



Ministry of Housing,  
Communities &  
Local Government

# Improving the home buying and selling process

Summary of responses to the Call for Evidence and government response



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# Ministerial Foreword

We all know that the current home buying and selling process in England is not fit for purpose. It is stressful, time-consuming and costly for buyers and sellers alike – with over a quarter of house sales falling through each year. Recent issues with new build leasehold properties have raised questions about the quality of advice and services that consumers received. That is why this government has made a commitment to reform the process so it works for buyers and sellers and not against them.

When I launched the Call for Evidence last year, I said that I wanted your suggestions for ways in which the process can be improved. I am really pleased by both the fantastic level of response – more than 1,200 of you took the time to respond – and also the high quality of responses. All of this goes to show the huge level of interest there is in improving the process.

From reading these responses it has become clear that there is no ‘silver bullet’ – no one single change which can, at a stroke, fix the process. Instead there are a number of practical changes, some big and some small, which when taken together will make the experience so much better.

This response sets out an ambitious programme of work which will over time deliver a better system. Some of our actions are targeted at improving the existing system. For example, reservation agreements will strengthen commitment and should help to reduce the rate of failed transactions and fear of gazumping. Our proposals to ensure that leaseholders get timely information from managing agents and freeholders should mean that buying a leasehold property doesn’t automatically add weeks to the transaction.

However, if we only make incremental improvements then we will not have gone far enough. It is vital that we also start working towards building a new and faster process, harnessing the huge advances in technology which we have seen over the last decade. I want a process which guides buyers and sellers, gives them the information they need, at the time they need it, allowing them to make the biggest purchase of their lives with confidence.

The other thing which is clear is that the process can only change if all of those involved work together. It is for that reason that I am setting up an industry group to support me and my Department to drive forward the changes we all want to see.

We made a commitment to build a process which is quicker, cheaper and less stressful. We can now start to deliver on this promise.

# Introduction

1. Making the home buying and selling process quicker, cheaper and less stressful is a priority for this government. Over one million homes are bought and sold in England each year. Delays and complications in the process bring unnecessary financial and emotional stress to customers and may lead to people delaying their decision to move. This is not acceptable. The government is determined to bring about meaningful change to the home buying and selling process in order to make work for consumers rather than against them.
2. In October 2017, we launched a Call for Evidence which sought the views of industry and the public on how the home buying and selling process could be improved.<sup>1</sup> The Call for Evidence ran for 8 weeks from 22 October 2017 until 17 December 2017. We used the BEIS research report 'Buying and selling homes: consumer experience study'<sup>2</sup> to inform our Call for Evidence.
3. The Call for Evidence sought views on 25 questions which covered the whole of the home buying and selling process, from finding a home, to purchase, to moving in. There are a wide range of professionals involved – estate agents, lenders, conveyancers, surveyors and removal companies. We received 273 organisational responses which covered all of these industries in addition to a strong response from members of the public with 932 personal responses.
4. The proposals set out in this response relate to England only, except for those concerning estate agents. The regulation of estate agents is reserved and so proposals concerning estate agents relate to Great Britain. We will be discussing the relevant proposals with the Scottish and Welsh governments.
5. This Call for Evidence is part of a wide-ranging body of work government is undertaking to improve the housing sector. One area of particular focus has been leasehold. We recently published a response to our 'Tackling unfair practices in the leasehold market' consultation<sup>3</sup>, and our 'Protecting consumers in the letting and managing agent market' Call for Evidence closed in November.<sup>4</sup> In February we published a consultation 'Strengthening consumer redress in the housing market'.<sup>5</sup> We expect the outcome of this work to lead to a significant improvement for consumers irrespective of the type of housing they live in.

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<sup>1</sup> <https://www.gov.uk/government/consultations/improving-the-home-buying-and-selling-process-call-for-evidence>

<sup>2</sup> <https://www.gov.uk/government/publications/buying-and-selling-homes-consumer-experience-study>

<sup>3</sup> <https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market>

<sup>4</sup> <https://www.gov.uk/government/consultations/protecting-consumers-in-the-letting-and-managing-agent-market-call-for-evidence>

<sup>5</sup> <https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing>

6. We are grateful to all of those who took the time to respond to this Call for Evidence.

# Part I – The Government’s plan of action

7. From the 1,205 responses received there were a huge number of suggestions for improvement. It is clear that there is no single change which will deliver a meaningful improvement to the process, but rather it is a series of smaller, incremental changes which, taken together, will deliver a significantly better system. We think there are three key areas for improvement:
- a better consumer experience;
  - reducing time from offer to completion; and
  - reducing failed transactions.

## Better consumer experience

8. Buying and selling a home is acknowledged to be one of the most stressful events a person will experience, often considered alongside other major life changes such as marriage, divorce or having a child.<sup>6</sup> We believe that improving consumer understanding of the process and making it more transparent are key to improving the experience.
9. **Further Estate Agent Regulation:** Estate agents are currently regulated through the Estate Agents Act 1979 and enforced by a small national enforcement team, the National Trading Standards Estate Agency Team. They have the power to issue warnings and banning orders to rogue agents, and approve customer redress schemes. There is currently no minimum professional standard requirement in order to operate as an estate agent, unlike our plans for letting agents. We believe that introducing a requirement to hold a professional qualification backed up with a programme of Continuing Professional Development would professionalise the industry, improve service and reassure consumers. This builds on our consultation to strengthen consumer redress in the housing sector. We will:
- work with the National Trading Standards Estate Agency Team to **strengthen enforcement of the existing regulatory framework** for estate agents with a focus on ensuring all agents comply with consumer protection regulations;
  - launch a consultation on creating a **mandatory professional qualification for estate agents** following engagement with industry and regulators; and

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<http://www.thisismoney.co.uk/money/mortgageshome/article-3390039/Only-one-thing-stressful-buying-home-finds-survey-divorce.html>

- post-consultation, evaluate the responses and consider **introducing legislation** where appropriate to ensure all estate agents are suitably qualified.
10. **Referral fees:** Referral fees are paid by conveyancers or mortgage brokers to estate agents in exchange for recommending business to them. We want to create more transparency surrounding referral fees so customers can make an informed choice and feel they are being treated fairly. We will:
- work with industry to **standardise the presentation of referral fees and ensure that customers are made aware of any potential referral fee before they make a decision whether to purchase;**
  - task the National Trading Standards Estate Agency Team to **proactively monitor the disclosure of referral fees;** and
  - look more closely at the **case for banning referral fees**, particularly for new build properties and instances when buyers are being referred.
11. **‘How to Buy’ and ‘How to Sell’ guides:** The government will develop and publish guides on ‘How to Buy’ and ‘How to Sell’ which will complement our existing guide on ‘How to Rent’ and planned guides on ‘How to Let’ and ‘How to Lease’. These guides will ensure customers are better informed of the process and know what to expect throughout. We will:
- develop and publish **‘How to Buy’ and ‘How to Sell’ guides;** and
  - **consider how the guide is distributed**, for example making it a standardised part of estate agency engagement in the same way the ‘How to Rent’ guide is with letting agents.
12. **Choosing a conveyancer:** We want consumers to be able to make a more informed choice of conveyancer which considers service levels, not just price. Currently when selecting a conveyancer, home buyers and sellers often rely upon recommendations from friends and family or referrals from estate agents. We will:
- work with industry and consumer groups to develop solutions using **more transparent data, standard metrics, kite marks and quality standards;** and
  - include advice on points to consider when choosing a conveyancer in government guides on ‘How to Buy’ and ‘How to Sell’.



13. **Buying a new build home:** A 2017 report found that 98% of new build buyers had reported snagging issues to their builders since moving in.<sup>7</sup> This is an unacceptably high proportion. Completion dates are often pushed back by developers with little notice, leaving buyers in limbo. We will:
- **improve the process of dealing with buyer complaints**, informed by the findings from our consultation on strengthening consumer redress in the housing market.<sup>8</sup>
14. **Making moving day better:** On moving day buyers are often left sitting on driveways waiting for keys to be released from the estate agents. This is not only frustrating for buyers, but also affects moving companies and their workers, who are forced to wait around and then work late into the day, costing consumers millions in extra fees. We will:
- work with removal firms, conveyancers and lenders to see how the process around the **release of funds can be improved**.

