



BURNS HAMILTON

COMMITTED TO THE HIGHEST STANDARDS

SALES • BLOCK MANAGEMENT • LETTINGS

OWNERS GUIDE

Definitions

Acts – Acts of Parliament that govern the Freehold/Leasehold area of law. In particular the Landlord and Tenant Act.

ARMA – Association of Residential Managing Agents – The leading trade association for residential leasehold management in England and Wales.

CDM – The Construction (Design and Management) Regulations 2015 - Act that governs H&S of contractors working on sites.

Freehold – Permanent and absolute title of land or property with freedom to dispose of it at will. Usually the communal areas and structure of the building in regard to flats.

Freeholder/Landlord – The person or company which owns and rents or leases the Property. This person may also own the freehold or may have a superior leasehold interest in the property themselves.

Ground Rent – Rent paid by a Leaseholder to the Freeholder in accordance with the Lease.

H&S – Health and Safety.

IRPM – Institution of Residential Property Management – The leading professional body for residential property management professionals, providing learning and qualifications.

Lease – The legal contract that governs the flat and use of the communal areas.

Leasehold – Ownership of a flat for a determined period of time (could be 99, 125, 999 years) but does not include ownership of the building the flat is part of, or the land.

Leaseholder/Lessee – A person or Entity who is allowed to use a property according to the terms of a lease.

Management Company – A Management Company referred to in the Lease, or a Right to Manage Company created under the Commonhold & Leasehold Reform Act 2002, to provide services and administer the terms of the Lease either directly or through Managing Agents.

Rent Charge – The mechanism within a Transfer Document which requires a payment to be made by the property Owner to a third party.

RMC – Resident Management Company – a non-profit making Company formed to provide a vehicle to enable the owners within a building to undertake the management of that building for themselves

RTM – Right to Manage Company – A company formed by Leaseholders to take on the management obligations from the Freeholder.

Section 20 – A part of the Landlord & Tenant Act and refers to expenditure of Service Charges where any one Leaseholder who contributes at least £250 toward works to a property, consultation notices must be issued, which are prescribed in law.

Service Charge – The amount payable by a lessee as part of, or in addition to, rent in respect of services, repairs, maintenance, insurance, improvements or costs of management. The amount payable may vary according to the costs incurred or to be incurred.

Tenant – An alternative term for Leaseholder/Lessee.

Transfer Document – The legal document that governs the freehold property and use of the communal areas.

Year End – The financial year end of a company.

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Introduction

This guide has been prepared for the benefit of owners where Burns Hamilton provides management services to the communal areas of the property or estate, internal and/or external areas.

The guide provides a general outline of how we undertake the management functions. If there are any points which require clarification or if you have any queries concerning the management of your property, then please contact us and we will endeavour to answer your query.



About Us

Burns Hamilton is a Managing Agent that provides services to the Freeholders of residential and commercial properties. Usually appointed by the Freeholder or a Resident Management Company (RMC), we provide advice and take instruction from our Client (often referred to as the Landlord in a Lease) to deal with matters relating to the administration, accounting, compliance, repair and upkeep of the property, which are their responsibility under the terms of the Lease or Transfer Document.

Our management function is determined by the provisions set out in a Lease or Transfer Document and the legal requirements governed by various Acts of Parliament.

Our Property Managers are well versed in all aspects of property management, based on both good practice and current legislation.

Burns Hamilton is a member of the Association of Residential Managing Agents (ARMA) and we abide by the strict code of practice of this Association. As a member of ARMA we are required to provide and maintain services to the highest standards. In addition, we are committed to upholding the standards set by the Institute of Residential Property Managers (IRPM) and a number of our Property Managers are qualified at Associate or Member level. As a business, we encourage these qualifications and affiliations for all members of staff.

In addition to our Block Management services, we offer a Sales and Lettings service, which our team will be more than happy to discuss with you. We are well positioned to either let or sell your property as we have thorough knowledge of the building and its restrictions and can provide potential purchasers or tenants with all relevant information concerning the building. Our Sales and Lettings Department can be contacted on **01202 55 33 35**.

