

# Enfranchisement key

## Question 1

We invite the views of consultees as to whether a reformed enfranchisement regime should treat particular issues differently in England and in Wales. Consultees are welcome to share their views on this point here, or in response to questions which we ask later in this paper on particular issues.

Please share your views below.

## Question 2

(1) We provisionally propose that leaseholders of both houses and flats should be entitled, as often as they so wish (and on payment of a premium), to obtain a new, extended lease at a nominal ground rent.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer:

(3) We invite the views of consultees as to:

1. the appropriate length of such a lease extension; and
2. the points at which the landlord should be entitled to terminate the lease (paying appropriate compensation to the leaseholder) for the purposes of redevelopment.

Please share your views below:

## Question 3

We invite the views of consultees as to whether the right to a lease extension should in all cases be a right to an extended term at a nominal ground rent, or whether leaseholders should also have the choice:

1. to extend the lease (without changing the ground rent); or
2. to extinguish the ground rent (without extending the lease).

- ☐ (1) The right to a lease extension should in all cases be a right to an extended term at a nominal ground rent
- ☐ (2) Leaseholders should also have the choice to extend the lease (without changing the ground rent)
- ☐ (3) Leaseholders should also have the choice to extinguish the ground rent (without extending the lease)

(4) Please expand on your answer:

#### **Question 4**

(1) We provisionally propose that:

1. a leaseholder claiming a lease extension should be entitled to a lease extension of the whole of the premises let under his or her existing lease, whether or not it all falls within the curtilage of the building;
2. landlords should be able to propose that other land be included within a lease extension, and that there should be no time limit within which that proposal can be made; and
3. there should be no power for landlords to argue that parts of the premises let under a leaseholder's existing lease should be excluded from a lease extension.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer:

#### **Question 5**

(1) We provisionally propose that a lease extension should automatically:

1. be subject to any mortgage that is secured over the existing lease; and
2. bind the landlord's mortgagee.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

## Question 6

- (1) We provisionally propose that (except in the case of *Aggio*-style leases and cases where the common parts of a building are owned and managed by a third party) the terms of a lease extension (other than the length of the term and the ground rent) should be identical to the terms of the existing lease, save where either party has elected to include terms drawn from a prescribed list of non-contentious modernisations. Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to the terms that should be included within such a prescribed list.

Please share your views below

- (4) Do consultees consider that it would be appropriate to adopt a standard or model lease for *Aggio*-style leases? Alternatively, would it be appropriate to use a standard or model lease as a starting point in such cases?

Please share your views below

## Question 7

- (1) Do consultees consider that the ability of parties to enter into a lease extension outside the 1967 and 1993 Acts creates significant problems in practice?

Yes/No/Other

- (2) Please share your views below

- (3) What steps, if any, do consultees consider could be taken to control or limit the use or impact of parties entering into a lease extension outside of a new statutory enfranchisement regime?

Please share your views below

### **Question 8**

- (1) We invite consultees to tell us about their experiences in practice of the statutory provisions under the 1967 and 1993 Acts which enable a landlord and leaseholder, with court approval, to enter into a lease extension under which the leaseholder is precluded from exercising further enfranchisement rights in the future.

Please share your experiences below

- (2) Do consultees consider that similar provision should be made under any new enfranchisement regime?

Please share your views below

### **Question 9**

To what extent would our proposed uniform right to a lease extension at a nominal ground rent, for both houses and flats, increase the likelihood of leaseholders seeking lease extensions under (future) enfranchisement legislation?

Please share your views below

### **Question 10**

We welcome evidence as to whether, and if so, how, an increase in the length of a statutory lease extension would affect:

1. the leasehold market; and
2. the mortgageability of leases.

Please share your views and evidence below

### **Question 11**

We have asked whether leaseholders should have the option of:

1. extending their leases without changing the ground rent; or
2. extinguishing their ground rent without extending the term of the lease.

We welcome evidence as to the likely uptake of these options by leaseholders.

Please share your views and evidence below

## Question 12

(1) To what extent does the current ability of parties negotiating a lease extension to include such terms as they may agree in the lease extension:

1. increase the duration and cost of the enfranchisement process;
2. increase the potential for disputes; and
3. lead to the imposition of onerous or undesirable terms upon leaseholders under the lease extension, resulting in additional future costs to leaseholders?

Please share your views and experiences below

(2) To what extent would restricting parties' ability to introduce new terms into a lease extension to terms which are drawn from a prescribed list:

1. reduce the time and cost involved in acquiring a lease extension;
2. reduce the potential for disputes; and
3. reduce future costs to leaseholders arising from the terms of the lease extension?

Please share your views below

(3) Would this reform lead to a higher proportion of leaseholders seeking to exercise their right to a lease extension?

Yes/No/Other

(4) Please share your views below

## Question 13

We provisionally propose that, where an individual freehold acquisition claim is made:

1. the leaseholder should be entitled to a transfer of:
  1. the whole of the building in which his or her residential unit is situated, even if parts of that building are not included within his or her existing lease; and
  2. the whole of his or her premises let under the existing lease, whether or not the entirety of those premises falls within the curtilage of the building; and

2. there should be no statutory deadline or time limit for landlords to propose that other land originally let to the leaseholder, but now assigned to another, should also be included in the transfer, or that parts of the premises that are above or below other premises in which he has an interest should be excluded from the transfer.

Do consultees agree?

Please share your views below

#### **Question 14**

(1) We provisionally propose that, where an individual freehold acquisition claim is made:

1. any mortgage secured against the freehold title should automatically be discharged upon execution of the transfer; but

2. the leaseholder should be under a duty to pay:

1. the whole of the price; or

2. (if less) the sum outstanding under the mortgage;

to the mortgagee or, alternatively, into court; and

3. any sums due from the leaseholder to the landlord should be reduced by any sums paid under (2) above.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We also provisionally propose that where an individual freehold acquisition claim is made – save in the case of estate rentcharges imposed to secure positive covenants – a landlord should be under a duty to use his or her best endeavours to redeem any rentcharge.

Do consultees agree?

Yes/No/Other

(4) Please expand on your answer

### Question 15

- (1) We invite the views of consultees as to whether a leaseholder making an individual freehold acquisition claim should acquire the freehold subject to the rights and obligations on which the freehold is currently held, or on terms reflecting the rights and obligations contained in the existing lease.

