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# ADVICE NOTE

## YOUR RIGHTS TO INFORMATION

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A summary of your rights to information as a leaseholder

**Note:**

As the leading trade body for residential leasehold management, ARMA is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

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EVERY LEASEHOLDER HAS THE RIGHT TO MAKE A WRITTEN REQUEST TO THEIR MANAGING AGENT ASKING FOR THE NAME AND ADDRESS OF THEIR LANDLORD.

## WHO'S YOUR LANDLORD?

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Every demand or invoice for ground rent or service charge from your managing agent must include the name and address of the landlord.

If the landlord is not based in England or Wales then a further address where you can contact them in England or Wales must be included. So if you're not sure who your landlord is, take a look at your last invoice. The legal reference for this right is **S.47 of the Landlord and Tenant Act 1987**.

If the landlord of your block changes, or you suspect it may have changed, you have two useful rights:

- Firstly, the new landlord has a legal duty to serve a notice on all leaseholders telling them of the change and specifying their contact address. **This comes under S.3 of the Landlord and Tenant Act 1985.**
- Secondly, every leaseholder has the right to make a written request to their managing agent (or whoever is demanding ground rent and service charges) asking for the name and address of their landlord. If you want to do this, make sure you state that you're making the request under **S.1 of the Landlord and Tenant Act 1985**. The agent has 21 days to reply. If you find out the landlord is a company, you then have the right to make a further written request, either to the landlord or the agent, asking for the name and address of every director and the company secretary. **You should refer to S.2 of the Landlord and Tenant Act 1985** when requesting this type of information.

A quick word of caution: when an entire block of flats is sold by freehold, it's often done by the sale of shares in a company. So even though the owners of the company may have changed, the company itself will still be your landlord.

Remember you can also search for the name of your landlord at the Land Registry and for company details at Companies House.

## GET TO KNOW YOUR MANAGING AGENT

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If your managing agent is demanding ground rent and service charges, you should have their name and address. If your agent is a member of ARMA you can visit ARMA's website to look up their company details including the name of a senior member of staff.

## GET RECOGNITION

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Setting up a Recognised Tenants' Association (RTA) or Residents' Association (RA) is a useful way of representing and expressing the majority of views in your block to the landlord or managing agent.

RTAs and RAs can get official recognition by the landlord or by the First Tier Tribunal (Property Chamber) (FTT) in England under **S.29 of the Landlord and Tenant Act 1985**. Recognition will generally be granted if the association is made up of 60% or more leaseholders, has a proper constitution and elected officials.

RTAs can serve a written notice on the landlord stating that they wish to be consulted on the appointment of the managing agent for their block. Refer to **S.30B of the Landlord and Tenant Act 1985** when exercising this right.

Within one month of receiving the RTA's letter, the landlord should write back:

- Specifying the duties they have appointed the managing agent to carry out
- Allowing the RTA a reasonable period (a minimum of 30 days) to send any comments on the agent's performance
- Providing the name and address of the person to whom the comments should be sent to

You should bear in mind that the landlord should have "regard" to the RTA's comments on the performance of the agent but they don't have a duty to act.

## INSURANCE

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Your flat is a major investment and you will want to know that it's adequately insured. The landlord will usually be responsible for arranging the insurance of the block but you have the right to know how it's done.

Any leaseholder or RTA can write to their landlord or managing agent to request information about the insurance of their block.

You have several options:

- You can ask for a summary of the insurance policy including the name of the insurer, the sum insured and the risks covered
- You can write to the landlord or managing agent and ask to inspect the policy documents at their office, and make copies if you wish
- You can also ask for copies of the policy documents to be sent to you or made available at the office for you to collect

When making these requests you should refer to **S.30A and the Schedule to the Landlord and Tenant Act 1985**.

The landlord or agent has 21 days from receiving your letter to comply with the requests. It's worth noting that they can charge you for making copies of documents, but not for inspecting them.

## GROUND RENT RIGHTS

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Each time your landlord issues a ground rent demand, it must be accompanied by a prescribed notice that sets out your rights regarding forfeiture and failure to pay the ground rent. The legal reference for this information is **S.166 of the Commonhold and Leasehold Reform Act 2002**.

## SERVICE CHARGES SEEM TOO HIGH?

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If you feel you're being charged for things you don't agree with, or the charges seem too high, you have rights to see information about how your service charges are being spent.

You can write to your landlord or managing agent and ask them to supply a summary of relevant costs making up the service charges for the last accounting period. When doing this, refer to **S.21 of the Landlord and Tenant Act 1985** and use the phrase "relevant costs" in your letter.

If your managing agent already supplies a set of service charge accounts each year, there's no need to ask for a summary unless you think they're inaccurate. The summary of costs has to be certified by an accountant if your block contains more than four flats.

