

Report to:	Overview and Scrutiny Committee (Regeneration and Skills)	Date of Meeting:	13 March 2018
Subject:	Leasehold House Sales in Sefton		
Report of:	Head of Economic Growth and Housing	Wards Affected:	(All Wards);
Portfolio:	Communities & Housing		
Is this a Key Decision:	N	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

To provide Committee with:

- i) an update on the Government's current position regarding consultation outcomes and future proposals to tackle unfair and unreasonable abuses of leasehold; in particular the sale of new leasehold houses and onerous ground rents.
- ii) Highlight the information, help and guidance published on the Council's web site regarding leasehold sales.

Recommendation(s):

Committee notes this report.

Reasons for the Recommendation(s):

Elected Members previously requested information about outcomes of the Government's consultation on measures to tackle unfair practices in the leasehold market.

Alternative Options Considered and Rejected: (including any Risk Implications)

Not applicable

What will it cost and how will it be financed?

(A) Revenue Costs

No costs arising from this report

(B) Capital Costs

No costs arising from this report

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): None
Legal Implications: None
Equality Implications: There are no equality implications.

Contribution to the Council’s Core Purpose:

Protect the most vulnerable: N/A
Facilitate confident and resilient communities: N/A
Commission, broker and provide core services: N/A
Place – leadership and influencer: N/A
Drivers of change and reform: The proposed reform of Government legislation regarding leasehold sales will enable Sefton Residents to purchase new-build homes without the risk of potentially onerous terms and future liabilities.
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD 5057/18) has been consulted and notes the report indicates no direct financial implications arising for the Council. The Head of Regulation and Compliance (LD 4341/18) has been consulted and has no comments on the report.

Implementation Date for the Decision

Immediately following the Committee meeting.

Contact Officer:	Neil Davies
Telephone Number:	Tel: 0151 934 4837
Email Address:	neil.davies@sefton.gov.uk

Background Papers:

Report to Overview & Scrutiny Committee; Leasehold house sales (19/09/2017) - <http://modgov.sefton.gov.uk/moderngov/documents/s76626/Leasehold%20house%20sales.pdf>

1. Introduction/Background

1.1 At its meeting of the 19th September 2017, this Overview and Scrutiny Committee considered a report on Leasehold house sales. The Committee resolved that:

- (1) the report on leasehold house sales be noted;*
- (2) a response by the Cabinet Member – Communities and Housing to the Government’s consultation on measures to tackle unfair practices in the leasehold market be supported;*
- (3) the Cabinet Member – Regulatory, Compliance and Corporate Services be recommended to amend the Council’s Asset Disposal Policy so that when the Council sells its own land for residential development it considers including provisions that require developers to sell houses on a freehold basis and that this provision should still apply if the developer subsequently disposes of the land to another company;*
- (4) the Head of Regeneration and Housing in consultation with the Head of Regulation and Compliance be requested to investigate whether a “jargon buster” or other information can be published on the Council’s website to raise the issue of leasehold sales; and*
- (5) the Head of Regeneration and Housing be requested to report back to the Committee on the outcome of the Government’s consultation on measures to tackle unfair practices in the leasehold market.*

1.2 A response by the Cabinet Member Communities and Housing to the Government’s consultation was submitted and supported by this Committee. On the 21st December 2017 the Ministry of Housing, Communities and Local Government (MHCLG) published its response to the consultation ‘Tackling unfair practices in the leasehold market’.

1.3 This consultation identified a number of measures to tackle unfair and unreasonable abuses of leasehold; in particular the sale of new leasehold houses and onerous ground rents. Views were also sought on excluding leaseholders from possession orders because of arrears of ground rent; and on freeholders being able to challenge service charges for mixed tenure estates with shared facilities

2. Raising Awareness of Leasehold Sales in Sefton

2.1 Councillors, Members of Parliament, pressure groups and the local and national press have all been active in drawing attention to the issues regarding leasehold housing sales and ground rents. Many of these issues have been well documented with information sources and guidance readily available & accessible to affected residents, including potential home buyers and conveyancing solicitors acting on their behalf.

