

# 'Overcharged and bullied – owners of leasehold flats now need safeguards'

BRITAIN'S 2.5 million leasehold homeowners should be given new safeguards by the Government, according to MPs, property experts, charities and homeowner representatives.

Leasehold status is often thought of as an issue affecting mainly London or other big-city properties, but this controversial form of ownership embraces tens of thousands of developments nationwide. It also includes 100,000 specialist retirement flats built for the over-50s, mostly in smaller towns and villages. Last month, Financial Mail reported how prices of this type of property were crashing, largely due to problems with lease terms and because some freeholders and managing agents exploit residents with excessive charges and poor service.

The issue is moving up the political

By Richard Dyson

agenda. Experts, including solicitor Chris Paterson of think tank CentreForum, who estimates leaseholders spend a total of £2.5 billion a year on service charges, have been briefing MPs about wide-ranging problems for residents.

Service charges are squandered by managing agents on exorbitant insurance or other services not competitively sourced, he says.

Paterson cites the case of residents in one block who paid insurance premiums of three times the 'reasonable price'. Complaints

**We are financial prisoners because we simply can't sell our retirement home**

about management charges, made through the current, inadequate system, have risen 400 per cent in a decade, he says.

Lobby group the Campaign Against Retirement Leasehold Exploitation (carlex.co) has worked to raise MPs' awareness of residents' difficulties in sacking managing agents or contesting charges. Persistence has paid off, with millions in excessive

charges being refunded to residents who are prepared to fight.

Former Environment Secretary Caroline Spelman, Tory MP for Meriden, West Midlands, is among many MPs whose constituents have brought problems to her surgery. 'There are repeated problems where elderly leaseholders are concerned,' she says. 'Many of these people are not well enough informed or capable of asserting themselves.'

Spelman talks of 'sinister' and 'threatening' elements involving elderly residents, some of whom were 'afraid to complain' because they had daily contact with their live-in manager. These managers are employed by the agent – and their loyalty often lies there. She says: 'Bullying does go on.'

Mary Smith, 65, was among the residents of Strand Court, a complex of 49 retirement flats in Rye, East Sussex, who won a notable legal victory in May against one of Britain's biggest managing agents, Peverel.

A valuation tribunal heard how Peverel paid excessively for insurance and security services, making payments to firms related to Peverel itself, although they had different names.

The tribunal demanded that Peverel repay £11,475 to residents and said it had shown 'arrogance' and 'intentionally hidden' information from residents. In a wider warning against rogue managers, the tribunal warned agents' rights would be 'adversely affected' where they 'furtively and secretly employed a fellow company'.

Although victory was sweet, the fight had been tough. Mary, whose flat is now up for sale – 'I want to have my own front door again' – says Peverel continually resisted residents' requests for information. It also threatened residents with large legal bills, engaging lawyers at £200 an hour to fight the freeholder's case – and then billing residents.

Mary says: 'In theory, residents have the right to sack their managing agent and employ their own, but our case shows how dif-

# Leaseholder



www.carl.org.uk

SPRING 2013 ISSUE 37

## LEASEHOLDERS: OVERCHARGED AND BULLIED

'Mail on Sunday' journalist Richard Dyson has written an excellent article attacking the bullying and intimidation perpetuated by managing agents against leaseholders. The article is reproduced in full on the back page of this newsletter.

Whilst the article diagnoses the leasehold problem correctly, its proposed solution is not entirely adequate. Simply regulating landlords and managing agents will not go nearly far enough. It would have only a marginal effect on standards – unless a vast army of officials is recruited to enforce the rules.

Let's go one better. Let's hasten the end of this corrupt form of property tenure altogether. Virtually no other country in the world outside of England and Wales has any leasehold homes, relying on more secure forms of tenure, including cooperatives, condominiums and strata-title systems.

Three simple steps need to be set in train to achieve this objective. The first is to abolish forfeiture. This will help put a stop to landlords bullying leaseholders into paying excessive and fraudulent service charge demands by using the threat of eviction and penalty.