Once you've received the summary of costs or a statement of account from your agent, you have a further right to seek information behind the figures.

You can ask to inspect all receipts and invoices that support the figures in the service charge accounts. To do this, you need to write to your agent and refer to **S.22 of the Landlord and Tenant Act 1985**. Your agent has to reply within one month of receiving your letter and allow a period of two months for your inspection, which will usually be at the agent's offices.

During the inspection you can take copies of documents but the agent may charge you for this.

## SUMMARIES OF SERVICE CHARGE RIGHTS

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Every time your landlord issues a service charge bill, the demand must be accompanied by a summary of your rights and obligations about service charges. The legal reference here is **S.153 of the Commonhold and Leasehold Reform Act 2002**.



## SUMMARIES OF ADMINISTRATION CHARGE RIGHTS

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Certain fees charged by landlords and agents are defined in law as administration charges. The main categories are: fees for consents; approvals; and late payment of service charges and ground rent.

Every time your landlord or agent issues a bill for an administration charge it should be accompanied by a summary of your rights and obligations. The legal reference here is **S.158 of the Commonhold and Leasehold Reform Act 2002**.

## MAJOR WORKS

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You have the right to be consulted about major works to your block before the works are carried out, and you must be given information about the proposed work.

Major works are defined in law as 'qualifying works' that cost any one leaseholder in the block more than £250. Your agent has to send you prior written notice of the work.

The first notice, called the notice of intention, should describe the proposed work or tell you where you can look at the detailed proposals. You have a right to nominate a suitable contractor of your choice.

The second notice, called the statement of estimates, should include at least two cost estimates for the work and tell you where you can see the original documents with the figures.

You need to act quickly when you receive these notices. You only have 30 days to look at the information and send your comments to the agent.

You may have to travel to the agent's office to inspect the information but you should be able to look at the tendering documents and the cost estimates submitted.

Your right to be consulted about major work to your block falls under **S.20 of the Landlord and Tenant Act 1985**.

## LONG-TERM SERVICE CONTRACTS

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You also have the right to be consulted about certain major contracts that your landlord enters into. For example they may sign an agreement with a cleaning agency or gardening company to carry out regular work to your block .

These are called long-term agreements and are defined in law as contracts for services that last for more than one year and cost any one leaseholder in a block more than £100 per year.

Long-term agreements do not include contracts of employment for, say, concierges, but they can include contracts for the services of a managing agent.

As with major work, your right to be consulted under S.20 of the Landlord and Tenant Act 1985 means you should receive information before the contract is signed.

The first notice of intention must describe what the agreement is about, and the second notice of proposals should list the cost estimates and tell you where you can inspect them.

## THE RIGHT TO A MANAGEMENT AUDIT

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This right allows a group of leaseholders who are unhappy with the management of their block to appoint a surveyor or an accountant to independently report on whether the management is effective and cost efficient.

The audit does not mean a landlord has to change matters. But it may be useful if a group of you are considering challenging the landlord's appointment of a manager, or if you're thinking about exercising the Right to Manage.

The right can only be exercised if 2/3 of the leaseholders in your block support it. So you will need to collect all the signatures of those leaseholders as proof.

You can choose who the auditor will be, but it must be a qualified accountant or surveyor. The auditor will serve a written notice on the landlord specifying



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which documents they wish to look at, and the date on which they intend to inspect any communal parts of the premises.

This right falls under **S.78 of the Leasehold Reform, Housing and Urban Development Act 1993**.

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## THE RIGHT TO APPOINT A SURVEYOR

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A similar right to the management audit is the right to appoint a surveyor. An appointed surveyor can inspect relevant documents and the communal parts of the block.

However, this right can only be exercised by RTAs. The RTA must write to the landlord or agent setting out the name and address of the surveyor, the duration for which they have been appointed and why they have been appointed. The legal reference in this instance is **S.84 of the Housing Act 1996**.

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## DATA PROTECTION

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As a leaseholder you have the legal right to see what information your managing agent or landlord is holding about you. You should make a written request to see this and the landlord or agent has 40 calendar days to respond. You may be charged up to £10 for the request but VAT should not be added to the figure.

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## FINAL WORD

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Leaseholders have many important legal rights when it comes to accessing information, probably more than you think. Brushing up on the essentials can put you in a more powerful position when it comes to how your block is being managed.



## FURTHER INFORMATION

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Other useful ARMA Advice Notes:

- **Forming a Residents' Association**
- **Your Service Charge Rights**

The Leasehold Advisory Service (LEASE) also has a lot of useful information about leaseholders' rights. Go to:

[www.leasehold-advice.org/publications](http://www.leasehold-advice.org/publications)

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**Note:**

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The ARMA Advisory Note is of a general nature only and makes no attempt to state or conform to legal requirements; compliance with these must be the individual user's own responsibility and therefore it may be appropriate to seek independent advice.