Home Buying and Selling Reform

Body responsible for the consultation

The Ministry of Housing, Communities and Local Government (MHCLG)

UK Finance consultation response

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Introduction

UK Finance is the collective voice for the banking and finance industry. We represent 300 firms across the sector, including 120 mortgage lenders. These lenders include banks, building societies and non-bank lenders providing mortgages to all parts of the UK's housing market: owner occupied, buy-to-let, later life lending, self-build, shared ownership, social and affordable housing.

UK Finance welcomes the opportunity to respond to this consultation seeking views on proposals to improve the home buying and selling process.

This response reflects the views of our broad membership base. Given the diverse nature of our mortgage members, opinions may at times vary, and this is reflected in in some of our responses to the consultation questions.

Executive Summary

There is already a very strong focus on customer experience and efficiency in the mortgage sector, which is driving innovation. Many participants in the mortgage sector , including mortgage intermediaries, mortgage lenders, conveyancers are investing in digital technologies to further improve the customer experience, reduce the risk of fraud, and create efficiencies with the mortgage process.

However, there is scope for greater collaboration between parties involved in the home-buying process – including mortgage lenders – to speed up aspects of the process and avoid duplication, while ensuring positive consumer outcomes and enhanced levels of satisfaction.

We support fuller information being made available about the property being sold, earlier in the process, which should help to avoid delays later in the transaction.

Our members are broadly supportive of the principles of the reforms outlined, and the proposals to introduce:

- mandatory requirements for sellers and property agents to provide comprehensive property information at the point of listing.
- clear regulatory frameworks to define roles, responsibilities, and liabilities of the various parties involved in the home buying and selling process

- new professional standards for property agents.
- mechanisms to make property transactions more binding at an earlier stage – although some of our members are not persuaded that this is necessary.
- greater digitalisation to streamline transactions – though members emphasised the need for safeguards to avoid the exclusion of older, vulnerable and less digitally capable customers.

Open consultation

Home buying and selling reform

Response to questions

Question numbering begins at 5, corresponding with the numbering in the original consultation.

5. Do you agree with the proposed objectives for reforming the home buying and selling system?

Yes.

6. Are there any objectives you think should be changed, removed, or added?

Yes, feedback from our members highlighted:

- The risk that a 'digital first' approach could unintentionally exclude certain groups. There must be targeted support for vulnerable buyers/ sellers (including older buyers and those with disabilities) and those with limited digital access. Solutions could include paper-based or "in-person" alternatives and helplines.
- That digitalisation of the homebuying and selling process should be an objective in its own right.
- That there should be an explicit objective to integrate property condition, climate resiliency/ adaption and energy data (e.g., EPCs, retrofit history, flood risk/ defences etc.) into the transactional data set. This would help ensure that transactional certainty aligns with long-term sustainability. The recently published FloodReady report sets out recommendations supporting the need for access to "accurate, user-friendly information to make informed decisions."
- That there should be increased protection for mortgage lenders in cases of delayed and un-registered charges to ensure the lender's interest takes precedence. A properly registered charge ensures the mortgage lender's interests take

precedence, whereas failure or delay in registration might subordinate the lender's security to later registered interests, posing considerable risks.

- That higher professional standards for relevant stakeholders (including estate agents, conveyancers and surveyors) should be mandated via regulation/ legislation – with adequate training/ education on any new responsibilities. These standards should be enforced with consequences for non-compliance or failure to meet the standards. To avoid smaller firms of estate agents, conveyancers, surveyors etc. (who may not have the infrastructure in place to comply at the same pace as larger firms) being disproportionately penalised, a suitable transition plan should be established, with a backstop for compliance.

7. Do you agree that there should be a mandatory requirement for sellers and estate agents to provide comprehensive upfront information?

Yes. This requirement is a fundamental step towards accelerating the end-to-end home-buying and selling timeline. Considerable steps will need to be taken to ensure the seller's estate agents or conveyancer/legal representative verify the accuracy of information to ensure buyers are not being misled.

Members believe this will significantly enhance transparency and trust, reducing transaction risk and abortive costs from failed applications by enabling potential issues to be identified immediately.

