



Leasehold and Commonhold Reform Consultation

Date: 17 February 2020

Address: 5th Floor, 1 Angel Court, London, EC2R 7HJ

Sent to: leasehold.reform@communities.gov.uk

UK Finance is the collective voice for the banking and finance industry.

Representing more than 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation.

Overall position

The mortgage lending industry supports government measures to improve the leasehold and commonhold systems.

As the consultation notes leasehold reform was initially signalled in the February 2017 White Paper 'Fixing Our Broken Housing Market'. Government consultations on certain measures followed in July 2017 and October 2018, the Law Commission released reports on enfranchisement, right-to-manage and commonhold in 2018 and 2019, and further government measures were announced in January 2021. We have seen a government bill (the Leasehold Reform (Ground Rents) Bill implementing one plank of leasehold reform and anticipate further leasehold reform and commonhold reform bills. It would be helpful for the full package of reforms to be published as soon as possible so that the overall impact of reforms can be understood and detailed responses provided.

In recent years poor practices in the leasehold market have become apparent for example the inappropriate use of leasehold for houses, unfair ground rents, and escalating costs. These have resulted in government action and mortgage lenders share the government's concerns about these practices. We want to see consumers supported and protected and these poor practices ended as well as historic wrongs corrected.

We also recognise, however, that leasehold has a long history and is a widely used and accepted form of home ownership within England and Wales. The focus should be on resolving issues rather than looking for a revolution in the property market which could result in a two-tier market developing to the detriment of existing homeowners.

Please note, we have not tried to answer all the questions posed in the consultation but instead outlined our views under the main proposals.

1. Raising the non-residential limit from 25% to 50% for collective freehold acquisitions and right-to-manage claims, and introducing a non-residential limit at 50% for individual freehold acquisitions

On the face of it raising the non-residential limits from 25% to 50% for collective freehold acquisitions and right-to-manage claims and introducing a non-residential limit at 50% for individual freehold acquisitions would be beneficial for leaseholders. It would enable more of them to increase their control over the buildings in which they live and have a greater say in how they are run.

We would like to see further information and data published on how many leaseholders would be likely to take advantage of these increased powers as it would be helpful to understand how many buildings have not been able to acquire the freehold or claim right-to-manage.

Owning and managing a building with a significant portion of non-residential property would be considerably more onerous for residents than running a purely or mainly residential building. It could require, for example, an understanding and competency in leasing commercial property, carrying out rent reviews, managing disputes and taking on legal duties around arrears and possessions. There may be fewer residents willing to take on these responsibilities which could be problematic for the long-term security of the property. It would certainly require a higher-level of publicly-funded support for them.

The difficulties in managing buildings with a mix of residential and non-residential properties may result in mortgage lenders raising concerns about the long-term maintenance, management and insurance of the building, requiring increased levels of scrutiny and assurance. For example, residential owners may take a different view on long-term improvements and maintenance in areas such as retrofitting to improve the energy efficiency and reduce the carbon footprint of a building compared to a professional landlord. This would, however, be a matter for individual lender risk appetites.

These concerns maybe reflected more broadly in commercial financing of the overall building owner and non-residential organisations and businesses within the building.

There is also some concern among banking and finance institutions that the process of enfranchisement may result in freeholders being inadequately compensated which could affect the value and security of commercial agreements.

2. Introducing mandatory leasebacks to landlords as part of the collective enfranchisement process, taking into account the proposed increase of the non-residential limit to 50% for collective enfranchisement

We are concerned about the fairness of requiring freeholders to take a leaseback on a property in which they no longer have a controlling interest and runs counter to the principle of rebalancing the relationship.

For mortgage lenders we would want to see provisions in place that ensure the lenders' security over the original leasehold(s) is maintained. There must also be adequate provisions in place to ensure the long-term protection of the mortgage lender's security, such as the ongoing repair and maintenance of the building.

3. Consequential amendments to voting rights in right to manage companies, ensuring that leaseholders continue to have effective control of decisions made under the right to manage, while maintaining involvement from the landlord

While we understand the drivers of this proposal it is important that the needs and interests of all owners and occupiers of a building are properly balanced as they may not be aligned.

If you have any questions relating to this response, please contact Matthew Jupp, Principal, Mortgage Policy (matthew.jupp@ukfinance.org.uk)

Matthew Jupp

Principal, Mortgage Policy