

#ALEPLecture

ALEP LECTURE 2025

Wednesday 5 March
One Great George Street

When we last met for the ALEP Conference in October 2024, we were awaiting the implementation of the Leasehold and Freehold Reform Act 2024. Since then, we have seen the abolition of the two-year rule (challenges of which we are discussing today), and changes to Right To Manage, which came into being this week. We wait with bated breath as to what might be next – particularly in regard to valuation – and given that it appears to be social media that provides these updates, encourage our members to keep a close eye on their preferred channel.

The government has committed to introducing a Leasehold and Commonhold Reform Bill at some point during this session of Parliament. ALEP has long sought to have an official voice in discussions on the topic but was excluded from the Commonhold Council by the last administration, perhaps in the mistaken belief that our members were 'against' this form of tenure. Undeterred, we persist in our efforts to secure a meeting with Mr Pennycook to discuss this further - indeed, we once again invited the minister to speak or attend today, but he declined due to diary constraints and parliamentary commitments.

The prospect of very real and significant change to the legal and valuation pathways that, as professionals, we help our clients (both leaseholders and freeholders) navigate are forefront in all our minds and we will continue to foster debate and discussion on the issues and challenges ahead.

Mark Chick
John Midgley
ALEP Directors



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We are delighted to welcome you to One Great George Street.

There are no fire tests planned today. In the event of a fire or other emergency, please follow the instructions of venue staff.



Handouts:

If you have not downloaded today's handouts from your joining instructions, they are available by scanning this QR code. *Please note that not all sessions have handouts.*

PART I



HOST'S WELCOME

Anna Favre, Partner, Cripps

Anna, a Senior Partner at Cripps and ALEP Advisory Committee Member, specialises in all aspects of residential Landlord and Tenant work including complex leasehold enfranchisement claims, lease extensions, security of tenure and tribunal proceedings. Anna's practice is varied and wide with a client base comprising large London Estates, high net worth individuals, companies, trusts, personal representatives and developers.

HOUSING POLICY: THE GOVERNMENT'S PLANS FOR REFORM - A PLANNING AND PROPERTY PERSPECTIVE

Jenny Wigley KC | Justin Bates KC, Landmark Chambers

As leasehold enfranchisement practitioners, we are (perhaps rightly?) obsessed with our own 'micro-environment' of leasehold reform. However, housing policy does not exist in a vacuum, and it is vital to understand the likely priorities that government has in mind and how plans to reform the planning regime and the private rented sector might impact the wider property landscape and our own practice.

NOTICES AND THE 'REGISTRATION GAP'

Ellodie Gibbons | Sophie Gibson, Landmark Chambers

The gap between completion of a sale or transfer and registration continues to cause issues in practice. The removal of the two-year rule provides easier access to enfranchisement rights, but the question of 'who is the qualifying tenant' remains. Similarly, where a title has changed hands, and the Land Registry records are not updated, questions can arise as to who is entitled to act as the landlord. In this session we will explore recent cases and address issues of title as they affect personal representatives. We will also consider some follow-on points that arise from the abolition of the two-year rule.

HUMAN RIGHTS & LAFRA: AN UPDATE FROM THE COURTS

Robert Boucher, Howard Kennedy | James Fieldsend, Tanfield Chambers

John Lyon's Charity, along with five other claimants, have been given permission to apply for judicial review of various provisions of LAFRA 2024, including the removal of payment of marriage value from enfranchisement premiums. In a two day hearing at the Royal Courts of Justice, Mr Justice Chamberlain decided that the six claims should proceed to a substantive hearing to decide whether those provisions of LAFRA should be declared to be incompatible with the right to property under the Human Rights Act 1998.

Robert Boucher of Howard Kennedy and James Fieldsend of Tanfield Chambers, who acted for John Lyon's Charity, will provide an overview of the claims and what we can expect next.

3.10 - 3.40: TEA BREAK

Due to our full agenda, we ask delegates to return promptly after tea break.

PART II

BSA AND ENFRANCHISEMENT

Mark Loveday, Tanfield Chambers

The Building Safety Act is a game changer in terms of landlord liability and raises questions in relation to service charges, recoverability, landlord certificates and keeping track of the position of the various affected parties. In this session Mark Loveday from Tanfield Chambers will offer some pointers and 'things to look out for' when considering a collective enfranchisement in the light of this legislation.

MARKET UPDATE

Nick Maud, Savills

Nick Maud, a Director from the Residential Research team at Savills will provide a market overview/ update of the current trends in the UK housing market.

VALUATION MATTERS

Kevin Ryan, Carter Jonas

With LAFRA 2024 on the statute books - but it being far from clear what its eventual implementation will look like - valuing freeholds and negotiating enfranchisement and lease extension premiums has never been harder. In this session Kevin Ryan of Carter Jonas will share some thoughts on 'the state we are in' and how best to approach valuation in the 'current climate.' In true ALEP style we will look for a lively discussion and exchange of views.

COMMONHOLD: THE BIG DEBATE

Mairead McErlean, Emeria | James Brennan, Spencer West

The government, via Matthew Pennycook's ministerial statement made on 21 November 2024, stated its intention to publish a White Paper on Commonhold. There are a variety of views on Commonhold – and, correspondingly, on the adaptability and suitability of Leasehold - as the private ownership model of choice for the nation's flatted housing stock. The many issues which need to be addressed to make it more workable are well rehearsed.

ALEP has long sought to have a voice in the government discussion on the topic but was excluded from the Commonhold Council by the last administration, perhaps in the mistaken belief that our members were 'against' this form of tenure.

