



ADVICE NOTE

FORMING A RESIDENTS' ASSOCIATION

A quick guide to forming a residents' association for your block



Note:

As the leading trade body for residential leasehold management, ARMA is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

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SUMMARY

Forming a residents' association is an effective way for leaseholders to express their collective views to their landlord or managing agent. It's especially effective if your block isn't run by a Residents' Management Company (RMC) or Right to Manage Company (RTM).

To form a residents' association, you should follow the procedures set by the First-tier Tribunal (Property Chamber) in England or the Leasehold Valuation Tribunal in Wales.

At the end of this Advice Note, we've included a useful template constitution for residents' associations to use.

RESIDENTS ASSOCIATIONS SHOULD BE SET UP FAIRLY AND DEMOCRATICALLY. THE FIRST THING YOU SHOULD DO IS DRAW UP A CONSTITUTION FOR HOW IT WILL OPERATE.

HOW TO FORM A RESIDENTS' ASSOCIATION

Residents associations should be set up fairly and democratically. The first thing you should do is draw up a constitution for how it will operate.

There are a number of template constitutions that residents' associations can use to get started. Each incorporates good practice. Here's where you can get hold of them:

- ARMA has drawn up a template constitution for residents' associations. You can find it at the end of this advice note!
- The Federation of Private Residents Associations (FPRA) also publishes a model constitution in its information pack. This also contains specimen notices for the inaugural general meeting of the association and a guide to conduct of committee business.
- The Association of Retirement Housing Managers (ARHM) publishes a model constitution suitable for retirement schemes.



GETTING RECOGNITION

To be most effective, a residents' association needs to be formally recognised by their landlord. By law, landlords must 'recognise' and consult with residents associations.

If a landlord is refusing the request, leaseholders have the legal right to ask a Tribunal to grant them the status of a 'recognised tenants' association'. This is the term used in statute law under the Landlord and Tenant Act 1985, section 29 and the Tenants' Associations (Provisions Relating to Recognition and Provision of Information) (England) Regulations 2018 (SI 2018/1043).

A Tribunal will assess whether to grant recognition to a residents' association based on the following criteria:

- the composition of the membership of the tenants' association;
- the tenants' association's rules regarding membership, including whether tenants who are not qualifying tenants are entitled to become members;
- the tenants' association's rules regarding decision making;
- the tenants' association's rules regarding voting;
- the extent to which any fees or charges payable in connection with membership of the tenants' association apply equally to all members;
- the extent to which the constitution of the tenants' association takes account of the interests of all members;
- the extent to which the tenants' association is independent of the landlord of the dwellings to which the association relates;
- whether the tenants' association has a chairperson, secretary and treasurer;
- whether the constitution of the tenants' association may be amended by resolution of the members and the rules regarding amendment;
- whether the tenants' association's constitution, accounts and list of members are—
 - (i) kept up to date; and
 - (ii) available for public inspection;
- the extent to which the association operates in an open and transparent way.

The Tribunal will also ask to see copies of the following documents before granting recognition:

- The association's rules or constitution and elected officers
- The names and addresses of subscribing members

Voluntary recognition by agents and landlords

It makes good sense for managing agents and landlords to consult with leaseholders through a residents' association. So many landlords will voluntarily grant recognition to save them having to apply to the Tribunal. Normally they'll look for the same things as a Tribunal: 50% membership; a fair written constitution; a list of members; and proof of election of the officers.

THE LEGAL RIGHTS OF RECOGNISED RESIDENTS' ASSOCIATIONS

You should ask your managing agent if they have a statement on how they work with associations once they've been recognised.

If recognition is granted, residents' associations can exercise a number of legal rights under the Landlord & Tenants Acts.

The secretary of an association can:

- Ask for a summary of service charge costs;
- Inspect accounts and receipts in relation to service charges;
- Ask to be consulted about the appointment or reappointment of a managing agent;
- Ask for a summary of insurance cover for the block;
- Appoint a surveyor to advise on any matter relating to service charges. The surveyor will have the right to see and copy relevant documents held by the landlord. They will also be able to inspect the communal areas and appoint assistants; and
- Ask for known information about relevant qualifying tenants who are not yet members of the associations: names; addresses, correspondence addresses, if different, and email addresses.

Landlords or managing agents should also serve copies of any notices required under Section 20 consultations upon the secretary of a recognised association. Residents' associations also have the right to nominate contractors and inspect any estimates and specifications.

ARMA Model Rules/Constitution For Residents' Associations

WE, THE UNDERSIGNED, having resolved to form an Association to represent the interests of the leaseholders of development known as (.....), on matters of common interest, have further resolved to adopt the rules of the Association annexed hereto which we have signed for identification purposes.

Dated

1.0 The Association shall be called (.....) Residents' Association ('the Association')

Objects

- 2.0 The objects of the Association are:
- 2.1 to represent the leaseholders on matters of common interest;
 - 2.2 to consult with the lessor and/or its managing agent;
 - 2.3 to preserve and improve, where required, the amenities enjoyed by leaseholders;
 - 2.4 for the purpose of aforesaid, to employ solicitors, counsel, surveyors, engineers, accountants and other professional or qualified persons to advise the Association;
 - 2.5 to do such other things, ancillary to the preceding objects, as may seem desirable to the Association.

Members

- 3.1 Any leaseholder may upon application and payment of the entrance fee become a full member. Only one vote per flat/house will be given in the case of joint leaseholders. A company that is a leaseholder of a flat/house shall be eligible for membership.
- 3.2 The committee may admit any other person as an honorary member.
- 3.3 In the rules the word "Member" shall, unless the context otherwise requires, mean a full member. Honorary members shall have neither rights nor obligations, except they shall have the right to attend and speak (but not vote) at any general meeting of the association.