About Our Services

In general, we are responsible for the maintenance and upkeep of the main structure of the building, such as the roof and external walls, maintenance of the common areas and general upkeep of the site.

Certain parts of the property will be shared by some or all occupants in the building i.e. halls stairways and gardens and someone must assume the responsibility for the proper upkeep of these areas. Under the terms of your Lease or Transfer Document, these functions are the duty of the Freeholder or the Resident Management Company (RMC), who will have appointed Burns Hamilton to act on their behalf. The cost of this maintenance is recovered from the flat or house owners, in line with the provisions set out in the Lease or the Transfer Document via a Service or Rent Charge.

Our exact duties will vary according to the property but in general will consist of:

- ✓ Arranging repairs and renewals as they fall due
- ✓ Arranging the cleaning and lighting of the common parts (Hallways staircases etc)
- ✓ Arranging the gardening and the maintenance of the communal grounds
- ✓ Arranging mechanical maintenance such as lifts, gates pumps etc
- ✓ Arranging electrical maintenance such as emergency lighting and intercom systems
- ✓ Appointing and overseeing wardens, caretakers and site managers where necessary
- ✓ Ensuring the site complies with all applicable regulations and legislation, especially in regard to Health & Safety and Fire Safety
- ✓ Collecting Service Charge funds
- ✓ Keeping proper books and records

As well as arranging and monitoring these items, we will visit the property on an agreed basis to ensure that work is being carried out satisfactorily and to ascertain if any further work is required.

In addition, we will maintain full records of all payments and receipts for each property, deal with individual owners' reasonable queries and liaise with solicitors when a sale is anticipated.

Each building is allocated a dedicated Property Manager and support team who will be familiar with your building. This ensures continuity with the owners of the properties and with our client.

The Manager is generally responsible for the regular activities relating to the upkeep of each property. When the time comes, your property manager will see to the necessary arrangements and procedures in relation to any major works required.

Your Lease or Transfer Document will probably stipulate that the roof, foundations and exterior of the property, together with the common parts, must be maintained and redecorated at regular intervals.

Your property will benefit from this regular upkeep because:

- ✓ A property that is well maintained will be more pleasant to live in
- ✓ A dwelling in a well-maintained building will generally hold its value better than one in a neglected building and will probably be more appealing to potential purchasers
- ✓ Regular maintenance of a structure limits serious deterioration of the fabric of the building, reducing future cost
- ✓ In order to meet regulatory, mortgage and insurance requirements

Types of Work

Maintenance and repairs can range in size and complexity. There will be ongoing items of general maintenance such as cleaning and gardening. Where there are mechanical and electrical installations such as lifts, automatic gates, pumps etc we will arrange for a specialist firm to service them on a regular basis, normally via an annual maintenance contract.

Repairs will usually fall into three categories: -

Minor Repairs that will usually be noticed by the Manager during a site visit or may be reported by an owner or site staff

Repairs of an emergency nature, some which may possibly be the subject of an insurance claim.

Major Works, which are usually planned and are discussed in more detail in the Major Works section of this guide

We will deal with emergencies as quickly as possible; all other repairs will be addressed subject to the necessary funds being in place and once we have received instructions from our client to proceed.

We will instruct a competent contractor to undertake the work and you may be asked to confirm if the repairs have been completed to your satisfaction.

Notification of Repairs

Although we undertake regular inspections, we are not at the property all the time. If you notice an item that requires attention or a mechanical item fails, please contact us and we will arrange for contractors to attend. Likewise, if you have concerns about the standard or frequency of the regular services to the building such as cleaning gardening etc, please advise us so the situation can be assessed and monitored.

Emergency Repairs Out of Hours

Emergency repairs can sometimes be required outside of our office hours, so we offer an out of hours facility to our clients as an additional service. If you would like to set up this service, please contact your Property Manager for further details.

