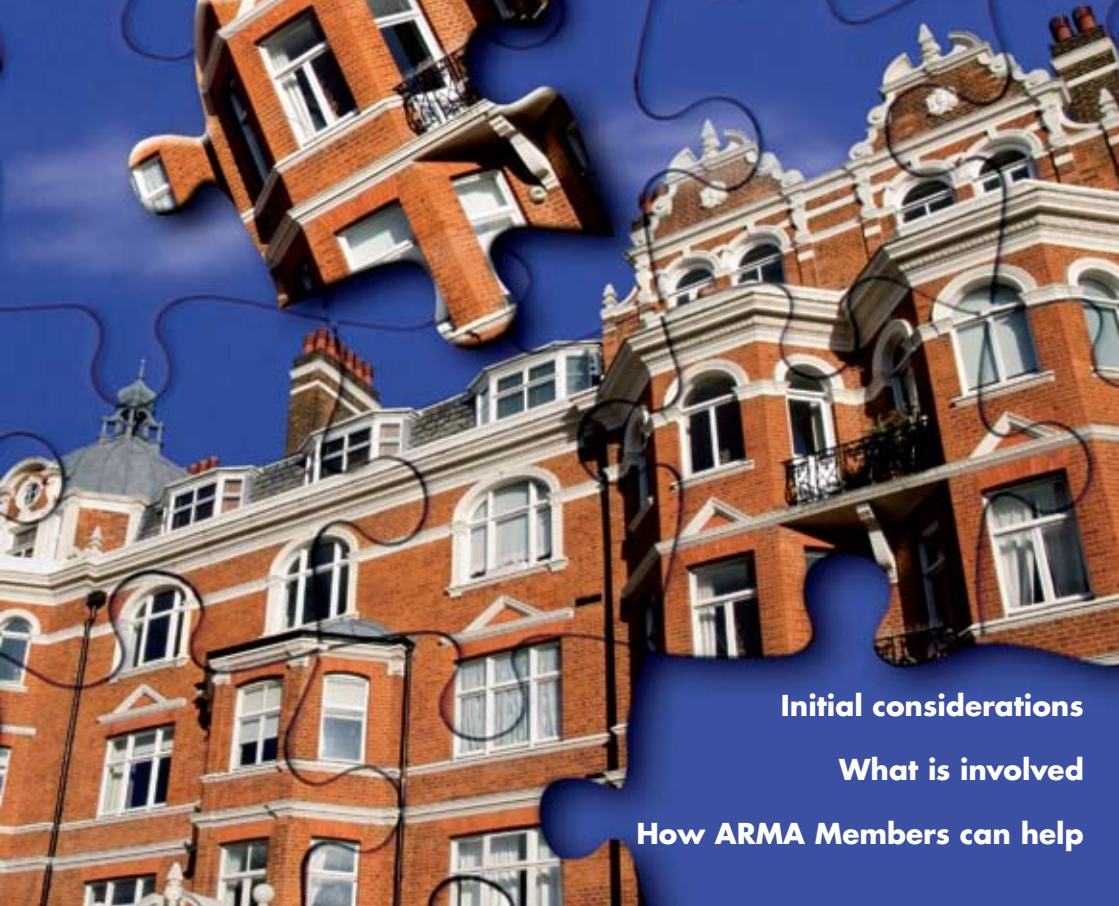


Right to Manage

Putting the property management pieces in place



Initial considerations

What is involved

How ARMA Members can help

Background

The Right To Manage (RTM) was introduced through the Commonhold and Leasehold Reform Act 2002. The intention is that a qualifying group of lessees can take over control of the management of their building without having to prove any failure on the part of the freeholder to manage their building properly and in accordance with the lease and relevant landlord and tenant legislation.

The qualifying rules and procedures for applying for RTM are complex but do need to be followed if the freeholder is not to challenge the application. To fully understand the requirements lessees need to obtain 'The Right To Manage' booklet which is published by LEASE, the Leasehold Advisory Service, and can be downloaded from www.leaseadvice.org or requested on T: 0845 345 1993.

This leaflet deals with the practical issues of managing your building in a RTM situation.

