

Leasehold homes: CMA launches enforcement action

As part of its ongoing investigation, the Competition and Markets Authority (CMA) is today opening enforcement cases focusing on certain practices of:

- Barratt Developments
- Countryside Properties
- Persimmon Homes
- Taylor Wimpey

The move comes after the CMA uncovered troubling evidence of potentially unfair terms concerning ground rents in leasehold contracts and potential mis-selling. It is concerned that leasehold homeowners may have been unfairly treated and that buyers may have been misled by developers.

The CMA's action relates to the following areas of concern:

Mis-selling

- Ground rents: developers failing to explain clearly exactly what ground rent is, whether it increases over time, when increases will occur and by how much.
- Availability of freehold: people being misled about the availability of freehold properties. For example, the CMA found evidence that some people were told properties on an estate would only be sold as leasehold homes, when they were in fact later sold as freeholds to other buyers.
- Cost of the freehold: people being misled about the cost of converting their leasehold to freehold ownership. When buying their home, the CMA found evidence that some people were told the freehold would cost only a small sum, but later down the line the price had increased by thousands of pounds with little to no warning.
- Unfair sales tactics: developers using unfair sales tactics – such as unnecessarily short deadlines to complete purchases – to secure a deal, meaning people could feel pressured and rushed into buying properties that they may not have purchased had they been given more time.

Unfair contract terms – ground rents

- The use of unfair contract terms that mean homeowners have to pay escalating ground rents, which in some cases can double every 10 years. This increase is built into contracts, meaning people can also struggle to sell their homes and find themselves trapped.

Alongside these issues, the CMA will also be looking further into ground rent increases based on the Retail Price Index (RPI) and may take enforcement action should it find evidence of unfair practices in relation to these. In particular, the CMA is concerned about the fairness of escalating ground rent terms linked to RPI and that these are not always effectively explained by

developers when discussing RPI-based ground rent with prospective homeowners.

The CMA will also be investigating certain firms who bought freeholds from these developers and have continued to use the same unfair leasehold contract terms.

The CMA has now written to Barratt, Countryside, Persimmon, and Taylor Wimpey outlining its concerns and requiring information.

How the case proceeds will depend on the CMA's assessment of the evidence. Possible outcomes include legal commitments from the companies to change the way they do business, or if necessary, the CMA could take firms to court.

Andrea Coscelli, CMA Chief Executive, said:

It is unacceptable for housing developers to mislead or take advantage of homebuyers. That's why we've launched today's enforcement action.

Everyone involved in selling leasehold homes should take note: if our investigation demonstrates that there has been mis-selling or unfair contract terms, these will not be tolerated.

Alongside its enforcement action, the CMA is also sending letters to a number of other developers, encouraging them to review their practices to make sure they are treating consumers fairly and complying with the law.

For people who own, or are looking to buy, a leasehold property, the CMA has produced written and video guidance, which offers advice on a number of issues, including what people can do when faced with fees and charges they consider unjustified.

The CMA will continue to work with the Government on its reform plans for the leasehold market, including supporting the move to ban the sale of new leasehold houses and reduce ground rents for new leases to zero.

Notes to editors

1. It should not be assumed at this stage of the CMA's investigation that the businesses under investigation have been involved in any or all of the outlined practices.
2. The key pieces of consumer protection legislation relevant to the CMA's investigation are the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and Part 2 of the Consumer Rights Act 2015 (CRA). The CPRs contain a general prohibition against unfair commercial practices and specific prohibitions against misleading actions, misleading omissions and aggressive commercial practices. Part 2 of the CRA aims to protect consumers against unfair contract terms and notices, and requires contract terms to be fair and transparent.

3. As an enforcer under Part 8 of the Enterprise Act 2002, the CMA cannot levy administrative fines but it can enforce the above legislation through the courts, and where appropriate, obtain additional measures to improve consumer choice, drive better compliance with the law, or obtain redress for consumers.
4. People wishing to provide further evidence regarding the companies named can get in touch via email: leasehold@cma.gov.uk. The CMA is interested in hearing information on either leasehold houses and/or flats, referred to above as leasehold homes.
5. For further information please contact the CMA press office via press@cma.gov.uk or on 020 3738 6460.