## Reducing time from offer to completion

15. The average time from offer to completion in England and Wales currently stands somewhere between 8 to 12 weeks, with around 40% of buyers and sellers stating it took longer than expected to buy their property.<sup>9</sup> We know that the longer the process takes between offer and completion, the more opportunity there is for buyers and sellers to get nervous, which can lead to people pulling out and in some cases, a whole chain of transactions collapsing.
16. We believe that a quicker process would reduce stress for consumers, and also reduce the number of failed transactions. Making more use of digital technology and getting buyers and sellers to provide more information up front is key to speeding up completions.
17. Ultimately, we see no reason why the home buying and selling process should be so lengthy. We want to work with consumers and industry to improve and redesign the process so it takes weeks rather than months.
18. **Better technology:** In the long term we want the process to be enabled by the wide range of technological improvements which are already speeding up other aspects of our lives. We also want to encourage digital innovators so that they

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<sup>7</sup> [http://www.hbf.co.uk/fileadmin/documents/Customer\\_Satisfaction/2017/CSS\\_2017.pdf](http://www.hbf.co.uk/fileadmin/documents/Customer_Satisfaction/2017/CSS_2017.pdf)

<sup>8</sup> <https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing>

<sup>9</sup> <https://www.gov.uk/government/publications/buying-and-selling-homes-consumer-experience-study>

can use their skills and expertise to transform the process. In the short term, we want to work with industry and other public sector bodies to encourage the development of digital signatures, improve the ID verification process and promote the adoption of e-conveyancing. To do this we will:

- establish a **technology working group** to engage users, industry and partners such as HM Land Registry to better understand user needs for new digital technology and stimulate innovation;
- task the group to prioritise work on **digital signatures**, improving and streamlining **ID verification** processes, and promoting the wider adoption of **e-conveyancing**; and
- work with innovators to **explore routes to market for technological solutions**.

19. **More information up front:** One of the reasons why the current process takes so long is that buyers (and their lenders) need to be satisfied that they have all of the information they need in order to proceed with their purchase. This information can take considerable time to assemble, and we believe this process should start much earlier. In the long term, we believe that most of the information consumers need to know about a property should be available when the property is marketed, for example through the development of a property passport. However, in the short to medium term we will use our 'How to Sell' guide to:

- encourage sellers to collect together relevant information (e.g. planning permissions, certificates for works done, previous searches) in an effort to be **'sale ready'**.

20. **Earlier contact with freeholders:** We already know that transactions involving a leasehold property take on average 2-3 weeks longer than transactions involving only freehold property. This is due in part to delays in receiving property information from the freeholder or managing agent. This is unacceptable. We will:

- set **fixed time frames and maximum fees for the provision of leasehold information**, potentially with a statutory underpinning, and **encourage managing agents to make this information available electronically** to enable instant access;
- work with industry to **standardise the leasehold information form**; and

- use our **‘How to Sell’ guide** to encourage sellers to have early contact with their freeholder.
21. **Speeding up local authority searches:** Although response times to search requests have improved considerably over recent years, they still vary considerably between different local authorities. Lengthy waits can add weeks to the time taken to buy and sell. We will:
- write to all local authorities to set an expectation that **they should respond to search requests within 10 working days** and allow timely access for external search agents; and
  - take **action against authorities if they fail to meet these expected performance levels.**
22. **Getting a Decision in Principle:** A Decision in Principle is a certificate from a mortgage lender setting out how much money they will lend to a buyer. We believe that all non-cash buyers should obtain a Decision in Principle before they start house hunting, and we know that many estate agents already ensure that prospective buyers have a Decision in Principle before they are able to view or make offers on properties. We will:
- make it clear in our ‘How to Buy’ guide that **buyers should seek a Decision in Principle early** in the process.

## Reducing failed transactions

23. Over a quarter of all transactions fail<sup>10</sup>, costing hundreds of millions a year to consumers and causing undue stress to both buyers and sellers. Over 65% of all buyers and sellers are worried whether they will make it to completion following an offer being accepted.<sup>11</sup> Government is particularly interested in the introduction of reservation agreements to address this problem given that a high proportion of buyers and sellers have expressed an interest in up front legal commitment. This will help to reduce the fear of gazumping.
24. **Reservation Agreements:** Reservation agreements are contracts which increase commitment between buyers and sellers earlier in the process, providing more certainty and reducing the risk of gazumping. These agreements are already used in some high value transactions but their use is not currently widespread. However, BEIS research, supported by the responses to the Call for Evidence, showed that buyers and sellers would be

<sup>10</sup> <https://www.which.co.uk/news/2016/06/three-in-10-property-purchases-fall-through-442589/>

<sup>11</sup> <https://www.gov.uk/government/publications/buying-and-selling-homes-consumer-experience-study>

willing to use them. We believe that making use of these agreements a more common part of the process will reduce the rate of failed transactions and the fear of gazumping. We will:

- work with industry to **develop a short standardised reservation agreement which can be used in any transaction;**
- commission some **behavioural insight research** in order to consider ways to encourage consumers to adopt these agreements; and
- **pilot these agreements** with aim of making them a standard part of the process.

## Part II – Detailed responses to questions

26. The home buying and selling Call for Evidence ran for 8 weeks from 22<sup>nd</sup> October until 17<sup>th</sup> December 2017. The document set out a range of issues with the process and posed 25 questions, covering from when you first search for a new home to actually moving in. We received 1,205 responses, 932 of which came from individuals and 273 from organisations. These organisations included a wide range of professionals involved in the process, from estate agents and lenders to conveyancers and home movers.
  
27. Our analysis is broken down by theme and then questions, as laid out in the original Call for Evidence. Where a multiple choice question was posed we have given the breakdown of 'yes' and 'no' responses for individuals and organisations. Many questions were open-response, and for these we have provided the percentage of respondents for that question who gave a particular answer. It should be noted that many respondents gave multiple answers to open-ended questions, so percentages given do not add up to 100%.

# Estate Agents

## **Q1: Should the industry do more to make customers aware of how to complain?**

### **a. If so, how?**

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	502 (72%)	108 (59%)
<b>No</b>	197 (28%)	75 (41%)
<b>Total</b>	699	183

28. There was a very strong rate of response to this question (882 responses) with the majority of respondents stating that industry should do more to make customers aware of how to complain. Organisations were less likely to state that industry needed to do more, with only 59% of respondents arguing this, compared to 72% of individual respondents. Of the 578 written responses, the most common answer was that estate agents should disclose their complaints procedure up front.
29. Over 31% of respondents stated that estate agents should have to describe their complaints procedure and disclose their ombudsman membership to their clients up front. There was no meaningful difference in the prevalence of this opinion between individuals and organisations.
30. Many respondents offered a variant on this theme. Some specified that the complaints procedure should be given to the customer in the form of a leaflet or booklet (almost 5%). Some respondents stated that the code of conduct should be laid out in the letter of engagement, while others simply said it should be clearly explained in the contract and not hidden away in the terms and conditions. There was also support for the complaints procedure being published on the estate agent's website. Similar numbers stated that details of the relevant ombudsman should be included on all estate agent literature and business cards.
31. Some organisational responses argued that the issue is not that customers are unaware of how to complain but that once they have moved in they 'cannot be bothered'. They said that moving house is often a long process, which can be made even longer if you have poor service from your estate agent. As a consequence, many people, once they have moved in, do not want the hassle of complaining. Some respondents also argued that ombudsmen 'lack teeth' and resources, meaning that even if a complaint is successful it does not feel 'worth it' in terms of action taken.

32. Some respondents stated that there needed to be more regulation of estate agents. Similarly common was increasing public awareness of how to complain, through an advertising campaign or education in schools. It was also felt that buyers need to be reminded that estate agents work primarily on behalf of the seller. Some respondents argued that compulsory feedback should be sought from customers.

## **Government response**

33. It is clear from the responses that more needs to be done to inform consumers about how to complain. We have recently launched a consultation on strengthening consumer redress in the housing market and will use the findings to inform our work improving the complaints process for consumers.<sup>12</sup>
34. We will continue to work with industry, ombudsmen and the regulator to encourage estate agents to share their code of conduct, which should contain details of their ombudsman membership, with clients. Training on this issue may also feature in our mandatory qualifications to work as an estate agent.
35. We will also include information on complaints procedures in our 'How to Buy' guide, and give guidance on things to bear in mind when dealing with estate agents, such as their obligation to disclose their ombudsman membership. We hope that these changes will mean that consumers are clearer about how to make a complaint and would feel confident in doing so if the service they received was unsatisfactory.
36. We also acknowledge that the responses from some respondents who felt that the current complaints process is not 'worth it', and will work with the ombudsmen and regulator to address this issue. This may include steps to make the public more aware of the action they are taking.
37. We have also recently launched a consultation on strengthening consumer redress in the housing market. The government will use this consultation to consider how best to strengthen redress.

