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NEWS

FPRA
FEDERATION OF PRIVATE RESIDENTS' ASSOCIATIONS

HOUSING OMBUDSMAN CALLED FOR By the Editor

A single housing ombudsman with sufficient resources to meet the need for prompt and fair resolutions is essential, FPRA has told the Government.

The Federation was responding to a consultation by the Ministry of Housing, Communities and Local Government on "Strengthening Consumer Redress in the Housing Market".

In his letter to the Ministry, FPRA Chairman Bob Smytherman wrote: "We have campaigned for 45 years to promote honest practice in the housing sector and against scandalous mal-practice, evident in critical tribunal rulings, two investigations by the Office of Fair Trading, one Law Commission report, debated in Parliament and reports to the All Party Parliamentary Group as well as many other places.

"In the context of your consultation we are of the firm opinion that this can only be achieved by reforms to landlord and tenant legislation and fairer dispute resolution process that is simplified and accessible to consumers. We also believe that standardisation and clarity of management service standards is vital to ensure greater consistency and reduce disputes over terms of contacts. It is essential to have a single housing ombudsman with sufficient resources to meet the need for prompt and fair resolutions.

"We trust that the Government's intention to restore the broken housing sector will be shortly realised. Many of our members were extremely disappointed, following the Competition and Markets Authority leasehold enquiry in 2014, and the subsequent failure of Government to make necessary changes and bring the law in line with the principles of truth, justice and openness, enshrined in Consumer Protection Law.

"Further, this organisation and others have been inundated over the last six months with consultation requests and call for evidence requests from different parts of Government.

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47th AGM and Special Event

See enclosed documents for our free event for members on 14th November 2018, including our special guest speaker Professor Nicholas Hopkins, Law Commissioner.
This event has been made possible by commercial sponsorship for which FPRA is extremely grateful.

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"We sincerely hope that all the different aspects can be brought together and actual action taken in a coordinated way. From what we are seeing, there is clear concern over the state of the leasehold sector but there is a failure to co-ordinate and have a clear path to improvement.

"We would welcome the opportunity to answer any other questions and help communicate the final decisions to leaseholders."

MPs LOOKING AT LEASEHOLD REFORM

The Housing, Communities and Local Government Committee has launched an inquiry into the Government's leasehold reform programme and in particular, how existing leaseholders in both houses and flats facing onerous leasehold terms can be supported.

The inquiry will examine progress made on leasehold reform, following the conclusion of the Government's consultation on **tackling unfair practices in the leasehold market** in 2017. The Government is currently working with the Law Commission on certain issues relating to existing leaseholders and has pledged to bring forward legislation and consult further on banning new leasehold houses and restricting ground rents. However, the Committee is particularly concerned with what more can be done for existing leaseholders, in both houses and flats, affected by onerous terms such as high service and administrative charges, and large increases in ground rents.

Clive Betts MP, Chair of the Housing, Communities and Local Government Committee, said: "With around four million leasehold homes in England, they make up a significant part of the private home ownership sector. We've heard however that leaseholders often come up against significant issues which affect their rights, from high service charges with a lack of transparency through to excessive ground rents and barriers to buying freeholds. The Government has said it is committed to various reforms to tackle some of the troubling practices in the sector. As a Committee, we will want to examine the effectiveness of the existing proposals, find out what more needs to be done to boost confidence in the system and ensure fairness for both existing and future leaseholders."

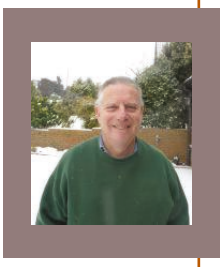
The Committee is considering views on:

- The adequacy of the Government's programme of work on residential leasehold reform, including (a) its application to existing leaseholders in both houses and flats and (b) whether further reforms should be introduced;
- What support and Government intervention can be provided to existing leaseholders, in both houses and flats, affected by onerous leasehold terms; and
- What are the implications of providing such support and Government_ intervention to these existing leaseholders.

A great chance to REVIEW and IMPROVE

FPRA ADMINISTRATION to change in 2019-20

For more than 20 years FPRA volunteer Robert Levene has been involved in helping to run the FPRA office as well as generally being a volunteer and resident association representative. He has now given your committee notice that he intends to retire from all roles not later than 31 March 2020 – that's in about 18 months' time.



For the last 10 years he, through Theydon Admin Services Ltd has helped run our admin office in Epping, very ably assisted by Debbie, Diane and Jacqui as a job share, plus using various other independent contractors to provide an excellent, comprehensive, efficient service to our members and the committee, setting up everything when our previous admin provider left suddenly.

This has left your directors and committee free to concentrate on campaigning, liaising with the sector and – most importantly – helping our members.

We now, over the next few months, need to look for a replacement service with a view to implementing the change before the end of 2019 (this will come round very quickly), but also to look at where and how we do things.

We really want ideas and suggestions for the future.

- Do you or anyone you know have administration experience?
- Does your organisation have a suitable room to work out of – anywhere in the country?
- How can we improve how we work with you?
- Maybe our present job sharers could be managed by a new person/organisation?
- Ideas and suggestions please, we are open to all ideas.

Our admin office is by far our largest expense and perhaps a saving could be made, helping keep our membership fees down for everyone's benefit.

Really any ideas at all would be appreciated.

A full and comprehensive swap over would take place with full support from your committee and from Theydon Admin Services Ltd.

Please contact us by email to **admin@fpra.org.uk** or direct to Chairman Bob Symtherman on **bob@fpra.org.uk**

Please come to our AGM to discuss in person, or call to arrange a phone briefing/discussion by the end of November 2018.

SOLAR PANELS, GOOD OR BAD FOR YOUR BLOCK?

Yashmin Mistry, FPRA Committee Member and Property Practice Group Leader at JPC Law, shines some light on the topic.

There are hard-hitting truths lurking behind the attractions and incentives of photovoltaic panel installation.

At first, installation seems laden with sunshine – literally and metaphorically. Income can be generated through free electricity with a chance to sell excess supply to the grid. The panels are environmentally friendly. The Government even subsidises the installation tax-free.

But there are implications.

Installing panels on a residential block will often require planning permission. This may depend on their visual impact, including whether they are installed above the ridgeline, or project less than 200mm from the roof.

Panels can also have technical consequences. The panels' weight – which can increase the load of the roof by 15 per cent, may require expensive strengthening work. Furthermore, the panels will also need to be secured to prevent wind uplift, with different approaches for pitched and flat roofs.

Another issue is the suitability of the roof and whether the existing roof coverings ought to be upgraded/renewed before the panels are installed or whether any available guarantees for the existing roof coverings will be affected by the works.

Then there's the future. Solar panels come with a 25-year warranty and low ongoing maintenance costs, so your block will need to budget for annual checks and cleaning.

