



# Shelter



Ms Kitty Ussher MP  
Economic Secretary  
HM Treasury  
1 Horse Guards Road  
London  
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**Sent by post and email**

22 October 2007

Dear Economic Secretary

### Sale and leaseback schemes

We were interested by the comments at the recent Treasury Select Committee hearing about sale and leaseback schemes.

As we are sure you are aware, these are products which allow home owners to sell their home to a company and then to remain in the home by leasing it back.

We recognise that sale and leaseback schemes could have a valuable role to play in preventing repossession and homelessness if they were properly regulated and operated, and in particular there may be a potential role for the social housing sector in offering this sort of flexibility for households to move across tenures as their circumstances change. They are an option available to a consumer who wishes to overcome financial difficulties but without the distress and upheaval of losing the family home.

However, some of the schemes appear to be particularly targeted at vulnerable consumers in financial difficulty, often facing the threat of possession.

In addition to the consumer's financial position, we have concerns about some of the characteristics of these schemes and the way they operate in the market. These include:

- the lease back to the customer is usually on an assured shorthold tenancy. This affords very little security of tenure to the customer and the customer might, therefore, lose the property in any event;
- the purchase of the property is at a discounted rate – this effectively strips equity out of the property;
- there does not always seem to be an independent valuation as part of the transaction;

- it is not always clear what legal or financial advice customers receive before selling their home in this way;
- the way in which some schemes are advertised is potentially misleading; in particular, the advertisements often give the impression that the customer will be able to stay in their home for as long as they wish, whilst in fact this is not the case. Similarly, we have received some reports of a poor level of information and advice being given to customers during the process of contracting the agreement for sale and leaseback. We believe there is good case for advertising, sales and customer care standards to be investigated by the Office of Fair Trading;
- benefits – we understand that some customers are proceeding on the basis that they will be entitled to claim housing benefit, and that the benefit will assist with the rental payments; however, anecdotally, we understand that eligibility for benefit may be affected either because of the capital paid to the borrower, or because the payment made by the company comes within the deprivation of capital rules;
- some schemes include an option to buy back; however, time is often of the essence for options to be exercised, and it is not clear that customers understand this. It should be clearly set out if the customer can buy back the property and at what price; the ability to buy back all or part of the property is a valuable means of ensuring that sale and leaseback schemes operate to their full potential as tools offering flexible tenure as households' circumstances change;
- there is some concern that such sales might be treated by a trustee in bankruptcy as a sale at undervalue that could be set aside; and
- even where schemes give the consumer the assurance of staying in the home for a long term, should the buy back company become insolvent, the consumer may lose their home.

Because of these characteristics and the potential vulnerability of consumers facing repossession, we believe that safeguards should be put in place. Controls exist for action taken by mortgage lenders when customers are in arrears, but there are no such safeguards for customers following this route.

We believe that we are seeing the emergence of a new bundled and unregulated financial service which, because of the features outlined above and the characteristics and potential vulnerability of consumers facing repossession, merits specific positive regulation.

We are, therefore, asking you to consider making these products subject to regulation by the Financial Services Authority. We believe that they are similar in some ways to home reversion schemes and some forms of Islamic finance, both of which are now regulated by the Financial Services Authority. We believe that to protect customers these products should also be regulated. In the current climate of rising numbers of repossessions, the take-up of these products is likely to increase. There are increasing

reports of households who have been severely disadvantaged by taking up sale and leaseback schemes, and we are concerned to ensure that this is prevented in future.

We understand from comments to the Treasury Select Committee last week that the Treasury and the FSA are reviewing the regulation of these products. We are writing to support any such review and to request that the Treasury ensures that regulation is implemented as a matter of priority.

In addition, as mentioned above, we believe that some of the ways in which these products are marketed could be misleading. We are, therefore, copying in the Office of Fair Trading in the hope that this can also be looked into.

Our organisations will work to increase consumer awareness of the issues to consider before following the sale and leaseback route and to encourage all consumers facing financial difficulty to seek appropriate advice.

We would be happy to meet to discuss this issue with you further, and relevant contact details for our organisations are set out below.

Yours sincerely



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Teresa Perchard  
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cc: Yvette Cooper MP, Minister for Housing, Department for Communities and Local Government  
Hector Sants, Chief Executive, Financial Services Authority  
John McFall MP, Chairman, Treasury Committee  
Clive Briault, Managing Director, Retail Markets, Financial Services Authority  
John Fingleton, Chief Executive, Office of Fair Trading  
Gareth Thomas MP, Parliamentary Under-Secretary of State for Trade and Consumer Affairs  
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## Contacts

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