

Housing Minister speech on Leasehold and Commonhold Reform Bill

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An update on the government's vision for ending the feudal leasehold system.

Thank you and good afternoon, ladies and gentlemen – it is both a privilege and a real pleasure to be here with you.

There are, no doubt, many who will assume that the intricacies of English property law make for one of the driest topics imaginable for a keynote speech.

Yet for those of us immersed in the complexities and challenges of leasehold reform not only appreciate its allure but more importantly recognise that the arrangements surrounding leasehold ownership, commonhold, freehold, ground rents and service charges are worthy of far more focus and attention than they receive.

That is because these seemingly prosaic matters are a source of acute financial hardship and misery for huge numbers of those living in one of the approximately five million leasehold dwellings in England and Wales.

To illustrate the plight of leaseholders today, let me share with you the stories of Tara and Andy – just two of the many leaseholders in my South East London constituency who've contacted me for help over recent months.

Tara lives in a modest flat in Woolwich. She now pays over £4,400 a year in service charges. When she bought her property four years ago, she paid just over £1,230. That is almost a 260% increase, without, suffice to say, any corresponding increase in the range or quality of services she receives.

Andy lives in a flat in East Greenwich. On top of his service charges, he now pays just under £800 per year in ground rent, for no service whatsoever – a charge that would likely rise to well over £1,000 if the terms in his lease that allow for an inflation-linked rebasing every ten years were to be exercised once again.

It is not just leaseholders in the capital who are being routinely gouged in this way by freeholders and managing agents acting on their behalf, and the examples I've just given are not even particularly egregious.

As anyone who has owned a leasehold house or flat, as I have, will know, they are symptomatic of a system that denies leaseholders control over the homes they live in, and have paid for, and subjects them to excessive extraction in the form of punitive and escalating ground rents; unreasonable or extortionate charges; unjustified permissions and administration fees; and onerous conditions often imposed with little or no consultation.

I've said it many times before, and I'll say it again here today. This is not what home ownership should entail.

Leasehold is blighting lives.

Leasehold is a barrier to a fair and efficient modern residential property market.

Leasehold is an anachronism in the twenty-first century.

The aim of this government, by the end of this Parliament, is nothing short of its dismantling and the corresponding emancipation of leaseholders.

To know how to dismantle the leasehold system, its dynamics need to be fully understood.

In that regard, it is not mere rhetoric to suggest that it remains essentially feudal in nature.

The term 'freeholder' was used in the Domesday Book of 1089.

The first leasehold estates appeared just a few decades after its publication.

They were established to allow 'villeins' or 'serfs' to work a plot of land, for a fixed period, on the basis that they would pay 'in-kind' by providing food and services to those higher up the social order, principally landowners.

The fundamental principles of that arrangement - third-party control by landlords, a temporary right to ownership that diminishes in value over time, and financial extraction through rents, charges and fees - still underpin the leasehold system today.

The 1920s saw the birth of the modern leasehold system.

Landlords, subject to new legislation that suppressed rents and restricted their right to evict their tenants, began to sell long leases on their properties, typically between 99 and 125 years, as a means of generating more revenue without sacrificing their ownership of their land.

The century since has been marked by what can only be described as intermittent and well-intentioned but flawed attempts to protect leaseholders from the consequences of the basic unfairness which underpins the law of leasehold.

The 1967 Leasehold Reform Act conferred widespread enfranchisement rights on leaseholders of houses.

The 1985 Landlord and Tenant Act consolidated protections against unreasonable service charges.

The 1993 Leasehold Reform, Housing and Urban Development Act extended enfranchisement rights to leaseholders of flats.

The 2002 Commonhold and Leasehold Reform Act introduced the Right to Manage; expanded enfranchisement rights; and sought, ultimately unsuccessfully, to lay the foundations for the widespread take up of Commonhold.

The 2022 Leasehold Reform (Ground Rent) Act finally abolished ground rents for new leases but left older leases untouched.

And, most recently, the 2024 Leasehold and Freehold Reform Act cherry-picked from two of the three residential leasehold and commonhold reports that were painstakingly produced by the Law Commission in order to provide leaseholders, as well as homeowners on privately managed estates, with some additional rights, powers and protections over their homes.

