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## **ACCOUNTING FOR LEASEHOLDERS FUNDS REVISITED AT AGENTS CONFERENCE**

Important and potentially controversial new guidance on the handling of and accounting for leaseholders' service charge funds was announced at a major national conference for managing agents last week. The guidance could affect thousands of blocks of flats where the leaseholders self-manage the property or where they control the management through a Residents Management Company (RMCo).

Speaking to over 500 professional managing agents at the Association of Residential Managing Agents' (ARMA) annual conference, in London, Brett Williams, ARMA's chairman, explained the two key issues involved.

"Firstly," he said, "lessees have to recognise that service charge monies they pay as part of the terms of their lease are trust funds under Landlord and Tenant legislation and therefore must be held in a 'ring-fenced' bank account. In some very small blocks the funds might be held in a volunteer's own bank account or, in the case of an RMCo, in the company's bank account. This is wrong and could open up volunteers or the directors of an RMCo to charges of breach of trust, particularly if the funds were lost to a creditor or liquidator. Correct practice is to maintain a separate account with trust or client in the name operated by the volunteer, the company or by their managing agent on their behalf."

To assist lessees to understand the issues Brett Williams announced the publication of a Lessee Advisory Note 'Resident Management Company Accounts: Preparing for the future' which is freely downloadable from the publications page of [www.arma.org.uk](http://www.arma.org.uk).

The second issue specifically relates to the statutory accounts that RMCos must file at Companies House each year and which will cause debate amongst accountants.

"It is ARMA's clear view that under present law it is wrong to assume that service charge monies are company's monies and to account for them as such in the annual financial statements prepared in accordance with the Companies Act," continued Williams. "Even if people disagree with our view, when the new Landlord and Tenant legislation is implemented – expected to be effective for accounting periods beginning on or after 1 April 2009 – a separate summary of service charge expenditure and a balancing statement will be required in addition to the Companies Act accounts."

To provide a more technical briefing for accountants and managing agents ARMA has also made available on its website a guidance note 'Accounting for Lessees' Money – An interim guide for managers, accountants and their clients.' This publication includes, as an appendix, a summary of Institute of Chartered Accountants in England and Wales (ICAEW) current guidance to its members.

In the guidance the ICAEW states that ‘the key point to bear in mind is that the management company does not 'own' the transactions relating to service charge expenditure and the collection of monies from the leaseholders/tenants, because under S.42 of LTA1987 service charges are regarded as trust funds. The cash at bank does not belong to the company because it is held on trust for the leaseholders. The only items/transactions that belong to the company are non service charge transactions such as ground rent if the company owns the freehold. Non service charge items such as ground rent do belong to the company (if it owns the freehold, and is not collecting the rent on behalf of a superior landlord).’

“To many people accounting issues are boring and unexciting,” Williams concluded “However, in the world of residential leasehold management the holding of and accounting for lessees’ money is often the cause for disputes so it is essential that they are done correctly and in accordance with the law.”

### **About ARMA**

Formed in 1991, ARMA is the only body in England and Wales to focus exclusively on matters relating to the block or estate management of long leasehold residential property. With over 200 corporate members managing in excess of 800,000 units in more than 32,000 blocks of flats or estates (at least 60% of which are lessee-controlled properties), the Association’s founding principal aims are to represent its members and the interests of lessees, resident management companies and investor freeholders.

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### **Notes to Editors**

*Lessee Advisory Note 08: Resident Management Company Accounts: Preparing for the future* can be downloaded by following this link: [http://www.arma.org.uk/files/LAN08\\_RMC\\_Accounts.pdf](http://www.arma.org.uk/files/LAN08_RMC_Accounts.pdf)

Pic of Brett Williams speaking at the ARMA Conference can be obtained by contacting Tim Taylor on the details below.

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