## ***Q2. Should the government take further action to enforce current transparency regulations regarding the disclosure of referral fees?***

### ***a. If so, what action should be taken?***

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<sup>12</sup> <https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing>

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	526 (76%)	153 (81%)
<b>No</b>	163 (24%)	37 (19%)
<b>Total</b>	689	190

38. There was a very strong rate of response to this question with a total of 879 responses. There was strong support for the government to take further action to ensure transparency regarding referral fees, with 81% of organisations and 77% of the public in favour of further action. Of the 586 written responses, the most common proposal was that estate agents should disclose referral arrangements in their letter of introduction.
39. When asked what steps government should take, the most common response was that estate agents should be required to include details of any referral arrangements in their letter of introduction (51%). Respondents felt that it was very important that consumers were made aware of any arrangements as soon as practicable. It was also felt that this information should be clearly displayed in a standardised format if possible. Many argued that consumers should be better informed so that they are able to decide whether or not they want to choose a referred organisation.
40. Some respondents questioned the assumption within the original Call for Evidence that referral fees 'obviously increase the cost to consumers'. They felt that, in the absence of referral arrangements, parties would increase their marketing spend, and said that the certainty provided by a steady stream of referrals allowed firms to have confidence to make investments in their business. It was also suggested that there is a real benefit for customers as they are offered informed choice from a panel of firms who have already been through some filtering process.
41. However, a number of respondents questioned whether referral fees really did benefit the consumer, suggesting that they gave the impression that customers were purchasing a premium service when the reality was that once the referral fee was taken into account, the money left for the firm to do the work was much lower. A significant proportion of respondents (almost 12%) felt that referral fees should be banned altogether.
42. A number of respondents suggested that the government should look at the approach adopted by the Solicitors Regulatory Authority where solicitors are required to disclose referral fees in advance. It was also suggested that government should look at the role of the ombudsmen and the regulator with



regard to enforcing transparency regulations and this should include considering whether more resources were required.

### **Government response**

43. In the light of the clear response to the questions on referral fees, the government will work with estate agents, their trade bodies, the ombudsmen and the regulator to develop a standardised approach to reporting referral fees. We will increase the level of funding available to the National Trading Standards Estate Agency Team so that they can proactively monitor agents to make sure that agents are making these fees clear to customers and to take enforcement action where this is not happening.
44. We believe that this transparency will create a level playing field and ensure that customers are aware of the extent of any commercial arrangements before they make a decision to appoint a firm. The government will also cover referral fees as part of its 'How to Buy' and 'How to Sell' guides, to make sure that consumers understand and then can act on this information.
45. The government has also recently launched a consultation on proposals for a single housing ombudsman and as part of this work we will consider the level of resources which need to be devoted towards enforcement of estate agent regulations.<sup>13</sup>

### ***Q3. What would the impact be of banning referral fees?***

46. We were keen to get an understanding of the impact of a ban on referral fees. There was a strong rate of response to this question with 640 responses. Views were mixed with 35% of respondents believing that a ban would have a positive impact, with estate agents referring customers to third parties based purely on their service levels rather than in anticipation of fee. Around 6% of respondents thought that costs to the consumer would fall if referral fees were banned.
47. Just over 10% of respondents suggested that the overall costs to the consumer would rise as estate agents sought to recoup their referral fee in another way. Over 4% of respondents suggested that referral fees would still exist but be driven underground.
48. Around 3% of respondents thought that banning referral fees would delay the home buying process as homeowners would be forced to seek out their own

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<sup>13</sup> <https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing>

conveyancer, which may result in choice being made purely on the basis of cost rather than expected levels of service.

49. However, 2% of respondents suggested that a ban on referral fees could force some estate agents to close, and could also discourage conveyancing firms from making significant investments in IT as they would not be able to predict future revenues with as much certainty. A small number of respondents (less than 1%) suggested that a ban would encourage the industry to bring together estate agents and conveyancing practices into single firms as a way of circumventing any ban which would ultimately reduce consumer choice.

### **Government response**

50. There is no clear cut answer on the likely impact of banning referral fees. On the one hand it is clear from a number of responses that ban on referral fees could have a positive impact, and may lead to consumers getting recommendations based solely on anticipated levels of service. Our leasehold consultation also raised a number of issues with the quality of conveyancing services received as a result of pressure to use a particular provider. Having said that, there were also many valid points raised about potential negative side effects. These include; a reduction in investment in technology by conveyancers due to less certainty about income streams, referral fees being driven underground, consumers taking longer to choose a conveyancer, and consumers making their choices purely on cost grounds rather than service levels.
51. Whilst there is a debate to be had about whether referral fees should be banned, we are clear that as a minimum there needs to be greater transparency. As outlined in our response to question 2 we will be taking action to ensure that home buyers and sellers are aware of any commercial arrangements before they enter into agreements.
52. We will also want to give further consideration to the case for banning referral fees. In particular we want to look at referrals for new build properties and those instances where buyers are being referred by estate agents rather than sellers with whom agents have an established contractual relationship.

### ***Q4. Should the government introduce more regulation for estate agents?***

***If so, what sort of regulation would be appropriate?***

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	548 (79%)	141 (75%)
<b>No</b>	150 (21%)	46 (25%)
<b>Total</b>	698	187

53. There was a very strong rate of response to this question (885 responses), with the majority of respondents stating that government should introduce more regulation for estate agents. There was very little difference in this headline figure for personal or organisational responses, with 79% and 75% in favour respectively.
54. Of the 630 written responses, the most common (raised by 26% of respondents) was that estate agents should have to undergo training or have some minimum qualifications to enter the profession. This response was particularly prevalent amongst organisations, with 42% of their responses mentioning it. This compares to just over 20% of all personal responses arguing in favour of training and qualifications. Some responses also said that this should be reinforced by regular Continual Professional Development.
55. Around 10% of respondents argued that agents should be licensed. Again, this opinion was more prevalent amongst organisations (15% versus 9% of personal responses). Many respondents linked licensing to training and qualifications, and argued it would better enable the regulator to ban rogue agents from the profession.
56. It was also suggested that there should be a single code of conduct for estate agents. At present there are non-mandatory codes of conduct for members of specific ombudsmen associations. Respondents suggested that this code should then be enforced through improved resourcing of both the regulator and ombudsmen.
57. Over 17% of respondents mistakenly suggested that agents should have to sign up to an ombudsman or regulatory body. It seems there is a common misconception that estate agents are currently unregulated and it is clear that more needs to be done to make all parties aware of the current regulatory requirements placed on estate agents.
58. Of those who argued that more regulation was not required, many stated that there needed to be better enforcement of current regulations.

## **Government response**

59. Consumers need to have confidence in the quality of the services they receive when buying a home. While satisfaction rates are high, there are clear examples of poor practice. Our own research found that almost one-third of sellers report that their agent offered poor value for money.<sup>14</sup> Issues surrounding new build leasehold properties also raised concerns about the quality of information received during the sales process, with some respondents to the Call for Evidence reporting a lack of enforcement of consumer protection regulations.
60. In light of the strong response in favour of further estate agent regulation, we will look to introduce a mandatory professional qualification for estate agents with an on-going requirement to undertake Continuing Professional Development. We have already committed to regulating letting agents, including setting minimum entry requirements. Our response to the Call for Evidence 'Protecting consumers in the letting and managing agent market' was published earlier this month and outlines our approach to regulating letting and managing agents.<sup>15</sup> We are keen to ensure that any new regulatory framework is joined-up across letting, managing and estate agents.
61. We will bring forward a consultation on minimum competency requirements later this year, and as part of this we will consider the case for creating a licencing regime. In order to develop this consultation we will shortly set up a working group comprised of industry, ombudsmen and regulators to provide advice and guidance on a joined-up regulatory framework.
62. The outcome of this consultation will determine whether we need to introduce primary legislation or use existing powers. If needed, we would aim for further regulation to come into force before the end of this Parliament. Any proposed changes will also have to be considered in the light of our work on strengthening consumer redress arrangements in the housing sector.
63. In the interim, we will work with National Trading Standards to strengthen enforcement of the current regulatory framework. We will increase the level of funding for the National Trading Standards Estate Agency Team in order to allow them to conduct more proactive investigations into potential breaches of the Consumer Protection Regulations, which should reduce the potential for complaints.

