Housing, Communities and Local Government Committee

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The Rt Hon James Brokenshire MP
Secretary of State for Housing, Communities and Local Government
Ministry of Housing, Communities and Local Government
Fry Building
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1 April 2019

Dear James,

Leasehold Reform

Thank you for your letter of 28 March 2019 regarding the reforms the Government has announced as an initial response to the Committee's recent report into Leasehold Reform.

We recognise that the Government has only recently received our report and will want to give our detailed proposals thorough consideration. However, we trust that the reforms you announced last week are simply interim measures and that the Government's full response to our report will demonstrate a more robust approach to tackling the significant problems we found in the leasehold sector.

By relying on a Public Pledge for Leaseholders signed by industry representatives, we are concerned that the Government appears willing to place a significant level of trust in the same industry that created onerous leases in the first place. Given the catalogue of evidence we heard during our inquiry, we know it will be difficult for leaseholders to trust developers and freeholders to deliver on the pledges they have made.

The industry pledge commits property developers and freeholders to assist any leaseholder with a 10- or 15-year doubling ground rent to convert their lease to one linked to RPI, much like existing schemes already established by many of the letter's signatories. However, as we said in our report:

> *We are not convinced of the merits of the voluntary developer- and freeholder-led schemes that offer to convert leases with doubling ground rents to RPI-based review mechanisms, which have been supported by the Government. RPI-reviews may still see ground rents rise above 0.1% of a property's value, which many lenders consider to be onerous. Most require RPI reviews across the entire length of the lease, as opposed to a defined initial period, while others demand high fees in exchange for removing onerous terms. These offers are not good value when compared to the Government's proposed cap for ground rents on new leasehold properties. It is unacceptable that many freeholders and developers are not even offering this bare minimum.* (Paragraph 106)

Onerous ground rents should not be defined by whether they double or not. Any ground rent is onerous if it becomes disproportionate to the value of a home, such that it materially affects a leaseholder's ability to sell their property or obtain a mortgage. In practical terms it is increasingly clear that ground rents in excess of 0.1% of the value of a property or £250 are beginning to affect the ability of leaseholders to sell, or obtain a mortgage on, their properties. You noted this yourself, in your letter to the Chief Executive of the Competition and Markets

Authority of 2 November 2018, when you said, "*Most major lenders, including Barclays, Nationwide and Santander refuse to award mortgages where the ground rent exceeds 0.1% of the property value or where such onerous clauses exist.*"

The Government should not allow freeholders and developers to continue to charge onerous ground rents of any kind, including those that increase over time by RPI. Frankly, as we said in our report, there is no justification for ground rents increasing over time at all. Ground rent bears no relation to the level of maintenance or quality of service provided to leaseholders and many buildings are well managed without any ground rent being paid at all.

We note, also, that this is a voluntary pledge, signed by only 40 developers and freeholders. It is wrong that some leaseholders will be left without any protection whatsoever. As we said in our report, the Government should instead ensure ground rents are capped through legislation.

There appears to be no commitment in the industry pledge to address unreasonable permission fees in existing leases. You will be aware of the excessive and unreasonable permission fees leaseholders have been charged, including a £3,500 fee one was told she would have to pay for permission to put up a conservatory, a £200 fee to change a mortgage provider, or a £68 fee to change a doorbell. Such fees must not be allowed to continue and, if the industry is unwilling to eradicate them, the Government should intervene through legislation, as we recommended in our report.

We are also concerned that the industry pledge commits developers and freeholders to honour only "written formal arrangements concerning the terms of enfranchisement made by the previous freeholder". Developers and freeholders know very well that many of the offers to leaseholders at the point of purchase were made verbally, otherwise they would already have been taken to court. It is difficult for individual leaseholders to prove this, but as we noted in our report, the number of near-identical stories from leaseholders suggests that these offers were made, and this clearly reflects a serious cross-market failure of oversight of sales practices by developers.

We do, however, welcome that the Government has accepted our recommendation to prevent freeholders from recovering their legal costs through the service charge, even when they lose. This practice was plainly unfair and the Government was right to act quickly to address it. We hope this will go some way towards alleviating the risks to leaseholders in bringing service charge, or other, challenges to tribunal.

Our report made clear that the balance of power is too heavily weighted against leaseholders. Weak industry pledges are simply not good enough; more fundamental reform of the sector is required. We hope that the Government's full response to our report will reflect a desire to act in the interests of the leaseholders who have been badly let down and not allow the developers and freeholders, who created this crisis, to be allowed to define the solutions.

Clive Betts MP
Chair, Housing, Communities and Local Government Committee