UK Finance

Moving to Commonhold

UK Finance's response to MHCLG's Consultation Paper

April | 2026

Introduction

UK Finance is a centre of trust, expertise, and collaboration at the heart of financial services. We represent 300 firms, including 120 first-charge 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. They also lend and invest to support housing associations and social housing providers as well the wider homebuilding sector. Within the 300 firms we represent we also have members that provide services and finance for business, ensuring that UK firms get the support they need to thrive. Their interests can span commercial investors, pensions funds and freeholders.

Executive Summary

UK Finance members broadly support the government's approach to banning leasehold and moving to commonhold for new-build flats. However, there are significant challenges relating to the definition, scope, and transition to commonhold, as well as the protections lenders require before lending at scale can be feasible.

Members welcome the government's focus on improving homeownership and are aware of a number of competing housing priorities within that agenda. We support the need for a clear roadmap to facilitate the development and priority lenders require to adopt to deliver these changes. We would suggest this should be:

- Leasehold reform
- Homebuying and selling reform
- Moving to commonhold (including new-build leasehold flat ban)
- Commonhold conversion

Definition:

Members are concerned that the proposed definition of a commonhold flat lacks clarity. In particular, the use of the term "material part" introduces ambiguity which could be addressed by replacing with a quantitative threshold or 40 per cent, which aligns with the FCA, and Royal Institution of Chartered Surveyors (RICS) approaches to assessing the use of a dwelling. This would reduce the risk of unintended consequences for unusual dwellings such as flying freeholds, split-level units, and coach houses.

Scope of the leasehold ban:

Members are broadly supportive of the proposed scope of the ban but emphasise that clearer guidance is needed on how the ban would apply to:

- Shared ownership
- Retirement housing
- Islamic finance structures and other home purchase plans (HPP)
- Other specialist or non-standard models

Without clarity, there is a risk that housing models unable to function within a commonhold structure will be unintentionally captured.

Developments unsuitable for commonhold:

Members agree that some developments may not be suitable for commonhold and should remain exempt, including:

- Retirement/extra-care schemes
- Assisted living schemes for vulnerable residents
- Complex mixed-use developments
- Build-to-rent

These typically require third-party management or specific legal structures incompatible with commonhold.

The transition to commonhold:

The shift to commonhold requires well defined lender focused safeguards to ensure mortgage security, operational viability, and predictable governance. Decision making within commonhold associations must protect essential building functions and avoid imposing obligations that could prejudice residential or commercial owners.

To lend at scale, lenders require:

- Clarity on value and valuation criteria for commonhold units – supported by new RICS guidance
- Established risk models reflecting new governance and ownership structures
- Secondary legislation detail providing clear understanding of scope and non-standard models
- Clear, workable, and fair processes for enforcement and repossession

Members support mandating the use of standardised templates and documents to create a consistent approach. Members recommend creating a distinct legal title designation at HM Land Registry for commonhold units to avoid confusion with freehold flats, which have limited appetite among lenders.

To reduce risk and ensure compliance with the Building Safety Act, members emphasise that professional managing agents or directors should be mandated for:

- Large footprint buildings
- High-rise (above 11 metres)
- Mixed-use or complex buildings

For small buildings, a proportionate governance model is essential to avoid operational burdens that could create lending risk.

Members stress that implementation must only occur once the wider homeownership ecosystem is ready. This includes developers, consumers, estate agents, mortgage lenders, mortgage advisers, valuers, insurance providers, conveyancers, tribunals, HM Land Registry, and resident management companies. Provided appropriate lender protections are in place then members would be supportive of a single date transition with a five-year implementation period.

Consultation Questions

Introduction

1. If you are responding on behalf of an organisation, please provide the organisation's name and the contact details of a nominated contact.

- Derek Whitmarsh, Principal, Mortgage Policy, UK Finance

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2. In what capacity are you responding?

Relevant representative group

3. If you are responding as an individual, in which region(s) do you live? If you are responding on behalf of an organisation, in which region(s) do you primarily operate?