Now for the law.

First, consider the lease.

Most solar panel installations will be installed on the roof. The lease should identify which parts of the block belong to the leaseholder and which have been reserved to the landlord. The lease will usually contain a plan providing further illustration(s) which may be helpful in identifying who is responsible for the installation location.

While most leases permit a landlord to recover a service charge cost for repairs, it is more unusual for leases to allow recovery for works classed as "improvements".

There is no single test to determine whether particular works are improvements or repairs.

The most useful guideline is: "is the repair so radical and extravagant as to amount to creating a new thing in place of what was there and not a mere replacement?"

It seems likely the courts/tribunals would decide solar panel installations are "improvements", subject to the lease provisions.

Generally, service charge clauses are read restrictively and only permit the recovery of expenditure if the lease permits it. So, improvements will not be recoverable without clear words to that effect.

Who will be responsible for maintenance? It is unlikely the lease will incorporate provisions and variations may need consideration. Also, the installation is likely to be connected to the mains. Does the lease contain provisions for the running of cables around the development?

Invariably leaseholders will proceed on the basis that any "returns" will help bolster the Reserve Fund. The lease should be checked to see if (i) it contains provision for a Reserve Fund and (ii) whether the Reserve Fund permits such "returns" to be accumulated (unlikely).

Whilst the idea of solar panel installations may sound attractive due to the potential "returns", given the above legal consideration, the process may not be so simple.

In summary, solar panels may bring sunshine to your block. But without an experienced surveyor and solicitor on your side, a number of dark clouds may follow.

HOT OFF THE PRESS

FPRA has brought out an up-to-date guide on running a block of leasehold flats. The new publication *Running a Block of Leasehold Flats* is available to download now. Published in July, it costs £17.50, but is free to members. (ISBN 978-1-910799-07-9)

FPRA is very grateful to Director Shula Rich for preparing the new edition of this guide.

This guide is the latest update of guides which has been issued for over two decades, with regular updates by FPRA volunteers, who have used their experiences and expertise to help fellow leaseholders. We would also like to thank Sarah Phillips for designing this guide and Diane Caira for proof-reading it. But most of all, we would thank our members without whom, this guide could not be published.

The only way is UP!

Committee member Shaun O'Sullivan looks at the increasing trend for 'Airspace' developments.

In recent years, faced with an increasing population and the inevitable demand for somewhere to live, much is heard about the lack of housing stock – and particularly so in the south east where space is at more of a premium. The tower block, seen in the 60s as the answer to much of our social housing needs, became derided as the antithesis to the terraces they replaced and the destruction of a sense of community which they espoused.

However, 60 years on and we are reaching for the sky once again. In the capital vast swathes of brownfield sites are being regenerated, some cleverly utilising former industrial, and sometimes listed, buildings in innovative ways – but the common and overriding theme is to build into the sky. In London, one just has to look at both banks of the Thames from the Thames Barrier to Battersea and beyond to see the extent of such development. But London is not alone; Manchester, Liverpool and Birmingham are all cities where the sky's the limit. The tower block has shed its old image and is now considered chic with even modest apartments attracting a high price tag.

But new tower blocks are just part of the solution; a perhaps less publicised feature of the 2017 Housing White Paper and which prompted changes to the National Planning Policy Framework which followed, has been the greater emphasis being placed on rooftop developments. The concept of Rooftop or 'Airspace' developments – selling or leasing the airspace above a building which is almost invariably and inherently part of the freehold interest – is not wholly new and one just has to see the proliferation of penthouse apartments built on existing blocks on the south coast to see evidence of this type of development.

Nevertheless, although they are still, in reality, something of a niche product, the potential for adding floors to appropriate, and structurally sound, buildings in order to provide more homes without the need to encroach on scarce and valuable land is being seen as a significant contributor to ease the housing crisis and such developments are being taken forward by a number of specialist developers.

Of course, building on top of existing buildings does not come without challenge; planning permission apart, it's probably fair to say that rooftop developments are much more demanding, in pure construction terms, than building from scratch. Although constructing modular units off-site can help to mitigate this, such units still have to be hoisted onto the existing building; a huge, and possibly costly, challenge particularly if in a densely populated area, as most developments of this type almost certainly will be.

Although many such developments have been established above existing commercial buildings, increasingly developers are grasping the opportunity to create additional apartments atop existing blocks of flats and the FPRA is beginning to receive questions from members having been approached by these specialist developers.

There are a number of ways in which such developments can be fashioned and a number of ways in which they can be financed, but irrespective of how they are achieved members might wish to be aware of both the potential attractions and drawbacks of adding extra floors to existing blocks.

For the most part, developers specialising in this area of construction will, through 'desk-top research', identify the most suitable buildings for such developments and these are likely to be blocks with a flat, rather the pitched, roof – although utilising loft space (which is sometimes, but not always, part of the property retained by the freeholder) can result in some very attractive and lucrative development opportunities. Perhaps, for our members, their reaction to such developments is likely to depend, to some large extent, on whether or not they hold the freehold interest.

Those members who do not hold the freehold interest and whose ground landlord might see some attraction in seizing the opportunity to develop in this way, will undoubtedly wish to consider their options. On the basis that the freeholder has, when granting leases, retained the right to develop (and this needn't necessarily mean by adding an additional floor or floors), leaseholders might feel impotent in the face of an aggressive landlord and an astute developer. However, there are, in many cases, possibilities of thwarting, or at least tempering, such development if leaseholders are against it and the disturbance and disruption that will inevitably be caused.

Most leases will include a covenant placing an obligation on the

landlord to allow tenants 'peaceful enjoyment' of their homes and landlords could very easily find themselves in breach of such covenants. But, notwithstanding such provisions in the lease, the developer would almost certainly have to abide by the requirements of the Party Walls etc Act 1996. It might not stop the development but it would certainly formally alert those directly affected to the proposals and provide a mechanism for resolving disputes.

More radically, groups of leaseholders if they have not already done so, might wish to exercise their Right to Manage. This would, if achieved and if this were their wish, place them in a much stronger position to halt such development as, forfeiture apart, they would effectively be responsible for managing the requirements of the lease almost in their entirety. And, in certain circumstances, a disposal by a landlord of a roof space will be deemed a relevant disposal under the right of first refusal provisions of the Landlord and Tenant Act 1987. Even if leaseholders have no aspiration themselves to develop they might find buying the freehold of the roof space themselves a price worth paying in order to thwart development.