Please share your views below

- (2) We provisionally propose that, on an individual freehold acquisition claim, additional terms may only be added to the transfer where the leaseholder elects to include a term drawn from a prescribed list of terms.

Do consultees agree?

Yes/No/Other

- (3) Please expand on your answer below

- (4) We invite the views of consultees as to the types of additional terms that should be included within such a prescribed list.

Please share your views below

### Question 16

- (1) We invite the views of consultees as to whether, where a leaseholder's existing lease contains rights and obligations in respect of land that is to be retained by the landlord, the leaseholder should (where there is no current estate management scheme in place) acquire the freehold subject to terms in respect of the retained land that:

1. reflect the rights and obligations set out in the leaseholder's existing lease; or
2. appear within a prescribed list of appropriate covenants.

Please share your views below

- (2) We invite the view of consultees as to the types of terms that should be included within such a prescribed list.

Please share your views below

### **Question 17**

- (1) We provisionally propose that any obligation owed to a landlord of an estate by a leaseholder who has acquired the freehold of their premises should be enforceable whether or not the landlord has retained land that benefits from that obligation.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to whether unpaid sums due from a leaseholder who has acquired the freehold of their premises to a landlord of an estate should be capable of being charged against the freehold and enforced by the landlord as if he or she were a mortgagee of the property.

Please share your views below

### **Question 18**

- (1) We provisionally propose that where a leaseholder's existing lease does not contain rights and obligations in respect of land that is to be retained by the landlord, the leaseholder should (where there is no current estate management scheme in place) acquire the freehold subject to terms in respect of the retained land that appear within a prescribed list of appropriate covenants.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to the types of terms that should be included within any prescribed list.

Please share your views below

### **Question 19**

- (1) Do consultees believe that the ability of parties to enter into a transfer of the freehold of a house outside the 1967 Act creates significant problems in practice?

Yes/No/Maybe



(2) Please expand on your answer

(3) What steps, if any, do consultees believe could be taken to control or limit the use or impact of parties entering into a freehold transfer to an individual leaseholder outside of a new statutory enfranchisement regime?

Please share your views below

## Question 20

(1) To what extent does the current ability of parties negotiating the terms of a claim to acquire the freehold of a house to agree the terms of the freehold transfer without restriction:

1. increase the duration and cost of the enfranchisement process;
2. increase the potential for disputes; and
3. lead to the inclusion of unusual terms within the freehold transfer, resulting in additional future costs to former leaseholders?

(2) To what extent would limitations on the ability of parties to include new rights and obligations in a freehold transfer to an individual leaseholder:

1. reduce the time and cost involved in acquiring the freehold individually;
2. reduce the potential for disputes; and
3. reduce future costs to former leaseholders arising from the terms of the freehold transfer?

Please share your views below

(3) Would this reform result in a higher proportion of leaseholders seeking to exercise their right of individual freehold acquisition?

Yes/No/Other

(4) Please expand on your answer

## Question 21

(1) We provisionally propose:

1. a general requirement that a collective freehold acquisition claim must be carried out by a nominee purchaser which is a company; and

2. an exception to the above requirement where:

1. the premises to be acquired contain four residential units or fewer;
2. all residential units are held on long leases;
3. the leaseholders of all residential units are participating in the claim; and
4. all those leaseholders agree.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) Do consultees consider that some of the requirements of company law are inappropriate or onerous for a nominee purchaser company and should be relaxed? If so, please tell us which.

Yes/No/Other

(4) Please expand on your answer

## **Question 22**

(1) We provisionally propose that the nominee purchaser company used for a collective freehold acquisition claim must be a company limited by guarantee.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

## **Question 23**

(1) We provisionally propose that the articles of association of any nominee purchaser company exercising the right of collective freehold acquisition must contain certain prescribed articles. We also propose that those prescribed articles may only be departed from where:

1. all the residential units within the premises are held on long leases; and

2. the leaseholders of all residential units are members of the nominee purchaser company.

Do consultees agree?

Yes/no/Other

(2) Please expand on your answer

(3) We invite the views of consultees as to:

1. the matters in respect of which it would be desirable for articles to be prescribed; and
2. any matters in respect of which it would be desirable to require provision in the articles of association, albeit with some freedom as to that provision.

Please share your views below

#### **Question 24**

(1) We provisionally propose that a nominee purchaser company, having carried out a collective freehold acquisition, be restricted from disposing of the premises acquired, save where:

1. all the residential units within the premises are held on long leases;
2. the leaseholders of all residential units are members of the nominee purchaser company; and
3. all members of the company agree with the proposed disposition;

OR

4. the Tribunal makes an order permitting the proposed disposition.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We invite the views of consultees as to the grounds on which the Tribunal should be empowered to permit a disposition of the premises acquired collectively by a nominee purchaser company.

Please share your views below

### Question 25

- (1) We provisionally propose that the right of collective freehold acquisition should extend to the acquisition of the freehold of an entire estate consisting of multiple buildings.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to how such a right might operate. Do consultees consider that there are any problems with the approach we have suggested at paragraph 6.95, or any other issues for which we would need to provide?

Please share your views below

### Question 26

- (1) We provisionally propose that a nominee purchaser carrying out a collective freehold acquisition should acquire:

1. the freehold to the building or buildings in which the flats are situated, including any common parts; and
2. any other land let with the flats within the building.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We provisionally propose that a nominee purchaser carrying out a collective freehold acquisition should be entitled to acquire the freehold of other land over which the leaseholders exercise rights in common, provided that the right is shared only with other occupiers within the building(s) being acquired.

Do consultees agree?

Yes/No/Other

- (4) Please expand on your answer

### Question 27

(1) We provisionally propose that, on a collective freehold acquisition:

1. any mortgage secured against the freehold title should automatically be discharged upon execution of the transfer; but

2. the nominee purchaser should be under a duty to pay:

1. the whole of the price; or

2. (if less) the sum outstanding under the mortgage;

to the mortgagor or, alternatively, into court; and

3. any sums due from the nominee purchaser to the landlord should be reduced by any sums paid under (2) above.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We also provisionally propose that on a collective freehold acquisition – save in the case of estate rentcharges imposed to secure positive covenants – a landlord should be under a duty to use his or her best endeavours to redeem any rentcharge.