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<sup>14</sup> <https://www.gov.uk/government/publications/buying-and-selling-homes-consumer-experience-study>

<sup>15</sup> <https://www.gov.uk/government/consultations/protecting-consumers-in-the-letting-and-managing-agent-market-call-for-evidence>

# Conveyancing

## **Q5. What should industry do to help consumers make more informed decisions when selecting a conveyancer?**

### **a. How could government help facilitate this?**

64. There was a good rate of response to this question with 688 responses overall. The most common response, put forward by over 16% of respondents, was that conveyancers should be more transparent and provide more service information on their websites. It was suggested that this could include data on the length of time taken to progress a transaction (broken down by property type) and data on the qualifications held by staff. There were also calls for regulators to develop a standardised set of information and encourage their members to publish this. The desire for this information to be available online reflects the increasing importance of online research for consumers.
65. There was also strong support for the development of a centralised comparison website. This would allow customers to compare key information on conveyancers, such as average time taken per transaction, overall costs, qualification levels of staff etc. The website would help educate customers about likely time frames for the process, and could house more general guidance about conveyancing itself. It was also suggested that this would need to be hosted by publically trusted third party.
66. A large number of respondents, particularly those responding as individuals, argued for further regulation of conveyancers, particularly in ways which would make them provide better information to consumers.
67. Around 9% of respondents stated that there should be more guidance for consumers which explains the conveyancing process and what to look out for when selecting a conveyancer. A number of respondents felt strongly that price should not be the sole factor that is taken into consideration.
68. There were also suggestions that conveyancers should be encouraged to provide comprehensive price quotations so that consumers could make a like-for-like comparison, and there was further support for transparency around any referral fees. There was also support for the development of a kite mark or accreditation scheme, and suggestions that regulators should be encouraged to produce a list of recommended firms.

69. When asked what government should do to help facilitate this, 559 responses were given. 20% of respondents thought that government should consider using regulation to improve standards. Many also encouraged industry to develop indicators which could be used to measure and compare service levels. Around 6% of respondents felt that this was something which should be left to industry.

### **Government response**

70. We are very clear that more needs to be done by the conveyancing industry and the relevant regulatory bodies to ensure that consumers are getting the information they need to make an informed choice. This should include standardised information which goes beyond cost and includes some element of performance data. Given that consumers have become accustomed to doing research online this type of information should be included on the websites of all conveyancers. While we expect industry to take a lead on this, we are also keen to work with consumer groups to ensure the right information is available.
71. We would also like the industry to continue to develop, and more importantly promote, quality standards and kite marks so that consumers can feel confident that they will get a good level of service.
72. The government will also include a section on choosing a conveyancer in its 'How to Buy' and 'How to Sell' guides. This will set out some of the questions consumers should ask before they make their choice of conveyancer and will also encourage them to look at reviews.

### ***Q6. What improvements can be made to the process of property searches in order to speed up home buying and selling?***

73. There was a strong rate of response to this question (732 responses) with two clear suggestions – the introduction of service-level agreements for local authorities, and a requirement on sellers to provide searches up front.
74. There was a strong sense from these responses that the position regarding property searches had generally improved over the last few years, partly due to the efforts of private search companies. One respondent commented that his conveyancing firm had dealt with more than 6,500 sales in the last 12 months and searches had only been an issue in 5% of these cases. Over 7% of respondents said that this was not a problem area at all.

75. However, it was clear that local authority performance varied enormously across the country and that neighbouring authorities could have vastly differing response times, with some responding within a couple of days whilst others took weeks. A significant number of respondents (over 6%) cited a lack of local authority staff as an issue affecting property search response times. As a consequence, 21% of respondents suggested that government should set up a service level agreement with all local authorities which sets out clear targets for search return times, with financial penalties if the standard of performance fell below these levels.
76. Over 15% of individuals responding suggested that sellers should have to provide searches as part of the 'seller's pack'. It was felt that assembling this information up front would speed up the entire transaction and reduce the amount of negotiation taking place just prior to exchange. This suggestion was not advocated by organisations, who cited concerns that mortgage providers might deem the search information out of date by the time a seller is found and mortgage request lodged.
77. Some respondents felt that this was an area where digitisation of data could have a real impact. Some described the ambition of having an online database, which would enable the return of search information instantaneously.
78. There were also suggestions that searches should be portable and have a longer lifespan. There was sizeable support for some form of 'property passport', where searches, along with title information, previous surveys and building certificates, would be logged with the property.
79. Some respondents raised the issue of superfluous searches, arguing that searches should be rationalised to make sure that they only ask for pertinent information. It was suggested that some conveyancers were insisting upon unnecessary information in order to protect themselves against potential claims.
80. Over 7% of respondents felt that property searches did not constitute a problem area. Very few respondents were keen on replacing property searches with insurance and said that buyers want to be reassured about their property, as it is likely to be one of the biggest purchases of their lives.

## **Government response**

81. It is pleasing that a large number of respondents thought that the searches were not a significant source of delay given that this has been an area of concern in previous years, and we must acknowledge the role of the search agents in driving up this level of performance. We are also encouraged that a

number of local authorities are able to respond to search requests in a matter of hours or days.

82. However, it is clearly not acceptable that a handful of local authorities are continuing to take weeks to respond to search requests and that in extreme cases this is causing the house sale to collapse. The government expects all local authorities to be able to respond to a search request within 10 working days, and to grant reasonable access to search agents. We will be writing to all local authorities to make this expectation clear. Where local authorities fail to meet this standard after government intervention we will take appropriate action. We will also work with HM Land Registry through their Local Land Charges programme<sup>16</sup> and with others in coming months to improve the accessibility and discovery of this data. Separately HMLR will be undertaking a review of CON 29 searches on our behalf to help identify how they can be made more efficient.
83. As we said in the Call for Evidence, we believe that homeowners should look to provide more information up front. We would be supportive of sellers who wished to commission searches prior to a sale in order to speed up the eventual transaction, and we are aware that there are commercial companies who are developing this service for sellers. However, we also recognise that buying a home is the biggest purchase a person can make and so it is important that buyers, lenders and their lawyers satisfy themselves that they have sufficient accurate information before a purchase.
84. We also agree with those respondents who suggested that this information should be available digitally. They argued that digital information should be linked to a property so that it can be easily found when the home is next sold. The government will engage with users, industry and partners such as HM Land Registry to better understand user needs for such technology, and encourage our working group to take action to stimulate innovation in this area.

**Q7. Would there be an advantage to encouraging buyers and sellers to use the same conveyancing provider?**

**a. If so, how could it work, without creating conflict of interest problems?**

	Individuals	Organisations
<b>Yes</b>	191 (33%)	53 (30%)
<b>No</b>	384 (67%)	126 (70%)
<b>Total</b>	575	179

<sup>16</sup> <https://www.gov.uk/government/publications/local-land-charges/local-land-charges-register>



85. There was a strong rate of response to this question (754 responses) with the majority of respondents stating that there would not be an advantage to buyers and sellers using the same conveyancer. Of the 436 written responses, the most common comment was that there would be a conflict of interest.
86. 68% of respondents did not think there would be an advantage for buyers and sellers to use the same conveyancer. Organisations were slightly less likely to think there would be a benefit to doing this, with only 30% in favour compared with 33% of individuals.
87. Whilst some respondents felt that using a single conveyancing provider might speed up the process through a reduction in delays sending information between firms, it was generally felt that this advantage did not outweigh the concerns around potential conflicts of interest. 41% of respondents wrote that using a single conveyancer would cause a conflict of interest. They felt that as the current buying process was built around the concept of Caveat Emptor (buyer beware), having a conveyancer who was clearly working for your interests was an integral part of this process. It was felt that having a conveyancer working for both sides would lead to reduction in consumer confidence, increase the risk of fraud and increase the cost of audits faced by firms.
88. It was pointed out by a number of respondents that licensed conveyancers can already represent both sides and do so successfully, but that solicitors are prevented from acting this way by their Code of Conduct. Responses suggest that these arrangements generally work well but that there is not a significant reduction in time taken, partly due to the prevalence of chains. It was suggested that lenders may also be uncomfortable with conveyancers working for both sides, and a number of respondents said that this was prohibited by some lenders.
89. Amongst the 32% of respondents who felt that this proposal should be encouraged there were also concerns raised about conflicts of interest. It was felt by many that these issues could be overcome through the use of 'Chinese walls' or by a physical separation of buyers and sellers within firms, with buyers represented by one team and sellers by another. Very few thought it was a good idea for one person to represent both sides. It was noted that this might make it difficult for smaller firms to compete.
90. A number of respondents suggested that the best way to speed up transactions would be to get conveyancers to use the same communication platform, so that they could develop a chain view, rather than encourage the use of a single firm.

