

# leaseholder

## Happy Birthday to Deacon!

This month Deacon is celebrating its 19th year of being in the insurance business and we're marking the achievement with a bumper edition of Leaseholder! It's full of news, interviews and special offers for Residential Management Companies (RMCs).

We were the first intermediary to specialise in blocks of flats insurance and we pioneered the inclusion in flats' policies of standard terms and conditions that used to be expensive 'optional extras', ensuring that comprehensive cover was easy to arrange and affordable for all leaseholders. We set the standards that other brokers have followed over the years – and we continue to break new ground.

We have 19 years' experience and a sound understanding of our customers' needs. As a way of celebrating our 'coming of age' we're giving away free copies of 'Being a Leaseholder' (RRP £12.99) by Nicolas Shulman to everyone that submits a quote – no matter when your renewal is due! Simply fill out the enclosed quote form and send it back to us in the pre-paid envelope and we'll send you a copy.

Better still, for all those who take out a Blocks of Flats policy, we're giving away the Legal Expenses policy, FREE!

In today's price-sensitive market, we remain highly competitive on price but that alone is not enough. So we are leading the way again – this time by setting unbeatable service standards which means that:

- when you phone us you will talk to someone who understands insurance for blocks of flats
- if you live in an unusual building, we have the skills to find the right policy for you
- we will manage all the administration for you
- we will review your case each year and not just issue an automatic renewal notice
- if your building requires work to meet an insurer's survey requirements, we will advise and guide you

### Being a Leaseholder

See back page for details on how to get hold of a FREE copy!

#### BEING A LEASEHOLDER

The essential guide to owning a flat →







BY NICOLAS SHULMAN  
WITH A FOREWORD BY PETER GILLER AMB  
PUBLISHED BY DEACON IN 2008



- if you make a claim, we will deal with you directly in nearly every case, issuing authority for repairs and payment
- We provide additional policies such as liability cover.

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Welcome to Leaseholder, our regular newsletter for directors of residential management companies (RMCs).

You are important people: even taking a very conservative average of £1000 per annum for service charges for over 1.5million leaseholder owned flats, then RMCs handle over £1.5 billion a year in revenues. At £1500 per annum that figure rises to £2.25billion. Not only that, but legal status of your RMC as a limited company imposes huge responsibilities on directors.

We hope we can help by keeping you up to date with some of the many issues you are faced with.

# NEW Legal Expenses policy that will provide peace of mind

- Covers disputes – with neighbouring properties
- Covers legal action against Property Maintenance Companies
- Free Legal Helpline 24/7
- For as little as £2 per flat

We have now negotiated a new comprehensive and competitively-priced legal expenses policy from ARAG for RMCs who run blocks of flats. The new policy, which costs as little as £2 per flat, provides peace of mind covering:

- Property disputes – e.g. nuisance and trespass issues such as a neighbour who continually parks in a RMC space
- Contract disputes – e.g. substandard repairs/alterations that are made by a builder working for the RMC. This could cover painting, electrical work, roof repairs etc. A suitably qualified solicitor will be appointed to run the claim and seek remedy/compensation.
- Tax – to protect the RMC against formal aspect or full enquiries by HM Revenue and Customs. Recognising that many RMC's are run by non experienced persons this provides real piece of mind to the secretary
- Instant legal assistance – access is provided to a 24/7 legal and tax advice helpline that can address any RMC issue
- Access to a website that helps generate numerous legal documents that may be required in the running of the company.

Here are a few examples of why it pays to have Legal Expenses cover!

## Trespass

The RMC became aware that a neighbour had removed a boundary fence and built a wall which encroached significantly onto the land at the rear of the property. After failing to persuade the neighbour to remove the wall ARAG were instructed and appointed a specialist property solicitor to act.

Following protracted correspondence, both sides agreed to a mediation meeting which led to the wall being moved

back to the boundary line between the insured's land and the neighbour. ARAG paid all costs which totalled £5,250.

## Contract

A property maintenance company was appointed to complete a list of works that had been drawn up by the RMC and were paid upon completion. It later became apparent that not all the jobs were completed, but despite constant contact the company would not come back to finish the work.

ARAG was contacted and immediately offered advice and reassurance that the matter would be taken off their shoulders and that all legal costs would be covered.

An alternative contractor completed the works and the difference in cost, as well as modest compensation, was eventually recovered from the original contractor via the courts. Legal costs amounted to £3,760.

## Tax Protection

Sometime after filing the annual RMC tax return, HM Revenue & Customs contacted the RMC Secretary to say they were conducting an aspect enquiry, querying one specific part of the return.

Remembering the RMC insurance policy, ARAG was contacted and subsequently a proficient accountant was appointed to address the investigation.

