**EXPLANATORY MEMORANDUM TO**

**THE APPROVAL OF CODE OF MANAGEMENT PRACTICE (RESIDENTIAL MANAGEMENT) (SERVICE CHARGES) (ENGLAND) ORDER 2026**

**2026 No. 298**

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Matthew Pennycook MP, Minister of State (Housing and Planning) at the Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

2.2 Rachel Rayner, Deputy Director for Leasehold Reform at the Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Kimberley Miles at the Ministry of Housing, Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: Kimberley.Miles@communities.gov.uk. Alternatively, the department can be contacted by telephone: 03034 442468.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 The purpose of the Order is to approve an updated version of a Code of Practice ("the Code") prepared by the Royal Institution of Chartered Surveyors ("RICS") in relation to the management of properties in the residential leasehold sector in England. Approved codes are admissible in evidence before courts and tribunals in relevant proceedings. The updated Code has been published on RICS' website.[1]

4.2 The Order also withdraws approval of the previous Code, and revokes Orders that approved past versions of the Code of Practice in England.

***Where does the legislation extend to, and apply?***

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

[1] https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/real-estate-standards/service-charge-residential-management-code

## 5. Policy Context

***What is being done and why?***

5.1 A previous Code of Practice prepared by RICS, for managers of residential leasehold property in England, was approved by the Secretary of State in 2016 ("the 2016 Code"). It served as a benchmark of best practice for managers in the residential leasehold sector.

5.2 The policy objective is to approve the Code , with the exception of section 1.5, which relates to the management of freehold estates and the section titled 'RICS Standard Framework', which applies only to RICS members. Section 1.5 of the Code relates to 'Freehold houses and variable estate rent charges'. This section of the Code has not been approved by the government as the power to approve codes of practice in Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 only includes codes of practice relating to the management of leasehold residential properties. Section 1.5 of the Code is outside of this scope as it relates to freehold properties. The effect of not approving Section 1.5 is that a manager's failure to comply with that section is not admissible in evidence in court and tribunal proceedings.

5.3 The Code serves as self-regulation for managers of residential leasehold property. It sets out the law and encourages the use of agreed best practice in the sector.

5.4 The effect of approval of the Code by the Secretary of State is that it will be admissible in evidence to courts and tribunals in relevant proceedings. Courts and tribunals will be required to take into account relevant provisions of the Code when deciding cases.

***What was the previous policy, how is this different?***

5.5 The previous policy was to approve the 2016 Code. The Code builds on and updates the 2016 Code, to reflect key legislative changes since 2016, including the Building Safety Act 2022 and changes made to leaseholders' Right to Manage by the Leasehold and Freehold Reform Act 2024. A new section on managers' obligations under the Building Safety Act 2022 and related protections for leaseholders has been added. The Code also applies to registered providers of social housing, which the 2016 Code did not.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Under section 87(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act"), the Secretary of State may, by order, approve any code of practice which appears to the Secretary of State to be designed to promote desirable practices in relation to matters concerned with the management of residential property by relevant persons. Under section 87(8), a "relevant person" is a landlord of residential property or any person who discharges management functions in respect of such property. "Management functions" include functions relating to the provision of services, repair, maintenance, improvements and insurance of such property.

6.2 "Residential property" is defined in section 87(8)(b) of the Act as any building or part of a building which consists of one or more dwellings let on leases. "Residential property" also includes the common parts of any such building and any common facilities within the building.

6.3 Under section 87(1) of the Act, the Secretary of State may withdraw approval of codes of practice.

6.4 Section 87(7) of the Act provides that any approved code of practice shall be admissible in evidence; and any provision of any such code which appears to the court or tribunal to be relevant to any question arising in the proceedings shall be taken into account.

6.5 The power under this section has previously been exercised in England to make Orders to approve other codes of practice, including:

- The Approval of Codes of Management Practice (Residential Property) Order 1996, S.I. 1996/2839.
- The Approval of Code of Management Practice (Residential Management) (Service Charges) (England) Order 2009, S.I. 2009/512.
- The Approval of Code of Management Practice (Residential Management) (Service Charges) (England) Order 2016, S.I. 2016/518.

6.6 Article 2 of this Order approves the Code. Article 3 withdraws the approval of the 2016 Code for which approval was given by S.I. 2016/518.

6.7 Article 4 of this Order revokes the Orders set out in paragraph 6.5 which approved previous codes. Article 5 of this Order makes transitional provision so that codes of practice for which approval is withdrawn under Article 3 remain admissible in court or tribunal proceedings in relation to acts or omissions that occur before the Order comes into force.

***Why was this approach taken to change the law?***

6.8 This is the only possible way in which the law could be changed.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 The Code was developed by RICS in conjunction with a working group of organisations involved in leasehold management. This included organisations such as the First-tier Tribunal (Property Chamber) and The Property Institute. The Code was also subject to public consultation.

7.2 No separate public consultation was undertaken by the government. The instrument does not introduce new regulatory obligations; it simply approves an updated edition of an existing industry code of practice and withdraws approval of the previous edition. Given the limited scope of the instrument and the absence of substantive policy change, a government consultation was not considered necessary.

## 8. Applicable Guidance

8.1 The Order does not require guidance.

## Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the approval of the Code does not introduce new regulatory obligations or impose material costs on businesses, landlords, tenants or the wider public sector. The Code represents a continuation and refinement of industry best practice rather than a

substantive change in regulatory requirements. As the instrument formalises guidance adopted across the sector, the overall level of impact is expected to be minimal, with no significant costs introduced.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the Code does not impose statutory duties on those bodies. Organisations within the sector are already familiar with the 2016 Code and may actively apply this as part of their standard practice. Approval of the Code is not expected to require additional training, system changes or new financial expenditure.

9.3 The legislation does impact small or micro businesses.

9.4 Small landlords and managing agents typically already follow the principles set out in the 2016 Code. No specific exemption for small or micro businesses is necessary because there is no substantive change in requirements and no additional regulatory costs. The Code promotes voluntary professional standards and industry transparency, which benefit smaller organisations by supporting consistency and reducing the likelihood of disputes.

9.5 There is no, or no significant, impact on the public sector because public bodies acting as landlords or property managers may already apply the principles of the 2016 Code as part of established professional practice. Approval of the Code does not require changes to operational processes, staffing, or expenditure. Therefore, no additional resource implications arise for central or local government, or public sector agencies.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is for the Code to be continually monitored and reviewed by RICS. Where amendments are required, these would be submitted for consideration of approval by the Secretary of State as and when appropriate, and in accordance with section 87 of the Act.

10.2 The instrument does not include a statutory review clause. A statutory review, taking into account the economic impact of this Order on the business activities of managers of residential leasehold property, would be disproportionate and is therefore considered to be inappropriate.

# Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 None.

## 12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).