National organisation

4. For developers/landlords/manging agents: How many flats (individual units) do you currently own or manage?

N/A

5. For developers: Approximately how many new flats (individual units) do you expect to deliver in the next 5 years?

N/A

Scope

6. Do you agree with the proposed definition of a "flat" for the purpose of the ban.

Members considered the proposed definition: "Under the Draft Commonhold and Leasehold Reform Bill (published January 2026), a "flat" is defined as a separate set of premises forming part of a building that is constructed or adapted for use as a dwelling, where the whole or a material part of it lies above or below another part of the building."

Members are supportive of the government's aim to ensure the definition is robust, minimising ambiguity and opportunity for error or potential evasion.
Members are concerned that "material part" is ambiguous. Members strongly recommend replacing "material part" with a quantitative threshold to avoid unintended consequences. Members suggest aligning with other industry approaches and using a threshold of 40 per cent. This threshold is widely used by the FCA, and RICS.

The use of this threshold would align with existing mortgage lending policy and ensure consistency in creating the correct tenure on unusual dwellings such as minor flying freeholds, split-level units, and coach houses.

7. Do you agree with the proposed scope of the ban (categories in A-E above)?

Members broadly support the intention behind the proposed scope of the ban but highlighted several areas requiring greater clarity to ensure the framework is workable for homeowners, lenders, and developers.

There was consensus that clearer guidance is needed on how the ban would apply to certain specialist or non-standard tenure models, including shared ownership, retirement housing, and Islamic finance structures, to avoid unintentionally capturing housing that cannot operate through commonhold.

Members also emphasised the need for clear guidance to clearly distinguish what constitutes a "new" property to avoid future uncertainty and disputes.

Supporting consumer understanding of commonhold will be important in maintaining confidence and demand. Education across the sector is needed to ensure consumers understand the tenure and the responsibilities it involves.

- **Category A (purpose-built new developments)** members agreed that the approach is logical and appropriate.
- **Category B (houses newly converted into flats)** members were supportive from a lending perspective. For small conversions, members suggest buildings of six units or less present practical issues around proportionate commonhold association governance, which requires further clarification.
- **Category C (commercial buildings redeveloped to include flats)** members need assurance that commonhold arrangements will not undermine the value, operation, or security of mixed-use buildings. They emphasised that decisions made through the commonhold association must not prejudice essential building functions or impose unexpected obligations on commercial or residential unit owners.

- **Category D (purpose-built rental blocks whose owners have later opted to sell flats for homeownership)** member views were limited but followed the same need for assurance in Category C.
- **Category E** (**other residential buildings where there are no existing registered long residential leases)** members did not share any specific views or concerns.

8. Should an owner of a building with a sitting commercial tenant and no residential long leases be required to change the building to commonhold if they wish to sell a new flat in the building?

One member understood this example to be in the scope of the ban if the new flat complied with the proposed definition of "new" and "flat". Therefore, they would expect the change to be required.

However, changing the building to commonhold is likely to come with complexities, especially if the building is mortgaged or there are other mortgaged units in the building. This is because mortgages have been advanced based on the original security, the legal rights, enforcement mechanisms, and valuation assumptions tied to the original leasehold tenure.

If conversion will be required, members will need certain lender protections to ensure that commonhold will not undermine the value, operation, or security of mixed-use- buildings. This includes protections around decision-making, budgets, reserve funds, treatment of commercial units and ensuring lender consent where common parts affect security interests.

Members are supportive of the Ministry of Housing, Community, and Local Government's (MHCLG) plans to delay introducing the conversion process until commonhold has proven to be viable on new build flats.

Exemptions

9. Besides shared ownership (including specialist variants of shared ownership), home purchase plans, and equity release products, are there any other types of residential long leases that will be necessary within a commonhold?

Members are generally supportive of the following types of long leases within a commonhold:

- Shared ownership (including specialist variants of shared ownership).

- Home purchase plans (including Islamic finance structures, such as Ijara[1]). This should include both regulated and unregulated plans, noting that buy to let (BTL) options are typically unregulated. These options are available when purchasing or refinancing a property.
- Certain equity release products which require a long lease (For example, home reversion plans). Lifetime mortgages are another type of equity release product; they do not require a lease.

However, as in other mixed-use scenarios, including garages or parking spaces that may be included within the title, members are concerned about the complexities this will create. They will require protections around decision-making, budgets, reserve funds, treatment of commercial units and ensuring lender consent where common parts affect security interests.

