



# *Brooklands deed of lease - how does it affect me?*

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## *What is a deed of lease?*

Essentially, it is a private rule book drawn up by a developer - in our case, Miller Homes. The terms of the deed (known as clauses or lease covenants) regulate the rights and obligations of all those who live on the completed development - in perpetuity. It is registered against the title deeds of each property and is passed down through sale transfer and tenancy. It provides every resident with rights of access over the roads within the development, rights to connect into service media, and rights to use common parts such as car parks. It will also set out how maintenance costs are to be divided amongst the owners and will include restrictions - from parking (including vehicle types not permitted to park on the development), to the management of your front garden, driveway and footpaths.



## *Why are Brooklands residents subject to this type of private deed?*

A number of reasons will have led to Miller Homes creating Brooklands as a private deed restricted development. Following a law change in 2009, private leasehold ownership became increasingly common on new estates. They were usually created to cover the cost of maintaining communal areas such as landscaping, play areas, street lighting and private (unadopted) roads.

Without a lease deed, these areas would have been taken over and maintained by the local authority, but because of budgetary restrictions many councils were happy to make planning concessions (such as narrower streets to provide space for more homes) to reduce future expenditure while still charging council tax to leasehold owners.

A leasehold development generally gives the landlord/developer a perpetual interest and rent income from their leasehold owners.

The bottom line is that with a leasehold development, communal area maintenance costs are passed directly to the owners of the properties on the estate - to the financial benefit of both the developer and the local authority.

## *How is a private deed restricted community established?*

A well-drafted legal deed of conditional clauses is put in place at the design phase and the developer subsequently constructs the development in a manner consistent with the terms of the deed. The deed forms part of every subsequent property transfer and is registered against each property title to ensure purchasers are clear about any obligations and restrictions that might apply to them as an owner. Purchasers are legally

required to register as a member of the (residents) management company via the managing agent, and to pay the half-yearly service charge.

### ***I am a tenant - renting my home. Why do these rules apply to me?***

The dominant 'condition' of every deed - including that of Brooklands - is that when the initial purchaser sells or sub-lets their property, any subsequent sale transfer or tenancy agreement bestows the exact same obligations and conditions on any sub-tenant or subsequent purchaser as those that were contracted within first deed signed between the developer and purchaser.

Therefore, you are legally obliged to adhere to every condition and restriction that appears within the Brooklands deed of lease. You have the same rights as specified in the original deed too.

### ***Buy-to-let Investors Beware!***

***It is your responsibility to ensure deed restrictions are passed on to your tenants.***

Property owners are legally obliged to register every sub-tenancy with Brooklands' management company via RMG - the managing agent. Repeated failure by their sub-tenant to comply with deed conditions that cause nuisance or infringe on the rights of other residents can lead to the management company revoking the lease. A leasehold owner has the right to use the property in accordance with the terms set out in the lease deed. If these rules are broken, either by the owner or their sub-tenant, there is a risk of losing the property.

### ***What if I purchase the freehold title of my property?***

Careful consideration should be given prior to purchasing your freehold. You may future proof your pocket against increased ground rent charges, but you will more than likely remove your rights under the leasehold deed, while still remaining legally liable for services charges.

Should you decide to proceed with purchasing the freehold title to the land beneath your house, additional procedures (which usually come with more cost) must be followed whenever the property changes hands in the future, often a cause of irritation to both seller and buyer.

Buyers should be made aware of obligatory services charges when purchasing a freehold home on a leasehold development. They will be required to sign a deed of covenant, which is a contract by which they promise to pay the service charges in the future with little recourse to dispute the actions or costs set by the management committee.

**More reading:** Leasehold property: Leaseholder rights and responsibilities - GOV.UK ([www.gov.uk](http://www.gov.uk))