

Title: Consultation Impact Assessment - Modern leasehold: restricting ground rent for existing leases IA No: RPC Reference No: Lead department or agency: Department for Levelling Up, Housing and Communities Other departments or agencies:	Impact Assessment (IA)
	Date: 06/12/2023
	Stage: Development
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries:	

Summary: Intervention and Options	RPC Opinion:
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Cost of Preferred (or more likely) Option (in 2019 prices, 2025 PV, 10-year appraisal period)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
To be confirmed when decision on final option is taken	To be confirmed when decision on final option is taken	To be confirmed when decision on final option is taken	

What is the problem under consideration? Why is government intervention necessary?

Leaseholders are typically required to pay an annual ‘ground rent’ charge to their freeholder as a term of their lease. This fee is distinct from a service charge and is not specifically linked to the provision of any service.

Ground rents have historically been of a low or nominal value paid under a long lease that was granted for a premium, on the basis that a freeholder who has already received a capital sum on the grant of a lease should not need to charge a tenant a full market rent as well. According to the [2021/22 English Housing Survey \(EHS\)](#), the average ground rent leaseholders reported paying is now £298 per annum. The [Competition and Markets Authority](#) has expressed concern that initially high and escalating ground rents can create problems in selling or mortgaging a property. In a recent survey (March 2023) undertaken by [Propertymark](#), the leading membership body for property agents, 78% of those surveyed reports that a leasehold property with an escalating ground rent will struggle to sell, even if priced correctly.

Lease provisions that impose ground rents and provide for its escalation can be obscure and hard to understand, even if buyers take legal advice in line with published guidance at the time of purchase. The Government has been clear and consistent in its messaging that it has concerns about the adverse impact that ground rents can have on leaseholders. The [Leasehold Reform \(Ground Rent\) Act 2022](#) demonstrates a financial ground rent is not necessary to underpin a lease, stopping freeholders from charging a financial ground rent on new leasehold properties. The Department wants to provide existing leaseholders with the same benefit as new leaseholders, making sure that they are not paying a ground rent for no clear service in return. The continued existence of ground rent charges in their current form stands in the way of government achieving our commitment for a more transparent model of homeownership. Government intervention is necessary to achieve that.

We are currently consulting on the options for reform in this area and evidence gathered through this consultation will be used to inform final policy decisions and our future analysis including any subsequent impact assessment.

What are the policy objectives of the action or intervention and the intended effects?

To provide leaseholders with greater transparency, protecting them from being tied into contracts where they are required to pay ground rent for no clear service and to remove any barriers to buying and selling of leasehold properties that ground rents are causing.

The Government is consulting on options to introduce a cap on ground rents through primary legislation. The policy would apply to existing long residential leases signed before the Leasehold Reform (Ground Rent) Act came into force. By long residential lease we mean a lease granted for longer than 21 years and granted for a premium. (Under the Leasehold Reform (Ground Rent) Act 2022, a lease is regulated by the Act if it is a long lease (exceeding 21 years), granted for a premium and for a single dwelling). Five different options to cap existing ground rents have been identified and the consultation will seek views from leaseholders, freeholders and other interested parties on those:

Legislative Option 1 All ground rents in existing leases could be reduced to a peppercorn (zero financial value);

Legislative Option 2 All ground rents in existing leases, regardless of current level, could be capped at an absolute amount and prevented from escalating beyond that amount (e.g. £250 which is a threshold above which ground rent is often referred to as being onerous);

Legislative Option 3 All ground rents in existing leases could be capped at a percentage of the property value (e.g. 0.1% of the value of the property at the time the measure is implemented and prevented from escalating further);

Legislative Option 4 All ground rents in existing leases could be capped at the original contract value.

Legislative Option 5 All ground rents in existing leases could be capped at the current level and prevented from escalating for the remainder of the lease;

We are consulting on the exemptions to any proposed measure, but they would currently include an exemption on business leases, applicable community housing, home finance plans and leases where the leaseholder has paid no premium to the freeholder in return for a higher ground rent. We are consulting on whether there ought to be further exemptions and whether there needs to be a transition period once the measure is enacted.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Do Nothing: The Government will introduce reforms through [a Leasehold and Freehold Bill](#) to make it cheaper and easier to enfranchise, including capping the value of any ground rent at 0.1% of the freehold value when used to calculate the enfranchisement premium. There will also be a right for those with a long enough lease to buy out the ground rent without having to extend their lease. Enfranchising may still be unaffordable for some, also factoring in professional fees such as conveyancing, meaning they will continue paying ground rent for the duration of their lease. There are therefore relevant measures in the Bill that will interact with the options set out in this IA. This will be taken into account in any final appraisal, but it is important to note that the baseline for this analysis does not take those reforms into account. A do-nothing option would maintain the status quo, with leaseholders continuing to pay a ground rent as set out in their lease. The ground rent terms contained within the lease could only be changed once created by agreement of both the freeholder and the leaseholder. The opportunities for existing leaseholders to extinguish ground rents themselves are currently limited. The principal option is to enfranchise (following a statutory route or by negotiating terms with the freeholder) by buying out the freehold, which removes the ground rent altogether, or through a statutory lease extension of a flat, thereby reducing the ground rent to a peppercorn. Both require payment of a premium to compensate the freeholder for the loss of any future rental income. However, this can be at some expense. Leaseholders with ground rents that escalate over the term of the lease can find that their premium is tens of thousands of pounds, compared with much lower premiums for leases with low, non-variable ground rents. The options for leaseholders who own a house are currently further restricted when compared to those who own flats. They are able to buy their freehold to extinguish their ground rent on payment of a premium, however, unlike flat owners, they are not able to extinguish their ground rent by extending their lease. Leaseholders who own a house are able to extend their lease for a single term of 50 years and instead of paying a premium, they pay a modern ground rent for those 50 years, subject to a rent review after 25 years.

