LEASE Response to the MHCLG Consultation Paper on Strengthening Leaseholder Protections Over Charges and Services

This document summarises our organisation's response to your consultation paper, "Strengthening leaseholder protections over charges and services."

LEASE's remit is to provide summary, general and initial legal advice regarding the rights and obligations of owners of residential leasehold property and park homes and from that standpoint we appreciate the opportunity to contribute to this critical reform process.

We welcome the consultation as a timely opportunity to modernise and strengthen the framework for service charges, administration charges, insurance and major works consultation. While the current system provides some protections, there remain significant gaps in transparency and fairness. These issues particularly affect leaseholders in mixed-use blocks, retirement housing and developments with complex ownership structures.

Our submission is guided by a core set of principles:

- championing enhanced transparency;
- ensuring fairness for all parties, and;
- advocating for a regulatory framework that is both proportionate and practical.

New annual report (Questions 17 to 23)

Our organisation strongly endorses the proposal for a new annual report as a means of improving transparency and communication between landlords and leaseholders. We agree with the minimum information proposed for inclusion and support the establishment of a prescribed, standardised format for this report.

A central tenet of our position is the principle of proportionality, balancing the administrative burden of new reporting requirements against the clarity they provide to leaseholders. We note that the administrative costs for preparing these reports will ultimately be borne by leaseholders. This economic reality underscores the need to ensure the information is not only comprehensive but also genuinely useful. We highlight that for leaseholders in retirement housing who often depend on a fixed pension, an annual report that provides advance notification of anticipated future expenditure on major works would be particularly useful, enabling them to budget effectively for significant expenses. The inclusion of details on any standard exit fees would also be a valuable addition for this demographic.

Regarding scenarios involving a superior landlord, we express a clear preference for a policy that prioritises completeness over speed. Our selected option is Number One which delays the provision of the annual report until the head lessor has received all necessary information from

the superior landlord, ensures that leaseholders receive a single, unified report rather than fragmented information. This approach prevents confusion and the need for multiple, partial reports. We consider this delay a reasonable trade-off to ensure a final, accurate, and comprehensive document is provided. We also acknowledge that in some cases, landlords may need additional time to prepare the annual report due to delays in receiving necessary information, such as survey reports, audited accounts, and management data, and suggest that this should be taken into account when setting statutory time frames. We consider no other general exemptions for providing the annual report to be necessary.

New standardised service charge demand form (Questions 24 to 35)

Our organisation supports the principle of a new standardised service charge demand form but suggests that its implementation should be adaptable and proportional to the complexity of the site. The level of granularity provided should vary depending on the site's structure, particularly in buildings with a split between residential and commercial units, multiple service schedules, or mixed social and shared ownership tenures. A key recommendation is for information to be provided by default in a spreadsheet format, complete with relevant formulas. This approach moves beyond simple transparency to active empowerment, enabling leaseholders to easily analyse the breakdown of their charges and assess the data themselves.

A central concern for us is the risk of information overload for leaseholders. We propose that new building safety information should be included as part of the annual report rather than the initial demand form. This is viewed as a more proportionate approach, ensuring leaseholders are not overwhelmed with a deluge of documents. In a similar vein, we prefer Option 1 for the annual budget document, which provides a high-level breakdown of costs. We note that the template service charge demand form at Annex B does state the leaseholder's right to see more detailed documents upon request, thereby balancing the need for clarity with the risk of excessive information.

Consideration should be given to the complexity and size of the site. Option 2 may be more relevant for larger sites.

Despite these suggestions, we maintain that budget details should be included in the initial demand form. This is viewed as a matter of better practice, providing essential financial information upfront.

We agree with the proposed interim and reconciliation demand forms and do not believe any exemptions should apply to the use of standardised forms. We also agree that existing flexibilities for providing these forms should continue.

The transition to a new system is seen as a significant undertaking. Although specific costs and timeframes for systems adjustments were not provided, we acknowledge that significant changes would be necessary. We consider a 12-month transition period acceptable for landlords to prepare for the new demand form and annual report arrangements.

A new notice of future service charge demands (Questions 36 to 38)

Our organisation expresses support for the new notice of future service charge demands. This position signifies a clear endorsement of greater financial accountability for landlords. We agree with the proposed grounds for extending the estimated demand date.

