**Chartered Trading Standards Institute (CTSI) response to the Levelling Up Committee Inquiry into Improving the Home Buying and Selling process**

**About CTSI**

Founded in 1881 (as the 'Incorporated Society of Inspectors of Weights and Measures'), today's Chartered Trading Standards Institute (CTSI) is one of the world’s longest-established organisations dedicated to the field of Trading Standards and Consumer Protection. And, after more than 140 years of progress, we remain immensely proud of our close association with the Trading Standards profession and the vital work it continues to do – promoting fair business practices, tackling rogue traders and, ultimately, protecting UK consumers. At CTSI and through the trading standards profession we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices. We provide information, guidance and evidence-based policy advice to support local and national stakeholders including central and devolved governments. CTSI is responsible for business advice and education in the area of trading standards and consumer protection legislation, including running the Business Companion service to provide clear guidance to businesses on how to meet their legal and regulatory obligations.

CTSI is contracted to undertake the administrative functions of the Approved Code Scheme which facilitates high principles of assisted self-regulation through strict codes of trading practice. This ensures consumers can have confidence when they buy from members of an approved scheme and also raises the standards of trading of all businesses that operate under the relevant sector's approved code.

CTSI run training and development events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

**Responses to questions**

**How efficient or effective is the existing process for buying and selling homes?**

Buying or selling a home is probably one of the biggest transactions most consumers will make and can be very stressful. The process can take a number of months to complete and transactions can fall through causing buying chains to collapse. This can occur as a result of key consumer information emerging late in the process, resulting in for example, mortgage offers being withdrawn and added costs for consumers. Also, a lack of information in property listings can mislead consumers as to the day to day costs of owning the home, costs of repairs and issues in obtaining insurance or mortgages.

**How could this be improved?**

Improving consumer information at an early stage is key to ensuring consumers have the right information to make informed decisions. Also, ensuring that estate agents, letting and management agents are suitably qualified will help improve the quality of the service and increase consumer confidence and trust in the industry. Also, engagement of conveyancers at an early stage will help to speed up the buying process.

**How could the consumer experience be improved during the process for buying and selling homes?**

Consistent information to consumers at the start of the buying process. Engagement of conveyancers at an early stage will support consumers through the complex process. Better consumer education will help the make better decisions and improve their confidence in the process.

**Is the reliance on voluntary initiatives adequate to improve the buying and selling process, or should improvements be made mandatory through legislation?**

We firmly believe consumer protection should be at the heart of any regulatory system. Codes approved under the CTSI Approved Code Scheme have a key role in providing high levels of consumer protection. The purpose of the Approved Code Scheme is facilitated self-regulation and strives to improve standards in unregulated sectors. It aims to promote consumer interests by setting out the principles of effective customer service and protection. The Approved Code Scheme also aims to reduce consumer detriment in the sector that the Approved Codes cover and Codes will only be approved if they can clearly demonstrate that they are contributing to this objective. The core criteria outlines that all Approved Codes must develop measures of the effectiveness of the code, with the aim that the output of such measures demonstrate how the code is contributing to a reduction in consumer detriment. Consumer Code requirements go above and beyond those of consumer law obligations with a high level of consumer protection at every step of the process. They give consumers a clear indication, through the right to display the CTSI Approved Code Scheme logo, that code members can be trusted. We need to maintain this high level of consumer protection.

To gain approval under the Approved Code Scheme, Code Sponsors undergo a rigorous process. Their codes of practice are required to meet the Approved Code Scheme core criteria which set out the rules for approval. Background checks are also undertaken on organisations to check if they are fit and proper to be Code Sponsors. Code Sponsors adhere to and uphold stringent procedures to protect consumers and once approved, are subject to annual audits to ensure continued compliance with the core criteria. In addition, all Code Sponsors are required to regularly monitor their members for compliance. When using an Approved Code, consumers have access to a clear complaint procedure and, if necessary, an Alternative Dispute Resolution (ADR) process. In this way, the CTSI Approved Code Scheme provides an elevated level of consumer protection and access to redress when things go wrong.

The Property Ombudsman’s codes of practice is approved under the CTSI Approved Code Scheme, aims to resolve disputes between consumers and property agents. There are also a number of Approved Codes that apply to the selling of homes, for example, Consumer Code for Home Builders (CCHB) and the Consumer Code for New Homes (CCNH) as well as some construction warranty providers which are also Approved Codes such as Ark Insurance Group, International Construction Warranties Ltd (ICW) and AHCI Ltd. In addition, there are also a number of organisations currently in the process of applying to be Approved Codes, CIR - Construction Insurance Risk, Aedis Warranties Ltd (T/A Homeproof), Compariqo, New Homes Quality Board (NHQB), Architects Certificate, Build Warranty (BW Group Holdings). Code sponsors who operate these Approved Codes of practice in this sector are very well regarded. They understand the needs of consumers and have created a safe place for consumers to find approved traders that always put consumer protection first. For example, the New Homes Codes cover the marketing, selling and aftersales processes providing detailed instruction to home builders on each step of the process, with consumer interest at the forefront. There are requirements in the Codes that improve the buying process for new homes buyers such as:

* Buyers must be given adequate information so they can make an informed decision before deciding to go ahead with purchasing a new home.
* There are requirements for information to be given at the reservation stage
* Buyers are given 14 days cooling off period
* Deposits and pre payments must be protected
* Buyers must be given a realistic completion date for homes in the construction stage and they must be kept informed of any changes to the completion date
* There is a two year post completion of sale period where buyers can raise a formal complaint if issues such as snags cannot be resolved informally with the developer
* The Codes all have a free alternative dispute resolution scheme that consumers can use as an alternative to the Courts.

