



Reinvigorating commonhold: The alternative to leasehold ownership

Consultation from the Law Commission

Response by the Council for Licensed Conveyancers

February 2019

1. The CLC is supportive of the promotion of commonhold as a viable option to home ownership. The apparent benefits to the homeowner including more control and an ownership that does not run out, are very appealing on the face of it.
2. Other ongoing work regarding home ownership in England and Wales, especially for leasehold properties, should be considered when reviewing these proposals. It would be valuable to gain some oversight of all of the projects within government and the Law Commission to see how the proposals may work together to compliment or detract from each other.
3. If commonhold ownership becomes more widespread, there is likely to be an impact on conveyancing which is discussed below, however there are no concerns from a regulatory perspective.

About the Council for Licensed Conveyancers

4. The CLC was established by the Administration of Justice Act 1985 and is an Approved Regulator under the Legal Services Act 2007, subject to the oversight regulation of the Legal Services Board.
5. It licenses and regulates licensed conveyancers and practices in England and Wales in the provision of reserved legal activities, currently conveyancing and probate services, and other non-reserved legal activities, including will writing. It is also a Licensing Authority authorised to license and regulate Alternative Business Structures (ABS). It has no representative function having always been an independent regulator.
6. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
7. The CLC welcomes the opportunity to respond to this consultation.

Response to the consultation

Converting to commonhold

8. It is accepted that in order for commonhold to become more widespread in the property market, existing properties need to be converted from their existing tenure to commonhold.

9. The interests of all parties including the lender, should be fully considered in the instance a property is converted to commonhold. The CLC supports the proposals aimed at protecting lenders' security including the lack of forfeiture.
10. If conversion to commonhold can be agreed by the majority of home owners in a building, there must be adequate protection for the leaseholders in the minority who do not want to convert to commonhold. We do not hold a view as to whether in these circumstances the leaseholder should be compelled to convert to commonhold or not.

The commonhold association

11. The CLC agrees with the proposed objectives of the management structure. This should help to provide consumer protection along with the required balance between flexibility and certainty of standardised community statements.
12. The ability to vary the standard terms would provide more flexibility and allow the statements to fully reflect the development and commonhold community.
13. Currently conveyancers must review leases which are commonly unique. Standardised community statements may help to simplify and streamline the conveyancing process as long as any amendments were clear on the face of the document.

Enforcement and dispute resolution

14. Any dispute resolution needs to be simple and effective to help consumers when things go wrong. The suggestion of a single tribunal to deal with all property issues, including commonhold, would be very welcome.
15. The CLC believes that commonhold associations should be required to sign up to a redress scheme to enable greater consumer protection.

Impact and application of reform

16. If commonhold becomes more widespread, there is likely to be an impact on conveyancing. It is possible that the time spent reviewing documents may be reduced as well as potentially some simplification of the conveyancing process.
17. Removing the need to deal with management companies in order to obtain information is also likely to save time, and potentially costs, in the conveyancing process.
18. It is likely that conveyancers will require additional training to better understand the commonhold regime.