



# Proposals for Reform of Leasehold Law

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# Leasehold Reform (Energy Efficiency) Bill

- No single solution
  - Build on existing recognised legal mechanisms
  - Easy to implement – requires primary legislation but can be slotted into any Bill
  - More grandiose schemes may be unworkable or fall foul of human rights law
  - Not party political
  - No cost to government
  - Empowering freeholders and leaseholders to undertake works
- Close parallels with Scottish legislation introduced in 2009



# Solution 1 – Giving freeholders the right to recover the cost of qualifying improvements

- Most leases do not give freeholders the right to recover the cost of improvements
  - Generally energy efficiency measures will be improvements
- Section 2 of the Bill entitles a freeholder to recover the costs
  - Wherever the freeholder is entitled to recover the cost of maintenance and repairs
  - Deemed to include recovering the cost of “qualifying improvements”



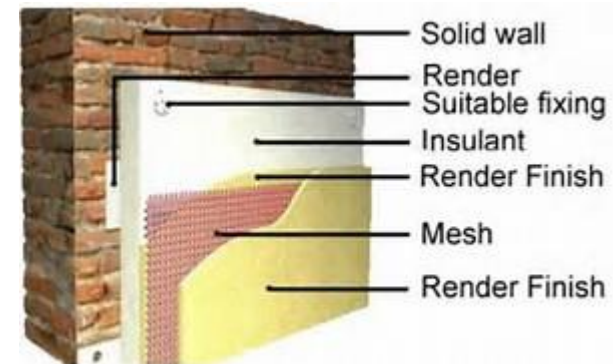
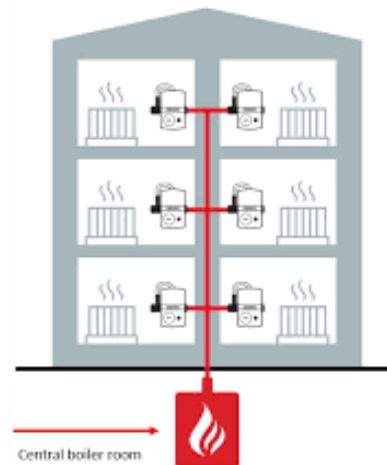
## “Qualifying improvements”

- “Qualifying improvements” are any of the following:
  - (a) Basic energy efficiency measures – cavity wall insulation and/or loft insulation.



# “Qualifying improvements”

(b) Any improvements which will improve the EPC rating of a flat or flats from band F or G or any improvement to windows, heating systems or insulation that will alleviate a Category 1 hazard (under Section 2 of the Housing Act 2004)



## “Qualifying improvements”

- (c) Any measures to improve the energy efficiency of the flat or flats that either meet the cost-effectiveness threshold or can be funded through grants.

“*Cost-effectiveness threshold*” – to be set by the Secretary of State for Communities and Local Government following consultation



# Solution 1 – Giving freeholders the right to recover the cost of qualifying improvements

- Grant to the freeholder of rights:
  - to undertake “ancillary works” to implement improvements
  - to alter flats to facilitate the works
- Protection for leaseholders in Landlord and Tenant Act 1985
  - already regulates service charges
  - obligations on freeholders to consult
  - all costs must be reasonable incurred
  - referrals to the First Tier Tribunal (Property Chamber) (formerly the LVT)



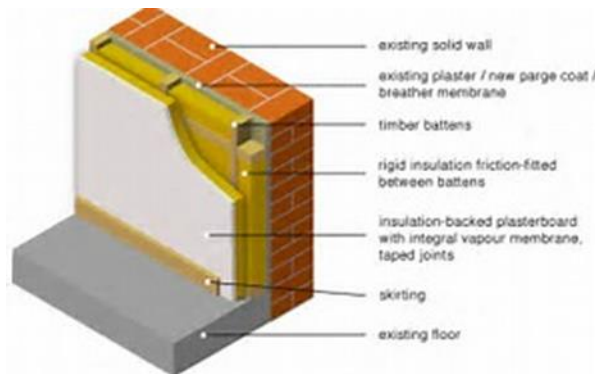


# Solution 2 – Making it easier for leaseholders to make improvements within flats

## ■ Possible internal improvements include:

- Energy efficient radiators
- Internal wall insulation
- Replacement windows

- However, the lease may prevent or restrict their installation
- They may involve work to the fabric of the building or require additional rights to install





## Solution 2 – Making it easier for leaseholders to make improvements within flats

- Section 3 overrides restrictions in the lease on alterations to permit improvements



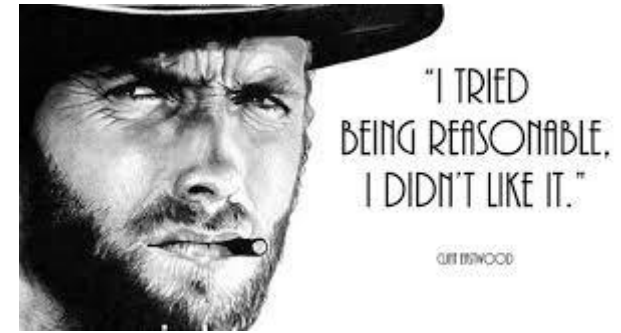
- Where freeholder's consent is required it cannot be unreasonably withheld
- Imposes a statutory duty on the freeholder to

give consent unless it is not reasonable to do so.

- Burden of proof is on the freeholder to prove this.
- Consent must be given within a reasonable time
- Mirrors legislation on assignment of leases and subletting

## Solution 2 – Making it easier for leaseholders to make improvements within flats

- What is reasonable?
  - This will vary depending on the circumstances of the case
  - However, consent cannot be refused if the improvement:
    - Causes no structural or other harm to the building; or
    - Does not substantially interfere with the rights of others in the building.
  - Freeholder can impose conditions e.g. on timing and method of works.
  - Freeholder can require payment for his reasonable legal and other expenses.



## Solution 2 – Making it easier for leaseholders to make improvements within flats

- Duty on freeholder to “necessary and appropriate” rights to facilitate works and to give him the rights to do so
- Ancillary works must be carried out at reasonable times and on reasonable notice causing as little damage and inconvenience as reasonably practicable and make good any damage



# Questions and Discussion