

**HOUSING, COMMUNITIES, AND LOCAL
GOVERNMENT SELECT COMMITTEE**
PRE-LEGISLATIVE SCRUTINY OF THE DRAFT
COMMONHOLD AND LEASEHOLD REFORM
BILL
BRITISH PROPERTY FEDERATION EVIDENCE

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British Property Federation Evidence

ABOUT THE BRITISH PROPERTY FEDERATION

The British Property Federation (BPF) represents the UK real estate sector, an industry that invests in communities across the UK, providing a wide range of high-quality homes, workplaces, health, education, and warehousing facilities that people and businesses rely on every day.

By building and managing more urgently needed homes, we are raising standards and choice across the industry, providing 2.7 million jobs - one in every 13 jobs in the UK - for people of all ages across a huge range of roles.

Our response is also endorsed by the [Association of Real Estate Funds](#).

RESPONSE

1. How effectively does the draft Bill meet the Government's own policy intentions, including its commitment to "bring the feudal leasehold system to an end"?

1.1 While the draft Bill makes meaningful progress on the Government's commitments around leasehold reform – notably in enacting further Law Commission recommendations and in promoting commonhold – it promotes more uncertainty than certainty for leaseholders, freeholders, and the wider sector. We are not opposed to the Government's renewed focus on commonhold, and have long championed sensible reforms to leasehold, including addressing rapidly rising and unaffordable ground rents, service charge transparency, and regulation of managing agents. However, the draft Bill does not address many of the immediate concerns of leaseholders through implementation of the recommendations of Lord Best's Regulation of Property Agents (ROPA) report and does not promote confidence in commonhold. Additionally, the draft Bill has seriously impacted the UK's reputation as place for investment through unnecessary interference with existing investments into ground rents, and risks freeholder insolvency and worsening building safety risks. We discuss these further below.

1.2 We would firstly note that work to date, and the Government's language on leasehold reform, has effectively allowed ownership of leases to become demonised. This has stoked unnecessary concern in leaseholders without onerous leases – many of whom will not be able, or want to, enfranchise for many years – that they are financially trapped in their homes. This is counterproductive to the Government's ambitions, and messaging should be more positive to improve the understanding that a reasonable lease is nothing to be worried about and that, should a leaseholder feel concerned that the terms of their lease are unfair, there is help available to them.

1.3 The leasehold sector faces challenges that negatively impact both leaseholders and freeholders alike; however, these issues are not indicative of a wholesale failure of a leasehold system which for the most part, operates successfully and fairly. The leasehold sector constitutes a vital part of the residential market, and we would not wish to see legislation put in place which would diminish its efficacy – particularly as it will continue to operate, alongside commonhold, for many years yet.

1.4 Further, while the Committee's call for evidence is welcome, it is premature in the absence of the Government's Impact Assessment (IA) on the draft Bill. Stakeholders cannot respond on a fully informed basis without it. The Government's failure to publish the IA is wholly unsatisfactory, and we encourage the Committee to revisit evidence gathering once it is available and stakeholders have had adequate time to consider it.

2. Does the draft Bill provide a workable legal framework to support commonhold as the preferred, default tenure for flat ownership by the end of the Parliament?

2.1 The draft Bill's legal framework requires substantial detail to be developed through further consultation before it can operate effectively in practice. Moving to commonhold as the default tenure represents a major structural reform, requiring sustained and coordinated action across multiple sectors, as well as the specialist skills and operational expertise that are currently very limited in England and Wales, where there are fewer than 20 commonhold developments.

2.2 Achieving the proposed transition will require certainty and clarity not only for leaseholders and freeholders, but the wider ecosystem that underpins the housing market, including insurers, lenders, valuers, managing agents and legal advisers. If the framework does not provide a clear, workable model for these sectors, the likely consequences will be reduced availability of mortgage finance and insurance for leaseholders, alongside increased management complexity and higher ongoing costs.

