

The government has a long and distinguished history of timidity and inaction when it comes to tackling the extensive and calculated abuse of leaseholders and tenants by landlords and managing agents. It is no surprise therefore that it has taken thirteen years for the government to come to the blindingly obvious conclusion that the sector needs independent regulation. This belated decision is contained in its recently published policy response to the Rugg Review of the private rented sector.

In any event the government's announcement is just a cynical ploy, made in the full knowledge that the general election is already too close for legislation to be introduced, let alone passed by parliament. Eight years ago the government published a consultation paper about how to improve the quality of leasehold management, and CARL proposed at the time that the sector should be independently regulated.

The government has never even bothered to publish a summary of the responses to that consultation paper – in breach of its own consultation guidelines – let alone take any positive steps that would help leaseholders bedeviled by incompetent and corrupt landlords and managing agents.

Nevertheless, the government's conclusion that independent regulation is required finally vindicates CARL's long-held view that so-called professional bodies, including RICS, ARMA and ARHM have completely failed to raise standards in the sector. These organisations have allowed standards to sink to the lowest common denominator and vulgar fraction. It is disgraceful that the representatives from them were invited by the government to take part in consultations over regulating the sector.

Simply regulating managing agents does not go far enough. The corrupt landlords for whom many of them act as front men and women will be able to continue in business however they behave, and there will always be agents ready to step in and help them. That is the nature of leasehold.

When landlords break the law by failing to provide leaseholders with service charge accounts or vital insurance documents, local councils usually claim that they do not have adequate resources to prosecute. Since local councils are landlords themselves, it is totally absurd that they should remain the prosecuting authority for offences under landlord and tenant law. Hand the job over to an independent prosecutor.

Independent regulation cannot resolve the underlying

problems of the leasehold sector, which is a fundamentally flawed system of tenure. The banking sector was regulated by an "independent" Financial Services Authority, and that institution failed spectacularly to prevent the banking crisis from taking root. All other countries have developed modern systems of flat ownership. It would be straightforward for the UK to do the same.

Leaseholder abuse

The contempt with which landlords and managing agents treat leaseholders knows few bounds. An article in the Daily Telegraph (20 November 2009) described how Ian Rapley of Consensus Group, which "manages" retirement leasehold properties, was asked on live television to respond to claims that vulnerable elderly residents were being exploited. He said that those making the claims were "serial complainers" rather than "dribbling geriatrics". Rapley was not dismissed for making these remarks, as would have been expected of a responsible employer. Andrew Harrop, the head of Public Policy at Age Concern, said Rapley's comments were "disgraceful".

Separately, police were called to a Bournemouth block of flats in January when residents taking action over alleged excessive service charges were labeled "terrorists". The block, at Admiral's Walk on the West Cliff, is embroiled in a leasehold valuation case. Douglas Marr, a director at Admiral's Walk, has since written letters of apology to residents after likening those taking the company to the tribunal over the charges to terrorists.

Lies, damn lies and statistics

The Government continues to publish misleading data about the level of home ownership. Its latest housing statistics release makes the entirely bogus claim that 70% of homes in the UK are owner-occupied, that is either owned outright by the homeowner or simply subject to a mortgage.

However the country's three million leaseholders are regarded as owner-occupiers, even though they do not actually own their homes, but merely have the right to live in these homes for a specified number of years. They also have landlords, just like tenants in the private rented sector, and these landlords have far more say over how their blocks are managed than do the leaseholders who actually live there and pay the bills. If the country's leaseholders are no longer classified incorrectly as homeowners, the level of home ownership in the UK is reduced to 56% of the total housing stock, a figure comparable to that of our European neighbours.

THREE MILLION LEASEHOLDERS COULD DECIDE ELECTION RESULT

Neither the Labour government nor the Conservative opposition appear interested in winning the votes of the country's three million leaseholders in the next general election. With the gap between the two parties starting to narrow, ignoring the interests of a substantial part of the electorate is not the best way to win an election. At this stage in the campaign, only the Liberal Democrats have made any promises that would help leaseholders.