Non-legislative interventions: Non-legislative interventions would rely on freeholders voluntarily taking action to vary lease terms and then take steps to monitor and evaluate the changes, taking action where necessary. To date, the non-legislative steps taken to remedy the problems that existing leaseholders are facing with ground rents have only targeted the most egregious examples of this type of lease clause. In March 2019, [the Public](#)

[Pledge for Leaseholders](#)¹ was developed, in partnership with leading developers and freehold investors, to alleviate what were then considered the most pressing aspects of escalating ground rents, those that doubled more frequently than every 20 years. We do not see clear evidence that the attempts at sector-led reform, most notably the public pledge for leaseholders, have delivered suitable outcomes and eradicated the issues caused by even the most problematic escalating ground rents. Correspondence from leaseholders suggests that some freeholders who signed the pledge are still using leases that contain doubling ground rent clauses. Additionally, in 2019, the Government asked the Competition and Markets Authority (CMA) to investigate potential mis-selling of homes and unfair terms in the leasehold sector. [The investigation](#) uncovered serious concerns and the CMA have sought redress for those leaseholders faced with the most egregious rents. They have helped around 20,000 leaseholders with commitments from several developers and those freeholders who have subsequently bought freeholds. These interventions had; however, a narrow-targeted focus and a significant number of leaseholders (e.g., those whose ground rents escalate in line with inflation) can still expect their ground rents to rise sharply at a given interval. The CMA have publicly acknowledged that they can only partially address the concerns their investigation has uncovered and that [the most comprehensive way to tackle problems with ground rent is through legislation](#).

Legislate. To deliver the policy outcomes we want, we deem it necessary to legislate. The evidence from leaseholders is that sector led reform has not delivered suitable outcomes for all existing leaseholders on even the most egregious ground rents and taking on board the recommendation of the CMA, we have developed a number of legislative options to provide a remedy. The options we have considered for introducing a legislative cap on existing ground rents are:

Legislative Option 1 All ground rents in existing leases could be reduced to a peppercorn (zero financial value);

Legislative Option 2 All ground rents in existing leases, regardless of current level, could be capped at an absolute amount and prevented from escalating beyond that amount (e.g. £250 which is a threshold above which ground rent is often referred to as being onerous);

Legislative Option 3 All ground rents in existing leases could be capped at a percentage of the property value (e.g. 0.1% of the value of the property at the time the measure is implemented and prevented from escalating further);

Legislative Option 4 All ground rents in existing leases could be capped at the original contract value.

Legislative Option 5 All ground rents in existing leases could be capped at the current level and prevented from escalating for the remainder of the lease.

Will the policy be reviewed? TBC. **If applicable, set review date:** N/A

Is this measure likely to impact on international trade and investment?	Yes			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Date:

¹ <https://www.gov.uk/government/publications/leaseholder-pledge/public-pledge-for-leaseholders>

Summary: Analysis & Evidence

Legislative Option 1

Description: Mandate that ground rents for existing leasehold properties can be nothing more than one peppercorn (nominal financial value) per year

FULL ECONOMIC ASSESSMENT

Price Base Year: 2019	PV Base Year: 2025	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Non-Monetised	508	5,080

Description and scale of key monetised costs by 'main affected groups'

The policy would apply to existing long residential leases signed before the Leasehold Reform (Ground Rent) Act came into force, save for limited exceptions. By long residential lease we mean a lease granted for longer than 21 years and granted for a premium. (Under the Leasehold Reform (Ground Rent) Act 2022, a lease is regulated by the Act if it is a long lease (exceeding 21 years), granted for a premium and for a single dwelling). Ground rent in these existing leases would be capped at one peppercorn per year (nominal financial value) for the duration of the lease, save for limited exceptions.

Restricting ground rent to a peppercorn in existing leases would come at a cost to freeholders with an expected loss of income of **£5.1bn** (present value) over the 10-year appraisal period in England and Wales.

Other key non-monetised costs by 'main affected groups'

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over the remainder of lease terms. This is estimated at £27.3bn (PV). (This value includes and is not additional to the 10 year cash flow impacts).

The key non-monetised costs include: insolvency and forfeiture costs where the freeholder defaults on contractual obligations as a result of losing all ground rent income. Freeholders would not be able to hedge ground rent income from their portfolio to meet any statutory obligations they may need to perform. Whilst many freeholders would continue to hold a valuable long-term interest in leasehold properties, e.g. from lease extension premiums, we would expect several freeholders to exit the market if a peppercorn cap were introduced. We are testing this assumption through consultation. Some leaseholders may see an increase in the service charge they can be expected to pay if services (set out in the consultation as "freeholder management functions") currently provided for through ground rent are invoiced via the service charge. However, data limitations mean we are unable to robustly monetise this cost pass-through at this stage. The Equivalent Annual Net Direct Cost to Business (EANDCB) that will be undertaken post consultation will not include any estimates of the likely degree of cost pass-through to leaseholders, given this is an indirect impact, focusing only on the direct additional costs businesses that are likely to incur. Pension funds and insurance companies that are reliant on residential ground rent income to meet index-linked liabilities to their members would need to find alternate investments to meet those liabilities.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	508	5,080

