

Number: **WG39718**



Llywodraeth Cymru
Welsh Government

Welsh Government
Call for Evidence

Estate charges on housing developments: call for evidence

Date of issue: 6 February 2020
Action required: Responses by 30 April 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Introduction

Purpose

1. It has been suggested that in recent years there has been an increase in the practice of new housing developments that have private arrangements for the maintenance of open spaces and facilities, which are paid for by homeowners and residents through estate charges.
2. The aim of this Call for Evidence is to better understand how widespread this practice may be, the services that are being provided for via such arrangements, the reasons why the practice might have become more common, the costs involved, and the experience of residents in relation to estate charges.
3. It is intended that the Minister for Housing and Local Government will use this evidence to consider the case for change, and the potential options which may be available to remedy any issues which are identified. For this reason, we have not offered any proposals for comment, however we do invite contributors to identify changes which they believe may improve the situation.

Background

Definition

4. For the purposes of this exercise, the term “estate charge” is used to describe periodic payments required from householders for the purpose of maintaining common spaces, roads and facilities on housing developments. They may also be referred to as Management Charges. Our interest is in formal charges made in relation to developments with numerous properties, rather any informal arrangements made between the users of private roads which give access to a small number of properties.

Use of estate charges

5. Estate charges are used to provide for the maintenance of common spaces and facilities on housing developments, where they are not adopted and maintained by the local authority. These spaces and facilities may include, but are not limited to:
 - open areas,
 - play parks,
 - roads and paving,
 - car parking areas,
 - street lighting,
 - landscaping,
 - environmental initiatives such as wild flower verges, and
 - provision of private shared sprinkler systems.

Charges may also be made to provide for public liability and other insurance.

6. Where adoption has not occurred, the developer may choose to set up a resident management company, to appoint a commercial management company, or to retain the management functions themselves. Whoever is responsible for the management may then employ the services of a management agent, who provides for the management functions to be carried out, including arranging works to maintain those spaces. Residents on the development have an obligation to pay for a share of the costs which are collected by the management agent or company, and their administration costs.
 - Leaseholders pay via the service charge as set out in their lease. Leasehold legislation provides for routes to challenge poor practice in the administration of their service charges, including the reasonableness of the amount, requirements around consultation for major work etc. Leaseholders may also take over the management if they wish under the Right to Manage.
 - Freeholders are made subject to the charge via an Estate Rentcharge¹ in the title of the property, or via a deed of covenant, but do not share the same rights as leaseholders.
 - Tenants may pay for an estate charge through their rent, if for example they rent from a Registered Social Landlord. The services which are chargeable should be set out in the tenancy agreement, along with how the actual charge is calculated. Variable service charges must link to the reasonably incurred costs in providing the services.

Taskforce on unadopted roads

7. The Minister for Economy and Transport set up a Taskforce to consider the issue of unadopted roads, with a remit to establish the nature and extent of the issues, and to see what may be done to bring such roads up to a consistent adoptable standard and to better manage the situation. The second phase of their work, which is ongoing, has several distinct focuses:
 - Mapping the extent of unadopted roads in Wales, in order to allow for an estimation of costs to improve unadopted stock;
 - Creating and trialling a good practice guide to reduce the chances of roads not being adopted; and
 - Development of a set of common standards for highway design and construction for use by Local Authorities and housing developers.
8. More information about the work of the Taskforce may be found at this link: <https://gov.wales/unadopted-roads-taskforce>.
9. The work of the Taskforce is related to the issues raised in this Call for Evidence. However the Taskforce is considering all roads which are not adopted by local authorities, where this Call for Evidence concentrates on modern housing developments. It also is focused primarily on highways and related structures, where this Call for Evidence looks at all the elements of a housing development which may give rise to an estate charge.

¹ As defined by the Rentcharges Act 1977.