The next step is to prevent any new leasehold homes being built, with all new homes either freehold, commonhold, or cooperative in tenure. This will give those buying new flats full ownership of their homes, with the common parts of the building run along democratic lines.

Step three is to let existing leaseholders transfer to these other forms of tenure, at a price that reflects the relative contributions to the property of the leasehold and freehold interests. At present the leaseholders pay for everything, while freeholders pay for nothing.

The leasehold valuation tribunals have proved a complete failure – dominated as they are by representatives of the industry and run for the benefit of the industry. This corrupt system of justice should be replaced by a completely independent ombudsman scheme wholly funded by the industry. Moreover if the government is really serious about dealing with crooked managing agents, it should treat them in the same way as rogue claims management companies. It has closed down over two hundred of these firms in the past six months.

### Lies, damn lies and statistics

Publication of the latest census statistics reveals a noticeable decline in home ownership, with the proportion of residents who "own" their homes actually falling from 68% in 2001 to 64% in 2011. What is even worse is that the true level of home ownership is much lower than these figures suggest, with many of those classified as home owners actually leaseholders or in shared ownership schemes, both of which are very insecure forms of tenure falling a long way short of home ownership.

These two types of tenure now account for approximately 15% of all households in the UK, and the numbers are growing steadily. This means that less than half of all homes in the UK are genuinely owned by those who live in them.

It is time that England and Wales introduced legislation along the same lines as our neighbours Scotland and Ireland, and designed to eradicate the pernicious leasehold system. Otherwise we are destined to return to a mediaeval structure of property tenure, with all the exploitation that this entails.

## LEASE CHAIRMAN AT CARL ANNUAL CONFERENCE

CARL held its Annual Conference as usual in the lecture theatre at Kensington central library. The keynote speech was given by Deep Sagar, who is chair of the Leasehold Advisory Service (LEASE). Many of you will have sought legal advice from that organisation over the years.

In his speech Mr Sagar gave his assessment of the most important issues currently facing LEASE, and how the organisation was developing its strategy for the future:

- Whilst LEASE is funded by the government, it is independent of government.
- Its remit is to try and solve people's problems through giving advice. Requests for advice come not just from leaseholders but from landlords, lawyers and other "professionals". Approximately 80% of all enquiries come from leaseholders. The service is free for leaseholders, but LEASE is starting to charge other users.
- LEASE maintains a database of solicitors, managing agents, etc, but makes no recommendation regarding their services. It also holds 'webinars' on key legal issues geared towards "professionals". LEASE also works with associations representing managing agents.
- LEASE has a website ([www.lease-advice.org](http://www.lease-advice.org)) that includes useful information about leasehold law. It also maintains a telephone advice line open from 9 to 5 from Mon to Friday.
- LEASE is ready to address groups of leaseholders – if there are sufficient numbers it is ready to supply three lawyers to attend a meeting free for a day.
- The board has six members most of whom represent industry interests.

### Inspiring speech from Alan Ingram

Also speaking at our Annual Conference was Alan Ingram, a long-time supporter of CARL and campaigner for leasehold reform. He gave a wide-ranging speech

covering the principal issues affecting leaseholders, including tenure problems and the neglect of health and safety requirements.

To widespread applause, Alan described leasehold as "an abomination" and "an insult to home ownership in the twenty-first century." He was also heavily critical of landlords for demanding excessive amounts of money for leasehold extensions, whilst not having "paid a bean" themselves towards either the original construction of the building or its routine maintenance. Alan's speech is on our website ([www.carl.org.uk](http://www.carl.org.uk))

### CARL mentioned in high places

Baroness Gardner of Parkes has twice confirmed her support for CARL's objective of abolishing the leasehold system, once in the House of Lords on 28 November (see Hansard) and a few days later at the AGM of the Federation of Private Residents Associations. Speaking in the Lords, Baroness Gardner said: "Personally I am a great supporter of commonhold developments. It is a much better way of dealing with flats than the Leasehold system here." She has experience of strata title systems of ownership in her native Australia. These provide full ownership of flats by those who buy them, without an external landlord to ruin everything.

