

**Written evidence submitted by Fuel Poverty Action to Leasehold Reform Inquiry
September 2018**

Introduction

1. We are a small organisation formed in 2007 that is concerned about the impact of heating and other costs on people of all tenures. We are glad that your Committee is considering the extremely unjust and damaging terms of leasehold in the UK. In our experience many leaseholders are in crisis financially, and many cannot afford to keep their homes warm in the winter.
2. We are particularly glad that, beyond what has already been considered by the Government with the Law Commission,

“ . . . the Committee is particularly concerned with what more can be done for existing leaseholders, in both houses and flats, affected by onerous terms such as high service and administrative charges, and large increases in ground rents.”

Summary

3. We want to raise with you two such issues, both related to fuel poverty. We believe the remit of your recommendations, and government action, must include these issues. **Housing is not affordable if you cannot afford to heat it.** The two specific issues are:
 - a) Heat Networks (“District Heating”) and
 - b) Cladding and insulation in the aftermath of the Grenfell fire.
4. In both cases leaseholders are subject to demands for extremely high sums, both in the form of ongoing costs and capital expenditure. They have no practical recourse to the law.
 - Ongoing costs include high standing charges and tariffs for District Heating, fire marshals for people whose blocks are in danger, and extremely high costs when cladding has been removed but not replaced.
 - Capital expenditure includes repair and replacement - and, in practice, improvement or extension - of District Heating, and paying for removal and replacement of combustible cladding.
5. We end with a note on the urgency of accountability to leaseholders and other residents.

A. Heat Networks (District Heating)

6. At present, leaseholders (and to a lesser extent tenants) are expected to cover past capital expenditure through their tariffs and often exorbitant standing charges. In

addition, very large capital sums are being demanded from leaseholders to renew, replace, improve on, or extend old equipment or pipes. Moreover, they must cover these costs at *commercial borrowing rates*, far higher than what they would expect to pay for their mortgage.

7. There are compelling environmental reasons for a national commitment to new infrastructure. However, the cost should not fall arbitrarily on the shoulders of a small pool of users. Residents of estates with district heating should not pay more for a policy that does not specifically benefit them. Additionally, in many cases they are faced with a worse service.
8. A new approach is needed to the funding of District Heating (DH). It is now being rolled out on the basis of schemes for private profit which are subsidised both by public money (including £320 million from BEIS) and by residents -- especially leaseholders -- on estates where they have a monopoly. Alternatives are being explored within the industry (see for example proposals for a "Pipeco") and by the Scottish Government. But the bottom line is that District Heating projects require an energy centre and highly insulated underground pipework which is very expensive to install. Residents of DH estates, who are and will remain for some time a small minority of the population, should not be expected to fund from their own pockets a major infrastructure project.
9. Tariffs and standing charges are anything but transparent, with much confusion over standing charges, service charges, and who is responsible for what repairs. On capital expenditure, too, customers are faced with justifications which on closer inspection turn out to be based on distortions. There is little they can do about it: they are in the grip of a monopoly.
10. Claims by the Heat Trust and participating operators that DH will not cost more than than "counterfactual", which at the cheapest, means gas boilers, appear to have been dropped. Instead, the Heat Trust "comparator" simply informs customers of how their costs might compare with an alternative form of heating in their building, offering no way to do anything about it. Moreover, the way the comparison is set up leaves customers confused and then furious, when they find comparisons are based on them buying and running a boiler far bigger than their needs, or insurance that they would not need with a new appliance. Comparison with the counter-factual is still a factor in BEIS's choice of schemes to support.
11. In Southwark a resident of one small estate recently took a case to first tier tribunal against the local authority, who were trying to impose on leaseholders major improvements to their heat network at a cost of £25,000 per flat, on top of the weekly cost of £12/week for a two bed flat. The old system was based on hot air being blown into living rooms. The new system is based on new thermal stores, in a new cupboard in each flat - a surprising choice and an expensive one, more normal

for large multi-person homes with two or more bathrooms, requiring a big store of hot water. Apparently the system breaks down about once a month, and homes are unbearably hot in the summer.