Adoption of common spaces and facilities

10. There is no set process which developers and Local Authorities follow in considering whether common spaces and facilities should be adopted, following the construction of a new housing development. Planning processes will usually require there to be a method identified for the maintenance of any open space, but do not generally prescribe what that should be. Section 106 negotiations or planning conditions may be used to secure the provision and specification of facilities on the development. If adoption is considered then negotiations may also cover the agreement of a commuted sum, or payment towards the ongoing maintenance of those facilities once they enter Local Authority ownership. Supplementary Planning Guidance produced by the Local Planning Authority may give direction on the likelihood of adoption in that area.
11. There is a statutory basis for the voluntary adoption by Local Authorities of highways, under Section 38 of the Highways Act 1980, and for the mandatory adoption of sustainable drainage systems (SuDS) through Schedule 3 of the Flood and Water Act 2010. However, there is no statutory basis for the adoption of open spaces, and Local Authorities are not under any obligation to consider adoption as a matter of course, although historically public open space was often adopted by Local Authorities, where it provided benefits for the wider public, as well as for residents of the new development.

Scope of the Call for Evidence

12. This Call for Evidence is concerned with the charges made in relation to maintenance of external communal areas on housing developments, and the services for which a charge is made.
13. It is not concerned with the charges made for maintenance of communal facilities within buildings which contain leasehold properties, such as charges for maintenance or repair of internal spaces, lifts, or external features such as cladding etc. These aspects are generally provided for by the payment of service charges by the leaseholders in those buildings. The Welsh Government is currently undertaking research into the experience of leaseholders in Wales, including a consideration of such service charges, in order to inform ongoing work on leasehold reform.
14. Instead, this Call for Evidence is specifically concerned with those charges which provide for the maintenance of common spaces on a housing development. These may include green spaces, play areas and equipment, parking, roads, street lighting, landscaping and any other common facilities for residents. These spaces and facilities are primarily for the use of residents, who may be a mixture of freeholders, leaseholders and tenants, but often may also be accessed by members of the public. It is common for these spaces to be owned by another party, for example the original developer, or the managing agent who maintains them.
15. This Call for Evidence is also concerned with the administration charges applied during and at the change of ownership of a property affected by an estate charge.

Audience

16. The Call for Evidence has been issued to all those with an interest in estate charges, particularly those who are responsible for paying them, those who collect them, and those who are involved in the decision for them to be used.
17. There are sections which include questions which are aimed different groups who have already been identified, but we welcome responses from anyone with an interest.

Responding to the Call for Evidence

18. This Call for Evidence starts on 6 February 2020 and closes on 30 April 2020.
19. You do not have to answer all questions. Please answer as many questions as you feel able to or that you feel are relevant. There is an opportunity at the end of each section to add any further observations that you would like to tell us about.
20. You can respond to this call for evidence by completing and returning, by midnight on the closing date, 30 April 2020, the call for evidence questions form. You may respond online, by email or post to the address below.
21. Enquiries regarding this Call for Evidence should be directed to LeaseholdReform@gov.wales.

Further information and related documents

22. Large print, Braille and alternative language versions of this document are available on request.

Contact details

23. For further information please contact:

Leasehold Reform Unit
Housing Policy Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

email: LeaseholdReform@gov.wales

telephone: 03000604400

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

Call for Evidence Questions

The purpose of this Call for Evidence is to obtain your views on estate charges on housing developments. Please answer the questions in the section(s) which best reflect your own position. If questions in more than one section apply to you, please answer whichever questions you wish to. Please feel free to supply any further relevant information or evidence which is not covered by the specific questions or which you feel may be of assistance to us in considering these issues. You do not have to answer all questions.

Please complete the following details in all cases:

Your name	
Organisation (if applicable)	
Email / telephone number	

Responses to this call for evidence may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:	<input type="checkbox"/>
The Welsh Government may undertake further work to understand the issues raised in this Call for Evidence. If you would be willing to be contacted at a later date to contribute to this work, please place a tick in the box:	<input type="checkbox"/>

We are interested in learning what impact the issues explored in this Call for Evidence have on the Welsh language. Please complete the following questions before turning to main body of the Call for Evidence:

We would like to know your views on any effects that estate charges have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.	
Please also explain how you believe the use of estate charges could be changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.	

