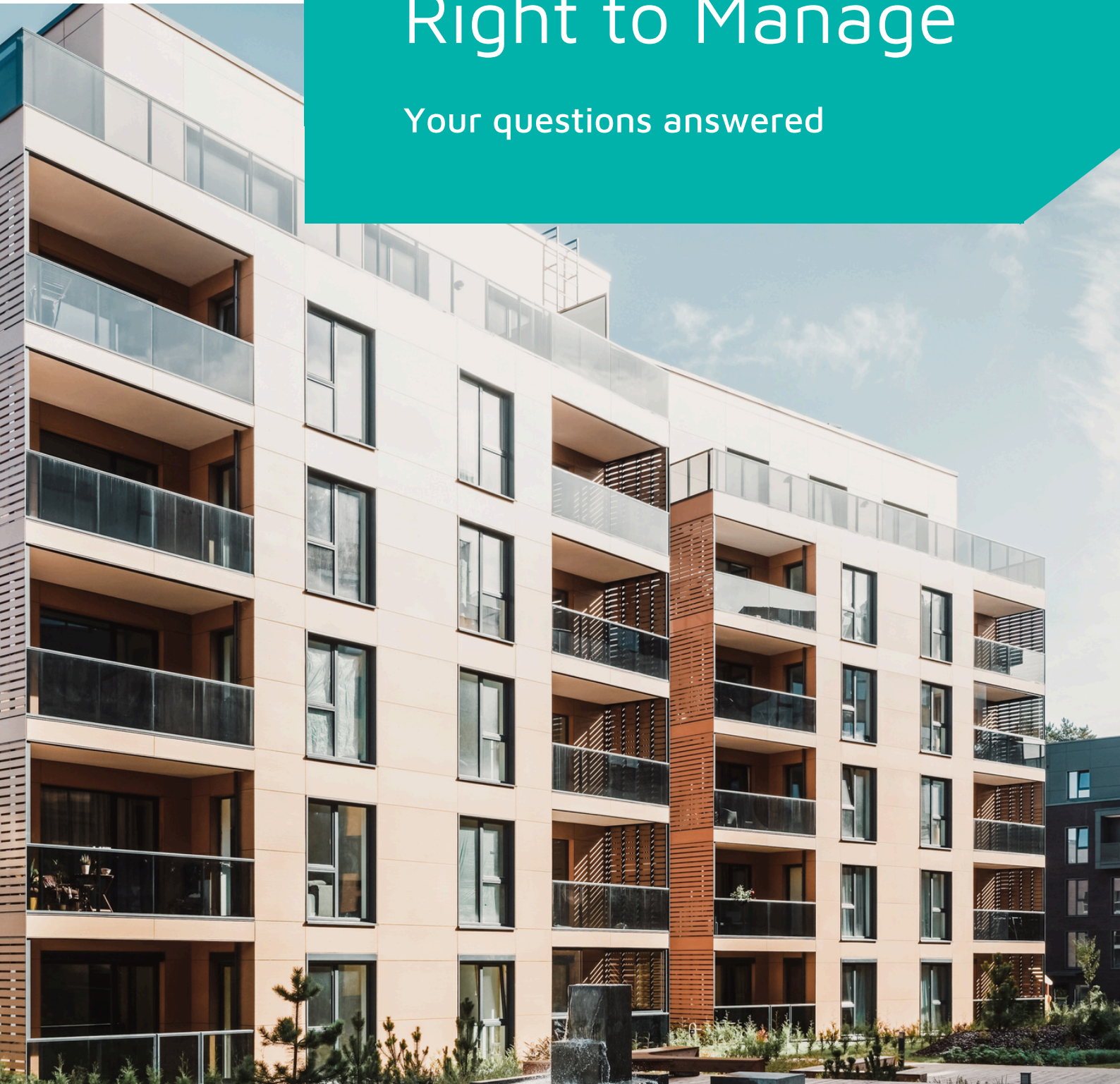


Right to Manage

Your questions answered



About Martin Tolhurst Solicitors

Martin Tolhurst is one of Kent's leading law firms. With our award winning and modern approach, all of our clients can benefit from our years of experience and vast array of specialisms.

