

HomeOwners Alliance - Problems with new build estate management fees

The rise of privately owned and managed new build estates over the past 20 years has led to freeholders having to pay new build estate management fees on top of council tax. Other pitfalls can include being charged for maintenance by a managing agent they have no say over to having to pay high admin and permission fees, which can cause difficulties when selling. Read on to find out more about new build estate management fees, termed 'fleecehold', and what you can do about it.

Estate management fees on new housing developments

Paula Higgins, CEO & Founder

What are new build estate management fees?

Most people know about freehold and leasehold, but a new model of new build estate management fees, known as 'fleecehold', has crept in over the last 20 years and is now the industry norm. Owners of at least a million newly built homes on 20,000 new housing estates, face paying these estate charges and permission fees with no way to challenge them or to take over the management themselves. This problem continues to grow.

New build estate management fees – freeholder problems

The main problems with new build estate management fees are:

1. You may face high fees

You buy a freehold house on a new build estate and are told there is a small charge to look after the lovely green open spaces. Sounds reasonable? Yes, until problems start. For example, you may soon find that you're being charged high estate management fees for poor service or being charged before the estate is completed.

Then, you begin digging and find the devil is in the detail. The charge is bound to your property through your title deeds. Your only way out is to sell and pay off the fees to the management company. When you sell it's likely that you'll experience delays (as often happens if you're selling a leasehold property). But, more importantly, you may also find it difficult to find a buyer as the buyer's lender and conveyancer will likely raise concerns about the estate management fees.

Plus, you may also find that construction on the estate is sub-standard, which will result in higher maintenance costs over the long-term. Examples may include trees not properly planted, cheap paths and gravel roads.

2. No dispute resolution for freeholders

Unlike leasehold service charges where there is a tribunal, there is no alternative dispute resolution available for freeholders to dispute estate management fees. Although you can dispute estate management fees in county court, not many people have the resources to do so. This isn't helped by the contract being written by the developer and in many cases seems to be deliberately vague.

However, if you are considering taking action, you may find this guide to Bringing and Defending a Small Claim by the Civil Justice Council useful.

3. No right to manage for freeholders

You have no consumer rights as the managing agents are accountable to the landowner (often themselves) and not you. There is no way you can demand a new managing agent. There is no statutory right to manage as with leasehold property.

Even with the promise that the managing agent will hand over responsibility to a residents' management company, this may not happen.

Residents on a private estate find they have to pay whatever charge the company decides for whatever level of service. The open space you pay for can be used and abused by the general public and yet you are required to cover the cost of maintaining the estate as well as paying council tax.

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Do leaseholders on new build estate management fees?

Leaseholders on private new build estates sometimes also pay estate management fees in addition to their ground rent and service charges. Read more in our guide Leasehold charges – what to know. The government is addressing some of the more serious leasehold abuses in new build homes, but the battle is just beginning to put a stop to uncapped and out of control 'extra' estate management fees.

Campaign to end to 'fleecehold' in 2024

Many homeowners on private estates feel duped, ripped off and are very angry at the way they are being treated. The current system is unfair to 'fleecehold' owners who feel they have not been fully informed of their extra financial obligations when buying a home on a newly built estate.

The Competition & Markets Authority looked at fleecehold as part of Housebuilding Market Study announced in February 2023. The HomeOwners Alliance met with the CMA to raise our concerns. And in February 2024 the CMA made recommendations to government. These include:

- requiring councils to adopt amenities on all new housing estates.
- introducing enhanced consumer protections for homeowners on existing privately managed estates – including making it easier for homeowners to switch to a more competitive management company.
- establishing a New Homes Ombudsman as soon as possible and setting a single mandatory consumer code so homeowners can better pursue homebuilders over any quality issues they face.

At HomeOwners Alliance we fully support these recommendations and urge the government to act sooner rather than later. These unfair charges and practices will not go away as the CMA found that 80% of new homes sold by the 11 largest developers in 2021/22 were subject to estate management charges.