Alternative Dispute Resolution

The Property Redress Scheme is authorised by CTSI to resolve disputes under the ADR Regulations 2015. Complaint management providers must follow the requirements and principles of the ADR legislation. This outlines that ADR providers must uphold these important attributes - Accessibility, Expertise, Independence, Transparency, Effectiveness and Fairness.

The Approved Code Scheme promotes the use of ADR to businesses and consumers, as it is a successful mechanism for resolving disputes, and there are currently 49 Approved schemes covering the majority of unregulated sectors. The Approved Code Scheme works in collaboration with the CTSI ADR team who work very closely with the Department for Business and Trade.

The use of Approved Codes and ADR both support a move to greater reliance on non-legislative schemes so the landscape has to rely less on law, enforcement and court action etc, which are all costly and resource intensive. Non-legislative schemes need to be robust through common standards like those under the Approved Code Scheme, overseen by an independent and impartial body to ensure consumers’ interests are properly protected.

**The Transaction Process:**

**What is the impact of issues in the transaction process, such as gazumping or gazundering, and how could they be remedied?**

Gazumping or gazundering can reduce consumer confidence in the property market.

For example, Approved Codes in new homes sector, have an exclusivity period once a reservation agreement has been signed, so the developer cannot sell the new home to anyone else. The developer is only free to sell the new home to someone else if the exclusivity period ends without the sale progressing to the exchange stage, or the buyer pulls out from the sale. This prevents gazumping for the sale of new homes.

**Would greater use of reservation agreements improve the transaction process?**

Reservation agreements together with transparent information about reservation fees can improve the transaction process. For example, the Consumer Code for New Homes (CCNH) has a concise standard reservation agreement and accompanying checklist code members can use. CCNH is also in a Primary Authority partnership with Kent County Council Trading Standards department (KCC), where KCC provide assured advice to CCNH. The checklist has been approved by KCC as compliant with consumer protection legislation.

**Information Provision:**

**Do buyers have the right information available at the right time during transactions?**

Approved Codes in the new homes sector set out all the required information that must be supplied to buyers throughout the buying process to ensure they receive the information they need during transactions.

**What effect would it have on the transaction process if sellers were required to provided set information about a property when it was marketed?**

Approved Codes already provide set information ensuring a high level of consumer protection during the buying process. This helps improve consumer confidence and reduce gazumping and gazundering.

**Conveyancers:**

**Do consumers have sufficient information to determine which conveyancer to use? How could information provision on conveyancing be improved?**

Better consumer education is required about the importance of conveyancers to the buying and selling process.

**What effect would a mandatory professional qualification for estate agents have?**

We consider that a professional qualification for estate agents would help improve their knowledge of their legal obligations under consumer protection legislation and help improve consumer confidence in the market.

**Should there be a single, legally enforceable Code of Practice for property agents?**

The homes sector is complex. The scope of the Approved Code Scheme guarantees that Approved Codes and their members promote and maintain the robust principles aligning to Approved Code Scheme, the highest standards of self-regulatory schemes in the UK. The Approved Code Scheme endorses sector collaboration and with the Approved Code Scheme at the heart of a self-regulated sector, we believe that the scheme can be instrumental in maintaining high standards of consumer protection in this sector.

It is also important that any code is fully independent and there are no conflicts of interest of Directors and its Board. It is also important that a code is not dominated by a few large players. Approved Codes are entirely autonomous, and there is a robust application process for approval of codes and ongoing monitoring requirements.

Currently, codes of practice are voluntary, for example, the Property Ombudsman has voluntary codes of practice, whilst the Property Redress Scheme does not. Some agents adhere to a voluntary code of practice, but others do not. This means there is no level playing field for companies and gives rise to gaps in consumer protection. As such, we believe membership of a code should be mandatory. Making Approved Codes mandatory would bring greater clarity for industry, enforcers and consumers. This would remove any gaps in consumer protection, and it would also provide a meaningful threat of expulsion for non-compliant members with, preventing them from continuing to provide services in this sector.

**What impact does the practice of referral fees have, and how would a review, standardisation of practice, or ban affect transactions and consumers?**

Without transparent information about estate agent’s referral fees, consumers could be misled and are unable to make informed decisions in engaging a conveyancer so they can trust they are being treated fairly. Approved Codes in the new home sector require code members to declare any referral fees they may receive for recommendations they make for other services.