Social Housing Division
Ministry of Housing, Communities and Local Government
Third Floor
Fry Building
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London
SW1P 4DF

17 April 2018

**BY EMAIL ONLY**

Dear Sirs

**Leasehold Advisory Service (LEASE) response to the 'Strengthening consumer redress in the housing market'.**

We welcome the opportunity to provide views on the matters set out in the consultation paper; and we are pleased to help the government move forward its objective of providing consumers with swift and effective routes to complain when things go wrong. We see complaints and redress as a vital part of a service providers engagement with consumers. LEASE has sought to improve engagement between leaseholders and their landlords (and agents acting for the latter), in a variety of ways. This includes working with the Tenant Participation Advisory Service and others to create the Leasehold Engagement Guide in 2015.

As the leading source of independent leasehold advice to leaseholders in England and Wales, providing that advice across both the public and private sectors, we are well placed to comment.

We have not responded to questions 2, 4 to 7 and 17, because they explicitly seek responses from an individual; or consumers who have previously raised a complaint.

We hope that our comments prove helpful, but if you have any questions please feel free to contact me.

Yours faithfully

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Chief Executive
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| **Q1: Are you responding (please tick one)**<br>• **As a private individual?**<br>• **On behalf of an organisation?** | On behalf of an organisation. |
| **Q3: If you are an organisation, which of the following best describes you?**<br>• **A housing association/private registered provider**<br>• **A Local Authority registered provider**<br>• **A Local Authority that is not a provider**<br>• **An Ombudsman or redress scheme**<br>• **A developer**<br>• **A private rented sector landlord**<br>• **A private leasehold landlord organisation**<br>• **A managing agent**<br>• **A letting agent**<br>• **An estate agent**<br>• **A sector representative body**<br>• **A charity dealing with housing issues**<br>• **A government body**<br>• **A private business** | A government body |
| **Q8: What do you consider to be the main problem with redress in the housing market, if any (tick up to three):**<br>• **There is no problem**<br>• **It is not clear how to raise a complaint**<br>• **It is not clear who to raise a complaint with**<br>• **There are gaps in redress**<br>• **Schemes are inconsistent in the way that they handle complaints**<br>• **It takes too long to get a decision or a complaint resolved**<br>• **It is expensive**<br>• **Complaints are not handled fairly**<br>• **Not everyone has the same access to redress**<br>• **When decisions are made they are not enforced** | We feel there are two main problems:<br><br>1. It is not clear who to raise a complaint with:<br><br>These stem fundamentally from the number of redress providers in the leasehold sector, four. Three of these relate to private leaseholders, but the Housing Ombudsman is also the redress provider as regard housing associations.<br><br>We concede that there will be only three providers as regards leasehold, from 7th August, as Ombudsman Services: Property will no longer provide a redress service. Nevertheless, reports by Citizens Advice[1] and MoneySavingExpert[2] reports clear that it is in the interests of consumers that access to redress is simple and straightforward and that confusion is caused by having multiple |

[1] 'Confusion, gaps and overlaps'

[2] 'Sharper Teeth: The Consumer Need For Ombudsman Reform'

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| • **Worried about the consequences of complaining**<br>• **Overlap between schemes**<br>• **Other [please explain]** | providers.<br><br>With more than one redress provider the concern is that no single body has the necessary overview of the issues in the sector to advise MHCLG/future regulator of the policy changes/ sector practices required for improvement.<br><br>2. Gaps in redress<br><br>New build flat owners have no recourse for redress as regards the conduct of their developer. Whereas a new build block of flats would see those same leaseholders able to seek redress against a managing agent tasked with managing the building. |
| **Q9: Which solutions below do you think would best improve redress in the housing sector (please pick up to three)**<br><br>• **Better awareness from consumers of how to raise complaints**<br>• **Improvements to the working of existing redress schemes e.g. more timely complaint handling**<br>• **Better enforcement of redress scheme decisions**<br>• **Schemes all operating to the same criteria/standards**<br>• **A code of practice for all housing providers (e.g. landlords, agents, housing associations, developers) on complaints handling**<br>• **Streamlined redress provision in housing (see question 30)**<br>• **Other [please explain]** | We believe that the following solutions would best improve redress in the housing sector:<br><br>1. A single redress provider for housing , including both public and private sector consumers;<br><br>2. Ensuring that a single redress provider's information on how to raise a complaint has a high profile;<br><br>3. A code of practice for all housing providers (e.g. landlords, agents, housing associations, developers) on complaints handling; and<br><br>4. Streamlined redress provision in housing (see question 30) |
| **Q10: Could more be done to improve in-house complaint handling for housing consumers?**<br><br>• **Yes [please explain]**<br>• **No**<br>• **Not sure** | Yes, more prominent information about the ability to make a complaint, the procedure and timeframe for resolution. |