To successfully implement this requirement and reduce time inefficiencies, it will be necessary to improve the knowledge and understanding of the professional advisers involved. This will ensure they provide information in line with their contractual obligations. It will be important for them to know and understand where their responsibilities lie in relation to accuracy of information.

It must be clear who is responsible for checking and validating data accuracy. Clarity will also be required for valuers/surveyors so that they can understand who they have liability to when assessing information at an early stage, as they will not be officially instructed by the purchaser (as is currently the case).

Members have suggested that government should continue to consult the sectors involved to understand how sellers could work with conveyancers and surveyors to carry out searches and a property condition assessment prior to listing. Another option could be that organisations/ individuals operating under approved certification schemes could provide this service.

A mechanism will need to be established to allow new home builders to manage upfront information when selling new build properties off plan, to ensure buyers have similar levels of transparency.

Similarly, there will be instances when the seller is a mortgagee in possession, so there must be a mechanism to consider and address any difficulties lenders in possession may have in providing comprehensive upfront information.

8. Do you agree that this should include a requirement to order property searches and undertake a property condition report?

In principle, this requirement represents an important step towards reducing downstream risk and transaction fall through rates. To implement this requirement successfully and avoid the shortcomings of the previous **Home Information Packs** (HIPs), it is essential to provide supported and phased implementation which establishes trust and reliance from mortgage lenders, particularly with regards to the property condition report.

If mortgage lenders cannot rely on the information provided by the seller, our members have said that they will have to instruct their own survey – duplicating costs and undermining the purpose of the reforms. Therefore, success depends on creating a single, verified report standard with consideration given to robust professional liability requirements, that is universally accepted by lenders.

To support the implementation of property searches and a property condition report, government should help firms with the costs relating to the upskilling required through the provision training grants and/ subsidies, so costs and timing do not prevent smaller estate agent or conveyancing firms implement the changes required.

Purchasers should receive a comprehensive financial and legal disclosure included within marketing materials for leasehold, commonhold, and certain freehold properties. There should be upfront transparency on service charges, ground rent mechanisms, property linked finance (PLF), and any planned works such as cladding repairs, including cost and timing. It is worth noting that, where a property is not sold within a timely manner, this information would need to be updated which may result in extra costs, potentially for the seller.

In instances where the information cannot be provided because of an absentee freeholder, the legislation must include guidance for vendors/ property professionals on the minimum level of information permissible in order that the transaction can proceed. The guidance must be drafted to ensure that it doesn't create a "loophole" that enables vendors/property professionals to market a property with an incomplete "material information" pack.

Some members have said that in instances where indemnity insurance is required to perfect title, the seller should be responsible for meeting the cost, although the buyer's conveyancer may be required to arrange the indemnity insurance to ensure that it meets the lender's requirements.

However, not all members are of the view that a property condition report is necessary given the amount of special condition reports already in existence. Some lenders consider that more information is needed on the creation and assessment process of property condition reports – they consider that there is a need for clarity on what the report should cover, and what should be excluded or signposted for further, separate investigation.

As mentioned in our answer to Question 7 – members are of the view that estate agents would need specific training if they were to be held responsible for obtaining information from Land Registry, and understand the documentation, and when to access further information if required.

It has been suggested that estate agents should be able to instruct conveyancers to compile the title information for them to utilise. The likelihood is that organisations could be set up, and new professions created to provide the required services.

9. What steps should government take to ensure that conveyancing lawyers, estate agents and surveyors have the capacity and capability to implement this change?

Pre-Implementation

Members support targeted workforce development (apprenticeships, grants etc.) to grow conveyancing and surveying capacity, and to include development programmes for new roles such as the envisaged 'Property Information Technician', for example. These professionals would be focused on the efficient collection and validation of data, ensuring high standards of consistency and accuracy.

Government should lead a collaborative forum convening professional regulatory bodies including RICS, The Law Society, the Council of Licensed Conveyancers, indemnity insurers, and key technology providers, to agree upon standardised data formats, a common digital system/ portal, and clear rules on professional liability and reliance.

Once this technical and legal framework is established, members feel that this joint body should oversee the development and implementation of a mandatory training and accreditation programme for all professionals (including awareness of the changes for mortgage intermediaries and lenders) involved. Where qualified licenced conveyancers/ solicitors are providing these services, they should be granted exemptions that will allow them to be fast tracked to gain accreditation.