Do consultees agree?

Yes/No/Other

(4) Please expand on your answer

### Question 28

(1) We provisionally propose that, where a nominee purchaser making a collective freehold acquisition claim is to acquire the whole of the landlord's freehold interest, any rights and obligations that are not ordinarily discharged upon payment of the purchase price should be continued automatically.

Do consultees agree? What do consultees consider would be the best statutory means by which this could be achieved?

Please share your views below

- (2) We provisionally propose that, where a nominee purchaser making a collective freehold acquisition claim is to acquire the whole of the landlord's freehold interest, the parties should only be able to adopt additional covenants if those covenants are drawn from a list of prescribed covenants.

Do consultees agree? Which covenants do consultees consider should be included within such a prescribed list?

Please share your views below

### **Question 29**

- (1) We invite the views of consultees as to whether, on a collective freehold acquisition claim where the leaseholders' existing leases contain rights and obligations in respect of land that is to be retained by the landlord, the nominee purchaser should (where there is no current estate management scheme in place) acquire the freehold subject to terms in respect of the retained land that:

1. reflect the rights and obligations set out in the leaseholders' existing leases; or
2. appear within a prescribed list of appropriate covenants.

Please share your views below

- (2) We invite the views of consultees as to the types of term that should be included within such a prescribed list.

Please share your views below

### **Question 30**

- (1) We provisionally propose that, on a collective freehold acquisition claim where the leaseholders' existing leases do not contain rights and obligations in respect of land that is to be retained by the landlord, the nominee purchaser should (where there is no current estate management scheme in place) acquire the freehold subject to terms in respect of the retained land that appear within a prescribed list of appropriate covenants.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to the types of terms that should be included within such a prescribed list.

Please share your views below

### **Question 31**

- (1) We provisionally propose to introduce a new power for leaseholders exercising the right of collective freehold acquisition to insist, if they so choose, that the freeholder take a leaseback or leasebacks of all parts of the premises (other than common parts) which are not let to participating leaseholders.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

### **Question 32**

- (1) We provisionally propose that, where premises have been the subject of a collective freehold acquisition claim, the leaseholders in those premises should be prohibited from making a further collective freehold acquisition claim in respect of the same premises for a set period.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We provisionally propose that five years would be an appropriate duration for such a prohibition.

Do consultees agree?

Yes/No/Other

- (4) Please expand on your answer

### **Question 33**

- (1) Do consultees believe that the ability of parties to enter into a transfer of the freehold of a block of flats outside the 1993 Act creates significant problems in practice?

Yes/No/Other

(2) Please expand on your answer

(3) What steps, if any, do consultees believe could be taken to control or limit the use or impact of parties entering into a freehold transfer to a group of leaseholders outside of a new statutory enfranchisement regime?

Please share your views below

#### **Question 34**

(1) We provisionally propose a new right to participate: the right for leaseholders who did not participate in a prior collective freehold acquisition claim, or who did not qualify for the right at the time of the prior claim, subsequently to purchase a share of the freehold interest held by those who did participate.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) Do consultees consider that the right to participate should be available only in respect of collective freehold acquisition claims completed in the future, or also in respect of collective enfranchisement claims that completed before commencement of the new regime?

Please share your views below

(4) We have identified at paragraph 6.156 a number of issues which will need to be addressed in order for the right to participate to operate successfully. We invite consultees to share with us their views on how these issues might be resolved, and to tell us of any further difficulties they foresee with the operation of the proposed right.

Please share your views below

#### **Question 35**

We welcome evidence as to the costs and benefits of requiring leaseholders pursuing a collective freehold acquisition claim to:

1. use a company limited by guarantee as the nominee purchaser;



2. comply with the applicable rules of company law; and
3. use a set of partly-prescribed articles of association for the company limited by guarantee.

Please share your views below

### **Question 36**

(1) To what extent does the current ability of parties negotiating the terms of a collective enfranchisement to agree the terms of the freehold transfer without restriction:

1. increase the duration and cost of the enfranchisement process;
2. increase the potential for disputes; and
3. lead to future difficulties (financial or otherwise) resulting from the inclusion of unusual terms within the freehold transfer?

Please share your views below

(2) To what extent would limitations on the ability of parties to include new rights and obligations in a freehold transfer to a nominee purchaser:

1. reduce the time and cost involved in acquiring the freehold collectively;
2. reduce the potential for disputes; and
3. reduce future difficulties (financial or otherwise) resulting from the inclusion of unusual terms within the freehold transfer?

Please share your views below

(3) Would this reform result in a higher proportion of leaseholders seeking to exercise the right of collective freehold acquisition?

Yes/No/Other

(4) Please expand on your answer

### **Question 37**

To what extent would our proposed new ability for leaseholders exercising the right of collective freehold acquisition to require the freeholder to take leasebacks of all parts of the premises (other than common parts) which are not let to participating leaseholders make

collective freehold acquisition more affordable? Would this reform result in a higher proportion of leaseholders seeking to exercise the right of collective freehold acquisition?

Please share your views below

### **Question 38**

- (1) We provisionally propose to replace the language of “houses” and “flats” with the new concept of a “residential unit”.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) Do consultees think that our proposed definition of a “residential unit”, set out at paragraphs 8.37 to 8.56, will work successfully in practice?

Yes/No/Other

- (4) Please expand on your answer

- (5) We provisionally propose to exclude business leases from enfranchisement rights. Do consultees agree? If so, do consultees agree that the best method of achieving this exclusion is by restricting enfranchisement rights to leases which permit residential use?

Yes/No/Other

- (6) Please expand on your answer

### **Question 39**

- (1) We provisionally propose to maintain the requirement that, in general, a leaseholder must have a lease which exceeds 21 years in order to qualify for any enfranchisement rights.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

#### **Question 40**

- (1) We provisionally propose maintaining the current legal position that separate, concurrent long leases between the same landlord and leaseholder may be treated as if they were a single long lease.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We provisionally propose maintaining the current legal position that renewals or statutory continuations of long leases are also to be treated as long leases. Further, we propose adopting (across the board) the 1967 Act's approach to consecutive long leases, in treating them as a single long lease.

Do consultees agree?