With the RMC Secretary only having to make one telephone call, the accountant did the rest and successfully negotiated an agreeable outcome. Accountants' costs of £775 were paid by ARAG.

**Call 08000 92 93 94 for more details!**

## New Parent Company

I am pleased to confirm the recent announcement that Deacon and our sister brands have completed the sale of our businesses to a new investment company, Caley Limited, wholly owned by leading banks HBOS, HSBC and Lloyds TSB. The transaction which was announced on 14 April 2008 was subject to regulatory approvals and other conditions all of which have been satisfied.

This is good news for all of us, especially our customers and our staff as this brings back Deacon's independence and puts an end to the speculation of a future sale. It means that we can trade into the future, free from all of the noise surrounding our former parent company, Erinaceous Group, and the knock-on effects this has had.

I would like to take this opportunity to thank our customers for their continued support and would invite them to contact us with any questions on 08000 929394.

**Penny Jepson**  
Head of Business

## The building is OK – but are YOU covered?



Your co-lessees rely on you to keep the building running smoothly, they expect you to give up countless hours of your time freely, they probably never say thank you...but one day they might sue you!

It only seems fair that you should have the protection of our inexpensive Directors and Officers Liability insurance that is written specifically for residents' management companies and cost as little as £210 per annum for a typical block of 20 flats and provides up to £250,000 of cover.

Call us on **08000 92 93 94** to find out more.



## Service charge demands

Since last autumn, any service charge demand and reminder letter must be accompanied by a formal summary of rights and obligations. The summary must carry the correct title "Service charges – summary of tenants' rights" and must include 12 specific paragraphs.

You can find out more from the Leasehold Advisory Service at [www.lease-advice.org](http://www.lease-advice.org) where you can download a publication on service charges which includes the specified paragraphs. Alternatively telephone them on **020 7374 5380**.

## What is the definition of a house of multiple occupation (HMO)?

We still get calls about this and clearly there is confusion among leaseholders so to clarify:

The Housing Act 2004 introduced national mandatory local authority licensing for HMOs of three or more storeys that contain five or more tenants. While primarily targeting properties originally constructed as family dwellings and subsequently divided into small units, the Act could cover a building comprising entirely of converted self-contained flats

- **if** the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulations
- **and** at least one third of the flats are occupied under short tenancies.

If you think this applies to you, you should contact your local authority for advice.

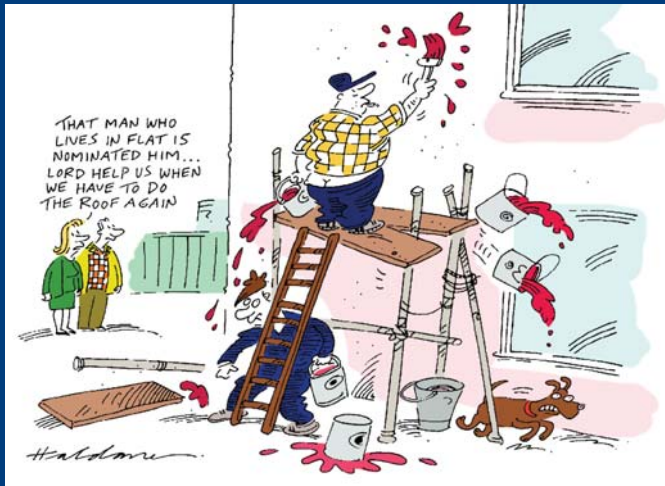
The requirements of the 1991 Building Regulations cover matters such as structural integrity, fire safety, drainage, hygiene, heating, ventilation, access and glazing and it is doubtful that you would wish to live in a building that did not meet their standards!

Find out more about these requirements at: <http://www.opsi.gov.uk/>

## Health & Safety Myths: Ladders

If you have a few minutes to spare you might enjoy the Myth of the Month section on the Health & Safety Executive web site ([www.hse.gov.uk](http://www.hse.gov.uk)). Of particular interest to management companies might be their comments on the use of ladders which they have specifically not banned, despite ridiculous rumours to the contrary.

What the HSE has done is to issue common sense guidance on sensible use on where and how to use ladders and how to secure them. See <http://www.hse.gov.uk/falls/ladders.htm> for detailed information.



## New rules on Company Secretaries

Since April 8th 2008 it has been possible for private companies to choose whether or not they want a company secretary. However, having a company secretary will remain mandatory for public companies.

As instructed by the Federation of Private Residents' Associations ([www.fpra.org.uk](http://www.fpra.org.uk)), if a private residents' management company decides that it no longer needs a company secretary then it may inform Companies House using form 288b. Be aware that you will also have to amend the company's articles if they make specific reference to a company secretary. However, if the articles only refer to the secretary's duties, then there is no need to make such an amendment.

Secretaries can still be corporate bodies like accountants or managing agents.

