

25 THINGS

EVERY FLAT OWNER MUST KNOW



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NEWS ON THE
BLOCK
HELP AND ADVICE FOR FLAT OWNERS

FORWARD

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BLOCK**
HELP AND ADVICE FOR FLAT OWNERS

News on the Block is dedicated to helping flat owners and their professional advisors with issues concerning the management and maintenance of flats. We hope that this booklet helps to demystify what can sometimes appear to be a complex world of leasehold ownership. The information contained in this booklet is in summary form only and is by no means definitive. It is merely intended as a taster, to gently nudge or direct you towards the correct answer or solution you may be looking for. Or, failing that, simply to inform. If you need to know more, then there is a list of further helpful resources at the end of this booklet.

We hope that you find this booklet useful. As always, if you have any specific questions or comments please email them to editor@newsontheblock.com.

Good luck!
The News on the Block team

1 You don't actually own your flat

Yes, that's right. It may sound surprising but as a pure matter of law you don't own your flat. You may have a mortgage and paid several hundred thousands pounds for your property, but you still don't actually own the flat. What you have bought is a special type of property contract called a "lease". Your lease entitles you to own your flat for a defined period of time only. This is the length of your lease. When the time period expires, in theory your lease will revert back into the ownership of the freeholder of your building.

2 You can extend your lease

To mitigate the perceived harsh effects of owning a wasting leasehold asset, the law now provides flat owners with the right to extend their lease for a fixed period of time.

3 You have to pay service charges

The lease will almost certainly contain a provision regarding the periodic payment of service charges. These represent your contribution towards the cost of maintaining the common parts of your building, such as the car park, stairwells and communal hallways.

4

You may have to pay ground rent too

Some leases also provide that the flat owners pay a yearly rent to the freeholder, called ground rent. Ground rent compensates the freeholder for the use of his land by your flat, and is often a minimal sum not exceeding £250 per annum.

5

You can change your managing agent by exercising your right to manage

If the flat owners in a building are unhappy with the way in which the common parts are being managed or, indeed, any other property management issues it is possible to change the managing agents. Providing more than 50% of the flat owners within a building agree, they can collectively exercise their right to manage. This is a statutory, no fault process which results in the removal of the current managing agent.

6

Your service charge demands

By law, a service charge demand must be made in writing and accompanied by a summary of the rights and obligations of the flat owners. Failure to provide such a document means that the flat owner can withhold the payment of the service charges without recourse.

7 It's possible to vary the terms of your lease

Leases are often drafted badly. They may be difficult to interpret – both from a legal and pure language point of view! Sometimes, as the building develops over time the original leases are no longer fit for purpose. If your lease or if all the leases in the building are inadequate for your needs then it is possible for the terms to be varied, and this can be a useful method for keeping the rights and obligations of the flats up to date.

8 Costs are generally not awarded in the LVT

The Leasehold Valuation Tribunal cannot award costs except in cases which are frivolous, vexatious or otherwise an abuse of process or where the litigant has acted in an abusive, disruptive or otherwise unreasonable manner during the proceedings. However, legal costs may be recoverable by the landlord as a service charge under the lease.

9 There is no one single statute containing all the law about flats

Instead, there are over 85 pieces of legislation which affect flat owners in an increasingly complex and confusing body of law.

10

The exact number of flats in the UK is not known

The last official count was conducted some time ago and back then it was estimated there were over 1.5 million flats in the United Kingdom. With the property boom of the last 10 years, this is probably a vast underestimate and there are probably closer to 3 or 4 million flats in the UK.

11

As a director of a residents association you have personal liability

Residents' associations which have formed themselves into limited companies will have several flat owners to run them as directors of the company. Directors are personally liable for the acts or omissions they make. The risk of personal liability can be protected by purchasing the appropriate directors and officers' insurance policy.

12

Directorships are unpaid, voluntary positions

Being a director of a residents management company is a voluntary position and you are generally not entitled to be paid for the contribution you make.

13

The freeholder is responsible for arranging buildings insurance, which all the flat owners have to pay for

Most leases contain a provision placing the obligation to arrange buildings insurance on the freeholder. However, this clause in the lease often makes provision for the freeholder to receive a contribution from the flat owners towards the cost of the buildings insurance.

14

Managing agents are not regulated

There is no compulsory or statutory form of regulation for managing agents. This means that anyone can set themselves up in business as a managing agent without having any particular qualifications or needing to comply with an official regulatory regime.

15

Major works are subject to a consultation process

Before any work is undertaken in the building which will cost each flat owner more than a specified amount, the landlord must consult with each flat owner. The flat owners can nominate their own contractors from whom estimates must be obtained. From all the estimates received, a decision as to who will carry out the works can be made.

