

Moving to commonhold: banning leasehold for new flats

Consultation overview

Adam Gravely

adam.gravely@housing.org.uk

Overview

- Policy context.
- Consultation outline and how to get involved.
- Scope of the ban.
- Application of the ban.
- Permitted leases.
- Timetable on moving to commonhold.
- Sites under development.
- Adoption by the affordable housing sector.
- Professional management.
- Costs and benefits.

Policy context

- The government is introducing the draft [Commonhold and Leasehold Reform Bill](#).
 - The Bill proposes to make commonhold the default tenure for privately owned flats and end the leasehold system.
 - To make this happen, the new sale of new leasehold flats could be banned from 2029, and a new process introduced so existing blocks of flats can convert to commonhold.
- This follows the [Commonhold White Paper](#) last year, which provided consideration and committed to implementation of the majority of the [Law Commission's recommendations](#) which were published in 2020.
- As part of the passage of the Bill, both the government and Parliament are undertaking a series of consultations and stakeholder engagement sessions at various stages through 2026.
- You can also read a [blog on the NHF website](#).

Consultation outline and how to get involved

- The consultation outlines the government's proposed approach to introducing a ban on the use of leasehold for new flats.
- There will be implications and some exemptions which will apply to the social housing sector.
- You can find the [full question set here](#). We have summarised the main ones.
- The NHF will be submitting a response that will be shaped by member input.

Scope of the ban

- The government intends for commonhold to become the default tenure for new home ownership flats.
- The government have [proposed a definition](#) of a “flat” – aiming for it to be “robust” and capture “unconventional” types of flats (e.g. a row of properties with shared underground parking).

Question 6

Do you agree with the proposed definition of a “flat” for the purpose of the ban?

Proposed definition

A “flat” is a separate set of premises (on one or more floors):

- Which forms part of a building.
- Which is constructed or adapted for use for the purposes of a dwelling.
- The whole or a material part of which lies above or below some other part of the building.

Scope of the ban

- The government have proposed that the ban will apply to these categories of flats.

Question 7

Do you agree with the proposed scope of the ban?

Provide a justification for cases where you disagree.

A. Purpose-built new developments

That include flats for sale (and which may or may not include other uses, such as commercial units and light industrial space, or homes for rent).

B. A house newly converted into flats

Where at least one flat is for sale on a long lease.

C. Commercial buildings newly redeveloped to contain flats

Where at least one flat is for sale. For example, office space or a shopping centre with flats on upper floors.

D. Purpose-built rental blocks whose owners have later opted to sell flats for homeownership

For example, a block entirely made up of Build to Rent flats where one or all flats are subsequently marketed for sale to prospective homeowners.

E. Other residential buildings where there are no existing registered long residential leases

For example, an existing block of flats in vacant possession, that is refurbished so the flats can be resold.

Application of the ban

- The ban will apply to “new flats for sale in newly completed residential and mixed-use developments, as well as to flats that are newly for sale in certain existing buildings”.
- Principles to the approach:
 - If there are no long residential leases in a building once the ban has commenced, the freeholder must sell any new flats as commonhold.
 - If there are long residential leasehold units in the building, the freeholder will be permitted to sell flats with new leases.
- The ban will not apply to newly completed developments built exclusively for rent such as Build to Rent or social rent blocks, while they remain used solely for that purpose.

Permitted leases

- Certain types of long residential leases will be permitted in a commonhold setting.
- For housing associations, these will typically be shared ownership and specialist shared ownership (e.g. OPSO, HOLD).
- This will mean that shared owners living in a commonhold block will have a combination of core rights from commonhold (e.g. electing directors and voting on an annual budget), and leasehold protections (e.g. challenge service charges).

Question 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?

Please provide your reasoning for why the arrangement is being suggested. Please also include any data available on:

- the prevalence of flats currently using such an arrangement; and/or
- where possible, please provide the expected number of new units per year using this arrangement.

Timetable on moving to commonhold

- The new sale of new leasehold flats could be banned from 2029. However, the government has acknowledged that different sectors may need longer to prepare.

Question 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?

- A. Once the new commonhold model is introduced
- B. Only when the ban comes into force
- C. Other

NHF view

We are pushing for as long as possible to ensure that various factors are considered (outlined later) – including implications for building safety remediation.

Our view is that regulations to reform managing agents should be implemented first, given their expected role in commonhold.

Timetable on moving to commonhold

Question 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?

Question 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?

- A. No time
- B. 1 year
- C. 2 years
- D. 5 years
- E. Other

Timetable on moving to commonhold

Question 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.

Sites under development

- On commencing the ban, where a block stands alone and no units have yet been sold off, the government believes that these should be sold as commonhold.
- The government are proposing transitional arrangements for new developments where some leasehold flats in self-contained blocks have been sold. The expectation is that developers will do a phased transition.

Question 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?