## **Government response**

91. In light of the responses to this question, government is not minded to take steps to encourage buyers and sellers to use the same conveyancing provider, although we note that the option already exists in the market via licensed conveyancers. We agree with those respondents who suggested that conveyancers should be encouraged to move towards using a digital platform that allows them to communicate more easily and have a chain view, and will be working with industry to make this happen.

# Harnessing digital technology

## ***Q8. How would a predominantly digital conveyancing process affect home buyers and sellers?***

92. There was a good rate of response to this question with 679 responses. The most common response was that a digital process would make home buying and selling much quicker.
93. Over 35% of respondents stated that a digital process would speed up the home buying and selling process. Over 9% argued it would make the process more transparent, and over 5% said it would be made more efficient. A number of respondents said that a fully digital process would enable everyone involved in the transaction to have a shared chain view, which could facilitate faster transactions and reduce drop-out rate.
94. There was a sense from respondents that industry had already begun to move towards a more digital process and that buyers and sellers were already beginning to benefit. They identified a couple of stumbling blocks which needed to be addressed around ID verification and electronic signatures, and it was felt that these could be potential blockers to implementing a fully digital process.
95. Despite widespread support for digitalisation of the process, there were some concerns raised about the increased risk of fraud (around 14% of respondents) and the impact on the elderly (around 9% of respondents). There were also concerns raised about the impact that technology could have on the role of conveyancers, with some respondents worried that technology could reduce the professional standing of conveyancers to a 'tick-box exercise'. Some respondents were also concerned that small conveyancing firms may not be able to make the sufficient investment in skills and technology to adapt.
96. A small number of respondents (under 6%) felt that technology was not the answer.

### **Government response**

97. We firmly believe that technology has the potential to revolutionise the way in which we buy and sell houses. We are encouraged that progress has already been made and we want to work with industry to ensure that innovation can continue. We note the very real concerns raised about the increased risk of fraud and we want to work with industry to make sure that levels of fraud continue to be minimised. We would also like to set up an industry working

group with HM Land Registry to drive progress on ID verification and the acceptance e-signatures, and ensure that these are implemented in a way which minimises the risk of fraudulent transactions.

98. We also note the concerns raised about the impact on people who are not digital natives. We believe that there should always be a place for face to face contact. We would expect technology to be used in a way which enables those people who are less comfortable with technology to still feel able to participate. We do not see that this should be a significant barrier to a digital process. We also acknowledge the concerns about the impact of technology on conveyancers but hope that technology will enhance their role so that they are recognised for their expertise and advice rather than just their ability to assemble all of the relevant information.

### ***Q9. What should the government do to accelerate the development of e-conveyancing?***

99. There was a reasonable rate of response to this question with 593 responses. There was a large range of responses provided, with no clear consensus on what government could do, which suggests that there needs to be action on a number of fronts. Some of the most common areas discussed included enforced e-conveyancing, the use of digital signatures and the introduction of a digital platform.
100. A number of respondents felt that the move towards e-conveyancing was already well underway. They cited work being carried out by the Law Commission and HM Land Registry on initiatives such as Digital Street. Over 6% of respondents said that government should continue to support HM Land Registry with this work. Around 3% of respondents expressed concerns about an increased risk of fraud.
101. A large number of potential technological solutions were suggested but the most common was that government should set up a digital platform which would be used by all parties to manage the transaction (over 9%). Respondents also said government should work with the sector to remove two significant stumbling blocks to the development of e-conveyancing; enabling digital signatures (over 8%) and online identity verification (over 2%).
102. Around 10% of respondents thought that government should use legislation to make e-conveyancing mandatory, although slightly more respondents thought that government should not intervene. Over 7% of respondents thought that government should offer funding or financial incentives to encourage more companies to invest in technology and innovation generally. There were also

suggestions that government should set up a taskforce or working group to help drive forward the development of e-conveyancing.

## **Government response**

103. We are encouraged by the feedback which suggests that the move towards e-conveyancing has already begun. We were not surprised by the wide range of potential solutions offered by respondents to this question, as we believe that progress will be made via a large number of small increments rather than a single panacea. We are pleased that the work being taken forward by HM Land Registry is being recognised and we are keen for this to continue.
104. We do not think that mandating a move to e-conveyancing through legislation would be helpful at this point, although we acknowledge that this has been successful in countries such as Australia. However, we do want progress to continue to be made, so we will be setting up a technology working group to help drive through changes. Amongst the first items this group will look at is digital signatures and ID verification. We are also investigating routes to market for innovative digital solutions.

### ***Q10. Are there any particular public sector datasets which you think should be released as open data in order to drive innovation in the home buying and selling process?***

105. There was a reasonable rate of response to this question with 510 responses. A large number of datasets were suggested but the most commonly requested were: more HM Land Registry data (over 9%), search data – Local Land Charges and CON29 (over 16%), and data on planning permissions and building regulations (over 11%). However almost 13% of respondents felt that there were no further data requirements.
106. In addition to those listed above there were also a number of requests for data on adopted roads, tree preservation orders, better leasehold information and data on new build plots.
107. Respondents were also keen to get more data on historic service levels provided by conveyancers and data on house prices, both of which would help people when they first enter the home buying and selling process.
108. A number of respondents commented that while making data open is important it is also vital that data is maintained to ensure it is of good quality.

## **Government response**

109. We remain committed to the principle of making data freely available where there is a clear case for doing so. We will continue to keep the position on the data which is needed for home buying and selling under review, and will continue to work with other public sector bodies and HM Land Registry in particular to make the relevant datasets publically available where possible.

### ***Q11. How could other parts of the home buying and selling process be improved through better use of digital technology?***

110. There was a reasonable rate of response to this question with 536 responses. A large number of potential actions were suggested but the most common was the development of a chain view to improve transparency between parties, which would ease anxiety about the chain and reduce drop-out rate (11%).

111. Many respondents gave similar answers to other questions in this section, with 8% wanting to streamline the ID verification process, almost 7% advocating for digital signatures, over 6% supporting a communication platform for all parties, over 5% advocating for the development a property log book and over 3% suggesting blockchain should be used.

112. There were also some suggestions that the provision and availability of leasehold information should be improved with a focus on making the information available digitally. A few respondents suggested that there was scope to use IT to improve the end of the process and in particular the transfer of funds. Respondents stated that moving day was a particular challenge; with buyers having to wait until late in the afternoon for confirmation that funds had been received in order to move. It was argued that these delays cost consumers millions in additional fees to removal firms and did not have a place in the 21<sup>st</sup> Century.

113. Around 3% of respondents felt that government should not do anything further.

## **Government response**

114. We agree with those respondents who suggested that a chain view should be developed. We believe that a common understanding of the status of chain members would help to give consumers confidence in the process and could in some cases speed the process up. We are aware that a number of PropTech firms are actively looking at the home buying and selling process, and we expect this sort of technology to be introduced within the next couple of years.

We will work with innovators to explore routes to market for technological solutions.

115. We want to work with all parties in the process to make sure that the opportunities for using technology are maximised through our technology working group. We will also work with conveyancers, lenders and removal firms to look at the scope for improving the process around the transfer of funds upon completion.

# Mortgages and the requirements of lenders

## ***Q12. What more could be done to encourage borrowers to seek a Decision in Principle from their preferred lender before they start house hunting?***

117. There was a reasonable rate of response to this question, with 590 individuals and organisations providing an answer.
118. There was strong support for the proposal that buyers should be encouraged to get a Decision in Principle, with almost 38% of respondents saying that buyers should not be able to make an offer on a property unless they had obtained one. Respondents also suggested that there needed to be a similar proof of funds procedure for individuals who purported to be cash buyers. A smaller number of respondents (7%) said that getting a Decision in Principle was already a well established practice. Some respondents (4%) felt it should be made compulsory.
119. It was pointed out that some lenders had developed a Decision in Principle which could be delivered in 15 minutes. It was felt that there needed to be clarity for the consumer over whether obtaining a Decision in Principle would have an impact on credit scores. Some respondents advocated for the widespread use of a 'soft imprint' Decision in Principle, which would not impact a buyer's credit score ahead of them securing finance.
120. Respondents also pointed out that any lending decision will also depend on the property being purchased and that on occasions a buyer will be rejected at the final stage even if they have a Decision in Principle.
121. Almost 20% of respondents suggested that there needed to be more advertising and educational material available for buyers so that they are encouraged to seek a Decision in Principle before house hunting.

