

# Legal maze: the truth about leasehold

If you are unhappy with the management of your block or the level of service charges, Jessie Hewitson explains your options

**D**o you live in a leasehold home, a block of flats or a house converted into several apartments? Are you wondering whether you are receiving the service you deserve for the charges you are paying? Or are you unhappy about the decisions made by the managing agent for the block?

You are not alone. Pressure for reform has led the communities secretary, Sajid Javid, to press for the regulation of managing agents, the professionals who oversee the management of the communal areas of flats and housing developments.

At present, anyone can become a property managing agent. There are no regulations to adhere to, yet you could be in charge of, say, a block of flats with service charges of several million pounds a year, which would be equivalent to running a medium-sized business.

Javid says he wants to create a "fairer property management system that works for everyone".

The Grenfell Tower fire in North Kensington, west London, this year, in which 80 people died, has focused attention on this unregulated industry. "The Grenfell disaster has shone a harsh light on practices and created an impetus for change which cannot be ignored," says Andrew Kafkaris, the founding partner of Bruton Street Management, a property management company.

**How many people own leasehold properties?**  
There are 4.2 million leasehold homes in England, paying between £2.5 billion and £3.5 billion in service charges a year, according to government figures.

**What's the problem?**  
There are two main ones. The first is unscrupulous managing agents; the second is directors of resident management companies (RMCs), those run by leaseholders who manage their own property, who may be well-meaning but are often out of their depth. In both cases there is no requirement for training, and agencies are unregulated.

**What's the issue with managing agents?**  
Incompetence at one end of the spectrum and fraud at the other, says Philip Rainey, a barrister at Tanfield Chambers. "There have been cases where the managing agent has control of the service charge bank account and they've run off with the money," he says.

There are also instances where a managing agent has an interest in a building company and arranges contracts to be placed at inflated prices, or takes kickbacks. Fleecing, where fees are disproportionate to the service provided and/or big administration charges are added to bills, occurs so frequently that some industry members have dubbed leaseholds as "fleeceholds".

**Is insurance an issue?**  
Yes. Insurance policies for large apartment blocks can be worth a lot of



money. Some leaseholders are concerned that their managing agents are choosing policies that offer the largest commission rather than being the best value for leaseholders. If you are selling your home, you need to produce a certificate as part of the flat sale, but it can take weeks, sometimes even months, for managing agents to produce it, leading some sales to fall through.

**What can I do?**  
Homeowners can collectively enfranchise the freehold, that is force the freeholder to sell their interest in the building to the leaseholders. This gives leaseholders control over the management of the building and the right to extend their leases. Alternatively you can exercise a Right to Manage,

introduced through the Commonhold and Leasehold Reform Act 2002, which gives leaseholders control of the building. In both instances you need the consent of 50 per cent of leaseholders.

In extreme cases you can go to a tribunal to force a change of managing agent if you can prove fault. In the first two cases it relies on collective action, which can be difficult. "In larger developments where there are buy-to-let investors, owners that are overseas or difficult to find, it can be hard for people to exercise this right," Kafkaris says.

**Can I manage my own property?**  
For houses that are converted into flats, things can be more manageable, but negotiating among the neighbours can be awkward or stressful. In larger developments the directors of the RMCs are usually unpaid and their duties include overseeing the spending of the service charge, setting how much the service charge is, and how the building is used. They are also responsible for the insurance of the building, maintenance, repair and the safety of inhabitants.

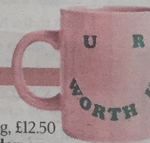
"Directors take on full liabilities," says Daniel Johnston, a chartered surveyor who was a voluntary director for the management company at Ealing Village, a development of 132 flats in west London. "They could be charged with corporate manslaughter and negligence if anything goes wrong. People can enter the position without any knowledge or experience. The service charges at Ealing Village total £1.5 million a year and the estate value is £60 million. For amateurs to run a company of this scale without any previous experience seems risky. It wouldn't happen in any other sector."

As well as inexperience, there can be directors "who treat it as their personal fiefdom and become highly defensive if challenged", Rainey says. Sometimes it can be difficult to end a director's tenure.

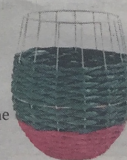
**Who loses out?**  
First-time buyers, the elderly and those with learning difficulties or other vulnerabilities, who are easily exploited. Also, anyone who doesn't understand the complexities of the leasehold system and their rights, which is most people.

**What is the solution?**  
Regulation, of managing agents and those who run residential management companies, to allow decisions to be made on the basis of safety and cost. Directors also need more support and advice.

**If you're thinking of buying a leasehold flat, ensure your solicitor checks the fine print of the agreement**



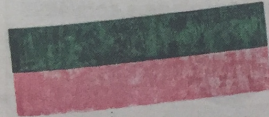
▶ Hot Stuff ceramic mug, £12.50  
thehabledon.com



◀ Marie Fluo rounded basket, £76  
amara.com

## Trend alert Pink and green

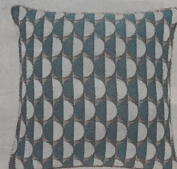
▼ Pavilion rug, blush and green, £315  
naken.co.uk



▶ Colonna stool by Kartell, £216  
aram.co.uk



Compiled by Arthur Scott-Geddes



▼ Luna print cushion, £40  
habitat.co.uk



▲ Supersoft herringbone linen blanket, £79  
thehabledon.com