Implementation

Professional Standards

- Provide mandatory training and a standardised accreditation programme for all professionals involved, making compliance a condition for professional registration. This may require updating current qualifications to align with new processes. Government will need to agree a list of organisations or trade associations that are accredited to provide this training.
- Fees will need to reflect the high calibre of staff, and level of investment required to modernise systems and processes.

Technology

- Technology should be flexible and adaptable to accommodate updates and respond to future innovations. Costs should be kept to a minimum.
- Provide transactional funding and grants for digital tooling and training.
- Create an open-access data and communication portal for professionals – including mortgage lenders – which can be used to capture data and be updated through all stages of the home buying and selling process. The portal should be properly funded to ensure it is robust, reliable and secure.

10. What resources and additional training would be needed to implement these changes?

Member suggestions here overlap to a degree with member feedback for Question 9. Suggestions include:

- Standardised and compulsory training modules for each professional role – Government, regulators and professional bodies jointly designing training standards to explain new legislation, responsibilities, non-compliance implications and complaints procedures. Where qualified licenced conveyancers/ solicitors are already providing these services, they should be granted exemptions that will allow them to be fast tracked to gain accreditation.
- Updated professional qualifications with ongoing CPD requirements – estate agents will need to become a regulated profession and be required to have PII cover in place.
- Government investment in digital platforms/ portals, including support for smaller firms to upgrade their systems.
- Public education and awareness campaigns to ensure buyers and sellers have clarity in relation to the changes (when they are implemented) and what this means in relation to responsibilities of conveyancers, valuers, estate agents etc..
- Dedicated central resources for project management and cross-industry governance, including, once the changes are implemented an appointed body for the escalation of complaints/an ombudsman service.

11 Do you agree that government should intervene to drive up standards amongst, and improve trust in, property agents?

Yes. Aligning standards for property agents with those of other regulated professions in the home buying and selling sector (surveyors, conveyancers, mortgage intermediaries etc) would ensure consistency and improve market confidence.

12. Do you agree with our proposal to bring forward a Code of Practice on a non-statutory basis, and to legislate to put this on a statutory footing in future if necessary?

No. Members believe a statutory code of practice with enforceable penalties should be implemented from the outset. If a non-statutory code is introduced, it must include a short timetable for mandatory statutory implementation.

For the code to meaningfully build trust, it must be universally adopted and have a clear, robust enforcement mechanism, with consequences for non-compliance.

13. Do you agree with the proposal to consult on mandatory qualifications for estate and lettings agents?

Yes. Mandatory qualifications are essential for ensuring the sector meets and maintains the requirements relating to the key role they will undertake. The qualifications will help build consumer confidence, as estate agents are a critical part of the process and are currently the only unregulated participants. Mandatory qualifications will align estate agents with the baseline competence and accountability expected from all other regulated professions in the home buying and selling transaction, such as surveyors, conveyancers and mortgage intermediaries.

The consultation must consider the level and content of this qualification and take steps to ensure the implications of this proposal do not “price-out” small estate and lettings agencies – reducing customer choice.

14. Are there additional interventions government should take to drive up standards amongst property agents?

Yes.

<u>Professional Development</u>

- Support and fund new professional pathways, including apprenticeships and formal vocational training.
- Support the provision of mandatory continuous professional development (CPD).
- Both CPD and new professional pathways should be closely audited and regularly reviewed by the relevant professional bodies.
- Additional interventions that would drive up standards among property agents could also include publishing metrics on factors such as speed/ quality of service and complaints.

<u>Consumer Transparency</u>

- Provide more visibility for consumers, funding consumer awareness campaigns and providing a route for customers to complain to an independent regulatory/ ombudsman body.
- Enhanced oversight from Trading Standards & Citizens Advice.
- Any statutory codes of practice should include a knowledge bank of property related issues that often cause transactions to fall-through. Property agents

should be aware of these issues and notify buyers as part of every property viewing.

- Mandatory Professional Indemnity Insurance in relation to services provided as a practicing requirement, evidenced annually, to ensure professional standards are maintained.