10. Which, if any, of the above types of land that cannot be registered as commonhold should continue to be excluded and therefore exempt from the ban?

Members were broadly supportive of maintaining the existing categories of land that cannot be registered as commonhold. They agreed these exclusions are appropriate and help avoid practical, legal, and operational complications, particularly in cases involving agricultural land, contingent titles, specific institutional uses, and complex mixed-use structures.

On flying freeholds, members agreed that the existing restriction on creating commonhold land above first-floor level, unless all land beneath to ground level forms part of the same commonhold, should remain. They noted commonhold could be beneficial for buildings with more substantial areas of overhang, such as shared underground parking. However, imposing commonhold on incidental over/under-hangs may be disproportionate where traditional rights (e.g., access, support, maintenance) would suffice. As stated in our response to Q6, members suggest MHCLG add a 40 per cent threshold to the definition of a flat to avoid the unnecessary creation of commonhold on minor flying freeholds.

11. We welcome your views on whether any land ownership arrangements, or types of development, should be exempt from a ban on new leasehold flats.

[1] Ijara - Islamic financing - GOV.UK

There are certain land ownership arrangements and types of developments that may not be suitable for commonhold and should therefore be exempt from a ban on new leasehold flats.

Some members highlighted that buildings with specialised operational or legal structures, may require continued use of leasehold models due to the need for third-party management and the complexity of managing resident services. These could include retirement or extra care schemes, assisted living or social support housing for vulnerable or disabled residents, where safeguarding and long-term management obligations apply.

In addition, some members suggested that highly complex mixed-use developments with significant commercial elements may require the flexibility and oversight afforded by existing leasehold structures, particularly where commercial control is essential to the viability or safe operation of the site. One member also noted that build to rent (BTR) models may warrant exemption given their financing and operational characteristics.

Method

12. Please provide any views or suggestions on the proposed structure of the ban

Members are supportive of an approach that provides clarity, certainty, and enforceability. To avoid unintended consequences clear guidance of when a flat should be in scope, or not, would be welcome. Members also consider it important for these factors to be able to be identified as early in the process.

Members support taking a similar approach to Part 1 of the Leasehold and Freehold Reform Act 2024, which prohibited the use of leasehold for new houses.

To ensure that the ban is compliantly adhered to, members emphasised that clear education, guidance and use of consistent documentation across the wider homeownership ecosystem (consumers, developers, estate agents, mortgage lenders, valuers, insurance providers, conveyancers, tribunals, HM Land Registry, and management companies) will be essential to support effective implementation. This should include where leasehold is banned and when commonhold should be used.

The structure of the ban, and move to commonhold, must not create any uncertainty, or delay in enforcement, nor weaken a lender's ability to realise its security. Lenders must be able to address historic non-compliance and complete an orderly sale within the compliance and redress framework. Otherwise, this will increase operational and property valuation risks.

Under the proposed structure, a mis-sold leasehold property would need to be converted to commonhold before it can be sold again. Members have concerns on how changes made under commonhold could impact the value and risk of the lender's security, which was originally approved for lending on a leasehold basis.

Timing

13. Do you anticipate that you, your organisation or your sector will begin using, or supporting the use of, commonhold once the new commonhold model is introduced, or only once the ban is in place for new flats? [Once the new commonhold model is introduced/ Only when the ban comes into force/ Other. Please set out your reasoning.] [Free text box].

Members are aware of a number of competing housing priorities on the government's agenda and consider a clear roadmap would facilitate the development and priority lenders would need to adopt to support these changes. We would suggest this should be:

- Leasehold reform
- Homebuying and selling reform
- Moving to commonhold (including new-build leasehold flat ban)
- Commonhold conversion

Members with a commercial appetite to lend on new build flats will need to support commonhold and undergo the significant work to lend on this tenure at scale.

Currently, a minority of UK Finance members representing 40 per cent market share[2] have some functionality to lend on commonhold.

Some members who already have some functionality anticipate supporting the use of commonhold once the new model has been introduced. Others expect to do so only when the ban on new leasehold flats comes into force, reflecting the significant work required to operationalise commonhold at scale.

Several lenders highlighted that full support can only be provided once the associated risks are clearly understood and sufficient lender protections are in place. They emphasised the need for certainty around governance, budgeting, and maintenance arrangements to ensure developments are managed effectively and do not expose consumers or lenders to undue risk.

