

Labour

Housing Group

LEASEHOLD UNPACKED: HOW DO WE REFORM ROUTES TO RECOURSE?

Briefing from Labour Housing
Group's Leasehold Working
Group

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About this briefing

Like the 4 million social renters and 5.4 million private renters in the UK, England and Wales' 5.3 million leaseholders lack full control over their homes. While everything within the walls of their home are, in theory, their responsibility, anything pertaining to communal areas or, in the case of flats, the overall structure of the building, is owned and run by the overall landowner, otherwise known as a freeholder.

Like landlords in the private or social rented sectors, freeholders can sometimes be aloof and unconcerned with their leaseholder's interests, employing managing agents with few incentives to deliver an effective or affordable service.

Social renters have a wide variety of regulators to go to for recourse, most notably the powerful Housing Ombudsman Service. Private renters are also having additional rights and routes to recourse formed in Labour's Renters' Rights Act. But leaseholders currently have fewer routes to recourse, particularly over freeholders.

To examine these routes in more detail, Labour Housing Group and Labour for Leaseholders interviewed representatives involved in the recourse system, including leaseholders, lawyers, and individuals with first-hand experience of working within redress schemes and professional bodies. The resulting briefing will look at what routes there currently are for recourse for leaseholders, what the problems are with such routes, what Labour is proposing to fix these and what more can be done.

What routes to recourse are there for leaseholders?

The Property Ombudsman or the Property Redress Scheme

Managing agents by law have to be members of either The Property Ombudsman (TPO) or the Property Redress Scheme (PRS). It is worth noting that managing agents responsible for unadopted estates on freehold land (otherwise known as freehold) do not have to be a member of a redress scheme.

These organisations can help with Poor or incompetent service, infringements of legal rights, failure to follow the rules set for agents under the relevant Code of Practice and General Membership Obligations, or other unfair treatment. However, they cannot handle breaches of the law, complaints around service charge levels, or force managing agents to carry out works or repairs.

In order to bring a complaint with TPO or PRS, leaseholders should have raised the issue with their managing agent in writing first, and either not have received a response within eight weeks, or have received a response which they consider to be dissatisfactory. After this, they have twelve months to make a complaint with TPO or PRS.

Redress schemes will generally attempt to resolve enquiries before they become disputes, and will prioritise early dispute resolution when possible. When parties are unable to come to an agreement, the dispute will be triaged and go through a formal resolution process.

TPO or PRS will then consider the complaint, which typically lasts around three months, before reaching a resolution. This can involve an apology or direct action by a managing agent or financial compensation, usually between £300 and £600. It is also worth noting that shared owners have access to the Housing Ombudsman as well when it pertains to their landlord.

The First Tier Tribunal (Property Chamber)

The First-Tier Tribunal (Property Chamber) or FTT is one of seven chambers of the First-Tier Tribunal. The FTT can handle a broader spectrum of issues, including the reasonableness of service charges and limiting administration charges, disputing lease variations, the conditions of buying a freehold, and disputes related to the right to manage. Importantly, the FTT can consider complaints against a freeholder, which no other service can currently do.

After submitting the appropriate forms to the FTT, copies of these will be given to the respondent in the case, and a hearing will be organised, unless those involved in the application and everyone impacted decide that the matter can be decided without a hearing. Three individuals will usually make up the board of the tribunal, including a layperson with no knowledge of the topic, a valuer, and a chair.

Decisions of the FTT can be enforced by county court if necessary, and can be appealed either back to the FTT or to the Upper-Tier Tribunal.

Professional bodies (The Property Institute and RICS)

Many managing agents will also be signed up as members of The Property Institute (TPI) and/or to the Royal Institute of Chartered Surveyors (RICS). TPI and RICS do not offer statutory redress schemes, but concerns can be raised with them about the conduct of individual staff members at a managing agent or with reference to an overall managing agent.

A few minor sanctions such as written warnings are able to be conducted with TPI, the ultimate sanction for them is to either suspend a managing agent or ultimately to expel them.

