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The Voice of Leaseholders

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Will Coalition's 'Green Deal' really benefit blocks of flats?

Commenting on the Energy Bill report stage in the Lords on Wednesday (2nd March) The Federation of Private Residents Associations have stepped up the lobbying on The Department of Energy and Climate Change to ensure the 'green deal' benefits our 'hard to treat' homes, it is estimated that 3.5 million more homes could be insulated by 2012 under the proposals in the Energy Bill and we are also calling on the Department for Communities and Local Government who has responsibility for leasehold law in England and Wales to change to the Landlord and Tenant Act to allow for 'reasonable' insulation to be carried out to blocks of flats as part of the service charge.

The Federation of Private Residents Associations who are members of the End Fuel Poverty Coalition and a national not for profit organisation that **have** represented the interests of long leaseholders **since 1971** believe the previous Government's policy on energy efficiency discriminated against around two million leasehold flat-dwellers who are currently being excluded from carrying out many home insulation initiatives as a result of conflicts with legislation or because there is no provision for this in their leases.

Much legislation on energy efficiency and certainly the legislation that provides for grants currently exclude many of those people living in leasehold flats because

the grants are aimed at individuals that purchase in their own names rather than through communal arrangements. It is therefore not practical for the leasehold owner of a flat to take most of the steps that a freehold house owner can take to improve the energy efficiency of his or her home. Measures such as loft insulation and cavity wall insulation obviously have to be taken up for the block as a whole rather than each individual.

Chairman of the Federation of Private Residents Associations, Bob Smytherman commented;

"Long leases of purpose built flats nearly always provide for works to the exterior, and on the internal common parts, to be funded by a service charge payable by all leaseholders. For very good reasons, most leases provide for service charges to be levied for repair and maintenance of existing facilities only and make no provision for "improvements" such as cavity wall or loft insulation."

"The typical flat owner is likely to find that despite this new so-called 'Green Deal' they will not be able to install loft insulation or cavity wall insulation because the roof space and the cavities in the external walls belong to the ground landlord, and not to him or her."

"If the coalition government is to succeed in reducing CO₂ emissions from our homes we believe there needs to be serious consideration given to the situation for long leasehold flats and provides real joined up Government working with the Department of Communities and Local Government (Leasehold Reform Branch) and with a few simple changes to leasehold legislation we can make existing blocks of flats as energy efficient as those flats built today."

Ends

Notes to Editors:

Our legal advisor Nick Roberts first highlighted the issue in an excellent article published last year in the New Law Journal. Full article available on request.

The Federation of Private Residents Association believes that this could be achieved in the following way.

Section 35 of the Landlord and Tenant Act 1987 already provides for long leases of flats to be varied by the Leasehold Valuation Tribunal if they are defective in certain designated ways (e.g. if the service charge arrangements are defective, or if there are inadequate provisions for insurance). We are suggesting that s 35 should be amended to provide that the failure of a lease to make adequate provision for the reasonable insulation of a property should be a ground for its variation.

Section 35(2)(g) of the LTA 1987 (added by 162(3) of the Commonhold and Leasehold Reform Act 2002) already makes provision for additional grounds for variation of

leases to be added to s 35 by Regulation, so this is a matter which could be dealt with by Statutory Instrument and not by primary legislation. Expressly providing that the lease should provide only for "reasonable" insulation would automatically mean that, in the event of any dispute arising as to whether the measures proposed were reasonable, a further application could be made to the Leasehold Valuation Tribunal under s 19 or s 27A LTA 1985 in order to resolve the issue.

The Green Deal, which is expected to be available from autumn 2012, will be open to homes and businesses and will involve a 3-step process:

Step 1 – An independent energy survey of the property, giving clear advice on the best energy efficiency options.

Step 2 – Green Deal finance to be provided by a range of accredited providers, which will be repaid through savings on energy bills.

Step 3 – Homes and businesses will then receive their energy efficiency package. Only accredited measures will be installed by appropriately-qualified installers, overseen by Government, giving consumers' confidence that the deal they are getting is high-quality and will save them money.

Here is the link to the Hansard debate for the whole day.

<http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110302-0001.htm>

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The FPRA have been a non-political, not-for-profit advice, support and lobbying organisation for the last 40 years and our members include private residential leaseholders, tenants' and residents' associations and residential management companies as well as those companies where the leaseholders together own the freehold of their own residential block.

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