If your building is not covered by our Out of Hours Service and an issue arises where it is vital that a repair is carried out immediately, we would advise you contact a local contractor to arrange for the repairs to be undertaken, keeping copies of all the quotes and invoices that you receive. Following the incident please contact our office leaving your contact details and we will get back to you. Details of our telephone numbers and email details are given at the back of this booklet.

Providing that the repairs are chargeable to the Service Charge account for the building, we will endeavour to arrange reimbursement of expenditure as quickly as possible, subject to our client's instructions.





In cases where the cost of the work exceeds or is anticipated to exceed £250 per unit or £250 for the unit with the highest proportion of the Service Charge (where the apportionment is not equally split as per your Lease or Transfer Document), we may arrange for a formal specification of work to be prepared. We will issue Consultation Notices in line with the regulations set out by Section 20 of the Landlord and Tenant Act 1985. You will be invited to nominate a suitable contractor to quote for these works during the initial consultation period.

We will obtain a minimum of two competitive quotations from independent contractors and details of these will be sent to you in accordance with the provisions of the Landlord and Tenant Act. Once you receive the details of the quotations you will have 30 days to let us have any observations on the proposed work. When necessary, for larger or more complex projects, we are prepared to attend meetings with owners to discuss the proposed work in more detail.

Everything possible will be done to reduce inconvenience during the works but sometimes there will be irritants such as noise and dust, unfortunately this is inevitable. We would ask that you co-operate with the contractors and provide access when required. This is essential during External Redecorations when windows need to be painted, as inability to gain access may lead to windows/doors being painted shut.

During works, a nominated representative for the owners is welcome to attend site meetings, and if the Residents Management Company or Freeholder has nominated a surveyor to act on their behalf, the surveyor is also able to attend site meetings by appointment.

Phasing of Works

From time to time we receive requests to limit Service Charges or defer works usually due to financial hardship. We view these requests sympathetically; however, we must consider the views of all owners, our client's instructions and the urgency of the works in tandem with the terms of the Lease or Transfer Document.

We need to consider:-

- Whether work can be deferred without having a detrimental effect on the building
- Whether delay could cause safety issues, for instance broken steps or a chimney on the verge of collapse which would clearly cause injury or put life at risk if not addressed
- Whether delaying work could result in substantially greater costs that would outweigh the advantages of deferment
- What the covenants in the Lease or Transfer Document dictate

Where deferment is not possible, owners will be provided with as much notice as possible of the likely cost and should make the appropriate payment on the due date in accordance with their Lease or Transfer Document.

Improvements

Our principal function is to ensure compliance with the covenants contained in the Lease or Transfer Document, to manage, repair and maintain the fabric of the building. However, from time to time we are requested by owners to undertake works that are essentially improvements to the property. In such cases we will need the agreement of all the owners in the property unless the Lease allows for the cost of improvements to be put to the Service Charge account.

Estimates and Quotations

If quotations are necessary due to the extent of the repair, we will try to obtain firm quotations from contractors prior to work commencing. However, this may not always be possible due to the nature of the work required. In some cases, it is not possible to identify the extent of the problem until such time as the area in question has been exposed and the full scope of the work can be assessed. In these circumstances, contractors will provide estimates once the extent of the work has been defined.

When a repair is considered a genuine emergency, time constraints may mean that obtaining a quotation is not always possible.

In these situations, we will instruct a competent contractor. If the issue/area can be made safe, with further works to follow, the immediate risk will be contained, quotes will be gathered for the remaining works to make good.

When requested by our client, we will go out to tender for existing maintenance or new proposed works to a minimum of two suitable and competent contractors. However, where the cost of the works is minimal, or delays in acceptance cause a change in costs making re-tendering necessary, further costs may apply.

Seeking Specialist Professional Advice

When considered necessary and subject to our client's authority we will instruct the services of a Chartered Building Surveyor, Structural Engineer, Solicitor, Accountant or any other professional or specialist for their advice.