[2] Largest mortgage Lender data | UK Finance

Members also stressed that widespread adoption would depend on co-ordinated action across the homeownership ecosystem to ensure consistent processes, clear guidance, and a stable operational framework.

Members consider the number and geographic coverage of professionals, for example valuers and conveyancers, across the sector to be important in ensuring consumers have access to the support they need.

14. What actions or activities would you, your organisation or your sector need to undertake to prepare for the widespread use of commonhold? And how long would these take? [Free text]

The following activities would need to be undertaken by mortgage lenders to implement and scale lending on commonhold:

Policy Considerations

- Understand the new commonhold reforms and potential legal and system requirements. This will include:
    - Understanding the role of a commonhold association and interface with lenders, notably the impact and potential liability placed on lenders and subsequent rights if payments are not made by unit holders.
    - Carrying out an impact assessment of the differences between leasehold and commonhold.
- Re-tooling risk models.
    - Analysis of existing systems to identify key development areas. For example, introducing a new field to capture "unit" as a property type under the commonhold tenure.
- Consult with legal advisers and the RICS to understand associated risks across the whole mortgage journey and determine new lending policy. Considerations include valuation methodology and guidance notes, mortgage servicing processes, building insurance requirements, risk of changes to security during the lifetime of the mortgage, risk of customer default on payments due to the commonhold association, enforcement, and repossessions. Members would need to create or update supporting processes.
- Consider implementation timelines – a single implementation date would have a greater time and cost impact than a staggered non mandated implementation approach.

- Consideration will need to be given to how commonhold costs will be estimated and factored into the mortgage application and underwriting calculations in line with the FCA's Handbook, MCOB 11.6 Responsible Lending rules. Members will subsequently need to update their individual scorecards which determine new lending decisions.
- Enforcement, receiverships, and repossessions.

Technology and system changes

- Mortgage application systems, including digital tools and mortgage broker portals. Complexity of implementation may vary, for example specialist lending may involve additional work.
- Amending UK Finance Mortgage Lender Handbook and instructions to conveyancers.
- Lender criteria website pages (public-facing and intermediary).
- APIs across the housing ecosystem.
- Property information portals.
- Land registry business services portal.

Documentation

- Updating contractual mortgage documentation (illustrations, mortgage offers, terms and conditions, and mortgage deeds) to reflect customer commonhold obligations.
- Contractual documentation for conversion of existing security from leasehold to commonhold.
- Internal commercial real estate (CRE) lending and security templates/ancillary documentation (for example standard instructions, engagement letters, and reports on title).
- All impacted customer communications including leaflets and letters.

Staff Training

Currently, there is limited expertise and experience of commonhold across the industry. Significant training and upskilling to enable lending at scale.

- Internal colleagues will need to be trained to support with commonhold across the end-to-end customer mortgage application journey from pre-application to completion including mortgage advisers and underwriters.

- Post-completion customer facing operational teams (including post-completion support teams, mortgage servicing. For example, managing responses to financial difficulty, enforcement processes, arrears, recoveries, and repossession.
    - Policy and process management including CRE Credit, Coverage, Products and Execution teams.
- Guidance for external mortgage brokers.
- Panel managers including the conveyancers and surveyors.

Conversion

The concept of commonhold conversion is complex and challenging. There are many areas which remain a concern for lenders and how this will impact existing mortgage books.

Members generally anticipate needing to carry out the above activities to enable a homeowner to convert a leasehold flat to commonhold. They also expect there to be additional new activities such as:

- Developing a customer engagement strategy to address queries from customers, their legal advisers and other professionals within the housing ecosystem including matters such as costs, fees, revaluation, documentation, and contractual changes.
- Establishing a process to support the conversion of leasehold to commonhold, including lender assessment, and communicating the lender's decision. It is unclear whether the lender will have a choice to approve or decline a unit's conversion application where the lender has previously secured a mortgage against the unit based on leasehold terms.

We anticipate extensive cross sector education and collaboration between developers, estate agents, lenders, conveyancers, and valuers to ensure the industry is ready to support consumers buying commonhold new build flats.

It will also be key that consumers are supported in being made aware of how commonhold works and differs to leasehold and understand the responsibilities it places on them, before committing to a purchase or conversion.