Our clients' cases will be handled thoroughly, professionally, in an approachable and understandable way.

As our client you can benefit from:

- The wide spectrum of experience and knowledge our experts have
- Friendly and approachable teams who care
- Our efforts to minimise 'legal jargon'
- A dedicated 'New Enquiries' team when you have a new legal matter
- Free Initial Advice - 15 minutes, general advice
- Fixed Fee Consultations - 45 minutes, no obligation specific legal advice sessions for just £99!

What's more:

- We are members of the Association of Leasehold Enfranchisement Practitioners (ALEP)
- The firm is 'Lexcel' Accredited by The Law Society - The Legal Practice Quality Mark, and have ISO9001 accreditation
- We are accredited under the Conveyancing Quality Scheme by the Law Society
- We are members of The Conveyancing Association

Other services:

We also offer advice in:

- Residential Property
- Family Law
- Wills & Probate
- Disputes
- Commercial Property
- Lease Extensions
- Business Law
- Equity Release

Introduction

If you own a flat or apartment (Leaseholder), more often than not the management of your building will be the responsibility of a third party. Occasionally, groups of Leaseholders may have purchased the freehold of their building enabling them to control the management. That can be a costly process and unless at least 50% of the leaseholders in the building are willing to participate it is not an option that will be available.

There is a statutory right that applies to many buildings for the leaseholders to acquire the right to manage their building without buying the freehold. By acquiring the right to manage you will be able to take control of how your building is managed.

Read on to see whether you might qualify for this right and how it works.

Your questions answered

What is meant by 'management' of the building?

Your lease will contain obligations (either on the landlord/freeholder or a separate management company) to look after the parts of the building that are not specifically allocated to any one of the flats within the building. This will usually include maintenance and repair of structural features and common areas, upkeep and maintenance of external areas (such as landscaped areas and parking areas) and insuring the building.

Do I qualify to make a Right to Manage (RTM) claim?

A RTM claim is not something a leaseholder can undertake alone. It is a collective right, so you will need the support and participation of at least some of the other leaseholders. Not less than one half of the total number of leaseholders will need to be participating in the claim, and in the case of there only being two flats in the building, both leaseholders must be involved.

Your building will either need to be a self-contained building or part of a self-contained building and at least two-thirds of the flats in the building must be let to 'qualifying tenants' which means their lease was for a term of no less than 21 years.

Are any buildings excluded from the RTM?

Yes. The legislation contains details of various premises that would not qualify for a RTM claim. These include buildings with substantial non-residential parts, buildings with a resident landlord (and no more than four units) and premises owned by a local housing authority. Your solicitor will consider whether your building falls within any of the exclusions.



Does the current landlord/management company need to be in breach of their obligations in the lease before we can commence a RTM claim?

No. It is a no-fault right available to leaseholders provided their building meets the qualifying criteria. The reality is the majority of RTM claims start due to inefficiency or poor performance of the landlord/management company but there is nothing preventing leaseholder taking the initiative even if the management of the building is generally good.

What are the benefits of undertaking a RTM claim?

Many leaseholders crave greater control over the way in which their building is managed. This can involve matters like seeking a better premium for the buildings insurance, changing contractors for regular services such as grass cutting and window cleaning or having more control over when more substantial works are undertaken and which company is awarded the contract.

Are there any disadvantages?