The Construction (Design and Management) Regulations 2015

The Construction (Design and Management) Regulations 2015 (CDM 2015) apply to all construction and most maintenance projects regardless of size, duration and nature of the work. The regulations place responsibilities on the client (Freeholder or RMC), the contractors and anyone else involved in the project. The Freeholder or RMC is only able to instruct competent contractors to undertake works and the contractor must be able to demonstrate full compliance with CDM 2015 regulations.

Any owner wishing to nominate contractors must ensure that the contractor they nominate can prove full compliance with the CDM 2015 regulations.

Buildings Insurance

Usually the Freeholder or the Resident Management Company will be responsible for insuring the building. They will purchase buildings insurance which will cover damage to the building, principally against accidental damage, storm, fire, flood and subsidence. Where repairs are necessary because of such an incident, a claim may be made to the insurer. The buildings insurance will usually cover outbuildings but not always fences and walls. The buildings insurance will not cover general wear and tear, neither will it cover negligence or wilful damage by owners their tenants or guests.

It is important to realise that buildings insurance covers the main fabric of the building and the common parts, this insurance will not cover damage to your own contents. We therefore strongly recommend that you consult your own insurance broker to arrange contents insurance for your own property, if you do not already have cover in place.

If you leave your property unoccupied for more than 30 days, it is likely to be a condition of the policy that the insurers are informed. It is therefore your responsibility to inform us if you are aware that the property is to be unoccupied for more than 30 days as insurers may well decline a claim if they have not been previously notified. Please ensure that you turn off all supplies and generally make the property safe before leaving the property unoccupied.

Finally, there is an implied duty that the property will be adequately maintained and that owners will not do anything that might put the property at risk.

For full details of the cover in place and the restrictions please refer to the policy document.

Insurance Claims

Where we believe that the buildings insurance will cover the cost of repairs, we will make the appropriate claim. It is however important to appreciate that insurers may not bear the total cost of repairs. There may be an element of improvement in the repair which the insurers will not contribute towards, for instance if the roof suffers damage in a storm but is considered by insurers to be at the end of its life, it may only be practicable to replace the roof with the insurance company contributing to only part of the cost.

There may well be an excess due under the terms of the policy in respect of each claim so there may be a requirement to contribute to the difference between the cost of the repairs and the amount received from the insurance company. Sometimes this will be a cost to the Service Charge fund, however depending on the cause of the damage giving rise to the claim the excess may be payable by the property owner.

If you wish to make a claim in relation to your own flat, make sure that you contact us with full details and photos within 30 days of the incident occurring, so that insurers can be notified within the time frame stated within the policy.

If a leak is from flat to flat, we ask that we are contacted in the first instance to ensure that we are aware of the issue and can supply you with any required information and contact details, however we will only administer the claim, we are not able to instruct repairs in your property. The Leaseholders of the involved flats may need to liaise with each other and the insurers directly.

Service Charge and Bank accounts

Burns Hamilton maintains individual client accounts in the name of each property or client, these accounts are kept separate from our own office trading account and that of other client's money. All contributions from owners are paid into the relevant bank account and all expenditure relating to the property is paid from that account.

Ground Rent and Rent Charges

Where instructed by our client we will issue invoices and collect the Ground Rent or Rent Charges due under the terms of the Lease and Transfer Documents. These invoices are issued in a prescribed form and in advance of the due date to ensure that they are compliant with legislation.

Payment of Your Service Charge and Ground Rent Accounts

Items of maintenance and repair clearly involve the expenditure of money. Most Leases and Transfer Documents provide for Service Charge contributions to be made in advance to ensure that there are enough funds available to meet invoices for services as they fall due.

Each year a Service Charge budget is produced which is an estimate of the likely Service Charge expenditure for the forthcoming year. It is important to appreciate that where we give an estimate of the likely Service Charge costs for a particular year, this is based on the costs in the previous year and anticipated costs in the current year; sometimes costs can arise where no allowance has been made in the budget. Your Service Charge contributions will be based on the budget and your invoice will be issued in accordance with the Lease or Transfer Document requirements before the due date. We would request that you ensure that your payment is made in a timely manner. If it becomes necessary for us to write to you about your outstanding account, additional charges will be incurred in line with our Credit Control Procedure. You will be notified in advance in writing if a charge is to be made.

