

Westminster Policy Forum

I would like to start by thanking the chair and the organisers for giving me the opportunity to speak to you this morning.

I thought it would be worth saying a few words about the general prospect of reform and also the role of ALEP within that.

For those who don't know, ALEP is the Association of Leasehold Enfranchisement Practitioners, and is a not-for-profit body run by Solicitors and Surveyors specialising in leasehold enfranchisement.

ALEP was not invited to take part in the Select Committee stage when the Leasehold and Freehold Reform Bill was discussed in the House of Commons and in some quarters, perhaps ALEP is seen as being a 'trade body' with only one agenda.

I wanted to take the opportunity to try to correct that view.

For those of us practitioners involved in ALEP it is certainly not our full time "day job" and one of the reasons that we set ALEP up some 16 years ago was because at the time there was no central list of vetted practitioners who had experience in the field of enfranchisement.

The nature of the legislation is such that it is quite easy to incur significant cost, delay and frustration if those advising you are not at all experienced or conversant with it.

Any agenda for reform must be where possible centred around the objective of making the '**law simpler and easier**' – both to understand and to use. Right from its very beginnings ALEP has sought to engage with Government with its initial 'shopping list' of potential reforms to the legislation and it is only a pity, that it taken the 'excesses' of the 'leasehold scandal' to draw the question of legislative reform to the attention of politicians more generally.

ALEP has long sought to educate and train professionals, and in our dialogue with Government and the other advisory bodies in the sector such as LEASE we have aimed to share best practice and knowledge.

In my view one of the reasons that the abuses in the leasehold sector that gave rise to the so-called 'leasehold scandal' was as the result of an *advice failure*. For those buying houses that were leasehold – (and that no doubt perhaps should not have been); there was a lack of ability and understanding amongst the professionals employed to advise on these transactions.

That is perhaps not only a failure of regulation, but also a consequence of a commoditised property market and a 'race to the bottom' on fees where the need for appropriate advice and training was ignored, negligently in many cases.

The law the Law Commission set out a very ambitious program for Reform and when it consulted in 2018 and reported in 2020, and we were delighted to take part in that process.

It is frustrating that Government took so long to properly respond to that.

That body of work set out a potential scheme of reform for the entire of the Leasehold Enfranchisement legislation and would involve a much larger legislative project than which the government currently intends with the Leasehold and Freehold Reform Bill.

Unfortunately, political forces seem to mean that what has been proposed are a number of short and no doubt effective reforms to certain parts of the system, but leaving aside some of the wider areas where reform could have been addressed.

The Commonhold Council has been established and for those of use with technical knowledge, we know that there is much to do to make Commonhold fit for purpose.

Once again, ALEP has not been invited to sit on the Commonhold Council although we have been consulted on some technical aspects. Perhaps, wrongly, there is a perception that ALEP and its members are against Commonhold?

We will have to see what any future government plans on doing in that direction – I hope that the new Government will see fit to offer us a seat at that table.

I also want to correct any perception which is that ALEP might be seen in some way as being a campaigning organisation, in favour of the current system and that alone.

As I said a moment ago ALEP has always sought to draw inconsistencies to the attention of government (and there are many letters from 2008 and beyond lurking on ministerial files attesting to that).

ALEP is apolitical and takes no particular side.

It might also be worth mentioning that its many of its members are not of themselves necessarily opposed to the prospect of the “abolition” of the residential leasehold system

When surveyed in conference on the question as to whether leasehold should be abolished as a form of tenure for residential property more than half of our members responded in the affirmative - Although, it has to be said that they were less clear about the likely timescale in which this could be achieved (something in which they agree with the Labour party on.)

Likewise, when surveyed as part of our written response to the Select Committee, 95% supported the ban on the creation of new leasehold houses.

At the moment, we seem to be caught in the Malström of a particular focus on the abolition or not of ground rent. This is a manifesto pledge which, it appears to be harder to deliver upon than may at first have been thought.

Greater legal minds than mine can comment further on the Human Rights aspects of this but, it is clear that setting ground rents to zero for all leases is likely to lead to a subsequent issue for the Government (of whatever hue) , in terms of the need to pay compensation, in the event that parties are **deprived** of their **assets**, this being balanced with the **control of the use of them** .

Unless of course this Government (or the one that is to follow) would like to chalk up another reason (outside of the immigration system) to take Britain out of the European Convention on Human Rights as way of avoiding this issue it appears that the prospect of a complete ban on all ground rents is simply not possible.

This is not a popular argument or statement and indeed some of the commentary and social media has been quite vitriolic around this. However, one of the realities of a situation such as this, is that in a democracy, property owners do have rights and that this cuts both ways.

Unfortunately, when it comes to technical matters is not necessarily just a quick case of listening to those who ‘shout loudest’ and I would hope that all politicians of whatever party will work together to try to find meaningful solutions to the issues created by residential leasehold and that ALEP can be a real and active contributor to this.

ALEP hopes to continue to work with Government in relation to any reforms that come forward in relation to not only the Leasehold and Freehold Reform Bill but also the subsequent work beyond this.

Thank you for the opportunity to speak to you this morning.

Mark Chick
24th April 2024