These successive bouts of reform undoubtedly provided leaseholders with relief from a range of unfair and unreasonable practices.

Yet week after week sees new leasehold horror stories emerge precisely because none of them fundamentally disturbed the historical iniquities on which the present leasehold system rests.

It is only by doing so that we can ensure that the dream of home ownership is made real for millions of leaseholders across the country.

That is why this Labour government made a clear and unambiguous commitment in its manifesto to act [political content removed] and finally bring the feudal leasehold system to an end.

In making that manifesto commitment to bring the leasehold system to an end, we were not promising to immediately abolish leasehold outright.

If outright abolition had been our intention, we would have stood on a manifesto that promised as much.

We did not do so, and for good reason, because anyone, with even the most rudimentary knowledge of leasehold, knows that the outright and immediate abolition of circa five million English and Welsh leases is almost certainly impossible.

Those advocating for such an approach cannot answer how it would be lawful; how the impact on the mortgage market would be managed; how it would even be feasible for the land registry to delete millions of leasehold and freehold titles and replace them with commonhold ones overnight; how millions of commonhold associations could instantly be established with hundreds of thousands of directors corralled into overseeing them; or what the consequences would be for buildings that have already enfranchised or exercised the Right to Manage.

They can't answer these questions because abolishing leasehold outright is a glib soundbite rather than a serious policy proposition.

So, while our detractors will continue to cry betrayal, and opportunistic populist parties will continue to try to sell false promises to hard-pressed leaseholders across the country, we will continue with the hard graft of doing what is necessary to bring the system to an orderly end in this Parliament.

What do we mean by bringing the leasehold system to an end?

We mean preventing the system from perpetuating itself while also empowering existing leaseholders so that they can more easily gain control of their buildings and exit the system if, and when, they choose to do so.

To stop the renewal of the leasehold system, we are legislating to make commonhold the default tenure.

Commonhold is a modern homeownership structure that is used widely around the world.

It is not merely an alternative to leasehold ownership, but a radical improvement on it.

At the heart of the commonhold model is a simple principle: the people who should own buildings, and who should exercise control over their management, shared facilities and related costs are not third-party landlords but the people who live in flats within them and who have a direct stake in their upkeep.

Commonhold ensures that the interests of homeowners are preserved in perpetuity.

It transfers decision making powers to them so that homeowners have a greater say over how their home is managed and the bills they pay, as well as flexibility to respond to the changing needs of their building and its residents.

The draft Commonhold and Leasehold Bill that we published in January will reinvigorate commonhold through the introduction of a comprehensive new legal framework that rectifies the flaws of the 2002 Act.

The draft Bill also includes clauses to ban the use of leasehold for new flats - complimenting the ban on new leasehold houses already on the statute book.

Once these provisions are brought into force, new leasehold will cease to exist other than in exceptional circumstances.

In the commonhold future that is on the horizon, existing leaseholders will not be left behind.

Our draft Bill contains a new and improved process for commonhold conversion, one which brings it into line with wider enfranchisement processes and will make conversion possible if at least 50% of qualifying leaseholders agree.

To ensure more leaseholders are able to convert in practice, we will implement measures in the Leasehold and Freehold Reform Act 2024 that make enfranchisement cheaper and easier.

We have been constrained from doing so to date by the fact that the [political content removed] 2024 Act contains a small number of specific flaws, but it is our intention to rectify these through the substantive Commonhold and Leasehold Bill.

We will consult upon and prescribe capitalisation and deferment rates well in advance of those fixes being made, so that once they are, we will be able to swiftly implement a new valuation process that removes the requirement for marriage value to be paid and caps the treatment of ground rents in the valuation calculation at 0.1% of the freehold value.

The provisions in our draft Bill that cap ground rent at £250 will further reduce the cost of enfranchisement for many leaseholders with ground rent.

And we will implement mandatory leasebacks to ensure that enfranchising leaseholders are not forced buy expensive commercial units or non-participating leases which can too often make enfranchisement prohibitively expensive.

