

heylo Connect

21 November 2024

Heylo Connect Live Event:
Right to Manage/Resident
Management Companies and
Service and Estate Charges



Hello from us



Introducing today's speakers



Lisa Atter

Senior Property Manager

Lisa is a MTPI (Members level of the Property Institute) qualified property manager. Lisa manages the estates team who are responsible for service and estate charges, ground rent, buildings insurance and block health and safety.



Tim Willcocks

Director of Public Sector Engagement

Tim is a member of the Executive Committee at Heylo, with responsibility for Property Management, Customer Service and Public Sector Engagement. Tim also sits on the Board of Heylo Housing Registered Provider.

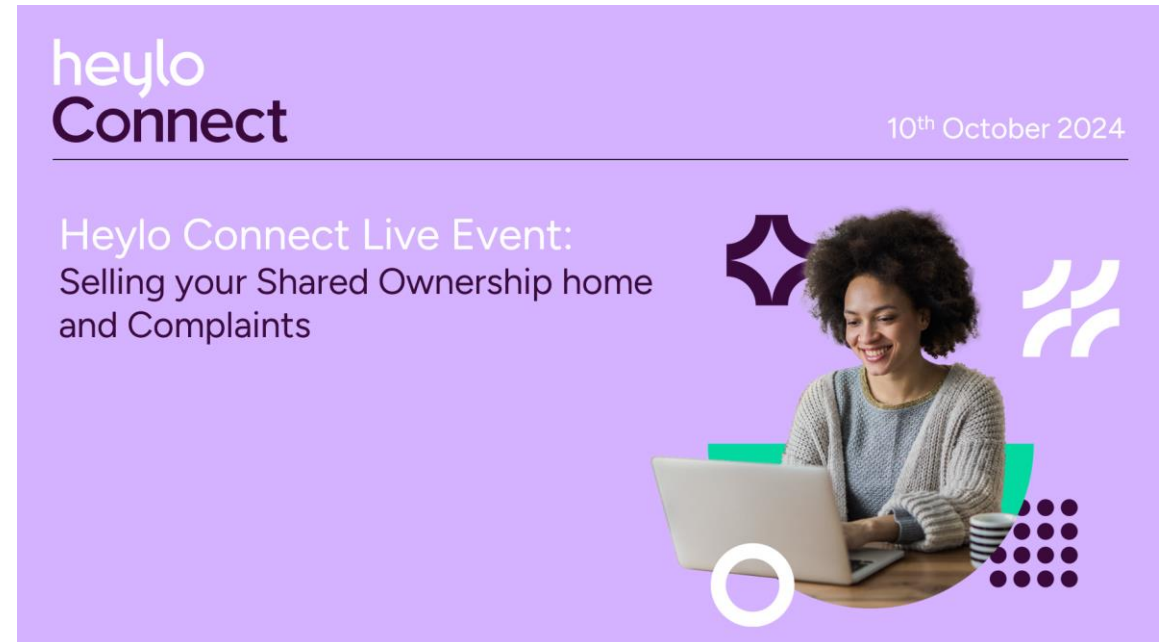
The previous Heylo Connect

In our previous sessions we have covered a great deal, and we hope that from those sessions you've become more aware of your lease; how to navigate the process of buying more shares and selling your Shared Ownership home.

In our last session we ended with a customer poll and asked what you would like to cover in the next Connect live event, you chose:

- Right to manage & Resident Management Companies
- Service & Estate Charges

Let's get started!



heylo
Connect

10th October 2024

Heylo Connect Live Event:
Selling your Shared Ownership home
and Complaints

The banner features a woman with curly hair smiling while working on a laptop. The background is purple with various geometric icons: a white starburst, a white square with rounded corners, a white circle, and a white grid of dots.

Right to Manage & Resident Management Companies

How are the management of buildings controlled?

Communal areas or facilities both internally or externally require management, this can include:

- Grounds maintenance
- Cleaning corridors
- Arranging servicing for onsite equipment or essential compliance risk assessments such as a fire risk assessment

Ongoing management includes arranging for the works to take place and raising funds for them to be able to be carried out and this is where the service and estate charges are raised for the property.

The superior lease held by Heylo Housing for apartments, and the Transfer of Part (TP1) title for houses, will set out what services are required to be carried out and who has the responsibility for delivering them.

The lease will set the responsibilities and who they sit with. Today we will focus on Resident Management Companies (RMCs) and Right To Manage (RTM).

What do we mean by an RMC?

Resident Management Company (RMC)

- Resident Management Companies are written into the lease or Transfer of Property (TP1) Form for the property.
- These are private companies which are not for profit.
- The companies are registered on Companies House and are controlled by Directors.
- The directors are elected members of the management company. The directors take on the responsibility for the company and will usually appoint a managing agent to carry out the functions needed to operate the areas of responsibility.
- When an RMC is formed the housebuilder will manage the RMC functions until the site is completed.
- Once the site is completed the responsibility will be passed on by requesting new directors to control the RMC. Typically, these RMC's will appoint an agent to carry out the management functions of the site, but some sites will manage these independently.
- Depending on the lease type either Heylo, or our customers, will be members of the management company. Typically, those customers who pay their service charge directly to an agent are members of the management company. Where service charges are paid through Heylo we will be the member of the management company.