Furthermore, we agree that legislation should prevent the recovery of costs if a time limit has lapsed on the initial demand form or cap costs if the estimate on the form has been exceeded. By supporting this measure, we accept that a landlord's failure to adhere to administrative deadlines or manage budgets appropriately will have direct financial consequences for them, rather than being passed on to the leaseholder. This position supports a crucial shift in financial burden, which encourages landlords to adhere to stricter financial controls and operational discipline.

Extended rights to obtain information on request (Questions 39 to 46)

Our organisation generally agrees with the proposed list of information that leaseholders can request from their landlords and supports the right to retrieve documents for up to six years. We consider a 28-calendar day timeframe for providing the requested information to be reasonable for any well-organised landlord or property manager. We also agree with the proposal to allow extensions, such as an additional 7 calendar days, but stresses that any such extension should be exercised sparingly and only for compelling reasons, such as requiring a large volume of information from a third party.

While supporting these new rights, we raise a significant concern about potential administrative burdens. We caution that regulations should prevent the provision of excessive information, which could lead to multiple applications for the same data. We suggest that if a recognised Resident's Association (RTA) exists, regulations should deem information to be requested through that body to manage this risk.

Additionally, with regard to the proposed exemptions to the duty to provide requested information we consider that the circumstances under which information is considered "commercially sensitive" should be closely and clearly defined, as should information subject to GDPR rules. We also question the need for information to be requested more than once a year. These points demonstrate an understanding that the effectiveness of the new rights will depend on a clear and well-defined legal framework that prevents both the misuse of the rights by a few and the creation of loopholes for landlords to hide information.

A new duty to publish administration charge schedules (Questions 51 to 53)

Regarding the proposed administration charge schedule, while viewing the schedule as a good first step, we consider several improvements are necessary to achieve true transparency and clarity for leaseholders.

We suggest that the format and terminology should be nationally standardised to facilitate easy comparison. Each charge, whether fixed or variable, should be accompanied by a brief explanation of its purpose. For variable charges, the schedule should include a clear calculation method and a capped range or "typical cost band". We also call for clarification on notice periods, recommending the use of calendar days for consistency and fairness.

Beyond the schedule's content, we advocate for a fundamental change in how it is provided. While agreeing that the schedule should be available on request and as part of the annual report, we consider that it should be provided *automatically* at the time any administration charge is demanded. This approach ensures that leaseholders have all the necessary information to understand and assess the basis for a charge upfront, thereby preventing disputes before they arise. This is a strategic shift from a reactive, on-request model to a proactive, automated one.

Better information about insurance (Questions 54 to 69)

We believe that managing agents and landlords should be required to declare any conflicts of interest with insurance brokers and insurers. We note that many agents and landlords receive commissions, which creates a direct conflict, and that disclosure would promote transparency and reduce the risk of selecting poor-value policies. The report also recommends the declaration of indirect business relationships, exclusive arrangements, and the use of in-house brokerage arms.

We contend that the Financial Conduct Authority (FCA) definition of a conflict of interest is too limited for the leasehold sector, as it focuses primarily on shareholding and representation duties. A more appropriate definition, we argue, would include any financial, business, or contractual relationship that could reasonably be seen to influence impartiality.

We also believe that the proposed amount of information is insufficient. The following additional details are recommended to be required:

Information Required	Justification
Breakdown of Premium Allocation	Ensures charges are apportioned fairly, especially in buildings with different flat sizes or risk levels.
Claims History	Provides context for price changes or risk levels, helping leaseholders understand premium fluctuations.
Actual Commission Figures	Provides a critical understanding of the financial motivations behind insurance choices.
Confirmation of Competitive Process	Helps identify potential red flags by confirming whether alternative quotes were genuinely obtained.
Full Policy Wording or Plain English Summary	Empowers leaseholders to understand key terms, exclusions, and conditions, enabling them to challenge unreasonable costs more effectively.

The insurers and brokers should be obliged to provide the required information in the correct format for multi-occupancy buildings within the Schedule of Insurance. While landlords would still supply certain details (such as how many quotes were received), placing the responsibility on insurers and brokers to provide the rest would make the process far less onerous for landlords.

We should point out that, at present, leaseholders can only pursue landlords for non-compliance, even when the failure lies with a third-party insurer or broker. We argue for a more robust accountability system that holds all parties responsible.

