

Housebuilding market study – Summary of consumer responses

The Competition and Markets Authority (CMA) received over 250 responses from individual consumers to the Statement of Scope consultation. The majority of consumers who provided submissions are freeholders of properties that are subject to estate management charges (EMCs) levied by private estate management companies (MCs). This document summarises the key themes covered by their responses.

We also received a small number of submissions regarding leaseholds, which are outside the scope of this market study, given the CMA's ongoing separate work in this area.¹

EMCs

A large number of respondents said that they have had to pay very high maintenance fees to MCs for a range of services, including the management of roads, water drainage systems, playgrounds, grass and woodland areas around the estate (some of which they are unable to access). This has occurred because agreements for the local authority to 'adopt' (ie take on the ownership of) the roads and other public amenities on their estate have not been put in place and therefore the responsibility for maintenance has not been taken by the relevant local authority. In such cases, a third party such as a MC may be appointed to take ownership of and maintain the public amenity. Many respondents said that these fees are uncapped and have been rising at an increasing rate each year.

A significant number of respondents also alleged that the fees charged are disproportionate for the work carried out, with some arguing that they are still being charged but see no proof of work actually being done. Where work has been undertaken, many said that it is inadequate or incomplete, with infrastructure in a substandard condition.

Numerous respondents also highlighted that a significant proportion of fees appeared to derive from management overheads rather than direct maintenance costs, and noted that they were also subject to one-off fees in order to gain permissions for certain activities, such as making alterations to, re-mortgaging and selling their home.

Many respondents said that there is a lack of transparency regarding fees, with several respondents adding that when charges are disputed or invoices requested as proof of expense, the response from the MC is unhelpful, delayed or the request simply ignored and there is no further communication. In some instances, homeowners have allegedly been threatened with legal action, such as bailiffs and court proceedings, by the MC or their affiliated debt collection company.

¹ See the CMA's [Leasehold](#) case page for further information.

Purchasing process

While many respondents indicated they had not been aware of these issues prior to purchase, others considered that the information provided had been insufficient and/or misleading, and/or provided too late in the process.

Many respondents also felt that the conveyancing process had not sufficiently protected their interests, stating that solicitors did not mention to prospective buyers the full extent of future maintenance charges and liabilities, as well as the potential repercussions if payments were not made on time. Concerns were raised as to whether, in some cases, potential conflicts of interest may have been a factor. Numerous respondents said that the sales representatives of the developers recommended that they use the developers' solicitors on the basis that this would speed up the sales process. In a few instances, prospective buyers already had their own solicitors in place but were persuaded to use the developer's solicitors instead.

Had more information become available prior to the point of sale, a number of respondents stated that they would not have bought their properties.

Inadequate rights for freeholders

Numerous respondents claimed that their property was mis-sold as freehold by developers, because they are required to pay service charges to MCs or other third parties to maintain the estate and are subject to various restrictions on the use of their property and land despite owning them. This was commonly referred to by respondents as 'fleecehold'.

Many respondents argued that where the public amenities on an estate have been transferred to the MC, even as a freeholder they are unable to change that MC, have limited legal rights to contest service charges, and can therefore be exploited by the MC. One respondent noted that whilst leaseholders can challenge their service charges by taking the matter to a Tribunal, freeholders are unable to take this course of action.

Several respondents said that as the law stands their home could be repossessed if they contest invoices or fail to make payments on time due to the lack of legal protection afforded to them as freeholders.

Sale of property

Some respondents said that they had to pay for a management pack (costing hundreds of pounds) before they could sell or re-mortgage their home. Others added that the MC has taken several months before providing these management packs, delaying the sales process.

A significant number of respondents expressed concerns that uncapped management charges (in addition to other issues highlighted under previous headings) have made it much more difficult to sell their homes, as these fees have put off potential buyers. Several respondents also said that the sale of their property had fallen through or was at risk of not completing.

Non-adoption of estates

According to numerous respondents, new-build estates are not being adopted by local councils as roads, street lighting and other infrastructure were not completed to the required standard for adoption. Furthermore, several respondents claimed that local councils have little incentive to adopt new estates as it allows them to charge full council tax to homeowners while effectively not having to provide a number of maintenance services, as these obligations are transferred to the residents.

Concerns regarding the fairness of such arrangements were raised. A few respondents argued that it is unfair that homeowners in new builds are paying for the maintenance of infrastructure and green spaces open for the use of the general public who do not contribute towards their maintenance. Many respondents also questioned why they are paying council tax in full, along with their management fees, despite receiving fewer council services compared with council-adopted estates.

Many respondents claimed that where councils are not adopting public amenities on estates, such amenities are being poorly delivered and poorly maintained – an outcome detrimental both to the freeholders and wider community.

Residents' management companies

In some cases, a residents' management company (RMC) may be set up to own and manage the public amenities on the estate instead. Such RMCs are jointly owned by the freeholders of properties on the estate, and may be able to appoint their own MCs. These RMCs are initially set up by the developer before being transferred to the freeholders. Some respondents complained of difficulties or delays in gaining control of the RMC from the developers, or issues with being able to communicate effectively with the RMC.

Recommendations

Numerous respondents requested that the CMA or government take action, suggesting that legislation should be introduced to address a range of issues.

A large number of respondents called for full adoption of their estates by local councils, arguing that this would ensure that the estate infrastructure is developed and maintained to a good standard. Where estates are not adopted, some respondents have said that there should be a reduction in council tax to subsidise the reduced level of council services.

Many respondents asked for equal statutory rights between freeholders and leaseholders to be able to challenge MCs and developers regarding management fees and the work carried out on the estate. Several also said that there should be a limit altogether on charges from MCs.

Some respondents asked that it be made a requirement to provide important information earlier in the process of purchase so that prospective buyers can make more informed decisions.