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## **CIH's response to the DCLG's consultation on tackling unfair practices in the leasehold market**

CIH welcomes this opportunity to contribute to the DCLG's consultation on tackling unfair practices in the leasehold market. We also welcome the announcement that new-build houses will no longer be sold on leaseholds, and that ground rents on new leases will be restricted.

While we have not responded to every question posed in the discussion paper, our views on key areas are set out below.

### **Limiting future leaseholds**

CIH welcomes the decision to end leasehold sales of new-build houses, given the growing body of evidence that these sales were trapping a significant number of people in punitive ground rent terms.

These measures will ensure that future homebuyers will be protected from financial practices which have seen as many as 100,000 homes rendered unsellable due to contracts specifying that ground rents will double every ten years, as well as significant and unforeseen legal costs.

However, it is also important to note the potential impact of this measure on community-led housing models such as community land trusts (CLTs). CLTs are estimated to deliver 4,000 homes by 2021, and, to date, one third of CLT housing has been sold under leasehold arrangements.

We believe that this model exemplifies how leasehold can be used in an ethical way to provide affordably priced homes for those who need them, now and in the future. CIH would be concerned if a total ban on new-build houses being sold as leasehold were to prevent the development of community-led housing, and recommend that exemptions be made for these models.

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## **Tackling existing onerous ground rents**

In addition to the existing measures, CIH believes that there is also a case for applying new arrangements to people who are already trapped in these punitive leases.

### Mis-sale of leases

The National Leasehold Survey in 2016, conducted by the Leasehold Advisory Service with Brady Solicitors, found that only 52 per cent of the 1,244 responding leaseholders felt confident that they knew their rights and responsibilities.

Against this context, a survey of 429 leaseholds by the Leasehold Knowledge Partnership in 2017 has indicated that 71% of respondents used solicitors recommended by their developers. The role of these solicitors is to explain the type of ownership and the terms of the lease to homebuyers.

However, evidence is emerging that many leaseholders have complained that they were not properly made aware of the potential costs of acquiring the freehold of their leasehold properties at a later date. CIH believes that there is strong evidence that these people were mis-sold homes by conveyancers, who failed to carry out their professional duties by informing homebuyers of unfavourable terms in their leases.

### Geographical impact

There is evidence that this phenomenon has had a particularly blighting effect in the North West of England, where 32 per cent of houses were sold as leasehold in 2016, compared to a national average of 8 per cent. Moreover, 69 per cent of new build houses in this region were sold leasehold.

### Impact on flats

CIH recognises that there are strong reasons to continue to allow the sale of flats on a leasehold basis. Leasehold arrangements allow for individual ownership of interdependent properties, such as those in blocks of flats, combined with effective management of common parts and facilities.

However, according to analysis of Land Registry Price Paid Data 2016, 98 per cent of flats sold in 2016 in England and Wales were leasehold, compared to only 7 per cent of houses. This implies that there may be a strong case for not limiting assistance to existing leaseholders who have purchased new build houses under punitive lease terms, and instead extending this assistance to leaseholders who have purchased flats, providing a satisfactory distinction can be made between valid leasehold terms and exploitative ground rents or freehold purchase fees.

### Impact over time

Land Registry data shows that the proportion of properties sold leasehold has increased only slightly since 1995, from 20 per cent in 1995 to 27 per cent in 2016. However, this conceals a decline in the proportion of properties sold leasehold after 2008, and a subsequent sharp rise in new build properties sold leasehold since 2012.

Taylor Wimpey's compensation scheme, however, outlines that properties affected by doubling ground rents were built between 2007-2011.

CIH therefore proposes that a mechanism is implemented to review the cases of homebuyers who have already bought properties leasehold over the past 10 years, with a view to compensating homebuyers who were mis-sold leasehold agreements with potentially escalating ground rents.

### **Proposal for assisting existing leaseholders**

We propose that the mechanism for reviewing the cases of existing leaseholds is similar to that for reviewing mis-sold endowment mortgages, where grounds for complaint might include a lack of explanation of ground rent terms and fees and charges.

We also recommend that the onus of establishing review arrangements and compensation schemes should lie with developers, although default arrangements will be needed where they fail to act or offer inadequate compensation.

Taylor Wimpey, for example, has set up a £130m compensation programme to settle ground rent disputes, where leases contain provisions for doubling ground rents every ten years. CIH would welcome more of these schemes being set up by developers, although it should be noted that Taylor Wimpey's scheme in particular does not necessarily assist leaseholders when developers have sold their ground rent income streams to third-party investors. Instead, compensation is only being offered to leaseholders who purchased their property directly from this developer.

We also feel it is important to note the limitations of the current dispute resolution procedure available to leaseholders who wish to challenge the valuation of their leaseholders, i.e. tribunals. In practice, leaseholders are reluctant to use tribunals due to imbalances in the cost regime and resources available to developers and tenants. We believe that any review mechanism to address the problem of unfavourable ground rent arrangements should consider how this cost balance might be changed, such that leaseholders are not discouraged from seeking redress.

We hope that you will find our comments helpful, and look forward to receiving and considering the outcomes of this consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Priya Thethi', written in a cursive style.

**Priya Thethi**

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