### Managing agents in the mire

A leaseholder who recently won a leasehold valuation tribunal case has raised a formal complaint against Benjamin Mire, who was criticised in the case. Mr Mire combines a career as a managing agent with that as a tribunal member. The leaseholder, Colin Dennard of Bournemouth, said: "this affronts every notion of justice I have ever learned." The full story is on the CARLEX website ([www.carlex.co](http://www.carlex.co)).

Mr Mire is far from alone in this incredible double act. Chartered surveyor Mr Christopher Kane managed to serve as a tribunal member for many years despite being removed as a managing agent at a number of blocks in Kensington. Mr Kane was also criticised by his professional body for issuing unwarranted libel threats against leaseholders. See 'Private Eye' 4 May 2001.

### WHERE ARE THEY NOW?

During the mid-1990s the London Evening Standard ran a series of articles about a landlord called Harold Bebbington, who frequently took forfeiture action against his leaseholder victims. Attached to the forfeiture notices were service charge accounts certified by a firm of chartered accountants called Spofforths as being compliant with the Landlord and Tenant Act. Unfortunately for Spofforths this was not in fact the case and the firm was fined and disciplined by the Institute of Chartered Accountants. Who is the current president of that famous Institute? Why, step forward Mark Spofforth, senior partner at Spofforths.

### WHAT IS CARL CAMPAIGNING FOR?

- All new residential developments to be either commonhold, cooperative or freehold to tenure – with no more leasehold homes. Leasehold hardly exists elsewhere in the world. Our neighbours, Scotland and Ireland, both have legislation in place preventing new residential leases from being sold.
- Let existing leaseholders transfer to commonhold at a fair price – reflecting the fact that leaseholders pay in full for the construction and maintenance of their homes. The freeholders contribute nothing at all.
- End forfeiture – since it amounts to confiscation – and replace the leasehold valuation tribunals by a regulator to prosecute criminal landlords and managing agents. Civil disputes should be transferred to the independent housing ombudsman, similar to the Financial Ombudsman Service.

It is vital that you join us now whilst our campaign is gaining the attention of more and more politicians, journalists and others who influence public opinion. Please send the enclosed membership form, together with your cheque, to the address shown on the form.

### Private Eye article

Staff at Westminster city council could shortly see bailiffs seizing desks and computers from City Hall. The flagship Tory council has failed to acknowledge a county court judgment for £5,000 claimed by Dr Sheila Keegan, leaseholder of a mansion flat in London SW1.

Three years ago City West Homes, which manages Westminster's housing stock, billed Dr Keegan £17,500 as her contribution to maintenance work on the block. After new windows were installed there arose problems of humidity, mould and damp, none of which had existed before. When Dr Keegan complained, City West denied responsibility. It took nine months before it agreed to carry out remedial works "as a gesture of goodwill".

Dr Keegan said: "To reach this agreement requiring dealing, on multiple occasions, with 37 individuals at City West Homes and Westminster council. It involved more than 300 email, seven site visits and 30-plus phone calls. I had to pay for legal advice and an independent survey. In all it took more than 20 days of my time, so I sought compensation. . Westminster offers £250, which nowhere near covered it." So she claimed £5,000 from the county court.

Westminster failed to file a defence, so judgment went in her favour. The council still did not pay, so Dr Keegan issued a "request for warrant of execution." This should shortly result in an embarrassing visit to the council's HQ by large men with tattoos.

### LEASE: AN APOLOGY

We may in the past have given the impression that the Leasehold Advisory Service (LEASE) was a friend of leaseholders simply offering us useful advice. However we now realise that this view is entirely without foundation. The LEASE board, which consists exclusively of landlord interests, is developing a new business model designed to provide legal advice to landlords and other so-called professionals, who ought to be fully conversant with leasehold law already. We also fully acknowledge that this service would not give rise to any conflict of interest issues, nor would we conceive that any landlord might think of passing on the costs of this service to leaseholders through the service charge bill. We have agreed to make a substantial payment to the distressed landlords association, and would encourage those of you who may have misguidedly passed on our opinions about LEASE via twitter to come to an early settlement.