Question 18

If you answered yes to the previous question, how long should developers have to complete the self-contained block?

A. No time | B. 1 year | C. 2 years | D. 5 years | E. 10 years | F. other

Please explain your answer.

Question 19

Are there any alternative approaches to dealing with phased sites?

Historic leasehold land

- If a developer already owns land on a leasehold basis and has firm plans for the development of leasehold flats upon it, the government has said that this should not be captured in the ban.
- The government intend to bring in provisions, including a cut-off date (like they did with the ban on leasehold houses), to try and prevent the stockpiling of leasehold land.

Question 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?

Please tick which, if any, of the following should apply:

- The leased land was acquired before the ban is commenced.
- The site has planning permission at the point the ban is commenced.
- The site is under construction at the point the ban is commenced.
- The first sale of a leasehold flat occurs within a fixed period of time after the ban is commenced.
- None of the above.
- Other (please specify).

Historic leasehold land

Question 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.

- within 1 year
- within 2 years
- within 5 years
- no time requirement

Question 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? (Yes / No)

If no, please set out your reasoning

Question 23

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

1 year | 2 years | 5 years

Other [please specify and justify]

Question 25

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

Historic leasehold land

Developing / land-owning members may also want to comment on or individually reply to the following question. You can disregard if it is only on a permitted lease basis (e.g., shared ownership).

Question 24 - For developers/landowners only

Do you own any land intended for residential or mixed-use development on a leasehold basis?

Yes/No

If yes, please provide the number of sites and their capacity, and what costs you anticipate incurring acquiring the land on a freehold basis instead of leasehold?]

Adoption by the affordable housing sector

- The government is keen to see the benefits of commonhold extended throughout the sector. The most notable include:
 - Shared ownership leaseholders will qualify for membership of a commonhold association, with the housing association holding reserved rights. Where the shared ownership property is within the initial repair period, the housing association will be treated as the member.
 - Shared ownership leases within a commonhold must be granted on payment of a premium – calculated as a percentage of the value of the commonhold unit and meet various permissions. Shared ownership provisions will fall away upon 100% staircasing.
 - The Bill will enable commonhold blocks to be split into “sections” and allow separate heads of costs, so that only those with access to certain services will have a say in how they are managed and contribute to the costs.

Question 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?

Professional management

NHF view

Regulations to reform managing agents should be implemented first, given their expected role in commonhold.

- The government have acknowledged that managing agents will play an expanded role in the implementation of commonhold and the rising number of Right to Manage arrangements.
- The government are also keen to understand the need for having professional directors of building safety, as commonhold associations will become the Principle Accountable Person with the Building Safety Regulator.

Question 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? (Yes/No)

If yes, please specify which types of commonhold development and provide your reasoning.

Question 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.

Costs and benefits

- The government want to understand sector-specific costs and efficiencies which may arise from transitioning to commonhold.

NHF view

We are urging the government to work with housing associations so that costs can be mitigated as far as possible, ensuring that funds can be prioritised for new developments and investment within existing homes.

Question 34

Will you or your organisation need to implement new, or update existing, systems to adapt to the use of commonhold? (Yes/No)

If yes, please provide a brief description of these changes and their associated costs.

Question 35

Will your organisation need to train/upskill staff to adapt to the use of commonhold? (Yes/No)

If yes, please provide a brief description of the training required and its associated costs

Costs and benefits

Question 36

Will you or your organisation need to consult external professionals to adapt to the use of commonhold? (E.g. legal professionals, consultants etc.). (Yes/No)

If yes, please provide a brief description of the external advice needed and its anticipated costs.

Question 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/No)

If yes, please outline why, and your expected cost per development, purchase / sale, or contract to change.

Question 38

Do you anticipate any efficiencies to arise from the adoption of commonhold in the form of cost savings for you or your organisation? (Yes/No)

If yes, please outline where you might expect these efficiencies to materialise, and by how much associated costs may fall.

Costs and benefits

Members may also want to comment on or individually reply to the following question.

Question 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?

Please provide an approximate percentage for each:

- 990-year leases (or longer) as standard [None, 0 to 25%, 26 to 50%, 51 to 75%, 76 to 100%, don't know]
- sold as share of freehold [None, 0 to 25%, 26 to 50%, 51 to 75%, 76 to 100%, don't know]
- a resident management company (regardless of whether it owns the freehold) [None, 0 to 25%, 26 to 50%, 51 to 75%, 76 to 100%, don't know]
- a resident management company that owns the freehold of the building/s [None, 0 to 25%, 26 to 50%, 51 to 75%, 76 to 100%, don't know]
- professional managing agents responsible for the upkeep of the building [None, 0 to 25%, 26 to 50%, 51 to 75%, 76 to 100%, don't know]
- a reserve fund in place from the outset [None, 0 to 25%, 26 to 50%, 51 to 75%, 76 to 100%, don't know]

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