

Ask ADCOCKS

The Newsletter of Adcocks Solicitors

ISSUE 2

Right to Manage?

The Law Commission have now published their Consultation Paper “Leasehold Home Ownership: exercising the right to manage”.

The Law Commission have been busy during the last year as this is the third Consultation Paper in quick succession (other consultation papers have been published relating to Enfranchisement and Commonhold) which has the potential to affect the residential long leasehold sector.

The right to manage (RTM) was introduced by the Commonhold and Leasehold Reform Act 2002, to give leaseholders of flats, the right to manage their own building, via an RTM company vehicle. There is no need to prove fault on the part of the landlord, but there are strict qualification criteria which must be met in order for a claim to be made.

The legislation, has not, however, turned out to be the most forgiving of what are often minor procedural errors made by leaseholders, and a plethora of technical and inventive challenges to claims by landlords have taken place.

The Government asked the Law Commission to review the existing legislation with a view to making RTM “simpler, quicker and more accessible, particularly for leaseholders”. The Law Commission have made a number of proposals, including a relaxation of some of the qualification criteria and a change to, what many describe as, unfair costs rules. They are seeking views before final recommendations are made to the Government.

The Consultation Paper and other supporting documents can be found at <https://www.lawcom.gov.uk/project/right-to-manage/>

The Consultation period ends on 30th April 2019.



If you would like to know more about whether you and your neighbours have the Right to Manage the building in which your flat is situated, we will be happy to provide further advice. Just call **Emily Fitzpatrick** in the first instance, for further help.



Our Adopted Charity

We are pleased to announce that after consultation with it's staff, Adcocks have adopted PETA (People for the Ethical Treatment of Animals) as our adopted charity.

PETA is an American foundation working to protect the welfare of all species of animals, particularly domestic animals, uncovering the abuse and cruelty which animals of this type endure for human pleasure.

“It was a natural move for us” said Frances Di Pierri Adcock, the firm’s Practice Director. “We have many members of our family and our staff who follow a vegan or vegetarian lifestyle and we all felt that it was a natural choice for us”.

Adcocks have become business supporters for PETA and we are pleased to be helping a very worthwhile charity achieve its objections.

We have already been able to nominate the charity to receive unidentified and surplus funds from our client account where we have been unable to trace the true owners, following our Regulator’s recommendations. We hope to be raising further funds through our own efforts internally and through our professional work to support this very worthwhile and respected charity.

For further information please contact PETA (www.peta.org.uk)



Being admitted and a member of the Practice



As of 15th October 2018 I was admitted as a fully qualified solicitor – a daunting thought! The whole process of legal education right through to admission is a mountain climb – but definitely worth it!

From beginning University as a fresh faced student through to qualification at Adcocks Solicitors it has been a tough but rewarding journey. Adcocks have helped me to put my knowledge into practice and to develop into a newly qualified solicitor.

The breadth of experience that I have gained at Adcocks Solicitors is invaluable and has allowed me to flourish. The team aspect of working for Adcocks has meant I know there is always a support

network in place whether that's administratively or personally!

Being a member of the team has given me a drive to strive to excel further in my legal career with plans to specialise in Private Client and assist in other areas as needed.

Following the journey to become a solicitor, my admission means a rubber stamp on all the hard work and being a member of the team here at Adcocks means I have the perfect platform to put all my knowledge into practice.

I am excited to see what the future holds for me within the practice!

Emily Goode



Inheritance Tax

Tax is a subject that many people can love to hate and often Inheritance Tax (IHT) is an area that many people just don't understand.

IHT is mainly a charge payable on an individual's estate on death. However, it can also arise in relation to certain lifetime gifts.

Every single person has a nil rate band where IHT is charged at 0%. This nil rate band is currently £325,000.00. There are certain allowances, exemptions and reliefs that may serve to reduce the amount of IHT due, however this is dependent upon meeting certain conditions.

Ordinarily an individual's Estate will not attract IHT if it is below the threshold of £325,000.00 or has been left entirely to a surviving spouse, civil partner or charity. However individuals must be mindful of the value of their overall estate, as well as lifetime gifting and how IHT may impact them.

For the 2017/2018 tax year, we saw however for the first time the introduction of the additional 'main residence' allowance which is also known as the residence nil rate band. This band will only apply to a main residence and also where the person receiving the gifted home is a direct descendant (for example children, step-children and grandchildren). This band is gradually being phased in and therefore the full effects of it have not yet been felt.

IHT, much like death itself, is a topic not many people wish to talk about. It is often the fear of the unknown but by reviewing your estate planning you may be able to address your IHT concerns head on!

Call **Emily Goode** on 01543 442 101 for more information on this subject or making or renewing your Will.



We are delighted to announce that we are participating in the Cancer Research UK free wills service for over 55's.

