

Written evidence from TheCityUK

Housing, Communities and Local Government Select Committee (“the Committee”): Draft Commonhold and Leasehold Reform Bill (“the Draft Bill”)

Introduction

We very much welcome the Committee’s inquiry on this topic and the opportunity to respond, both through written evidence and in the upcoming oral witness session.

TheCityUK is the industry-led body representing UK-based financial and related professional services. We champion and support the success of the ecosystem, and thereby our members, promoting policies in the UK and internationally that drive competitiveness, support job creation and enable long-term economic growth. The industry contributes over 12% of the UK’s total economic output and employs almost 2.5 million people – with two-thirds of these jobs outside London across the country’s regions and nations. It pays more corporation tax than any other sector and is the largest net exporting industry. The industry plays an important role in enabling the transition to net zero and driving economic growth across the wider economy through its provision of capital, investment, professional advice and insurance. It also makes a real difference to people in their daily lives, helping them save for the future, buy a home, invest in a business and manage risk.

Executive summary

Members of TheCityUK as well as other firms who have invested in Ground Rents as an asset class, often on behalf of pension funds and their members, have expressed serious concerns about the draft Bill. While they support the intention to address unaffordability and tackle remaining abuses of the ground rent system, their concerns are based on several grounds:

- a) **Retrospective change** to contracts entered in good faith on the basis of the law as it was at the time, and the inconsistency of this approach with Britain’s reputation as an investment environment which benefits from consistency and the rule of law, is likely to damage investor confidence in the UK.

Member firms understand the sovereignty of parliament and the government’s aim to address this aspect of policy. However, altering all contracts retrospectively, rather than simply addressing new contracts on a forward-looking basis (as in the 2022 Act) or targeting unfair terms, significantly devalues an established asset class, makes these assets unsellable, and risks denting investor confidence in the UK. This in turn risks discouraging future investment including in projects where the government may want to see private capital invested or increases to the risk premium payable on such investments.

- b) The proposed legislation **fails to recognise the nature of the UK residential leasehold market**, and as such is unlikely to achieve the broader objectives of government policy for homeowners. The principal failure is not to recognise the significant scale of private landlord

engagement in this market and hence private landlords' position as a prime beneficiary of the proposals of the Draft Bill, at the expense of pension savers.

The proposals in the Draft Bill effectively mandate a transfer of value of between £10bn and £12.7bn from freeholders to leaseholders. However, because 41% of residential property leases are held by private landlords rather than owner-occupiers (more for flats, more in London) almost half of this value will go as a windfall to private landlords rather than owner-occupiers. The gain is particularly pronounced for landlords of the most expensive properties. It is unlikely that rents will fall in line with reduced landlord outgoings. We do not see this as consistent with the government's broader approach to housing policy or delivering inclusive growth.

The argument that differentiating owner-occupiers from landlords is administratively too complex lacks credibility given a National Register is to be introduced ahead of the Draft Bill becoming law. Accordingly in this evidence we set out an alternative proposal which we believe better meets the government's objectives.

- c) The Draft Bill's **proposed setting of the cap for Ground Rents at £250**, with the view that this will erode to peppercorn or nil value **seems arbitrary and regressive** and is based on policy confusion, including in respect of its relationship to mortgageability of homes.
- d) There are moreover several **unintended consequences** for specific sub-sectors of the housing market where ground rents perform a very specific role as a demonstrable part of the economic model. The most notable example is retirement housing.

Finally, we note speculation about the potential unintended creation of tax liabilities for commonhold tenants. Our evidence does not comment on this but again, we note the risk of an unintended consequence damaging confidence in the housing market.

a) The principle of retrospective contractual change

In 2025, TheCityUK, working with PwC, conducted more than 300 conversations including 70 Chair and CEO interviews with participants in the UK's Financial and Related Professional Services Industry, to produce our report [No time to lose: Reasserting UK leadership in financial and related professional services](#). A large majority of the interviewees in the biggest sector listening exercise ever conducted in the sector cited legal predictability and stability as one of the UK's greatest strengths.

The Ground Rent measures proposed in the Draft Bill undermine that strength. They retrospectively change the terms of professionally advised contracts, fundamentally changing the deal agreed between willing parties and calling into question the UK's commitment to international and human rights law.

We share the view that this extremely intrusive measure cannot be justified by either the government's stated legislative objectives or by the reference to its manifesto commitment, which was to tackle unaffordable ground rents, not to impose a £250 cap with no regard to affordability.

Investors are supportive of tackling the remaining abuses and addressing affordability issues and had continued to invest on the basis that a solution to these challenges would be found. In contrast, the Draft Bill is straightforwardly value-destructive, leaving them and ultimately pension savers with a depleted and unsellable asset class.

Given these same investors are consistently asked by government to invest pension savers' funds in specific asset classes in support of UK growth (for example through the Mansion House Compact, Mansion House Accord and Sterling 20), this undermining of established principles of contract law is deeply discouraging. It has been explicitly said that when government seeks private capital for the next infrastructure project, the added legal uncertainty will require a risk premium, or the investment will be avoided altogether given a UK contract now risks being retrospectively voided.

b) Inconsistency with broader policy objectives

The government's broad policy approach to housing could be summarised by its laudable intention to deliver 1.5m new homes during this Parliament, not least through planning reform which the investment community has strongly supported. Specifically on leaseholds and Ground Rents, the intent as expressed in the manifesto was to address unaffordable ground rents, an objective on which the investor community was also willing to engage constructively.

The measures on Ground Rents proposed in the Draft Bill do not, however, serve these objectives, and indeed undermine them.