12. The Southwark resident did not want this new system, and won her case at first tier tribunal: the new system was clearly an improvement or extension and not a repair of what they had before. The council appealed, and is bringing to the Upper Lands Tribunal extremely highly paid expert counsel, that she can in no way match. She says that if she loses, it could cost her her home. The injustice is intolerable.
13. In Redbrick estate, Islington, on Christmas eve 2015, residents were told that they would have to pay for a new communal heating system. The estimated bill that followed came to £22,000, payable within five years (or a maximum of ten years with additional interest). The cost is to pay for replacement and improvement to a network connected to the flagship Bunhill scheme, using waste heat from the London Underground. However exciting this development may be (and it is) the reality for Redbrick is that they must still pay for conventional CHP communal boilers to meet peak demand, and for the completely unnecessary replacement of the whole heating systems within their flats. Islington Council maintains that residents will have access to low cost heat, and that the investment will pay for itself in 10 years, while the real figure appears to be over more than 30 years, if at all.
14. Residents say that many of them simply do not have that kind of money. Many are elderly and will never live to see the benefits. Nor would they recoup the money if they sold the flat. Critically, it represents an appalling capital investment: if £22,000 were invested elsewhere, even the interest would cover their heating costs. Investment in Islington's scheme gives a return less than the rate of inflation, costing leaseholders far more money than it saves. The upfront cost to residents is more than five times the amount they would expect to pay for a gas boiler equivalent, which would be cheaper even factoring in maintenance and replacement after 10-15 years.
15. Residents ask why such projects should not be financed through government borrowing and then paid off over the lifetime of the system via the service charge, with interest charged at government borrowing rates. They say the interest would add to the cost, but this would be more than offset by the advantages of spreading the cost, removing the burden of up front capital costs on pensioners. Crucially, the Redbrick residents cannot rely on the figures they are offered -- even the gas boiler running costs presented by the Council as a way to show that District Heating works out cheaper. The council's cost benefit analysis claimed that residents would have to buy gas at 4.7p/kWh if choosing combi boilers, while it is actually sold by Islington Council itself, through Angelic Energy, at 2.86p/kWh.

16. At the same time, regulation of District Heating is urgent, to protect both leaseholders and other users from problems unrelated to costs. While heat networks can work well, and often do, every study (including BEIS' large-scale survey, and research by Consumers Association, Citizens Advice, Joseph Rowntree foundation and others) has confirmed our daily experience: many users suffer extremely unreliable heating and hot water, terrible customer service, and overheating.
17. Compounding the problem is a lack of information. Standing charges may be set at a level that would be relevant to their mortgage calculations -- if they knew about them at time of purchase. They rarely do. Instead, they may see -- or miss -- small print informing them that there is a heat network in operation, and that this will be clean and economical. Few home buyers are aware that as well as expected potential costs for eg a new roof, which they may figure in when buying a property, in District Heating estates they may also receive a sudden demand for tens of thousands of pounds, to be paid upfront when a network needs major refurbishment or replacement.
18. Prospective tenants, leaseholders, and freeholders should be made fully aware of the nature of the system they are intending to move into, and its costs, including future costs. The CMA has now recommended regulation of the heat industry. This must be included. But it will not solve the basic issue of high standing charges and capital levies.
- 19. The District Heating industry trade body, ADE, acknowledged when we met them that there is a serious problem for leaseholders in particular. They said it must be dealt with through a change in leasehold law.**

B. Cladding and insulation

20. The appalling situation of residents in buildings with Grenfell-style cladding is now well known, and must not be neglected in considering what must be done for existing leaseholders. While some landlords, or developers, have been ready to fund replacement of combustible materials, most are not. Instead, leaseholders have been told that they must either find tens of thousands of pounds themselves, or continue to live – and put their children to sleep – in buildings that could go up in flames. Many simply do not have that kind of money. They bear no responsibility for the choice of cladding materials on their blocks, and it defies any sense of justice that they should be made to pay.
21. In the meantime, while waiting for re-cladding, leaseholders are paying an extremely high cost for fire marshals to patrol their buildings – a totally inadequate solution, even if the patrols are scrupulously carried out. What they have to look forward to, when cladding is removed, may also have a high cost financially and in health, as it

may not be replaced for many months, leaving them cold and with extraordinary heating bills.

22. Leaseholders who bought flats in good faith have lost everything in this crisis. They cannot sell their property. They cannot sleep in it. Many people's health, family lives and prospects have been ruined, and some have ended up in hospital.
23. Appeals to the legal system have so far ended in failure.
24. Any attempt to redress the balance for leaseholders must ensure that this does not continue. There are various proposals on the table. We believe that where landlords or developers are not ready to foot the bill, the government should pay for re-cladding now, and then seek to recoup the cost where appropriate.

Information and accountability

25. **In addition to these two points**, the Chair of Pembroke Park Residents Association in Hillingdon has asked us to convey to you their concern about **lack of information and accountability** for both freeholders and leaseholders. She says, "We were not given all the facts about the Social Housing, the service charges or the management company let alone that freeholders have no rights whatsoever on a mixed estate. There is no accountability to the Freeholders, Leaseholders or Shared Owners re the workings of the service charges. We have serious communal repairs going back four years that have still not been dealt with and that they expect us to pay for."
26. **As highlighted by the Hackitt Report, lack of accountability to residents' organisations is a key factor in putting them in danger.** This includes the danger of death: from fire, from poor construction where regulations are weak or are not enforced, and from fuel poverty where insulation, draught-proofing, or heating systems are inadequate.

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