However, there is another side to the coin and leaseholders might take a more strategic view and be prepared to put up with a bit of noise and disruption over the short term for a longer-term gain. It is often the case that developers will soften the blow of disruptive development by offering a number of incentives. In blocks in which lack of regular maintenance has resulted in the building looking somewhat worse for wear, developers might offer to refurbish the block as part of the development package. Equally they might offer to make improvements or enhancements to the block (rarely provided for in most residential leases) at no cost to the service charge – possibly, and depending on the configuration of the block, to the extent of installing lifts. The result could be a much more attractive block, offering better facilities and resulting in more marketable flats.

For those members who might already own their freehold, their interest in such developments might be in deciding how to respond to an approach from a developer or, indeed, proactively seeking a developer themselves. It is likely that those developers who specialise in this type of construction will have 'done their homework' as part of their desk-top research and would likely only be seeking engagement if there were real prospects for utilising the building for such purpose.

Nevertheless, even if the directors of a Residents' Management Company were supportive of such development, and even if the right to develop had been retained, the RMC would still be subject to company law so far as disposal of assets is concerned and would have to ensure members/shareholders agreement. Also, penthouses will usually have exclusive use of the flat roof; thus, any rooftop development should not compromise any part of the property already demised.

Practical/safety issues such as any existing utilities or services (ie gas flues, satellite dishes, lightening conductors, soil pipe ventilation) on the roof would have to be taken into account as would any potential change to the category of the building resulting from the additional height and the possible need to incorporate or extend wet or dry risers or fire-fighting lifts. And, of course, leases of the original flats might have to be re-granted or varied to reflect the need to revise the definition of the main structures of the building. The need to maintain different infrastructure (such as lifts if they were installed) as part of that due to be funded from the service charge would have to be taken into account as would insurance implications both during and after construction. And changes to the apportionment of service charges within existing leases would also need to be considered. And should the developer be offering compensation to the RMC in cash terms, it would have to be determined from the Memorandum of the company whether such monies could be paid to shareholders or whether such funds would have to solely be used in support of the objects of the company and whether there might be tax implications.

However, and notwithstanding the need to overcome such obstacles, leaseholders, if they are prepared to face up to some of these issues as well as a degree of disturbance and disruption, might find themselves living in a block transformed – and not only by the incorporation of an additional floor.

Of course, a couple of golden rules if any of this were contemplated, would be to ensure that the developer has a good track record and that members employ a solicitor well versed in the somewhat specialist area of rooftop developments.

FIRE SAFETY IN FLATS

A message from Chairman Bob Smytherman

It's been almost 18 months since the terrible events in Kensington with the Grenfell Tower dominating news bulletins for many weeks. With various enquiries still ongoing I thought it would be a good opportunity to remind our members of the importance of carrying out reasonable and proportionate Fire Safety checks on a regular basis.

Understandably, many managing agents have reviewed Fire Risk Assessments in the light of the tragedy and have made a number of recommendations to Directors of Management Companies or Freeholders, and our members have rightly been seeking impartial advice from our dedicated teams of experts with both legal and practical experience of managing fire safety in their blocks.

As an organisation, along with a variety of stakeholders we have been informing Government of the importance of a pragmatic and not a knee-jerk response to the Grenfell tragedy. There has been much confusion about the right policy to adopt in the event of a fire in a block of flats: should you 'stay-put' or get out quickly? Of course there is no simple answer as every block is different, but usually staying put is the best course of action for a purpose-built block of flats with good quality '30 minute' fire doors to prevent the spread of fire, where residents can remain safe in part of the building for up to 30 minutes while the alarm is raised and the fire service can attend to rescue anyone inside.

In summary, I hope the Government does not implement new legislation in response to the tragedy that places and unreasonable and disproportionate burden on those of us that have successfully managed the risk of fire without a problem for many years.

Legal Jottings

Compiled by Nikki Carr, our new Legal Jottings correspondent.
Read about her on the back page.

Upper Tribunal

If the hat fits...

Avon Ground Rents Ltd v Child *[2018] UKUT 204 (LC)*

As readers may be aware, a pilot scheme (grandly named the 'Residential Property Dispute Deployment Pilot') has been running in the First Tier Tribunal and County Court since 2016, permitting judges to wear two 'hats' – so effectively they have considered themselves able to sit simultaneously both as FTT and County Court judge (FTT judges are, pursuant to the County Courts Act 1984, judges of the County Court). The theory behind this was that where a claim is issued in the County Court but transferred to the FTT for determination of an issue in the expert jurisdiction – an example would be reasonableness of service charges – the judge would be allowed to determine all of the issues including the costs of proceedings, as otherwise the case would have to be transferred back to a County Court judge in order to consider questions of costs, over which an FTT judge has very limited powers. The thought behind the scheme is to prevent all the unnecessary transfers of proceedings back and forth between jurisdictions, allowing resolution in a single forum and thus saving time and money, and providing consistency of approach.

The scheme has caused quite a deal of confusion over what FTT judges are, or are not, permitted to do. It seems it has been taken as a general mandate to deal with everything. The Upper Tribunal has now made it clear that is not how the scheme is permitted to operate.

Mrs Child was issued with a service charge demand for £1,698. The service charge element was, in fact, only £342.02 – the remaining balance represented administration charges for the demand letters issued regarding that £342.02. The Landlord issued its claim in the County Court for the sum, and for costs. The claim was transferred for determination of the reasonableness of the administration charges in the FTT. The FTT decided that the administration charges were payable, but in the reduced sum of £473.16.

FTT then went on to determine the costs. It decided that they were 'contractually an administration charge', and ordered Mrs Child to pay £2,208 in addition to the £473.16. Those costs represented not just the costs pleaded on the claim (£1,035), but the costs of the litigation since issue. Importantly, those costs had not yet been demanded pursuant to the lease. In fact, apart from the issue fee of £155, which the FTT also awarded, no costs had been incurred in the County Court.

Avon appealed on the basis that the FTT did not have jurisdiction to determine the County Court costs, and did not have the jurisdiction to determine costs incurred in the FTT as if they were County Court costs.

The Upper Tribunal allowed the appeal. The FTT did not have jurisdiction to deal with matters outside of the statutory authority given to it. Its jurisdiction is over what has been transferred to it. The County Court does not have the power to transfer to the FTT decisions on costs.

Neither can the FTT simply adopt the Civil Procedure Rules – that would be acting outside of its jurisdiction. The FTT cannot get around those rules by saying that it is the judge of the FTT is also a County Court judge pursuant to the County Courts Act 1984. There is no such thing as 'double-hatting', and neither an FTT judge or a County Court one sits as two types of Judge simultaneously.

The FTT was also wrong to treat the post-issue costs as a variable administration charge, before any demand or indeed challenge had been made. The FTT had, effectively, pre-determined any challenge to that administration charge and deprived Ms Child of natural justice. On the other hand, the UT recognised that the de facto carousel of post-issue costs – reasonableness of admin charge proceedings – post issue costs could go on ad infinitum. The FTT had no jurisdiction over those costs. They should have been decided by the County Court under section 51 of the Senior Court Act 1981. The UT also indicated, obiter, that the issue fee in the proceedings probably also fell as part of the costs that the FTT did not have in its jurisdiction.