Description and scale of key monetised benefits by ‘main affected groups’

The main benefits of this proposal would fall to leaseholders and amount to an estimated **£5.1bn** (10 year present value) - the savings to them of no longer having to pay ground rent charges. This option is assumed to benefit the 86% leaseholders who report paying ground rent (c.4.5m leaseholders in England and Wales). We estimate an average leaseholder saving of £1,136 (PV) over 10 years. These represent transfers from freeholders to leaseholders. The modelling assumes much higher levels of average ground rents for variable leases, and a lower average ground rent for fixed ground rents. This means those with variable ground rents (estimated 18%) would see an average leaseholder saving higher than £1,136 (PV) average saving across all leaseholders and those with fixed ground rents would see a lower average saving. We estimate 37% of leaseholders let their property in the private rented sector (PRS). They are treated as businesses for the purposes of this impact assessment and would benefit from the proposed measures. Any direct impacts affecting this group will be included in a final EANDCB.

Other key non-monetised benefits by ‘main affected groups

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the reduction in the amount of ground rent payable over the total remaining lease term. This is estimated at £27.3bn (PV). (This value includes and is not additional to the 10-year cash flow impacts)

There is a non-monetised benefit to existing leaseholders with long residential leases who would benefit from a simpler, more transparent approach to the costs they are expected to pay under a lease and have increased ability to either extend their lease or purchase their freehold. The risk of ground rent adversely impacting the buying or selling of leasehold properties will be removed. Leaseholders are also expected to experience wellbeing benefits due to the reforms.

Key assumptions/sensitivities/risks.**Discount rate (%)**

3.5

We have assumed there are 4.98m leasehold properties in England and 235,000 in Wales. Based on analysis of the English Housing survey, we have assumed that 86% of those pay a ground rent. We have assumed 18% of leaseholds (c 900k leases in England and c43k in Wales) have escalating ground rent terms (using Competition & Markets Authority (CMA) estimates) and we have assumed that these are subject to a rent increase in line with the Retail Price Index (RPI) pre 2030 and CPI from 2030 onwards every 10 years. RPI and CPI forecasts are based on the March 23 OBR forecast. The remaining leases that pay ground rents (c.3.4m in England and c.160k in Wales) have fixed ground rents. We have used a 4-year sample from the EHS (18/19 – 21/22) to estimate average fixed and variable ground rents in England and survey findings from “Research into the Sale and Use of Leaseholds in Wales” report to estimate average ground rents in Wales.

Discounting: The impact to freeholders is presented in present value terms, which means it is deflated by GDP and adjusted using the Green Book recommended discount rate of 3.5% that declines after 30-years.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 508	Benefits: 188	Net: -320	

Summary: Analysis & Evidence

Legislative Option 2

Description: Mandate that ground rents for existing leasehold properties will be capped at an absolute amount

FULL ECONOMIC ASSESSMENT

Price Base Year: 2019	PV Base Year: 2025	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	Optional		Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	Non-monetised		231	2,309	
<p>Description and scale of key monetised costs by ‘main affected groups’</p> <p>The policy would apply to existing long residential leases signed before the Leasehold Reform (Ground Rent) Act came into force, save for limited exceptions. By long residential lease we mean a lease granted for longer than 21 years and granted for a premium. (Under the Leasehold Reform (Ground Rent) Act 2022, a lease is regulated by the Act if it is a long lease (exceeding 21 years), granted for a premium and for a single dwelling). Ground rent in existing leases would be capped at a fixed level (in nominal terms). It would be permissible for ground rents beneath the threshold to rise to the level of the cap. For those rents in excess of the threshold they would be reduced to the level of the cap. Once a ground rent has hit this upper financial threshold, it would not rise any further for the lifetime of the lease.</p> <p>A ground rent cap of £250, which is the value at which mortgage lenders impose conditions on leasehold properties when lending, we estimate would see a total cashflow transfer from the loss of ground rent from freeholders to leaseholders in England and Wales of £2.3bn (present value) over the 10-year appraisal period.</p>					
<p>Other key non-monetised costs by ‘main affected groups’</p> <p>As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over total remaining lease term. This is estimated at £14.6bn (PV) (this includes and is not additional to the 10-year cash flow impacts).</p> <p>The key non-monetised costs include: potential increase in court cases where ground rent has been charged in excess of the cap and leaseholders are seeking redress; an increase in variation of ground rents in leases and associated administrative costs, there may be potential insolvencies/forfeiture and associated costs where the freeholder defaults on contractual obligations as a result of the cap. We would not expect a significant number of freeholders to exit the market as a result of introducing this measure; given it would allow a permissible ground rent. Many freeholders would continue to hold a valuable long-term interest in leasehold buildings, including from the receipt of ground rent where permitted and premiums from lease extensions. This assumption will be tested as part of the consultation. Leaseholders may see an increase in the service charge they can be expected to pay if services currently provided for through ground rent are invoiced to the service charge. The EANDCB does not include any estimates of the likely degree of cost pass-through to leaseholders, given this is an indirect impact, focusing only on the direct additional costs businesses are likely to incur. Pension funds and insurance companies that are reliant on residential ground rent income to meet index-linked liabilities to their members would need to find alternate investments to meet those liabilities.</p>					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low	Optional		Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	0		231	2,309	

Description and scale of key monetised benefits by ‘main affected groups’

This option would benefit an estimated 940,000 leaseholders in England and Wales and amount to **£2.3bn** (10 year present value). On average, individual leaseholders would benefit from a £2,457 (PV) transfer from freeholders over the 10-year appraisal period. Freeholders would retain a maximum permissible income up to the cap e.g.£250 per lease. These represent transfers from freeholders to leasehold. We estimate 37% of leaseholders let their property in the private rented sector (PRS). They are treated as businesses for the purposes of this impact assessment and would benefit from the proposed measures. Any direct impacts affecting this group will be included in a final EANDCB.