Committee

- 4.1 The committee shall consist of not less than (...optional but a minimum of 2..) members who shall be elected by remaining members of the Association. At each annual general meeting (AGM) all committee members shall resign but shall be deemed to be re-elected (if willing to act) in absence of other nominees.
- 4.2 Unless the chairperson otherwise decides, no person shall be nominated for membership of the committee unless at least 7 days prior to the annual general meeting, written notice of such nominations shall be given to the secretary, save that existing members of the committee shall be deemed to be duly nominated.

Officers

- 5.1 The committee shall elect a chairperson (who shall be chairperson of the Association and remain such until a new one shall be elected) and shall appoint a secretary and/or treasurer. (These two roles may be combined.)
- 5.2 The secretary shall keep and make available for inspection whenever requested to do so by a member:
 - A record of the business transacted at the AGM.
 - Copies of all written and notes of all oral communications with the landlord and/or agent and any replies received.
- 5.3 The Association in general meeting shall appoint two members (not being members of the committee) to act as auditors.

Meetings

- 6.1 The first AGM shall be held within 3 months of the end of the first financial year end.
- 6.2 Thereafter an AGM shall be held each year in the month of and 14 days notice in writing of it shall be given to every member at his/her flat/house. A report shall be given at the AGM by the chairman indicating the Association's work over the past year.
- 6.3 Special general meetings shall be called on the requirement of the committee or of at least (optional but a minimum of 10% is suggested)% of members. At least 14 days notice in writing thereof shall be given to every member aforesaid. The notice shall indicate in general terms the principle business to be considered at the meeting.
- 6.4 At the AGM of the Association, or at any special general meeting, 25% of the membership shall constitute a quorum, and if not present, the meeting shall be adjourned to another day when members present shall form a quorum.
- 6.5 Seven days notice in writing must be given to the secretary of any resolution to be moved at the general meeting unless such resolution is admitted by the chair at the meeting.
- 6.6 A notice containing all resolutions and nominations to be moved, with the names of those proposing and seconding each resolution or nomination, shall be kept by the secretary and be available for inspection by any member for seven days before the general meeting.
- 6.7 All members shall have the right (subject to control of the chairperson) to speak at any general meeting.
- 6.8 All members shall have the right to vote on any resolution before any general meeting.
- 6.9 Any member entitled to vote may demand a poll which shall be taken forthwith.
- 6.10 Any member entitled to vote may authorise in writing (such authority to be satisfactory to the chairperson) another member to vote on his behalf.

(Appendix cont.....)

6.11 In the event of the equality of votes on any resolution the chairperson shall have the casting vote.

Subscriptions

- 7.1 Each person on applying to become a member of the Association shall pay an entrance fee. Until otherwise determined by Association in general meeting the entrance fee shall be £
- 7.2 Each member shall pay subscriptions in accordance with the resolution of the Association in general meeting.
- 7.3 The committee may expel any member who shall after 14 days notice, addressed to him and sent by post to or delivered at his/her apartment at (name of development), remains in default in paying any subscription.

Finance

- 8.1 The treasurer shall have control of funds of the Association and, save where required for immediate expenditure, he/she shall pay the same into a bank account or building society as directed by the committee.
- 8.2 The property and funds of the Association shall be held and administered by the committee and resolution of the committee shall be sufficient authority for any payments from the bank or building society accounts.
- 8.3 The committee is not authorised to incur any overdraft.
- 8.4 All cheques or requests for cheques or warrants shall be signed by the treasurer or secretary and one of the committee.
- 8.5 The financial year shall end on up to which date any annual statement of accounts and balance sheet be submitted for approval at the subsequent annual general meeting.

Indemnity

- 9.1 The members of the Association shall indemnify the officers of the Association and members of the committee against all liability incurred by them in good faith on behalf and in the name of the Association acting within their authority.

Alteration Of Rules

- 10.1 These rules may be varied or added to by resolution of the Association in general meeting, passed by a majority of at least two thirds of the members present in person or by proxy under rule 6.10, of which resolution notice shall be given in the notice convening the meeting.

Complaints

- 11.1 All complaints or suggestions on matters regarding the Association shall be made to the secretary, preferably in writing.

Dissolution

- 12.1 The Association may be dissolved if the number of full members at any time falls below (.....) and the committee so resolves, or if the Association in general meeting so resolves by a majority of at least two thirds of the members present in person or by proxy under rule 6.10 of which resolution notice shall be given in the notice convening the meeting.
- 12.2 On such dissolution any balance of the funds of the Association shall be distributed equally between the then members (who are not in arrears with their subscriptions) OR shall be paid to a suitable charity to be decided upon by a majority of the membership.

Committee

13.1 The members of the committee are:-

- Chairperson
- Secretary
- Treasurer
- Member
- Member
- Member



MORE INFORMATION

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"Tenants' Associations" Booklet about how the Tribunal may recognise associations - <https://formfinder.hmctsformfinder.justice.gov.uk/t545-eng.pdf>

The Federation of Private Residents' Associations (FPRA) provides support and guidance to residents' associations. Visit them at: www.fpra.org.uk

The Association of Retirement Housing Managers (ARHM) has guidance on setting up a residents' association for retirement properties. Visit them at: www.arhm.org

Note:

Whilst every effort has been made to ensure the accuracy of the information contained in this ARMA Advisory Note, it must be emphasised that because the Association has no control over the precise circumstances in which it will be used, the Association, its officers, employees and members can accept no liability arising out of its use, whether by members of the Association or otherwise.

The ARMA Advisory Note is of a general nature only and makes no attempt to state or conform to legal requirements; compliance with these must be the individual user's own responsibility and therefore it may be appropriate to seek independent advice.