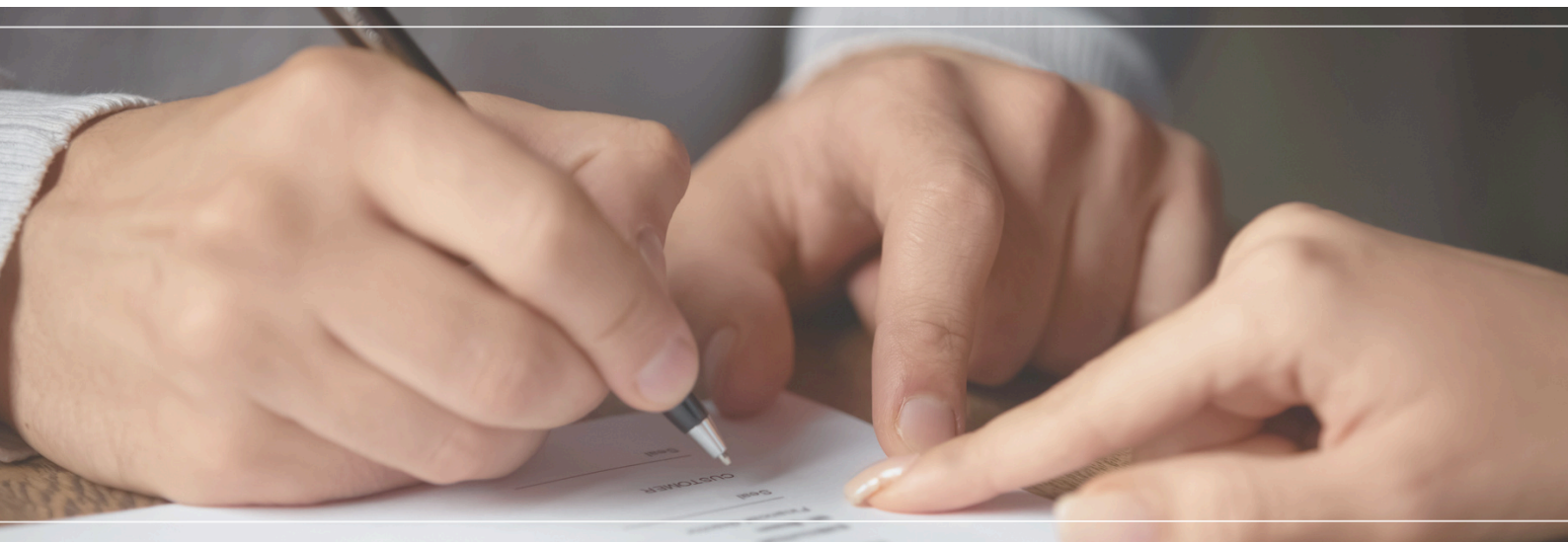
Extra hassle is the main potential drawback! Whilst many are not generally satisfied with the performance of the people managing their building, it may still seem preferable to having to make those arrangements themselves. Particularly where there are a large number of flats in a building, it can seem daunting to try to coordinate all of the leaseholders to try to make regular decisions about the building. The reality is that most people undertaking a RTM claim choose not to deal with matters directly but instead use their newly acquired power to appoint a preferred managing agent. If that managing agent fails to perform as required, you have the power to appoint another agent in its place.

Do I have to pay to acquire the Right to Manage?

There is no premium to pay when acquiring the RTM. You will need to pay your own solicitor's fees and you will also be liable to pay the professional fees of the current landlord/management company that you are acquiring the RTM from. As a result, the RTM claim can be an attractive alternative to groups of leaseholders who are not in a position to raise funding to purchase the freehold.

Will we need a company to acquire the Right to Manage?

Yes. The legislation requires the leaseholders to form a RTM company which is a type of company with specific internal rules (articles of association) that the participating leaseholders will be members of. Your solicitor will be able to arrange for the company to be incorporated.



How long will the process take?

Once you have instructed your solicitor and they have undertaken the required ID checks on the relevant individuals, the company can then be incorporated. That usually happens within a matter of days.

Any leaseholders that are not participating must be served with a notice of invitation to participate no less than 14 days before the Claim Notice is sent to the landlord/management company.

The Claim Notice must give the recipient at least one month to serve a counter notice and the notice must also specify an 'acquisition date' being no less than three months after that date. As such, you are looking at a little over four months from serving the Claim Notice to acquiring the right to manage.

How do I start the process?

Contact your ALEP registered solicitor to discuss the process further. Martin Tolhurst Solicitors is a member of the Association of Leasehold Enfranchisement Practitioners (ALEP). Membership of ALEP acts as a badge of assurance so that flat owners and freeholders can be confident they are employing professionals with the right level of experience in handling potentially complex transactions.

What next?

Call us and arrange a free no-obligation telephone conversation with one of our experts.



01634 728111

Please contact Martin Tolhurst Solicitors to discuss Right to Manage

Martin Tolhurst Solicitors

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