



Moving to commonhold: banning leasehold for new flats, April 2026

INTRODUCTION

The Community Land Trust Network is the official charity supporting Community Land Trusts (CLTs) in England and Wales. We are a membership body and represent 315 CLTs with over 2,200 affordable homes and other assets, and which have plans to deliver 7,000 more homes and community assets.

The key government policies that community-led development can assist with include:

- **Increasing affordable house building.** Community-led housing is a national priority for the Social and Affordable Homes Programme (SAHP) 2026 to 2036. CLTs have been adept at providing additional affordable housing supply in rural areas and on smaller urban sites overlooked by other providers; winning community support in sensitive locations such as the Green Belt and National Parks; and increasing the proportion of genuinely affordable homes on larger schemes initiated by others.
- **Building community wealth.** Community-led development gives local communities new tools to play a part in our national renewal. They can build assets, but also agency, capability and wealth. CLTs are overrepresented in the most deprived parts of each region of England. One in four have developed other infrastructure alongside housing including community centres, workspace and renewable energy generation.
- **Diversifying the housebuilding industry and improving build-out.** The potential for community-led development has been recognised by ministers, by the Radix Housing Commission chaired by Kate Barker, and in recent years by the Bacon Review and the Building Better Building Beautiful Commission. A more diverse and competitive industry, with a greater focus on quality, will be essential to build 1.5 million homes in this Parliament. Suppressing this diversity through the commonhold bill and other policy measures would be a significant mistake.

RESPONSES TO CONSULTATION QUESTIONS

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?

The draft bill should enable the use of all 'community housing leases', as defined in Leasehold Reform (Ground Rent) Act 2022, section 2, paragraph 7, and mirroring provisions to permit these leases in the Leasehold and Freehold Reform Act 2024. These should be referenced in Schedules 2 and 8.

Community Land Trusts (CLTs) are 'community housing lease' providers alongside housing co-operatives. They develop and own homes with a wide variety of tenures.

CLTs must be able to protect affordable homes in perpetuity. This is laid down in their objects and in the statutory definition of a CLT - to protect assets for the wellbeing of the local community in perpetuity. Public bodies such as local authorities may also give subsidy to CLTs in the form of grants or discounted land and, under the Subsidy Control Act, retain the right to cancel the gift if the purpose of the subsidy (the provision of permanently affordable housing) ceases to be fulfilled.

One such permanently affordable tenure that is a focus for some CLTs is Discount Market Sale, with initial and resale prices set at either a percentage of the open market value, or a figure calculated with reference to local earnings data. Currently CLTs have developed 167 homes with this tenure, and have a further 199 in the pipeline. Many more CLTs would like to use this tenure rather than shared ownership if it were eligible for funding through the SAHP. We do not hold data on the split of houses/flats, but anecdotally most in the pipeline are flats. The bill could enable these by permitting 'community housing leases'.

CLTs also develop shared ownership, but are reluctant to do so where homeowners are able to staircase to 100% ownership. So the draft bill should make clear that where 'community housing leases' are offering shared ownership then the 100% staircasing rule can be disapplied.

CLTs develop these tenures in schemes wholly-owned by the CLT, so Schedule 8 needs to allow them to use leasehold as envisaged by the 2022 and 2024 legislation. They also

take allocations in developments by third parties. Where these developments adopt commonhold in future, it is important that it remains possible for CLTs to take allocations of commonhold units and to grant community housing leases of those homes, by their inclusion in Schedule 2.

We would also note that it is common in the USA for CLTs to acquire the freehold of land and grant a lease to a condominium association. Sometimes the CLT will also retain ownership of some flats in the block to offer at discounted prices. This arrangement balances self-management of the block by residents, with stewardship of the scheme and step-in rights for the wider community. Existing commonhold law and the draft bill don't provide for this arrangement. CLTs currently replicate it by using leasehold, but it would be beneficial if CLTs could do the same with commonhold.

When the Law Commission examined this we suggested two options: enabling commonhold associations to take a head lease from a CLT; and enabling a hybrid Commonhold Community Statement in which the CLT could have a controlling interest or 'golden share' over matters such as the sale of affordable homes.

There is also a potential anomaly or confusion in the treatment of 'community housing lease' flats if occupants in a leasehold block exercise their enfranchisement rights to convert to commonhold. Assuming the regulations are tabled to implement the provisions in Schedule 3 of the Leasehold and Freehold Reform Act 2024 to enable CLTs to exempt homes from leasehold enfranchisement, then occupants of CLT homes will not have the right to take part in the enfranchisement so their flats will not merge into the commonhold under s.13(4). The application for registration of the commonhold has to specify a unit-holder for the CLT flats (s.9(1)) but the draft Bill does not say who out of the two options in s.9(1) should be specified. By default it would seem that the commonhold association would have to be named as the unit-holder, and the CLT's headlease will continue because it will not be extinguished under s.13(7)(b)). Although the Bill provides in s.17(3) for tenants under permitted long residential leases to be named as the members for their units, the CLT tenants under pre-registration leases will not get the vote under s.17(3) or (4) or take over responsibility for the commonhold contributions because their leases were granted before the registration of the commonhold (s.20(1)). This needs to be addressed so that leaseholders with 'community housing leases' have a direct relationship with the commonhold association, taking part in voting and taking sole responsibility for payment of the commonhold contribution for their home.