Section 1: Questions for homeowners and residents

This section is aimed at those who are responsible for paying estate charges on housing developments. These are likely to be freeholders, but we are also interested in hearing from leaseholders who pay estate charges in addition to or through their service charge. Residents renting their properties on housing developments which are not adopted may also pay for estate charges through their service charges.

	Question	Answer
1	Are you:	Freeholder <input type="checkbox"/> Leaseholder <input type="checkbox"/> Tenant <input type="checkbox"/> If you are a freeholder or leaseholder please answer questions 2-33 and 49-50. If you are a tenant, please answer questions 34-50.
2	Date of purchase	Month: Year:
3	Approximate date of construction	Year:
4	Did you buy direct from the developer?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5	Who was the developer responsible for the site? (If known)	
6	Did you buy using Help to Buy?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Estate charges

7	Do you pay an estate charge?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please answer the following questions
8	Who manages your estate (ie who do you pay your estate charge to)?	
9	Has there been any change in the organisations which manage your estate during	Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/>

	<p>the period you have been resident?</p> <p>For example a change in either the company responsible for the estate, or in the agent who fulfils the management functions on their behalf. If yes, give details of what happened.</p>	
10	What is the current charge?	
11	How often is the charge payable?	
12	<p>Has the charge changed over time?</p> <p>If yes, please give details of the changes (e.g. what the annual charges have been each year, details of increases/decreases etc)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>
13	<p>Are there provisions which determine the increases to the charge each year (or other period)?</p> <p>If yes, please describe these (eg if the charge increases by a set % per year, or in line with an index such as RPI)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>

Service

14	Are you issued with a breakdown of how the charge has been calculated?	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>
15	<p>Please list the services/facilities that your estate charge pays for</p> <p>(These might include: roads, lighting, open space, play equipment, landscaping, car</p>	

	parking, insurance, or other items)	
16	<p>If you are a leaseholder, the same management company or agent may manage the communal leasehold amenities as well as the services or facilities covered by the estate charge. Alternatively these different services may be provided by different companies.</p> <p>In your case does one company deliver all the services you are charged for?</p> <p>If no, please explain who provides what services.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>
17	<p>Do you know who owns the land which the estate charges are made in relation to?</p> <p>Is yes, please state who.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
18	<p>Does the development where your property is located have a resident management company?</p> <p>If yes, are you involved in it, and what are your views on its performance?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
19	<p>Are you consulted or otherwise involved in decisions about activity delivered by the estate charge?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

	If yes, please describe how, and your view on whether this is effective?	
20	In your opinion, has the level of service changed during the period that you have been paying the charge? If yes, please describe in what way	
21	To what extent are you satisfied with the current arrangements for the management? Please explain your answer	Very satisfied <input type="checkbox"/> Quite satisfied <input type="checkbox"/> Neither satisfied nor unsatisfied <input type="checkbox"/> Quite unsatisfied <input type="checkbox"/> Very unsatisfied <input type="checkbox"/> Don't know <input type="checkbox"/>

Buying and selling

22	If you are a freeholder , how is your estate charge secured?	Estate rentcharge <input type="checkbox"/> Deed of covenant <input type="checkbox"/> Don't know <input type="checkbox"/>
23	At what stage in the purchase did you become aware of the estate charge?	
24	If you bought your property from a developer (ie as a new build), was the existence of the estate charge made clear in:	
	Property advert	Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/>
	Marketing brochure/materials	Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/>
	Discussion with sales representatives	Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/>
	At any stage prior to your commitment to purchase (offer stage)	Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/>

	<p>At any stage prior to your legal commitment to purchase (exchange of contracts) by your conveyancer</p> <p>At any other stage (please state)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>
25	<p>If you bought your property from an estate agent (ie as a resale), was the existence of the estate charge made clear in:</p> <p>Property advert</p> <p>Marketing brochure/materials</p> <p>Discussion with sales agent</p> <p>At any stage prior to your commitment to purchase (offer stage)</p> <p>At any stage prior to your legal commitment to purchase (exchange of contracts) by your conveyancer</p> <p>At any other stage (please state)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>
26	<p>How satisfied were you with the level of information you received before the purchase about the charge?</p> <p>Please explain your answer</p>	<p>Very satisfied <input type="checkbox"/></p> <p>Quite satisfied <input type="checkbox"/></p> <p>Neither satisfied nor unsatisfied <input type="checkbox"/></p> <p>Quite unsatisfied <input type="checkbox"/></p> <p>Very unsatisfied <input type="checkbox"/></p> <p>Don't know <input type="checkbox"/></p>
27	<p>How satisfied were you with the level of information you received during the purchase about the charge?</p>	<p>Very satisfied <input type="checkbox"/></p> <p>Quite satisfied <input type="checkbox"/></p> <p>Neither satisfied nor unsatisfied <input type="checkbox"/></p>

