



LEASEHOLD HOME OWNERSHIP: BUYING YOUR FREEHOLD OR EXTENDING YOUR LEASE – THE SCOPE OF OUR PROJECT

On 20 September 2018 we published our consultation paper on reforming leaseholders’ rights to buy their freehold or to extend their lease.

We think that our provisional proposals would play a significant role in helping to improve the position of leaseholders of both houses and flats. But we know that this project cannot solve all the problems that leaseholders can currently face.

The scope of our project

We are conducting a wide-ranging review of the current law of enfranchisement: that is, the laws that allow (1) leaseholders of houses to buy their freehold, or to extend their lease, and (2) leaseholders of flats to extend their lease, or to join with other leaseholders to buy the freehold to their building.

Our consultation paper sets a series of provisional proposals that we think will both improve the rights of leaseholders to buy their freehold or extend their lease, and make it easier and cheaper for them to do so. We have also set out options for reducing the price payable to landlords.

What does enfranchisement offer?

Buying their freehold or extending their lease have a number of benefits for leaseholders.

Enfranchisement right	More control over your home	Security in your home	Remove difficulties of asset reducing in value	No longer required to pay ground rent to landlord
Freehold purchase	✓	✓	✓	✓
Lease extension	✗	✓	✓	✓

We recognise that some leaseholders would have liked our provisional proposals to go further. For example, some leaseholders would like enfranchisement to provide an opportunity to re-write the terms of their existing lease, or to obtain a freehold that is as free of obligations owed to others as possible.

Enfranchisement is, however, concerned primarily with the financial terms on which an existing lease is to be extended or a freehold is to be obtained. For example, ensuring that ground rent is no longer payable following the extension. We also think that enfranchisement is not the best means of dealing with other problems with the terms of leaseholders’ existing leases. It would provide no solution for leaseholders who are unable to enfranchise. And while we believe that our provisional proposals will

increase the number of leaseholders who are able to enfranchise, there will remain leaseholders who are not able to do so.

Beyond this project

Existing leaseholders may benefit from some of our forthcoming work. Our project on commonhold seeks to bring new life to this alternative form of ownership that would allow flats to be owned freehold, and managed collectively. And our project on the right to manage aims to make it easier for leaseholders to take over the management of their building from their landlord – without having to pay the cost of acquiring the freehold. Finally, our Thirteenth Programme of Law Reform also identified a project to consider the application of unfair terms law to leases when they are transferred from one leaseholder to another.

The UK Government is also carrying out related work. For example, it has set out its intention to ban the sale of houses on a leasehold basis, and the reservation of ground rents with more than a nominal financial value. It has also announced plans to regulate managing agents. The UK Government is also considering what can be done for existing leaseholders with onerous ground rents who consider that their lease was mis-sold.

But some other problems identified by leaseholders remain outside the scope of these proposed reform projects. For example, unfair terms within existing leases (other than on transfer for one leaseholder to another), the regulation of service charges and administration fees, the right of first refusal (that is, the right of leaseholders of flats to be offered the freehold of their building before it is sold to a third party), and problems relating to the introduction of energy efficiency improvements have all been raised with us by stakeholders. We hope that these other concerns can be addressed in the future as part of a comprehensive programme of leasehold reform.