11) We welcome your views on whether any land ownership arrangements, or types of development, should be exempt from a ban on new leasehold flats.

Parliament has accepted the case for exempting Community Land Trusts from the ban on leasehold houses and residential ground rents, enacting this in the Leasehold Reform (Ground Rent) Act 2022 and the Leasehold and Freehold Reform Act 2024.

CLTs pick up many of the points mentioned in your consultation - to prevent land speculation, to protect wildlife and habitats, and to preserve land so that it can be enjoyed for wider public benefit in perpetuity. This is a key difference between CLTs and commonhold – the CLT has a duty to consider the wider public benefit, balancing the interests of the current occupants with those of their neighbours and of future generations. Commonhold owners are only voting in their own interests, which may be in favour of land speculation that benefits themselves and harms the local area and neighbouring residents and makes home ownership harder for others.

Community-owned land, in CLTs, should therefore be exempt from the ban, and able to prevent occupants from exercising rights without the CLT's agreement such as the Right to Acquire, Leasehold Enfranchisement and conversion to commonhold.

We also note that it is common practice for public bodies such as local authorities to dispose of land for development on long leases, rather than freehold. CLTs acquiring such land are only able to offer leasehold homes. Should this become impossible, public bodies will need to move towards freehold disposals, and face additional challenges in ensuring control over ongoing stewardship of local assets and proper use of any public subsidy.

12) Please provide any views or suggestions on the proposed structure of the ban

Regarding marketing and information (e.g. s.117), consideration needs to be given to evidence provided to buyers of community housing leases of commonhold units.

The Leasehold and Freehold Reform Act 2024 requires an application to the tribunal for a permitted lease certificate. These provisions have not yet been enacted, but the same certificate could apply to the permitted use of a community housing lease in commonhold. The certificate could be provided to buyers and solicitors.

The process for applying to the tribunal for a permitted lease certificate needs to be as straightforward, quick and low-cost as possible, preferably determined on the papers

without any court hearing. Regulations need to be brought into effect sufficiently far ahead of the coming into force of the general ban on leases of new flats and houses, and of commonhold units, so that the process for obtaining the certificate does not delay the marketing of the flats and houses which might need to be started six months or more ahead of completion of the development.

We also think the transaction warning conditions in s.118 add an unnecessary layer of bureaucracy, if it is already required that proposed tenants are provided with an explanation of why the grant of lease is permitted, including the community housing certificate, and if the lease wording (both any draft attached to an agreement for lease and the engrossed lease sent out for signing) must include the prescribed statement. Adding the warning notice is an extra layer of bureaucracy and potential criminal liability for no reason.

The prescribed statement will presumably be added to the lease statutory clauses as LR5.3. This will help solicitors to remember to include the statement, both acting for CLTs (and others) granting permitted residential leases and acting on commercial leases of 21 years or more.

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?

Not at all, until the issues outlined in this response are resolved. CLTs will not see any benefit in taking units in commonhold schemes rather than leasehold, as CLTs already ensure resident control over building management.

26) Are there any technical or minor changes to part 1 of the published Draft Commonhold and Leasehold Reform Bill that would better support specific private sector-led development models or forms of homeownership?

We assume that planning requirements through s106 will mean that a proportion of affordable units required by the development plan will have to be sold to housing associations and CLTs for onwards sale as shared ownership homes or on community housing leases.

The residents of those housing association or CLT units will have the right (under s.17(3)) to be registered as the voting members of the commonhold association. As the housing association/CLT unit-holders are not the members in respect of their units, there needs to be consideration of what information should be provided to unit-holders (e.g. regular copies of commonhold expense statements and buildings insurance, notification of the relevant member's arrears of contributions) and when voting should involve unit-holders instead or as well as members (e.g. votes on the reserve fund, termination or changes to the extent of the commonhold).

The permitted leases could possibly contain provisions requiring the tenant member to pass on information to the CLT unit-holder, and allowing the unit-holder to direct how the tenant member is to vote, but a direct relationship between the commonhold association and the unit-holders would be better.

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?

As noted in other answers, and in particular to question 9, currently we would expect no CLTs to use commonhold, either in developing their own 100% affordable housing projects or taking commonhold units developed by others through s106.

In the case of CLT developments it is not possible to achieve the CLT's aims with commonhold, as commonhold associations cannot be CLTs, CLTs cannot be commonhold associations, and CLTs cannot exercise any control over or have an underlying property interest relationship to the commonhold association.

In the case of allocations of commonhold units through s106, the community-led sector requires community housing leases to be permitted.

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?

We would not wish to comment on the threshold, but agree that professional building management should be required in cases where there are significant statutory duties on the building owner (the commonhold association). CLTs acting as stewards with

step-in rights for multiple developments, and offering support to homeowner management, are another way to improve the maintenance of multi-occupancy buildings, and make it more viable for volunteer homeowner directors to obtain and manage professional external support.

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]

Yes, CLTs will have to apply to the tribunal for the permitted lease certificate. As stated above, it is important that that process is as simple and as low cost as possible in order not to add an additional burden on affordable housing project budgets.

38) Do you anticipate any efficiencies to arise from the adoption of commonhold in the form of cost savings for you or your organisation?

No