Other key non-monetised benefits by ‘main affected groups’

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the reduction in the amount of ground rent payable over the total remaining of lease term. This is estimated at £14.6bn (PV). (This includes and is not additional to the 10-year cash flow impacts)

There is a non-monetised benefit to existing leaseholders with long residential leases who would benefit from a simpler, more transparent approach to the costs they are expected to pay under a lease and have increased ability to either extend their lease or purchase their freehold. The risk of ground rent adversely impacting the buying or selling of leasehold properties would be removed. Leaseholders are also expected to experience wellbeing benefits due to the reforms.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5

We have assumed there are 4.98m leasehold properties in England and 235,000 in Wales. Based on analysis of the English Housing survey, we have assumed that 86% of those pay a ground rent. We have assumed 18% of leaseholds (c 900k leases in England and c43k in Wales) have escalating ground rent terms (using Competition & Markets Authority (CMA) estimates) and we have assumed that these are subject to a rent increase in line with the Retail Price Index (RPI) pre 2030 and CPI from 2030 onwards every 10 years. RPI and CPI forecasts are based on the March 23 OBR forecast. The remaining leases that pay ground rents (c.3.4m in England and c.160k in Wales) have fixed ground rents. We have used a 4-year sample from the EHS (18/19 – 21/22) to estimate average fixed and variable ground rents in England and survey findings from “Research into the Sale and Use of Leaseholds in Wales” report to estimate average ground rents in Wales.

Discounting: The impact to freeholders is presented in present value terms, which means it is deflated by GDP and adjusted using the Green Book recommended discount rate of 3.5% that declines after 30-years.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 231	Benefits: 85	Net: -145	

Summary: Analysis & Evidence

Legislative Option 3

Description: Mandate that ground rents for existing leasehold properties will be capped at 0.1% of their value

FULL ECONOMIC ASSESSMENT

Price Base Year: 2019	PV Base Year: 2025	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Non-monetised	232	2,323

Description and scale of key monetised costs by 'main affected groups'

This policy would apply to existing long residential leases, greater than 21 years in length, save for limited exceptions. [Ground rent would be capped at 0.1% of the value of the property](#) at the time the measure is implemented and prevented from escalating further. A cap of 0.1% is on the basis that a significant proportion of mortgage providers impose conditions on lending when the level of ground rent is above this threshold. It would be permissible for ground rents beneath the threshold to rise to the level of the cap. For those rents in excess of the threshold they would be reduced to the level of the cap. A ground rent cap of 0.1% of the property's value, we estimate would see a total transfer from the loss of ground rent from freeholders to leaseholders in England and Wales of **£2.3bn (present value) over the 10-year appraisal period**.

Other key non-monetised costs by 'main affected groups'

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over the total remaining lease term. This is estimated at £14.7bn (PV). (This includes and is not additional to the 10-year cash flow impacts).

The key non-monetised costs include: potential increase in court cases and legal costs where the value of 0.1% of the property is disputed, systematic valuation of properties would need to be undertaken on introduction of the cap incurring costs potentially for both. We would not expect a significant number of freeholders to exit the market as a result of introducing this measure; given it would allow a permissible ground rent. Many freeholders would continue to hold a valuable long-term interest in leasehold buildings, including from the receipt of ground rent where permitted and premiums from lease extensions. This assumption will be tested as part of the consultation, Leaseholders may see an increase in the service charge they can be expected to pay if services currently provided for through ground rent are invoiced to the service charge. The EANDCB does not include any estimates of the likely degree of cost pass-through to leaseholders, given this is an indirect impact, focusing only on the direct additional costs businesses are likely to incur. Pension funds and insurance companies that are reliant on residential ground rent income to meet index-linked liabilities to their members would need to find alternate investments to meet those liabilities.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	232	2,323

Description and scale of key monetised benefits by ‘main affected groups’

This option would benefit an estimated 1,020,000 leaseholders in England and Wales and amounts to **£2.3bn** (10 year present value). Those leaseholders would benefit from an average £2,277 (PV) transfer from freeholders over the appraisal period. Freeholders would retain a maximum permissible income from ground rent of 0.1% per lease. We estimate 37% of leaseholders let their property in the private rented sector (PRS). They are treated as businesses for the purposes of this impact assessment and would benefit from the proposed measures. Any direct impacts affecting this group will be included in a final EANDCB.

Other key non-monetised benefits by ‘main affected groups

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the reduction in the amount of ground rent payable over the total remaining lease term. This is estimated at £14.7bn (PV) (This includes and is not additional to the 10-year cash flow impacts).