## **Government response**

122. In light of the strong positive feedback from respondents in response to this question we will continue to work with estate agents and lenders (including mortgage brokers) to encourage prospective buyers to seek a Decision in Principle. We are pleased that lenders are developing innovative products and we would like this to continue, particularly with the advent of 'open banking'. We



will also include a section on obtaining a Decision in Principle in our 'How to Buy' guide to further encourage buyers to seek one early in the process.

***Q13. What other improvements could be made to the process of applying for and obtaining a mortgage?***

123. There was a relatively low rate of response to this question of only 379 responses. This is not all that surprising given that the question requires more detailed knowledge of the existing mortgage process.
124. The most common response was that offers should not be accepted until a buyer had demonstrated proof of funds (17%). 15% of respondents said that this proof should be in place before an offer can be made. A small number of respondents (6%) thought the mortgage process should be reviewed to see if it could be sped up.
125. Some respondents suggested that lenders should be encouraged to standardise their forms or requirements where possible, but it was also important that requirements were not made any less rigorous.
126. It was suggested that efforts should be made to reduce the number of post-valuation queries raised by lenders as this delays the transaction. The lending industry suggested that giving lenders access to government ID verification systems could speed up the application process. It was also felt that there is a need for better consumer education, so applicants know what to expect and how long the process is likely to take.

**Government response**

127. Government will continue to work with lenders and mortgage brokers to ensure that the mortgage process is as efficient as possible and does not slow the home buying and selling process down.

# Informing consumers

## ***Q14. How do we ensure buyers and sellers are able to access good guidance on buying and selling homes?***

128. There was a good rate of response to this question, with 628 written responses. The most common response, suggested by almost 25% of respondents, was for a central website or portal to be set up to host guidance on home buying and selling. Many respondents acknowledged that there are lots of websites with advice on the process, but over 13% felt there would be a benefit to gathering all relevant information in a central place, specifically with a .gov domain.
129. 20% of respondents stated that a specific guide to the home buying and selling process should be created, with slightly under half advocating that it should be developed and published by government. Of the other respondents advocating for a guide, some argued that existing ones (e.g. RICS) could be more widely used as they are, or even amalgamated. Some respondents referenced the government's 'How to Rent' guide, and suggested that 'How to Buy' and 'How to Sell' versions would be a natural next-step.
130. Over 8% of respondents stated that there should be more regulation of and improved training for estate agents. It was felt that the increased professionalisation of estate agents would improve the quality and consistency of advice given to buyers and sellers.
131. Almost 9% of respondents acknowledged that there already was a great deal of information available online. Some respondents felt that even if clear information is provided, some buyers and sellers still will not engage with it in a meaningful way (4%).

### **Government response**

132. On the basis of these responses, we will develop guides on 'How to Buy' and 'How to Sell' which will complement our existing guidance on 'How to Rent' and planned guides 'How to Let' and 'How to Lease'. These guides will outline the home buying and selling process from start to finish, and will ensure that all buyers and sellers have access to quality information and are able to ask the right questions. These guides will be clearly dated and published on the gov.uk website to give consumers instant access to advice.

133. We are keen to work with industry and ombudsmen to develop these guides, especially given the high quality specialised guidance that some groups already offer. We have listened to suggestions that some consumers may not know where to access good advice on home buying and selling and will look at methods of distribution including hard copy and digitally. We will also consider whether we can make their distribution a standard part of estate agency engagement (similar to the way in which our 'How to Rent' guide is distributed by letting agents).

# Better information at point of sale

## **Q15. Should sellers be required to provide more information before they market their property?**

### **a. If so, what information should be provided?**

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	438 (80%)	164 (85%)
<b>No</b>	111 (20%)	29 (15%)
<b>Total</b>	549	193

134. There was a strong rate of response to this question, with 742 responses in total. 85% of organisations and 80% of individuals were in favour of sellers providing more information up front. There were 630 written responses to this question.
135. 37% of organisational and 24% of individual responses stated that sellers should provide leasehold information up front. It was argued that this was not a huge burden as sellers will need to request this information as soon as they accept an offer anyway, and many respondents described the delays that can be caused by slow responses from managing agents and freeholders. 13% of respondents specified that this leasehold information should include ground rents, service charges and any restrictive covenants.
136. Over 20% of respondents stated that information about building works, associated planning permissions and certificates should be shared up front. For many of these answers it was not clear whether the respondent was referring to planned building works which might affect the value of the property (e.g. a new housing development being built across the road) or certification of building works already carried out to the property (e.g. FENSA certificate for new windows).
137. 20% of respondents suggested that sellers complete a property information form up front. This suggestion was more common with organisations (over 34% advocated it compared with 14% of individuals). A handful of respondents specified that a TA6 form would be suitable for this purpose.
138. Almost 19% of respondents advocated a survey being completed up front, but this was much less common amongst organisations (fewer than 10% compared with 22% of individuals). Those against the idea argued it would rapidly go out of date and would be subject to some mistrust from buyers, resulting in multiple surveys being paid for and carried out on the same property.

139. 15% of respondents suggested searches be done up front, but again this was less common amongst organisations. Over 16% of respondents stated that title information should also be provided earlier in the process.
140. Just over 14% of organisations suggested the formation of a digital property passport or log book. 13% of individual responses advocated that there should be a 'full pack' available, containing 'all the information'. Other common suggestions included: gas/electricity/boiler safety certificates, fixtures and fittings forms, information on issues with the neighbours or crime locally, EPCs, and information on drainage, flooding and subsidence issues.

### **Government response**

141. It is clear from these responses that there is a huge level of support for sellers providing information up front – especially information which is not time sensitive e.g. restrictive covenants. The most commonly-cited data to be provided up front was leasehold information, which is unsurprising given that transactions involving leasehold properties can take weeks longer than those involving freehold only, largely due to delays in obtaining information from the freeholder or managing agent. This issue is addressed in more detail in our response to question 16.
142. In 2010, the Coalition government removed the requirement for sellers to provide Home Information Packs before marketing their homes. These packs required sellers to assemble a standardised set of information. Both consumers and professionals were clear that these packs were costly to produce and did not deliver a level of benefit which justified this cost. The government has no intention of reintroducing Home Information Packs or requiring sellers to undertake expensive and unnecessary extra work before they market their home.
143. However, our long term vision is of a system where all sellers provide search information up front, before offers are made. This may come about due to increased digitalisation of records or the development of a property log book. While up front information on building certificates or local development plans will clearly be welcomed by buyers, we are mindful not to put too great an additional burden on sellers before they put their home on the market. In our 'How to Sell' guide we will encourage sellers to gather together this information early on in the process and be 'sale ready', but will not seek mandatory reform on this issue.
144. Keen to drive innovation, we also want to work with HM Land Registry and industry (especially PropTech firms) to explore the potential to develop a

property log book. We believe that in the longer term this has real potential to speed up the process and could contain title and leasehold information, building certificates, searches and even past surveys. A number of respondents to the Call for Evidence suggested that it might be possible to start the development of this sort of log book with new build homes.

**Q16. Should sellers of leasehold homes be encouraged to engage with their freeholder before marketing their home for sale?**

**a. If so, in what ways should they engage?**

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	336 (69%)	144 (84%)
<b>No</b>	148 (31%)	27 (16%)
<b>Total</b>	484	171

145. There was a good rate of response to this question (655 responses), with the majority in favour of sellers of leasehold homes engaging with their freeholder before marketing their home for sale. Organisations were more in favour of this than individuals, with 84% in favour compared to 69% of individuals.

146. Of the 495 written answers given, the most common response, suggested in over 22% of responses, was that sellers have their freeholders or managing agents organise a management / leasehold pack before marketing their home. Some respondents specified information that should be included, which included service charges and ground rents, lease length, the cost of extending or buying the lease and whether there were any up-coming works. 9% of responses specified the LPE1 form should be used to collect leasehold information. Some respondents argued that the information from freeholders should be provided for a set fee and within a set timeframe. This issue has been addressed in more detail in questions 20 and 21.

147. A number of respondents argued that information collected might go out of date before a sale is agreed. Some respondents stated that freeholders and managing agents should update the information packs for free (or a nominal fee) for a set period of time after its formation.