The good news for leaseholders is that the UT indicated encouragement of applications under paragraph 5A of Schedule 11 of the Commonhold & Leasehold Reform Act 2002 in advance of costs to be incurred, of which Mrs Child had not been able to take advantage as it had not been in force.

It should be noted, however, that if the FTT judge re-constitutes himself as a County Court judge in the **County Court jurisdiction**, he can make decisions over the County Court costs. The FTT cannot take on the County Court costs rules; it has its own rules. If what the FTT judge is proposing to reconstitute as a County Court judge to determine costs, he must make it absolutely clear that he is doing so. It seems therefore that if the Judge fancies a change of hat, as long as he warns you, he can go about the decisions in the County Court jurisdiction.

Things are hotting up

Saunderson v Cambridge Park Court Residents Association Limited *[2018] UKUT 182 (LC)*

In March 2014, Mr Saunderson disconnected, with, he said, the Landlord's consent, from the communal heating and hot water supply after a number of problems with that supply. The Landlord continued to charge Mr Saunderson the full portion of his contribution towards the service thereafter. Mr Saunderson challenged that service charge, on the basis firstly that the lease did not make provision for either the supply of nor payment for heating and hot water, and that he had in any event since March 2014 derived no more than five per cent benefit from the services.

The FTT considered that Mr Saunderson's lease made no provision for either the provision by the landlord of heating and hot water, nor the contribution therefore by the leaseholders. However, there had been communal plant at the property since the lease was granted, and the landlord had always been indemnified for the costs of it. The cost of oil had, since the assignment of the lease to him in 1994, been paid by Mr Saunderson through his service charge, and had not been challenged until the present case. The

FTT therefore concluded that, in view of the conduct of the parties, the lease could be construed to include such obligations, alternatively that Mr Saunderson was estopped from denying them.

Mr Saunderson was, by his lease, required to pay a fixed percentage of the service charge costs, which by later Deed of Variation had been fixed at 3.05 per cent. The FTT decided that Mr Saunderson remained liable. It took into account that when he had sought permission to install his own boiler, the Landlord had specifically stated that he could have permission on condition that he continued to pay his full service charge contribution. Despite rejecting this, Mr Saunderson had not entered into any further correspondence and had just installed the boiler anyway.

Mr Saunderson appealed to the UT. His Honour Judge Hodge QC upheld Mr Saunderson's appeal. In the absence of an express obligation to supply, and corollary to contribute to the costs of the communal heating and hot water, the estoppel established would only work if and for so long as the heating was being provided to the flat. Furthermore, since the heating supply that had led to Mr Saunderson installing his own boiler had not been to a reasonable standard, section 19(1)(b) of the Landlord & Tenant Act 1985 applied. The FTT had appeared to misdirect itself on evidence regarding the state of the supply **before** Mr Saunderson had fitted his own boiler and failed to consider s19(1)(b) sufficiently or at all. On no analysis could it be said that the service was being provided **after** installation of the new boiler, let alone to a reasonable standard. The FTT had misdirected itself in both fact and law. Although the FTT was right to identify that Mr Saunderson was estopped from recovering from the Landlord the service charge for the communal heating prior to March 2014, thereafter it was unjust to expect Mr Saunderson to continue to contribute for a service he was not receiving. Parties who establish a conventional arrangement by estoppel can terminate it. Once a party had resiled from the convention, the other could not unilaterally re-instate it.

Court of Appeal

Where there's a 'will' there's a bill...

Corvan (Properties) Limited v Abdel-Mahmoud *[2018] EWCA Civ 1102*

In a case involving two QCs, two junior Counsel and no doubt a bit of argument over costs, the Court of Appeal considered the meaning of an agreement for 'more than 12 months' for the purposes of a Qualifying Long-Term Agreement. The entire argument turned, in effect, on the meaning of the word 'will'.

The Landlord argued that its agreement with its managing agents was for a term less than 12 months. The Tenant argued that on proper construction, the agreement was for at least 12 months plus one day, or for 15 months, and therefore was a QLTA. Consequently, there was a consultation requirement. It was a matter of agreement that there had been no consultation. On the Tenant's case, therefore, the Landlord was limited to recovery of £100 per annum pursuant to the statutory cap, unless the consultation requirements had been dispensed with.

The words in question were:

'The contract period will be for a period of one year from the date of signature hereof and will continue thereafter until terminated upon three months' notice by either party'.

As readers will know, an agreement is only a QLTA if it is for a term of 'more than 12 months'. The Upper Tribunal considered that the clause as stated *was* for a period of more than 12 months, as the 12 months period was to 'continue' 'until terminated' (ie a new contract did not arise on the 366th day). There did not appear to be any provision whereby the contract could be terminated within the term, even on giving reasonable notice. The clause specifically contemplated that the term would continue until after the end of the 12 month period.

The Landlord appealed to the Court of Appeal. It said that on its true construction it was irrational to conclude that the term must be for 12 months plus one day, or 15 months. Jonathan Seitler QC argued that the clause consisted of two sub-units; the length of the term, and then termination. 'Will' was not to be read as 'shall'. The Court ought to read into the clause the words 'and will **unless terminated** continue thereafter', clearly permitting of termination before the expiry of 12 months. Alternatively, 'until' really meant 'unless'. Notice could be given in the first year, to terminate at the expiration of the 12 months – the term was exactly 12 months and no more nor less.

Philip Rainey QC argued that the clause was clear and did what it said on the tin; it was for a period of 'one year...and will continue thereafter'. The word was until, not unless. There was no need to read words into the clause for business efficacy – the clause worked perfectly well without any additional words.

The Court of Appeal held that the word 'will' in the clause indicated a mandatory requirement that the contract would continue beyond the initial 12 months. Notice would only have effect after that 12 month period had ended. It upheld the decision of the UT. Approaching the statutory regime correctly, the question for the court was what was the minimum commitment made by the clause? If the term exceeded 12 months, the consultation requirements bit.

This case involved two QCs and two juniors, all for the interpretation of four little letters. Not only did the Landlord no doubt pay a vast sum in legal bills, he was also limited by the statutory cap for failing to consult. Rarely has there been a more salutary reminder of just how important is good drafting in leases.

