**Tackling unfair practices in the leasehold market - Summary of consultation responses and Government response**

**Leasehold reform and Help to Buy Equity Loan**

**Background**

* The Governments response can be found in full at <https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market>
* General enquiries about the leasehold reform policy can be emailed to DCLG at [leasehold.reform@communities.gsi.gov.uk](mailto:leasehold.reform@communities.gsi.gov.uk)

**Homebuyer - Frequently Asked Questions**

1. **What is the Government actually saying?**

A: The Governments response can be found in full at the Gov.uk website (see: https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market). The Government believes that far too many new houses are being built and sold on unnecessary leasehold terms. Where leasehold is unnecessary, this practice needs to stop.

The Government is putting forward changes that will help make sure leasehold works in the best interests of homebuyers, including working with the sector to:

* limit the sale of new build leasehold houses except in exceptional circumstances;
* introduce measures to restrict ground rents in newly established leases of  houses and flats to a peppercorn (zero financial value);
* make enfranchisement easier for existing leaseholders - obtaining the freehold or extending a lease.

***If you would like further advice about the terms of your leasehold we recommend that you take legal advice or you may wish to get in touch with LEASE via their website at (***[***https://www.lease-advice.org/***](https://www.lease-advice.org/)***)***

1. **I’m in the process of buying a leasehold house through the Help to Buy Equity Loan scheme - is the Government going to stop my house purchase?**

A: No, it is your decision whether you are content to process with your purchase. We recommend that you take legal advice on the terms of the lease and the associated costs. It is advisable to look in full at the Government response to the leasehold consultation so you are aware of the issues and the Government’s proposed response, which includes bringing forward legislation to ban future leasehold house sales and to support those that have purchased leasehold.

1. **I’m in the process of buying a leasehold house through the Help to Buy Equity Loan scheme, should I stop this transaction? What about the costs I’ve already incurred?**

A: It is your decision on whether you should proceed with your purchase. We can only advise you to look in full at the Government response to the leasehold consultation so you are aware of the issues and the Government’s proposed response, which includes bringing forward legislation to ban future leasehold house sales and to support those that have purchased leasehold. You should also satisfy yourself that you fully understand the terms of the leasehold agreement being offered. We recommend that you take all necessary legal advice.

You should discuss the treatment of fees relating to reservations or deposits, or other fees, with your builder, conveyancer, solicitor, financial advisor as applicable.

1. **I’m buying a leasehold house through the Help to Buy Equity Loan scheme - is the Government making sure that the terms of the leasehold are fair? How do I know if I’m getting a fair deal?**

A: It is your responsibility as the home buyer to ensure that you understand the terms of the lease and make an assessment as to whether those terms are agreeable. We strongly recommend that you take legal advice.

You should also look in full at the Government response to the leasehold consultation so you are aware of the issues and the Government’s proposed response, which includes bringing forward legislation to ban future leasehold house sales and to support those that have purchased leasehold.

1. **I’m buying a leasehold house through the Help to Buy Equity Loan scheme. I have exchanged contracts with the builder, paid a 5% deposit and my conveyancer/solicitor says this is now a binding contract which I cannot get out of. What do I do?**

A: It is your responsibility as the home buyer to ensure that you understand the terms of the contract you have entered into with a house builder and the terms of the lease, and make an assessment as to whether those terms are agreeable. We strongly recommend that you take professional advice from your conveyancer or solicitor.

Your conveyancer or solicitor will be able to advise you on the terms of the contract with the builder and the lease, and whether you can be released from their obligations.

If the builder has increased the price they will be obliged to refund deposit money paid at exchange.

You should also look in full at the Government response to the leasehold consultation so you are aware of the issues and the Government’s proposed response, which includes measures to support those that have purchased leasehold.

1. **I’m buying a leasehold house through the Help to Buy Equity Loan scheme. I have reserved the home and paid a £500 reservation fee to the builder. I am concerned about buying leasehold through Help to Buy Equity Loan and want to pull out but will lose my £500 reservation fee. What do I do?**

A: It is your responsibility as the home buyer to ensure you understand the terms of the reservation you have entered into with a house builder and make an assessment as to whether those terms are agreeable.

Your conveyancer or solicitor will be able to advise you on the terms of the reservation with the builder and whether you are entitled to a refund if you no longer wish to proceed.

Under the Help to Buy Equity Loan scheme developers are only obliged to refund reservation fees if you are ineligible for the scheme. In most cases, if you simply change your mind and decide not to proceed, you should not expect to receive a refund of the reservation fee from house builders. However you must check with your conveyancer and developer first and seek advice about this.