148. 14% of individuals stated that the seller should inform their freeholder of their intention to sell. This response was not seen as much from organisations, where 5% spoke generally about engaging with the freeholder earlier and a similar proportion said the seller should find out if a licence to assign would be needed.

149. Around 4% of respondents argued that leasehold information should be digitalised. Freeholders could update the register as required, resulting in information being available more rapidly.

### **Government response**

150. Government is keen to encourage sellers to be 'sale ready', and gather together information early that will be needed later on in the process. While we would not mandate the preparation of a 'management pack' for leasehold properties before a sale is agreed, we will use our 'How to Sell' guide to encourage serious sellers to do so. We are also keen to streamline the process of gathering information by working with industry to standardise leasehold information forms.

151. There is also potential for government to support industry, and PropTech firms in particular, to develop a leasehold register where leasehold information would be stored and be instantly accessible to potential buyers. We believe that in the long term all relevant information should be available digitally.

# Sharing information about each other and increasing commitment

**Q17. How can government increase commitment to a sale between buyers and sellers?**

**a. Would development of standard agreements help?**

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	404 (81%)	120 (78%)
<b>No</b>	96 (19%)	33 (22%)
<b>Total</b>	500	153

152. There was a strong rate of response to this question, with 703 respondents providing a written answer. There were high levels of support for the principle of a reservation agreement with some sort of deposit being paid by both buyer and seller. Of the 653 respondents who answered the yes/no question on whether standard agreements would help, 80% agreed they would.
153. Overall the most common response was for both buyers and sellers to pay a deposit (either fixed cost or a percentage of the sale value) in order to 'lock in' the sale (over 22% of respondents). If a party pulled out, around 6% stated the 'wronged' party's costs should be covered, while another 6% felt the 'wronged' party should receive the entire deposit as compensation. Many respondents argued that there should be some exemptions which would allow withdrawal from the agreement without penalty (e.g. bad survey, failure to secure a mortgage, bereavement, unemployment).
154. Among individual respondents, a deposit system was not the most common response. Instead, over 23% of individuals stated that offers should be binding, in a similar way to the Scottish system.
155. There were some respondents who argued that reservation agreements were not the answer. Over 15% of respondents felt that earlier commitment would be best realised with more information up front, for example buyers providing a Decision in Principle or sellers providing a survey. Others felt that the process should be sped up so exchange could happen earlier. Some respondents felt that the number of caveats and get-out clauses needed to ensure a reservation agreement was fair would negate the effect of any increased commitment.
156. A sizeable number of respondents (over 12%) felt that the government could not or should not attempt to increase commitment. Many felt that our current



system allows important checks to be carried out, and rushing into earlier commitment would be unfair.

## **Government response**

157. It is clear from the positive response to this question and conversations we had with industry bodies during this Call for Evidence that there is an appetite for buyers and sellers making a commitment earlier in the process.
158. A significant number of respondents to the Call for Evidence suggested that we should move to a system of binding offers which is used in Scotland. We believe that the introduction of binding offers would require a fundamental re-engineering of the current process. In order to have the confidence to make a binding offer, buyers would need to see all of the local search information and would probably also want a survey. This would substantially increase costs to sellers as they would need to pull together this information before they marketed their house and it may deter some potential sellers from entering into the market. For this reason, we will not be adopting this approach. However, over the longer term, as more property information becomes available online and property log books become more commonplace, we do think it will be possible to move to binding offers, but this is not the right time.
159. However, we do want to trial reservation agreements. We believe that they are a relatively easy way to increase the commitment of both parties to the transaction and should help to reduce the failure rate. We also believe that they could be easily grafted onto the existing process and could quickly become a standard part of that process. We do not think that they are the complete answer, but if they work they will be a significant interim improvement whilst we implement other measures to speed up the process. We acknowledge the concerns raised by some respondents about the precise nature of the agreement and we are clear that we will need to spend some time developing an agreement which people will sign up to without recourse to costly legal advice. However, we do believe that this is an approach worth government support.
160. Work is already underway with industry to develop a short standardised reservation agreement which could be used for any transaction. We will also commission some behavioural insight research this spring, which will consider ways of encouraging consumers to use these agreements and make them a standard part of the home buying and selling process. Based on this research we will aim to trial their use and evaluate their effectiveness, amending the standard form as necessary. We hope to be able to start a trial before the end of this year.

## **Q18. How should we best tackle gazumping?**

161. There was a good rate of response to this question, with 691 responses. The most common response overall was for buyers and sellers to commit earlier in the process.
162. Almost 29% of all respondents advocated for some form of earlier commitment, through pre-contract, lock-in or lock-out arrangement, or for accepted offers to be legally binding. Many respondents made references to ideas covered more thoroughly in question 17 among others, especially around deposits and sanctions for withdrawing from an agreement. Almost 18% of respondents stated that sellers who accept a gazumping offer should be penalised, often paying the costs of the gazumped seller.
163. Over 10% of respondents argued that there should be a period of exclusivity upon an offer being accepted, and that during this time the house should not be marketed and no more offers should be considered. Over 14% of respondents argued that gazumping should be banned or made illegal. This was more common amongst individuals (17% of individuals versus 7% of organisations).
164. 11% of respondents stated that gazumping was not that common. This opinion was more prevalent amongst organisations, with almost 22% of them arguing it is relatively rare compared with 8% of individuals. Many of them argued it was a feature of an over-heated market, and was more prevalent in recent years. 5% stated that gazundering was more of an issue.
165. Some respondents argued that government had no place intervening in the market, while others stated that gazumping allows sellers to achieve a fair price for their home and as such should not be banned.

### **Government response**

166. At the current time, the government will not be taking any legislative steps to ban gazumping. We believe that the successful implementation of reservation agreements will form a major part of reducing both the fear and incidence of gazumping. If both buyers and sellers enter into an early agreement, potentially with each side placing some money as a deposit, gazumping may be reduced. The introduction of such agreements may also reduce the fear of gazumping, as buyers know they will be compensated for any wasted costs.
167. We are conscious that a number of respondents stated that gazundering was as much of an issue as gazumping, and that incidences of each varies

depending on whether it is a buyer's or seller's market. We believe that the successful implementation of reservation agreements can address both issues.

***Q19. What other steps could be taken to increase confidence in the housing chain?***

168. There was a reasonable rate of response to this question with a total of 539 responses. The most common response referred to measures to increase transparency between buyers and sellers.
169. Over 23% of respondents wanted there to be greater transparency between buyers and sellers, and across the chain as a whole. Many respondents described how unexplained delays can cause participants to become nervous and withdraw from the chain. It was felt that if a buyer or seller knew the status of other parties in the chain they would be reassured of the likelihood of the sale going through. It was also thought that this level of transparency might put off less serious buyers at the outset. Many respondents specified that an online chain-view could be set up.
170. 11% of respondents stated that the process should be sped up. Many felt that this would reduce buyers' and sellers' anxiety about the other side pulling out.
171. Also common were suggestions that have been considered in more depth in other questions. 20% of respondents stated that buyers and sellers should enter into an agreement before exchange, often with a deposit or penalty for withdrawing without good reason. Almost 13% of respondents felt estate agents and conveyancers should be better trained and more regulated. Almost 11% of respondents wanted buyers to be provided with more information up front.

**Government response**

172. It is clear from the responses that there is no single action which will on its own increase confidence in the process. Instead a wider set of smaller improvements is required.
173. While many respondents referred to ideas raised earlier in this section, there was a clear body of support for some form of 'chain view', giving buyers and sellers in the chain insight into the status of everyone else. We want to work with industry and PropTech companies to investigate how the process can be improved and this will be one of the propositions this group can consider.
174. We are also keen to speed up the process of buying and selling a home, and believe this will be achieved through measures already discussed in other

questions, such as maximum response times for local authority searches and encouraging buyers and sellers to be 'sale ready'.

# Buying a leasehold property

**Q20. Should managing agents / freeholders be required to respond to enquiries within a fixed time period?**

**a. If so, how could this be done?**

	Individuals	Organisations
<b>Yes</b>	479 (94%)	167 (94%)
<b>No</b>	30 (6%)	10 (6%)
<b>Total</b>	509	177

175. There was a good rate of response to this question, with 94% of the 686 respondents agreeing that managing agents and freeholders should be required to respond to enquiries within a fixed time period. Of the 571 written responses, 28% felt that managing agents and freeholders should be penalised or made to pay fines if they failed to provide leasehold information within a fixed period of time. This idea was more common amongst individuals, of whom 31% felt fines would be appropriate, as compared to 22% of organisations.