Yes/No/Other

- (4) Please expand on your answer

#### **Question 41**

- (1) We provisionally propose that all qualifying criteria for enfranchisement rights based on financial limits (both the low rent test and rateable values) be removed.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

#### **Question 42**

- (1) We provisionally propose that the requirement to own premises for two years before exercising enfranchisement rights in respect of those premises be abolished.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

### Question 43

(1) We provisionally propose that the right of individual freehold acquisition should be available where:

1. a leaseholder has a long lease over premises which include at least one residential unit which is not sublet to another person on a long lease;
2. there are no units in the building save for the unit(s) let to the leaseholder under his or her long lease; and
3. the premises let to the leaseholder comprise either:
  1. one unit; or
  2. more than one unit, but:
    1. none of those units are residential units that are sublet to another person under a long lease; and
    2. the floor space of any non-residential units does not exceed 25% of the floor space of all the units combined.

Do consultees agree?

Yes/No/Other

(3) Please expand on your answer

### Question 44

- (1) We provisionally propose that the premises which may be the subject of a freehold acquisition claim (whether individual or collective) should be identified in line with the 1993 Act's definitions of "self-contained building" and "self-contained part of a building".

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

- (3) We provisionally propose that, otherwise, the "building" in which a unit is contained can be defined simply as a built structure with a significant degree of permanence which can be said to change the physical character of the land.

Do consultees agree?

Yes/No/Other

(4) Please expand on your answer

#### **Question 45**

We invite consultees' views on the desirability and workability of creating a discretion for the Tribunal to authorise, in limited circumstances, a freehold acquisition (whether individual or collective) where this would not otherwise be possible because the building or part of building concerned is not, or might not be, self-contained.

Please share your views below

#### **Question 46**

(1) We provisionally propose that it is appropriate to apply a maximum percentage limit on non-residential use to individual freehold acquisition claims concerning premises containing multiple units.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We provisionally propose that that limit should be the same as that which applies to collective freehold acquisition claims.

Do consultees agree?

Yes/No/Other

(4) Please expand on your answer

(5) We provisionally propose that the limit should be set at 25% of the internal floor space (excluding common parts).

Do consultees agree?

Yes/No/Other

(6) Please expand on your answer

**Question 47**

- (1) We provisionally propose to maintain an equivalent of the current requirement that, for a collective enfranchisement, there must be a minimum of two or more flats held by qualifying tenants in the premises to be acquired.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 48**

- (1) We provisionally propose to maintain an equivalent of the current requirement that, for a collective enfranchisement, at least two-thirds of the flats in the premises to be acquired must be let on long leases.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 49**

- (1) We provisionally propose that the leaseholders of at least half of the total number of residential units in the premises to be acquired must participate in a collective freehold acquisition.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 50**

- (1) We provisionally propose to remove the requirement that, in the case of a building containing only two residential units, both leaseholders must participate in a collective freehold acquisition claim.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 51**

- (1) We provisionally propose to remove the current prohibition on leaseholders of three or more flats in a building being qualifying tenants for the purposes of a collective enfranchisement claim.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 52**

- (1) We provisionally propose the continuation of the 25% limit on non-residential use in collective freehold acquisition claims.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 53**

- (1) We provisionally propose the continuation of the exceptions from collective freehold acquisition claims for resident landlords and operational railway tracks.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

**Question 54**

- (1) We provisionally propose that the qualifying criteria for the collective freehold acquisition of an estate ought to correspond to those for the collective freehold acquisition of a single building.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

### Question 55

We invite the views of consultees as to whether there should be an exception to the two-or-more flats requirement and the two-thirds condition in the case of buildings consisting of two residential units, so as to enable a “collective” freehold acquisition by the leaseholder of one unit where the other is retained by the landlord of the building.

Please share your views below

### Question 56

- (1) We provisionally propose that the 25% limit on non-residential use should apply to two-unit buildings as it does to any other multi-unit building. Do consultees agree?

Yes/No/Maybe

- (2) Please expand on your answer

- (3) If consultees disagree, how should two-unit buildings be treated differently? Do consultees favour:

1. a proviso to the effect that a non-residential unit can be treated as residential where its use is “ancillary” or “complementary” to residential use of another unit;
2. a higher percentage limit; or
3. a sunset clause?

Alternatively, is there another potential approach we should consider?

Please share your views below

### Question 57

- (1) Do consultees think that the ability of a head lessee of a block of flats to acquire the freehold of that block individually is a significant problem with our proposed scheme, compared with the reality under the current law?

Yes/No/Other

- (2) Please expand on your answer



### Question 58

- (1) Do consultees consider it desirable to attempt to restrict the enfranchisement rights of commercial investors further than the current law does?

Yes/No/Other

- (2) Please expand on your answer

- (3) If so, do consultees consider that it might be possible successfully to restrict the enfranchisement rights of commercial investors:

1. by means of a residence test; or
2. by the adoption of a reduced definition of a residential unit, to exclude units which are let on short residential tenancies?

Are there any other options we should consider?

Please share your views below

### Question 59

- (1) How and to what extent has the exercise of enfranchisement rights been slowed down, prevented, or made more costly by:

1. the qualifying criteria based on financial limits (the low rent test and rateable values) under the 1967 Act;
2. the difficulty in categorising premises as either flats or houses;
3. the uncertainty surrounding the definition of a “house” under the 1967 Act and the definition of a “self-contained building” under the 1993 Act;
4. the two-year ownership rule under the 1967 Act and (in respect of lease extensions) the 1993 Act; and
5. the general complexity and inaccessibility of the qualifying criteria for enfranchisement rights?

Please share your views below

- (2) To what extent would our proposed reforms to qualifying criteria reduce:

1. the duration and cost of the enfranchisement process; and
2. the number of disputes arising under the enfranchisement regime?

Please share your views below

### **Question 60**

We welcome evidence as to the likely effect of further restrictions on the ability of commercial leaseholders to enfranchise (whether at all, or at a higher premium than other leaseholders) on:

1. the leasehold market;
2. the wider housing market; and
3. the economy more broadly.

