

RICS Practice Alert – UK Property Management

Issued by e mail February 2023

RICS is issuing this Practice Alert to all RICS members and Regulated Firms in the UK who have indicated to RICS that they undertake residential property management services. Its purpose is to remind regulated members of their statutory and regulatory obligations relating to the following specific areas of risk:

1. High volume of complaints to RICS Regulation from consumers relating to residential property management;
2. New legislative requirements for Fire Risk Assessments and Fire Management Plans;
3. Government concern about sharing commissions for placement of buildings insurance.

More detail on these three areas of risk is explained below.

1. High volume of complaints to RICS regulation from consumers relating to residential property management

Compared to other areas of surveying, RICS Regulation receives a higher number of complaints from consumers regarding residential service charges; accounting to leaseholders; and the annual service charge budgets required to be provided to leaseholders.

As part of their overriding obligation under the [RICS Rules of Conduct](#) to act with integrity and competence, Members and Firms in England and Wales must comply with important statutory obligations contained in the Landlord and Tenant Act, 1985 (as amended by the Commonhold and Leasehold Reform Act, 2002), and those firms in England are subject to RICS requirements under the [Service Charge Residential Management Code, 3rd Edition](#) (rics.org).

- Managing agents should produce and circulate annual service charge statements and / or accounts in accordance with the lease.

- Managing agents must also ensure that initial service charge demands in any year are accompanied by a copy of the service charge budget.
- Managing agents (appointed by landlords) must comply with requests made by a leaseholder or the secretary of a recognised tenants' association for a summary of relevant costs incurred during the last accounting year or, where accounts are not kept on that basis, the 12 months before the leaseholders request. Managing agents must comply with the request within one month of the request or within six months after the end of the accounting period, whichever is later.
- If the service charges are payable by the leaseholders of more than four dwellings, the summary must be certified by a qualified accountant as a fair summary sufficiently supported by accounts, receipts and other documents.
- Managing agents must ensure that the summary complies with the requirements of section 21 of the Landlord and Tenant Act, 1985 which are outlined in 7.12 of the RICS Service charge residential management Code, 3rd edition.

2. New legislative requirements for Fire Risk Assessments and Fire Management Plans

Legislation on fire safety and guidance from HSE and other relevant bodies on fire risk and safety changes regularly and RICS members and firms must ensure they are aware of changes and comply with them. Support for members and firms is available on the [RICS Fire Safety Hub inc FAQs \(Fire safety \(rics.org\)\)](#).

The Regulatory Reform (Fire Safety) Order 2005 has recently been amended by the Fire Safety Act 2021 and the [Fire Safety \(England\) Regulations 2022](#), which came into effect on 23 January 2023.

Requirements apply to all premises in England and Wales, including the common parts of blocks of flats and houses in multiple occupation (HMOs). The Fire Safety Act 2021 confirms that the requirements for a Fire Risk Assessment (FRA) also apply to the structure and external wall systems, including any attachments (e.g. balconies) of buildings containing two or more residential premises, and to all doors between domestic premises i.e. flat entrance doors and the common parts.

Under the amended Order, the 'responsible person' must ensure that a fire safety risk assessment has been undertaken by a 'competent person', that it is regularly reviewed and up to date. This may be included in the generic risk assessment or undertaken separately by a fire safety specialist. The responsible person must implement and maintain a fire management plan for every building. A live record of completed and outstanding actions, with expected resolution dates, should be maintained and made available to residents and leaseholders on request.

There are additional mandatory requirements for blocks over 11m, and those over 18m. Fact sheets are available on the GOV.UK website ([Check your fire safety responsibilities under the Fire Safety \(England\) Regulations 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/check-your-fire-safety-responsibilities-under-the-fire-safety-regulations-2022)).

3.3. Government concern about sharing commissions for placement of buildings insurance

The UK Secretary of State for Levelling Up, Housing and Communities has recently announced that the Government intends to ban managing agents and freeholders from taking commissions when they take out building insurance. This follows findings from the Financial Conduct Authority (FCA)'s [review into insurance for multi-occupancy buildings](#) raising concerns that the practice of commission sharing and the lack of transparency to leaseholder is impacting the cost and availability of buildings insurance.

RICS is aware that the Secretary of State's announcement will have a significant impact on the way that managing agents operate. RICS has committed to working with the Government and the FCA on a coordinated approach to achieve the shared aim of greater transparency for leaseholders. RICS is in the process of seeking further detail from Government and is committed to providing support to Regulated Firms as they navigate the changes and transition to alternative fee models.

While RICS has not seen any specific evidence of RICS Members or Regulated Firms have acting outside their obligations, RICS shares the FCA's aim to increase transparency for leaseholders.

RICS therefore considers it proportionate and timely to remind members and firms of their obligations to conduct themselves in an ethical manner and act in the public interest in accordance with the Rules of Conduct. RICS invites firms providing residential property management services to reflect on any practice of commission sharing to satisfy themselves that the amounts being retained are justifiable.

RICS also encourages members and firms to refresh themselves on the contents of the Service Charge Residential Management Code. This sets out the current guidance on best practice. This document is also currently being reviewed as part of a wider programme of work to update RICS' management and agency standards to provide clarity and consistency to the sector.

RICS will also be developing a consumer guide for leaseholders with the aim of increasing transparency and informing them of their existing rights.