	Please explain your answer	Quite unsatisfied <input type="checkbox"/> Very unsatisfied <input type="checkbox"/> Don't know <input type="checkbox"/>
28	Has the charge affected buying, selling or getting a mortgage? If yes, please explain in what way?	Yes <input type="checkbox"/> No <input type="checkbox"/>
29	Would the existence of an estate charge affect your future decision-making when purchasing a property? If yes, please explain in what way?	Yes <input type="checkbox"/> No <input type="checkbox"/>
30	Have you ever been requested to pay an administration charge in relation to your estate charge? If yes, please state what the charge was and how much you were requested to pay.	Yes <input type="checkbox"/> No <input type="checkbox"/>

Challenging the charge

31	Do you know if your management company and/or agent has a complaints procedure? If yes have you ever used it and what happened?	Yes <input type="checkbox"/> No <input type="checkbox"/>
32	Have you ever challenged the charge?	Yes <input type="checkbox"/> No <input type="checkbox"/>

	<p>If yes, please describe what happened.</p> <p>If you had to pay any legal or other costs, please explain how much and what they were for.</p>	
33	<p>Have you ever had action threatened or taken for non-payment?</p> <p>If yes, please describe what happened?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

Tenants

If you are a tenant, please answer these questions

If you are a freeholder or leaseholder, please turn to question 49.

34	Who is your landlord?	
35	Do you pay an estate charge?	
36	Who manages your estate (ie who do you pay your estate charge to)?	
37	What is the current charge?	
38	How often is the charge payable?	
39	<p>Has the charge changed over time?</p> <p>If yes, please give details of the changes (e.g. what the annual charges have been each year, details of increases/decreases etc)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>
40	Are there provisions which determine the increases to	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>

	<p>the charge each year (or other period)?</p> <p>If yes, please describe these (eg if the charge increases by a set % per year, or in line with an index such as RPI)</p>			
41	<p>Were you given information about the charge before you took up the property?</p> <p>Were the terms explained clearly to you?</p> <p>Were you given help to budget or work out the affordability of the charges?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Don't know <input type="checkbox"/>
42	<p>Are you issued with a breakdown of how the charge has been incurred?</p>			
43	<p>Please list the services/facilities that your estate charge pays for</p> <p>(These might include: roads, lighting, open space, play equipment, landscaping, car parking, insurance, or other items)</p>			
44	<p>Do you know who owns the land which the estate charges are made in relation to?</p> <p>Is yes, please state who.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
45	<p>Does the development where your property is located have a resident management company?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

	If yes, are you involved in it, and what are your views on its performance?	
46	Are you consulted or otherwise involved in decisions about activity delivered by the estate charge? If yes, please describe how, and your view on whether this is effective?	Yes <input type="checkbox"/> No <input type="checkbox"/>
47	In your opinion, has the level of service changed during the period that you have been paying the charge? If yes, please describe in what way	
48	To what extent are you satisfied with the current arrangements for the management? Please explain your answer	Very satisfied <input type="checkbox"/> Quite satisfied <input type="checkbox"/> Neither satisfied nor unsatisfied <input type="checkbox"/> Quite unsatisfied <input type="checkbox"/> Very unsatisfied <input type="checkbox"/> Don't know <input type="checkbox"/>

General

49	Could anything be changed in relation to estate charges or adoption of spaces and facilities on housing developments to improve the situation for you as a resident?	
50	Do you have any other observations about estate charges or adoption of	

	spaces and facilities on housing developments that you would like to tell us about?	
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Section 2: Questions for developers

We are interested in the extent to which adoption is pursued by developers, and the methods which are used to secure maintenance of common spaces and facilities where adoption does not take place.