There is a non-monetised benefit to existing leaseholders with long residential leases who would benefit from a simpler, more transparent approach to the costs they are expected to pay under a lease and have increased ability to either extend their lease or purchase their freehold Leaseholders are also expected to experience wellbeing benefits due to the reforms.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5

We have assumed there are 4.98m leasehold properties in England and 235,000 in Wales. Based on analysis of the English Housing survey, we have assumed that 86% of those pay a ground rent. We have assumed 18% of leaseholds (c 900k leases in England and c43k in Wales) have escalating ground rent terms (using Competition & Markets Authority (CMA) estimates) and we have assumed that these are subject to a rent increase in line with the Retail Price Index (RPI) pre 2030 and CPI from 2030 onwards every 10 years. RPI and CPI forecasts are based on the March 23 OBR forecast. The remaining leases that pay ground rents (c.3.4m in England and c.160k in Wales) have fixed ground rents. We have used a 4-year sample from the EHS (18/19 – 21/22) to estimate average fixed and variable ground rents in England and survey findings from “Research into the Sale and Use of Leaseholds in Wales” report to estimate average ground rents in Wales. The 0.1% cap has been calculated using ONS (Office for National Statistics) property prices per region and is assumed in the modelling to be fixed in nominal terms from the point of implementation.

Discounting: The impact to freeholders is presented in present value terms, which means it is deflated by GDP and adjusted using the Green Book recommended discount rate of 3.5% that declines after 30-years.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 232	Benefits: 86	Net: -146	

Summary: Analysis & Evidence

Legislative Option 4

Description: Limiting ground rent to the original amount when the lease was granted

FULL ECONOMIC ASSESSMENT

Price Base Year: 2019	PV Base Year: 2025	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Non-monetised	62	624

Description and scale of key monetised costs by 'main affected groups'

This option would apply to existing long residential leases signed before the Leasehold Reform (Ground Rent) Act came into force, save for limited exceptions. By long residential lease we mean a lease granted for longer than 21 years and granted for a premium. Under the Leasehold Reform (Ground Rent) Act 2022, a lease is regulated by the Act if it is a long lease (exceeding 21 years), granted for a premium for a single dwelling).

This option would revert the ground rent to the original amount in the lease when it was first granted, with no further escalation for the remainder of the lease. A measure to revert ground rent to the level at the grant of the lease, we estimate would see a total transfer from the loss of ground rent from freeholders to leaseholders in England and Wales of **£0.6bn (present value) in the 10-year appraisal period.**

Other key non-monetised costs by 'main affected groups'

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over the total remaining lease term. This is estimated at £7bn (PV). (This includes and is not additional to the 10-year cash flow impacts)

The key non-monetised costs include: potential increase in court cases and legal costs where ground rent has been charged in excess of the cap and leaseholders are seeking redress; an increase in variation of ground rents in leases and associated administrative costs, there may be potential insolvencies/forfeiture and associated costs where the freeholder defaults on contractual obligations as a result of the cap where those obligations are index-linked and the cap prevents ground rent from matching those pound for pound. There may be costs incurred to find the original ground rent value when the lease was granted. We would not expect a significant number of freeholders to exit the market as a result of introducing this measure; given it would allow a permissible ground rent. Many freeholders would continue to hold a valuable long-term interest in leasehold buildings, including from the receipt of ground rent where permitted and premiums from lease extensions. This assumption will be tested as part of the consultation. Leaseholders may see an increase in the service charge they can be expected to pay if services currently provided for through ground rent are invoiced to the service charge. This assumption will be tested as part of the consultation. The EANDCB does not include any estimates of the likely degree of cost pass-through to leaseholders, given this is an indirect impact, focusing only on the direct additional costs businesses are likely to incur. Pension funds and insurance companies that are reliant on residential ground rent income to meet index-linked liabilities to their members would need to find alternate investments to meet those liabilities.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	62	624

Description and scale of key monetised benefits by ‘main affected groups’

This option would benefit an estimated 940,000 leaseholders in England and Wales and amounts to **£0.6m** (10 year present value). Those leaseholders would benefit from a £663 (PV) transfer from freeholders over the appraisal period. Freeholders would retain a maximum permissible income from ground rent reverting to the original amount when the lease was granted. We estimate 37% of leaseholders let their property in the private rented sector (PRS). They are treated as businesses for the purposes of this impact assessment and would benefit from the proposed measures. Any direct impacts affecting this group will be included in a final EANDCB.

Other key non-monetised benefits by ‘main affected groups

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over the total remaining lease term. This is estimated at £7bn (PV). (this includes and is not additional to the 10-year cash flow impacts)

There is a non-monetised benefit to existing leaseholders with long residential leases who would benefit from a simpler, more transparent approach to the costs they are expected to pay under a lease and have increased ability to either extend their lease or purchase their freehold Leaseholders are also expected to experience wellbeing benefits due to the reforms.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5%

We have assumed there are 4.98m leasehold properties in England and 235,000 in Wales. Based on analysis of the English Housing survey, we have assumed that 86% of those pay a ground rent. We have assumed 18% of leaseholds (c 900k leases in England and c43k in Wales) have escalating ground rent terms (using Competition & Markets Authority (CMA) estimates) and we have assumed that these are subject to a rent increase in line with the Retail Price Index (RPI) pre 2030 and CPI from 2030 onwards every 10 years. RPI and CPI forecasts are based on the March 23 OBR forecast. The remaining leases that pay ground rents (c.3.4m in England and c.160k in Wales) have fixed ground rents. We have used a 4-year sample from the EHS (18/19 – 21/22) to estimate average fixed and variable ground rents in England and survey findings from “Research into the Sale and Use of Leaseholds in Wales” report to estimate average ground rents in Wales.