15. From the point at which the revised commonhold law comes into force, how long would you, your organisation or your sector need to prepare for using commonhold as the default tenure in new blocks? [No time/1 years /2 years/5 years, other] [Free text to justify answer given].

The time needed to prepare will depend on if the ban is implemented at a single point or if it is staggered.

If it is staggered, then considering the work that needs to undertake (Q14), our larger members anticipate a minimum of three to four years from the date of secondary legislation. Some smaller firms, or those who currently have some commonhold functionality may be ready earlier.

However, if a ban is implemented at a single point, then a longer implementation period of up to five years from secondary legislation would be necessary to absorb the change completely.

We are supportive of MHCLG's view that we must ensure conveyancers are ready, we also need to consider the wider interdependencies upon other sectors including developers, estate agents, valuers, managing agents, HM Land Registry, and (when required) the tribunal capacity. We would require the whole ecosystem to be ready before implementation. This additional time will help members map out necessary system and process updates, understand the new governance and service charge framework, and build confidence in insolvency and enforcement processes.

Secondary legislation will be needed for most members to determine their position from a legal, credit and policy standpoint and to understand how commonhold units will be underwritten, valued and how conveyancers will legally advise their buyers. Members will need to understand how essential services and building safety obligations will continue without interruption in the event of commonhold association failure, so that the building remains functional and safe during enforcement or possession.

This is especially true for CRE lenders as their transactions typically have longer lead-in periods and rely heavily on early certainty over tenure, governance, service charge arrangements and what will happen in an insolvency scenario. CRE lenders will therefore need the secondary legislation and standardised documents to be fully settled before commonhold can be underwritten with confidence at scale.

Our members are supportive of the government's work to make homeownership more accessible. As part of this drive, members have already committed to implementing recent regulatory and legislative changes for 2026 and 2027, including the Renters Rights Act and FCA Mortgage Rule Review. Further changes would need to be implemented in future years against other competing priorities.

16. Should the UK government introduce the ban on new leasehold flats with a single implementation date for everyone, or should it be staggered, allowing certain types of new building or developments more time to adopt commonhold?

A) The ban should commence at a single point.

B) The ban should be staggered **-** If you think the ban should be staggered, which development or building types should be granted more time to prepare for a ban on the sale of new leasehold flats? Please set out your reasons for any answer given, and the estimated volumes of these products delivered each year.

Members lean towards a single point ban on the condition there is a sufficient implementation period for all the wider homeownership ecosystem to be ready, and further lender protections are given in relation to more complex commonhold buildings.

A ban that commences at a single point avoids uncertainty and confusion. It should minimise mistakes if sufficient implementation time is given. It should also improve the number of sales of commonhold properties in a shorter period, allowing the market to become more familiar. If this approach is adopted, then it must only happen when all the wider homeownership ecosystem is ready. We anticipate a single point ban would need a longer implementation period of up to five years from secondary legislation.

A phased approach allows the industry more time to adjust and could mitigate risk of disruption to the housing market. However, a phased approach would introduce additional layers of complexity, potential uncertainty, and confusion which could have operational implications for lenders in trying to assess which regime applies. There could be unintended consequences such as mistakes made by conveyancers and/or sellers who could face penalties. This could create challenges for buyers who must correct things before they can sell in the future. It could create a two-tier market.

If a phased approach was adopted, then members suggest starting with simpler commonhold structures such as those which are not:

- Multi-phased or multi-block developments
- Large footprint buildings
- Micro-commonholds
- High-rise (above 11 metres)
- Mixed-use (including shared ownership and/or commercial units)

Members would suggest only introducing the above commonholds two years later, so the sector has time to adjust and consider further protections.

For CRE financed assets (which are often larger, mixed-use, multi-phased or higher risk buildings) staggered implementation is likely to be essential. These asset classes carry more complex structuring, governance, cost allocation and building

safety obligations, and lenders would benefit from the regime being proven on simpler blocks/developments before being applied to more operationally complex developments/buildings.

17. Do you agree that self-contained blocks that have already sold new leasehold flats at the time the ban is commenced should be able to continue to do so? [Yes/No] [Please explain your answer]

Yes. The development would have completed at a time leasehold properties were legally enforceable. It would also prevent the block from having two different legal and tenure structures which creates complexities and increases risk. Members do consider that restrictions on sites or individual blocks could unintentionally slow the development of new homes as the complexity and new risks are understood and mitigated.