	Question	Answer
1	<p>Please explain your general approach to deciding what maintenance arrangements to use on your developments.</p> <p>You may wish to reflect on the following questions: Do you have a set policy on maintenance arrangements? Do you always pursue adoption or only ever consider using a management agent, or does your approach depend on other factors? Has your approach changed over time, and if so, how</p>	
2	<p>Where charges are created, what are the facilities which they provide for?</p> <p>If the types of charges differ according to the size of the development, or other factors, please indicate this and explain why.</p>	
3	<p>Where private maintenance arrangements are used which require payments from residents, how do you secure the charge to freehold properties? (select all which apply)</p> <p>Please explain why you use that format?</p>	<p>Estate rentcharge <input type="checkbox"/></p> <p>Deed of covenant <input type="checkbox"/></p> <p>Both <input type="checkbox"/></p> <p>Deed of covenant supported by a nominal rentcharge <input type="checkbox"/></p> <p>Both a fixed rentcharge and a variable rentcharge <input type="checkbox"/></p> <p>Other <input type="checkbox"/> please state:</p>

4	<p>What happens to the ownership of the land once the development has been completed?</p> <p>(I.e. is it retained by your company, passed to the estate charge management agent or company, or other party? Is the land ownership always treated the same way on each development?)</p>	
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Adoption

5	<p>Do you ever seek adoption of spaces and facilities (such as open areas, play parks, roads, street lighting, and landscaping)?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
6	<p>Please give an indication of the proportion of your developments in Wales which are adopted, once complete?</p> <p>(indicating the proportion of developments which are adopted completely, or where only the roads or other facilities are adopted)</p>	
7	<p>What, if any, barriers to adoption do you encounter?</p>	

Estate management

8	<p>If you use them, how do you decide what management agent or company to use?</p>	
9	<p>Do you require any particular qualifications or standards in</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

	<p>the management agencies or companies that you use? (eg membership of a professional body)</p> <p>If yes, please describe what?</p>	
10	<p>Please list the estate management agents that you have used on the developments you have built in the last 10 years</p>	
11	<p>If there is a mix of leasehold and freehold properties on your developments, are they managed by the same company?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
12	<p>Do you ever use alternatives to commercial property management agents?</p> <p>If yes, please describe what alternative approach you use, and why?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
13	<p>Where there are administration fees on a sale, remortgage or let of a property (such as fees for providing information, deed of covenant or notice of transfer and charge) do you set those fees?</p> <p>Do you receive a proportion of the fees or are they paid exclusively to the management agent/company?</p>	
14	<p>There are instances where residents complain about increasing service charges, or about the value for money of the services provided for by the charge. There are also</p>	

	<p>mortgage companies which will not lend on properties where non-payment of estate charges may allow for the use of remedies which threaten the value of the property.</p> <p>Have you been made aware of residents who have had issues with their estate charges for these or any other reasons?</p> <p>If yes, please describe what these issues are, and what, if any, changes you have made to your practice to avoid these occurring in future.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
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General

15	<p>Could anything be changed in relation to estate charges or adoption of spaces and facilities on housing developments to improve the situation for you as a developer?</p>	
16	<p>Do you have any other observations about estate charges or adoption of spaces and facilities on housing developments that you would like to tell us about?</p>	

Section 3: Questions for managing agents and management companies

	Question	Answer
1	How many developments do you manage in Wales?	
2	Please outline the number of properties in each development you manage in Wales (eg x number of developments of 1-25 properties, x of 26-50 etc)	
3	Do you operate in the rest of the UK? If yes, please list where	Yes <input type="checkbox"/> No <input type="checkbox"/>
4	Please list the activities which are covered by the charges. If there are particular kinds of charges which relate to only some developments please explain what these are and why they apply in only some cases.	
5	Do you provide a breakdown to residents detailing how the estate charge has been calculated?	
6	Do you have a formal complaints procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/>
7	How many complaints have you received in the last 2 years? If you are able to, please give an indication of the subject of the complaints, and how they were resolved.	

