

COMMONHOLD GLOSSARY

Commonhold: the area of land which contains several individually owned properties and provides a structure for the management of these properties and shared areas.

Commonhold units: A unit is a separate, individually owned property (such as a flat) or area of land within a larger building or development. The freehold of the unit will be held by a “unit holder”. The unit may form part of a larger building, such as a flat within a block of flats or offices within an office block. It is also possible for a commonhold unit to be a separate building within a larger development. For instance, houses on an estate with shared gardens could be units, as could individual shops within a retail park. Even an area of land not connected to a building could be a unit, such as a car parking space.

Common parts: A common part is any area of the commonhold which does not form part of a commonhold unit. Common parts in a block of flats could include, for instance, entrance halls, landings and communal staircases.

Commonhold association: The commonhold association is a private company limited by guarantee which owns the common parts and manages the commonhold. The association is governed by company law as well as by commonhold law. Company law contains numerous, detailed rules that must be followed and documents that must be lodged each year. The association must have at least two directors who ensure these requirements are met and carry out the management functions of the commonhold. Unit holders will be the members of the association and will be able to vote in decisions which affect the scheme.

Articles of association: These are the rules which govern how the commonhold association operates and how management decisions about the commonhold can be made. For example, the articles will set out how directors are appointed and what their duties are, how meetings of members are to be called, and how members’ votes are cast. Commonhold law specifies the articles that must be adopted in every commonhold but there is some flexibility to amend the articles to better suit the needs of the particular scheme.

Commonhold community statement: The statement is the document which defines the physical boundaries of the commonhold units. The statement also sets out the rights and obligations of unit holders and the commonhold association. As an example, the commonhold community statement will set out unit holders’ voting rights and their requirement to contribute towards the costs of the commonhold. Again, commonhold law specifies the terms that must be included in every commonhold community statement. An advantage of the community statement is that the main rights and obligations of all unit holders in the commonhold will be the same and set out in the same document (with some scope for different voting rights and financial contributions to be allocated to different units). This position differs from that in a block of flats where the individual flat leases may contain different terms.

Dispute resolution procedure: The commonhold community statement includes a procedure which must be followed before legal proceedings can be commenced between a unit holder and the commonhold association (or between two or more unit holders). In every case, the complainant must first consider whether it might be possible to resolve the dispute through negotiation or a form of alternative dispute resolution such as arbitration, mediation or conciliation.