

Become a Director

FULL INFORMATION



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Becoming a Director of a Resident Management Company (RMC), Right To Manage Company (RTM), or a Company which has qualified for Collective Enfranchisement, is a role not to be taken lightly.

By producing this booklet, Crabtree Property Management hope that many more of you will understand the responsibilities, benefits and problems associated with Directorship, which will enable you to make an informed judgement as to whether the role would be suitable for you.

THE STRUCTURE OF A COMPANY

The rules of the Company will be found in the Memorandum and Articles of Association, which every company is obliged to have. This will stipulate amongst other things, the role of the Company, the number of Directors, the borrowing powers, if any, and the general objectives.

Although the latter may be of a general nature, it will be in the lease/ TP1 that the exact responsibilities of the Management Company will be stipulated.

Having established the Company, the next thing is to appoint Directors. Should it be a New Build development, then the initial Directors will probably be employees of the Developer. An Annual General Meeting (AGM) or Extraordinary General Meeting (EGM) will normally be called at the time of handover of the development, and interested property owners asked if they wish to apply to become a Director of the new Board of Management.

Alternatively, if there is already an existing Board of Management in place, an interested property owner can apply to join the Board ahead of the AGM, or can be co-opted mid-year, with a Board Resolution, to be ratified at the following year's AGM.

Following approval, the new Director will be asked to provide some personal details and sign a form, which will be sent to Companies House. For clarity of purpose, the Memorandum and Articles of Association will provide details of anyone precluded to becoming a Director, such as those with criminal convictions, persons already banned from being a Director, or those persons currently bankrupt.

It is the Directors of this Company, representing fellow property owners who will make the policy decisions with regards to projects, contractors and priorities of works, in conjunction with the Managing Agents.

Persons applying should have a clear understanding of the role of a Director and the responsibilities involved.

THE ROLE OF A DIRECTOR

It is important to remember that this booklet concentrates solely on persons wishing to become Directors of Resident Management Companies (RMC), Right to Manage Companies (RTM), or Collective Enfranchisement Companies and not general outside Directorships.

As a property owner, subject to any restrictions in the Memorandum and Articles of Association of the Company, you will be entitled to put yourself forward as a Director, but in the case of dual ownership, only one person can put themselves forward, usually the first named person on a lease, deed of Rent Charge or Transfer of Part.

The role of a Director needs to be fully understood, before entering into such a commitment.

In nearly all cases, a Director of an RMC, RTM or Collective Enfranchisement Company does not get paid. As with any other company however, the Directors are liable for upholding the obligations of the Company as stipulated in the lease/TP1. This responsibility will be discharged to a degree by the employment of a Managing Agent such as Crabtree.

Directors and Officers of RMC, RTM or Collective Enfranchisement Companies regularly make decisions that relate to the running of the block, i.e. maintenance, budgets, etc.

Should a decision be made or fail to be made, that causes a resident or other party to incur a financial loss, then the Directors and Officers of the company may be sued personally for the amount of the loss suffered as a result of the alleged error or omission by the Directors and Officers.

We arrange Directors and Officers Insurance, which provides you with legal protection by defending and settling claims made against you for financial losses made by lessees or other parties arising from alleged errors or omissions made. This is an insurance policy to cover legal costs but it will not protect you against any contravention of the Companies Acts, fraudulent or illegal acts.

Where Crabtree are appointed as the Managing Agent, we will appoint a designated Property Manager to the development, and those individuals will report directly to the Board of Directors either at a Board meeting, by telephone or email correspondence. They will build a relationship with Directors, property owners, residents, and will encourage them to be the eyes and ears of the property to report issues.

Where possible, it is useful to have a minimum of three Directors, in fact many Company Memorandum and Articles stipulate a minimum of two. This enables constructive discussion about projects or budgets along with the advice of the Managing Agents.

Apart from the Annual General Meeting, to which all Directors should make every effort to attend, most Boards of Directors are encouraged to meet at least twice a year. One of those meetings would be with the Managing Agent to formulate the following year's budget, and the other meeting to discuss ongoing issues. Many larger developments with active Boards will meet every eight to ten weeks.