8	<p>What action do you take or are you entitled to take if the estate charges are late or unpaid??</p>	
9	<p>Who owns the land maintained via the estate charges?</p> <p>(I.e. is it retained by the developer, passed to the estate charge managing agent, or other party? Is the land ownership always the same on each development?)</p>	
10	<p>Could residents choose to change management agent if they wanted? Via what route?</p>	
11	<p>Do you carry out any consultation with residents about the services that the charges provide for? (either what activities are carried out, the number of times maintenance is carried out, or what contractors are used to provide the services)</p> <p>If yes, please explain what this consultation entails.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
12	<p>Under the terms of the estate charges, how are changes calculated, and how frequently can they be made?</p>	
13	<p>What forecasting of potential costs is undertaken? Do you use a reserve or sinking fund?</p>	

	If you have is different arrangements for different sites, please explain why?	
14	Does your organisation, or do you as an individual, belong to any professional bodies?	
15	Please list your administration fees in connection with an estate charge (eg for collection of arrears, provision of information for sale, consent to alter or let, deed of covenant, notice of transfer etc)	
16	Do you keep all of the fee or do you share it with someone else, for example the rentcharge owner?	
17	Could anything be changed in relation to estate charges or adoption of spaces and facilities on housing developments to improve the situation for you as a manager?	
18	Do you have any other observations about estate charges or adoption of spaces and facilities on housing developments that you would like to tell us about?	

Section 4: Questions for Local Authorities

The questions in this section are principally aimed at understanding views around the adoption of areas which are not dealt with my statutory arrangements, such as that governing the adoption of highways or sustainable drainage systems (SuDS). However, if the adoption of all types of space and facility are related, please do refer to those processes where relevant to your answers.

	Question	Answer
1	<p>What is the policy of your authority on adoption of spaces and facilities other than roads?</p> <p>(ie do you have a specific policy about the adoption of spaces and facilities such as open areas, play parks, landscaping etc, and why?)</p>	
2	<p>Describe the factors which play a part in decisions about adoption.</p>	
3	<p>Which departments within the authority are involved in decisions about adopting open space? Does any one department have the lead or final say?</p>	
4	<p>What, if any, are the barriers to adoption?</p>	
5	<p>If you ask for commuted sums for the adoption of facilities other than roads and SuDS, how are they calculated?</p>	
6	<p>Do you have a service level agreement on timescales and average response times for dealing with adoptions?</p>	

7	Do you maintain records of which areas and facilities are adopted or not once a development has been completed?	
8	What issues, if any, have you encountered in ongoing maintenance of unadopted areas on developments?	
9	Do you ever adopt developments some years after their completion, where the developer did not seek, or achieve, adoption at an earlier stage? If yes, under what circumstances?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10	Could anything be changed in relation to estate charges or adoption of spaces and facilities on housing developments to improve the situation for you as an authority?	
11	Do you have any other observations about estate charges or adoption of spaces and facilities on housing developments that you would like to tell us about?	

Section 5: Questions for RSLs

We are interested in the experience of Registered Social Landlords in their capacity as developer, owner and/or manager of estates where open spaces and facilities are not adopted by the Local Authority, who may levy estate charges. We are also interested in learning about the experience of any RSLs which own properties for social rental on developments which are managed by other organisations, such as private management agents.

	Question	Answer
1	Does your organisation: (select all which apply)	Develop new housing <input type="checkbox"/> Manage estates (for which an estate charge is made to residents) <input type="checkbox"/> Pay estate charges to management agents in relation to properties on estates which were developed by another organisation <input type="checkbox"/>

RSLs as manager

2	How many developments do you manage where charges are made to leaseholders and/or freeholders for the management of open spaces and other facilities which are not adopted by the Local Authority? Please give an indication, where possible of the number of properties on each development of this type (eg x number of developments of 1-25 properties, x of 26-50 etc)	
3	Do you only manage developments which are owned/developed by your own organisation? If not, please explain who you also perform these services for and why. In these cases, who owns the land which the charges relate to?	Yes <input type="checkbox"/> No <input type="checkbox"/>
4	Please list the activities which are covered by the charges.	