The refund of deposit monies typically paid at the exchange of contracts, are governed by the terms of that contract not the initial signed reservation form (see QA 5 above)

You should also look in full at the Government response to the leasehold consultation so you are aware of the issues and the Government’s proposed response, which includes measures to support those that have purchased leasehold.

1. **I’m buying a leasehold house through the Help to Buy Equity Loan scheme. I have reserved the home and paid a £500 reservation fee to the builder. The builder has now agreed to let me buy my home as freehold but this has increased the value of the property and purchase price and I can no longer afford to buy it. What do I do?**

A: It is your responsibility as the home buyer to agree a purchase price, subject to a valuation, with the Help to Buy Equity Loan developer.

If the market price has increased the Help to Buy Equity Loan developer should refund your original reservation and the buying process should start again.

As the home buyer, you should seek independent advice about the affordability of your purchase from an independent Financial Advisor.

The price agreed by you and the developer must always be confirmed by the independent valuation required by your main mortgage lender. If the main lender’s mortgage valuation is less than the agreed selling price the Help to Buy Equity Loan purchase cannot proceed.

If you do not want to proceed with the original house purchase as originally planned your local Help to Buy Equity Loan Agent will be able to offer information about other developers in your areas offering Help to Buy Equity Loan home sales.

1. **I bought a leasehold house through the Help to Buy Equity Loan scheme - I don’t think I have a fair deal what support will there be for me?**

A: The Government has made a commitment to support existing leaseholders. The Government will be looking to developers to compensate individuals and will take further action where necessary.

Government also intends to make it easier for leaseholders to enfranchise (buy the freehold or extend a lease).

If you are concerned about the terms on which you have purchased your home, you should take up the matter with the developer directly. It may also be appropriate to raise your complaint with the solicitor or conveyancer who advised you on your purchase.

If you have already purchased a leasehold Help to Buy Equity Loan home and would like to buy your freehold you must always first contact the freeholder/landlord to negotiate this. You should agree terms with your landlord/freeholder and, where necessary, identify your intended source of affordable financing. The website of Target, the Government’s mortgage administrator of your Help to Buy Equity Loan, provides guidance on what will be required under your Help to Buy agreement for example if you are making arrangements for further borrowing.

Target’s role is to administrator loan arrangements on behalf of Government. Target will administer the Government equity loan aspect of the purchase when you and your landlord/freeholder have agreed the sale. It will not be able to make the freehold purchase for you, nor advise you on the terms of the freehold. You must take independent advice about this from a conveyancer, solicitor and financial advisor and always first contact your landlord/freeholder about buying the freehold.

1. **I bought a leasehold house through the Help to Buy Equity Loan scheme but I want to buy my freehold - what do I do?**

A: If you have already purchased a leasehold Help to Buy Equity Loan home and would like to buy your freehold you must always first contact the freeholder/landlord to negotiate this. You should agree terms with your landlord/freeholder and, where necessary, identify your intended source of affordable financing. The website of Target, the Government’s mortgage administrator of your Help to Buy Equity Loan, provides guidance on what will be required under your Help to Buy agreement, for example, if you are making arrangements for further borrowing.

Target’s role is to administrator loan arrangements on behalf of Government. Target will administer the Government equity loan aspect of the purchase when you and your landlord/freeholder have agreed the sale. It will not be able to make the freehold purchase for you, nor advise you on the terms of the freehold. You must take independent advice about this from a conveyancer, solicitor and financial advisor and always first contact your landlord/freeholder about buying the freehold.

1. **I’m buying a leasehold house through shared ownership [I already own a shared ownership house] and it was advertised and described to me as “Help to Buy” shared ownership. Does the Government’s response to the consultation affect my purchase?**

A: No. The Government’s response is clear that purchases where owners part own and part rent their home on a shared ownership basis are not affected by the Government’s intended measures - they are not required for this very different form of affordable homeownership.

The product is not the same as the Help to Buy Equity Loan scheme. As with any other home purchase, buyers must always seek independent advice from conveyancers, solicitors and financial advisors before they commit to buy.

**Developer - Frequently Asked Questions**

1. **I am a developer, is the Government changing the terms of my Help to Buy Equity Loan Funding Administration Agreement?**

A: We are not making changes to the Help to Buy Equity Loan Funding Administration Agreement.

1. **What is the Government actually saying?**

A: The Government’s response can be found in full at the Gov.uk website. The Government believes that too many new houses are being built and sold on unnecessary leasehold terms and the Government wants this practice to stop.