Additional provisions come into force in October 2009, when secretaries who are individuals may file a service address for the public record.

More information at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

The non-profit Federation of Private Residents Associations can be contacted on **01206 855888** or visit [www.fpra.org.uk](http://www.fpra.org.uk). If you want to become a member, Deacon offers reduced membership to all of our Blocks of Flats customers.

## Enfranchisement Update Sportelli vs Earl Cadogan Estates – so what?

There has been a lot of coverage regarding the Sportelli case in recent years but, if you are not a major landlord or investor, does it really matter to you? And can someone please explain it in plain English? The short answer to both questions is yes if you are thinking of buying your freehold or extending your lease.

It's all to do with how the price you pay is calculated i.e. the "reversionary value" of the flat which is the value today of the landlord's right to get the property back when the lease is up. The price is set at the amount that would, after compound interest, be the same as the value of the property when the lease expires. This interest rate is known as the deferment rate, and the higher it is, the less the tenant has to pay up front.

The deferment rate has traditionally varied depending on the amount of risk attached to the investment, with 6% normal for central London while, at the lower and more risky end of the market, rates could be above 10%. Recently, however, London's big landowners have brought a number of cases to the Leasehold Valuation Tribunal and at one point succeeded in getting the deferment rate reduced to 3.5%.

One such case, Earl Cadogan vs Sportelli, was taken to appeal to the new Lands Tribunal, which issued its

judgement last year. The tribunal raised the deferment rate to 4.75% for flats and 5% for houses, which, on the face of it, is good news for leaseholders.

The Court of Appeal upheld this new rate but only for flats within the "prime central London area". However, it did make it clear that leaseholders elsewhere arguing for a higher rate must show evidence of a greater risk of property prices in their area going down than in prime central London, which would be very difficult to produce.

Estate agents Douglas & Gordon calculate that the owner of a flat in Dartford valued at £175,000 on an 80 year lease would have paid £1,287 for an extension of the lease before the Sportelli decision. Now, they will have to pay £5,450 – an increase of 323%.

Doing the calculation with lower deferment rates means deducting smaller annual sums from the value of the property and ending up with a higher reversionary value. What's more, the cost rises more steeply year by year than it would have done before. "Anyone thinking about buying a freehold or lease extension should do so sooner rather than later," counsels David Fleming, head of property litigation at solicitors William Heath & Co.

## Is your property subject to survey?

Some properties could be subject to survey and if it is, the Insurance Surveyor will contact you to arrange a suitable time to come out and survey the property.

Once the Surveyor is on site they will discuss their findings with you and they may include risk improvements and/or requirements that need to be undertaken. The Surveyor will give you advice on how to deal with these and set timescales for these to be completed.

If the improvements and/or requirements are not completed within the required timescales you could risk invalidating your cover.

This is rarely as onerous as it sounds and most management companies see this as valuable free professional advice. We will always keep in touch and advise you on how to carry out the improvements and/or requirements and remind you of deadlines that need to be met.

## Advice

**Please remember that maintaining the building in a reasonable state of repair is a requirement of buildings policies.**

Remember that insurers, no matter how efficient, can only sort out the building, not the human misery.

It may be worth making sure you have an up-to-date list of everyone's contact numbers and of their key holders. After all, the best way to prevent expensive and misery-inducing water damage between flats (still a major cause of claims) is to go in and turn the water off!

**Paying contractors direct:** Our claims team is often asked to pay contractors direct and are happy to, but need a mandate signed from yourselves. This is because under FSA rules, we must make settlement with the insured when a claim has been made unless specifically instructed otherwise by the insured. So, if you would prefer us to arrange payment direct, do mention this to the claims team and they will help you with preparing a mandate.



## Theft of lead and copper from buildings

Stuart Blackie, Risk Management Consultant (Technical) at Zurich Risk Management, provides an overview on the increase of theft of lead and copper from buildings and offers some good measures on how to prevent theft from your building.

In recent months Zurich has reported that it's seen a dramatic increase in the theft of lead and copper and other metals from buildings throughout much of the country. Areas in the South East appear to have suffered to a greater extent initially, although the problem is becoming increasingly widespread.

Whilst generally it is the theft of large quantities of lead, thieves are also targeting residential properties in removing copper services, lead flashings and bay window coverings. Often the missing lead is not readily noticeable; in many instances, the first signs are when dampness and water ingress shows internally with damage to the internal decoration. Lightning protection systems have also been attacked with copper straps being cut and removed from the buildings.

Such losses cannot only result in substantial claims in terms of the value of repair and replacement costs, but many losses extend into significant internal damage, with drying out and re-plastering/decorating works being necessary. In a number of cases, contents have been damaged, again increasing the value of losses. Some of the more substantial thefts have been from historic buildings, where lead and copper are generally used to a greater extent.

