

## Collective Enfranchisement

### *Notices and counter notices*

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### Topics

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1. Initial Notice
  2. Counter Notice
  3. Does the price have to be realistic?
  4. Invalidity
  5. Amendment
  6. Service
  7. Registration
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## **(1) Initial Notice**

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- Discussion of example Notice
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## **(2) Counter Notice**

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- Discussion of example Counter Notice
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### (3) Does the price have to be realistic?

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- Offer in Notice - must be a realistic proposal
  - Good faith is the central test rather than purely objective
  - Tenant does not need to believe offer will be accepted
  - Different position for counter notice – no requirement should be realistic – could never become price by default
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### (4) Invalidity

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- Errors may invalidate the Notice. Two possible avenues for saving the Notice
    - Para. 15(1) of Schedule 3 of the 1993 Act
    - **Mannai** principles
  - Para. 15(1): “*The initial notice shall not be invalidated by any inaccuracy of the particulars required by section 13(3) or by any misdescription of any property to which the claim extends.*”
  - **Elim Court** [2017] EWCA Civ 89
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## (5) Amendment

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- Amendment possible in some limited circumstances – para. 15(2) and (3) of Schedule 3 to the 1993 Act:

“(2) Where the initial notice –

(a) specifies any **property or interest which was not liable to acquisition** under or by virtue of section 1 or 2, or

(b) **fails to specify any property or interest which is so liable for acquisition**, the notice may, with the **leave of the court** and on such terms as the court may think fit, be amended so as to exclude or include the property or interest in question.”



## (6) Service

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- All notices required or authorised under the 1993 Act must be in writing: section 99(1)(a)
- May be sent by post – note section 7 of the Interpretation Act 1978
- Where an address for service is specified, further notices can be served at that address: section 99(2)(a).
- ***Oldham Metropolitan BC v Tanna*** [2017] EWCA Civ 50



## (7) Registration

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- Very important that initial notice is registered – as soon as served:
    - Section 19 of the 1993 Act
    - Protect priority of enfranchisement claim under LRA 2002
  - “Freezes” the interests in the property – allows the statutory regime to play out
  - Protection of tenant’s claim – not overriding interest – new owner not bound unless registration – actual notice irrelevant
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