The current Leasehold and Reform Bill if passed, will grant homeowners on private and mixed tenure estates the right to redress through the first property tribunal but not the Right to Manage. Our CEO made this point at the Leasehold Bill Committee and will continue to press for amendments to this bill to implement CMA's recommendations in full.

Could you face a 'new town tax'?

At HomeOwners Alliance we worked with the Sunday Times to expose the issue that while getting rid of a management company would be welcomed by many residents of new build estates, they may still need to pay extra charges to live on new developments.

For example, residents in a Cranbrook, a new town in Devon, saw the town council take over responsibility for the upkeep of facilities such as landscaped gardens. However, the council is now charging band F properties a £370 surcharge, rising to £512 for band H properties in addition to council tax. Residents receive no more services than people elsewhere in Devon.

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What happens if new build owners refuse to pay estate management fees

If you refuse to pay new build estate management fees because you are dissatisfied, you may be bullied into paying up under threat of court action, as well as, additional debt collection charges.

You are also at risk of repossession. The 1925 Property Act states that a lease can be created on your home if you refuse to pay. Mortgage lenders will often insist on a Deed of Variation to protect them against this from happening.

How have new build estate management fees happened?

Section 106 agreements

The current situation is the result of negotiations between developers and planning authorities under what is known as “Section 106 agreements”. The original intention of these funding agreements was to reduce the impact of new developments on their surrounding infrastructure (roads, schools etc.) where they would not otherwise obtain planning permission.

Over the years, it has turned into a mechanism for councils to use this much needed funding from developers to pay for council-wide services.

Developers can reduce their overall section 106 spend by offering to manage the new build estate themselves. This also saves them money in construction costs and the council saves money but not having to adopt the estate while still charging full council tax.

Impact on homeowners

Councils may think they are doing the best for their ratepayers, but they are selling out on their new homeowners. Home buyers pick up the tab, forced to pay for open space and playgrounds they do not own and which are public amenities. Also, there may be an element of misselling here by developers if new buyers are not made aware of these charges. Also, there isn't any obligation to set out how they may increase in the future.

Also, homeowners may have no say over how these spaces, which may be of sub-standard construction, are managed. The investors end up retaining ownership of the open spaces while the homeowners have to pay. There are some cases where homeowners are having to pay the landowner to maintain their own gardens.

HorNet campaign

HorNet is a group of UK homeowners campaigning for better regulation of new build estate management fees and ultimately want to see them banned. They represent over 12,000 estate

dwellers subject to estate charges and have data on over 850 developments with at least 184,000 homes.

They want to see full public or council ownership and management of open spaces and want all new estates to be built to the standard required for the Council to adopt.

What if you are buying a new build home now?

Most newly built homes sold now will have an estate charge attached. Even if the developer intends to set up a resident management company to manage the estate when it is finished, there is no guarantee that this will happen. Even if it does, there is still an open-ended liability when you sign your deeds to purchase a new build property. You will still be required to pay your share of costs to maintain open spaces and other maintenance costs. See our guide for more about service charges.

Make sure you know what you're letting yourself in by asking the estate agent and developer's sales office the following. Get their answers in detail and in writing (email is fine).

Is the whole of the estate going to be adopted by the council when it is completed? If not, which parts will remain in private ownership?

Has the developer promised the council to maintain any adjacent areas of public open space?

What arrangements are in place to maintain unadopted areas of public open space?

Is there a Residents' Management Company (RMC) which will take control of the unadopted areas when the estate is completed?

Is there a cap on the estate charges and/or a limit to annual rise in costs?

Is there a dispute resolution process, and if so, what is it?

What standards are used for the construction of the estate roads, footpaths, sewers, play areas and is there a process in place for handover from the developer to the management company?

Are there any guarantees or indemnities against defects in the construction of the estate?