### **Question 61**

(1) We provisionally propose:

1. that shared ownership leaseholders should be entitled to a lease extension which is of the same length as that available to any other leaseholder; and
2. that the terms of the lease extension must replicate any terms of the existing lease which relate to its shared ownership nature.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We invite the views of consultees as to:

1. the calculation of the premium payable by a shared ownership leaseholder for a lease extension;
2. any issues of valuation and procedure which arise where the provider of the shared ownership lease is itself a leaseholder; and
3. any other issues which may arise on the exercise of the right to a lease extension by a shared ownership leaseholder.

Please share your views below

## Question 62

(1) We invite the views of consultees as to whether the proposed requirements for a collective freehold acquisition claim that:

1. two-thirds of the residential units in a building or on an estate must be let on long leases; and
2. leaseholders of at least half of the residential units in the building or on the estate must participate in the claim;

should be relaxed where a building or estate includes residential units let on shared ownership leases.

Please share your views below

(2) If consultees think that the requirements should be relaxed, then how should this be done?

1. Should shared ownership properties be ignored altogether when determining the number of residential units in a building or on an estate, and whether the necessary percentage requirements are met?
2. Alternatively, should shared ownership leaseholders be treated as long leaseholders for these purposes, even though they cannot themselves participate in the collective freehold acquisition?
3. Is there another approach which could be used?

Please share your views below

## Question 63

(1) We provisionally propose that:

1. shared ownership leases should be required to comply with particular statutory criteria in order to be exempt from rights of freehold acquisition; and
2. those criteria should be the same regardless of the type of landlord.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We provisionally propose that those statutory criteria should require that the shared ownership lease:

1. entitles the leaseholder to acquire additional shares in the house at any time, up to a maximum of 100%, in increments of 25% or less (save in the case of properties in designated protected areas, where a lower maximum entitlement should be permissible);
2. provides that the price payable for such shares shall be proportionate to the market value of the property at the time of acquisition of the shares, and provide for a corresponding reduction in rent payable by the leaseholder; and
3. entitles the leaseholder to require the landlord's interest to be transferred to him or her, free of charge, at any time after he or she has acquired 100% of the shares in the property.

Do consultees agree? We also invite the views of consultees as to any other criteria which they consider shared ownership leases should be required to satisfy in order to be exempt from rights of freehold acquisition.

Yes/No/Other

(4) Please expand on your answer

#### **Question 64**

(1) We invite the views of consultees as to the treatment of long leases of National Trust properties within our new enfranchisement regime. Should National Trust property let on long residential leases:

1. be excluded altogether from statutory enfranchisement rights;
2. be subject to enfranchisement claims in the same way as any other property;  
or
3. be subject to more limited enfranchisement rights than other property?

Please share your views below

(2) If National Trust properties are to enjoy more limited enfranchisement rights than other property, how should this limitation be achieved?

Please share your views below

### **Question 65**

We would like to hear from any consultees who have made lease extension or freehold acquisition claims against the Crown (whether pursuant to the Crown's undertaking to Parliament or its voluntary policy). What has been your experience? Have you encountered any difficulties?

Please share your views below

### **Question 66**

- (1) We invite consultees' views as to whether there should be a new exemption from enfranchisement rights for community land trusts and other forms of community-led housing.

Please share your views below

- (2) If so, we invite the views of consultees as to:

1. the housing models to which the exemption should apply;
2. the way in which the exemption should work, and the circumstances in which it should apply;
3. the enfranchisement rights which should fall within the exemption; and
4. any other issues which consultees consider relevant to such an exemption

Please share your views below

### **Question 67**

- (1) We invite consultees to share their experiences of the existing exemptions and qualifications to enfranchisement rights. We also invite consultees' views as to whether these exemptions and qualifications should be retained in any new enfranchisement regime.

Please share your views below

### **Question 68**

- (1) If you have experience of the grant of lease extensions to shared ownership leaseholders (either under the 1993 Act or on a voluntary basis), please tell us about the terms on which these lease extensions have been granted.

Please share your views below

### **Question 69**

We welcome evidence as to how Government's policy decision to give shared ownership leaseholders a statutory right to a lease extension would affect:

1. the willingness of landlords and developers to offer shared ownership leases;  
and
2. the market value of shared ownership leases.

Please share your views below

### **Question 70**

We provisionally propose that a single procedure should apply to all enfranchisement rights. Do consultees agree?

Please expand on your answer

### **Question 71**

- (1) We provisionally propose that a single set of prescribed forms be introduced for bringing and responding to enfranchisement claims, namely an Information Notice, a Claim Notice and a Response Notice.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

### **Question 72**

- (1) Do consultees consider that a party who is giving an enfranchisement notice should be required to sign that notice?

Yes/No/Other

- (2) Please expand on your answer

- (3) Do consultees consider that an enfranchisement notice should only be challengeable for validity if it has not been signed by or on behalf of the minimum number of leaseholders required to bring the claim? If not, what do consultees believe the minimum requirement should be for such a notice to remain valid?

Yes/No/Other

- (4) Please expand on your answer

- (5) Do consultees consider that a Claim Notice should include a statement of truth confirming that specified checks (if required) have been carried out?

Yes/No/Other

- (6) Please expand on your answer

### **Question 73**

- (1) We provisionally propose that:

1. leaseholders be permitted to serve an Information Notice on their immediate landlord or a superior landlord requiring the recipient to provide the name and address of his or her landlord and any other superior landlord of whom he or she is aware; and
2. the recipient of an Information Notice who fails to respond should be liable to pay any costs of leaseholders that are wasted as a result of the information not having been provided.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

### **Question 74**

- (1) We provisionally propose that Claim Notices should include full details about leaseholders' claims, and proof of the leaseholders' title.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to whether a single prescribed Claim Notice should apply to all enfranchisement claims, or whether separate forms should be provided for different enfranchisement claims.

Please share your views below

#### **Question 75**

- (1) We provisionally propose that leaseholders seeking to bring a collective freehold acquisition claim should not be required to serve notices on other leaseholders inviting their participation in the proposed claim.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

#### **Question 76**

- (1) We provisionally propose that the service of a Claim Notice upon a competent landlord should not create a statutory contract between the leaseholders and the landlord.

Do consultees agree?

Yes/No/Other

- (2) Please expand on your answer

- (3) We invite the views of consultees as to whether there are any other effects of a statutory contract that we would need to provide for in some other way.