As a Director there are certain annual tasks that have to be undertaken as an officer of the company:

- Signing off the Company's Accounts
- Signing of Statutory Documents
- Attending the Annual General Meeting
- Approving the Annual Budget and Management agreement
- Reviewing Quarterly Expenditure and Property Owners
- Arrears Reports
- Liaising with the Property Manager in relation to larger items of expenditure and Major Works
- Taking decisions on Health and Safety reports

Being a member of a Board of Directors normally means you are the first people to discuss and approve or reject potential costly items of maintenance or repair.

Whether this role is for you will be discussed in the next section.

IS IT FOR ME?

Having evaluated the previous criteria, below are some pointers from the author as to whether you should commit to the role.

First and foremost, you become a Director as you want to ensure the best for what is essentially yours, and the other property owners homes.

It is important to understand that decisions should be based on what is good for the whole development, rather than individual preference. For example, a development with six separate blocks, each with a lift, results in a discussion at a Board Meeting regarding a lift refurbishment. Finances allow no more than one lift in any one year to undergo this upgrade. The Director, who is insistent that the upgrade takes place in their block is not working in the interests of the development as a whole. It should be down to the lift company maintaining the lifts to recommend which lift should be refurbished, taking into account previous maintenance issues and repair work.

Although privileged to be at the ground level entry discussions about potential projects of which other lessees are not yet aware, a measured approach needs to be taken, with advice from the Managing Agents, and reference to the lease/TP1.

You always have to remember that it is property owners' money you are dealing with, including your own, and even though there may be a desire to keep service charge bills down, you as a Board are responsible under the lease/TP1, for maintaining the property. Failure to do so could result in difficulties further down the line.

Your Property Manager should normally have the best financial overview of the property as they are aware of cash flow and the likely expenditure, including cyclical major works due under the terms of the lease/TP1, and their input at any budget meeting should be listened to carefully. If a reserve fund is allowed for in the lease/TP1, it should be utilised to its maximum potential.

There will also be occasions where decisions you take at Board level, may not always be widely appreciated by other property owners. Provided as a Board, you have taken a decision in the interests of the development as a whole, then you have carried out your role appropriately, and besides, you took the time and effort to stand as a Director, whereas the criticising lessee did not.

As a Director you will be privy to confidential information that other property owners are not, including arrears on service charges, and you would be made aware by your Property Manager of major issues affecting the day-to-day running of the property.

A Director needs to be prepared to give up some of their free time to attend Board meetings, and if they have any specific expertise in certain fields, they may find that they are asked to concentrate on that particular area of the management at Board level.

The Board Meeting provides a forum for input from the Managing Agents and your fellow Directors, to receive updates on outstanding issues, and to discuss possible solutions.

There may be times when other property owners approach you with matters of concern, when they learn that you are a Director. This clearly has both benefits and drawbacks. The benefit being that you become aware early of certain issues, and can decide whether it is a matter for the Board, or should be handled by the Managing Agents. It also enables you to reassure the property owners that their problem will be looked at. The drawback can be with a persistent property owner who is constantly approaching you with their issues, and you would need to firmly tell them, that they should put their concerns in writing to the Board via the Managing Agent and reminding them that your role is voluntary and unpaid.

Having weighed up the pros and cons you may have come to the decision that you would like to put yourself forward as a Director, so how do you apply?

Being a director also comes with certain responsibilities with regard to the safety of the development. You will be an officer of the company and you will bear your share of responsibility for ensuring the building is compliant with current fire risk and health and safety legislation. You can consult with your managing agent, freehold owners, the builder of the building or other third party consultancy services to assist you and your fellow directors in discharging this responsibility. As your managing agent, we can advise on all relevant safety matters to help with decisions and courses of action in this regard and we have a full team of in-house experts and external partners that we work with to assist you.

HOW TO APPLY

There are different ways to becoming a Director, depending on the type of property you are living in.

As previously explained, New Build properties are normally run by the Developer in conjunction with the appointed Managing Agent, until such time as all of the new properties have been sold.

The Managing Agents will normally call an AGM or EGM where they will discuss outstanding areas of concern and the benefits of continuity for the transfer of power from Developer to Management Company. All eligible home owners will be offered the opportunity to put themselves forward as a Director.

It is at this point that interested parties can indicate their availability, a vote of attending property owners taken, and returned to the Managing Agents, who will register the individual as a Director of the Resident Management Company with Companies House.

