

Law Commission consultation on residential tenants' right to manage

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If you are a landlord or owner of a mixed use residential and commercial building or scheme, you need to know that the Law Commission is consulting on [proposals to make it easier for residential leaseholders to take over management of their buildings](#). If the proposals make it into law, landlords of mixed use developments could find that their buildings are within the scope of the right to manage for the first time. The consultation is open until 30 April, so now is the time to make your views known.

Introduced in 2002, the right to manage (RTM) allows some types of tenant to act together to take management into their own hands, without having to establish any failing on the part of the landlord. For mixed use developments, this could result in management being split, with services exclusively for the commercial units staying with the landlord but responsibility for everything else (including exterior maintenance) moving to the tenants' RTM company. Until now, the rules have made many mixed use developments exempt but that could now change.

Some of the suggested changes are intended to make the process easier for tenants. Of greater interest to landlords are proposals to extend the scope of the right to manage, to bring in more tenants and a wider range of buildings. Currently, RTM is only possible in relation to properties that are:

- self-contained buildings or parts of buildings;
- with at least two flats held by "qualifying tenants" (broadly, those with leases longer than 21 years);
- where qualifying tenants hold at least two thirds of the total number of flats in the building; and
- where no more than 25% of the total internal floor area is used for non-residential purposes.

The consultation proposes the following changes to those criteria:

- Allowing tenants of multiple blocks on an estate to act together to form a single RTM company to manage them together. This is likely to be more efficient for tenants but could still end up with fragmentation if not all blocks want to join in.

- Removing the requirement for there to be two flats let to qualifying tenants. This would potentially make RTM available to the tenant of a single long leasehold flat above a shop.
- Removing the requirement for two thirds of the flats to be held by qualifying tenants or, alternatively, reducing it to 50%. This would bring more buildings within the scope of RTM.
- Removing the exemption for properties with more than 25 % non-residential use, replacing it with a requirement for RTM companies to instruct professional managing agents where more than 25% of the internal floor area is used for commercial purposes.

The last two proposals are likely to be the most hotly debated by landlords. Some mixed use developments have been deliberately structured to make sure that the residential/commercial split and the split between long leases and flats let on short tenancies take the building outside the scope of RTM, so the proposed extensions may be unwelcome. Having said that, landlords may take comfort from knowing that a mixed use building subject to RTM would have to be professionally managed.

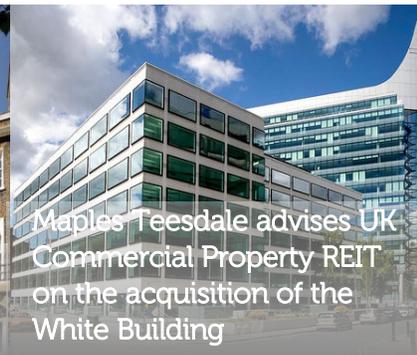
Now is the time for landlords to make their views known. The [consultation](#) is open until 30 April. If you would like to discuss the issues in more detail, please get in touch with your usual contact at [Maples Teesdale](#).



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