Labour's housing policies have had disastrous consequences for so many people struggling to set up home. The government has allowed an already chronic housing shortage to deteriorate even further, with housing waiting lists mounting and an increasing proportion of the country's children living in overcrowded conditions. At the other end of the spectrum Labour has enabled landlords, property investors and those owning second and multiple homes (including MPs) to profit from the misery that others are experiencing in the housing market.

The Government has also failed to reform our outdated system of property tenure, leaving tenants and leaseholders vulnerable to aggressive and exploitative landlords. Shortly before it won power in 1997, the Labour Party published a policy document called 'An End to Feudalism' in which it set out its proposals for the reform of the leasehold system. Its plan was to replace the leasehold system with commonhold tenure, a much fairer system of tenure in which flat buyers own their individual flats outright – just like a freehold – whilst owning the whole of their blocks collectively. However, the government made so many concessions to the interests of landowners when it introduced commonhold that not one leaseholder in the entire country has succeeded in transferring to commonhold tenure, while only 157 new commonhold flats have been built.

Labour also promised to reduce the cost and difficulty for leaseholders seeking to buy their freeholds. It has failed on both counts. The 'Sportelli' judgment has increased the cost of acquiring the freehold, as well as extending the lease, by a multiple of what it cost only a few years ago. At the same time legal disputes over freehold valuations have gone way beyond the leasehold valuation tribunal and have reached as far as the House of Lords, something that has never happened before. Whilst leaseholders are being fleeced in order to stay in the homes they have already paid for in full, the parasitic freehold estates have seen the value of their investments rise sharply – even in the recession.

Meanwhile the Conservative opposition has remained silent on the leasehold issue. Not a peep has been heard about leasehold reform from Grant Shapps MP, shadow housing minister. This no doubt reflects the powerful influence over the Conservative Party of the aristocratic hereditary landlords, including multi-billionaires the Duke of Westminster and the Earl of Cadogan, leading donors to the Conservative Party. Such landlords have been the principal beneficiaries of the continuation of the leasehold system in its present form. It is truly staggering that the Labour Party has also been so subservient to the interests of such over-privileged individuals.

Meanwhile the Liberal Democrats have offered some support to leaseholders struggling with objectionable landlords and managing agents. Writing in last summer's edition of the *Leaseholder*, the LibDem housing spokesperson Sarah Teather MP agrees with CARL that both forfeiture and the payment of marriage value should be abolished. She also argued that access to commonhold tenure should be made more democratic and not dependent on a Soviet style unanimous vote in favour.

ANNUAL CONFERENCE HIGHLIGHTS

CARL's recent annual conference featured speakers with a broad range of experience of leasehold issues, including experts on insurance, journalists and others with lengthy experience of leasehold problems. Over eighty members attended the meeting.

Insurance

Neil Cook, of Equity and General Insurance Services, highlighted the overcharging routinely taking place on buildings insurance policies in leasehold blocks of flats. He felt that managing agents are not doing their jobs properly and – unlike the insurance industry – are unregulated and uncontrolled. He said that the insurance premium for a typical two bedroom flat should be in the region of £200 to £300 a year, although most managing agents were charging well above that amount by adding excessive charges and commissions.

Neil said that rebuilding costs on which the insurance valuation is based are often exaggerated. The Building Cost Information Service (BCIS) provides detailed information about how these rebuilding costs are actually calculated. Neil said that rebuilding costs are typically in the region of £175 per sq ft (£200 per sq ft in central London), and do not normally require a valuation to be undertaken. He also took the view that terrorist cover was only necessary in central London.

Landlords and managing agents taking out insurance policies on behalf of leaseholders often do not declare relevant factors such as past criminal records. Neil said that policies can easily be voided by insurance companies in these circumstances, leaving leaseholders in the lurch when it comes to making claims on these policies.

News on the Block

Nicolas Shulman said that his motivation for setting up 'News on the Block' magazine was that there appeared to be no easy access for leaseholders to exercise their legal rights. 'News on the Block' originally started off as just a printed magazine, but now it has a website providing a more important means of communication. Nicolas has written a book called 'Being a Leaseholder: the essential guide to managing a flat', designed to help leaseholders cope with the complexity of the legal issues involved in owning a leasehold property.