Some Initial Considerations

Firstly, is RTM going to solve the problems the lessees are experiencing? For example, is the lack of redecoration because there are lessees in the building who cannot or will not contribute their share of the cost? The RTM will inherit this problem, not necessarily solve it.

Then there is the question of who will act as the directors of the RTM company that has to be formed? Will they have the time and continuing enthusiasm and is there a plan of succession should they move or wish to stand down?

Finally, who will actually manage the building on a day-to-day basis? Will lessees feel capable of managing the building themselves or retain the existing managing agent but under a "new regime"? Or will they wish to appoint a brand new agent?

What Is Involved In Managing The Building?

The management of long leasehold residential property is a complex business requiring a full understanding of the structure and meaning of leases, a thorough knowledge of the statutory requirements of the landlord and tenant legislation (there are six key Acts of Parliament) and compliance with the recognised Codes of Practice.

In addition, the management of blocks of flats requires proper accounting procedures, an understanding of buildings, their maintenance and insurance requirements, a good grounding in all relevant Health and Safety legislation and, where relevant, good people management skills allied to compliance with employment legislation.

In effect managing a block of flats is like managing a business which requires specific skills and time. It also involves dealing with neighbours where disputes arise or arrears occur. And, unique to RTM, the management will also have continuing responsibilities and duties to the freeholder.

Given these requirements ARMA perceives that lessees contemplating RTM must seriously consider using the services of a managing agent. ARMA's general leaflet provides information on what a managing agent is, his role and what ARMA members particularly have to offer. In addition ARMA has a booklet entitled 'Appointing a Managing Agent' which is downloadable from www.arma.org.uk.

How Can ARMA Members Help?

All ARMA members are experienced practitioners most of whom deal with the full range of residential leasehold block of flats from purpose built to converted houses and estates. They are, therefore, ideally placed to advise lessees on the appropriateness of RTM and indeed manage the building for the lessees once RTM is exercised.

Key areas where they may give advice, albeit this may be for a fee, are:

- Identifying the existing problems and how they will or will not be solved by RTM.
- Providing guidance on the process of applying for RTM and liaising with the lessees' legal advisors.
- Identifying what information the lessees must obtain from the freeholder before finally deciding on RTM.
- Reviewing existing contracts, the implications of their frustration or their renegotiation.
- Organising an effective board of directors and their roles and procedures.
- Setting out the terms of reference and engagement for the managing agent.
- Creating budgets, cash-flows and long-term maintenance plans.
- Keeping lessees informed of progress (it has to be remembered that although the lessees may have the RTM the property will still belong to the freeholder and the leases will still apply so RTMs must still provide full and proper management).

Once the RTM has been established and assuming the lessees have appointed an ARMA member as their managing agent then our member will:

- Deal with the handover of all the relevant papers, files and cash balances.
- Proceed with the management of the property under the direction of the RTM directors.
- Liaise with the freeholder on all relevant matters.



“Right to Manage offers lessees the opportunity to take control of the management of their property, but this right comes with very real responsibilities”

ABOUT ARMA...

ARMA is the only trade body in England & Wales to focus exclusively on matters relating to the block or estate management of long leasehold residential property, whether for resident management companies or investor freeholders.



With over 210 corporate members managing in excess of 800,000 leasehold units in more than 32,000 blocks of flats or estates (at least 60% of which are lessee-controlled properties), ARMA members are committed to reputable practices in the profession, professional codes of practice, consistent levels of service and client satisfaction.

ARMA members comprise selected firms and sole practitioners. All members agree to adopt and abide by ARMA's principal objectives and undertake to comply with the Code of Practice issued by the Royal Institution of Chartered Surveyors (RICS) as approved by the Secretaries of State for England and Wales under the terms of Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993.

For more information about ARMA, to locate one of our members and to access our Lessee Advisory Notes (LANs), please visit our website at www.arma.org.uk.

ARMA's LANs are a useful downloadable resource for lessees which advise on a number of essential topics including: **Digital Switchover; Health and Safety; Lessees' Rights to Information; Noise; S.20 Consultations and Major Works; and Resident Management Company Accounts**. All are freely available from the ARMA website.



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