2.3 Our membership includes operators of housing-with-care schemes for older people – Integrated Retirement Communities – distinct from retirement housebuilders. These schemes often use deferred fee arrangements, recognised by Government as improving affordability by allowing residents to defer part of service and facility costs. Such models require long-term managerial control and are incompatible with commonhold. Rather than a blanket exemption from any leasehold ban, the sector seeks a bespoke, tightly regulated leasehold model for housing-with-care, with clear conditions and enhanced consumer protections, as a step towards contractual tenure models used internationally, particularly in New Zealand. To support continued delivery of this needed housing, Government should meaningfully engage with the BPF, ARCO, and sector operators on this proposal.

3. Will the Government's proposal for a cap on ground rents of £250 a year, changing to a peppercorn after 40 years, tackle unregulated and unaffordable existing ground rent charges?

3.1 While we firmly believe that rapidly escalating ground rents, which can affect mortgage availability, should be addressed, this proposed cap goes far beyond what is required and will have severe consequences on investors, freeholders, and leaseholders.

- 3.2 Most leaseholders can comfortably afford current ground rents. Through the Public Pledge, the sector has already varied the vast majority of leases where ground rents doubled more than once every 20 years. Fewer than 0.1% of leases remain unaddressed – around 5,000 ‘onerous’ cases by our previous estimate – and this number continues to fall. The industry was prepared to go further through a code of practice and supported capping increases at inflation or 5% per year (whichever is lower), but meaningful engagement with Government on these proposals did not progress.
- 3.3 The proposed cap of £250 a year, however, will severely impact existing investments made by pension funds and institutional investors over many years. It will set a concerning precedent for investors not only in leasehold, but all sectors, that the Government is willing to retrospectively interfere in investments made in good faith. The UK's property industry relies heavily on legal and market transparency - and, critically, predictability.
- 3.4 Despite the Government's growth mission – which aims to restore stability and increase investment – and its ambition to deliver 1.5 million new homes, residential development has stalled in recent years. This slowdown has been driven in part by regulatory change and uncertainty arising from Government policy decisions and messaging. The proposed, arbitrary £250 cap does not support either the UK's reputation as a stable and attractive destination for investment, nor incentivise new development. In an increasingly global and mobile capital market, regulatory certainty is a key determinant of investment decisions, and our members across sectors report significant concern regarding the announcement of the cap and its deterrent effect. The introduction of the draft Bill, and the cap in particular, has created material market uncertainty, undermined the accurate valuation of assets, and in practice brought trading and lending activity to a halt.
- 3.5 The beneficiaries of ground rent funds are often members of the public – pensioners' investments, charities, or other organisations providing services. The Government has maintained the impact of its proposals represents less than 1% of pension fund investments (and we note this is not equally distributed), but pension fund investments in the UK are valued at nearly £3 trillion. Therefore, even a small percentage of pension fund investments being affected by the state would represent a significant loss in nominal terms.
- 3.6 While we have no visibility over the Government's assumptions here, given no IA has been published, the IA accompanying the 2023/24 ground rent consultation laid this bare, with impacts as high as £27.3bn.¹ Successive governments have repeatedly acknowledged the significant impact of any cap, yet the policy document accompanying this £250 ground rent cap proposal is silent on compensation. We have long been clear that adequate compensation must be provided to those that have invested in good faith, to ensure they can meet their liabilities and avoiding undermining the UK's reputation with global investment.
- 3.7 Outside the impacts on Government ambitions and investment, the proposed cap risks:

¹ UK Government “[Consultation Impact Assessment - Modern leasehold: restricting ground rent for existing leases](#)” December 2023.

- i. Disrupting the lending market – freeholders earn ground rent as property owners, not service providers, but they perform essential, well-recognised functions that require ongoing work. For example, mortgage lenders rely on freeholders to enforce covenants (e.g. across maintenance and insurance), which protects loan security;
- ii. Freeholder insolvency – if respectable freeholders lose ground rent income, many may exit through insolvency or liquidation, potentially being replaced by less reputable owners or managing agents who may exploit service charges. If freeholds are sold via the Treasury Solicitor and end up with these poor-quality purchasers, the Government risks reputational damage. Further, while the Treasury Solicitor may help appoint new freeholders after insolvency, it has no role in day-to-day building management;
- iii. Exacerbating building safety issues – the Building Safety Act 2022 places significant duties on freeholders, including coordinating and sometimes funding remediation, much of which cannot be recovered through service charges and will be undermined if freeholders become insolvent;
- iv. Placing burdens on unwilling leaseholders – almost half of all leasehold flats are investor-owned rentals, and most investor-leaseholders do not want active management roles. The idea of responsibilities shifting smoothly to leaseholders here is unrealistic.

