



Residential property managers:

are you aware of the ramifications of a First-tier Tribunal?

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Resident disputes are an ever-present risk in property management. Disagreements over increased rent charges and the validity of houses in housing for multiple occupation (HMO) licensing are just two examples of disputes a property management organisation may find themselves arbitrated via what's known as First-tier Tribunal (FTT).

We've put together an explainer to breakdown the key information your organisation should know about the FTT - and the actions you should be undertaking to prepare yourself for a potential FTT dispute.

What is the First-tier Tribunal?

Previously known as the Leasehold Valuation Tribunal, this independent (non-governmental) organisation is responsible for managing applications, appeals and references related to disputes over property.

Hearings with the FTT are available to landlords, tenants, freeholders, leaseholders, park home occupiers and site owners, acting as a point of unbiased arbitration between these groups.

What types of residential property disputes does the FTT cover?

The FTT handles a broad range of residential property disputes, including:

- Leasehold disputes
- Leasehold enfranchisement issues
- Increased rent
- Rent repayment orders
- Park home disputes
- Financial penalties
- Issues relating to improvement notices and prohibition orders under the Housing Act 2004
- Issues regarding HMO licences
- Denial of the Right To Buy a council home due to its perceived suitability for elderly people

How does the FTT process work?

1. One or both parties involved in the dispute submit an application to the FTT (different applications are available for different disputes). This is posted or emailed to the relevant FTT office.
2. One of three things will then happen: the FTT will issue a what's called a 'paper decision' on the basis of the application, they will ask for an oral hearing with the dispute participants in order to make a decision, or they will request more information (in the form of supporting documents) from the applicants before proceeding further. A paper decision will usually take around six weeks - and it's worth noting that even after a paper decision, it's still possible to request an oral hearing.
3. If the dispute proceeds to an oral hearing, both parties will be required to attend to present their perspective on the dispute to the FTT. Optionally, each party can be represented by a selected third party, such as a legal advisor, surveyor or family member. During the hearing, a panel of FTT members will ask questions of each party with the intention of gathering enough information to arrive at a decision. They may also visit the property in question to inspect it as part of this process.
4. The FTT will make a decision on the basis of the oral hearing (and, potentially, the inspection), and will issue this within six weeks.
5. At this point, the matter may be considered concluded, unless one of the parties wishes to appeal. Each party has 28 days following the decision in which they can do this - and if they would like to escalate it beyond the FTT (for example, if they felt the service received from the FTT was poor quality), they can contact the HM Courts and Tribunals Service.

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What can happen as a result of an FTT decision?

As a property manager receiving an FTT decision, you may be required to:

- Pay costs to the other party
- Make changes to your service or its pricing (e.g. removing a property service charge)
- Provide compensation to the other party
- It's also possible that your organisation might receive compensation from the other party if the FTT rules in your favour.

Costs can be awarded in the following instances:

- A written contract allows a party to claim costs from the other party
- An Act of Parliament decrees it
- One party has unreasonable increased costs incurred by the other (e.g. if an oral hearing was requested unnecessarily)
- A party has unreasonably brought or defended a case before the FTT

The FTT can also 'strike out' a case if a party does not fully comply with their directions, e.g. not providing requested documentation.

How can property managers prepare themselves?

It's worth noting that there is no upper limit on costs that can be awarded as a result of the FTT process, making robust insurance with full coverage for potential disputes a must for property managers.

It's worth considering engaging a broker (CLEAR offer this service) to guide your organisation through the process of acquiring insurance cover, to protect your business from the potential costs of an FTT dispute.

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