

# Get rid of your Freeholder - It's all in the management

MARY-ANNE BOWRING, creator of [www.leaseholdersupport.co.uk](http://www.leaseholdersupport.co.uk) explains how to get your property's management company to change the managing agent

Last time we talked about claiming your right to manage, this being the way to oust the freeholder's current managing agent. This may seem like a difficult arrangement but it couldn't be simpler. Before exploring how your own management company can change the managing agent, it is necessary to understand what a management company is. During the mid 1980's in England and Wales, the way developers built and sold flats began to change. Developers realised that with legislation granting lessees more rights to consultation and carry out management audits, the power balance was likely to continue to shift towards the lessee and being a freeholder was not as attractive as it was, say, one hundred years ago.

These changes led to many developers setting up management companies and selling flats on tri-party leases. A tri-party lease quite simply is a lease with three parties: the freeholder, the management company and the lessee. By creating a management company one view is that the lessees were put in charge of their estate. Another is that the freeholder was able to off-load the unprofitable loss making obligations such as collecting service charges, litigating bad debts, and dealing with the noisy dog, the party every Friday night at number twenty, or the fact that number twelve only has one parking space but continues to bring two cars onto the estate, causing havoc. In a tri-party lease the freeholder's role reduces to collecting their investment income (ground rent) and placing insurance and taking a commission (often fifteen to thirty percent of premium). Furthermore, few lessees realise that a residents management company is a properly constituted company that has to be run in compliance with the Companies Act. Therefore, not only do the lessees need to volunteer to stand as officers of the company (directors or company secretary), but they need to either procure an agent to carry out the day to day running of the company or take this on themselves. By virtue of being a lessee at the block, the lessee has a share or membership of the residents management company and democratic rights in the way that the management company is run.

In the traditional freeholder-leaseholder lease scenario, to claim your right to manage, fifty percent of the lessees in the block need to be willing to participate and set up a 'right to manage' company. If you already have the right to manage and are a management company, all you need to do is go through the correct democratic process. In recognition of the shortfall between lessees understanding the operation of management companies and the role a resident director should play, the Association of Residential Managing Agents (ARMA) is finally bringing out a video which its members and lessee directors can buy to really get to grips with the complexities.

If your block has a management company, the board of directors already has the right to change the managing agent. If you want to push such a movement forwards, the best way you can do this is to get yourself on the board and start an initiative to competitively tender for the management duties.

Getting elected as a director of your own residential management company takes an ordinary resolution approved at an Annual General Meeting (AGM) or Extraordinary General Meeting (EGM). Such a resolution would be passed by simple majority vote of those present or voting by proxy. It would be wise to meet up with the current directors to find out whether your changing managing agent initiative is likely to receive their support. There are several ways to find out who the current Directors are:

- (a) From the last set of service charge accounts; this will give you a name but not an address.
- (b) From Companies House online ([www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)) where it costs £1 to do a search of current officers of the company, or
- (c) A reputable managing agent should also provide this.
- (d) Failing that, you could serve an information notice as provided for in the Commonhold and Leasehold Reform Act 2002.

Assuming you have the consent of the current directors to offer your services to the management company, to support your proposed election as director at a company meeting, it would be wise to write a short précis detailing your experience and objectives and the benefits this will bring the estate. Regrettably, a wave of apathy often exists at such meetings and you may find that the residents are only too happy for a willing volunteer. If you can't get the support of the current directors, don't give up. The way forward is for you to exercise your shareholder's rights and instruct

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the company secretary to call an Extraordinary General Meeting (EGM), with the proposed business being to appoint yourself as director. Again, the notice of this meeting should be accompanied by your resume and action plan for the site, to elicit maximum support. By law you have to give fourteen clear days notice to call an EGM to pass an ordinary resolution and twenty-one days if calling an AGM.

Once elected, unless you happen to be lucky enough to take a job in public sector procurement, knowing how to select best value and choose a reputable agent may be a minefield in itself but help is at hand, visit

[www.leaseholdersupport.co.uk](http://www.leaseholdersupport.co.uk) and download the 'Tender Pack for Changing Managing Agents'. Visit the Association of Managing Agents (the trade body for the industry) which has a list of members at [www.arma.org.uk](http://www.arma.org.uk). These can be cross referenced against the Royal Institution of Chartered Surveyors members (RICS) at [rics.org.uk](http://rics.org.uk). We will focus on this in more detail in the next article, as well as the prospects of self-managing. ■

Mary-Anne Bowring is a Member of the Royal Institution of Chartered Surveyors and a Member of the Association of Building Engineers. For more information see the following websites:  
[www.leaseholdguidance.com](http://www.leaseholdguidance.com)  
[www.leaseholdersupport.co.uk](http://www.leaseholdersupport.co.uk)