4. How does the draft Bill seek to address the respective property rights of leaseholders and freeholders?

4.1 As we note above, the proposed ground rent cap sets a concerning precedent from the Government that it is willing to interfere with existing property rights, including c.£15bn of pension fund investment. The cap will rewrite these contracts and greatly alter their value. It will also not encourage a simple transfer of wealth from freeholder to owner-occupier, as perhaps envisaged; 41% of leasehold units are owned by Buy to Let investors², and we cannot see the benefit in transferring wealth between different types of investors. Over 40% of landlords in the Private Rented Sector (PRS) do not have a mortgage³, so the argument they are trapped by escalating ground rents is not relevant. This supports the reasonableness of an exemption from the ground rent cap for leasehold units owned by BTL landlords.

5. Will the draft Bill's proposal to end the use of forfeiture against leaseholders go far enough to redress the imbalance between leaseholders and landlords when there is a breach of covenant?

5.1 Forfeiture is an important (though very rarely used) debt recovery mechanism whereby freeholders can, as a last resort, enforce lease covenants and guarantee funds for the ongoing service and maintenance of buildings, to the benefit of all leaseholders. Where these debts cannot be recovered, required funds are often paid by other leaseholders. We are concerned that the policy solution here is, again, disproportionate to the issue it is trying to address; according to the Residential Freehold Association (RFA), in the past ten years there have been c.55 cases of forfeiture across their members' combined portfolios, representing just 0.0076% of properties.

² MHCLG [Leasehold dwellings, 2023 to 2024](#)

³ MHCLG [English Private Landlord Survey 2024: main report](#)

5.2 While we are not opposed to the removal of forfeiture, it must be replaced with a mechanism that provides equal security to freeholders and other leaseholders. The current proposal removes much of the security and efficacy from this process, which will result in further burdens on the courts system, increased delays, and higher costs for those leaseholders complying with their obligations.

6. Should provisions implementing the remaining recommendations of the Regulation of Property Agents: Working Group be included in the final version of this Bill?

6.1 Evidence from The Property Ombudsman shows that leaseholders' primary concerns are not with the tenure itself, but with day-to-day management and service charges, which are not always the responsibility of the freeholder but depend on who manages the building. In 2024, issues of poor maintenance, opaque or unreasonable charges, and unsatisfactory complaints handling underpinned all five of the Ombudsman's most common complaint categories.⁴ These are practical, operational failures rather than objections to the form of tenure.

6.2 While tenure reform, if correctly introduced, may have long-term benefits, it does little to address the immediate problems leaseholders face in how their homes are managed and paid for. Reform of managing agents would have the greatest positive impact on leaseholders' everyday experience, improving service quality, transparency, and accountability. That is why we have long advocated implementation of the recommendations made in the ROPA. They recognised the substantial influence of managing agents on leaseholders' finances and homes, and proposed mandatory qualifications, compulsory membership of a regulatory body, enforceable standards, and meaningful sanctions.

6.3 The draft Bill's failure to implement most of these reforms is a missed opportunity. Without proper regulation of managing agents, the main drivers of leaseholder dissatisfaction remain unaddressed, regardless of wider changes.

7. What framework does the draft Bill establish for ensuring fair collective decision-making in commonhold associations?

7.1 The draft Bill's decision-making framework appears sensible, and we welcome the implementation of the Law Commission's recommendation of 'sections', which recognise the complexity of mixed-use developments and allows for more effective management of non-residential elements. Our members have previously offered to trial this approach in existing mixed-use developments to assess its efficacy and any potential complications.

7.2 We would caution, however, that further engagement is required with Registered Providers and PRS landlords. On its face, the proposed decision-making framework would require these landlords to take on all the rights and responsibilities of members of the Commonhold Association. Where a landlord owns multiple properties across multiple buildings – often the case for large social landlords

⁴ The Property Ombudsman "[Annual Report 2024](#)".