RICS does in its complaints procedure offer the option to begin disciplinary proceedings against members and to refer matters to the First-tier Tribunal (General Regulatory Chamber), if they believe that there is sufficient evidence to support a realistic prospect of 'a finding of liability to disciplinary action'. These can result measures such as Fixed Penalty Notices, or Regulatory Compliance Orders.

What are the issues with these routes?

The Property Ombudsman or the Property Redress Scheme

Several issues exist with these routes to recourse as they currently exist.

Balance of power

While the FTT is intended to be a lay tribunal where claimants can speak without legal representation, interviewees agreed that it "feels like a court of law". Its format is adversarial, and there is nothing to prevent freeholders or managing agents from employing barristers to further this feeling (although this is meant to be taken into account in decision-making by those presiding).

Freeholders also have more experience of navigating the FTT, and greater patience, as the issues being raised do not impact their daily existence. This is further exacerbated by the fact that any legal fees incurred by leaseholders can continue to be charged back to them through service charges.

Leaseholders interviewed for this report felt that they were then forced to choose between this intimidating route of recourse, or to waive the right to more substantial redress by going through the statutory schemes.

Clarity and remit:

The confused landscape at present means that many leaseholders have to go through a number of bodies before finding one which is relevant. Many complain to professional bodies or redress schemes without fully understanding their remit, in part due to an aforementioned reticence to go to the FTT.

Some interviewed for this report suspected that the increase in enquiries to TPO and PRS in 2024 could be due to a sharp increase in service charges, which fall outside of the redress schemes' remit. Thus thousands of leaseholders last year encountered this very barrier to seeking recourse.

Sanctions and enforcement:

Until there is a statutory regulator for managing agents, which is due to be established under the Leasehold and Freehold Reform Act (2024), actually holding managing agents or freeholders to account for systemic issues remains difficult. Redress schemes can handle single cases relatively effectively, but leaseholders interviewed for this report noted a feeling of a lack of justice, that these reports could not stack up to more widespread sanctions.

Further barriers to enforcement also include a lack of available data about both freeholders and managing agents. Historic opacity in the Land Registry means that collecting data on who owns freeholds is difficult, and the managing agents market is notably fragmented compared to the social housing sector.

Meanwhile, decisions from the FTT are often difficult to enforce without applying for the relevant orders in county courts.

Resourcing:

Data from the FTT, TPO and PRS all indicate a substantial increase in caseload in recent years. Enquiries to TPO increased from 3,974 in 2023 to 6,649 in 2024, and from 342 for the PRS to 442 in the same timespan. Meanwhile, the open caseload at the FTT has increased every year from 2016/17 (2,643) to 2024/5 (8,630) despite more minor fluctuations in cases.

Leaseholders report lengthy delays at the FTT resulting from this, and while the Ministry of Justice and His Majesty's Courts and Tribunals Service (HMCTS) do not collect data on average time to disposal in these cases, one interviewee noted that any wait short of 18 months would be considered "a miracle".

This caseload is likely to increase with the further commencement of the Leasehold and Freehold Reform Act (2024) (LAFRA), as well as the passage of the Renters' Rights Act. This was noted as a concern by several interviewees.

What can be done to improve these routes?

Since coming to power, Labour has been working to implement LAFRA. Ministerial statements since the election have noted a number of obstacles to this, most notably that parts of the Act were not legally sound.

On 3rd March 2025, Labour implemented measures in LAFRA to ensure that freeholders cannot reclaim charges from leaseholders establishing Right to Manage companies, which anecdotally has resulted in a large number of leaseholders applying for the Right to Manage.

The Government has also consulted on the introduction of a compulsory regulator of managing agents, and has indicated a preference of enforcing this through a combination of local authority trading standards routes and through existing professional bodies.

Quick wins in LAFRA

LAFRA contains a number of measures to improve the efficacy of these routes, most notably the FTT. However, many of these moves have not yet been activated through commencement orders.

Quick wins could be created by commencing these key sections.

