



So, what does a managing agent do?



This booklet has been produced for leaseholders and prospective purchasers to explain the role of the managing agent and to de-mystify some of the peculiarities of the leasehold system.

ARMA is the leading professional body for residential managing agents in England and Wales. We promote high standards of leasehold management and professionalism through advice, training and guidance.

You can find more information at
www.arma.org.uk



A little bit about leasehold

Almost all 'owned' flats, and some houses, in England and Wales are leasehold. As a leaseholder (sometimes referred to as a lessee) you have bought the exclusive right to live in your property for a fixed number of years, which will reduce over time from the date the lease was originally granted. You do not own your flat and this sometimes comes as a surprise to many potential purchasers.

The owner of the structure and common parts of a block of flats is usually the landlord. The responsibility for maintenance of the structure, the upkeep of common parts, placing of insurance and provision of services usually rests with your landlord. The landlord may or may not be the freeholder, who owns the land on which the building is built.

A lease is a legal term to describe a particular type of property contract between you and your landlord and sets out the rights and duties of both parties.

The lease sets out exactly what you have bought. What is exclusively yours and what is shared; what services the landlord must deliver and what you must pay. A lease will typically cover: the length of the lease; payment of ground rent and service charge (and what this covers); insurance; restrictions, and other things such as keeping pets or carrying out improvements.

The service charge is used to maintain the structure of the building and common parts and cover the cost of the services provided. This money is held in trust in a bank account used for holding client money separately from the managing agent's own money and which clearly includes words in its title to indicate that it is 'Client Money'.

It is imperative you read the lease before you buy and seek legal advice if you have any questions about it.

Leaseholder

The person who has bought a lease which gives them the right to occupy the property for a fixed number of years. Can also be called the 'lessee'.



Lease

A private contract between you and your landlord which sets out the rights and duties of both parties. It allows you to occupy the property for a fixed number of years.



What is a managing agent?

The managing agent is the company appointed by the landlord to run and manage the building and services. They will collect service charges from leaseholders in accordance with the terms of the lease. The service charges will include management fees which are their fees for this service. This is usually only a very small element of the total service charge.

Managing agent

The company appointed by the landlord (or RMC/RTM company) to run and manage the building and any services.



What does a managing agent do?

Managing agents manage the property in accordance with the terms of the lease and statutory requirements on behalf of their client (e.g. landlord, Resident Management Company (RMC), Right to Manage (RTM) company).

The role of a managing agent requires knowledge of landlord and tenant law, building construction, health and safety regulations, accounting and much more.

There are benefits of professional management and the services provided by the managing agent will be covered within the Management Agreement.

The duties of the managing agents are based on contract, not legislation. The Management Agreement will cover the duties the client has asked the managing agent to perform.

Management fees

The fees paid to managing agents (or the landlord) for the services they provide in managing the building. This is usually only a small element of the total service charge.

Who appoints a managing agent?

A managing agent is appointed by the person or company who has the legal responsibility for the delivery of services of the landlord under the terms of the lease.

Flat owners may acquire management responsibilities through acquisition of the freehold of the building, through the statutory RTM or through a RMC, a company set up to deliver the services on behalf of the landlord under the terms of the lease.

Through this they will assume responsibility for the management and day-to-day repair of the building,



compliance with obligations of the lease and statutory requirements and the lease sets out what services they must deliver. Legal responsibility for the management of the property and the ultimate responsibility for the full and proper management will remain with the landlord, RMC/RTM, etc.

The RMC/RTM company may self-manage, or they may wish to appoint a managing agent to act on their behalf to manage the property. If you wish to self-manage, ARMA has a membership category for RMC/RTM directors. For more information visit www.arma.org.uk/join-arma/how-to-join-arma

The client (landlord, RMC/RTM, etc) will always have the final legal responsibility for the full and proper management of the property, but, through the Management Agreement, are delegating the day-to-day activities to the manager as duly appointed managing agent.

Using an agent passes some of the responsibility for compliance with leases, laws and codes of practice to the agent. BUT the directors of an RMC/RTM company are responsible for setting policy and monitoring the work of the agent.

Services of a managing agent will be paid for through a management fee and these are collected within the service charge, which are costs which leaseholders have to pay for services provided to the building such as repairs and maintenance, gardening, cleaning of the common parts and it can also include insurance.

The duties will be agreed between the managing agent and the client. These will be contained within the Management Agreement and any additional services outside the management fee which may be incurred should also be detailed within a menu of charges, which may be a schedule or appendix to the main contract and which also need to be agreed between the client and the managing agent.

Leaseholders may request to see a basic summary of the contractual terms and duties that the managing agent provides to the client.

Resident Management Company (RMC)

A company set up to deliver the services on behalf of the landlord under the terms of the lease. The leaseholders are usually shareholders.



Right To Manage (RTM)

The RTM was introduced through legislation giving leaseholders the statutory right to take over the management of their property from the landlord by setting up a special company – a Right To Manage company.



What duties might a managing agent provide?

Financial

- Opening and handling bank accounts – ensuring these are held in client bank accounts
- Preparation of an annual budget for service charges
- Regular billing and collection of service charges and management fee which is contained within the service charges
- Provision of a periodic budget report of income, expenditure and cash flow to the client
- Preparation of service charge year-end accounts
- Preparation of a reserve fund plan for future major works and maintenance when the lease allows
- Weekly/monthly payment of wages and other invoices
- Arrears collection management
- Checking and allocating invoices, paying contractors and reconciling bank accounts.

