



## The role and responsibilities of the Director of a Residents Management Company

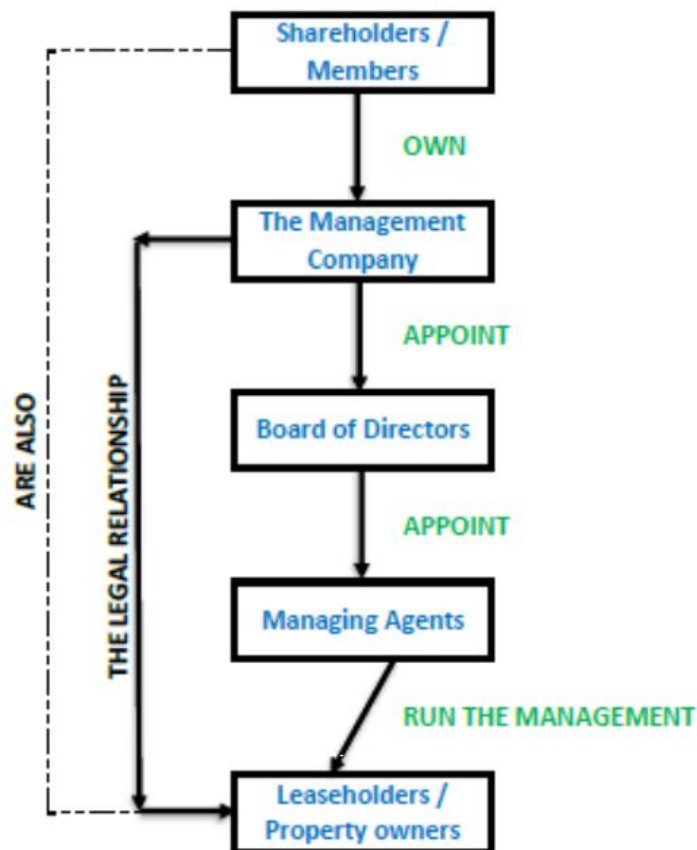
### What is a Residents Management Company?

Where a property requires maintenance of communal areas, the lease, (or the TP1 form in the case of freehold houses) will usually refer to a registered limited company holding those responsibilities. The membership of the company is often made up of the unit owners and is referred to as a 'Residents Management Company' or RMC.

Alternatively, leaseholders may have formed a 'Right to Manage Company' or RTM to acquire the responsibilities for managing the building previously held by the Freeholder or another organisation specified in the lease.

The RMC may own the title of the freehold and could have an income and associated company costs, but often it will be a non-trading or dormant company with the RMC acting as trustee for the service charge funds.

An RMC or RTM must meet its obligations under company law and will operate in line with its Articles of Association. It must appoint officers or a Board of Directors from amongst its members or shareholders. This Board of Directors may appoint a Managing Agent who could act as Company Secretary and will be required to carry out the wishes of the Directors as well as providing expert support and advice.



## Who can be a Director?

To be a Director you must be eligible under the Articles of Association; be at least 16 years of age; not previously have been disqualified as a Director; and not be an undischarged bankrupt. The position of an RMC Director is usually unpaid and it is important to be aware that Directors can be personally liable for breaches in legislation. For this reason, JCF always recommends our clients take out Directors & Officers Liability Insurance.

## What are the benefits of being a Director?

As a Director you will work as part of a team to make strategic decisions that directly affect how the site is run for the benefit of all residents. This will involve you making decisions about setting the service charge budget, deciding the priorities for expenditure, planning longer term maintenance projects, listening to your fellow owners and complying with health and safety, property and company legislation or guidelines.

Directors will bring many different skills and abilities that can benefit the work of the RMC. You may need to participate in a small number of Board meetings each year, ask relevant questions and provide your opinions, responding to emails and some phone calls. However, the day-to-day duties, communication and carrying out of agreed actions are largely delegated to the Managing Agent.

## The Duties of a Director

The duties of a Director of the RMC are:-

- 1. To act within the powers of the company** – a Director must always act in accordance with the company's constitution (i.e. the Articles of Association) and exercise their powers for the proper purpose.
- 2. To promote the success of company** – a Director must act in good faith in the way they consider and promote the success of the company for the benefit of its shareholders/members as a whole.
- 3. To exercise independent judgment** – a Director must not be swayed by a dominant person or be bullied into making a decision they feel is not in everyone's interests.
- 4. To avoid conflicts of interest** – a Director must avoid situations in which they have a direct or indirect interest that conflicts with or may conflict with the company's interests. For example, a Director would not be allowed to appoint a contractor or company that they have a financial interest in, unless that interest is fully declared beforehand and they withdraw from making the decision.
- 5. Not to accept benefits from third parties** – a Director must not accept any benefit (including a bribe) from a third party which is given because they are a director or in order to make them do or omit to do something as a director as a result.
- 6. To exercise reasonable care, skill and diligence** – a Director should take expert advice where necessary and consider the potential implications of their actions.

## How to apply to be a Director

The RMC will generally hold a meeting of members/shareholders each year at which any eligible person can be put forward and be elected by majority vote as a Director.

Alternatively, the existing Board of Directors can select an eligible person to act as a Director, although at the next company meeting they would need to step down and seek election from the members or shareholders.

If you are interested in becoming a Director of your RMC then please do contact your JCF Property Manager or any member of the current Board of Directors to discuss this further.