What do we mean by an RTM?

Right to Manage (RTM)

- A Right to Manage (RTM) company is a private, not-for-profit company that allows leaseholders to take over the management of their building.
- RTM companies are a provision of the Commonhold and Leasehold Reform Act 2002 this means its only possible for leasehold properties to take this action so this only applies to apartments.
- It is not possible to form an RTM when there is an RMC in place, this is because leaseholders already have the right to manage the building under the terms of their lease.
- Leaseholders can form an RTM to take over this responsibility where the freeholder often known as the landlord has the management responsibility under the lease.

Right to Manage Requirements

There are requirements to form an RTM, an example of those are below.

- ✓ The building must have at least 2 apartments
- ✓ At least 75% of the building must be residential (some buildings will have a commercial element, for example shops)
- ✓ The leasehold flats must have leases granted for a term of more than 21 years
- ✓ 50% of the flats must become members of the RTM to take over management

What is a managing agent?

- The person with the management responsibility as per the lease or Transfer of Part (TP1) may choose to have an agent carry out the management on their behalf, and this would be classified as the managing agent. This means the directors of the RMC, RTM or Freeholder will appoint an agent on their behalf.
- A management agreement will be put in place which sets out how they will manage the site. A managing agent is therefore an employee as they work for the Freeholder, RMC or RTM.
- The managing agent is usually the face of the management for the site, and they will become the point of contact for residents living in the block or on the estate.
- They will carry out the duties required under the lease such as arranging for the repairs and issuing the budgets and demands.
- The managing agent will draft the budgets and seek approval from the director of the company appointing the agent.
- Once the budget is approved the demands for payment will be distributed by the agent.

Service and Estate Charges

What is a Service Charge or Estate Charge?

- A service charge or estate charge is a fee paid for services, repairs or maintenance to a building or external area under responsibility of upkeep.
- The amount will usually vary from year to year depending on the required works or services for the building.
- They can include things like maintenance and repair of the building structure, cleaning of the corridors, upkeep of the gardens, or carpark areas, and the cost of management known as the management fee.
- The budgets are an estimated amount and often a balancing charge will be due once accounts are prepared.
- The management fee is the only element of a budget which is for the agent, the other elements for the budget are intended to pay for other services or maintenance.
- The funds held are required to be held on trust. This means, in practice, that the money can be held in one or more account such as a bank or building society to be used for the purposes set out in the lease. If the landlord becomes insolvent, such money is protected for the benefit of the leaseholders from any other creditors seeking payment. If there is a change of agent all funds held will transfer to the new manager.
- Budgets will often include a heading of 'reserve fund' which is also known as a sinking fund. The purpose of this is to build up a fund to pay for future larger scale works, such as repainting/redecorating the whole building.

When are Service Charges and Estate Charges payable?

Your lease will state when the charges are due. It's normally yearly in advance, or twice yearly.

Heylo may recover service charges from customers and if this happens, this is to reimburse Heylo for upfront payments made to a managing agent.

How you pay will vary depending on your lease, and whether the charges are paid to an agent directly or to Heylo.

Heylo does not manage any onsite service directly, and all funds collected are paid to the agent for the building or estate.

Reasonableness of Charges and Service Charges

The Landlord & Tenant Act 1985 (as amended) states:

- A service charge is only recoverable so far as the costs have been reasonably incurred.
- A service charge is only recoverable if works carried out for the charge are of a reasonable standard.

Leaseholders can challenge the reasonableness of a service charge if it does not comply with the act, ultimately, by applying to the appropriate Tribunal.

In England, this is the First-Tier Tribunal (Property Chamber) and in Wales it is the Leasehold Valuation Tribunal. These tribunals can rule whether, or how much of, a service charge is reasonable or payable.

Please note: This only applies to apartments. Houses are not governed by the Landlord and Tenant Act and therefore are not able to raise these challenges.

Estimated costs and Final Charges or 'Balancing Charges'

Most leases require a year end statement of account to be produced. This is to show what has been spent and to supply this information to the leaseholders. Sometimes the lease requires that this account is audited or certified by an accountant or other professional.

If the end of year account shows that more than the estimated has been spent the lease will normally allow for this, and the shortfall should be recovered from the leaseholder via a 'Balancing Charge'.

If less has been spent than estimated, the lease may state that a credit for the overpayment should be carried forward as a credit to the leaseholder's next yearly payment. Occasionally, the lease may say it is returned to leaseholder or transferred to the "reserve fund".

Limitation period on Recovery of Charges (Section 20B)

Section 20B of the Landlord and Tenant Act 1985 states that service charge costs cannot be recovered that were incurred more than 18 months before he formally demands them. The exception to this rule is if leaseholders are written to within 18 months of incurring the costs informing them that costs have been incurred, and the amount is stated, and that they will be demanded in due course.