– this will create a significant additional resourcing burden and impact their ability to meaningfully participate.

8. What would be the consequences of converting to commonhold for leaseholders in blocks with building safety defects?

8.1 The proposed ground rent cap will undermine responsibilities the Government has placed on freeholders to deliver remediation obligations under the Building Safety Act 2022 – totalling c.9,000 to 12,000 buildings, with estimated costs of £12.6-£22.4 billion.⁵ Under the Act, freeholders are responsible for taking forward remedial works, including through Government-backed Grant Fund Agreements.

8.2 Where the cap results in freeholder insolvency, it will remove their ability to fulfil these obligations and shift the responsibility onto ill-prepared leaseholders, further delaying remediation, exacerbating building safety risks, and driving up insurance costs. Evidence from other jurisdictions highlights these risks; in Scotland, where leasehold has been abolished and responsibility for maintenance rests collectively with unit owners, Government figures show widespread building deterioration, with c.63% of dwellings requiring repairs and 45% in a critical state of disrepair.⁶

9. What is a realistic timeline to ban the sale of new leasehold flats?

9.1 Any timeline must accommodate existing commitments made to leasehold and mixed-use developments at all stages. While build out rates are inherently variable, recent research has found that the average time between validation of the first application and completion of the first dwelling takes anywhere between 3.5 to near 7 years, depending on the size of the development, with these sites then delivering anywhere between 10 – 300+ dwellings a year.⁷ Any ban must seek to avoid interference with these commitments and the delivery of these homes, by providing a clear, sufficiently removed deadline.

10. What are the possible impacts of the draft Bill on the property sector, including to property values and housing supply?

10.1 The proposed ground rent cap risks a significant impact on the property and investment sectors – as we note above, it interferes with investment into ground rents (including c.£15 billion invested by pension funds); sets a concerning precedent for investors considering the UK residential market; and threatens freeholder solvency, which will have a cascading impact on building safety, management and insurance.

⁵ UK Parliament “[Committee of Public Accounts: The Remediation of Dangerous Cladding](#)” March 2025.

⁶ Scottish Government “[Scottish House Condition Survey: 2023 Key Findings](#)” January 2025.

⁷ Lichfields “[Start to Finish: How quickly do large-scale housing sites deliver?](#)” March 2024.

10.2 RFA modelling suggests that relatively small rises in required investor returns could lead to a 1–10% reduction in annual housing starts, further weakening delivery and especially impacting those London and the South East, where affordability is constrained.

10.3 This need for stability and certainty is not limited to ground rent caps – potential investors and developers of commonhold schemes will need certainty of returns before committing to any development. As was clearly demonstrated with the Building Safety Regulator, significant policy change without sufficient stakeholder consultation, resourcing, and a ‘right first time’ approach will have a chilling effect on the market and delivery of much-needed homes. Sustained, meaningful engagement with all affected sectors is essential for these reforms’ success.

11. Do the provisions in the draft Bill improve confidence in commonhold across the property sector?

11.1 As we have set out, the consequences of retrospective interference in ground rent investments and the precedent this sets, alongside measures in the draft Bill that would impose commonhold without sufficient clarity on many issues (insurance and mortgage availability, building management, investor and developer returns, etc.) does not promote confidence in commonhold. While this is possible, it requires sufficient engagement and clarity.

12. What would be a reasonable timeline to implement the provisions in the draft Bill? What deadlines would the Government need to meet in the interim?

12.1 A reasonable timeline is one decided after extensive engagement with all stakeholders and affected sectors, to ensure a firm understanding of the scale and time needed to deliver the provisions with minimal disruption to investment and housing delivery – including projects already committed to. We are not confident that, at this stage, engagement has been sufficient.

13. How have delays to the implementation of the Leasehold and Freehold Reform Act 2024 informed the provisions of the draft Bill? What lessons have been learnt to ensure the new legislation may be implemented without delay?

13.1 Issues with the 2024 Act stemmed from its rushed passage and the previous Government’s failure to address issues within it. We would reiterate that the focus should not be on avoiding delay; rather, getting these reforms right the first time.