



Tuesday 1st August 2017

The Government consults on whether to prohibit the sale of new-build leasehold houses

On 25 July 2017 the Department for Communities and Local Government ("DCLG") issued a [consultation paper](#) seeking views from the real estate industry on various proposals to deal with [public concerns regarding the sale of leasehold houses](#).

WHAT MEASURES DOES THE DCLG PROPOSE TO IMPLEMENT?

The consultation paper asks for responses on various proposals including the following:

- Should the sale of new houses on a leasehold basis be prohibited? If so, what sort of exceptions from the prohibition would be reasonable and would this prohibition affect the supply of new homes?

"As a government committed to building a fairer society, I don't see how we can look the other way while these practically feudal practices persist", Sajid Javid, Secretary of State for Communities and Local Government

- Should the Help to Buy programme be amended to exclude new leasehold houses?
- If the Government were to implement provisions to set a cap on ground rents, what amount should this be? Would any such measure affect the supply of new houses?
- What can the Government do to support leaseholders whose leases contain onerous ground rent provisions?
- Should the Housing Act 1988 be amended in such a way that landlords of leasehold new-build houses with onerous ground rents cannot use the Ground 8 possession order process to evict leaseholders?
- Should the Government promote solutions to help freeholders challenge the reasonableness of service charges for the upkeep of communal areas or facilities on a private estate?

TRIVERS SMITH

HOW SHOULD DEVELOPERS RESPOND TO THESE PROPOSALS?

The Government seems keen to avoid implementing any measures which would slow down or reduce the delivery of new houses. Developers should therefore respond to the consultation with any concerns about viability that these changes would raise, particularly in relation to developments that are already underway.

The consultation paper also asks whether there are any voluntary routes, in addition to legislation, that could be effective in tackling the problem of ground rents in new leases, so this might be a fruitful area to pursue.

Developers who retain the ownership of communal areas and/or facilities on newbuild estates should also respond to this consultation to explain the benefits of the management regimes on their estates, and to suggest any improvements they think might meet the Government's objectives.

The consultation commends Taylor Wimpey for establishing its Ground Rent Review Assistance Scheme and comments that it is keen for other developers to follow suit. Developers should therefore consider setting up a similar fund and/or taking steps voluntarily to vary the ground rent provisions in their existing leases.

CONCLUSION

The consultation ends on 19 September 2017. We will report on its conclusions when published.

LEASEHOLD HOUSING TERMS IN THE NEWS



July 2016: The Law Commission launches a consultation into its 13th programme of law reform. Leasehold law is on the short list.

February 2017: The Housing White Paper raises concerns about escalating ground rents.

March 2017: The Law Commission reports on unfair event fees in retirement properties.

April 2017: The APPGLCR releases its report on improving key areas of leasehold and commonhold law.

April 2017: Taylor Wimpey issues a statement at its AGM that it will make a provision of £130m, "to alter the terms of the doubling lease to materially less expensive ground rent review terms, with the group bearing the financial cost of doing so."

May 2017: the Nationwide Building Society announces that it will no longer lend on leases with ground rents that increase by any method other than RPI.

June 2017: the CML issued [advice for lenders](#) and their advisers about newbuild leasehold houses.

July 2017: DCLG issues a consultation paper looking at a range of measures to tackle unfair leasehold provisions.

FOR FURTHER INFORMATION, PLEASE CONTACT

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