

WHY WE NEED

LEASEHOLD REFORM

What is a leasehold?

Residential leasehold is a form of housing tenure - almost unique to England and Wales - in which the occupier pays for the right to live in a property for an agreed period and for an agreed sum of money. It applies to both houses and apartments.

Property can either be owned as freehold, or as leasehold for a set number of years, typically between 99 to 125 years, on a lease from a landlord who owns the freehold.

Leasehold is thus a form of tenancy, and in law a leaseholder is a tenant.

The freeholder (landlord) retains ownership of the land on which the property is built¹.

The landlord has the right to set the freehold rent and to evict under certain circumstances.

The rights and obligations of the respective parties are governed by the terms of the lease agreement, which is supplemented by statutory provisions.

What is the problem with leasehold?

Leasehold is a complex, unfair, and unjust form of housing tenure that has enabled exploitation in the housing market.

Owners of long leasehold properties often do not appreciate that, although they are termed 'owner-occupiers', they are in fact in a landlord and tenant relationship with the freeholder.

Typical problems with leasehold include mismanagement and excessive service charges. Unreasonable fees may also be charged for extending a lease or granting permissions (e.g. to keep a pet).

Freeholders may also set ground rents at levels that prevent leaseholders from re-mortgaging or moving home.

In 1988 the Thatcher government brought in the Housing Act that created 'Assured Tenancies'. Those leaseholders whose tenancies are 'Assured Tenancies' have a diminished security of tenure which can apply if a ground rent exceeds £250 per year (£1,000 per year in London) or is a shared owner².

As a consequence, such leases mean leaseholders can be evicted even for small sums of arrears. This is particularly risky for shared owners because the landlord may obtain the whole value of the tenants' investment.

A current example of consequences for leaseholders and shared owners is the huge bills to replace combustible cladding following the Grenfell Tower fire³.

As a result, leaseholders are facing soaring costs for mortgages, insurance, and interim fire-safety measures.

Who is affected?

The Ministry of Housing, Communities & Local Government estimates the number of leasehold dwellings in England at 4.3 million dwellings, of

WHY WE NEED LEASEHOLD REFORM

which over two-thirds are flats and less than one-third houses⁴.

Many of these will have been affected by onerous and unfair covenants or leasehold terms.

Leasehold dominates the private sector where 81% of flats are held on this basis. In contrast, only 9% of flats in the social rented sector are leaseholds.

Although flats historically constitute nearly all cases of leasehold, in recent years it has been increasingly used for new-build houses.

What is the impact?

A Propertymark report⁵ in September 2018 titled 'Leasehold: A Life Sentence?' found that buying a leasehold had the following impact on homeowners:

- 6 out of 10 leaseholders said they did not understand what being a leaseholder meant until they had already purchased the property.
- 6 out of 10 leaseholders feel they were mis-sold. (*6 out of 10 had also used the solicitor their house builder recommended.*)
- **9 out of 10 regretted buying a leasehold.**
- **9 out of 10 leaseholders would not buy another leasehold.**

A 2016 survey by The Leasehold Advisory Service⁶ found that the impact tenure has on leaseholders was as follows:

- Two-thirds of leaseholders don't feel they get a good service from their managing agent.
- Only 6% are very confident their managing agent could resolve issues.
- 68% of leaseholders have little or no confidence that their managing agent could resolve issues efficiently and effectively.

- 51% of leaseholders see a change in managing agent would improve matters and benefit the block.
- 48% of leaseholders believe a lack of knowledge is a real barrier to changing managing agents.
- 40% of leaseholders strongly disagree that service charge is value for money.

Onerous and unsustainable ground rents have a significant impact on leaseholders.

What has been the response?

Campaigners

The campaign for reform of the leasehold sector has gained prominence by highlighting abuses.

These include some developers that have deliberately set up leasehold structures for the sale of new-build properties to enable a 'middleman' to extract profits through onerous ground rent terms contained in the leases.

The Law Commission published a report⁷ on the 9th January 2020 on options to reduce the price payable for extending a lease or buying a share of the freehold.

The Conservative Government

Although the Government has acknowledged the leasehold system is not working in consumers' best interests, it has no current plans to legislate in this area, despite saying that it intends to limit ground rents to zero financial value in future assets⁸.

Following an investigation into mis-selling and unfair contract terms in February 2020, the Competition and Markets Authority published a report⁹ and proposed enforcement measures under its consumer protection powers.