Discounting: The impact to freeholders is presented in present value terms, which means it is deflated by GDP and adjusted using the Green Book recommended discount rate of 3.5% that declines after 30-years.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 62	Benefits: 23	Net: -39	

Summary: Analysis & Evidence

Legislative Option 5

Description: Freezing existing ground rents at their current value

FULL ECONOMIC ASSESSMENT

Price Base Year: 2019	PV Base Year: 2025	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	Optional		Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	Non-monetised		40*	439*	
<p>Description and scale of key monetised costs by ‘main affected groups’</p> <p>This option would apply to existing long residential leases signed before the Leasehold Reform (Ground Rent) Act came into force, save for limited exceptions. By long residential lease we mean a lease granted for longer than 21 years and granted for a premium. Under the Leasehold Reform (Ground Rent) Act 2022, a lease is regulated by the Act if it is a long lease (exceeding 21 years), granted for a premium for a single dwelling). Legislation would freeze ground rents at their current value and prevent them from escalating for the remainder of the term of the lease. A measure to freeze ground rents at their current level and prevent further escalation, we estimate would see a total cashflow transfer from the loss of ground rent from freeholders to leaseholders in England and Wales of £0.4bn (present value) over an 11-year appraisal period*.</p> <p>*Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for this option as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11 years in order to provide a monetised estimate.</p>					
<p>Other key non-monetised costs by ‘main affected groups’</p> <p>As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over the total remaining lease term. This is estimated at £4.2bn (PV). (This includes and is not additional to the 10-year cash flow impacts).</p> <p>The key non-monetised costs include: potential increase in court cases and legal costs where ground rent has been charged in excess of the cap and leaseholders are seeking redress; an increase in variation of ground rents in leases and associated administrative costs, there may be potential insolvencies/forfeiture and associated costs where the freeholder defaults on contractual obligations as a result of the cap where those obligations are index-linked and the cap prevents ground rent from matching those pound for pound. We would not expect a significant number of freeholders to exit the market as a result of introducing this measure; given it would allow a permissible ground rent. Many freeholders would continue to hold a valuable long-term interest in leasehold buildings, including from the receipt of ground rent where permitted and premiums from lease extensions. This assumption will be tested as part of the consultation, Leaseholders may see an increase in the service charge they can be expected to pay if services currently provided for through ground rent are invoiced to the service charge. The EANDCB does not include any estimates of the likely degree of cost pass-through to leaseholders, given this is an indirect impact, focusing only on the direct additional costs businesses are likely to incur. Pension funds and insurance companies that are reliant on</p>					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low	Optional		Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	0		40*	439*	

Description and scale of key monetised benefits by ‘main affected groups’

There is estimated to be a £469 (PV) average saving for leaseholders over an 11-year appraisal period*. Freeholders would maintain a level of permissible ground rent. We estimate 37% of leaseholders let their property in the private rented sector (PRS). They are treated as businesses for the purposes of this impact assessment and would benefit from the proposed measures. Any direct impacts affecting this group will be included in a final EANDCB.

***Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for this option** as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11 years in order to provide a monetised estimate.

Other key non-monetised benefits by ‘main affected groups

As well as the 10-year cash flow impacts in the headline figures, we also estimate the change in asset value by calculating the loss of ground rent income over the total remaining lease term. This is estimated at £4.2bn (PV). (this includes and is not additional to the 10 year cash flow impacts)

There is a non-monetised benefit to existing leaseholders with long residential leases who would benefit from a simpler, more transparent approach to the costs they are expected to pay under a lease and have increased ability to either extend their lease or purchase their freehold Leaseholders are also expected to experience wellbeing benefits due to the reforms.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5

We have assumed there are 4.98m leasehold properties in England and 235,000 in Wales. Based on analysis of the English Housing survey, we have assumed that 86% of those pay a ground rent. We have assumed 18% of leaseholds (c 900k leases in England and c43k in Wales) have escalating ground rent terms (using Competition & Markets Authority (CMA) estimates) and we have assumed that these are subject to a rent increase in line with the Retail Price Index (RPI) pre 2030 and CPI from 2030 onwards every 10 years. RPI and CPI forecasts are based on the March 23 OBR forecast. The remaining leases that pay ground rents (c.3.4m in England and c.160k in Wales) have fixed ground rents. We have used a 4-year sample from the EHS (18/19 – 21/22) to estimate average fixed and variable ground rents in England and survey findings from “Research into the Sale and Use of Leaseholds in Wales” report to estimate average ground rents in Wales.

Discounting: The impact to freeholders is presented in present value terms, which means it is deflated by GDP and adjusted using the Green Book recommended discount rate of 3.5% that declines after 30-years.

BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 40*	Benefits:15*	Net: -25*	

Evidence Base

1. Problem under consideration and rationale for intervention

- 1.1 [In 2021-22, there were an estimated 4.98 million leasehold dwellings in England.](#) This equates to 20% of the English housing stock. The majority of leasehold dwellings (70%) were flats with 3.5 million leasehold flats across all tenures (3.3 million in the private sector and 170,000 in the social rented sector). There were 1.5 million leasehold houses in 2021-22 which made up the remaining 30% of leasehold.
- 1.2 Although 20% of the total housing stock in England was owned on a leasehold basis, this varied greatly by region. London had the highest proportion of leasehold dwelling of the 9 regions in England, 36% (1.4 million dwellings), closely followed by the North-West, 32% (1.1 million dwellings). The remaining regions had a much lower proportion of leasehold dwellings, with the East Midlands having the lowest (9%), just 192,000 dwellings.
- 1.3 In Wales, research conducted for the Welsh Government into the sale and use of leaseholds, published in March 2021, shows that leaseholds account for around 16% of all properties in Wales. This equates to, very approximately, 235,000 properties. The report showed that Land Registry Price Paid Data indicated that leaseholds account for 12% of all property transactions in Wales, with the majority of these transactions (64.3%) involving flats. There were more leasehold properties in densely populated conurbations, with Cardiff and Swansea as 'hotspots' for leasehold transactions. Leasehold houses comprised a larger proportion of the leasehold market in districts with a mining legacy.
- 1.4 In February 2017, the Government acknowledged in The White Paper [Fixing our broken housing market \(February 2017\)](#), that the leasehold system is not working in consumers' best interests and needs to be reformed. Specifically on ground rents, the Government noted that "some freeholds and ground rents of leasehold houses are sold on and traded, with leaseholders left in the dark, and facing increasing and onerous payments. This is not in consumers' best interests". It also set out that it was absolutely determined to address ground rents with short review periods and those that have the potential to increase significantly throughout the lease period.
- 1.5 In December of that year the Government took the first step in fulfilling this commitment, stating in the response to the consultation, ['Tackling unfair practices in the leasehold market'](#), that it:
 - wants to make sure that consumers only pay for services that they receive
 - had concerns that ground rents have risen from historically small sums to hundreds of pounds per year in many cases and
 - the adverse impact this can have on leaseholders, with some finding themselves under an obligation to ground rents that escalate to thousands of pounds causing considerable financial distress and leaving some facing difficulty selling their property.
- 1.6 The Government also committed to look at how existing leaseholders could best be supported, and that if sector-led measures proved insufficient and did not provide the right outcomes, that it would consider what other measures could be pursued.
- 1.7 The Government continues to believe the leasehold sector, and specifically the current rules on ground rents, is subject to economic market failures which interact to disrupt the efficient allocation of resources, sometimes leading to higher costs and a diminished user experience:

- There is an **asymmetry of information**, with freeholders typically holding more information about properties than leaseholders. Professional freeholders are better versed on the complexities of the leasehold process. For example, leaseholders may be unaware of the full ongoing costs associated with a leasehold purchase, which can vary from initial purchase.
- 1.8 Alongside this market failures, there are also other reasons to justify intervention in the leasehold market:
- **Equity.** Leaseholders pay a substantial sum to purchase a property and are subject to ongoing service charges to fund the maintenance and management of the building. It is not clear why leaseholders should be expected to continue to make additional payments via ground rent that are neither subject to a test of reasonableness, have not been tested as fair, nor are underpinned by measurable and enforceable commitments. Some leaseholders are even being met with a charge from their freeholder for the collection of the ground rent, in addition to the ground rent itself. Any monies that a leaseholder hands over to a freeholder that are said to either contribute to or enable proper management of the building should be subject to all those requirements.
 - **Simplifying an overly complex process.** There is no such thing as a standard lease – leaseholders are governed by leases which are often the result of complex negotiations carried out by multiple parties and over different periods of ownership. This results in leases that are difficult for a lay person to understand and interpret, can be different from the lease for the property next door and are difficult to vary or amend. It can mean that leaseholders who are unhappy can struggle to understand how they can make things better and will need bespoke support from professionals.
 - **The current system can** limit leaseholders' ability easily move home if the ground rent is unreasonable and to challenge and negotiate better ground rent terms within the system.
- 1.9 The existence of market failures means that there is a clear economic rationale to intervene to cap ground rents.
- 1.10 If we can address these market failures, we can expect a better functioning leasehold market. We expect this will result in greater certainty in the market, a better quality leasehold experience and improved wellbeing of leaseholders.
- 1.11 A lease is a private contract between the leaseholder (who purchases the property) and their freeholder and sets out the rights and duties of both. It will normally set out who is responsible for looking after different parts of the building, who is responsible for insuring it, and may restrict how the property may be used, for example preventing business activities to be undertaken on the property. It may also contain conditions about disposals of the lease (for example, the freeholder's permission may be required before the property can be sold).
- 1.12 The lease will allow a leaseholder to occupy the property for a fixed number of years (this period is called 'the term' of the lease). The length of the lease reduces over time from the date when it was originally granted. The outstanding term will therefore depend on what was left when the leaseholder took over the lease. The lease will also expire automatically at the end of the term, although most long leaseholders have a statutory

right to stay on as renting tenants at the end of the lease, buy the freehold or extend their lease. The terms of a lease can be varied by agreement between the freeholder and the leaseholder and there is a right to apply to a Leasehold Valuation Tribunal (LVT) on specific grounds to have a lease varied.