Please share your views below

#### **Question 77**

- (1) We provisionally propose that Response Notices should:

1. state whether the leaseholder's right to enfranchise is admitted or denied, and the basis for any such admission or denial;
2. state whether the landlord accepts or rejects the leaseholder's proposals, and set out the landlord's own proposed terms;



3. attach a draft contract, lease or transfer;
4. contain an address within England and Wales at which the landlord can be served; and
5. be accompanied by proof of the landlord's title.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 78**

(1) We provisionally propose that:

1. leaseholders making an enfranchisement claim should serve their Claim Notice on their competent landlord (the first superior landlord who holds a sufficient interest in the premises to be able to grant the interest claimed); and
2. in the case of joint owners of a single freehold, or in the case of a split freehold or other reversion, leaseholders will only be required to serve the Claim Notice on one landlord, and it will be for that landlord to serve copies of that notice on other landlords.

Do consultees agree?

Yes/No/other

(2) Please expand on your answer

### **Question 79**

(1) We provisionally propose that:

1. Claim Notices sent by post or delivered by hand to competent landlords at specified categories of address (falling within Group A or B, as set out at paragraphs 11.69 and 11.70) should be deemed served; and
2. where it is not possible to serve competent landlords in that way, leaseholders should be able to apply to the Tribunal for an order allowing them to proceed with their enfranchisement claim.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

## Question 80

(1) We provisionally propose that:

1. before serving a Claim Notice, leaseholders should be required to check their competent landlord's address as shown at HM Land Registry;
2. before serving a Claim Notice using Service Route B leaseholders should be required to:
  1. search the Probate Register;
  2. search the Insolvency Register; and
  3. (in the case of a company landlord) check its status at Companies House;
3. if an individual landlord is dead, the designated address for service should be the address of any personal representatives at the address given in any grant of probate;
4. if an individual landlord is insolvent, the designated address for service should be the address for his or her trustee in bankruptcy as shown on the Insolvency Service website;
5. if a company landlord is insolvent, the designated address for service should be the address for its administrator, liquidator, or receiver as listed at Companies House; if no such person has been appointed, the Official Receiver should be served;
6. before serving a Claim Notice using the No Service Route, leaseholders should place an advertisement in the London Gazette inviting owners of the premises to contact the leaseholders within 28 days; and
7. where leaseholders know the identity of the landlord but do not have an address for him or her falling within Group A or B, they should carry out the checks referred to at (2) above, before placing an advertisement in the London Gazette.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 81**

(1) We provisionally propose that landlords who fail to serve a Response Notice within the prescribed period should no longer be required to transfer their freehold interest, or grant a lease extension, upon the terms set out in the Claim Notice.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 82**

(1) We provisionally propose that:

1. the competent landlord (rather than the leaseholder) should be responsible for serving copies of the Claim Notice upon intermediate leaseholders or third parties; and
2. where the competent landlord fails to serve a copy of a notice on an intermediate landlord, the intermediate landlord should be able to bring a claim against the competent landlord for any losses arising.

Do consultees agree?

(2) Please expand on your answer

### **Question 83**

(1) We invite the views of consultees as to:

1. whether a landlord should be entitled to apply to the Tribunal for an order setting aside a determination of an enfranchisement claim that has been made in his or her absence; and
2. if so, the criteria which the landlord should be required to satisfy before any such order can be made.

(2) Please share your views below

### **Question 84**

(1) We provisionally propose that detailed conveyancing regulations need not generally be made in relation to enfranchisement claims. Do consultees agree? Notwithstanding the general proposition, are there particular stages of the conveyancing process, or particular types of claim, in relation to which conveyancing regulations would still need to be made?

Yes/No/Other

(2) Please expand on your answer

### **Question 85**

(1) We provisionally propose that:

1. a landlord should serve a Response Notice no later than six weeks after the date on which the Claim Notice was sent by post or delivered by hand to the competent landlord;
2. a landlord who has received a Claim Notice should serve any intermediate landlords and third parties to the existing lease within 14 days; and
3. if a Response Notice has been served, either party should be entitled to apply to the Tribunal for a determination of the claim 21 days thereafter.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 86**

(1) We provisionally propose that:

1. an enfranchisement claim should not be deemed to have been withdrawn because procedural time limits have been missed by the leaseholder;
2. a landlord who has served a Response Notice should be able to apply to the Tribunal for an order striking out a Claim Notice if a procedural time limit has been missed by the leaseholder;
3. in a collective freehold acquisition claim, other groups of leaseholders should also be able to apply to the Tribunal for an order striking out the Claim Notice if the leaseholders bringing that claim have missed a procedural time limit; and
4. in either case (2) or case (3) above, the applicant for such an order should be required to give the leaseholder(s) bringing the claim 14 days' written notice of the intended application.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 87**

(1) We provisionally propose that the benefit of a Claim Notice should be transferred automatically upon assignment of the leaseholder's lease, save where the assignment expressly states that the benefit of the Claim Notice will not be transferred.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

(3) We provisionally propose that when a Claim Notice has been assigned, the landlord should continue to be able to serve documents on the assignor until he or she is given notice of the assignment of lease.

Do consultees agree?

Yes/No/Other

(4) Please expand on your answer

### **Question 88**

(1) We provisionally propose that a landlord who has been deemed served with a Claim Notice will be liable to pay the leaseholder's wasted costs if the landlord disposes of his or her interest between the date on which the Claim Notice was deemed served and the point at which the notice appeared on the register of title or is entered as a land charge, provided that the leaseholder's application to register was made not less than 14 days after the Claim Notice was posted or delivered by hand to the competent landlord.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 89**

(1) We provisionally propose that, in the case of a lease extension claim, where the landlord's interest is held subject to a mortgage:

1. a landlord should be under an obligation to:
  1. inform his or her mortgagee of the grant of a lease extension not less than 21 days before completion;

2. give his or her leaseholder written confirmation that such notice has been given; and
2. the leaseholder should be required to pay the purchase money into court if:
  1. the landlord's mortgagee requests; or
  2. the leaseholder has not received confirmation that the required notice has been given to the landlord's mortgagee.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### Question 90

(1) We provisionally propose that, in the case of a lease extension claim, where the leaseholder's interest is held subject to a mortgage:

1. the leaseholder should be under an obligation to give the lease extension to his or her mortgagee within one month of registration; and
2. if the leaseholder does not do so, he or she will be liable for any losses that occur as a result.