Case law has indicated that costs are "incurred" when the landlord pays them or becomes liable to pay them; for instance, through receiving an invoice from a contractor or supplier.

Major Works Consultation (Section 20)

- If a landlord proposes to carry out works that will cost any one leaseholder more than £250, it is required to go through a consultation procedure under Section 20 of the Landlord and Tenant Act 1985. This again only applies to apartments and does not include charges relating to estates.
- The Section 20 process involves providing leaseholders with notices allowing them to make observations on the proposals and sometimes to nominate a contractor from whom the landlord is to try to obtain an estimate, and the contractor is required to notify leaseholders of the estimates. The major works charge is still a service charge and, therefore, still must comply with the requirement of reasonableness mentioned earlier.

The process is completed in three stages:

Stage 1

Notice of intention, this sets out what works are intended to be carried out and why they feel they are necessary. Leaseholders are invited at this stage to suggest a contractor to tender for the works, if they have someone they would like to recommend. Agents should then make best endeavors to obtain quotes from these recommendations.

Stage 2

Notice of estimates, this sets out the cost of the quotes received. There needs to be a minimum of two of a similar cost. If there is a significant difference in cost of two, a third quote may be sought and included within the notice.

Stage 3

Notice of reason, this stage is only required if the agent is not proceeding with the lowest cost. This could be due to a higher cost quote providing a better warranty on the works.

Time for your questions...

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I'm not happy with the service provided, should I stop paying the charges?

What if I can't afford the charges as an annual amount?

Why do Estate Charges exist on new build developments?

Is buildings insurance included in my service charge?

Time for your questions...

If I'm unhappy with the service providers sourced by the appointed managing agent, can I source my own provider?

Can the appointed managing agent company change without my consent?

How can I / we replace our appointed managing agent?

Is there an ombudsman service that covers managing agents?

Now let's answer questions we've received this evening...

Other Heylo news...

Other Heylo News...

What's New?

- ✓ We recently sent you an Annual Health and Safety email that's been designed to remind you about carrying out checks that are critical for keeping you safe and healthy in your home.
- ✓ We recently published a flurry of new information pages on the Heylo website including:
 1. A Neighbourhood and Community page that provides you with information about resolving neighbourhood disputes, how to report anti-social behaviour, and information about the support we can offer any customer who may be experiencing domestic abuse.
 2. An Aids and Adaptations page that provides you with information about support available from your local authority and other organisations should you find yourself becoming disabled and needing to adapt your home.
 3. Emergency Contacts page that provides telephone numbers for relevant services should you experience an emergency in your home, for example a gas leak.
- ✓ We recently published our Customer Charter on the Heylo website. Be sure to read this and discover the strategy that is driving our customer first approach.

Other Heylo News...

What's Next?

- ✓ We'll soon be launching our next Tenant Satisfaction Survey (TSMs). Government requires all Registered Providers to ask their customers to complete the survey so that a comparable picture can be created of the service they are providing to customers. It is not mandatory to complete the survey, but we strongly recommend you complete it so that we can see where we are performing well, and where we need to improve.
- ✓ Look out for our Annual Customer Report, which will soon be published on the Heylo website. This will provide you with data and information on how we are performing in terms of delivering our services and delivering customer service.
- ✓ We will soon be launching our new customer portal – My Heylo Home. My Heylo Home will offer you the chance to access important documents linked to your account (for example, your Shared Ownership Lease), and see statements of your account. My Heylo Home will also offer you the chance to make a payment for rent or lease management fees owed. The Heylo Readers' Panel will be assessing My Heylo Home before it's launched, ensuring the customer voice is heard, before it's released.
- ✓ Launching January 2025 is our new community initiative, Heylo Together. This initiative will give you the opportunity to nominate worthy causes in your local area for funding. This exciting scheme is designed to support you to get involved and make a difference in your community.

What's next for Heylo Connect

What next for Heylo Connect?

In 2025 we plan to organize two Heylo Connect live events but release a monthly Podcast that discusses topics that matter to you.

Given the busy lives we all now live, we believe moving Heylo Connect events to a Podcast format will mean customers are able to listen in as they navigate their daily lives. Whether it's listening in as you drive home from work, or as you are making the evening dinner, Heylo Connect Podcasts will hopefully make for a more accessible experience for everyone!

Our plan is for the two Heylo Connect live events held each year to include more engagement from our customers, and the Heylo Housing RP Board. So a great opportunity to tune in and hear other important voices and perspectives.



More ways to get involved in the Heylo Community

More ways to get involved in The Heylo Community

We want you to help us to improve how we deliver our services for all customers.

We are running a series of customer engagement activities and if you are interested in getting involved, we want to hear from you!

Environmental
engagement
activities in your
local area

Customer subject
matter experts

Join the waiting list
for the Heylo
Readers' Panel

Mystery
shopping
opportunities

To find out more or register your interest in any of the above visit the [Heylo Housing website](#)

or email us at customercommittee@heylohousing.com

Thank you



To raise specific questions in relation to
your property, please contact:

portfolio@heylohousing.com

or telephone 020 3744 0415

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