The likely size of the substantive Commonhold and Leasehold Reform Bill, at around 260 clauses and 20 schedules, means that it will have to be done through separate primary legislation, but we will also honour our manifesto commitment to enact remaining Law Commission recommendations on enfranchisement and Right to Manage in this Parliament.

This will not be without its challenges. The existence of development value as a barrier to enfranchisement, in particular, does not lend itself to easy solutions, but I want to assure leaseholders across the country we will not duck this and other difficult issues.

The end result of bringing all these measures into force will be more existing leaseholders able to take control of their buildings and more easily convert to commonhold as and when they judge it is the right time for them.

This is how leasehold ends—not through an abrupt and chaotic single moment of disruption, as

superficially attractive as they may seem to some, but by taking a methodical approach, firmly shutting the door on leaseholds' future use and opening easy and effective escape routes for those living under it today so that we rapidly reduce of existing leasehold.

Change that is carefully considered, properly sequenced, proportionate and fair, but also real and irreversible.

These wider reforms will take time to enact. We've never pretended otherwise.

We made clear long ago, and well in advance of the general election, that the consequences of [political content removed] when it came to leasehold reform were that it would take this Labour government a whole Parliament to deliver what leaseholders had been promised.

But alongside progressing the reforms necessary to bring the system to an end, we are strengthening protections for existing leaseholders in the here and now.

As I've already mentioned, we are capping ground rents at £250 a year, changing to a peppercorn after 40 years.

We are abolishing leasehold forfeiture and replacing it with a modern, proportionate lease enforcement system that addresses breaches fairly, with appropriate safeguards and judicial oversight.

Having consulted on mandatory qualifications for managing agents and giving leaseholders the power to switch and veto them, we are working through how we most effectively strengthen the regulation of managing agents.

And we are continuing to bring into force those reforms to the leasehold system already in statue through the extensive programme of secondary legislation required to do so.

I am determined in particular to quickly switch on measures in the 2024 Act to standardise and drive up the transparency of service charges; to introduce permitted buildings insurance fees that are fair; and to rebalance the legal costs regime and remove barriers that may deter leaseholders from challenging their landlord.

We are considering carefully the sequencing for introducing these and other reforms that we consulted on last summer in what will be a complex package of six statutory instruments, three of which are subject to the affirmative procedure, with a view to beginning the process in the coming months.

This is not a speech about freehold estates, I should do another one, I will do I am sure in the coming months. But it would be remiss of me not to mention that we are also acting to bring the injustice of 'fleecehold' and unfair maintenance costs to an end: repealing disproportionate enforcement powers through our draft Commonhold and Leasehold Reform Bill; switching on the 2024 Act's consumer protections; sponsoring a Law Commission project to consider how homeowners on privately managed estates could be given greater control over their management; and considering how best we reduce the prevalence of estate management company arrangements on privately managed estates.

Let me end by saying that it took 29 years from 1896 to 1925 to put the modern leasehold system in place through the Law of Property Act, at a time when both the law and society were far less complex.

This Labour government is going to bring the leasehold system to an end in just five.

We are progressing the most ambitious overhaul of land and property law in a century, if not longer.

To those who argue we are dragging our feet or caving into vested interests, I respectfully say that you are simply not engaging seriously with the scope and ambition of the legislative and policy programme we are pursuing with ruthless focus and determination.

We know leaseholders across the country are suffering now.

We understand that they desperately want us to act with as much urgency as possible to help improve their lives.

And we appreciate fully the scepticism that many will feel after years of broken promises.

But mark my words: we are going to get the job done.

No amount of parliamentary resistance or litigation will deter us.

We robustly defended the challenges brought to the 2024 Act in the High Court last year and we'll defend the appeal just as tenaciously.

We will do what is necessary to dismantle this archaic and iniquitous system; deliver a fair and efficient modern residential property market; and, most importantly, transform the experience of homeownership for millions of leaseholders across the country.

Not overnight. Not in a single piece of legislation. Not recklessly. But decisively, and for good.

<https://www.gov.uk/government/speeches/housing-minister-speech-on-leasehold-and-commonhold-reform-bill>