176. Over 19% of respondents said that a fixed response time should be made law. 17% of respondents stated that ombudsmen or a regulator should enforce the time frame. Other suggestions included that the information be required before a property was put on the market, and that freeholders would have to be accredited or registered.

## Government response

177. Given the overwhelmingly positive response to this question, government is committed to setting a fixed time period for managing agents and freeholders to respond to leasehold enquiries. We will do further work on the mechanism for delivering this, which may include appropriate legislation.

**Q21. Should maximum fees be set for the services and information provided by managing agents / freeholder to home buyers and sellers?**

**a. If so, how could this be done?**

	Individuals	Organisations
<b>Yes</b>	424 (87%)	142 (85%)
<b>No</b>	65 (13%)	26 (15%)
<b>Total</b>	489	168

178. There was a good rate of response to this question, with 657 responses. The majority of respondents were in favour of maximum fees being set for the services and information provided by managing agents and freeholders to home buyers and sellers. Of the 489 written responses, the most common answer was to set a maximum fee in law.

179. 29% of all respondents felt legislation should be introduced in order to set a maximum fee for the information provided by freeholders and managing agents. 15% of respondents referred to regulation by an ombudsman to enforce the maximum fees.

### **Government response**

180. We note the concerns of many homeowners about restriction on their freehold and leasehold properties, and the costs of gaining permissions or consents. The proposal to set maximum fees for the services and information provided by managing agents and freeholders was very well received, and as such government is keen to introduce such a cap. We will investigate the best way in which this could be done, which may include appropriate legislation.

### ***Q22. Should the government introduce standard mandatory forms for collecting information about leasehold?***

	<b>Individuals</b>	<b>Organisations</b>
<b>Yes</b>	426 (88%)	154 (88%)
<b>No</b>	59 (12%)	21 (12%)
<b>Total</b>	485	175

181. This question received a good rate of response, with 660 respondents in total. 88% of all organisations and individuals stated that government should introduce standard mandatory forms for collecting information about leasehold.

182. There was no option to leave a written answer to this question.

### **Government response**

183. In light of the strong response in favour of this question, government is keen to work with industry to develop standard mandatory forms for leasehold information. While the online version of this questionnaire did not have a space to leave comments, many respondents added additional comments elsewhere or emailed them in. Many referenced the Law Society's LPE1 form, suggesting

that it could form the basis of a standardised mandatory form. The introduction of a mandatory form would require appropriate legislation.

184. We are also mindful that the creation of a leasehold database is one of the projects we may work with industry to develop. Such a database would have a direct impact on the ease with which leasehold information could be accessed, as well as necessitating the information being stored in a standardised, digital format. As such we may consider requiring leasehold information to be made available digitally.

# Buying a new build property

## ***Q23. What can be done to improve the customer experience of buying a new build home?***

185. There was a reasonable rate of response to this question, with 534 responses.
186. Over 13% of all respondents said that developers should provide a fixed completion date for the build and give more information about expected timescales. The second most common response, also cited by 13% of respondents, was that developers should provide full information about costs at the first meeting with the potential buyer. This opinion was more common with organisations (24% versus 9% of individuals).
187. 6% of respondents said that the home should be finished to a high standard, and that any snagging issues be resolved before buyers have moved in. Some of these responses stated that the buyer should have the ability to withhold a portion of the purchase price until they are satisfied the home has no defects or unfinished work.
188. Over 6% of respondents argued that developers should be regulated and an ombudsman set up to enforce these regulations. Smaller numbers of respondents advocated for longer deadlines by which to extend contracts, and felt that aggressive sales pitches should be curbed. Other ideas raised included a cooling-off period for purchasers, stopping developers referring to a single conveyancer, and introducing standardised forms and processes.

### **Government response**

189. While there was no clear headline response to this question, a common theme emerged about transparency between buyers and developers. A number of respondents also discussed the challenge of getting snagging issues resolved.
190. Currently, if the house buyer encounters a problem with their home their options for seeking redress can be confusing, with a number of different redress schemes and gaps in protection, particularly where the buyer has a problem with their home in the first two years.
191. Where something goes wrong, house builders and warranty providers should fulfil their obligations to put this right. The industry-led Consumer Code for Homebuilders, where applicable, also provides protection to purchasers of new



homes. But we know there is limited redress for consumers resolving snagging issues where both the developer and warranty provider take no action.

192. We are keen to improve redress for people who experience problems with their housing and to make them feel empowered to challenge poor practices when things go wrong. The ‘Strengthening consumer redress in the housing market’ consultation<sup>17</sup> published on 18 February follows up on the Secretary of State’s commitment from last November to explore options for improving redress in the housing market.
193. The consultation explores options about what can be done to ensure more consumers in the housing market have access to quick, easy and effective redress. This includes exploring whether the option of a single housing ombudsman could simplify access to redress for tenants, leaseholders, and home owners, buyers and sellers. A more streamlined service could have the potential to give consumers a clearer sense of where to go, but also to help drive service improvement from the industry. We are committed to continuing to work with industry to ensure they are driving up standards for buyers.

***Q24. What more can be done to help buyers of new build homes quickly secure a mortgage offer?***

194. There was a low rate of response rate to this question, with only 421 responses.
195. 15% of respondents stated that buyers should be encouraged to secure a Decision in Principle before they make an offer on a new-build property. 9% of all respondents stated that developers and lenders should have pre-approved mortgages, valuations and/or surveys for new builds.
196. Smaller numbers of respondents stated that lenders should be encouraged to be more proactive about working with buyers of new builds. Others advocated extending a standard 6-month mortgage Decision in Principle to a longer timeframe. Some respondents wrote about the importance of buyers having the freedom to choose their own mortgage broker rather than one referred to them by the developer.

**Government response**

197. There was no clear consensus on this question, perhaps due in part to the narrow focus of the question. Encouraging buyers to get a Decision in Principle

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<sup>17</sup> <https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing>

has been addressed elsewhere in this document - government will continue to work with industry to encourage prospective buyers to seek a Decision in Principle, and this advice will be included in our 'How to Buy' guide.

198. However, we are clear that buyers of new build homes should not be placed at a disadvantage when compared to purchasers of second hand homes. We will continue to work with lenders and mortgage brokers to discuss specialised products for the new build market, including an extended Decision in Principle.

## Any additional points

### ***Q25. What else should the government be doing to help improve the home buying and selling process, and reduce the cost for consumers?***

199. There was a good rate of response to this question, with 648 responses. A large number of responses referred to issues already raised elsewhere in the Call for Evidence. The most common new suggestion was that government should consider ways to reform stamp duty. It should be noted that this is outside the scope of this Call for Evidence.
200. Around a third of suggestions made in response to question 25 referred to earlier questions. Common themes included the regulation of estate agents, changes to leasehold arrangements, the education of buyers and sellers, and the encouragement of sellers to provide more information up front. A strong message emerged from the responses more generally, that if government and industry could develop a shorter process then many of the problems associated with failed transactions would fall away.
201. There was also some support for introducing binding offers which would lock buyers and sellers into a transaction at an earlier stage, with respondents often making reference to the system in Scotland. While some respondents advised government to study the approach in other countries such as Australia and France, it was noted that the costs relating to home buying and selling were much cheaper in England and Wales.
202. There were suggestions that there should also be a fixed timescale put on the process. Some respondents also stated that government should do more to publicise abortive transaction insurance.
203. A number of respondents felt the premise of the question was wrong and that it was wrong to focus on bringing down costs. They felt it should be recognised that many of these costs were already low. Some respondents highlighted conveyancing fees as an area where fees should probably be increased. It was suggested that government should consider introducing fixed fees for certain services and it was further suggested that this could be linked to size of property.

## **Government response**

204. The wide range of responses to this question again confirm that there is no single improvement which will magically improve the process, rather there are a series of measures which when taken together can deliver real and lasting change. We are particularly keen to work with removal firms, conveyancers and lenders to improve the process of release of funds on moving day to prevent long and frustrating waits for buyers to gain access to their new homes.
205. We will continue to look at ways in which the process can be improved with a bias towards measures which speed up the process and reduce the fall through rate. We will ask the technology working group to consider some of the suggestions raised in response to this question. This will also include further consideration of the ways in which home buying and selling is conducted in other countries, but must be recognised that any changes will need to work within the context of the way people have come to expect to be able to buy and sell their homes in England and Wales, and which do not make the process much more expensive for either buyers or sellers.

# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the complaints procedure.