Sections 38 and 39 (Recovery of enfranchisement and extension costs)

Sections 38 and 39 of LAFRA prevent 'another person' aka freeholders and their representatives, from claiming costs for extending leases or enfranchisement from leaseholders.

Section 40 (Expansion of FTT's remit)

Section 40 of LAFRA expands and clarifies the remit of the FTT with reference lease extensions and enfranchisements, removing the need to apply to the county court or High Court in a number of cases. These include requiring persons to pay compensation costs.

Section 58 (Challenging service charges)

Section 58 of LAFRA creates and enhances an enforcement route where a tenant can apply to the appropriate tribunal on the ground that the landlord has failed to comply with duties relating to service charges (for example to demand information, to follow transparency obligations, etc.).

Section 64 (Recovery of litigation costs)

Section 64 of LAFRA specifies that litigation costs with leaseholders cannot be claimed back through variable services charges. This has been commenced in regard to Right to Manage applications but not yet more broadly.

Sections 66, 88, and 89 (Appointment of managers)

Sections 66, and 89 of LAFRA respectively empower the FTT to appoint a manager where it is satisfied that an existing manager has breached a redress scheme (Section 66), or for homeowners on a managed estate to apply to appoint a substitute manager in the case of a serious management failure .

Section 100: Membership of Redress Schemes

Section 100 of LAFRA mandates estate managers and freeholders who carry out their own management responsibilities to be members of redress schemes.

Section 107: Decisions under redress schemes

Section 107 of LAFRA allows TPO and PRS to apply to a court or tribunal to enforce decisions made, further strengthening their operations.

Routes to recourse not covered in LAFRA

LAFRA contains most of the suggestions in the Law Commission's 2020 report *The Future of Home Ownership*. However, one key omission was the Law Commission's suggestion of establishing a Single Housing Court, consolidating the work of the FTT, Leasehold Valuation Tribunals, and the work of the county courts in enforcing FTT decisions. The Law Commission claims that doing so would "resolve disputes, reduce delays and to secure justice in housing cases."

Another key recommendation in the Law Commission's work was the express support of the creation of a standalone regulator of managing agents, as suggested in Lord Best's "Regulation of Property Agents" report. This is being considered in the Government's service charge consultation which ran until September 2025, and whose responses are being considered at the time of writing. Doing this would provide greater clarity to leaseholders, particularly the remits of TPO and PRS are included in its remit, as well as some lower-level functions of the FTT around blocking the appointment of managing agents.

Recommendations:

1. The regulatory position of estate managers needs clarifying so that they have an identical role to that of managing agents. Any future reference to managing agents in recommendations should therefore be understood to include estate managers.
2. In response to widespread concern over lack of resourcing at the FTT, the Government should allocate ring-fenced funding to it until its caseload is substantially reduced.
3. Measures related to the FTT and redress schemes in LAFRA should be enacted as quickly as is practical.
4. MoJ should also commission research into barriers for leaseholders at the FTT and put in place mandatory advice and support in advance of hearings, including further signposting.
5. In order to improve the effectiveness of existing schemes, MHCLG should create databases of freeholders and managing agents, enforced through the new regulator.
6. The Government should consider the Law Commission's support for a Single Housing Court in the Leasehold and Commonhold Reform Bill.
7. The Government should push ahead with a single regulator for Property Agents. The Government should also consider adding freeholders into its remit.

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About Labour Housing Group:

The Labour Housing Group (LHG) seeks to ensure that housing of the highest possible standard is available for all members of the community regardless of their means.

As a socialist society affiliated to the Labour Party we work within the movement, both nationally and locally, to develop and promote workable socialist housing policies through our members.

If you believe another future is possible for our country and housing – become a member and join us in the fight at <https://labourhousing.org/join/>

About LHG's Leasehold Working Group

The Leasehold Working Group is one of four working groups run by LHG focusing on key policy priorities for Labour members and policymakers.

The group consists of LHG members campaigning and meets regularly to plan work and campaigning, and takes a major role in writing and editing policy briefings.

The Working Group is open to all LHG members, if you would like to be involved please get in touch at info@labourhousing.org