

MAYOR OF LONDON

City Hall, Kamal Chunchie Way, London, E16 1ZE - london.gov.uk - mayor@london.gov.uk - 020 7983 4000

Response to the Department of Levelling Up, Housing and Communities' consultation on reforming the leasehold and commonhold systems

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Summary

The Mayor welcomes the opportunity to respond to the government's consultation on proposals to reform the leasehold and commonhold systems.

Leasehold reform is an important issue for the Mayor and many of the Londoners he represents. While the Mayor agrees with the reforms from the government to ban the sale of new leasehold houses and to limit ground rents on new leases, these will mainly benefit new rather than existing leaseholders. This is why the Mayor firmly supports the reforms to the leasehold model proposed in the government's consultation document. The Mayor believes that these reforms are necessary to improve the experience of a significant number of London's existing homeowners.

The Mayor also supports the government's ambition to make the commonhold model work, increasing its uptake in the country. He agrees with the Law Commission's assessment that measures should be introduced to make commonhold not only viable, but also the ownership model of preference in England. It is two decades since the original commonhold legislation was introduced, and almost two years since the Law Commission reported on this subject. Reform is long overdue and these changes should be implemented without further delay.

The Mayor is broadly supportive of the proposals outlined in the consultation document. Specifically, he agrees with:

- Increasing the non-residential limit for individual and collective enfranchisement from 25% to 50%.
- Introducing mandatory leasebacks to landlords as part of the collective enfranchisement process.
- Increasing the non-residential limit for the right to manage from 25% to 50%.
- Imposing a cap to the votes allocated to landlords in right to manage companies, so that these do not exceed a third of the total votes exercisable by qualifying tenants.
- Introducing measures to make the process of buying and selling commonhold transparent and straightforward, such as by capping the cost of Commonhold Unit Information Certificates (CUIC).

However, the Mayor disagrees with the proposal that providers of repairs and maintenance services in Shared Ownership homes should have the right to vote on matters relating to those works, for the 10-year Initial Repair Period, introduced by the new Shared Ownership model. Voting rights are simply not commensurate with the maximum £500 a year that shared owners would receive from providers.

The Mayor asks that rapid action is taken by government following this consultation. The public has been engaged on leasehold reform several times in recent years, and what is needed now is the introduction of the proposed legislation at the earliest stage possible, so that Londoners can begin to benefit from these changes.

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Response to consultation questions

1 Individual and collective enfranchisement

- 1.1 The Mayor welcomes the government's proposals to increase the non-residential limit for individual and collective enfranchisement from 25% to 50%. The current legislation prevents leaseholders from accessing enfranchisement if more than 25% of the floor space of their building is used for non-residential purposes. This has proven to be a significant barrier to enfranchisement for many leaseholders, especially those living in mixed-used developments.
- 1.2 Changing the qualifying criteria will ensure leaseholders have more options for how they own their properties, with more leaseholders better able to take ownership responsibilities for their buildings, if they wish to do so. While the consultation document also raises concerns from freeholders about the management capabilities of leaseholders, the Mayor agrees that leaseholders with ownership and management responsibilities are expected to use professional management agents, especially in mixed-used buildings.
- 1.3 Further, the Mayor welcomes the introduction of mandatory leasebacks. Leasebacks are important mechanisms to reduce the premium which leaseholders have to pay to acquire freehold, as the previous landlord retains an interest in the property. However, it is unfair that currently landlords can compel leaseholders to grant them a leaseback, while leaseholders can only request that landlords accept a leaseback proposal.
- 1.4 The Mayor agrees that mandatory leasebacks should be introduced to level the playing field. Mandatory leasebacks will be particularly useful where not all units in a building are interested in collective enfranchisement. In these cases, leaseholders should have the option to insist that landlords take on the leases of non-participatory units. Moreover, access to mandatory leasebacks will ensure the process of enfranchisement is more affordable, as leasebacks will effectively reduce the price payable for enfranchisement.

2 Right to manage

- 2.1 The Mayor supports changes to the right to manage process, to expand access to leaseholders who want to take over the landlord's management functions in their buildings.
- 2.2 The Mayor agrees that the current law is not fit-for-purpose, as it only allows leaseholders to access the right to manage if the non-residential parts of their buildings are at most 25% of the total internal floor area. He therefore welcomes changing the qualifying criteria to make this option more viable for leaseholders.
- 2.3 The Mayor recognises the importance of ensuring leaseholders are adequately supported if they move into management roles. He does not think concerns around management are sufficient to justify maintaining the current criteria for right to manage. Further, he expects leaseholders will have an interest in ensuring management is fit for purpose, and will access professional management agents, especially in cases where non-residential use of buildings is significant.
- 2.4 The Mayor also welcomes imposing a cap to the votes allocated to landlords in right to manage companies. Under the current arrangements for vote allocation, landlords would see an increase

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in voting powers, especially in buildings where there is a large proportion of non-residential space and where not all units have acquired the right to manage. As such, the Mayor agrees with the move to limit the votes allocated to landlords so that these do not exceed a third of the total votes exercisable by qualifying tenants.

3 Commonhold

- 3.1 The Mayor recognises that the commonhold model is not well-known or understood in England, and that significant efforts will be required to increase understanding and confidence among the population with respect to this ownership model. He also agrees with the government's proposal to make the process of buying and selling commonhold properties as transparent and accessible as possible.
- 3.2 The consultation document asks for a view on the maximum fee that should be charged for Commonhold Unit Information Certificates (CUIC), that is the certificates holding all relevant information (including fees) about a commonhold property. While the Mayor strongly agrees with the need to legislate a cap on CUICs to avoid lack of transparency or arbitrary price levels, he does not have a view on the level at which this fee should be set. However, he expects the maximum price of the CUIC to be set at a level that will encourage more aspiring property owners to choose commonhold over leasehold. Furthermore, he expects the CUIC to be set at a price which assists commonhold in having a competitive advantage over the more well-known leasehold model.
- 3.3 The Mayor also welcomes in principle the introduction of a sanction to commonhold associations that have missed the deadline of 14 calendar days to provide a CUIC. This will provide certainty in the conveyancing process in relation to commonhold properties. The Mayor expects the government to offer support, in the form of upskilling and guidance, to new commonhold associations, recognising that conveyancing experience with commonhold is extremely rare.
- 3.4 Lastly, the Mayor opposes the proposal that providers of repair and maintenance services in Shared Ownership blocks should have voting rights. In a leasehold model, the decisions on repair and maintenance works are made by the building owner or freeholder. That role is effectively assumed by shared owners in a commonhold system, and they should retain the responsibility and right to make decisions over what is needed in their buildings. Additionally, the maximum £500 a year to be contributed by providers is not commensurate with the decision-making power afforded by voting rights on repairs.