18. If you answered yes to the previous question, how long should developers have to complete the self-contained block?
[No time limit / 1 years / 2 years / 5 years / 10 years / other] [Please explain your answer]

One member recognised the need to strike a balance between being able to continue with committed developments while not becoming disproportionately long. Other members are aware how each development has individual circumstances and the timing of headlease creation to individual owner occupation. Placing a specific timescale becomes difficult due to these factors.

We suggest developers are best placed to answer this question. It is important they have sufficient time to complete the blocks they have already started and prevent creating a mixed tenure building.

19. Are there any alternative approaches to dealing with phased sites? [Free text]

One member suggested there could be a phasing system, such as blocks which are currently being built to continue as leaseholds, as this could be how they have been purchased with any later blocks being built and detailed as commonhold.

This would, however, only work if the blocks do not share any common grounds or covenants meaning the commonhold and leasehold blocks will be required to be serviced together. This could cause an issue with leasehold and commonhold blocks being managed differently. There are examples of large-scale regeneration schemes which have 20 to 30-year build plans where large elements have been delivered using leasehold arrangements. Complexity could arise for developers in delivering new commonhold units on these sites.

20. Where land is owned on a leasehold basis at the point the ban comes into force, what further conditions, if any, should enable the site to qualify for an exemption?

Members consider sites that have already been granted planning permission should be considered for an exemption. This would mitigate the developer needing to vary planning permissions which could introduce friction and delays in site commencement.

21. If you selected 'the first sale of a leasehold flat occurs within a fixed period of time after ban has commenced', please specify the time period.

N/A

22. Where a site is owned on a leasehold basis, should the developer have a fixed amount of time to finish selling leasehold flats on the site once the ban has commenced?

N/A

23. If Yes, how long should the developer have to sell the remaining leasehold flats on the site once the ban has commenced?

N/A

24. For developers/landowners only. Do you own any land intended for residential or mixed-use development on a leasehold basis?

N/A

25. Are there any alternative approaches for dealing with historical leased land?

One Shariah compliant lender highlighted that their structure is intrinsically linked to tenure and legal ownership arrangements. It is important historical leased land is grandfathered with no discretion to existing structure; a mandated conversion could have unintended consequences.

Refinements

26. Are there any technical or minor changes to part 1 of the published Draft Commonhold and Leasehold Reform Bill that would better support specific private sector-led development models or forms of homeownership?

Members recommend mandating standardised templates and documents are used to ensure consistency for consumers and lenders. Changes to documentation should be consulted on to ensure lenders are supportive of the changes.

As highlighted in our **response to the Call for Evidence** at Land Registry the legal title currently shows "freehold" for commonhold units and the communal areas. This will likely make it challenging for conveyancers and lenders to clearly distinguish whether a flat will be freehold or commonhold, increasing the likelihood for mistakes to be made. This is important because very few lenders can approve mortgage applications on freehold flats and this ambiguity increases the risk of transactions being delayed, incorrectly approved, or declined and the customer receiving incorrect advice. We suggest the introduction of a new legal title designation at HM Land Registry which clearly states when a unit is commonhold.

We do consider that detail available in secondary legislation would enable areas of concern to be considered better, for example, while existing forfeiture processes create risk for lenders how a new court-based enforcement regime would operate needs to be understood.

27. Are there any technical changes to the published Draft Commonhold and Leasehold Reform Bill that would further enable the affordable housing sector to use commonhold?

Remove ambiguity to the new definition on determining the scope of commonhold (Q6).

Further guidance is needed on how specialist or non-standard tenure models, including shared ownership, retirement housing and Islamic finance structures (which should continue on a leasehold basis) will operate in a mixed-use commonhold structure.

For example, in shared ownership, the Registered Provider typically manages the arrangements of the building. There is a need for them to function smoothly within the commonhold governance framework. A potential solution could be to appoint a professional managing agent for the mixed-use building.

It would be helpful for other affordable housing types (not subject to a long lease), to have specific guidance to make clear their requirements and obligations.

28. Are there any types of commonhold building or development (for example those over a certain number of units) which should be required to appoint professional directors and/or managing agents?