In this session, we will explore views on Commonhold, in the hope to engender debate; in particular the comparison of a 999-year lease with a share of freehold at nil rent - and whether this can be seen as a 'Commonhold equivalent' - and any basis for regarding Commonhold as the model which can enable better outcomes. Our speakers will consider what elements of leasehold might be retained or, conversely, what features of Commonhold might be cherry-picked and implanted into a reformed leasehold system.

ALEP on the Town

We will be holding an ALEP on the Town evening drinks reception following the lecture at The Two Chairmen, a short walk from One Great George Street. Thank you to our sponsors for the evening: Virtual Company Secretary, Landmark Chambers and The Freehold Collective.

5.30: CLOSE

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YOUR SPEAKERS



JENNY WIGLEY KC, LANDMARK CHAMBERS

Jenny is a barrister and Joint Head of Landmark Chambers whose practice focuses on planning, environmental and local government law. Jenny appears regularly in planning inquiries and in the High Court, Court of Appeal and Supreme Court in judicial review and statutory review claims including the Supreme Court case of *Wright v. Resilient Energy and Forest of Dean* and one of the key planning rulings of 2024 - *Dennis, R (On the Application Of) v London Borough of Southwark*.

JUSTIN BATES KC, LANDMARK CHAMBERS

Justin is a barrister at Landmark Chambers whose practice considers all matters relating to housing and property, including building safety, leases and all residential tenancies. Justin has given expert evidence on housing law reform to the House of Commons, House of Lords and Senedd Cymru (Welsh Assembly) and co-author of the Homes (Fitness for Human Habitation) Act and the Supported Housing (Regulatory Oversight) Act. He was previously part of the Right to Manage reform project team at the Law Commission.



ELLODIE GIBBONS, LANDMARK CHAMBERS

Elodie is a specialist leasehold barrister at Landmark Chambers with particular expertise in leasehold enfranchisement, service and administration charge disputes, right to manage and rights of first refusal. She also deals with related areas of law such as easements, restrictive covenants, property related professional negligence and commercial landlord and tenant.

SOPHIE GIBSON, LANDMARK CHAMBERS

Sophie Gibson is a barrister at Landmark Chambers and accepts instructions across Chambers' areas of practice with a specialist interest in the use of land and Chancery (traditional and commercial) issues. Sophie was junior counsel (led by Justin Bates KC) in the recent Upper Tribunal and Court of Appeal cases concerning the right to manage and the registration gap. She is also on the editorial team of the *Encyclopaedia of Housing Law and Practice* (Sweet & Maxwell).



ROBERT BOUCHER, HOWARD KENNEDY

Robert Boucher is a Legal Director in the real estate dispute resolution team at Howard Kennedy LLP. He specialises in residential and commercial landlord and tenant disputes, particularly enfranchisement claims where development value is in issue. His first taste of leasehold reform litigation was acting for the leaseholders in the Upper Tribunal case of *Mundy v Sloane Stanley*, on relativity in enfranchisement claims. He has been interested in cases with tricky valuation aspects ever since.

JAMES FIELDSEND, TANFIELD CHAMBERS

James is a specialist property practitioner at Tanfield Chambers. He has a wealth of experience of litigating and advising in enfranchisement claims and has appeared in a number of well known cases, including: "*Nailrite*" [2009]; "*Greensleeves*" [2015]; "*All Saints*" [2017]; *Howard de Walden v Accordway* [2017]; *Cadogan v Alberti* [2022].



MARK LOVEDAY, TANFIELD CHAMBERS

Mark is currently instructed for the Secretary of State in the judicial review challenges to the Leasehold and Freehold Reform Act 2024. His recent appeal cases include enfranchisement (*Daejan v Collins* [2024]), right to manage (*Avon v Canary Gateway* [2023]) and management (*Dell v 89 Holland Park Management* [2023]). He appeared for ALEP as intervener in the Supreme Court in *A1 Properties (Sunderland) v Tudor Studios*.

NICK MAUD, SAVILLS

Nick recently joined Savills as a Director within the Residential Research team, focused on prime UK housing markets from a business-to-consumer perspective. He has over a decade's worth of experience in the property industry, most recently with Knight Frank and Foxtons.



KEVIN RYAN, CARTER JONAS

Kevin is a Chartered Surveyor with 35+ years' experience in the residential sector in central London, specialising in Leasehold Enfranchisement. Advising mainly on valuations for lease extensions and collective enfranchisement, his clients include high profile private and public sector landlords as well as lessees in the form of private individuals and groups as nominee purchasers, trustees, executors, and others. He acts as expert witness in enfranchisement matters and other property disputes, with many appearances in The First-tier/ Upper Tribunals and the Courts.

MAIREAD MCERLEAN, EMERIA

Mairead is a solicitor with 18 years' experience as a litigator in private practice. Now in an in-house role in property services, she leads the group's dispute resolution and regulatory affairs teams. While much of her role is advisory, Mairead continues to apply her litigation background to her work, always approaching challenges with a litigator's eye for potential disputes. In early 2025, Mairead began a deep dive into commonhold on LinkedIn, where her insightful posts have sparked engaging and thought-provoking discussion.



JAMES BRENNAN, SPENCER WEST

James has worked within firms in property litigation and transactional work, specialising in leasehold management, defective premises, enfranchisement, property torts and freehold estates. James has contributed articles on scheme design for blocks of flats to *The Landlord and Tenant Review* and *The Estates Gazette*. James has been a director of an RMC. He has shifted from being an enthusiastic proponent of Commonhold following the 2002 Act to his present stance of being more critical and will explain today how this shift came about.