### Preventative Measures

Dependant upon the extent of lead or copper components used in the construction of the building, there are a number of measures to consider in order to reduce the vulnerability of theft. Possible measures include:

- Visual Checks – look for signs of missing, dislodged or damaged roofing components. Where significant lead or copper features exist, it's recommended that these are photographed and recorded
- Removal of easy access points onto low roofs – A review of possible points of access should be carried out and any remedial measures completed
- Security marking of lead and copper building components – A recently launched 'smartwater' product offers building owners the opportunity to mark valuable metals with unique marking products which can be identified even after burning or smelting. For more information visit [www.smartwater.com](http://www.smartwater.com)
- Improved Security Awareness – Alerting staff and users of your buildings to the risk of potential for theft may be necessary
- Securing of Site Access – Where existing CCTV provision exists, it may be possible to reconfigure the camera positions so as to provide a view of the more vulnerable areas where lead or copper is present
- Monitored Intruder Alarm – dependant on the extent of lead and copper present, consideration should be given to the installation of an external beam activated intruder alarm
- Replacement with alternative materials – dependant on the type of property in question, it may be possible to replace lead or copper components with alternative components.

# David Fitzgerald

New Business Sales Manager



DEACON

## How long have you worked at Deacon?

I will have been here 3 years in June. The time has really flown by.

## Tell us about your career history...

I started as an Account Executive at a large travel insurance underwriter in Ireland where I then progressed to Team Leader, responsible for a team of over fifty people. After 4 years I decided I needed a change so I moved to sunny Bournemouth and got a job at Lloyds as a Senior Sales Executive in the Home Insurance division. I stayed there for a year until I moved to Deacon where I started as Account Executive then became Senior Account Executive until finally New Business Sales Manager in August 2007.

## So how are you enjoying your new position?

I really enjoy it. The role is very varied and no two days are ever the same. I think there are lots of opportunities for the team in developing new relationships and new products and I love building up relationships with customers.

## What are your plans for the future?

I hope to put in place a more streamlined structure within the team to further enhance the skills and knowledge. It is a very challenging market but we find that guiding our customers through the process, rather than just selling a policy, is helping us to win new customers, this is where we are focusing.

## What do you think are the main trends for the RMC market?

I think it is definitely a more challenging environment to work in. There is much more legislation than a couple of years ago and while many people undertake this role on a voluntary basis, it is much more involved with personal liability at stake. I believe Deacon can support our RMCs by providing up to date knowledge and support to our customers. We already have the Directors' and Officers' liability which provides support and information for our customers and now we have Legal Expenses.

## OK, so now about you. If you could have any job in the world what would it be?

Oh, there's a decision. I know it sounds corny but I really love my job at Deacon, but if money were no object and the mortgage was paid off, I would love to volunteer in Africa. I went to Kenya once and seeing the poverty out there makes you very aware of how lucky we are in the western world.

## What's your ideal holiday destination?

It would have to be Dubai. I was lucky enough to win a trip there last year and it definitely is a millionaire's paradise. The hotel was absolutely luxurious and of course, the weather was wonderful. They even come round and clean your face with Evian water on the beach...now that's service!

## What do you do to relax?

When I get the time, I love to read. I enjoy autobiographies and I recently read Anne Robinson's which I found really interesting. I also enjoy cooking and sleeping! I also think of myself as a bit of a pro on the tennis court although I'm probably more amateur level than I profess to be!

## If you could have five famous people to dinner who would they be?

Kylie would definitely be first on the list – I would also have JFK to find out what really went on between him and Marilyn Monroe – a mystery even now! Martin Luther King would also be another interesting guest – I would love to hear his views on the world in 2008. I would invite Alan Carr as I think he's pure comedy genius and finally Andre Agassi – to pick up some well needed tips!

## And what would your party piece be?

Mmm, I can make the sound a dolphin makes (Author note....he really can!) other than that I know a few choice words in French and Irish!

## Thank you.

## Contact

### David Fitzgerald

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## Guide to being a leaseholder free to all readers!

Being a leaseholder is the essential guide to owning and managing a flat. Written by Nicolas Shulman, co founder of News on the Block magazine, this book demystifies the complexities of owning a flat, and provides answers to common questions such as:

- What is a lease?
- What is a Service Charge and how much do I have to pay?
- What are the most common problems in a block and how do I deal with them?
- How important is Health & Safety in a block?
- What insurance must I have in my building?
- Am I personally liable as a Resident Management Company director?
- How do I run the Annual General Meeting of my RMC?
- What is the best way of resolving a dispute?

All you need to do to claim your free copy is simply fill in the enclosed quote form and return it to us in the pre-paid envelope. It doesn't even matter when your renewal date is!