While supporting the use of a set template to ensure consistency and clarity, we suggest improvements such as a simplified summary section and clear details on how leaseholder contributions are calculated. A 30-day timeframe for landlords to provide insurance information to leaseholders is considered reasonable, with a potential 15-day extension in exceptional circumstances. We propose a 7-day period for landlords to request information from third parties, ensuring prompt action. It is also deemed acceptable for landlords to send insurance information via email, provided clear safeguards such as documented consent and proof of dispatch are in place.

We agree that a 3-month transition period is sufficient for landlords and managing agents to adjust their systems and train staff for the new insurance arrangements.

New standardised service charge accounts (Questions 70 to 88)

Our organisation strongly supports the proposal to mandate standardised service charge accounts, agreeing with the minimum information required, including a balance sheet and an income and expenditure account. A balance sheet should be provided for each service schedule in buildings with multiple schedules.

We consider that local authorities and social landlords should not be exempt from the new provisions to prepare written statements of account signed off by a qualified accountant. This view is rooted in the belief that the same standards of transparency and accountability should apply to all landlords, regardless of their status.

From a technical standpoint, we agree that ISRS4400 should be the default reporting standard for assuring service charge accounts. However, we also suggest that the development of Tech 03/11 should be considered and adapted to reflect the specific size, complexity, and structure of individual sites. This suggestion demonstrates a nuanced understanding of accounting standards and a desire to ensure the regulations are fit-for-purpose in the diverse landscape of the leasehold sector. We also agree with extending the number of qualified people who can prepare the written report, noting that this provides leaseholders with a "guarantee of professionalism" and an additional channel for complaints.

A 12-month transition period is considered acceptable for landlords and managing agents to adjust their systems and train staff.

Rebalancing the litigation costs regime (Questions 89 to 115)

We support an exemption from the requirement for landlords to apply to a court or tribunal to recover litigation costs where a debt claim is either admitted or undefended by the leaseholder. This position is based on the principle of proportionality, as it would reduce the administrative burden on both landlords and the judicial system by avoiding unnecessary tribunal applications for simple debt recovery. However, we caution that this exemption could unintentionally incentivise landlords to commence litigation prematurely, bypassing informal resolution. We

also suggest a further exemption for "small value" claims, such as those under £1,000, to improve efficiency and reduce the burden on tribunals.

We take a nuanced view on complex cases, asserting that the exemption should not apply where a leaseholder has partially admitted a debt or successfully applied to set aside a default judgment. This ensures that the tribunal retains oversight and can assess the reasonableness of the costs in contested cases. We also agree that the exemption should apply where a leaseholder's case is automatically struck out due to procedural failure, while cautioning that this could lead to leaseholders being penalised for minor errors.

The most significant aspect of this section concerns resident-led buildings. We support "suspending" the application requirement for these buildings only, enabling them to recover litigation costs from the service charge prior to proceedings. This is viewed as a way to help resident-led organisations with their cash flow, as they often lack the financial resources of professional landlords. However, a crucial warning is issued about the unintended consequence of this power: leaseholders could be required to contribute towards litigation costs through the service charge before a tribunal has ruled on the substantive claim, creating a financial burden and risk. We argue that safeguards must be put in place to ensure leaseholders are protected from bearing costs prematurely and that mechanisms for refunds are practical and enforceable.

We argue that the definition of a "resident-led building" for this purpose should be limited to Right to Manage (RTM) or Resident Management Companies (RMC). We explicitly oppose including managers appointed under Section 24 of the Landlord and Tenant Act 1987 in this definition to avoid ambiguity.

Finally, we recommend a transition period of 5–6 months for the new litigation costs regime. This timeframe is considered sufficient for landlords, resident-led buildings, leaseholders, and the judicial system to adjust to the new rules without causing unnecessary delays.

Mandating reserve funds and planning for major works (Questions 116 to 127)

Our organisation endorses proposals to mandate reserve funds and Asset Management Plans (AMPs) for both new and existing leases. This position is driven by the belief that such measures are essential for long-term financial planning and a proactive approach to property maintenance.