ASK THE FPRA

Members of the committee and honorary consultants respond to problems and queries sent in by members

Unoccupied flats

Q **Our current block insurance contains an 'unoccupancy' clause. Coverage is conditional on no flats being unoccupied for more than 30 days unless the insurer agrees in writing to cover excess unoccupancy. In practice, individual residents can be absent from their flats for longer periods. Is FPRA aware of any block policies which accept longer periods of unoccupancy without special agreement? Does FPRA have other experiences to share?**

A FPRA Insurance Expert Belinda Thorpe replies:

Most specialist flats policies only apply the unoccupancy clause if all flats are unoccupied. So if your flats all become unoccupied for over 30 days at the same time then they would need to notify their Insurers and cover may be limited. In reality though, I have not seen this happen in 20 years. There are multiple providers of flats insurance policies that provide cover in this way.

Money not recovered

Q **We are a block of flats whose owners form a company owning our freehold. During the preparation of our company accounts for our AGM in March this year it came to light that our managing agents had paid an estimated electricity bill for £6,300 without reference to us when the previous year's total had been £700. The agents have acknowledged that this was a mistake and said they would recover the money. To date, four months later they have failed to do so. What further action could we take to recover our money from the agents who we feel have acted negligently and breached our contract? The agents are regulated by RICS.**

A FPRA Hon Consultant Gerry Fox replies:

Ultimately the remedy is to take legal action against the agents seeking damages for alleged negligence. Before that is considered I suggest that you give notice to the agent that they repay you the money giving them a timescale failing which you will take further action.

In view of the time that has already elapsed the agents should repay the money to you from their own funds and they can continue to pursue recovery from the electricity supplier. You should make this a requirement.

If this is unsuccessful you can make a complaint to the RICS which will add pressure on the agent and does not involve you in any costs. As the agents are regulated by the RICS they should have Professional Indemnity Insurance and if legal action is then necessary there is a better prospect of recovering your money and costs.

Smoke detectors

Q **We would be grateful for guidance on how frequently we should be testing our communal fire alarms (smoke detectors).**

The development comprises 11 blocks of flats ranging in size from three to 16 flats in four-storey buildings (including the ground floor). There are 117 flats in total and all communal areas have smoke alarms on each floor. The alarms and emergency lighting are tested by our security firm every six months. Each alarm contains a battery and it beeps when the battery is running out. In addition a formal independent fire safety survey is carried out annually.

Are there legal regulations on the frequency of testing? Are there good practice guidelines?

A FPRA Chairman Bob Smytherman replies:

Smoke detectors within the communal hallways should be only provided if these are 'hard-wired' and tested in accordance with manufacturers guidelines the same as fire alarm and emergency lighting.

I would not advise having battery smoke alarms fitted in communal hallways as these can offer a false sense of security for those responsible for the building.

Smoke Detectors are highly recommended for each flat where the main risk of fire is and many fire services will install these often free of charge along with advising the occupiers on fire safety in the home.

We have extensive guidance available on our website compiled by the Local Government Association which the FPRA contributed to and sets out fire safety guidance for blocks of flats to assist the responsible persons comply with Fire Safety Order and prepare Fire Risk Assessments.

Breaking through walls

Q **A new leaseholder, without permission, has broken through the external wall to install an external water tap and an external electricity box. The latter has been removed and you can see the holes that remain in the brickwork.**

The management company does not wish to allow the tap to remain either as this may cause further flats to break through the external wall to either install taps or other items. We are also aware that external taps can freeze in the winter and cause damage to the property.

The full response from the leaseholder is below:

"In terms of the tap and the electricity box. The electricity box has now been removed, as although I would have preferred to have it, it is more of a convenience than an essential. However, regards the tap, it is essential in order to maintain the garden. The challenges of the soil quality and the exposed site are already causing me a lot of concerns about what exactly I'm going to be able to plant in the space – I hadn't realised quite how exposed it is (every gust of wind seems to come directly at it) and the soil quality is very, very poor underneath the top soil I have added, so am having to entirely review my planting scheme. I understand I have a right to call a meeting with members of the association to request a license to keep the tap and I would like to action this please. Let me know

if you are happy for me to organise or if there is another way you would prefer to sort"

Please could you let me know where the management company stands with regard to this issue – are we within our rights to ask the leaseholder to remove the tap?

The same leaseholder has also taken down a large tree and low level hedging which provided some cover for her in her garden. This was quite within her right to do so.

While we would agree to trellising attached to the wall, the leaseholder has requested a fence as follows:

"Regards my request for a fence. This is not something I particularly want, am not really a fan of fencing, but I am really struggling with the privacy, noise and light issues. I don't think having a blind down at all times when I'm in the bedroom is a viable solution, but as a single woman living alone I do want to be able to feel I am absolutely not able to be seen. I also think some sort of barrier – fence or trellis with plants grown up it – would dull at least some of the noise slightly. Could you point out where you feel the lease prevents me from erecting one or the other (trellis or fence) in front of the bedroom window?"

The management company feels that to erect a high fence around the window would detract from the look of that part of the estate and may set a precedence for allowing high fences to be erected in other ground floor flats. We have no objection to a green hedge or any other greenery that adds to the estate being erected. Please see attached the previous email response from the management company to the leaseholder.

Are you able to please advise whether the management company has a right to refuse high level fencing?

A FPRA Legal Adviser Nick Roberts replied (prior to his current appointment):

Your leaseholder is correct in saying that the lease contains provisions permitting alterations to be made to the **Property** with the consent in writing of the management company. This is clause 9(a) in the Third Schedule. This also states that consent shall not be unreasonably held.

I do not, however, think that inserting an outside tap is technically an alteration to the property, as defined by the lease. At this point you need to refer to the definitions on the first page of the specimen lease. The 'Property' is the 'Flat', and according to the definition of the Flat, it does not include the 'mains structure of the Building' (which means all of the outside walls). Work is only an 'alteration' if it is to the 'Property'. Inserting a tap, or affixing a power point to the outside, is work done to the main walls, which belong to the management company (which I understand is now the freeholder). The clause relating to alterations is simply irrelevant – what the leaseholder has done is a trespass to a part of the building which belongs to the management company. (There is case law which confirms that this is a correct view of the law).

Your leaseholder also misunderstands the role that a General Meeting can or should play here, but in order to give you a proper answer I need to have a copy of the Articles of Association of your Company. It would take too much time for me to advise without having sight of the Articles.

As regards the erection of the proposed fence, I think that this would count as a 'hoarding' and so be prohibited by clause 9(b) of the Third Schedule. If I am wrong on this, then you may have a second line of defence. The picture (No 3) suggests that the window in question is at the front of the building, facing the road. If this is so, then, under the Planning Laws, the erection of a fence more than one metre in height in a front garden falls outside the scope of the General Development Order (which exempts minor works from the need for Planning Permission). If this is so, then you can tell the leaseholder that erection of such a fence would, in any event, require planning permission from the Council.

