



25 THINGS EVERY FLAT OWNER SHOULD KNOW





1. You don't actually own your flat

Yes, that's right. It may sound confusing but in the eyes of the law you don't own your flat – you're actually renting it for the remaining term of the lease you sign on purchase.

What you have bought is your ability to sign a special form of property contract called a "lease". This lease entitles you to be in possession of the flat for a defined period of time only. This is the length of your lease. When the time period expires, in theory your lease will revert back into the ownership of the freeholder of your building. You can extend the lease, and to retain the value of the flat this will be necessary – in fact it may be necessary to even get a mortgage on the property.

2. You can extend your Lease

To mitigate the perceived negative effects of possessing an asset that has a time limit, the law now provides flat owners with the right to extend their lease for an additional fixed period of time if they choose to. This can be a wise investment to do but can be expensive depending on the lease length and the ground rent costs – as well as the legal costs.

3. You have to pay Service Charges

The lease will almost certainly contain a provision regarding the periodic payment of service charges, usually annually or quarterly. These costs represent a pre-agreed contribution, as dictated by the lease, towards the cost of insurance for the building, electricity for communal areas, as well as maintaining the common parts of the block, such as the outside areas, stairwells and hallways.

4. You may have to pay Ground Rent

Most leases also state that flat owners must pay a yearly rent to the freeholder, called Ground Rent. Ground Rent compensates the freeholder for the use of his land by your flat, and is often a minimal sum not exceeding £250 per annum – however some leases have clauses which allow an increase in Ground Rents and this can be lower the value of the property and the ability to get a mortgage on the property.

5. You can change your managing agent by exercising your right to manage

If the flat owners in a building are unhappy with the way in which the common parts are being managed or, indeed, any other property management issues it is possible to change the managing agents. In some circumstances, if more than 50% of the flat owners within a building agree, they can collectively exercise their right to manage. This is a statutory, no fault process which results in the removal of the current managing agent and they can then choose to manage it themselves or install their chosen managing agent.

6. Your Service Charge demands

By law, a service charge demand must be made in writing and accompanied by a summary of the rights and obligations of the flat owners. Failure to provide such a document means that the flat owner can withhold the payment of the service charges without recourse. Service Charges are not fixed, they fluctuate annually and although there is a budget created each year, this is merely an estimated expenditure schedule – it's not a guarantee.



7. It's possible to vary the terms of your lease

Leases are often drafted badly. They may be difficult to interpret- both from a legal and pure English language point of view. They could also be deemed to be unfair. Or they may even be seen to negatively affect the value of the property, for example if the ground rent charges are onerous.

Sometimes over time the original leases are no longer fit for purpose and therefore should be updated. If your lease or if all the leases in the building are inadequate for your needs then it is possible for the terms to be varied, and this can be a useful method for keeping the rights and obligations of the flats up to date. There will be legal costs involved of course but amending a lease may increase the value of the property by far more.

8. Costs are generally not awarded in the LVT

The Leasehold Valuation Tribunal (LVT) cannot award costs except in cases which are frivolous, vexatious or otherwise an abuse of process or where the litigant has acted in an abusive, disruptive or otherwise unreasonable manner during the proceedings.

However, legal costs may, depending on the wording of the lease, be recoverable by the landlord as a service charge under the lease – therefore it can get expensive for flat owners!

9. There is no one single statute containing all the law about flats

There are actually over 85 pieces of legislation which affect flat owners in an increasingly complex and confusing body of law – and as more regulations are constantly introduced this will only get more. This is also further increased as new technology enables new property usage and strategies investors follow such as the rise of short term lets using websites such as Airbnb.

10. The exact number of flats in the UK is not known

The last official count was conducted in 2017 by The Office of National Statistics and back then it was estimated there were over 1.5 million



flats in the United Kingdom. With the property boom of the last 10 years, this is probably a vast under-estimation and there are probably closer to 3 or 4 million flats in the UK and this number will rise more as build-able land will decrease and population size increases. Also we believe smaller properties, which flats generally are, will become more popular as family sizes decrease (due to divorces / separation and the costs of raising large families).

11. Directors of a resident's management company or residents' association have personal liability

Residents' associations which have formed themselves into limited companies will have several flat owners to run them as directors of the company. Directors are personally liable for the acts or omissions they make. The risk of personal liability can be protected by purchasing the appropriate directors and officers' insurance policy, which is standard for all blocks we manage where appropriate and in our opinion an entirely necessary relatively small expense (similar to for example, lift insurance, not great to have extra costs but we feel, very wise to have!)

12. Directorships are unpaid & voluntary positions

Being a director of a resident's management company is a voluntary position and you are generally not entitled to be paid for the contribution you make or costs you incur for this work. It does however give you greater control over the running of your block and can provide oversight for the block's management by the managing agent.



