share of a home worth £300,000 (they will always pay an amount below the market rate). If the home sells for £360,000 after you die they will collect £120,000 from your estate (these figures are just for illustration purposes). There is usually an arrangement fee paid to the broker in either case.

Equity release can be a good option for some people and if you would like to discuss the legal effects our fully qualified Private Client team will be happy to give you the advice you need. Contact us today on **01934 623 501** or find out more about Equity Release [here](#).

# I'm Thinking of Buying a Leasehold Flat, What do I need to Know?



**Most flats will be sold as leasehold properties, so your first question might be: what is a leasehold property? Unlike a freehold, where you will own the entire property including the land it sits on outright, a leasehold gives you the right to occupy the property for a set period.**

The building that contains your flat and the land it sits on will be owned by the freeholder. This arrangement is normal with flats. The freeholder is then responsible for maintaining common areas of the building used by all occupiers, and the roof and external structure.

The other aspect to look out for is the time remaining on the lease. Shorter leases are less valuable. Normally, once you have lived in the property for two years you will have the legal right to extend the lease by 90 years. However, if the lease has less than 80 years left to run the cost of extending the lease is likely to be high.

Never accept a verbal commitment from the freeholder that they will be happy to extend the lease as soon as you complete the purchase. You need to have this in writing with an agreed cost.

## What are Management Fees?

The freeholder or their managing agent will recover the cost of maintaining and insuring the building through a service charge or maintenance fee. This is the first area where taking advice from a solicitor is worthwhile. Are the charges reasonable, what is the process for reviewing the charges, and is it absolutely clear in the terms of the lease what the landlord is responsible for?

Similarly, there is also likely to be a ground rent paid annually to the freeholder. Unfortunately, there have been cases where this payment increases significantly over time, so it's important to understand what the arrangements are.

## Restrictions and Conditions Vary

Leaseholds also tend to have more restrictions than a freehold. Depending on the lease terms you may need permission to make alterations to your flat. You may also be prevented from owning pets or from running a business from the premises. There is no such thing as a 'standard' lease agreement. Each one needs to be carefully read to make sure your obligations and restrictions are clearly understood.

In some cases, it may be possible to buy a share of the freehold along with the other flat holders. This can have some advantages, as you have more direct control and ownership, but you should remember that the lease terms will still apply.

## Take Advice BEFORE you Sign

Once you find a flat that you want to purchase it can be tempting to gloss over the leasehold agreement, assuming that terms and conditions are more or less standard. This is a high risk. Finding the cheapest option for your conveyancing can also be a costly mistake if they don't pay enough attention to the details.

Taking good legal advice before you sign is especially important with leasehold properties because of the added complexities and risks. It is important to ensure that you understand exactly what you are getting into before you commit. It may be that some aspects of the lease agreement can be negotiated. At the very least you will have an itemised list of your obligations and likely costs, so you can budget properly.

If you are planning to buy a flat on a leasehold basis get in touch with the PowellsLaw Property Team on **01934 623 501**. We will be happy to advise you and make sure you avoid the twin traps of making assumptions and missing details in the small print of your agreement.





# Managing Divorce through Mediation

**Managing divorce through the conventional legal system is sometimes regarded as the only option, but there is an alternative. Mediation is becoming increasingly popular as it is cheaper and less traumatic than legal proceedings.**

A well-managed mediation, which both parties approach in a positive way, can be a helpful stepping stone to the next phase of your life.

**Here are our top tips on using mediation.**

## **1 It is not marriage guidance**

Some people are confused by the purpose of mediation. A mediator isn't there to get couples back together but to help manage the separation in a civilised and constructive way.

## **2 Mediation will focus on issues**

Apportioning blame for the relationship breaking down is not part of the process. The important role of the mediator is to help both parties to focus on issues that need to be resolved, such as property, finances, custody and access.

## **3 Mediation is voluntary**

You do not have to use mediation, but you will have to prove that you have considered it before you can apply to the courts for a settlement.

## **4 You make the decisions**

Mediators can propose possible solutions and provide information. They cannot make or impose decisions on behalf of either party.

## **5 Mediators are impartial**

They do not represent either party and do not make judgements. They are there to help you agree constructive and workable solutions.

## **6 Mediation discussions can't be used as evidence**

Discussions are confidential and 'without prejudice.' Nothing said during mediation sessions can be used as evidence if the mediation fails.

## **7 Mediation is not legal advice**

It is still advisable to seek legal advice before you engage in mediation so that you are fully aware of your rights and obligations. Also, any agreements will need to be made legally binding when the mediation has concluded.

The Powells mediation service is accredited by the Law Society. Our mediator is skilled in helping people deal with the practical and emotional aspects of divorce. You can arrange an appointment with our mediator either on your own or together before the mediation starts.

If you are considering mediation or want to find out more, [click here](#) or contact our Family Team on **01934 623 501**.



# Business Acquisition or Disposal, How to Get the Deal You Won't Regret

Buying or selling a business is a process that often ends in last minute wrangling, going long into the night, to hammer out the details of the Sale and Purchase Agreement (SPA) before the deadline. No wonder details get missed - businesses get under or overvalued, many deals fall over at the last minute, and that litigation often follows the sale.

All of this is avoidable. The key is to start planning early and get professionals involved right from the start.

## Selling

Whether you want to retire, move onto a new venture or divest a non-core part of your business you have two priorities. First, you want to achieve the best price. Second, you want the peace of mind that the buyer of the business isn't going to take legal action over something that should have been disclosed or clarified before the sale.

Careful drafting of the warranties and indemnities in the SPA offers critical protection for both sellers and buyers. Buyers will want warranties that are worded as broadly as possible. This may not be in your best interests as a seller. Warranties and disclosure can be a complex area, which is why legal specialists need to be involved throughout the due diligence process.

## Buying

Clearly, you have to really understand what you are buying in order to pay a fair price. This involves more than analysing financial statements.

In particular, you need to ensure that contracts are valued appropriately and that there is no change of ownership clauses that could breach agreements with banks or key customers.

Buying a business will mean taking over responsibility for the staff. It's important to understand your pension and benefits obligations. It's equally important to clarify which staff will transfer with the business. A large part of the value of a smaller business can be tied up in the people, so you want to be clear that they will still be there after the sale and, ideally, are not working for a competitor.

This article gives you a flavour of some of the issues you could face. You can find out more on our website about acquiring a business and selling a business. Or call us on **01934 623 501**.



## Community update

### Macmillan coffee morning

Back in September, we opened our doors to the local community and took part in the World's Biggest Coffee Morning hosted by Macmillan Cancer Support. The yearly nationwide fundraising event provides vital donations for Macmillan to provide ongoing support for those with cancer and their families.

**We raised a total of £71.13 – thank you to all bakers, clients and staff for taking part!**



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