

## A FREEHOLDER *Isn't For Life*

**Frustrated that the freeholder isn't doing his job properly? Mary-Anne Bowring, creator of [leaseholdersupport.co.uk](http://leaseholdersupport.co.uk) explains how to apply for a Court Appointed Manager.**

Is your Freeholder failing to keep the block in repair, charging you too much for too little, only interested in his ground rent and insurance commission?

Typically there are three profiles of block that fall into this scenario – blocks where:

- too many flats are owned by investors who show little real interest in the fabric and exterior of the block so long as their flat is rented;
- leases are still long so there is little interest in parting with cash to buy the freehold;
- you simply can't get 50% to support a right to manage movement.

A flat or apartment is more than just a home. Indeed, it is quite probably the most valuable asset a leaseholder owns. The lease is a legal instrument that sets out the rights and obligations of both the Freeholder and the Leaseholder and should govern the management activities of the block. If you are concerned that the block is falling into disrepair, that the Freeholder is not taking action against other leaseholders where necessary (when they are making alterations such as ripping out walls without due regard to process, for example, or protecting the integrity of the fabric of the entire building), or resolving neighbour disputes, then don't despair. It takes only one leaseholder to understand that the covenants within the lease need to be upheld to make things change.



If you cannot get 50% of leaseholders supporting you and have accepted that you cannot force self management, then consider the next best thing: a managing agent of your choice. Before applying to the Leasehold Valuation Tribunal to request that they appoint the managing agent of your choice as Court Appointed Manager, you will have to select an agent who has sufficient expertise. To satisfy a Tribunal the Court Appointed Manager needs to be competent to stand in the shoes of the Freeholder and enact the lease.

In a situation where there is no need to prove fault on the part of the Freeholder or existing management arrangements,

when claiming the right to manage, requesting a Court Appointed Manager is different. To persuade the Tribunal to appoint a Manager it is necessary to justify your reasons why such a course of action is reasonable and would be in the best interests of the block as a whole. Lodging an application with the Leasehold Valuation Tribunal costs between £150 and £350, depending on the number of dwellings in the block.

Typically the Tribunal will schedule a pre-trial review (PTR) at which the parties are instructed what issues or evidence the Tribunal will hear. At the PTR the Tribunal will usually decide whether they wish to visit the block and how much time will be set aside for the hearing. Apart from the application fee at Tribunal each party bears their own costs – but be aware if the Tribunal feels that one or other party is wasting the Tribunal's time or not following directions on the information/evidence to be heard, it does have the power to award costs of that part of the hearing.

You are probably competent to present your own case at Tribunal if

- you can make sense of your lease;
- can find the clauses that you feel are being breached
- are able to collate evidence such as photographs of disrepair or unauthorised alterations, a diary of disputes reported but not resolved, or copies of service charge accounts which do not comply with the Landlord & Tenant Acts.

Many Leaseholders however, choose the support of a Managing Agent, probably a firm of Chartered Surveyors with experience in this. It stands to reason that if the Freeholder turns up at Tribunal and objects to your action then the panel members will want to have your proposed Managing Agent present to satisfy themselves that the appointment would be a safe and reasonable choice. Irrespective of the issues of your action, if your proposed agent is a member of the Royal Institution of Chartered Surveyors (RICS) and probably also a member of the Association of Residential Managing Agents (ARMA) then you will have greater chances of success.

Assuming your case is proved the decision notice of the Tribunal will set out the appointment of the Managing Agent, which is usually for a term of five years. A competent agent may themselves draft proposed directions for their appointment; in some complex cases a lawyer may be required, but this is rare.

To start the process a list of member firms of Surveyors and Property Managers can be found at [rics.org.uk](http://rics.org.uk) and [arma.org.uk](http://arma.org.uk). Phone several agents; find someone (a) whom you can talk to; (b) who inspires you with their competence and (c) gives you good advice to help you define your issues. Remember that every stage of your action will be benchmarked against what the lease states should happen, so have a good read before you part with any cash.

The Ringley Group is a regular face at the Leasehold Valuation Tribunal on issues of reasonableness and recovery of service charge in addition to supporting leaseholders who need to request the Tribunal appoints a Manager for them. The Ringley Group subscribes to the RICS 10 minute FREE consultation service on this topic. To get the ball rolling feel free to call 0207 267 2900 and speak to Mary-Anne Bowring or Teresa Tuck.