Your invoice will contain details of the bank account held for your building. Payment can be transferred directly to this account; alternatively, if you wish to send us a cheque please ensure that you insert the name of the payee as indicated on the invoice. We are unable to accept cash or card payments.

Please note it is imperative that you quote your unique Tenant Reference Number when making a payment to ensure your payment is allocated correctly to you.

Late Payments

Under the terms of your Lease or Transfer Document, you are obliged to pay your Service Charge contribution on the due date. It is very important that payments are made promptly to ensure that there will be adequate funds to pay for the running costs of the building. We would remind you that we are collecting funds due to the Service Charge account for your building and as Property Managers it is our duty to ensure that contributions are collected in accordance with your Lease or Transfer Document, which details when payments must be made. If a payment is not received, we will follow our credit control procedure, a copy of which is available on our website. If a response is still not received from you, we will refer to our client who will have no alternative but to instruct external solicitors or a debt collection agency and seek to recover not only the outstanding sum, but also any interest and costs that are incurred in pursuing a payment from you.

Ultimately failure to pay Service Charge contributions could lead to your Landlord taking forfeiture action to repossess your Lease.

If you are experiencing difficulties making a payment, we would urge you to discuss the matter with us as soon as possible.

Year-End Service Charge Accounts

As soon as possible following the properties financial year end, a set of Service Charge accounts will be produced and certified or audited by an independent accountant, which will summarise the income and the expenditure incurred in relation to your building for the financial year in question.

You may, subject to arranging a mutually convenient appointment, visit our offices and inspect the books and records supporting these year-end service charge accounts.

Our Charges

The work that we do obviously involves our employees time and overheads, which we recover in the form of management fees. We enter into a contract with each of our clients which outlines clearly how and when our fees are charged.

Sometimes when we carry out work specifically attributable to your property such as obtaining consents there will be fees due from you for this work. Details of our fees are available on request.

Contact with Owners

If we are to be successful in our role, we must develop and maintain a good relationship with owners. We will always deal with individual owners on day to day matters and we will write formally to you when issuing year end Service Charge accounts or when complying with legislation. Your Property Manager can be contacted by telephone, although please bear in mind that there will be occasions when they will be out of the office or unavailable, so we will ask you to leave a telephone number so that your call can be returned. If it is a very urgent matter that cannot wait, then another member of staff will be happy to take your call and attempt to deal with the problem. Property Managers visit your property and are more than happy to meet with individual owners on site during normal working hours by prior appointment.

We must however advise you that if a breach of your Lease has occurred, such as the non-payment of Service Charge contribution and a legal team has been instructed to deal with this breach we will be unable to talk to you or correspond with you concerning your property. At this point you would be required to deal with the solicitors that have been appointed to rectify the breach. It is a legal requirement that we act in this manner and we are not seeking to be offensive by ignoring any communications.

Residents Associations

We will liaise with flat owners when we are retained by an independent Freeholder. We encourage the formation of resident's associations which can represent the views of the owners and have a positive impact on the running of the property.

Alterations

Most Leases and Transfer Documents contain a restriction for Leaseholders on making alterations or additions to the property without first seeking the approval of the Landlord.

If you are considering an alteration or an addition to your property, please contact us with full details of your proposals prior to commencing any work. It is important to make sure that any alterations are not going to be unsightly, do not affect the structure of the building, meet local authority Building Regulations and where necessary, planning permission has been obtained.

Under no circumstances must any work commence until such time as the Landlord has given their written approval to the alterations that you may wish to make.

Common examples of alterations which would be affected by this are moving boiler flues, installing vents, changing the windows or front door to the property, or making changes affecting the internal layout.

Please note that you will likely also need permission for the installation of a satellite dish, aerial or awning and its position will need to be agreed before it is installed.

A fee is payable for processing your individual application in respect of alterations or additions to the property and will be payable, regardless of whether your application is successful or not.