Do consultees agree?

(2) Please expand on your answer

(3) We provisionally propose that, in the case of an individual freehold acquisition claim, where a leaseholder elects to merge his or her leasehold and freehold titles, a deed of substituted security will not be required if written notice has been given to the leaseholder's mortgagee and no objection has been raised.

Do consultees agree?

Yes/No/Other

(4) Please expand on your answer

### Question 91

(1) We provisionally propose that where the consent of a third party to any grant or transfer is required:

1. the grant or transfer may be registered without such consent being given; but
2. the landlord should be required to inform the beneficiary of the transaction not less than 21 days before completion, and also within 14 days of completion; and
3. if the landlord fails to inform the beneficiary as required, he or she will be liable for any losses that occur as a result.

Do consultees agree?

Yes/No/Other

(2 )Please expand on your answer below

## Question 92

(1) We provisionally propose the following.

1. Any lease extension, leaseback or transfer executed as part of an enfranchisement claim must contain a statement recording that it was executed pursuant to the relevant statutory provisions.
2. HM Land Registry should:
  1. include a note on the relevant registered title(s) of any interest granted or transferred (or in the case of an intermediate lease, surrendered and re-granted) as part of an enfranchisement claim that the interest had been executed pursuant to the relevant statutory provisions;
  2. in the case of a collective freehold acquisition, include a note of any period during which a further such claim cannot be made without the permission of the Tribunal.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

## Question 93

(1) How and to what extent has the exercise of enfranchisement rights been slowed down, prevented or made more costly by:

1. the existence of separate procedural regimes for different enfranchisement rights;
2. the current rules on missing and uncooperative landlords;

3. the time taken collecting up-to-date landlord contact details;
4. the time it takes to prepare enfranchisement notices;
5. the current law on the service and validity of notices;
6. the consequences of a landlord's failure to serve a counter-notice under the 1993 Act; and
7. the provisions for deemed withdrawal of a notice of claim set out in the 1993 Act?

Where possible, please provide figures to support your response.

Please share your views and evidence below

(2) To what extent would our proposals for a unified and consolidated enfranchisement procedure, with prescribed notices and forms, reduce:

1. the duration and cost of the enfranchisement process; and
2. the number of disputes arising under the enfranchisement regime?

Please share your views below

(3) To what extent would our proposals for dealing with missing or uncooperative landlords speed up the enfranchisement process and reduce the costs typically incurred by leaseholders in these cases?

Please share your views below

#### **Question 94**

(1) We provisionally propose that the current division of responsibility for the resolution of enfranchisement disputes and issues between the county court and the Tribunal should end. All such matters should be determined by the Tribunal.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer



### **Question 95**

We invite the views of consultees as to whether it would be desirable for certain valuation-only disputes to be determined by a single valuation expert rather than by the Tribunal at a full hearing. If so, we invite consultees' views as to:

1. the types of case in which such an alternative track for dispute resolution would be appropriate (in particular, whether it should operate only in respect of low value claims, or wherever the difference between the parties' positions is such that it would be disproportionate to proceed with a full hearing); and
2. the rules that should govern its operation.

Please share your views below

### **Question 96**

(1) We welcome evidence as to the typical cost and duration of an enfranchisement dispute:

1. in the county court; and
2. in the Tribunal.

Please share your views and evidence below

(2) How and to what extent has the exercise of enfranchisement rights been slowed down, prevented or made more costly by:

1. the threat of lengthy and potentially expensive litigation; and
2. the fact that some disputes arising during an enfranchisement claim may need to be resolved by the Tribunal, whilst others fall to be determined by the court?

Please share your views and evidence below

(3) To what extent would our proposal that all enfranchisement disputes be dealt with in a single forum save landlords and leaseholders time and money?

Please share your views below

### Question 97

(1) We welcome evidence as to the proportion of leases likely to be suitable for resolution by a single valuation expert. Do consultees consider that dealing with cases on this alternative track is likely to save landlords and leaseholders time and money?

Yes/No/Other

(2) Please expand on your answer

### Question 98

We invite the views of consultees as to whether leaseholders should be required to make any contribution to their landlord's non-litigation costs.

Please share your views below.

### Question 99

(1) We invite the views of consultees as to how any contribution that is to be made by leaseholders to their landlord's non-litigation costs should be calculated. Should the contribution be based on:

1. fixed costs;
2. capped costs;
3. fixed costs subject to a cap on the total costs payable;
4. the price paid for the interest in land acquired by the leaseholder;
5. the landlord's response to the Claim Notice, and/or whether the landlord succeeds in relation to any points raised in his or her Response Notice;
6. fewer categories of recoverable costs than currently set out in the 1967 and 1993 Acts;
7. the same categories of recoverable costs set out in the Acts, but with a reformed assessment procedure; or
8. wider categories of recoverable costs than currently set out in the Acts?

Please share your views below

(2) We also invite consultees' views as to whether, if a fixed costs regime were to be adopted:

1. such a regime should apply to collective freehold acquisition claims as well as individual enfranchisement claims; and
2. if a fixed costs regime were to apply to collective freehold acquisition claims:
  1. what additional features might justify the recovery of additional sums; and
  2. whether landlords should be able to recover all their reasonably incurred costs in respect of those additional features (subject to assessment), or only further fixed sums

Please share your views below

(3) We provisionally propose that:

1. no additional costs should be recoverable in the case of split freeholds or other reversions, or where there are intermediate landlords; and
2. a small additional sum should be recoverable where a management company seeks advice in relation to an enfranchisement claim.

Do consultees agree?

Yes/No/Other

(4) Please share your views below

### **Question 100**

(1) We provisionally propose that where an enfranchisement claim fails or is withdrawn, or the Claim Notice is struck out, leaseholders should be liable to pay a percentage of the fixed non-litigation costs that would have been payable had the claim completed.

Do consultees agree?

Yes/No/Other

(2) Please expand your answer below

(3) We also provisionally propose that the percentage of the fixed non-litigation costs that should be payable in those circumstances should vary depending on the stage that the claim has reached.

Do consultees agree? If so, what percentages should apply at particular stages of the claim?

Yes/No/Other

(4) Please expand on your answer below

#### **Question 101**

(1) We provisionally propose that a landlord should have a right to seek security for his or her non-litigation costs. Do consultees agree?

