



LEGAL SECTOR GROUP

LEASEHOLD REFORM PROPOSALS

1. Reasonable Fees for Administrative Activities

- 1.1 A requirements for reasonable fees for any administrative activity in any tenure.
- 1.2 A tariff of fees for quantifiable activities, managed and set by an appropriate organisation such as RICS or by the Secretary of State within regulations just as solicitor charging rates are within the Civil Procedure Rules.
- 1.3 Require standardised documents to be created and mandated to reduce costs and delay generally in respect of notice of assignment, notice of charge, stock transfer, deed of covenant and certificate of compliance.

2. Reasonable Timescales for Administrative Activities

- 2.1 Create obligations for the lease administrator to provide the information required for the sale, for example, as set out in the Leasehold Property Enquiry Form (LPE1)
- 2.2 Require all Lease Administrators, administering a long lease, to be registered on a register of Lease Administrators held by HMLR
- 2.3 Services and information to be provided within a reasonable period from receipt of payment eg 10 working days and if over that then provide free of charge.
- 2.4 If a required compliance certificate is not received within 10 working days of the Conveyancer complying with the requirements then the Conveyancer may complete a form at Land Registry to confirm that they have complied and Land Registry will register the amendment to the register. This will reduce the registration gap and save wasted time and resource for Land Registry, the conveyancer, the lender and the lease administrator.

3. Enforcement

- 3.1 Mandatory requirement for all Freehold Management or Lease Administrators to be part of a redress scheme
- 3.2 Create a fit purpose redress scheme and mandate for the ombudsmen to be able to deal with complaints.
- 3.3 To enable HM Land Registry to disapply Restrictions requiring a certificate of compliance confirming compliance with the terms of the lease, where a conveyancer can provide evidence of compliance in some other way.

4. Unfair Lease Terms

- 4.1 No newbuild should have an initial lease term of less than 250 years.
- 4.2 Rent review clauses should allow for no more than 50% or the difference in the RPI each 10 years whichever is the lesser. Whilst it is argued that where there are shared facilities or maintenance requirements it is advantageous to keep the Landlord on the scene and provide them with a return on the basis that an absent or insolvent landlords makes it hard to enforce covenants and sell properties, in fact it would be better if leaseholders had the automatic right to manage and acquire the Freehold where a Landlord has become absent.
- 4.3 Unless there is a genuine requirement for shared maintenance then leasehold houses should not be the subject of rent review clauses.
- 4.4 Existing leases with unfair terms around escalating ground rents or unreasonable fees should retrospectively comply with the above requirements to prevent blighting the properties.

- 4.5 Exit/event or transfer fees should only be recoverable where they will be directly credited to the reserve fund for that block. An exit or transfer fee which goes in part or in whole to the landlord for no tangible benefit to the block in return should be unenforceable.
- 4.6 An estimate of the amount of the exit fee should be stated on the end of each service charge demand to try to keep owners and beneficiaries up to date as to what it means to them.
- 4.7 Disapply the provisions of the Housing Act in respect of possession under Ground 8 of Schedule 2 of the Housing Act 1988 in long leases. This would bring it into line with the intentions of s.167 of the Commonhold and Leasehold Reform Act 2002 to prevent forfeiture for prescribed small amounts or over prescribed short periods.

5. Overhaul of Tenure

- 5.1 Review of Commonhold Regulations to make a viable alternative, with the protections equivalent to those afforded to leaseholds eg in respect of service charge dispute procedure implemented by the Landlord and tenant Act 1985, with a view to outlaw leasehold and require Commonhold in newbuild and conversions when fit for purpose.
- 5.2 Simplification of the process to extend the lease and buy the freehold, in the same way that Long Leases Scotland Act 2012 converts leases with initial terms over 175 years with 100 years left to run into Freeholds, leasehold houses could convert to Freehold where there is no shared amenity element which would require a leasehold tenure.
- 5.3 Lease extensions cause delay and abortive transactions. Extending leases outside of the Act means that you are at the mercy of landlords who can charge above the going rate impose unreasonable terms (eg rent increase etc). Therefore require standard and reasonable terms on lease extensions and for set timescales for each step in the process.
- 5.4 Provide a statutory right for personal representatives to extend a lease on behalf of a deceased estate.
- 5.5 Bring the protections for owners of leasehold houses in line with those of leasehold flats eg provide for owners of leasehold houses to have the right of first refusal when the freehold is offered for sale.
- 5.6 The consideration for a lease extension should be determined by one pre-set formula set by RICS and based upon a percentage of the value of the land relevant to the number of years by which the lease is extended.
- 5.7 Each party should bear their own costs for a lease extension or enfranchisement where there is a premium payable.
- 5.8 Review Right to Manage to make it easier for tenants to take the responsibility on if a landlord won't do their bit. It should not be necessary to involve a managing agent until the First Tier Tribunal has approved the right to manage in principal. The current system is too expensive for most developments.
- 5.9 If a management company fails for leasehold flats and houses, the tenants should have the right to create a Right to Manage Management Company, failing which the Landlord should take on the obligations of the management company until a new company can be established.
- 5.10 The Section 20 notice levels to be reviewed in line with inflation and thereafter set each year by the RICS in line with inflation. This will reduce the administrative burden on managing agents which should reduce the cost of management.
- 5.11 Housing Associations and Local Authorities to be required to comply with the same levels of reasonableness and fairness for administration fees and service charges and their leases should be capable of statutory extension.
- 5.12 Managed Freehold Property to be treated the same as leasehold in respect of the above points and the managed property form (FME1) to be mandatory.

6. Buildings Insurance

- 6.1 All landlords with obligations contained in the lease to insure should be required by statute to insure comprehensively for the full reinstatement value (for which they may obtain a surveyor's opinion every 5 years) and for the risks identified in the CML Handbook or its replacement. This will avoid the need for deeds of variation where there is a clause which is not compliant with the Lender's

Handbook which severely slow down transactions, increase costs and can lead to transactions falling through due to the inability of the buyer to satisfy the lender's requirements.

- 6.2 Lease Administrator to obtain at least 3 quotes from rated insurers for insurance to achieve the best premium possible, the quotes to be share with the leaseholders and should contain a statement as to whether or not the insurance complies with the requirements of the CML Lender's Handbook.

7. Management Regulation

- 7.1 Regulations should be created for the protection, investment, management and calculation of the reserve fund on every leasehold or freehold management block.
- 7.2 A reserve fund should be in place for any leasehold scheme containing two or more properties to ensure that sufficient funds accumulate for foreseeable major works.
- 7.3 Management charges should be limited to 10% of routine service charges, or in the case of exceptional charges be proportionate to the work to which they relate, excluding payments into the reserve fund.

8. Marketing of Leasehold Properties

- 8.1 Anyone marketing a Leasehold Property should provide upfront information on:-
- i) The remaining term of the lease
 - a) if 80-85 years, that payment may be needed to increase the length of the lease subject to the requirements of a lender
 - b) if less than 80 years or less, that buyers will need to pay to extend the lease
 - ii) The amount of ground rent payable
 - iii) The nature of rent review clauses
 - iv) The amount of the annual service charge
 - v) A menu of the charges imposed by the lease administrator for services in connection with the sale, ongoing ownership and purchase of the property, including any exit or transfer fee payable.
 - vi) The existence of a lease clause requiring exit or transfer fees on disposal.

NB THE EQUIVALENT PROTECTIONS SHOULD BE APPLIED TO ESTATE RENTCHARGES, FREEHOLD MANAGEMENT SCHEMES AND COMMONHOLD

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