	<p>If there are particular kinds of charges which relate to only some developments please explain what these are and why they apply in only some cases.</p>	
5	<p>Do you provide a breakdown to residents detailing how the estate charge has been calculated?</p>	
6	<p>How many complaints have you received in the last 2 years (in relation to estate management charges)?</p> <p>If you are able to, please give an indication of the subject of the complaints, and how they were resolved.</p>	
7	<p>What action do you take or are you entitled to take if estate charges are late or unpaid?</p>	
8	<p>Do you carry out consultation with residents about the services that the estate charges provide for?</p> <p>If yes, please explain what this consultation entails.</p>	
9	<p>Under the terms of the estate charge, how are charges calculated, and how frequently can they be made?</p>	
10	<p>What forecasting of potential costs is undertaken? Is there a sinking fund?</p>	

RSL as developer

These questions are intended for those organisations which develop property for market sale, either on a leasehold or freehold basis. Where properties are offered as a freehold, we are particularly interested in the arrangements made for those properties to

contribute to the maintenance of any unadopted spaces and facilities through estate charges, however we are also interested in how the provision of those spaces is supported by charges made to leaseholders through their service charges.

11	<p>Please explain your general approach to deciding what maintenance arrangements to use on your developments (where properties are offered for market sale)</p> <p>Do you have a set policy on maintenance arrangements? Do you always pursue adoption or only ever consider using a management agent (or providing management yourself, supported by resident contributions), or does your approach depend on other factors? Has your approach changed over time, and if so, how</p>	
12	<p>Where charges are created, what are the facilities which they provide for?</p> <p>If the types of charges differ according to the size of the development or other factors please indicate this and explain why</p>	
13	<p>Where private maintenance arrangements are used, how do you secure the charge to freehold properties? (Select all which apply)</p> <p>Please explain why you use that format?</p>	<p>Estate rentcharge <input type="checkbox"/></p> <p>Deed of covenant <input type="checkbox"/></p> <p>Both <input type="checkbox"/></p> <p>Deed of covenant supported by a nominal rentcharge <input type="checkbox"/></p> <p>Both a fixed rentcharge and a variable rentcharge <input type="checkbox"/></p> <p>Other <input type="checkbox"/> please state:</p>
14	<p>Do you ever use alternatives to commercial property management agents and companies?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

	If yes, please describe what alternative approach you use, and why	
15	<p>Where there are administration fees on a sale, remortgage or let of a property (such as fees for providing information, deed of covenant or notice of transfer and charge) do you set those fees?</p> <p>Do you receive a proportion of the fees or are they paid exclusively to the management agent/company?</p>	
16	Where areas are not adopted, do you conduct the maintenance activity yourself, or use a managing agent or company? Do you always follow the same approach?	
17	<p>If you use managing agents or companies, do you require any particular qualifications or standards?</p> <p>If yes, please describe what.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
18	If you use managing agents or companies, please list which you have used on the developments you have built in the last 10 years.	
19	What happens to the ownership of the land subject to the estate charge, where one is created? Do you retain ownership or is it passed to a managing agent, if used?	
20	Please give an indication of the proportion of your	

	<p>developments in Wales which are adopted, once complete?</p> <p>(indicating the proportion of developments which are adopted completely, or where only the roads or other facilities are adopted)</p>	
21	<p>There are instances where residents complain about increasing service charges, or about the value for money of the services provided for by the charge. There are also mortgage companies which will not lend on properties where estate charges allow for the use of remedies which threaten the value of the property.</p> <p>Have you been made aware of residents who have had issues with their estate charges for these or any other reasons?</p> <p>If yes, please describe what these are, and what, if any, changes you have made to your practice to avoid these occurring in future.</p>	

RSL as estate charge payer

22	<p>Does your organisation own properties for rent on unadopted housing developments, which are subject to estate charges?</p> <p>If so, please answer the following questions</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
23	<p>Were any special provisions negotiated between the</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