Money laundering regulations

Q **I am sure you are aware that the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into effect last year.**

These regulations require trustees to hold a considerable amount of personal information about settlors of trusts, including dates of birth and national insurance numbers. HMRC require all trusts to register with them, and provide details of all beneficiaries, including the settlors. HMRC consider that these regulations apply to Service Charge Funds, which are held in trust, whenever the service charge fund is required to complete a Trust & Estate Tax Return.

I have registered our Residents' Association's Service Charge Fund with HMRC, as historically the service charge has received untaxed interest and was required to register with HMRC, and still completes Trust & Estate Tax Returns even though the interest income is now extremely low. I registered this on the basis that the settlors were a general group of people rather than specific individuals, but think this may have been incorrect. If I was incorrect, it seems that I will need to write to all of the leaseholders (as settlors) to obtain their full names, national insurance numbers and dates of birth, and provide this information to HMRC.

I am somewhat reluctant to write to the leaseholders, as it will be very complex to explain the reason for requiring this information giving full references to legislation. I am also very sceptical about the level of response, as people are generally and rightly reluctant to provide such information. I know we will need to follow GDPR guidelines as well, and though this is of concern I am sure we can comply with this.

Do you know how other Residents' Associations are dealing with this, and are you able to provide any advice on the best way to deal with this? I have not been able to find any guidance on this.

A FPRA Hon Consultant Jo-Anne Haulkham replies:

We recommend as a starting point that you consult the HMRC website for guidance on the Trust Registration Service in order to understand which trusts need to register and

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consider how/if this applied to you. It is our understanding that the HMRC TRS Guidance explains which trusts need to register, and this may require you to consider items such as whether you have a "Taxable Consequence", and an "Express Trust". In addition, it is our understanding that some blocks have specific written agreements in place with HMRC with regard to their tax affairs.

With regard to GDPR, we recommend you refer to the Information Commissioners Office website for guidance. Beyond this, we would recommend you seek formal advice from a firm who specialise in this area.

Loft space

Q **Our lease does not specify any rules, guidance or boundaries of responsibility for the use of, maintenance and insulation of loft space. Following an initial request to install loft insulation and use of loft space for simple storage from one owner, we would value further advice on the following:**

EXPENSE – Are we (the management company) within our rights to authorise the laying of loft insulation and loft boards for each respective top floor flat but instruct owners that it will have to be at their own expense? It has become clear that the original build did not lay down loft insulation and this may have occurred because the builders went bankrupt at the time and so we know some corners were cut.

FREEHOLD – We are in the process of transferring the freehold from the landlord to our management company. The Freehold is a peppercorn rent and as such holds no value but for future clarification around the ownership, use of and maintenance of roof/loft space above respective top floor flats – what would you recommend the management company has in place in terms of documentation to provide absolute clarity?

SERVICE CHARGE – Our service charge is calculated on the square footage of each flat. By permitting top floor owners to insulate and board the loft area above their respective flats for simple storage – would this be changing the floor area of their flat i.e. increasing their service charge?

ROOF REPAIR OBLIGATIONS – The cost of roof repairs and maintenance should still be a communal cost. We understand that even if permission is granted to top floor owners to insulate and lay board panels in the loft space, it is not their responsibility to pay for maintenance or repairs to the roof – this should still come out of the communal service charge?

A FPRA Committee Member Yashmin Mistry replies:

Having looked at the draft lease we cannot see the loft areas have been demised to individual flat. You would however need to double check the leases for the top floor flats – they may have different forms of leases / description of property demised to them under those leases and / or different lease plan annexed to them.

On the basis however that the description of demised premise is no different in the top floor flat leases to the draft copy lease we have a copy of, the loft areas are retained in the freehold. Accordingly, should the landlord wish to 'sell off' those areas to the individual flats, arguably the rights of first refusal would be triggered and the landlord would be required to serve Section 5 notices on all the leaseholders first. Subject to that offer not being accepted by the majority of leaseholders, the landlord would then be free to dispose of the loft area to the third party ie the top floor flat owner. Thereafter, the loft spaces would need to be demised to the individual flats by way of deed of variation to the existing lease and a new lease plan drawn up and annexed to the flat lease in question.

In terms of service charge amendments, arguably if the loft space is increasing the demise of some of the flats, the service charges would need to be varied to take into account the increase in square footage. Similarly, the other flats service charges would decrease.

The rights of first refusal process is quite complicated and we would suggest a local solicitor is engaged to provide more detailed advice on the Section 5 notice procedure before the loft spaces are disposal off in the way described below.

In terms of roof responsibilities, we assume the landlord would wish to retain control over the actual roof and the cost of maintaining the roof would indeed be costs through would need to be put through the service charge.

Finally, we note from your email that the freehold is in the process of being transferred to the management company. It goes without saying that any disposal of the loft spaces will not be able to take place until the freehold transfer to the management company has taken place.

Fire safety

Q **I have a question about certain costs which have been passed to our service charge by our freeholder.**

Our development opened in 2013. Every 12 months since then a fire safety review has been performed by a private company. As a result of these assessments a number of recommendations have been made due to non-compliance with fire safety regs. The works to resolve these have cost thousands of pounds.

I have consulted a leading fire safety organisation. They advised that there have been no changes to relevant fire safety regs since 2012. So my question is this: can a developer open a development and sell flats if all fire safety regs are not signed off? If they are allowed to do this, then are they legally allowed to then pass on the costs of meeting fire safety regs to leaseholders?

A FPRA Chairman Bob Smytherman replies:

Fire Safety is very much a topical issue and has featured regularly in our newsletter to assist members understand and fulfil their responsibilities. All these are available to view on our members website going back many years.

The legislation you refer to in your question is the Regulatory Reform (Fire Safety) Order 2005 which places a responsibility on the 'responsible person/s' to maintain fire safety standards for the common areas of the block of flats not the flats themselves. This is likely to be the managing agent on

behalf of the Freeholder.
Since Grenfell there has been a number of reviews instigated and all ongoing which I contribute to on behalf of the FPRA therefore there may be changes to these legal requirements in future including improvements to Fire Safety that may (and I stress MAY) be able to be passed on to service charge payers. Indeed, this has been in the news with a large developer passing on the cost of replacement cladding to the service charge as a result of this block failing tests following Grenfell.
Your own lease is important here as to what improvements can be passed to the service charge or not and we will need to refer your lease to our legal advisor for a definitive legal view in this situation.
My own view is your freeholder is entitled and expected to carry out a fire safety review at least on an annual basis. However, I would be surprised if this resulted significant additional measures required in such a new block, as its rare for significant new risks to be identified that require new expenditure to deal with non-compliance, I suggest challenging the recommendations to satisfy yourselves these are new risks that need mitigating to assist you with this I suggest independently contacting your local Fire Service who will be able to advise whether any such recommendations are both reasonable and proportionate and then contacting your managing agent with your findings to enter in to a discussion about the reasonableness of any costs, ultimately if you can't agree on the reasonableness of costs added to the service charge then as leaseholders you can seek a determination from the First Tier Tribunal.