Effective reform depends on a proper recognition of component parts of the residential Leasehold market, which is split between owner-occupiers, private landlords and (to a minor extent) social landlords. Some 41% of leases are held, not by owner-occupiers but by private landlords. This figure rises if only flats are considered and is also higher (54%) in the London market. The economics of the proposals in the Draft Bill would entail a transfer of value estimated at between £4.8bn and £6.2bn from freeholders and (largely pension fund) investors to private landlords. This windfall would disproportionately benefit the freeholders of flats and properties in London and the South-East, whose ground rent costs would initially be capped, then eliminated. Rents would be unlikely to fall in consequence – rather, landlord profits would rise. We find it hard to believe that it was the intent of government policy to provide a windfall of this nature and extent to these beneficiaries. A universal cap of £250 for ground rents therefore does nothing to ease conditions or address the cost of living for tenants of private landlords.

There is a relatively straightforward solution, which is to utilise the register of privately let properties being introduced later this year so that the properties on this register are not subject to the ground rent cap – or are subject to a higher ground rent cap of, say, £500. This would restrict the windfall gains to the owner occupiers and first-time buyers who are the intended beneficiaries of this policy, who are currently subject to cost-of-living constraints and for whom ground rents may be a genuine deal-breaker for home ownership. Ground Rents applying to private rental properties would be subject to a higher cap but could still be phased out over forty years, thus achieving the bigger-picture reform the government seeks and on the same timescale.

This policy approach has been disregarded on the grounds of complexity, and while this may have been valid previously, the introduction of the register makes it straightforward to apply.

c) The £250 cap – a disputed logical basis

We consider the £250 per year cap for ground rents to have been set at an arbitrary level – there is no evidence that this is the threshold for unaffordability. The £250 level seems to have been selected, misleadingly, by reference to the level at which a leaseholder could be classed as an assured tenant, which historically could lead to forfeiture of the lease (a phenomenon known as the “Assured Shorthold Tenancy Trap”). This is a separate policy issue which has now been rectified, but the two issues have become confused over time, leading to a mistaken and unsubstantiated assumption that Ground Rents above £250 are problematic.

Further confusion arises because the government seems to have assumed that £250 roughly equates to 0.1% of property value in terms of the impact of the cap, on the basis that the average price of a flat/maisonette in England & Wales is £245,000. This is quite misleading given the average price for a flat/maisonette in London (according to the same data source) is £449,000.

The Government has argued that the Ground Rent measures in the Draft Bill will be most impactful in London (490,000 – 590,000 of the 770,000 – 900,000 leases impacted by the £250 cap are in London according to the Policy Statement). £250 is however only 0.056% of the average price for a flat/maisonette in London. In any event, a higher proportion (54%) of leasehold properties in London are held by private landlords, so a reduction to 0.1% reflects in large part the windfall gain to landlords rather than the saving to owner-occupiers.

The arbitrary nature of the £250 cap is further illustrated by its regressive impact. As a cash cap, it is disconnected from the value of the property – again underscoring the flaws in the 0.1% assumption. Research by our members has shown that the value of a move to a £250 cap accrues almost entirely to the leaseholders of more expensive properties, often in central London, while its impact on the affordability of low value properties is at or close to zero. This is a policy change that benefits leaseholders of prime London real estate, rather than those in our Northern cities.

Finally in relation to the £250 Ground Rent cap proposed in the Draft Bill, we would question the arguments used by the government to justify the cap at this level based on the capacity to provide mortgages on the relevant properties. Empirical research suggests there is no link between a £250 ground rent level of £250 and the ability of a lender to grant a mortgage. Mortgage lenders have been concerned to avoid the Assured Shorthold Tenancy trap as described above, but this is a different issue which has now been solved by the Renters Rights Act. The mortgage argument is, therefore in our view, largely a red herring.

d) Further unintended consequences

We are concerned that the government has not thought-through some of the potential consequences of the proposed changes to ground rent. One example relates to retirement living. For specialist properties, especially for example retirement living developments where there are communal living aspects, higher ground rents were charged in order to finance the construction and maintenance of those communal areas, and were preferred by leaseholders than paying the

equivalent upfront by way of a premium in the price for the property. This was recognised in the Leasehold and Freehold Reform Act 2024 which contained an exemption to the cap for ground rent where the leaseholder pays a higher ground rent in exchange for a lower enfranchisement premium.

It is vital that this exemption also applies to the Ground Rent measures proposed in the Draft Bill; it will also require some clarification to ensure that the burden of proof provisions (which currently rest solely with the freeholder) do not prevent the exemption being used as intended.

We doubt this is the only area where insufficient consideration has been given to potential unintended consequences – we would urge a further review before legislation is enacted. For example, we note media speculation about the creation of tax liabilities accruing for Commonhold tenants and would strongly suggest clarification – the Select Committee may want to examine this aspect more closely.

Conclusion

Our members recognise the policy intent behind the Draft Bill, but see the Bill as currently drafted as flawed in several material respects. As a matter of principle, the retrospective nature of the Draft Bill risks damaging investor confidence in the UK. The specific proposals of the Draft Bill are based on a poor analysis of the composition of the UK residential leasehold market and arbitrary or mistaken assumptions about the correct level for any cap. A significant part of the very considerable transfer of value away from pension savers is therefore misdirected, while the specific policy results in a regressive outcome.

We do not therefore consider that the Draft Bill reflects the government's policy priorities. However, these including ending the ancient freehold/leasehold system and replacing it with commonhold tenure, could be achieved by the relatively straightforward differentiation between leases held by owner-occupiers and those held by private landlords, using the new register. Other adjustments could be made to cover retirement living facilities.