	<p>developer and your organisation about any estate charges payable on any of these developments?</p> <p>If so, please explain what these are and their purpose</p>	
24	<p>What developers were responsible for the sites where estate charges are payable?</p>	
25	<p>What management agents or companies are estate charges payable to?</p>	
26	<p>Do you have any comment on the level of the charges made?</p> <p>For example, how the charges have changed over time, how they are calculated, how charges relate to the services provided etc</p>	
27	<p>Please list the services/facilities that estate charges are made in relation to</p> <p>(These might include: roads, lighting, open space, play equipment, landscaping, car parking, insurance, or other items)</p>	
28	<p>Who owns the land which the charges relate to?</p> <p>(If known. Options may include the managing agent, the developer, or another party)</p>	
29	<p>Are you ever consulted or otherwise involved by the managing agent or company in decisions about activity</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

	<p>delivered by the estate charges?</p> <p>If yes, please describe how, and your view on whether this is effective.</p>	
30	<p>Have you ever challenged an estate charge?</p> <p>If yes, please describe what happened?</p> <p>If you had to pay any costs, please explain how much and what they were for.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
31	<p>Have you ever had action threatened or taken for non-payment of an estate charge?</p> <p>If yes, please describe what happened</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

General

32	<p>Could anything be changed in relation to estate charges or adoption of spaces and facilities on housing developments to improve the situation from your perspective?</p>	
33	<p>Do you have any other observations about estate charges or adoption of spaces and facilities on housing developments that you would like to tell us about?</p>	

Section 6: Questions for property lawyers

1	<p>In your opinion, are purchasers usually aware of the existence of any estate charges before they commit to purchase?</p> <p>Please explain whether there are differences between the awareness of estate charges in purchasers of new build homes and those buying via resale?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
2	<p>In your opinion, do buyers fully understand the ramifications of estate charges?</p> <p>Please explain your answer</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
3	<p>At what stage in the transaction are you usually alerted to the presence of estate charges on a property?</p>	
4	<p>Have you seen a change in the proportion of sales which include estate charges?</p> <p>If yes, please explain what that change has been, and in respect of what type of properties? Do you have any observations about why this has changed?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
5	<p>Are the estate charges which you see compliant with the UK Finance Lender handbook as drafted?</p> <p>If no, please explain in what way, and are developers amenable to making the required changes?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
6	<p>Have you encountered sales which have fallen through because of the existence of an estate charge?</p>	

	<p>(Eg if the mortgage company refused to lend on the property, or if the purchaser was unhappy with the likely level of the charge)</p> <p>If yes, please explain what the reasons have been, and give an indication of how common this is.</p>	
7	<p>What are the average costs of a deed of variation on an existing rentcharge to exclude the remedies in Section 121 of the Land and Property Act 1925, or to amend the terms to those acceptable to the major highstreet lenders?</p>	
8	<p>Are the fees charged for the administration of the estate charge reasonable in your opinion?</p> <p>(For instance in relation to notice of transfer, notice of charge, consent to let or alter, deed of covenant, certificate of compliance)</p> <p>Please explain your answer and give examples</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
9	<p>Do you see charges being created in breach of the Rent Act 1977?</p> <p>(For example, with review clauses which bear no relevance to the cost of maintenance, or where there are multiple estate charges on a property)</p>	
10	<p>What is the impact on transaction times where there is an estate charge?</p>	
11	<p>Could anything be changed in relation to estate charges</p>	

	or adoption of spaces and facilities on housing developments to improve the situation for your organisation?	
12	Do you have any other observations about estate charges or adoption of spaces and facilities on housing developments that you would like to tell us about?	

Section 6: Questions for others

We are interested in hearing from other individuals and bodies who have an interest in the adoption of spaces on housing developments, or in the use of estate charges to provide for the maintenance of common spaces and facilities on those developments. Professionals such as solicitors, estate agents and mortgage providers may have an interest, and there may be other individuals and groups who also have an interest which is not covered by the previous sections of this document.

If you would like to contribute to this Call for Evidence, but do not fall into any of the groups identified in sections 1-6, please use this space to explain what your interest is, and what your views are.