

ALEP factsheet

What is Commonhold?

Commonhold is an alternative to long-term leasehold. It is a 'new' way of owning property with common elements (such as a block of flats) and commonhold was introduced by the Commonhold and Leasehold Reform Act 2002.

Commonhold is a relatively new species of land tenure in the UK – it is a way of having individual freehold units as part of a larger structure that sit above and below each other. Under traditional 'freehold' land structures this would be a 'flying freehold' and would be defective for a number of legal reasons making it un-mortgageable. 'Flying freehold' examples could include a room located above a shared passageway in a semi-detached house, or a balcony which extends over a neighbouring property.

To counteract these types of instances, Commonhold allows individual units to be owned on a 'commonhold' title which means that a 'freehold flat' is possible.

Management of the property and Commonhold Associations

As a condition of being a commonhold unit owner, the owner is also a member of a 'Commonhold Association' (a company that owns the main structural elements, land and shared areas) and has to abide by a set of rules set out in a 'Commonhold Community Statement.' The Association is responsible for the management, maintenance, repair and upkeep of these areas.

These rules make the arrangements for the maintenance and repair of the property and because the units are effectively freehold within the structure, the issue of lease length does not arise.

In many ways this mirrors the strata title systems seen elsewhere in the Commonwealth.

Is this a viable alternative to leasehold?

Commonhold is an excellent alternative to leasehold and, in some cases, means that people who buy new purpose-built flats will collectively own the freehold of their building.

However, builders and developers have little incentive to implement it because it removes some potential sources of income, such as ground rent or sale of the freehold interest.

In addition, as there are very few Commonhold developments, developers, banks and building societies are unfamiliar with this title structure. New-build property has therefore tended to be leasehold, as this is the system with which people are more familiar.

In the case of an older block, for example, unanimous approval must be obtained among the owners for conversion to Commonhold, and a freehold purchase must be undertaken in the first instance.

Visit the Find a Practitioner page on the ALEP website to find a trusted professional in your area to help guide you through the Commonhold process: <https://www.alep.org.uk/find-a-practitioner>

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