Following demands to bail out hundreds of thousands of affected leaseholders, the Government announced¹⁰ in March 2020 £1 billion of new funding to help strip combustible

WHY WE NEED LEASEHOLD REFORM

cladding from homes in both private and social housing blocks.

What are Labour's policies on leasehold reform?

In July 2019 Labour published¹¹ *'Ending the Scandal: Labour's new deal for leaseholders'*, which set out Labour's plan to end the unfairness and injustice of leasehold for good. It proposes to:

1. End the sale of new private leasehold houses with immediate effect and the sale of private leasehold flats by the end of Labour's first term in Government.
2. End ground rents for new leasehold homes, and cap ground rents for existing leaseholders at 0.1% of the property value, up to a maximum of £250 a year.
3. Set a simple formula for leaseholders to buy the freehold to their home capped at 1% of the property value.
4. Crack down on unfair fees and contract terms by:
 - a. publishing a reference list of reasonable charges,
 - b. requiring transparency on service charges and
 - c. giving leaseholders a right to challenge rip-off fees and conditions or poor performance from service companies.
5. Give residents greater powers over the management of their homes, with new rights for flat owners to form residents' associations and by simplifying the Right to Manage.

What does the Labour Housing Group recommend?

- Leasehold tenure for multi-occupancy developments must be replaced with

commonhold, a form of ownership that provides security of tenure with shared responsibility for common services.

- The creation of new instances of leasehold must be barred and a timetable set for ending current instances.
- Pending these changes, measures must be introduced to relieve the burden of unfair charges.
- LHG welcomes current reviews such as that started by the Competitions and Markets Authority, but recognises that there must be political will to bring about change. We support existing campaigns such as [GetCommonholdDone](#).
- The Grenfell Tower tragedy has shown how leasehold obstructs urgent work required to make residents safe. We call upon Central Government urgently to commission and fund that work.

If you are interested in commonhold and leasehold reform, please contact Dermott McKibbin at www.getcommonholddone.co.uk/

What Is the Labour Housing Group?

The Labour Housing Group is a lobbying group that is affiliated to the Labour Party and dedicated to the development of a socialist housing policy.

You can contact us at

<http://labourhousing.org/#main-contact-form>

You can join us at

<http://labourhousing.org/account/join>

WHY WE NEED LEASEHOLD REFORM

SOURCES

- 1 Commons Research Briefing: Leasehold and Commonhold Reform - 31st December 2019
<https://commonslibrary.parliament.uk/research-briefings/cbp-8047/>
- 2 Competition and Markets Authority: Leasehold Update Report - 28th February 2020
https://assets.publishing.service.gov.uk/media/5e57e4ea86650c53b74fe6e0/Leasehold_update_report_pdf_-._.pdf
- 3 Grenfell Tower Inquiry: Phase 1 Report Overview – October 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/834057/Estimating_the_number_of_leasehold_dwellings_in_England__2017-18.pdf
- 4 MHCLG: Estimating the Number of Leasehold Dwellings in England, 2017-18 – September 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/834057/Estimating_the_number_of_leasehold_dwellings_in_England__2017-18.pdf
- 5 NAEA Propertymark: Leasehold a life sentence? – September 2018
<https://www.naea.co.uk/news/september-2018/leasehold-a-life-sentence.aspx>
- 6 The Leasehold Advisory Service: National Leasehold Survey – July 2016
<https://www.lease-advice.org/news-item/national-leasehold-survey-2016-report/>
- 7 Law Commission: Report on options to reduce the price payable – Jan 2020
<https://www.lawcom.gov.uk/project/leasehold-enfranchisement/>
- 8 MHCLG: Public pledge for leaseholders – June 2019 (Update)
<https://www.gov.uk/government/publications/leaseholder-pledge/public-pledge-for-leaseholders>
- 9 CMA: CMA finds evidence of serious issues in leasehold selling – February 2020
<https://www.gov.uk/government/news/cma-finds-evidence-of-serious-issues-in-leasehold-selling>
- 10 ITV: £1bn fund to remove unsafe cladding from high-rise buildings – March 2020
<https://www.itv.com/news/london/2020-03-11/budget-2020-1bn-fund-to-remove-unsafe-cladding-from-high-rise-buildings/>
- 11 Labour Party: Ending the Scandal Labour’s New Deal for Leaseholders – July 2019
https://www.sarah-jones.org/wp-content/uploads/sites/17/2019/07/12506_19-Labours-New-Deal-for-Leaseholders-document.pdf