15. Are there any other areas across the property agent sector that need to be monitored or regulated to improve the customer journey?

Yes. Areas for additional monitoring and regulation are dependent on the skills required to implement upfront information provision and digitalisation. Areas where current monitoring can be improved include:

- Fee transparency standards
- Dual representation (one estate agent representing both the buyer and seller in the same transaction)
- Conditional selling practices
- Timeliness of information delivery
- Accuracy of marketing claims
- Property measurements (e.g. use of RICS measuring standards should be mandated).

16. Do you agree that government should aim to support the wider use of digital property logbooks and packs?

Yes. Members believe that mandatory and standardised digital logbooks and packs would enhance efficiency and trust across stakeholders.

Digital availability would make accessing property information/ construction detail/ repair certification, and the associated valuation activity, much easier.

The logbooks/ packs should include consistent information and adhere to the same **Property Data Trust Framework** and use **UPRN**s.

In order to address risks of digital exclusion amongst vulnerable and older customers, we suggest any mandatory system is introduced alongside a clear, accessible, and non-penalising alternative pathway.

17. If yes, what do you think would drive their wider adoption? How could government support this and do you think that legislation might be needed to bring about this change?

Members believe that the introduction of mandatory, statutory legislation will encourage wider adoption. To support this, we suggest the provision of a centralised information and communication portal to be used by all parties involved in a home buying and selling transaction.

To facilitate the adoption of this reform and ensure its trustworthiness for lenders, the government should mandate, certify, and help fund the necessary technical, data, and security standards involved in the process of digitisation. Supporting the integration of digital logbooks and packs with lender/ conveyancer workflows and APIs will be an important part of this adoption process.

Information stored within Digital Property Logbooks could integrated into the proposed **Private Rented Sector Database** to demonstrate compliance with legislation such as Decent Homes Standard & other information relevant to tenants. This information could be made available to mortgage lenders via API, so it can be included when assessing buy-to-let mortgage applications.

18. What risks would need to be considered when creating and storing digital logbooks?

The primary risks involve data protection (GDPR), cyber security, outages, data provenance and reliability, and general operational resilience.

Members believe that the quality and consistency of data will be crucial to establishing professional and consumer trust in these digitalisation developments with the need to ensure that the data is current and of correct provenance.

19. Do you agree that government should support mechanisms to make property transactions more binding at an earlier stage?

Members believe that the introduction of such mechanisms would necessitate significant public education campaigns and would rely heavily on the success of upfront information provision reforms. Therefore, members support the introduction of upfront information first, then an assessment of its impact, before finally considering whether these mechanisms are necessary.

Considering the prevalence of complex property chains in England and Wales, some of our members are concerned that enforcing penalties on individuals trapped in broken chains could cause substantial financial and wellbeing distress.

Furthermore, mortgage lenders can withdraw mortgage offers following the receipt of adverse information (about the borrow and/or the property), and this may continue to occur (even when upfront information is being provided) at a later stage of the transaction.

This could create reputational risks for the sector if borrowers are faced with penalties due to being legally bound to purchase, and then their mortgage offer is legitimately withdrawn.

20. What do you think is the most effective means of doing this – incentivise estate agents to offer this as a service, raise consumer awareness of binding agreements, legislate to require their use in property transactions etcetera?

Some members believe legislation should make the contract binding on **all** transactions – simplifying the process and avoiding a two-tier housing market between properties with/ without binding contracts.

Others, (as noted in our answer to Question 19) caution that the introduction of binding agreements is a high-risk strategy, considering the current chain-dependent market and, in turn, they do not believe that binding agreements present an appropriate solution to reducing transaction fall-through rates.

Alternative options suggested include, focusing on raising consumer education and awareness, incentivising estate agents/ lenders to offer reservation agreements (legally binding contracts between the buyer and seller that secures the property for the buyer for a specified period) and introducing targeted legislation if voluntary adoption of reservation agreements does not reduce transaction fall-through. If cancellation of a reservation agreement leads to a financial penalty, careful consideration should be given to the level of such penalties and whether they should be standardised.

Other members, however, disagree that reservation agreements should be optional or incentivised as this could create a confusing process for homebuyers and sellers.

