

# Your Freeholder isn't set in stone

## A Freeholder isn't for life!

Frustrated that the freeholder isn't doing his job properly? Mary-Anne Bowring, creator of [www.leaseholdersupport.co.uk](http://www.leaseholdersupport.co.uk) explains how to apply for a Court Appointed Manager

Is your Freeholder failing to keep the block in repair, charging you too much for too little, only interested in his ground rent and insurance commission?

Typically there are three profiles of block that fall into this scenario.

The first profile is the huge amount of flats that are owned by investors who show little real interest in the fabric and exterior of the block so long as their flat is rented. The second profile is where the block still has a long lease, therefore, little interest in shown in parting with cash to buy the freehold. The third profile is the block that cannot get 50% of the residents to support a right to manage movement.

Today, one's flat is more than just a home it is quite probably the most valuable asset a leaseholder owns. The lease is a legal instrument that sets out the rights and obligations of both the Freeholder and Leaseholder and should govern the management activities of the block. If you are concerned that the block is falling into disrepair, the Freeholder is not taking action against other leaseholders who are making alterations such as ripping out walls without due regard to process or protecting the integrity of the fabric of the entire building, or resolving neighbour disputes then don't despair. It takes just one leaseholder that understands that the covenants within the lease need to be upheld to make things change.

If you cannot get 50% of leaseholders supporting you and have accepted that you cannot force self management, then consider the next best thing, a managing agent of your choice. Before applying to the Leasehold Valuation Tribunal to request that they appoint the managing agent of your choice as Court Appointed Manager you will have to select an agent who has sufficient expertise. To satisfy a Tribunal the Court Appointed Manager needs to be competent to stand in the shoes of the Freeholder and enact the lease.

Where there is no need to prove fault on the part of the Freeholder or existing management arrangements, when claiming the right to manage, requesting a Court Appointed Manager is different. To persuade the Tribunal to appoint a Manager it is necessary to justify your reasons why such a course of action is reasonable and would be in the best interests of the block as a whole. Lodging an application with the Leasehold Valuation Tribunal costs between £150 and £350 \*(depends on number of dwellings in block).

Typically the Tribunal will schedule a pre-trial review (PTR) at which the parties are instructed what issues or evidence the Tribunal will hear. **At the pre-trial review the Tribunal will usually decide whether they wish to visit the block and how much time will be set aside for the hearing.** Apart from the application fee at Tribunal each party bears their own costs, but be aware if the Tribunal feels that one or other party is wasting the

Tribunal's time or not following directions on the information and evidence to be heard it does have the power to award costs of that part of the hearing.

If you can make sense of your lease, can find the relevant clauses that you feel are being breached, and **are able to collate evidence**, for example;

- Photograph disrepair or unauthorized alterations
- Produce a diary of disputes reported but not resolved
- Produce copies of service charge accounts which do not comply with the Landlord & Tenant Acts

Then you are probably competent to present your own case at Tribunal. Many leaseholders however, choose the support of a Managing Agent, probably a firm of Chartered Surveyors who are experienced in this. It stands to reason that if the Freeholder turns up at Tribunal and objects to your action the panel members will want to have your proposed Managing Agent present to satisfy themselves that the appointment would be a safe and reasonable choice. Irrespective of the issues of your action, if your proposed agent is a member of the Royal Institution of Chartered Surveyors (RICS) and probably also a member of the Association of Residential Managing Agents (ARMA) then you will have greater chances of success

Assuming your case is proved the decision notice of the Tribunal will set out the appointment of the Managing Agent usually for a term of five years. A competent agent may themselves draft proposed directions for their appointment or in some complex cases a lawyer may be required, but in our experience this is rare.

To get started a list of member firms of Surveyors and Property Managers can be found at [rics.org.uk](http://rics.org.uk) and [arma.org.uk](http://arma.org.uk). Phone several agents and find someone who you can (a): talk to, (b): someone who inspires you with their competence and (c): gives you good advice to help you define your issues. Remember every stage of your action will be benchmarked against what the lease states should happen so have a good read before you part with any cash.

The Ringley Group is a regular face at the Leasehold Valuation Tribunal on issues of reasonableness and recovery of service charge in addition to supporting leaseholders who need to request the Tribunal appoints a Manager for them. The Ringley Group subscribes to the RICS **10 minute FREE consultation** service on this topic. So to get the ball rolling feel free to call **0207 267 2900** and ask to speak to Mary-Anne Bowring.

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## About Mary-Anne Bowring



**Mary-Anne Bowring**, Founding Director of Ringley Chartered Surveyors is a Member of the Royal Institution of Chartered Surveyors and a Member of the Association of Building Engineers. Since the Housing & Urban Development (Leasehold Reform) Act 1993 Mary-Anne has been advising in this specialist field and has presented cases to the Leasehold Valuation Tribunal (LVT). Mary-Anne has extensive detailed knowledge of building law and the Landlord and Tenant Acts. For the last 10 years Mary-Anne has managed the development of Ringley Chartered Surveyors building an Estates Department which manages 5,000 leasehold properties, a Survey and Valuation Department which provides valuations to over 10 top banks and about 300 leaseholders/potential freehold enfranchisee's annually. Frustrated by the mysticism surrounding property and the absence of simple tailor made solutions Mary-Anne's latest development is the launch of two web based products ([www.leaseholdguidance.com](http://www.leaseholdguidance.com) and [www.leaseholdersupport.co.uk](http://www.leaseholdersupport.co.uk)) which are dedicated to supporting lessees through both legal and valuation procedures and providing knowledge, and financial administration for small blocks of flats.

Application fee relates to the number of dwellings 5 or less flats £150

6-10 dwellings - £250

10+ dwellings - £350