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| **Q11: Are there common practices that housing consumers and businesses should be able to expect from a redress scheme, or do different sectors in housing require different practices? ™**<br>• **Yes - there should be common practices for consumers**<br>• **No – different sectors require different practices**<br>• **Not sure** | Yes there should be common practices, but what is key is that those practice result in a scheme:<br>1. That is straightforward and simple for people to complain;<br>2. People making a complaint are listened to and treated fairly;<br>3. A complaint is dealt with quickly, fairly and effectively at the earliest stage by suitably trained staff; and<br>4. The learning from a complaint is used to improve services |
| **Q12: If you believe there should be common practices that consumers should be able to expect from a housing redress scheme, what should they include? (pick as many as relevant)**<br>• **Rules relating to the types of issues consumers can complain about**<br>• **Rules relating to the timeframe in which consumers can complain to a provider**<br>• **Policies to support awareness raising**<br>• **Timeliness of complaint handling**<br>• **Cost to consumers**<br>• **Compensation levels**<br>• **Codes of practice specific to the sector**<br>• **Cost to members/ payment structures**<br>• **Transparency of decisions**<br>• **All apply**<br>• **Other [please explain]** | All apply. |
| **Q13: Do you think that a redress scheme should publish decisions and the number of complaints relating to different providers? Please explain why.**<br>• **Yes**<br>• **No**<br>• **Not sure** | Yes, decisions should be published, and in language that enables a reader to understand the evidence and arguments that led to the decision. It should also be published in a way that is convenient to access e.g. online. |

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| **Q14: What is a reasonable time frame for a redress scheme to deal with a complaint?** ™<br>• **Less than 2 weeks**<br>• **More than 2 weeks but less than a month**<br>• **More than a month but less than six weeks**<br>• **More than six weeks but less than two months**<br>• **More than two months but less than three months**<br>• **3-6 months**<br>• **7-12 months**<br>• **More than 12 months**<br>• **It depends on the complexity of the case** | This will depend very much on the issue at hand, however we would suggest a stepped approach:<br><br>• initial response within a week;<br>• substantive response within a fortnight; and<br>• necessary steps taken within a reasonable period (with reasonable period defined for the customer at the outset, depending on the nature of the problem) |
| **Q15: How should a redress scheme support consumers to access its scheme?** | We see three ways that a redress scheme should support consumers. None of these should be surprising.<br><br>1. Public awareness:<br><br>A scheme should ensure that it takes all reasonable measures to make the general public aware of its role.<br><br>2. A range of options in the way consumers can access a redress scheme:<br><br>Consumers must have as many ways of contacting schemes and referring their complaints as is practically possible. It should be standard that this would include website, letter, e-mail or telephone. It may also be helpful to consider other methods of communication commonly used by particular age or social groups, such as text messaging.<br><br>3. Address potential barriers to fair access:<br><br>Fair access includes assistance as regards languages other than English and if the complainant has a disability. |

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| **Q16: What kind of sanctions should a redress scheme have access to? (tick all that apply)** ™<br>• **Financial award up to £25,000**<br>• **Financial award greater than £25,000**<br>• **Expulsion from scheme**<br>• **Power to make decisions binding**<br>• **Referral to enforcement agent/ regulators**<br>• **A range of options depending on the type and size of provider**<br>• **Other [please list]** | We do not think that the sanctions listed are all that consumers expect, we would add that reasonable expectations also include:<br><br>• An apology and acknowledgement of wrongdoing on the part of the service provider to the consumer;<br>• The reinstatement of the consumer to the position they were in before the problem arose (whether financially or otherwise); and<br>• A commitment by the service provider to introduce changes in its practices in its future dealings with consumers. |
| **Q18: Should purchasers of new build homes have access to an ombudsman scheme?**<br>• **Yes**<br>• **No**<br>• **Not sure**<br><br>**If you have answered no, please go to Question 21.** | Yes, fundamentally an ombudsman is designed to provide protection for the individual where there is a substantial imbalance of power. There is now a plain imbalance of power between buyers of new build homes and developers. Examples have been highlighted in the government's recent consultation and response to 'Tackling unfair practices in the leasehold market'. (see LEASE response here) |
| **Q19: Is there an existing ombudsman scheme that is best placed to deliver this? If so which?** | There is no single redress scheme that is best placed, particularly as the issue of redress straddles public and private sector leaseholders. In addition, public sector leaseholders, as housing consumers, face confusion (if not overlap) because as complainants to the Housing Ombudsman they must generally submit that complaint through a 'designated person'. However, this is not required where:<br><br>1. the complainant has exhausted the internal complaints procedure of the housing provider and eight weeks have elapsed since those procedures were exhausted; or<br>2. the ombudsman is satisfied that a designated person has refused to refer the complaint; or<br>3. a designated person has agreed that the complainant can complain to the ombudsman directly (ie, without the referral)<br><br>If a designated person can effectively wave a complaint through, as per the third bullet point above, it does beg the question: why have the role at all? |