21. What would be appropriate costs and penalties for failure to comply with binding contracts?

As already noted, our members are not universally supportive of the introduction of binding contracts.

If they are introduced, effective, proportionate, and predictable penalties should be applied, with exemptions for genuine, new, material information being provided. Costs incurred by professionals should be linked to the relevant professional standards regime.

Suggestions include:

- Retention of a defined deposit or capped compensation aligned to demonstrable losses.
- The withdrawing party to cover all reasonable costs incurred by the other party, in addition to a fixed penalty.
- A standardised daily interest charge for delayed transactions.

22. Would there be any listed exceptions, or certain situations, for binding contracts not being applied?

Some members have concerns about implementing binding contracts. Any binding system would need to include wide-ranging exceptions for chain-break scenarios. There are difficulties in delineating these exceptions, as they must not be so broad as to undermine the purpose of the binding contracts. Potential exceptions include

fraud, death or sudden incapacity, mortgage application failures, and adverse surveys and valuations.

23. Do you agree that publishing information on the services of property professionals would improve home buying and selling by supporting consumer choice and driving competition?

Yes. Although there are already ways for consumers to access reviews on the performance of property professionals, having everything in a centralised platform, would improve the customer journey.

24. What information would you want to see included in a service of this type?

Consumers would benefit from centralised listings of property professionals from each industry sector, alongside comprehensive information about what each professional service includes and excludes. This should cover service level agreements, complaints procedures, governing bodies, and clarity on responsibilities and liabilities.

In addition, providing full listings of professionals by sector, comparison tools, and numbers of complaints would drive competition.

25. Do you think a charter as set out above would be useful in supporting customers to identify quality property professional services?

No. Members do not believe this is necessary, provided new legislation mandates the regulation of estate agents and the provision of upfront information. If there is a central registration platform for estate agents, customers would be able to check registration credentials of an agent before appointing them.

26. Do you agree that AML checks should be streamlined?

Provided there are sufficiently secure provisions to avoid misuse and fraud, and the streamlining process offers clarity on how each professional party satisfies their own AML responsibilities, AML checks could benefit from being streamlined.

However, given current regulation mandates individual professional groups to have independent responsibility for conducting AML checks, streamlining this presents a significant risk.

27. How can government most effectively support the application of AI conveyancing technology?

By developing open source technology that IT and technology providers can integrate into their process flows/ software solutions. This includes scanning documentation to identify standard items requiring review, providing standard advice responses – enabling conveyancers to focus on non-standard items advice, and pulling documentation together to fulfil ‘upfront information’ requirements.

Attention should also be given to how results from searches can be simplified, again to enable AI to read the results and flag issues that need to be considered by conveyancers.

28. What else do you think government should do to streamline the conveyancing process?

Members have suggested that government should:

- Implement a centralised government sponsored portal, updated by conveyancers at each stage of the transaction process, that can be accessed by representatives of all parties in a property chain. Professionals could automatically upload and retain property documentation in the central online location, for future access.
- Implement a 'traffic light' system indicating who is falling behind on work items in each transaction/ chain would establish greater accountability.
- Consider a standard validity period for searches – e.g. 6 months. Where validity periods expire, simplified processes should be available to receive change updates since the date of the previous search (as opposed to applying for a full search again).
- Improve and automate the process for obtaining property searches and simplify presentation of results.
- Improve Land Registry Records to ensure more immediate downloads are available.

29. Do you agree that this is the correct direction of travel?

Yes.

30. Is there anything else that government should be doing to promote digitalisation of the property sector?

Yes. Members ask that government should:

- Provide long-term, sustained policy certainty. This could be delivered gaining cross-party support for the proposed measures
- Introduce legislation to mandate the use of digitalisation by conveyancers holding a practice certificate; and
- Provide funding or tendering invitations to technology companies to oversee the various projects within the home buying and selling reform's development and implementation.

All parties within the home buying and selling process need to play their part, and individual roles and responsibilities across the industry need to be clearly mapped out to ensure success.

Every effort must be made to ensure the correct level of guard rails are in place to prevent speed of transactions from being an overriding focus – at the cost of the introduction of new risks.

For any questions please contact:

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