Service charges

Monies collected from leaseholders to maintain the structure of the building and common parts and pay for any services provided.



Leaseholder relationships

- Attend to routine enquiries from leaseholders and residents
- Respond to solicitors' and leaseholders' enquiries regarding assignments and licences.

Reserve funds/ Sinking funds

Money collected towards future major works. Held in trust to ensure money is available when the works are required.



Lease compliance

- Ensure compliance with the terms of leases and policy agreed with the Board and where necessary, subject to landlord authorisation, instruct solicitors in relation to breaches
- Represent the landlord at County Court, arbitration and Tribunals

- The agent distinguishes between the needs and duties of the company under the Companies Acts and the needs and duties of the company in its separate role as landlord under the leases and the relevant landlord and tenant legislation
- Subletting, changes of use and handling requests for any necessary approvals.

Risk management, fire and health and safety compliance

- Organising periodic health and safety checks, fire risk assessments, asbestos and legionella checks and ensuring appropriate risk assessments are in place
- Arranging for specialist checks and tests by contractors and specialists.



Freeholder
Owns the land on which the building stands. May also be the landlord.

Landlord
Either owns the building (as freeholder), has a long lease on it or is a third party within the lease.

Repairs and maintenance

- Administration of insurance claims
- Repair and maintenance management
- Deal with day-to-day repairs and maintenance promptly and efficiently
- Preparation of maintenance plans and contracts for plant and machinery
- Prepare and monitor major building works not covered by annual contracts, dealing with Section 20 consultations, liaising with specialist consultants
- Preparing specifications and contracts for minor works and services
- Site inspections to check conditions and dealing with necessary repairs
- Management of on-site staff e.g. concierge, porters
- Prepare job descriptions for employees and specifications for contractors and go to competitive tender
- Supervise any employees and regular contractors such as cleaners etc on behalf of the employer.

Section 20

Section 20 of the Landlord & Tenant Act 1985 sets out the consultation procedure to follow when carrying out works where the contribution from any one leaseholder exceeds £250.



Supporting the RMC/RTM company Board and landlord

- Advise the Board on residential landlord and tenant procedures
- Advise the Board on a suggested management policy
- Attend Board meetings and, if agreed, be responsible for producing minutes
- Provide a status report of financial, maintenance and legal matters
- Report on significant leaseholder communications
- Document management procedures and issues
- Produce a periodic newsletter to residents and other circulars
- Keep the Board informed of the status of agreed actions
- Company secretarial work, for example preparation and distribution of the notices for the AGM/EGMs (NB – not all managing agents will be willing to offer this service).



Common parts

Those parts of the building enjoyed by everyone (e.g. halls and stairways, roof, communal heating, lighting, gardens, drives).

How can I find a managing agent?

The residential leasehold management sector is not regulated by legislation, so you must choose a managing agent carefully.

It is recommended that you draw up a schedule of the services you want from a managing agent and seek recommendations from other leaseholders.

You can invite prospective managing agents in for an informal meeting first before asking for a formal tender.

Look for personal qualifications of individuals such as IRPM (Institute of Residential Property Management) or RICS (Royal Institution of Chartered Surveyors).

Look for members of established professional bodies such as ARMA or RICS.

Ground rent

The annual charge payable to the freeholder for the continuing right to occupy the property. The amount payable will be set out in the lease.



Why an ARMA managing agent?

In an unregulated sector anyone can set up as a managing agent and start collecting service charges without the relevant qualifications or experience. ARMA member managing agents must adhere to a self-regulatory regime which includes the ARMA Consumer Charter & Standards, a bespoke set of 180 professional standards aimed at consumer protection and best practice in all areas of residential leasehold management.

All ARMA members must:

- Provide full accounting facilities for budgeting, service charge and year-end accounting and give you access to them if this is a service they provide
- Provide to ARMA on an annual basis proof of Professional Indemnity Insurance to protect you against inadequate advice and negligence
- Comply with the RICS Service Charge Residential Management Code
- Be audited within every three year cycle (by RICS) to ensure that they are complying with the ARMA Consumer Charter & Standards
- Be committed to best practice and good customer service
- Belong to one of the two government approved redress schemes: The Property Ombudsman; or Property Redress Scheme
- Operate a published complaints procedure.
- Provide to ARMA an annual independent accountants' report on clients' funds.

Management Agreement

This is a legally binding document which outlines the manager's responsibilities as well as the tasks that remain with the owner.



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How can I find an ARMA accredited managing agent?

Visit the ARMA website www.arma.org.uk/leaseholders/search-for-a-member to find an ARMA member near you.

Who can help me if I have any questions?

Your first port of call should be the Leasehold Advisory Service (www.lease-advice.org, or 020 7832 2500), the government body set up to give free advice to leaseholders.

ARMA is unable to provide direct advice to leaseholders but has over 40 useful Advice Notes available on its website: www.arma.org.uk/leaseholders/leaseholders-advice

Within this section are 12 Leaseholder Information Guides that will help you when considering buying a leasehold property: <https://arma.org.uk/leaseholders/leaseholders-advice/leasehold-information-sheets>

Also, within this section is a detailed guide on the need for a managing agent, their selection and working with managing agents: https://arma.org.uk/downloader/blv/Appointing_a_Managing_Agent.pdf





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