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**The Right to Manage the  
freehold of a building**



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### What is the right to manage?

Introduced under recent legislation, owners of residential flats have the right to compel their freeholder to transfer the management of the building. This is a right designed to empower leaseholders to take responsibility for the management of the building. There is no need, even, to prove poor management on the part of the freeholder.

Together, the leaseholders will manage the building through a company known as a right to manage company ("RTMCo.").

For leaseholders to be able to exercise the right to manage and set up an RTMCo., there are some criteria that must be satisfied:

- the flats must be in a building that is self-contained
- no more than 25% of the building can be commercial space
- the leases must originally have been granted for terms longer than 21 years (a qualifying tenancy)
- there must be two or more flats in the building
- at least 2/3<sup>rds</sup> of all the flats must be qualifying tenancies (see above) and
- the members of the RTMCo. must be equal to at least half the total number of flats in the building.

There are some exceptions; please contact us to discuss whether your situation qualifies.

### Why should you?

The most common reasons are:

- to enable the leaseholders to take over the management of the building (which will still be owned by the freeholder)
- to deal with an absent freeholder or change an ineffective management structure
- to employ managing agents of the leaseholders' choice
- to control the services and maintenance of the building

### What do you need to do?

You need:

- to establish a participation agreement between the leaseholders taking part
- to set up an RTMCo. company which is limited by guarantee
- to serve notice on all the leaseholders inviting them to participate in the RTMCo.
- to serve a Notice of Claim on the freeholder (and certain other parties) exercising the right to manage
- to employ a solicitor and a managing agent

This is where our expert team will help you. It is very important to engage professional assistance from the very start to advise you throughout the process.

### How long?

Gathering the information, complying with the legislation, obtaining legal advice and organising the leaseholders can be time consuming but it is well worth investing in properly.

Once the Notice of Claim to the right is served on the freeholder, if the freeholder accepts the Notice and the negotiations are swift it will take

approximately four months for control of the management to transfer to the RTMCo. If the freeholder contests the Notice, then, in the absence of a settlement, the matter would need to be referred to the Leasehold Valuation Tribunal (LVT) and the time table is extended and will depend on when the LVT can deal with the application.

It is important to note that once the transfer of the management functions to the RTMCo. has taken place the freeholder is entitled to be a member of the company.

### We can: -

- help you from start to finish with expert legal advice and support;
- form the RTMCo. and
- complete and serve all the necessary notices and documents

For more information or an informal consultation to discuss your proposals and an indication on all costs please contact either **Oliver Maxwell-Jones** [oliver.maxwell-jones@wbdllp.com](mailto:oliver.maxwell-jones@wbdllp.com) at our Brighton Office on 01273 323231 or **Carol Blakey** [carol.blakey@wbdllp.com](mailto:carol.blakey@wbdllp.com) at our Hove Office on 01273 722532.

**Please note that this is a complex area of law and there are various exclusions and special provisions.**

**This leaflet is only intended to be a general guide and you should only act after, or refrain from acting until, you have received our specialist advice on your particular circumstances. There are many factors to consider and steps to take if you are to be successful in taking over the management of a building.**