16

Where a building is badly managed, a new manager can be appointed by law

In a building which is badly managed – either by the residents themselves or through a third party managing agent – the flat owners do not have to sit back and allow the value of their property to erode away due to poor maintenance. Subject to certain conditions, the Leasehold Valuation Tribunal has the power to appoint a new manager on receipt of a complaint by the flat owner(s) concerned.

17

You have the right to buy the freehold of your block in a process called enfranchisement

If more than 50% of the flat owners in a building agree, then they can approach their freeholder with an offer to purchase the freehold ownership of the block.

18

It is against the law to smoke in a block of flats

By law it is prohibited to smoke in the common parts of a building containing flats. Failure to comply with this law can result in a fine. It is therefore important to have the correct signage in prominent positions around the communal areas.

19

Administration charges are legal

A reasonable administration charge may be made by your managing agent for providing you with information about your property. This may happen, for example, when you are buying or selling a flat, subletting the property or planning to carry out building works.

20

You can only collect a reserve fund if permitted to do so

A reserve fund is a sum of money saved up over a period of time to pay for emergency works or long term maintenance obligations contained in the lease. However, in the absence of express agreement by all the flat owners a reserve fund may only be collected if provided for by the lease itself.

21

If you breach the terms of your lease you could lose your flat

If a flat owner fails to comply with the obligations contained in his/her lease then it would not be unusual to find an express term allowing the landlord to bring the lease to an end as a consequence. This legal process is called 'forfeiture'.

22

The Leasehold Valuation Tribunal is a specialist court

The Leasehold Valuation Tribunal is a part of the Court system dedicated to resolving disputes involving leasehold property. Almost all disputes involving flats must begin here. In recent years, the jurisdiction of the court has now been extended so that they can hear claims involving service charges, the right to manage, and lease extensions to name but a few.

23

Noise is one of the most common complaints by flat owners

Living in such close proximity with your neighbours will inevitably lead to conflict on occasion and one of the most frequent complaints is due to noise. Where noise problems cannot be resolved amicably between neighbours or with the help of the managing agent, then the local environmental health officer or a solicitor will be able to help.

24

Mediation is an alternative method of resolving disputes

Instead of going to the leasehold valuation tribunal to resolve a dispute, mediation offers an alternative form of dispute resolution. Mediation is an informal, confidential and much less expensive process which allows the parties to get together and discuss their problems with a mediator who will help them settle their differences. There are now several organisations offering mediation services for leasehold disputes.

25

Commonhold is a new form of tenure for flats

Commonhold allows for the freehold ownership of individual units within a block of flats and the common ownership of the shared parts of the block. Essentially, commonhold can be understood by the expression: “freehold flats”. It was introduced as a real alternative to long leasehold ownership, but has yet to make any impact on the residential property market.

DISCLAIMER:

The information contained within this booklet is in summary form only. The information contained within this list is an entirely subjective choice and it is not intended to be a complete explanation of the law or a definitive list of information every flat owner must know. Material contained in this booklet is for general information only and is not intended to be relied upon by individual readers in making any specific commercial or investment decision. Appropriate independent advice should be obtained before making any such decisions. Adrenaline Media Plc does not accept any liability for any loss suffered by anyone as a result of using this booklet.

Want to know more?

If you need more help and advice about flats then consider these products from News on the Block:

Being a Leaseholder – The Essential Guide to Owning a Flat

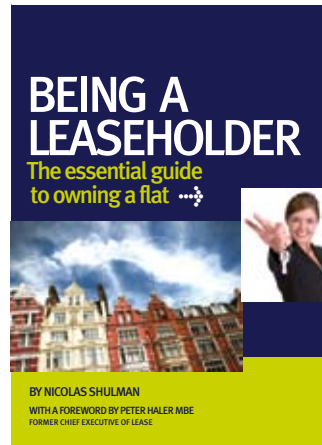
This book demystifies the complexities of owning a flat, and provides answers to common questions such as...

- » What is a lease?
- » What is a Service Charge and how much do I have to pay?
- » What are the most common problems in a block and how do I deal with them?
- » How important is Health & Safety in a block?
- » What insurance must I have in my building?
- » Am I personally liable as a Resident Management Company director?
- » How do I run the Annual General Meeting of my RMC?
- » What is the best way of resolving a dispute?

Buy this book for £12.99 (includes postage and packing).

About the author

Nicolas Shulman LL.M ACIarb launched News on the Block magazine, The LVT Bulletin, and The Housing Ombudsman Bulletin.



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