Rotten Windows

Q **Two leaseholders consistently refuse to replace their windows.**
The last remaining flats to replace their window frames is proving a challenge. We have just carried out external painting and repairs to the wooden frames which has shown they are now beyond a proper repair and potentially dangerous due to the condition of the wooden frame. What is the best action to ensure both the leaseholder and management company comply with the lease?

A FPRA Hon Consultant Mark Chick replies:
Thank you for your enquiry dated 9 May 2018 concerning the replacement of the windows at your block. We understand that there are two flats who are yet to replace window frames which the management company have now identified as being beyond proper repair due to the dangerous conditions of the wooden frames. We assume in providing this answer that there is no argument on the part of these flat owners that the windows form part of the landlord's repair and responsibility under the terms of the lease that these are not demised to the flat owners in question.
The demise clause of the lease indicates that the only parts reserved to the landlord are in fact the glass within the windows of the flats. This would indicate at first viewing that the window frames are in fact the responsibility of the tenant.
The provisions of clause 2 (3) of the Lease require the tenant to keep the interior and the doors, windows and window frames in good and substantial repair.
It could be argued that this clause does not require an obligation to replace but where the item has become beyond economic repair then replacement will be the only option.
Clause 2 (6) allows the Landlord to enter to inspect and to prepare a schedule of condition. The landlord can serve a notice on the tenant indicating any wants of repair and require the tenant to carry these out immediately.
If the tenant does not proceed to carry out the work, then the landlord can, after three months, proceed to carry out the repair itself and seek to recover the cost from the tenant.
Ultimately, if the leaseholders will not repair the windows and they are out of condition, this is the path that should be followed.
Before embarking on a particular action of this sort an appropriate report evidencing the lack of repair should be obtained.
There may be some debate as to whether the tenant can opt to repair the item if this is possible. However, provided it can be shown that the item is beyond economic repair and that replacement is the only option (on the basis of expert option) then you should be able to proceed in this way.

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Unequal balconies

Q **We are discussing replacing our balconies which are the responsibility of the company. We think we should charge the 16 flats concerned with the actual costs for their balcony but there is some comment that it should be paid from the service charge. This would be unreasonable as eight ground floor flats do not have balconies, two corner flats have two large balconies and two other flats also have a single large balcony. Would the communal area exclude flat balconies?**

A FPRA Hon Consultant Cassandra Zanelli replies:

The starting point for the answer to your query is the lease. The lease sets out the property which has been specifically demised to each leaseholder, and also sets out what is not being demised, and therefore is either a retained or common part.

The fourth schedule to the lease describes the extent of the demise, which is essentially the interior rooms of the flat, together with the garage.

The lease sets out what the landlord's covenants are. They include an obligation to maintain, repair and renew the main structure which, for the sake of clarity, includes the balcony. I take the view therefore that, based on the lease, the balconies are not demised to the leaseholders but are instead part of the main structure that the landlord is responsible for the maintenance, repair, and renewal of. This is subject to the payment on the part of each leaseholder of their contribution to the service charge pot. Clause 4(ii) requires the leaseholder in the specimen lease I have been provided with to contribute a 1:24 part of the costs, expenses etc incurred by the landlord in its maintenance, repair and renewal of the main structure.

Therefore, any repair works undertaken to the main structure (which the balconies form part of) are works for which service charge monies should be used.

While I take on board the comments with regards to the seeming unfairness of the situation because some flats don't have balconies and others have larger balconies, this is, unfortunately, how the leases are drafted. It is not unusual for certain flats to contribute towards the costs of service for which they derive no benefit whatsoever. The common example that is often cited is the ground floor flat that contributes towards the maintenance of the lift and yet derives no benefit from the lift itself.

I am therefore very clear in my advice that there should be no deviation from the service charge mechanism set down by the lease. Although it may seem morally unfair, the contractual position is that each leaseholder will need to contribute towards the costs of the work even if they don't have a balcony or if their balcony is not as large as that of their neighbours.

Electrical query

Q **The common hallway lighting circuits at our block recently failed an 'electrical condition report' due to the absence of an earth wire in the cabling.**

- **The block was built in 1965 and the wiring conforms to the standards in force at that date,**
- **The lighting cables pass current electrical insulation tests and during the last year, a professional electrician replaced light fittings in one of the hallways without commenting on the absence of an earth wire.**
- **I cannot find any regulation that requires the lighting cables to be upgraded to to-day's standard.**

Are the electrical wiring standards for cabling in common areas 'grandfathered'. If not, where can I find the regulation that requires them to be maintained to the latest standard?

A FPRA Chairman Bob Smytherman replies:

Over the years Building Regulations have been updated and it's often difficult to keep up with what needs to be carried out as part of Legislation or just recommend which I find very frustrating as our adviser on these issues.

The key issue for common parts of blocks of flats is that they must by law be tested once every five years by a suitably qualified electrician. Any works recommended by such an electrician should not be ignored, including earthing of the common wiring. To do so could not only jeopardise your insurance but could seriously endanger life.

As part of the 'responsible persons' responsibility to carry out a fire risk assessment, electrical safety is key and any action to mitigate the potential for an electrical fire should be carried out.

As a 1965 block you may well also have asbestos in your common areas and an Asbestos Management Plan must be carried out to identify any asbestos and how this should be managed. Again this is a legal requirement and not to be ignored.

Right to be consulted

Q **Although our residents' association has been established for many years and is consulted by the freeholder's agents, I don't think we hold any particular legal status. What are our options going forward? For example, should we form a company and what kind of company?**

A FPRA Committee member Bob Slee replies:

You have indicated that you are consulted by your freeholder's agent but you don't say whether you have been formally recognised as an association by the freeholder. This is quite important as it gives you legal rights to be consulted over major works, appointment of managing agents, to have access to documents relating to service charges and to be able to appoint a surveyor to carry out an investigation into service charges.

In order to secure formal freeholder recognition under the terms of Section 29 of the Landlord & Tenant Act 1985, your freeholder can insist that you are properly constituted as a residents' association in accordance with the stipulations of the Act. The FPRA produces a publication entitled *A Guide to Formation, Recognition and Running Your Association*. It is available to order from the publications drop-down menu on the FPRA website and costs £18.

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A residents' association does not require any additional legal status other than that described above. However, if you were contemplating an application for right to manage from your freeholder, or even a buy-out of the freehold, then it would be appropriate to form a company limited by shares which does have increased legal status under Landlord & Tenants and Companies legislation. If and when you find yourselves in that situation you may want to consult us again.