Managing agents and professional directors have proven experience and expertise in being an "accountable person" with responsibility for higher risk buildings or buildings with more complex needs. They provide effective management, ensure the smooth running of building operations, and comply with the Building Safety Act. They could play a significant role in supporting the commonhold association, particularly in instances of financial difficulty. It would reduce perceived risk to the value and quality

of the security if they were mandated for the following types of buildings which are considered to have additional complexity or risk:

- High-rise blocks (above 11 metres)
- Large footprint buildings
- Mixed-use buildings (to balance the complex needs of the commonhold units and the other tenures)
- Complex buildings including those providing residential services, for example elderly and disabled
- Listed/historical buildings
- Where commonhold directors have been proven to be mismanaging their building or inadvertently carried out criminal activity
- Commonholds where there are active disputes or subject to tribunal outcomes

29. Apart from professional management, are there any additional requirements that should apply to owners of particularly large or complex commonhold buildings? Please outline the nature of the building and any additional obligations you think should apply.

- Mandating the use of professional management on high-risk buildings subject to the Building Safety Act
- Mandatory sinking funds and budget transparency. Mismanagement should result in a professional management company being appointed
- Enhanced financial reporting
- Dispute resolution rules
- Protections for vulnerable homeowners within the commonhold association

30. Do you agree with our proposed definition of 'micro-commonholds' as those which contain 4 residential units or fewer

The commonhold regime may be onerous for smaller developments. Members would favour a simplified, proportionate regime. Most members suggest increasing the threshold of residential units as a proportionate regime would be applicable to other small buildings.

One member highlighted that mixed-use buildings would make smaller developments more complex. If a more proportionate regime was created, then it should only be available on 'micro-commonholds' with residential only units.

31. If no, where do you think that threshold should be set?

C – other – one member suggested the minimum being at least six units.

32. Should any legal obligations on commonhold associations be removed or made optional for very small, simple commonholds?

Members consider that very small and simple commonholds could benefit from a proportionate governance framework that reflects their scale. However, simplification must not come at the expense of essential protections or impede the building from being managed properly therefore maintaining the value and mortgageability of the units.

As micro-commonholds will have a limited number of people to form the commonhold association, members suggest removing the automatic retirement requirement for a director of the commonhold association.

They also suggest simplifying financial reporting requirements and dispute resolution obligations.

Costs & Benefits

33. For those involved in the development, marketing, sale and conveyancing of new blocks of flats, in the past 3 years, what percentage of these typically have the following features?

N/A

34. Will you or your organisation need to implement new, or update existing, systems to adapt to the use of commonhold?

Yes - please see answer to Q14

35. Will your organisation need to train/upskill staff to adapt to the use of commonhold?

Yes - please see answer to Q14

36. Will you or your organisation need to consult external professionals to adapt to the use of commonhold?

Yes:

- Legal advice in relation to documentation changes including mortgage terms and conditions, mortgage illustrations, mortgage offer, and conveyancer reports on title. Enforcement and receivership processes, shared ownership, and other specialist lending scenarios.

- Existing mortgage books including legal advice on the impact and requirements for conversion to commonhold and effect on the mortgage contract, lender processes and supporting documentation.
- Lenders will need to provide instructions and guidance to panel firms (surveyors and conveyancers).
- RICS for valuation guidance.

37. Do you expect any costs to arise from complying specifically with the ban (e.g. adapting marketing materials, issuing warning notices, including prescribed clauses in exempt leases)?

Yes (please see answer to Q14). We anticipate significant costs, in the multi-millions, in updating the leasehold lending framework on new build flats and then replacing it with commonhold. Members will need to operate both tenures for a period, especially if commonhold is introduced on a phased basis. This creates additional risk which may incur increasing costs.

38. Do you anticipate any efficiencies to arise from the adoption of commonhold in the form of cost savings for you or your organisation?

No – considering the significant work required (listed under Q14) to move to commonhold, the costs will far outweigh any material savings. We also expect additional costs for homeowners, for example, conveyancing costs when purchasing or converting a leasehold property to commonhold and costs associated with the creation of the commonhold association.

Any long-term efficiencies would depend on long-term sector maturity, standardisation, and predictability of management performance, none of which are yet evidenced.