Pets

It is essential that the terms of the Leases and Transfer Documents are adhered to in respect of the keeping of pets in the property. Many Leases and Transfer Documents preclude the keeping of pets however, where the keeping of pets is permitted it is essential that the Landlord's consent is first obtained before the animal can be kept on site.

If you wish to keep a pet at your property, please let us have full details of the pet concerned, including breed name and age together with a photograph of the animal so that we may seek consent on your behalf from our client.

We charge a fee for processing the consent request, which is payable even in the event that your request for consent is not granted.

Hard Flooring

It is also essential that the terms of the Leases and Transfer Documents are adhered to in respect of the covering of floors. Many Leases and Transfer Documents preclude the installation of hard flooring to any room in the property apart from the kitchen or bathrooms, due to the transference of noise to other apartments in the building.

It is important that you ensure that the terms of your Lease or Transfer Document are adhered to in this respect to avoid any action being taken against you by the Landlord for a breach of the terms of the Lease or Transfer Document if hard flooring is not permitted.

If hardwood flooring is in situ against the terms of the Lease or Transfer Documents, you may experience issues when selling.



Sub Letting of The Property

Many Leases and Transfer Documents require the permission of the Landlord prior to the sub-letting of your property. If you are planning to let your property, please contact us at the earliest opportunity so that we may seek approval from your Landlord.

We will need the following information from you to make this request:

- Confirmation from your bank or building society (if you have a mortgage) that they have given their approval to the subletting of the property.
- A copy of the proposed tenancy agreement, which must include a clause requiring the sub tenant to agree to abide by the terms and obligations set out in your own Lease or Transfer Document.
- Name, address and telephone number of someone who will have or will be able to give access in the case of an emergency (this can be the letting agent that you have employed)
- A name and address in the UK where future invoices or notices should be sent and details of who will be responsible for the property and the payment of invoices as they fall due.

We must remind you that you will continue to be responsible for the actions of the tenants or anyone residing at the property in your absence, it is therefore imperative that you ensure that they are aware of and abide by your obligations under the terms of your Lease or Transfer Document.

If your tenants breach the terms of your Lease or Transfer Document our client will act against you as the owner of the property and not your tenants.

A fee is payable for processing your request for permission, which is payable even if the permission to sub-let is not granted by your Landlord. The fee may be charged per sub-let tenant or per Tenancy Agreement term. Details of our fees are available on request.

Please be advised the majority of Leases do not allow holiday letting or sub-letting for less than 6 months, if you are in doubt please contact your property manager.

Contact Us



www.burnshamilton.co.uk

Block Management Team

Sales & Lettings Team



01202 391 663

01202 553 335



admin@burnshamilton.co.uk

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Useful Contacts

Association of Residential Managing Agents (ARMA)

<https://arma.org.uk/> Tel: 0207 9782 607 Email: info@arma.org.uk

Association of Residential Letting Agents (ARLA)

<https://www.arla.co.uk/> Tel: 01926 496 800 Email: help@propertymark.co.uk

Royal Institution of Chartered Surveyors (RICS)

<https://www.rics.org/uk/> Tel: 0247 686 8555 Email: contactrics@rics.org

The Property Ombudsman (TPOS)

<https://www.tpos.co.uk/> Email: admin@tpos.co.uk

The Leasehold Advisory Service (LEASE)

<https://www.lease-advice.org/>

Flat Living

<http://www.flat-living.co.uk/> Email: info@flat-living.co.uk

News on the Block

<http://www.newsontheblock.com/> Email: editor@newsontheblock.com

Land Registry

<https://www.gov.uk/government/organisations/land-registry>

Water UK

<https://www.water.org.uk/advice-for-customers/find-your-supplier/>

Reporting a noise nuisance

<https://www.gov.uk/report-noise-pollution-to-council>

Information Commissioner's Office (ICO)

<https://ico.org.uk/> Tel: 0303 123 1113

The Construction Design Management Regulations 2015

<http://www.legislation.gov.uk/ukxi/2015/51/contents/made>



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