The Government is setting out a package of measures to crackdown on unfair leasehold practices. This includes:

• introducing legislation to prohibit the development of new build leasehold houses, other than in exceptional circumstances;

• restricting ground rents in newly established leases of houses and flats to a peppercorn (zero financial value);

• addressing loopholes in the law to improve transparency and fairness for leaseholders and freeholders; and

• working with the Law Commission to support existing leaseholders – including making buying a freehold or extending a lease easier, faster, fairer and cheaper; reinvigorating commonhold to provide greater choice for consumers; and to take forward the work in our recent call for evidence on regulating managing agents (‘Protecting consumers in the letting and managing agent market: a call for evidence’).

Where land is currently subject to a lease, developers will continue to be able to build and sell leasehold houses on that land. However, the Government will ensure that future legislation to ban the sale of leasehold houses applies to land that is not subject to an existing lease at the date of publication of this response.We will consider the case for exemptions to the policy and its retrospective application, in particular to mitigate any undue unfairness.

1. **Does this proposed ban include flats?**

A: The proposed legislation will look to prevent new leases being created on new build houses, or on existing freehold houses. Proposed reforms to restrict ground rents in newly established leases to a peppercorn (zero financial value) , and make enfranchisement easier, faster, fairerr and cheaper will apply to flats as well as houses.

1. **Will you no longer be approving loans on leasehold houses through the Help to Buy Equity Loan scheme?**

A: There is no contractual change to the scheme and buyers may still choose to purchase a leasehold house. However, the Secretary of State for Communities and Local Government is asking house builders to work with the Government in moving away from the sale of leasehold new-build houses ahead of legislation being introduced. We will continue to monitor the sale of leasehold houses through the scheme and anticipate a move away from the sale of leasehold houses with Help to Buy Equity Loan support.

1. **What about leasehold houses within my Help to Buy Equity Loan agreed forecast with the HCA. Do I have to change my forecast?**

A: There is no contractual change. Forecasts remain valid and buyers may still choose to purchase a leasehold house through the scheme. However the Government believes that the use of leasehold is unnecessary on houses and wants to see the practise brought to an end, unless there is a clear case for exemptions. We recommend that you consider in full the proposals within the leasehold response as there are potential significant implications for landlords and those who benefit from the sale of leaseholds.

1. **What are the likely exemptions?**

A: Government will consider the case for exemptions to the policy and its retrospective application, in particular to mitigate any undue unfairness. The Government wants to ensure that any changes made do not have an adverse impact on supply or the long-term sustainability of shared facilities, structures and open spaces and is prepared to listen where evidence is provided that demonstrates practical challenges to delivering houses on a freehold basis. For example, Government, believes that an exemption will be needed to support shared ownership, and may also be needed for some Community Land Trusts, or other specific developments. In bringing forward legislation the Government will

consider further if there are any particular cases for houses where leasehold terms for house sales can be justified and, if they can, will work with partners to ensure that they are provided on acceptable terms to the consumer.

1. **I can’t change the tenure of the homes I’m selling to freehold - what do you expect me to do?**

A: There is no contractual change, agreed forecasts remain valid and buyers may still choose to purchase a leasehold house through the scheme. We recommend that you consider in full the proposals within the leasehold response as there are potential significant implications for landlords and those who benefit from the sale of leaseholds.

1. **This is bad for buyers as developers will have to put up new-build house purchase prices. I will need to increase my Help to Buy Equity Loan forecast with HCA.**

A: The vast majority of consultation respondents called for a ban on the sale of all new build leasehold houses. Buyers expect transparency and fairness in relation to house purchase prices.

Where a property is sold through the Help to Buy Equity Loan scheme, the agreed selling price must always be confirmed by the main mortgage lender’s valuation. If a builder is increasing the selling price, the Help to Buy Equity Loan Funding Administration Agreement always obliges builders, “Providers,” to refund reservation fees and deposits paid even if paid at exchange of contracts.

1. **There is nothing in the Help to Buy Equity Loan Funding Administration Agreement that says that leasehold houses cannot be sold through the scheme.**

A: We are not looking to make changes to the Help to Buy Equity Loan Funding Administration Agreement. Help to Buy Equity Loan purchasers can continue to buy a leasehold house should they chose to do so. However the Government has written to developers who use the Help to Buy Equity Loan scheme to ask them to work with us to take forward this change in advance of legislation.

1. **I’m expecting Help to Buy Equity Loan buyers to withdraw because of this announcement**

A: Leasehold reform is an important part of making the market fairer and functional. The Government wants to ensure that any changes made do not have an adverse impact on supply, and is happy to listen to developers’ concerns. You may write to DCLG at leasehold.reform@communities.gsi.gov.uk.