

23.03.2014

# ASK THE EXPERTS

## The solicitor

*I own a terraced property with a basement flat that has its own entrance, but is joined to the main house by an internal staircase. It has a kitchen but no bathroom, so the tenant uses the bathroom in the house, which I occupy. I've received a separate council-tax bill for the flat. Can I appeal?*

**HB, by email**

Any dwelling deemed a self-contained unit is liable for council tax. A basement flat within a house may fall within this scope, even if the two are not separated by a lockable door, or if the flat shares a bathroom with the house. The statutory test for a self-contained unit is whether it is physically constructed or adapted for use as separate living accommodation. Case law shows that the installation of a kitchen, even where a bathroom is shared, can satisfy this test. Where part of a house is deemed to be self-contained, council tax will be charged on both parts, with two bills. While not conclusive, a separate entrance and kitchen support the assertion that the flat should be deemed self-contained.

**Nikolas Ireland is a solicitor at Forsters LLP; [forsters.co.uk](http://forsters.co.uk)**

## The estate agent

*I had an offer accepted on a flat and my mortgage formally approved. While studying the lease, however, my solicitor alerted me to the property being a designated "live/work" unit – it could not be used exclusively for either purpose – and said this may affect the valuation. My mortgage was withdrawn and I have wasted £800 on fees and surveys. The particulars did not state the live/work restriction. Did the estate agent have a duty to disclose it?*

**JK, by email**

If agents know of something material that might affect the transactional decision of an average consumer, they must alert the interested party. When the agent took instructions, they would have had to use professional judgment to decide if anything might be an issue. Best practice would suggest asking the seller about any unusual restrictions. In this case, was it reasonable for the agent to suspect an issue with the lease? While it is important to be able to represent the basic terms, the agent probably does not have a duty to study the finer details of the lease. If there are signs of anything unusual about the property, however, further inquiries should be made. You should take advice from your solicitor.

**Roger Punch runs the Plymouth office of Stags ([stags.co.uk](http://stags.co.uk)), and is the southwest spokesman for Rics**



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