Car park costs

Q **The Residents have been advised by our managing agents that the freeholder would like the 18 leaseholders to pay for the resurfacing of the rear car park, as the surface has deteriorated and has a number of pot holes.**
We have been advised by the managing agents that the lease states that each leaseholder has responsibility for maintaining the rear car park, as each resident has a right of way across the car park and the rubbish bins for the block are located within it, which are emptied on a weekly basis by the local council briefly parking their lorry in the car park.
However, for some years the freeholder has operated a commercial business from the rear car park, by letting the car parking space and garages to external people/ companies such as the local taxi rank. Due to the heavy usage of the car park by these vehicles coming and going across the car park the surface has deteriorated significantly and in the winter months, flooding occurs in some parts.
The managing agent has recently informed us that he is due to present the costs of the quotes he has received to undertake this work to the freeholder and he expects that he will ask the residents to pay the cost of this work (which for a full resurface is £6455 +VAT).
The residents object to paying for this work, as they have little benefit from the car park and the freeholder is running a commercial business, presumably gaining income, that could pay for the work. Can you please advise us of what rights we have to challenge and object to this matter and what action we could take to address it.

A FPRA Hon Consultant Mark Chick replies:
We understand that the issue concerns the proposed contributions to the cost of re-surfacing a common car park which in your view has a degree of commercial use which has been attached to it by the freeholder. This intensification of use has in your view resulted in a higher level of wear and tear to the surface of the car park and you wish to query whether it is possible to challenge any proposed contribution to be made by the residents to this.
Under the provisions of clause 6 (A)(III) the landlord is obliged to maintain the forecourt of the building which presumably includes the parking area.
The fourth schedule allows the landlord to recover the costs of its obligations incurred in complying with its obligations under the lease which include the 'roadway path, forecourt gardens and other common parts of the estate'.
It is not clear to us whether the landlord owns adjacent property as the right to use the common area in question. However, we would recommend that we are instructed to review the freehold title to see whether Deeds reveal any obligations towards the potential for a contribution towards the costs in repair in common areas.
The lease itself contains an obligation to obtain a certificate from the landlord's managing agents as to the amount of expenditure incurred in maintaining the estate. The managing agents are given the role of experts in determining the apportionment of any charges to be re-charged to the estate.
The lease at Clause 2 (3B) sets out a requirement that if the landlord and tenant cannot agree as to the proper proportion of any charges to be paid that the matter will be determined by the landlord but that if other parties are unwilling to accept the determination then there is the right to have the matter determined by an independent surveyor. Accordingly, the provisions of this clause should be invoked.
Given that the managing agent also has a power in relation to the certification and allocation of expenditure, then you should seek to ascertain their likely views on this prior to them preparing the service charge accounts.
We would also suggest that you consider other options which may include non-payment of part of the service charges in the event that the matter cannot be resolved.

Health and safety

Q **We have a Health & Safety Assessment dated 4 December 2015 and an Asbestos Survey Report dated 27 October 2016. We also have an 'Electrical installation work certificate of compliance' dated 22 March 2012 concerning installing power to our garage blocks.**
Bearing in mind that we are a two-story block with no common internal areas.
1. Are there any other certificates/reports which we are required to obtain?
2.When do we need to get them renewed?

A FPRA Chairman Bob Smytherman replies:
1. You are required to have a Fire Risk Assessment which for a two-storey block, which need not be onerous but must cover safe means of escape in the event of fire that is adequately lit in the event of a power cut. Your directors are the 'responsible persons' collectively and there is extensive guidance on our website to assist meeting your responsibilities.
2. The electrical safety check for any electrical supply provided by the company will need renewing every five years and therefore is overdue and should be a priority for your directors. There is an extensive guide on our website covering this and the qualifications required from a suitable electrical contractor.

Advertisements

★ ★ ★ ★ ★ ★ ★ NEW MEMBERS of our TEAM ★ ★ ★ ★ ★ ★ ★

FPRA is delighted to welcome four new Honorary Consultants: Nikki Carr, Anna Favre, Emily Orner and Cassandra Zanelli.

NIKKI CARR is a barrister, at Arden Chambers. Her interest in leasehold matters developed early as a student representative in the London Rent Assessment Panel (as it was in 2001). She worked substantially in the field of landlord and tenant in the County Court before commencing pupillage in a common law set, in which she developed a focus on housing and leasehold work, including enfranchisement. Her understanding of additional common law areas of work ensures that she can provide her clientele with unique, informed, holistic solutions to their litigation issues.

Nikki further developed her specialism during a period as a Senior Lecturer on the Bar Professional Training Course, for which she created and delivered a specific Landlord and Tenant module. She continues to provide accredited training to the profession on areas including service and administration charges, leasehold variations, and disrepair.

In 2016 Nikki was appointed to sit as a Chair of the Valuation Tribunal for England, broadening her experience to include questions of land valuation for the purposes of tax and rates.

Nikki joined Arden Chambers in August 2017. She is an academic practitioner with a key focus on technical and complicated work. Her leasehold expertise includes: leasehold enfranchisement; RTM; enforcement of covenants; service charges and admin charges; major works including urgent major works; nuisance. Pars).

ANNA FAVRE is a partner in the Residential Real Estate team at Pemberton Greenish LLP. She is a leading expert in the complex fields of leasehold enfranchisement and residential landlord and tenant law acting for major London estates including Cadogan and Sloane Stanley as well as a large number of tenants. Equally, she advises companies and high net worth individuals on all aspects of residential property law.

Anna regularly presents at conferences and seminars, and has written for both the legal and general press on these specialist areas. In both 2013 and 2014 she won Solicitor of the Year at the prestigious Enfranchisement and Right to Manage Awards, then the first solicitor to do so. In 2016 and 2017 Anna also won Real Estate Lawyer of the Year at the Women in Law Awards and was cited by industry publication *News on the Block* as one of the 100 most influential people in the real estate sector.

EMILY ØRNER is the Head of SPL Property Management LLP in Bournemouth and a Director of the Institute of Residential Property Management (IRPM). She has many years' experience as a Residential Leasehold Property Manager and has acted for a variety of clients. She is well versed with the complexities of the leasehold system and the approaches needed to navigate the day-to-day running of a block of flats.

Award winning **CASSANDRA ZANELLI** heads the newly founded PM Legal Services which boasts a nationwide client base of freehold-owning and property management companies. An acknowledged leader in her field, she is recognised principally for her expertise in the First-Tier tribunal. Cassandra is a well-respected speaker, invited to address key national and regional conferences – and host training sessions for leading organisations including ARMA, IRPM and RICS. Most recently, she had the privilege of judging the inaugural ARMA Ace awards. Passionate about sharing knowledge, Cassandra has launched PM Legal Hub, a free online resource hub for property management professionals.

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