Nicolas said that there was currently a debate in progress over the effectiveness of the LVT. Commonhold tenure,

which had been introduced back in 2002, was a dead duck. He was aware of a growing interest in leasehold amongst MPs, who realise that there are a lot of votes in the issue, since there are three million leaseholders in the UK. There is an interest in re-establishing the all-party leasehold reform group, originally set up over ten years ago by Barry Gardiner MP. Nicolas knew of over thirty MPs interested in raising the profile of the leasehold issue.

'News on the Block' is endeavouring to promote best practice in the leasehold sector. It has set up an awards scheme to recognise those working the leasehold sector with good standards. This will help leaseholders to differentiate between good and bad managing agents. Nicolas said that the RICS had undertaken an investigation into the insurance of blocks of flats. The consultation has ended and their report will be published soon.

In response to questions, he said that there were two ways in which to identify the landlord of block of flats, firstly under their obligation to do so under the Landlord and Tenant Act 1985, and secondly through section 11 of the 1993 Act. However he recognised that if the landlord was registered in an offshore territory, it would be impossible to ascertain who the real owner actually was.

Leasehold Life

Sharon Crossland, who has set up the website 'Leasehold Life' gave a brief history of the block where she lived, highlighting the problems created by having a criminal and neglectful landlord. She felt that they now had a good managing agent, but this had only come about by accident rather than by design. It was extremely worrying that neither membership by managing agents of either RICS or of ARMA, both which have codes of practice, offered no guarantee their members adhere to such codes or that their members are professional managing agents. It was not possible to know whether a managing agent was any good until they had started work, by which time it was far too late.

Sharon said it was incredible that the government found it acceptable that people could still be so badly treated in their own homes. She decided to set up the 'Leasehold Life' website in order to pass on her knowledge about leaseholders' rights.

MEMBERSHIP

If you are not yet a member of CARL, please join us so that we can speak from a position of even greater strength. Return the enclosed membership form together with your subscription. Existing members should have already received their membership cards.

If you are aware of a neighbour or colleague who is experiencing leasehold problems, let them know about CARL and pass on a copy of our newsletter. Our best form of recruitment is YOU, and YOUR efforts on CARL's behalf will make a difference. Contact us for further copies of the Leaseholder, by e-mailing us on info@carl.org.uk.

With the general election moving ever closer it is vital that you make contact with your local MP and/or election candidates to make them aware of leasehold issues. If you are able to get your MP interested, committee members are always ready to meet him or her in Westminster.

More conference highlights

Don Heady reported on the successes that his organisation CARLEX has achieved in gaining publicity on behalf of leaseholders living in retirement homes. There have been articles in The Times and in the Daily Mail, as well as programmes on Channel 4 News and on BBC Radio 4's 'MoneyBox' and 'You and Yours'.

CARLEX also held a packed meeting at the House of Commons hosted by the Liberal Democrat MP Ed Davey. Don said that, when in a legal dispute with the landlord, it was important for leaseholders to check whether their contents insurance policy included legal protection insurance. Such cover usually provided up to £50,000 worth of legal costs.

Richard Beville talked about the substantial savings that the leaseholders he represents living in Westminster had achieved in reducing the charges levied for the supply of heating and hot water. The process by which this had been achieved was partly through the inspection of accounts and partly through political pressure applied through the local council. Richard felt that the problem with landlord and tenant law is that it is too reliant on the 'reasonableness test', which is not a strong enough check on excessive service charge costs in these situations.

Nigel Wilkins, the Chair of CARL, said he anticipated that the government would eventually introduce legislation to regulate managing agents in the leasehold sector, along with similar measures to regulate the wider private rented sector. However, Nigel took the view that regulation in itself this would be insufficient to address the problems faced by leaseholders. He emphasised that what we need are measures to free leaseholders from all aspects of leasehold abuses, and not just those arising from management abuse.

In response to a question about setting up a 'blacklist' of incompetent and negligent managing agents, Nigel said that this would be difficult to produce because of the unduly harsh libel laws in this country. He also said that a list of 'good' managing agents would be much shorter and easier to compile.

ARMA

The Association of Residential Managing Agents (ARMA), which represents the interests of leasehold managing agents, has published a guide called '21 Ways to be a Good Leaseholder'. This is a sequel to their previous publication '101 Ways to be an Incompetent Managing Agent'.