

Terms of Reference for the Project

The Law Commission's Management of Housing Estates Project

Background: A new right for freeholders of houses

Leaseholders of flats who meet certain qualifying criteria currently have the right to take control of the management of their block of flats (the "Right to Manage"). Freeholders of houses on a housing estate have no equivalent right to take management of the estate.

This project will consider the creation of a new, targeted regime, to provide freeholders of houses on a housing estate with a no-fault right to take over management of that estate.

The project was announced in the Commission's *Fourteenth Programme of Law Reform*.

Terms of Reference

The Ministry of Housing, Communities and Local Government and the Commission have agreed that the Commission will specifically review and consider:

- the creation of a no-fault right for freeholders of houses on a housing estate to take control of the management of their estate; and
- modelling that new right, so far as is appropriate given the specific characteristics of housing estates, on the leasehold Right to Manage regime (as it would be if amended in line with the Commission's recommendations in its 2020 Right to Manage report).

The project will consider:

1. whether and how the position of freeholders of houses on estates can be improved by enabling them:
 - a) to take control of the provision of shared services (including to select their choice of service-provider);
 - b) to take over management of shared facilities; and
 - c) to take responsibility for granting permissions on the estate;
2. the qualifying criteria that should determine who can exercise the new right;
3. anti-avoidance rules, to prevent housing estates from being set up or organised in a way to prevent the new right from being exercised (for instance, through the use of embedded management companies);
4. the extent of the new right, including which premises, services, facilities and permissions it may affect;
5. the nature of the management functions that should transfer when the right is exercised;

6. the handover and reconciliation of estate management charges and other funds when the right is exercised;
7. the procedural rules that should apply to the exercise of the new right, including whether the right should have to be exercised through a company, and the rules that should apply to such a company;
8. dispute resolution and the powers of the court and/or tribunal;
9. how the exercise of the new right might be terminated and how management of the estate may then return to the estate owner or other manager; and
10. the interaction with existing rights such as the leasehold Right to Manage, including how the new right could be claimed and obtained on mixed-tenure and mixed-use estates.

Issues excluded from the project

The project will not review the following issues:

1. planning policy, including the conditions under which developers may be given permission to construct housing estates; and
2. the adoption of estate roads and other shared spaces by local authorities.