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| **Q20: Should this body be statutory?**<br><br>• **Yes**<br>• **No**<br>• **Not sure** | Yes, and resourced appropriately to undertake the task. |
| **Q21: Aside from the issues discussed in section three of this document, are there other things we should be considering to ensure that complaints are dealt with swiftly and effectively by homebuilders?** | Perhaps consider a Code of Practice. MCHLG announced on 1st April 2018 an intention to create a single, mandatory and legally enforceable Code of Practice for letting and managing agents. |
| **Q22: Should the requirement for private landlords to belong to a redress scheme apply to all private landlords?**<br><br>• **Yes**<br>• **No – it should only apply to landlords that don't use an agent to provide full management services**<br>• **Don't know** | No, it should only apply to landlords that do not use an agent to provide full management services. |
| **Q23: Who is best placed to provide a redress scheme for private landlords?**<br><br>• **The existing redress schemes in the private rented sector**<br>• **The tenancy deposit schemes**<br>• **A new ombudsman, such as a single housing ombudsman**<br>• **Other [please explain]** | There should be one redress scheme and if it is a new ombudsman, such as a single housing ombudsman, there should be some way of drawing on or benefiting from the experience of those involved in existing redress schemes in the private rented sector. |
| **Q24: How should redress scheme membership for private landlords be costed?**<br><br>• **A flat rate (and how much do you think it should cost?)**<br>• **A tiered system according to the number of properties a landlord lets?**<br>• **A pay per complaint system**<br>• **Don't know/This question isn't relevant to me** | There could be an annual membership fee at a flat rate which could increase depending on the number of complaints received and upheld during the previous year. |
| **Q25: How should the requirement to be a member of a redress scheme be enforced and by whom? And are there any other markets we can learn from in order to ensure compliance by a large number of small scale providers?** | Provided they are properly resourced, enforcement should be by the trading standards department or equivalent department in local authorities |

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| **Q26: What should the penalty for initial non-compliance be? If a financial penalty, what would be an appropriate level of fine? (tick as many as appropriate)**<br>**™**<br>• **Financial penalty [please give details on suggested level of fine in the box below]**<br>• **Criminal offence**<br>• **Banning order**<br>• **Loss of right to evict tenants under Section 21**<br>• **Civil sanction such as improvement notices or enforcement notices**<br>• **Other [Please explain]**<br>• **Don't know/This question isn't relevant to me** | Loss of right to evict tenants under Section 21 of the Housing Act 1988. |
| **Q27: How can Government best ensure that landlords are aware of their requirement to belong to a redress scheme?** | Make it a condition of landlord insurance that they belong to a redress scheme. |
| **Q28: Are there any other voluntary or medium term measures that could be implemented to improve redress for tenants in the private rented sector ahead of any legislative changes?** | We are not aware of any other measures. |
| **Q29: Do you think that freeholders of leasehold properties should all be required to sign up to a redress scheme?**<br>• **Yes**<br>• **No**<br>• **Not sure** | Yes, save where:<br>1. They use an agent to provide full management services; and/or<br>2. The freehold is owned by a resident management company and consists of four or fewer flats. |

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| **Q30: Should we streamline redress provision in housing, and if so, what would be the most effective model? Please explain below what you see as the benefits and challenges of the options.**<br>**™**<br>• **Yes - One single ombudsman scheme covering housing issues**<br>• **Yes - One ombudsman portal for housing related complaints**<br>• **Yes - One ombudsman for private housing and another for social housing**<br>• **Yes - One ombudsman for each sector of the housing market (e.g. one for home buying, one for new build homes, one for private rented sector, one for the social sector, one for leaseholders)**<br>• **No**<br>• **Other [please list]** | Yes, one single ombudsman scheme covering housing issues. |
| **Q31: If you ticked 'Yes' to one ombudsman or one portal above then which areas of redress should be incorporated? [Please tick any areas you believe should be included and explain any reasons for inclusion or exclusion]**<br><br>• **Social housing tenants**<br>• **Private rented sector tenant**<br>• **Leaseholders with a private sector freeholder**<br>• **Leaseholders with a social housing provider as freeholder**<br>• **Purchasers who have bought a new build home**<br>• **Purchasers and sellers of existing homes**<br>• **Park home owners**<br>• **Persons approaching their Local Authority for homelessness advice**<br>• **Persons applying to a local authority for social housing**<br>• **Persons applying for a tenancy with a housing association**<br>• **Other [Please Identify]** | We consider that all these areas of redress should be incorporated.<br><br>With the Government considering a specialist Housing Court it would be a logical extension to have a one single redress body dealing with all aspects of residential property and recruiting specialists in each area to act as case assessors. It would reduce confusion among the public if there was an appropriately titled one-stop shop covering redress in respect of all residential housing related matters. |