Depending on the Memorandum and Articles of Association of the Company, the individual may either:

- Resign at the next AGM and stand for re-election
- Resign by rotation at the relevant AGM and then stand again
- Remain a Director until he/she sells their property and thereby their share in the Company
- Resign the position

You may however be living in a well established development with an active existing Board of Management, and feel that you are in a position to add some help or expertise to the current Directors. In this case, it would be wise to contact an existing Director and discuss your interest in getting involved. Should you not personally know a Director, then contact your Managing Agents who can put you in touch with a member of the Board.

RMCs

It is recommended that you ask to sit in at a couple of Board meetings before committing yourself, to get a feel for how things operate, which Board members specialise in particular areas, and if there are on-site staff, how their relationship with the Board works.

At this point, if you are happy to apply to become a Director and the feeling is reciprocated by the Board, then you will be co-opted onto the Board as a Director. As well as a Director form, there will also need to be a Board Resolution form, showing your admittance, which is then sent to the Managing Agent.

There may on occasions also be an opportunity to apply to become a Director, with the issuance of the AGM notice. With this notice there should be a form to apply to become a Director. You would need someone to propose you, and then to send your application form back to the Company Secretary within the declared advance timescale to the meeting. Your application can then be voted on at the meeting itself, however, it would be wise to have had contact with the Board ahead of the meeting.

RTM and Enfranchisement Companies

Finally, there are Directorships of RTM and Collective Enfranchisement Companies. These Companies, although currently much fewer in number than Resident Management Companies, are normally formed where the lessees wish to take over the running of the property from the existing Landlord, normally due to dissatisfaction with the maintenance of the property. In many cases, the Landlord would be the Freeholder and different criteria have to be followed before either option can be considered. However, once those hurdles are overcome, the role and responsibility of Director of the Companies will be very much the same as previously mentioned, as well as the application process.

SUMMARY

Having read all the information in this booklet, we hope that the role of a Director has allowed you to realise, that there are many sincere, caring individuals, with a multitude of different skills and experiences, who have much to offer their fellow property owners in helping to maintain and manage their home.

To assist in their role, most Boards of Directors will choose to employ a Managing Agent such as Crabtree.

Our experience as a Managing Agent, can cover small units, up to vast developments of many hundreds of units. This allows us to take a large part of the workload away from the Directors, and includes services, such as: collecting service charges, chasing up arrears, providing maintenance services such as cleaning and gardening to a development, organising repairs, instigating health and safety inspections, and, following consultation with the Board, acting on recommendations.

In addition, we provide the Board with quarterly financial reports for information, and ensure that any potential cash flow issues are flagged up well in advance. A budget meeting may be held annually.

The designated Property Manager will advise the Directors on projects such as internal or external decorations, many of which have the timescale determined by the lease/TP1. Once agreed, we will oversee the sending out of all legally required notices, producing specifications, obtaining estimates for works and overseeing the project to completion.

Where authorised, we can act as Company Secretary, which involves filing of all documentation including accounts at Companies House, handling paperwork on behalf of the Company when flats are bought and sold, providing AGM notices, and minutes from such meetings.

We can arrange all the appropriate insurances that are required. We are authorised and regulated by the Financial Conduct Authority.

Where Crabtree are appointed as the Managing Agent, we will appoint a designated Property Manager and Client Relationship Manager to the development, and those individuals will report directly to the Board of Directors either at a Board meeting, by telephone or email correspondence. They will build a relationship with Directors, property owners, residents, and will encourage them to be the eyes and ears of the property to report issues.

Two- way communication is the key to a successful relationship with residents, and newsletters with up-to-date information are both helpful and well received. We will carry out site visits to ensure that authorised works have been completed correctly and to pick up on any issues.

The above is intended to take away much of the difficult work associated with running a property, leaving the Directors to concentrate on general matters and priorities of expenditure within the budget.

In conclusion, Directorships are for those property owners who not only care about their home and its surroundings, but wish to be instrumental in the running, decision making, and future maintenance of their property, and by taking on the role, are prepared to give up some of their free time, without pay, for the general good and benefit of all.

Is that person you?

Get in touch by calling 020 8371 7070