We have concerns about practical considerations for how reserve funds should work, including provisions for funds that remain unused for long periods, the need for transparency, and clear definitions in lease agreements regarding contributions and permitted uses. Regarding AMPs, we suggest that a copy of the plan should be made available to new leasehold purchasers as part of the initial purchase documents. This would provide prospective buyers with a clearer understanding of forecasted future repair costs before they commit to a purchase.

For existing leases, we recommend that landlords be required to prepare an AMP as soon as is practicable and to keep leaseholders periodically updated on its progress. We also stress the need for an "effective sanction" to be in place should a landlord fail to prepare the AMP within the prescribed timeframe, thereby ensuring the mandate has real consequences.

Reforming the major works consultation process (Questions 128 to 140)

We consider the fixed monetary thresholds for consultation (£600 for major works and £300 for Qualifying Long Term Agreements (QLTAs)) should be rejected. Instead, we propose that the figure should be index-linked to a relevant comparator, preventing it from becoming outdated and irrelevant over time.

Our organisation agrees that certain contracts, such as those for energy and other utilities, could be removed from the Section 20 consultation process, provided the landlord remains subject to a "test of reasonableness" if the contract turns out to be disadvantageous to the leaseholder. Additionally, the landlord and agent should be required to declare any commissions or fees related to such contracts. We also suggest a clear exemption for urgent statutory and emergency works, which currently require a costly and time-consuming dispensation application. For any costs exempted from the Section 20 process, our organisation maintains that leaseholders must still be notified of them.

Regarding QLTAs, our response notes a lack of transparency and evidence that they provide good value in the social sector. We suggest raising the consultation threshold for QLTAs, fixing a maximum contract length (e.g., 3 years), and including a break clause for underperformance. High-cost, long-term agreements should also be market-tested on a regular basis (e.g., every 5 years).

We support a combination of a standardised form, shorter consultation periods, and a deadline for works to begin as a means of improving the consultation process. However, we caution against a "one-size-fits-all" consultation period, arguing that different timescales should apply depending on the scale and complexity of the works. Our organisation also proposes that freeholders be required to respond to leaseholder observations within a set deadline, with penalties for non-compliance, to ensure the consultation is a meaningful dialogue rather than a tick-box exercise.

Finally, we agree that both intermediate landlords and resident leaseholders should be consulted where applicable. For a majority dispensation application to the Property Tribunal, we recommend a high threshold, such as 75% of contributing leaseholders, to ensure they feel well-represented.

Powers to appoint a manager or replace a managing agent (Questions 149 to 154)

Our organisation generally agrees that leaseholders should have the right to veto or force a change in managing agent. However, we raise significant practical challenges with the proposed implementation. We point out that a 75% voting threshold would be practically impossible to achieve on most large sites. We propose a more realistic trigger based on a lower threshold, such as 50% of those voting, with a clear mechanism for a leaseholder representative group to present their case in a ballot.

Our organisation also questions the logic of allowing a landlord to propose their own new agent, arguing that since leaseholders are paying for the service, the choice of agent should be theirs.

We recommend that the Property Tribunal is best placed to enforce these measures, with local housing authorities serving as an important enforcement backstop with powers to investigate and penalise non-compliance.

Providing information and services digitally (Questions 155 to 157)

Our organisation strongly advocates for the increased use of electronic means for correspondence and document exchange between landlords and leaseholders. We argue that the provision of services should move to a "digital by default" model, while retaining a physical, printed option for individuals who cannot or do not wish to use computers. This approach balances the need for greater efficiency and reliability with the imperative of accessibility and inclusivity. Our organisation explicitly disagrees with post remaining the preferred method of delivery due to delays and the risk of lost documents. To ensure a legally defensible digital process, we propose safeguards such as requiring landlords to retain proof that emails have been sent or to use systems that confirm document delivery.

New qualification requirements (Questions 158 to 192)

Our organisation supports the principle of mandatory qualifications for managing agents. We agree that individual managing agents should be accountable for gaining qualifications. We also think that managing agent firms should be responsible for ensuring that employees hold the required qualification. We also agree that these requirements should apply to estate managers of freehold estates.

Regarding enforcement, our organisation takes a decisive stance by responding "No" to the proposal that all individual managing agents should be required to join a designated professional body as a condition of their qualifications. This indicates a preference for a different, likely more centralised, enforcement mechanism than a self-regulatory model.