13. The freeholder may be responsible for arranging buildings insurance, paid by the flat owners

Most leases contain a provision placing the obligation to arrange buildings insurance on the freeholder. However, this clause in the lease often makes provision for the freeholder to receive a contribution from the flat owners towards the cost of the buildings insurance. Therefore usually this contribution is taken as a separate annual charge or within the service charge budget.

14. Managing agents are not regulated

There is no compulsory or statutory form of regulation for managing agents. A managing agent does not need to particular qualifications however all reputable managing agents should be regulated by ARMA and hold various other accreditations.

15. Major works are subject to a consultation process

Before any work is undertaken in the building which will cost each flat owner more than a specified amount, the landlord must consult with each flat owner. The flat owners can nominate their own contractors from whom estimates must be obtained. From all the estimates received, a decision as to who will carry out the works can be made.

16. Where a building is badly managed, a new manager can be appointed by law

In a building which is badly managed- either by the residents themselves or through a third party managing agent- the flat owners do not have to sit back and allow the value of their property to erode away due to poor maintenance. Subject to certain conditions, the Leasehold Valuation Tribunal has the power to appoint a new manager on receipt of a complaint by the flat owner(s) concerned.

17. You have the right to buy the freehold of your block in a process called enfranchisement

If more than 50% of the flat owners in a building agree, then they can approach their freeholder with an offer to purchase the freehold ownership of the block.

18. It is against the law to smoke in a block of flats

By law it is prohibited to smoke in the common parts of a building containing flats. Failure to comply with this law can result in a fine. It is therefore important to have the correct signage in prominent positions around the communal areas – we also insist on this and ensure clear signs are displayed at all entrances.

19. Administration charges are legal

A reasonable administration charge may be made by your managing agent for providing you with information about your property. This may happen, for example, when you are buying or selling a flat, subletting the property or planning to carry out building works.

20. You can only collect a reserve fund if permitted to do so

A reserve fund is a sum of money saved up over a period of time to pay for emergency works or for long-term maintenance tasks to maintain the block and its value. However, in the absence of express agreement by all the flat owners a reserve fund may only be collected if provided for by the lease itself. Reserve funds are unpopular with many flat owners as it can be seen as money that they effectively lose every year but doesn't get spent, and may never get spent; however we are very clear they are important and necessary for prudent long term management.





21. If you breach the terms of your lease you could lose your flat

If a flat owner fails to comply with the obligations contained in the lease that they signed on purchase of the property, for example a direct contradiction to an express clause within the lease, the landlord has the ability to bring the lease to an end as a consequence. This legal process is called 'forfeiture'. This is a slow process and if a mortgage is held on the property, the lender will be notified and will likely take action to protect their security, potentially through repossession.

22. The Leasehold Valuation Tribunal is a specialist court

The Leasehold Valuation Tribunal (LVT) is a part of the court system dedicated to resolving disputes involving leasehold property. If disputes involving flats go to court, they usually begin here.

In recent years, the jurisdiction of the court has now been extended so that they can hear claims involving service charges, the right to manage, and lease extensions to name but a few.

23. Noise is one of the most common complaints by flat owners

Living in such close proximity with your neighbours will inevitably lead to conflicts between residents. As well as the bin store mis-use, one of the other frequent complaints to noise.

Where noise problems cannot be resolved amicably between neighbours or with the help of the managing agent, then the local council can assist or should it be necessary, solicitors can be instructed to force this to stop.

24. Mediation is an alternative method of resolving disputes

Instead of going to the Leasehold Valuation Tribunal to resolve a dispute, mediation offers an alternative form of dispute resolution. This is an informal, confidential, quick and inexpensive process which allows the parties to get together and discuss their problems with a third party unbiased mediator instructed to attempt settling the differences. There are now several organisations offering mediation services for leasehold disputes and this avenue should be fully explored before more expensive legal action is taken.

25. Commonhold is a new form of tenure for flats

Commonhold allows for the freehold ownership of individual units within a block of flats and the common ownership of the shared parts of the block. Essentially, commonhold can be understood by the expression: “freehold flats”.

It was introduced as an alternative to long leasehold ownership model but has yet to make any impact on the residential property market; potentially because it's not seen as attractive to developers. This new legal structure could be more beneficial to flat owners but it relies on the government incentivising developers to take this approach for the structure to become popular and therefore implemented.



HorizonManagement.co.uk
hello@horizonmanagement.co.uk
0300 030 1035

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Horizon Block Management Limited trading as Horizon Management.
Registered Address; 155 Newton Drive, Blackpool, FY3 8LZ
Company Registration Number; 11006638