- 2.2 To help reinforce the awareness of this issue within Sefton, the Council will promote and publicise information via its preferred communication channels including; the Council's Housing and Investment Services departmental web pages alongside news items published on the MYSefton news site.
- 2.3 The Council's concern regarding the increase in the number of leasehold sales and further information and guidance regarding this issue can be accessed via the following link. <https://www.sefton.gov.uk/leasehold>
- 2.4 This web page will be promoted more widely utilising news items on Sefton's home page, MYSefton site, banners & social media communications channels alongside direct communication to residents who have contacted the Housing and Investment Services team requesting further assistance on this issue.
- 2.5 With regards to paragraph 1.1 (4) above; ie. using the Council's website to offer guidance on leasehold sales and the publication of a "jargon buster". Council Officers researched a number of sources of information regarding guidance on leasehold sales and concluded that the most appropriate source of information was: *The Leasehold Advisory Service (LEASE). This service is an executive non-departmental public body, sponsored by the Department for Communities and Local Government (DCLG). Their website gives free legal advice to leaseholders on the law affecting residential leasehold in England and Wales and also provides easy to understand frequently asked questions (FAQs).* A link to this web-site has been provided on the Council's web-page.

3 Outcomes of the Government's Consultation Response

- 3.1 The Government's response to this consultation was published on the 21st December 2017. The full published response can be accessed here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/670204/Tackling_Unfair_Practices_-_gov_response.pdf
- 3.2 In summary: **Leasehold Sales** – The Government have stated *"other than in exceptional circumstances, we cannot see any good reason for new build houses to be sold on a leasehold basis. We will bring forward legislation as soon as Parliamentary time allows to prohibit new residential long leases from being granted on houses, whether new build or on existing freehold houses. It will still be possible for existing leaseholders to extend their lease, or purchase the freehold, and we will consult on proposals to support leasehold house owners to do this on more favourable terms"*.
- 3.3 *"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 consultation response"*.
- 3.4 *"In bringing forward legislation we will consider further if there are particular cases where leasehold houses can be justified and, if they can, we will work with sectoral partners to ensure that they are provided on acceptable terms to the consumer"*.

- 3.5 Reducing Help to Buy equity loan support for leasehold houses – The Government stated they *“do not think it is appropriate for Help to Buy to support the sale of leasehold houses. It is not possible to impose a requirement on developers to stop building leasehold houses under existing contracts, but we expect developers to work with us to take forward this change. The Secretary of State for Communities and Local Government has written to all developers to strongly discourage the use of Help to Buy equity loans for the purchase of leasehold houses in advance of new legislation”*.
- 3.6 **Ground rents on leasehold properties** – *“The Government is concerned that ground rents have risen from historically small sums to hundreds of pounds per year in many cases. Where onerous rent review clauses are used, consumers can find that ground rents escalate to thousands of pounds causing considerable financial distress and leaving some facing difficulty selling their property”*.
- 3.7 *“We will introduce legislation so that, in the future, ground rents on newly established leases of houses and flats are set at a peppercorn (zero financial value). Costs incurred by landlords for overseeing and appointing a managing agent, or carrying out wider services, can be recovered through the service charge or a marginally higher sales price”*.
- 3.8 The Government will also consider how existing leaseholders can be supported and some developers have introduced schemes to compensate individuals. The Government have stated that they would wish *“to see this support extended to all those with onerous ground rents, including second hand buyers, and for customers to be proactively contacted. We will be keeping a close eye on progress and will consider measures that could be pursued to take action if necessary”*.
- 3.9 Further to this: *“To help consumers access justice we will work with the redress schemes and Trading Standards to provide leaseholders with comprehensive information on the various routes to redress available to them, including where their conveyancer has acted negligently. We will also work with the Law Commission to consider whether unfair terms apply when a lease is sold on to a new leaseholder. This will help resolve the current ambiguity around this, and provide better protection for leaseholders”*.
- 3.10 *“We also want to make it easier for leaseholders to be able to exercise their right to buy their freehold, or extend their lease, and for this right to be available as soon as possible. The Government will prioritise solutions for lessees of houses. We will work with the Law Commission on this and consult on introducing a prescribed formula that provides fair compensation to the landlord, whilst also helping leaseholders avoid incurring additional court costs”*.
- 3.11 Service charges for maintaining communal areas and facilities on freehold and mixed tenure estates - *“The Government will legislate to ensure that freeholders who pay charges for the maintenance of communal areas and facilities on a private or mixed use estate can access equivalent rights as leaseholders to challenge the reasonableness of service charges”* [and ensure] *“where a freeholder pays a rent charge, the rent charge owner is not able to*

take possession or grant a lease on the property where the rent charge remains unpaid for a short period of time”.

- 3.12 Housing sales issues identified for further reform – The Government’s aims to ensure that *“flat and house owners who want to buy out their freeholds, or extend their lease, can access a simplified means of doing this”*. Also *“introduce a minimum lease term for new long leases on flats”* and support the Commonhold tenure to improve the freehold tenure within a multi-occupancy building.