

Gateway customer guide to:

# Freeholder Homeowners on private estates

Factsheet

**06**

Gateway 

# Freeholder Homeowners on private estates

## Overview

Private estates are becoming commonplace throughout the country. This is mainly because local authorities do not have funding available to adopt and maintain new amenities.

On some private estates, you'll find freehold houses or a mix of freehold houses and leasehold flats. Here, each homeowner will contribute to the upkeep of the communal areas, so everyone on the estate can continue to enjoy them. For freehold homeowners, this will be through an estate rentcharge.

A clause in your deed of transfer (form 'TP1' from HM Land Registry), signed when purchasing your property, will explain the details. Elsewhere in the deed, there may be certain restrictions on what freeholders can do to the exterior of their homes and when it comes to parking on estate roads.

This guide introduces you as a freeholder to the main topics. It's not written for leaseholders, who are also financially responsible for maintaining communal areas, but have a different set of obligations to freeholders. These are sometimes referred to as a maintenance charge or service charge.

### **IMPORTANT**

**Prior to buying a freehold property on a private estate, we strongly recommend that you read all documentation thoroughly and seek independent legal advice prior to exchanging contracts. If you do not understand what you are signing, you should seek clarification from your solicitor or Citizens Advice Bureau.**



## About estate rentcharges

Your deed of transfer should be clear on your contribution towards maintaining communal areas, known as estate rentcharges. The charge is not a fixed amount. It will vary depending on the costs of running and managing the development. In the relevant clause, you should be able to see:

- exactly what your payment as a freeholder covers
- your share of the total cost
- dates by when you need to make payments (often annually or half-yearly in advance)
- if you'll receive account statements (usually provided annually).

Any works required to your freehold property will almost always be your responsibility, rather than that of a management company.

## What are communal areas or parts

These are the areas or facilities shared by everyone on the estate. They vary between developments and can include private roads, verges, communal gardens and landscaped grounds, including children's play areas, through to street lighting, electric gates, refuse areas, sewers and drainage systems and aerials or satellite dishes for TV reception, to name but a few. Residents normally contribute to the upkeep of all communal areas, whether they use them or not.

### Can't find your deed of transfer?

Don't worry, you can get a copy from the HM Land Registry for a small charge.

For more information visit:

[www.gov.uk/guidance/contact-hm-land-registry](http://www.gov.uk/guidance/contact-hm-land-registry) or search 'HM Land Registry' for contact details.

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## Setting up a Residents Management Company (RMC)

To manage the ownership and upkeep of communal areas on private estates, it's common practice to set up a small company. This is known as a Residents Management Company (RMC), normally with every home owner – both freeholders and any leaseholders on the estate – being a member. The benefit of an RMC is that home owners shape how communal areas are maintained. It's worth noting that an RMC is a proper company, requiring volunteer residents to act as Directors, with formal duties and responsibilities. It's also possible to delegate the ownership and maintenance of communal areas to an entirely separate company, such as ourselves. We carry out the obligations of many RMCs nationwide.

Housebuilders of new property developments are often RMC Directors until the land is transferred or the development has reached legal completion. This is normally when all planning obligations have been fulfilled by the developer which could be several years after moving in.

You'll find more on RMCs, including Directors' roles, in our dedicated fact sheet at: [www.gatewayplc.co.uk/factsheets](http://www.gatewayplc.co.uk/factsheets)

## The role of a managing agent

Companies that own the communal areas of private estates, including RMCs, will often use managing agents, such as ourselves, to carry out maintenance and other related property services on their behalf. We follow best industry practice signing a contract with and being accountable to company Directors (rather than individual freeholders).

Besides general upkeep and repairs, a managing agent's role normally covers preparing budgets for approval by company Directors; invoicing for service charge payments; organising contracts (such as grounds maintenance); carrying out health and safety and fire risk assessments; and providing formal accounts to Directors at the end of each financial year.

## Common freeholder restrictions

We strongly recommend that you read through your deed of transfer thoroughly and seek independent legal advice before purchasing your property. Certain clauses may restrict what you can do to your property and where you can park on the estate. The most common clauses include the following items.

### Rules on exterior decorations

On some private estates, external paintwork must follow a set colour scheme, often agreed when the property development gained planning permission.

### Limits to external alterations

Before altering the external appearance of your home, you may need to get permission. This is often because

the original planning permission defined what could later be altered.

### Restrictions on installing TV aerials and satellite dishes

Making external alterations to your property may include adding an outside TV aerial or satellite dish. It's best to check first, as you may need permission.

### Car parking restrictions

Parking on estate roads can be prohibited in deeds because they are narrower than public highways and may not be constructed to the same standards.



## Health & Safety matters

### Meeting today's legal requirements

Communal areas of freehold estates, including private roadways, must meet the latest health and safety law. It's essential that a general risk assessment is carried out. If there's simply a private road and footpaths, the assessment needn't be a complex task, but the types of likely risks must be recorded and covered by appropriate solutions. Negligence here is a serious matter and something the RMC Directors could be liable for.

### Budget

At the beginning of each financial year an estimate of the anticipated expenditure is prepared and approved by the Directors of the RMC. It is the approved budget upon which your contribution is based. Estate rentcharges are variable amounts and are likely to increase each year.

## End of year accounts

### Documenting all expenditure

At the end of each financial (not calendar) year, an independent accountant produces year-end accounts for circulation to homeowners. The accounts should list all expenditure incurred over the preceding 12 months and whether there are any surplus funds or deficit in which case additional charges will be raised. Any surplus would be paid into a reserve fund unless the transfer says differently.

## Insurance matters

### Covering communal areas

The company responsible for the estate's communal areas will need to take out adequate, third-party liability insurance.

### Protecting company Directors

The RMC and all its volunteer Directors should be protected with a suitable Directors & Officers Liability Insurance policy. Make sure you're covered.