Yes/No/Other

(2) Please expand on your answer below

#### **Question 102**

(1) We provisionally propose that a landlord should have a right to apply to the Tribunal for an order prohibiting named leaseholders from serving any further Claim Notice without the permission of the Tribunal.

Do consultees agree?

Yes/No/Other

(2) Please expand your answer below

#### **Question 103**

(1) We provisionally propose that the existing limited powers of the Tribunal to order one party to pay the litigation costs of another party in an enfranchisement claim should apply to all disputes and issues that it is to decide (except in respect of orders made under the No Service Route, orders permitting a landlord to participate in a claim or to set aside a determination, and orders striking out a Claim Notice).

Do consultees agree? If not, what types of disputes and/or issues should be excluded from such restrictions and why? What powers to make orders in respect of litigation costs should apply in such excluded cases? Should parties be able to agree that costs shifting will apply to all or part of a claim?

Yes/No/Other

(2) Please expand on your answer

#### Question 104

(1) We provisionally propose that the scope of the Tribunal's existing power to order one party to pay any of the litigation costs of another party should not be extended.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

#### Question 105

(1) We welcome evidence as to:

1. the typical costs incurred by landlords in dealing with enfranchisement claims; and
2. the proportion of those costs which can be recovered from leaseholders

Please share your views below

(2) To what extent does the obligation on leaseholders to pay their landlords' reasonable costs arising from the enfranchisement process have an impact on leaseholders' willingness to bring or pursue enfranchisement claims?

Please share your views below

Do consultees consider that any of the options we have set out at paragraphs 13.56 to 13.77 for reforming non-litigation costs would make leaseholders more willing to bring and pursue enfranchisement claims?

- ☐ (3) Fixed costs
- ☐ (4) Capped costs
- ☐ (5) Fixed costs subject to a cap on the total costs payable
- ☐ (6) Relating the non-litigation costs to the price paid for the interest acquired by the leaseholder
- ☐ (7) Linking non-litigation costs to the landlord's response to the claim and/or whether the landlord succeeds in relation to any points raised in the Response Notice
- ☐ (8) Reducing the categories of recoverable costs
- ☐ (9) Preserving the current categories while reforming assessment procedures

- ☐ (10) Retaining the same categories of recoverable costs as the current law but with a reformed assessment procedure
- ☐ (11) Expanding the categories of recoverable non-litigation costs

(12) Please expand on your answer

(13) What would be the impact on landlords of removing, or capping, their entitlement to recover their non-litigation costs from leaseholders (other than the fact that they would have to meet those costs themselves)?

### **Question 106**

How and to what extent do the different powers of the Tribunal and the county court to award litigation costs in enfranchisement disputes have an impact on the behaviour of both landlords and leaseholders with respect to such disputes?

Please share your views below

**Responses to Questions 107 to 125 on valuation were uploaded separately when we published our Valuation Report, and are available on our website. These questions are not replicated here.**

### **Question 126**

(1) We provisionally propose creating a statutory duty on the landlord who has conduct of an enfranchisement claim to act with reasonable care and skill, and to act in good faith, in respect of the interests of other landlords.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 127**

We invite the views of consultees as to whether an intermediate lease created as part of a collective freehold acquisition claim should be acquired by a nominee purchaser on any subsequent collective freehold acquisition of the premises.

Please share your views below

### Question 128

(1) We provisionally propose that, where the leaseholder of a flat also holds an intermediate lease in respect of that flat, the intermediate lease of that flat should not be acquired on any collective freehold acquisition of the premises.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### Question 129

We provisionally propose that, in a collective freehold acquisition claim, where there is an intermediate lease of the whole building, but not all the flats within the building are let on long sub-leases (so the intermediate leaseholder would be treated as the qualifying tenant of some of the flats), either:

1. the whole of the intermediate lease should not be acquired; or
2. the whole of the intermediate lease should be acquired, but there should be a leaseback to the intermediate leaseholder of flats of which he or she would be the qualifying tenant?

Do consultees agree with either of these alternative proposals? If so, which approach is preferred and why?

Please share your views below

### Question 130

(1) We provisionally propose that, as part of any collective freehold acquisition claim:

1. leases containing common parts together with other property should continue to be capable of being acquired by the nominee purchaser where it is reasonably necessary for the proper management or maintenance of those common parts; and
2. the Tribunal should have power to sever a lease containing common parts together with other property, or to introduce new or varied easements to ensure proper management or maintenance of those common parts, as an alternative to ordering that the whole of the lease be acquired by the nominee purchaser.

Do consultees agree?

(2) Please expand on your answer

### **Question 131**

(1) We provisionally propose that a lease of common parts granted for development purposes should not be acquired by a nominee purchaser on a collective freehold acquisition claim unless:

1. the severance of any part of that lease; and/or
2. the introduction of new, or the variation of existing, easements;

would both permit the proper management of any common parts, and substantially preserve the intended development.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 132**

(1) We provisionally propose that leaseholders holding sub-leases granted out of leases that had previously been extended under the existing or any future statutory enfranchisement regime should be entitled to bring, or participate in, an enfranchisement claim.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

### **Question 133**

(1) We provisionally propose that the separate designations of “Minor Superior Tenancy” and “Minor Intermediate Leasehold Interest” and the formulae relating to them should be removed. Those interests which currently fall within the existing definitions would then be valued on the same basis as all other intermediate leases.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer



(3) If not, do consultees agree that the thresholds in the formulae that apply to a Minor Superior Tenancy and/or a Minor Intermediate Leasehold Interest ought to be increased?

Please share your views below

#### **Question 134**

(1) We provisionally propose that, on any individual lease extension claim, the rent payable by an intermediate landlord should be commuted on a pro rata basis. Primarily this approach would avoid creating a negative value in an intermediate lease, which the leaseholders could use to their advantage in the way that was done in the case of *Alice Ellen Cooper-Dean Charitable Foundation Trustees v Greensleeves Owners Limited*.

Do consultees agree?

Yes/No/Other

(2) Please expand on your answer

#### **Question 135**

We welcome evidence as to the likely impact (financial and otherwise) on landlords of a new statutory duty requiring them to act with reasonable care and skill, and in good faith, in respect of the interests of other landlords.

Please share your views and evidence below