

Comments by **Matthew Spring**, Dispute Resolution Partner and property dispute specialist at **Payne Hicks Beach**, originally published by The Times on 14 January 2021 and is reproduced with kind permission <https://www.thetimes.co.uk/article/radical-plan-for-leasehold-reform-vbns37w7n>

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'Radical' plan for leasehold reform | Law | The Times

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The reforms will be welcomed by buyers, but may not be so popular with landlords who could lose money
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'Radical' plan for leasehold reform

A plan to grant easier lease extensions of 990 years with zero ground rent will change the way leaseholds work for homebuyers and landlords

Jonathan Ames

Thursday January 14 2021, 12.01 am, The Times

The legal minutiae of a leasehold are not something most people consider when caught up in the emotional whirlwind of buying a flat or house — but it can turn out to be a long-running irritant and expense.

Ministers moved last week to reform the law governing leasehold with plans that Eleanor Murray, a partner at the London law firm CMS, describes in *The Brief*, the weekly legal affairs email bulletin from *The Times*, as being "far more radical than landlords expected"

In England and Wales a fifth of flats and houses are governed by [medieval leasehold law](#) that allows landlords or freeholders to grant the buyer the right to live in a property for between 99 and 999 years.

Ministers want to reform the law to make it easier and cheaper for [leaseholders](#) to buy the freehold of their property and to give them the right to extend the lease to a maximum term of **990** years at zero ground rent.

The measures have been touted as the biggest reforms to English property law for 40 years and as a result there is already unease.

Murray warns that landlords will not be enthusiastic supporters of the proposals, which she says are "politically driven" and "intended to show the government is taking steps to address the perceived [unfairness in the leasehold system](#)".

However, Murray claims that "the real-life consequence of these measures will be to wipe off hundreds of millions [of pounds] from the value of property nationwide" because they will discourage "Rolls-Royce landlords from continuing to invest in the [upmarket] residential market". Such landlords often provide a higher level of service and property maintenance for the service charges/ground rent paid.

Ministers have been prompted into making last week's announcement by recommendations from the Law Commission, which advises on reforms in England and Wales.

Natasha Rees, a partner at the law firm Forsters, says that the government has "opted for the more extreme end" of the commission's proposals, "which will upset landlords who stand to lose significant sums on their property portfolios as a result of the changes".

Landlords may be fuming, but Shabnam Ali-Khan, a lawyer at Russell-Cooke, forecasts that the government's proposed reforms "will no doubt make buying and selling easier without worrying about the lease's term and the ground rent". She points out that some leases include ground rent clauses that impose rises throughout the term and result in liability ultimately hitting thousands of pounds.

Ali-Khan says that the issue of high premiums for lease extensions will be partially addressed by the removal of the "marriage value" — the increase in the value of the property after a lease has been extended — which is an often contentious element of calculating the premium. "As a result," Ali-Khan says, "the calculation rates should become fairer, cheaper and more transparent."

Ministers are also planning to create a council that will advise on commonhold, which is experiencing a resurgence. Experts claim that since its introduction under the Commonhold and Leasehold Reform Act 2002 commonhold has failed to capture the public's attention and fewer than 20 commonhold developments have been created since implementation.

"Many leaseholders face diminishing assets and obligations to pay service charges to another party for managing, insuring and repairing the buildings which contain their flats," Ali-Khan says, adding that "as a result they often do not really feel like true homeowners. The commonhold council will look to address this issue."

Matthew Spring, a partner at Payne Hicks Beach, describes the moves on commonhold to be "the most tantalising element" of the government's proposals. However, he says, "all that is missing is the precise detail".

Spring argues that so far ministers have been short on detail. "To the public this sounds great," he says, "but to a lawyer who knows the act there is not very much information, so it is hard to gauge exactly what the impact could be."

John Stephenson, a partner at BDB Pitmans, envisages that the establishment of the commonhold council will be "the end of a long fuse leading to the abolition of leaseholds for new buildings". However, he adds that change will not be quick. "We will all be quite a bit older before we see the ugly commonhold duckling become a land tenure swan."

Stephenson also warns that there will be "other losers" under the proposed reforms apart from landlords, including professional valuers and lawyers, as the scope for argument is reduced and a much more formulaic approach is adopted to extended lease premiums.

Last week's announcement is understood to be the first stage of a two-part programme of reforming legislation and that proposals to set future ground rents at zero will be brought forward in the forthcoming session of parliament.

"The proposals are radical and will doubtless meet with strong resistance from landlords who stand to lose the most," says Anna Favre, a partner at Cripps Pemberton Greenish, adding: "This includes, of course, leaseholders who have already exercised their enfranchisement rights, acquired the freehold of their building and have themselves become landlords."

Rees points out that now that the hump of Brexit has been scaled, ministers will have more time to push through the reforms — "but given that significant changes will be required to what is very complex legislation, it is likely to take at least a year before this happens", she says.

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