



WILL OUR PROVISIONAL PROPOSALS SOLVE THE ‘FLEECEHOLD’ PROBLEM?

What is fleecehold?

- ‘Fleecehold’ is a term that is used by different people to mean different things. We use it here to refer to freehold properties that are acquired subject to onerous terms. For example, a freehold owner of a property may be required to pay a significant fee for permission to make modest changes to the freehold property.

Can our enfranchisement project solve the problem of fleecehold?

- Our project is concerned with leaseholders who acquire the freehold to their existing properties through enfranchisement. It cannot therefore address the interests of those who purchase a freehold but are not existing leaseholders at the property.
- Some leaseholders would like to use enfranchisement as a way of escaping from onerous terms in their existing leases when they buy their freehold. On the whole, we do not think that enfranchisement is the best means of dealing with such terms. Enfranchisement does not, for example, help those leaseholders who are unable to purchase their freehold. We do think that our proposed project on unfair terms in residential leases is likely to provide answers for some leaseholders.
- Our project does, however, look at the terms on which leaseholders should acquire the freehold to their property through enfranchisement. These proposals may help some leaseholders to avoid acquiring a freehold that is subject to onerous terms.

What are we proposing for leaseholders acquiring a freehold?

- One of the reasons why freehold ownership is seen as better than leasehold ownership is that freehold owners have more control of their property. A freehold is not governed by the terms of a lease granted by a landlord. But freehold properties are often sold subject to obligations owed to others. In many cases, those obligations are neither onerous nor unfair. For example, the way the freehold can be used, or developed, may be subject to reasonable restrictions or control that protects the interests of other land owners in the area.
- We think that where leaseholders buy a freehold property from a landlord who will not retain any surrounding land they should do so subject to any existing obligations owed to other land owners. Leaseholders cannot acquire a better freehold than the landlord currently owns. But landlords would be prevented from creating new onerous obligations when the freehold is transferred to the leaseholder.

- We think that if the landlord is to retain some surrounding land (for example, because he or she owns the surrounding estate) additional terms may, in some cases, need to be added when the freehold is transferred. Those terms would set the relationship between the freehold acquired and the landlord's retained land. We ask whether those terms should reflect the terms of the existing leases – which may contain relevant terms (but including, in some cases, terms that leaseholders might consider to be onerous) – or should be drawn only from a prescribed list of appropriate terms. We also ask what types of terms should be included on such a list.