

To whom it may concern,

**RE: Reforming the leasehold and commonhold systems in England and Wales**

As the professional body for aspiring and practicing Chartered Legal Executive lawyers across England and Wales, the Chartered Institute of Legal Executives (CILEX) would like to take this opportunity to respond to the Department for Levelling Up, Housing & Communities launched 11<sup>th</sup> January 2022.

CILEX welcomes the government's decision in principle for reforms to the leasehold and commonhold systems in England and Wales, which would see the increase of non-residential limit to 50% for leaseholders, providing more flexibility in allowing the freehold management of their building. The current 25% limit was not found previously by CILEX as causing substantial issues<sup>1</sup> and CILEX believes that discretionary Tribunals may still be vital in authorizing limited circumstances for a freehold acquisition claim<sup>2</sup> instead of providing an uplift of 50% across all circumstances. Furthermore, problems created for practitioners due to an extension of non-residential limits was briefly raised through CILEX member feedback during our response to the Law Commission however, no distinct problem was specifically mentioned<sup>3</sup>.

Indeed, CILEX has been complimentary of the Law Commissions work to simplify the enfranchisement regime however, CILEX Practitioners have cautioned previously that not all leaseholders necessarily share an interest in the management of their building and see such matters as that of a landlord/third-party property management company<sup>4</sup>. As such work incentivizing and improving leasehold and commonhold is welcomed. However, CILEX cautions that such changes will take time to embed and require stakeholder co-operation in creating the correct culture for change, which should not be underestimated by government

As noted within your consultation the Law Commission "*did not consult specifically on the option of a 50% limit for individual freehold acquisitions*". Such a proposal presented in this consultation brings further need for discussion. As such the six-week time frame provided for responses to your consultation felt short in helping to resolve an important area of work and CILEX would have welcomed a longer opportunity to respond.

CILEX emphasizes the need for such proposals to help further empower a leaseholder, whilst maintaining a careful balance between leaseholder and landlord interests. CILEX members previously voiced concern regarding leasebacks to landlords as they were seen to further complicate future enfranchisement options for leaseholders not partaking in initial opportunities<sup>5</sup>. Historic imbalances between freehold and leasehold presents complex challenges and CILEX appreciates that such changes could help to close existing gaps.

CILEX continues to promote the healthy safeguarding of Leaseholders through solutions such as the Law Commissions 'general requirement' for leaseholders exercising collective enfranchisement to do so in the form of a company. This should be coupled with allowing leaseholders who did not previously participate

---

<sup>1</sup> [Law Commission Consultation – "Leasehold Home Ownership: Buying your freehold or extending your lease"](#), CILEX Response Page 29 para 8.12

<sup>2</sup> CILEX Response Page 32 para 8.26

<sup>3</sup> Law Commission Consultation – "Leasehold Home Ownership: Buying your freehold or extending your lease" CILEX response page 29 para 8.13.1

<sup>4</sup> [Law Commission Consultation – "Reinvigorating Commonhold: the alternative to leasehold ownership"](#), CILEX response, page 10, footnotes 5,6 & 7

<sup>5</sup> CILEX Response Page 19 para 4.42, 4.42.1, 4.42.2

in a collective enfranchisement the right to do so at a later date.

Commitments towards shared ownership must be treated in a similar manner to other work considered within this consultation. Ensuing the empowerment is provided whilst a balance remains intact between the Shared Ownership Providers and the shared owner. Furthermore, all Shared Ownership Provider options must be balanced and proportionate to not disadvantage the owner.

CILEX promotes the requirement for a continued level field of operations for leasehold and commonhold across England and Wales. This incentive extends to those being penalized for instances of 'genuine error'<sup>6</sup>. As such CILEX argues that if an error is spotted after the Commonhold Unit Information Certificate (CUIC) is issued amendments should be provided within a designated timescale. Previously CILEX members felt that the costs for issuing a replacement CUIC should not be recoverable (or at the very least ought to be capped).<sup>7</sup>

As noted above circumstances will require consideration as to the nature of the error with achievable prescribed response periods, with members previously noting at a 14-day period to comply with a CUIC sanction was likely to cause problems in practice.

CILEX sees positive changes for leasehold and commonhold across England and Wales within these consultations proposals. However, between the limited details beyond the Law Commissions recommendations as well as a shorter response window we are unable to provide an in-depth response.

We conclude that in order for proposals to be established and embedded that a retained equal level of responsibility between all involved parties is retained, empowering leaseholders and common holders' decisions going forward.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Simon Garrod', with a stylized flourish at the end.

Simon Garrod

Director of Policy & Public Affairs

[Simon.Garrod@CILEX.org.uk](mailto:Simon.Garrod@CILEX.org.uk)

---

<sup>6</sup> Law Commission Consultation – “Reinvigorating Commonhold: the alternative to leasehold ownership” CILEX Response Page 48 para 9.22

<sup>7</sup> See footnote 6