Cancer Research UK is a charity that is close to many and we strive to aid a good cause. The service will be available for over 55's who wish to prepare a simple Will. The cost of the Will is to be paid for by Cancer Research UK. All you will need to do is simply contact our office by email or phone, arrange an appointment at a time convenient to you and we will do the rest.

We aim to make the Will making process as simple and straightforward as possible. For further details please call **Emily Goode** on 01543 442 101 or **Madeleine Williams** on 01543 442 119.



Emily



Madeleine

LEASEHOLD LAW MAYBE CHANGING

Did you know that the law relating to Leasehold houses and flats maybe changing?

The Law Commission has recently published a consultation paper seeking views from the public about proposed changes in the law affecting Freehold houses and flats. This consultation is aside from other changes which the Government is considering, namely banning the sale of new Leasehold houses and capping ground rents payable in new Leases of houses and flats.

So what changes is the Law Commission proposing? All the changes relate to the law surrounding the rights of a Leaseholder to compel their Freeholder to either sell the Freehold of their house, or block of flats, or extend the Lease of their flat. It is a little known and understood area of the law, although Adcocks have specialised in this area for the last 20 years. Full details of the changes can be found in the Law Commissions' consultation paper www.lawcom.gov.uk but some of the more radical changes include:-

- A Eliminating the waiting period (currently two years) before you can exercise your right to extend the Lease of your flat or buy the Freehold of your house.**
- B Ways of reducing both the purchase price of the Freehold or Lease Extension Premium and associated legal and valuation costs.**
- C Prescribing simpler and easier to understand claim forms and standard documents to facilitate efficient closure of claims,**
- D A new right for Leaseholders to participate in the purchase of the Freehold of the building in which their flat is situated, after the purchase has taken place by others in the building (a right to participate).**
- E A new Right to Enfranchise houses and flats where they pay a common service charge to a Freeholder.**

Whilst this is merely a brief insight into the many changes proposed, it is not clear yet what changes will come into law, or when they will take effect. The Government has however announced that the change is a priority for it, and so it is hoped that whatever changes take place, they will come into effect during this Parliament.

Should you require any further information or clarity on the points raised, please contact **Mark Adcock** on 01543 442111 (ma@adcocks.com).



Is Commonhold likely to be common?

It's all go in the property world at the moment with the proposed changes to Leasehold Law and now, hard on the heels of that, the Law Commission has recently issued a consultation paper on reinvigorating Commonhold.

The consultation paper can be found at www.lawcom.gov.uk but essentially it seeks the public's views on whether, and if so, how, Commonhold might be made to be a more attractive property owning option than is currently the case.

Commonhold was introduced in 2002, but has never really caught on. This is primarily down to the fact that developers have had no real interest in pursuing Commonhold as an alternative means of ownership (rather than Leasehold), because it has not had the future prospects for gain for them like Leasehold. However, Commonhold is a whole new type of ownership, unfamiliar to most of us (including Lawyers), but it may not stay that way for long. It has always been possible since 2002 to convert qualifying buildings (usually those containing flats) to Commonhold ownership, but there has been very little take up. Currently there are only about 20 such Commonhold developments registered at the Land Registry. The new law however proposes more radical change, allowing owners of qualifying buildings to convert them to Commonhold ownership even where there is mixed use.



Owning a Freehold flat is quite common across the rest of the world, whereas in Britain, it is likely to render your flat unsaleable. We have in fact had to undertake a number of projects reversing just this very situation where flat owners have purchased the Freehold of their flat, finding themselves left with a big problem.

The Law Commission welcomes views from members of the public on its consultation paper, which will inform the Government as to whether, and if so, how, the law might be changed to make it a more popular option.

Should you wish to have more clarity on your position or would like advice about any aspect of the proposed changes please contact **Mark Adcock** on 01543 442111 (ma@adcocks.com)



Airbnb

Do you own a Leasehold flat and have you thought about offering it to Airbnb guests? Well no doubt the prospect of the additional income would be very useful. Although, you need to be very careful that it does not fall foul of the terms of the Lease of your flat.



Recently the Upper Tribunal in the case of *Bermondsey Exchange Freeholders v Conway* (2018) EWMiscB10(Cc) has considered whether the use of a flat for Airbnb guests might amount to a breach of a covenant against using it other than for residential purposes and has come to the conclusion that it does. Whilst Leases contain many different varieties of restrictions on their use, should you be considering letting your property in this way, it would be worth taking professional advice before doing so. The consequences of breaching your Lease can be quite serious and ultimately lead to it being forfeited back to the Freeholder. So if you are a Property Manager, a Tenant or a Landlord and require further advice in this specialist area, please contact **Daniel Farrelly** on 01543 442105 (df@adcocks.com) for more information.

