

RIGHTS OF LIGHT LIGHT OBSTRUCTION NOTICES

WHAT ARE LIGHT OBSTRUCTION NOTICES?

A Light Obstruction Notice (LON) is a charge that is entered on the Land Register on the title of a piece of land. According to Section 2 of the Rights of Light Act 1959, a developer is permitted to serve a LON on a nearby building to create a notional obstruction across the totality of the site boundary, as an alternative to a physical obstruction. From the point a LON is registered, the requisite one-year period of interruption begins. This prevents the acquisition of prescriptive rights of light.

If the LON is registered before a building has reached 19 years and 1 day old, and is successfully unchallenged, then the prescriptive clock will be reset to zero. The affected building owners will therefore be unable to exercise a prescriptive right to light over the development site for another 20 years.

GIA offers a LONs service in-house. This is managed by Madeleine Harper, our In-House Lawyer: madeleine.harper@gia.uk.com. Madeleine can be consulted on any LON queries or concerns.

WHAT SHOULD DEVELOPERS BE AWARE OF?

Lawyers have historically questioned whether LONs should be registered prior to a building (or its apertures) reaching 18 years and 1 day old. In GIA's experience, LONs can still be successfully registered up to 19 years and 1 day. However, GIA suggests, as a matter of good practice, to register prior to the 18 year and 1 day mark.

For the proper registration of a LON, the law requires all relevant interests in the affected building to be notified (i.e. freeholders, leaseholders, tenants, mortgagees etc). Ensuring these notifications are properly notified is included as part of GIA's offering.

THE DIFFERENT PROCEDURES

From start to finish, applying, registering and serving notification of a LON takes around 3 months.

There are two different procedures to choose from when registering a LON:

- 1 The Standard Procedure**
- 2 The Expedited Procedure** – this route is recommended when there is a high likelihood that the apertures of the relevant properties are nearing 19 years and 1 day old. This procedure registers a LON more quickly (subject to an additional cost) to mitigate the risk of running out of time to prevent the neighbouring property from acquiring rights.

To clarify the differences between the standard and expedited procedures, please see overleaf.

Using the expedited procedure ensures that the LON is registered prior to serving notice to the interest holders. Should this procedure be preferred, GIA can ensure that the LON is registered within 2-3 weeks. In contrast, if the normal procedure is elected the LON will be registered within 8-12 weeks.

UPPER TRIBUNAL LANDS CHAMBER (UT) FEES FOR A LON APPLICATION:

- 1 The Standard Procedure: £1320**
- 2 The Expedited Procedure: £1660**

SOMETHING TO KEEP IN MIND...

If the expedited procedure is preferred, there is a legal duty to make the interest holders aware that the LON has been registered using the expedited process. There is a small risk, therefore, that this may alert the interest holders to the urgency of the case at hand. GIA does not consider this to be a great concern but it is something to consider when choosing either of the above procedures.

