



August 2019

Overview

Winckworth Sherwood continues to maintain an active dialogue with various interested stakeholders, in respect of the Government's ongoing programme of leasehold reform. Since the last Bulletin, there have been a number of policy developments in relation to leasehold reform and building safety as well as significant change in personnel for the Government.

The new Leader of the Conservative Party and Prime Minister, Boris Johnson, has not been particularly vocal on issues relating to the housing sector since entering No. 10 – focusing his domestic agenda on dealing with the NHS, policing and Brexit. Nevertheless, housing remains a political priority for the Conservatives.

Johnson has appointed a new-look Cabinet, with Rt Hon Robert Jenrick MP now responsible for overseeing both leasehold reform and building safety, after replacing Rt Hon James Brokenshire MP as the Secretary of State for MHCLG.

There were a number of additional Ministerial changes at MHCLG, including:

- Esther McVey MP (attending Cabinet) replaced Kit Malthouse MP as Minister of State for Housing; and
- Luke Hall MP replaced Heather Wheeler MP as Parliamentary Under Secretary of State for Government and Homelessness.

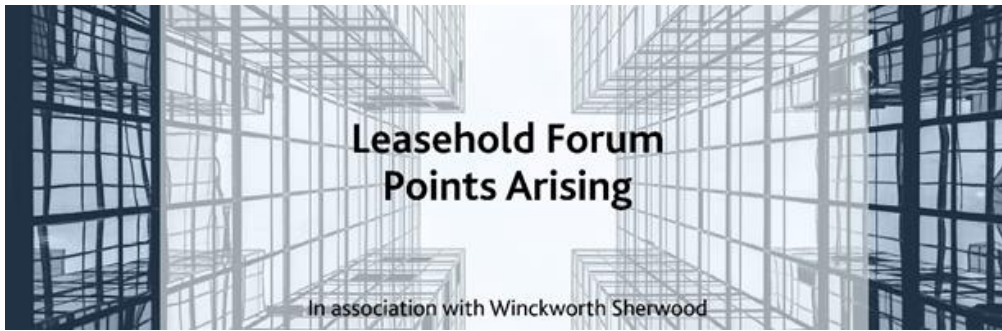
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1. Recent developments

- **9 May** – MHCLG [announces](#) a new fund for the replacement of unsafe aluminium composite material (ACM) cladding on high-rise private residential properties.
- **18 May** – Dame Judith Hackitt published her final [report](#) on '*Building a Safer Future: Independent Review of Building Regulations and Fire Safety*'.
- **6 June** – MHCLG launched its [consultation](#), '*Building a safer future: proposals for reform of the building safety regulatory system*', including proposals to introduce a new building safety regulator, dutyholders or accountable persons, and to give residents a stronger voice.
- **11 June** – The CMA [announced](#) the launch of an official investigation into the potential mis-selling of leasehold properties and unfair terms.
- **18 June** – HCLG Select Committee published a [letter](#) from Chair of the Committee Clive Betts MP to the Secretary of State at MHCLG Rt Hon James Brokenshire MP on the launch of the Competition and Markets Authority (CMA) investigation into the potential mis-selling of leasehold properties and unfair terms.
- **27 June** – MHCLG published its [response](#) to the consultation, '*Implementing reforms to the leasehold system*', setting out the Government's intentions to reduce all future ground rents on leasehold properties to zero financial value.
- **8 July** – HCLG Select Committee questioned housing associations, freeholders, managing agents and a campaign group during an Oral Evidence session on its [inquiry](#), '*Independent review of building regulations*'.
- **15 July** – The Office for National Statistics published the latest [statistics](#) on leasehold and freehold residential property transactions in England and Wales.
- **17 July** – The Welsh Government Residential Leasehold Reform Task and Finish Group published its [report](#), '*Independent review of residential leasehold*'.
- **18 July** – MHCLG published the Regulation of Property Agents Working Group's [report](#), chaired by Lord Best.
- **18 July** – HCLG Select Committee published its [report](#) on '*Building regulations and fire safety: consultation response and connected issues*'.
- **22 July** – The Housing, Communities and Local Government (HCLG) Select Committee questioned Dame Judith Hackitt and Kit Malthouse MP during an Oral Evidence session on its [inquiry](#), '*Independent review of building regulations*'.
- **23 July** – Rt Hon Boris Johnson MP is elected the new Prime Minister and Leader of the Conservative Party, replacing Theresa May MP.



- **24 July** – Rt Hon Robert Jenrick MP replaced Rt Hon James Brokenshire MP as Secretary of State at MHCLG in Prime Minister Boris Johnson’s new cabinet.
- **31 July** – The Ministry of Housing, Communities and Local Government (MHCLG) closed its [consultation](#), ‘*Building a safer future: proposals for reform of the building safety regulatory system*’.



2. Implementing Reforms to the Leasehold System

The Government's consultation '*Implementing reforms to the leasehold system*' assessed how a number of measures to tackle unfair practices in the leasehold market should work in practice. The consultation received over 1,200 replies, demonstrating the strength of interest in the issue.

On 27 June, MHCLG published their response to the consultation, setting out their intention to:

- Reduce ground rents on all new leases to zero financial value;
- End the sale of the new-built leasehold houses; and
- Ban Help to Buy being used to support leasehold houses.

Commenting on the announcement, the-then Secretary of State at MHCLG Rt Hon James Brokenshire said:

"Today I can confirm we will go ahead with our original plan to reduce ground rents on future leases to zero, as opposed to a cap of £10 per year. And we will legislate to ensure that in the future – save for the most exceptional circumstances – all new house will be sold on a freehold basis."

