

LEASEHOLD HOME OWNERSHIP IS DEAD, LONG LIVE LEASEHOLD

While the property industry awaits with interest the results of the Government consultation into leasehold home ownership legislation, Rosemary Edwards of [Shulmans](http://shulmans.co.uk) LLP shares her view of the industry's hot topic:

The sale of leasehold homes has recently been surrounded with controversy. There is an element of risk for homeowners purchasing a property with a leasehold agreement by nature of the fact they have very limited control over the future ownership of the freehold. There have been some headline-raising cases of private investors acquiring freeholds from property developers and owners and then seeking to charge home owners exponentially higher ground rents.

The issue has attracted media attention and led many key players within the property industry to demand change. Consequently, the Government launched and has just completed a consultation to review the situation, the results of which are eagerly anticipated. The outcome will determine what measures the Government will introduce in order to curb unfair practices.

However, despite the difficulties and distasteful practice of some private investors, there continues to be a need and a place for leasehold home ownership. Unless and until there is a viable alternative to these arrangements, apartments continue to be sold leasehold, as there are legal problems involved with selling such accommodation on a freehold basis. In many parts of the country leasehold home ownership is common, either for historic reasons or due to local policy. For example, the local authority in Sheffield will only sell sites on a leasehold basis, therefore new build plots have to be sold leasehold as well.

Shulmans hosted an event recently attended by the region's top property professionals, of which 64 per cent voted to say they believe leasehold home ownership is alive and well. I agree and in

my opinion the controversies have been overplayed.

There are undoubtedly some issues which disadvantage consumers, such as rent review clauses which allow ground rents to be increased disproportionately to the value of the property, and also "consent fees" where landlords have the right to claim uncapped amounts for granting routine consents, for example for alterations or underlettings. However, some parts of the media have blown this out of proportion suggesting that someone with a leasehold interest does not actually "own" their property. This is simply not true. Leasehold is a form of home ownership and provided that the length of the lease is sufficiently long, there should be no issue with the principle.

That said, the industry has listened to the concerns and is responding, helping to safeguard homeowners purchasing properties on a leasehold basis. Already, Nationwide Building Society has introduced new requirements in relation to new build leasehold sales, specifying the length of the term. It is no longer acceptable to them for an unexpired lease term on a new build flat to be less than 125 years, rising to 250 years for a new build house.

Developers need to take account of these requirements when setting up new schemes; it's highly likely that many other lenders will follow suit. Most developers are currently reviewing the terms of their leases to ensure they remain acceptable both to buyers and to mortgage lenders, in terms of ground rent clauses and rent reviews among others. Some developers are moving away from leasehold houses altogether in the short term, until the outcome of the Government consultation is published.

This article was written by Rosemary Edwards (redwards@shulmans.co.uk), partner and head of the Residential Development team at Shulmans LLP. For more information, please visit www.shulmans.co.uk



Real Estate industry leaders being interviewed at the Shulmans Real Estate Network event – 13 September 2017