The Government's position on ground rents changed from introducing a £10 cap to reducing the financial value on all new leases to zero.

There remain a number of concerns from the industry around the impact of removing ground rents. A number of industry leaders have since commented in the media on the Government's proposals for reform, including:

- [Estates Gazette](#): "*Labour's New Leasehold Plans*" – James Duncan, Partner, Winckworth Sherwood
- [Estates Gazette](#): "*Leasehold reform: put cost at the heart of the debate*" – Eric Shapiro, Director at Chesterstons
- [News on the Block](#): "*Government's decision on zero ground rents will end up hurting leaseholders and the property market as a whole*" – Richard Silva, Executive Director at Long Harbour
- [Estates Gazette](#): '*Leasehold reform: change is in the air*' – Nicola Muir, Barrister at Tanfield Chambers

Welsh Government's Residential Leasehold Reform Task and Finish Group

In March 2018, Alun Davies AM, the-then Minister for Housing and Regeneration outlined a set of actions to tackle wider issues related to residential leasehold as tenure for home ownership in Wales. Davies announced the formation of a Task and Finish Group to investigate the leasehold sector – part of this process involved hearing evidence from a range of industry leading freeholders and managing agents, including the Association of Residential Managing Agents (**ARMA**).



The Welsh Government's Residential Leasehold Reform Task and Finish Group published a [report](#) on 17 July, entitled '*Independent review of residential leasehold*'.

The report found that there is a lack of understanding about the leasehold tenure and how the system operates.

It also highlighted that, in certain circumstances:

"leasehold ownership remains the most suitable tenure for both the resident and freeholder and it was essential to focus on the misuse rather than the tenure itself."

The report recommended that a single Code of Practice should be developed to uphold high standards and drive out poor industry practices. This is in line with the industry's efforts to drive forward regulation, in the form of a Code, which a version has been drafted by Winckworth Sherwood alongside industry stakeholders.



3. *Building Safety Consultation*

Following the Grenfell Tower tragedy, a series of policy issues have come to the fore regarding building safety. On 6 June, MHCLG launched its consultation, '*Building a safer future: proposals for reform of the building safety regulatory system*'.

This consultation builds on the recommendations from Dame Judith Hackitt's '*Independent Review of Building Regulations and Fire Safety*'. It proposes fundamental reform of building safety requirements.

The Government has set out proposals that will aim to ensure that information management on building safety for residents is significantly improved, whilst creating a regulatory framework that will prescribe the roles and responsibilities of 'dutyholders'.

The dutyholders would be clearly identified architects, contractors and developers who worked on the construction – or refurbishment – of particular buildings, and who would be responsible for keeping vital information about how relevant buildings are designed, built and managed for the entire life of the structure. The information, known as the "golden thread" must be kept up-to-date and accessible to everyone with an interest in the structure, including residents.

The newly-proposed building safety regulator will be responsible for overseeing the safety of new and existing residential buildings of six storeys – or 18m – and taller.

The proposals span 5 broad areas:

1. The scope of the new regime
2. The concept of dutyholders who have clear responsibilities throughout a building's design, construction and occupation
3. Giving residents a stronger voice in the system and ensuring their concerns are never ignored
4. Plans for a new building safety regulator to provide oversight of the new building safety regulatory regime
5. Strengthened enforcement and sanctions to deter non-compliance with the new regime

The consultation sought views on the Government's proposals until 31 July. It is now analysing feedback before it publishes its response to the consultation.



4. *Lord Best's Regulation of Property Agents Working Group Report (ROPA)*

The Government has proposed that property agents be regulated by an independent regulator, with mandatory qualifications and a code of practice. Following this, the Regulation of Property Agents Working Group was established and tasked developing:

- Advice to government on a model for an independent property agent regulator, including how it will operate and how it will enforce compliance
- A single, mandatory and legally-enforceable Code of Practice for property agents
- A system of minimum entry requirements and continuing professional development for property agents
- Exploring fees, charges and ability to choose a managing agent for leaseholders and freeholders

Lord Best, an independent crossbencher of the House of Lords since 2001, was appointed Chair of Regulation of Property Agents Working Group and tasked with overseeing the report. The membership of the Group consisted of a wide range of leading industry stakeholders.

The final report found that:

- There should be a single, high-level set of principles applicable to all property agents which is set in statute: the 'overarching' code
- Legislation required to regulate property agents should allow for future extension to the scope of regulation (e.g. to include at a future point regulation of landlords, freeholders and developers – as well as retirement housing managers and Right to Manage companies)
- Government should establish a new public body to undertake the role of a regulator

The Government are now be in the process of reviewing the Group's recommendations and will publish a response in due course.

Media coverage can be seen in:

- [Property Industry Eye](#): 'New era of regulation for the entire industry is unveiled today'
- [Estate Agent Today](#): 'All Change: new regulator, licensing and qualifications proposed for agents'
- [Letting Agent Today](#): 'Revealed: revolutionary proposals for agency regulation, licensing and training'
- [Property 118](#): 'Government release final ROPA Report'



5. *Upcoming events*

- **18 September** – Building Safety Seminar, Winckworth Sherwood <https://sites-wslaw.vuture.net/20/198/landing-pages/rsvp-seminar-blank.asp>
- **14 – 15 October** – <https://www.pipconference.co.uk/programme.asp> [MIPIM UK Summit](#), London