- 1.13 Where a home is sold on a long residential lease (>21 years), the leaseholder will usually be obliged to pay an annual or periodic charge to the freeholder for the duration of the lease. This is known as ground rent.
- 1.14 The lease will set out how much ground rent is payable, whether it can increase, by how much and when. It can allow for ground rent to increase both substantially and frequently.
- 1.15 There is no obligation for a freeholder to charge a ground rent nor a requirement on them to provide any service if they do collect a payment. The level of ground rent does not necessarily have a bearing on the quality of service or maintenance provided in a given property. The amount leaseholders can be required to pay does not have to be reasonable, unlike variable service charges. The service charge is distinct from a ground rent as the mechanism freeholders use to invoice leaseholders for the cost of general property maintenance and repairs, cleaning of communal areas and insurance. Service charges can also be used to establish a sinking fund for major renovations, such as replacing a roof. This contrasts to the lack of benefit a leaseholder derives from ground rent, where the freeholder's entitlement to collect ground rent would be undiminished even if they were to neglect the property entirely.
- 1.16 Although there is no obligation for freeholders to charge a ground rent the [2021-2022 English Housing Survey \(EHS\)](#), a representative national survey of people's housing circumstances, points to the vast majority (86%) of owner occupier leaseholders reporting paying one. A greater proportion of owner occupier leaseholders in houses have previously reported paying a ground rent than owner occupier leaseholders in flats (88% compared with 75%).
- 1.17 [Ground rents have historically been of a low or nominal value paid under a long lease that was granted for a premium.](#) This is on the basis that a freeholder who has already received a capital sum on the grant of a lease should not need to charge a tenant a full market rent as well. The last 20 years have, however, seen a trend of escalating ground rents in the leases of new-build properties. Ground rents have become more than a token amount, evolving to be a means for a freeholder to continue to extract an income from the leaseholder throughout the term of a lease, [regardless of any premium paid.](#)
- 1.18 [In parallel with escalating ground rents, institutional investors have increasingly become involved in the residential ground rent market,](#) either through lending against a residential portfolio or directly investing and becoming the freeholder. Specialist investor press cite that the predictable and long-term income that ground rent provides has made them an attractive investment, particularly for pension funds [who need to meet their commitments to pensioners.](#)
- 1.19 [The increased involvement of institutional investors in the residential ground rent market over the last 20 years](#) has coincided with a marked increase in the number of ground rent terms in new leases that are subject to more frequent rent reviews and subject to index-linked increases in the amount that leaseholders have to pay.

- 1.20 For investors, there is an incentive to link to link ground rent to inflation to boost the value of such investments.
- 1.21 In 2020, the Competition & Markets Authority (CMA) estimated that since 2000 the majority of leases granted on new build properties – 670,000 new-build leasehold flats and over 100,000 newbuild leasehold houses – have leases that contain clauses with escalating ground rents¹. At the time of the investigation, this represented 18% of the existing stock of leasehold properties. When applied to the Department’s latest estimate of 4.98m leasehold properties, that would mean approximately 900,000 new-build leasehold properties have escalating rents.
- 1.22 Inflation linked increases are now the most prevalent form of ground rent increase. The EHS 2020-21, shows that of those leaseholders surveyed who reported having an escalating ground rent, 59% reported that it increased in line with inflation or RPI, making inflation linked increases which were previously rare, now the most common reason for ground rents to increase.
- 1.23 [The CMA have cited a number of reasons](#) provided to them in the course of an investigation into unfair contract terms, as to why ground rents have attracted investors. These are that ground rents:
- represent a long term, potentially in excess of 75 years, and predictable income stream;
 - are a secure income stream with a yield that exceeds gilts (a view supported in case law);
 - escalate, often by RPI, which matches the liabilities of pension funds.
 - have a strong underlying asset value.
 - allow high asset diversification.
 - release capital that might otherwise be withheld from investment under EU solvency requirements.
- 1.24 Data from developers and [expert evidence in First Tier Tribunal \(Property Chamber\)](#) cases supports this and indicates that index-linked ground rents became increasingly attractive to long term investors and their value has risen significantly since 2007, noting that the place for such investments had been the index linked gilt market but the yield on such gilts was low at the time and there were, importantly, insufficient investments available to meet the demand. The CMA have expressed specific concerns with ground rent increases linked to RPI. That:
- homeowners may well not understand how an RPI increase is calculated.
 - the quantum of an RPI based increase is uncertain.
 - it is unclear why in principle RPI is a suitable index by which the lease value of property, should increase.

¹ [Leasehold update report \(publishing.service.gov.uk\)](#) at paragraph 53. The CMA describes leasehold properties built after 2000 as modern long lease properties with annual ground rents typically at several hundred pounds and usually increasing over the term of the lease.

- 1.25 The Government is seeing more evidence from leaseholders that the current levels of ground rent, and this potential for it to continue to escalate frequently, are causing distress.
- If the leaseholder falls behind on payments, they risk losing their home.
 - Some leaseholders may find that they are unable to re-mortgage if their ground rent goes above a certain level and without a way to address this can struggle to sell their home. We have heard specific examples of sales falling through multiple times because the freeholder will not issue a deed of variation to cap the ground rent at £250 meaning that lenders view the investment as too risky. [The Housing, Communities and Local Government \(HCLG\) Select Committee](#) set out their view that any ground rent is an onerous one if it becomes disproportionate to the value of a home, such that it materially affects a leaseholder's ability to sell their property or obtain a mortgage.
 - 78% of property agents reported in a recent [survey by Propertymark](#) that properties with an escalating ground rent are struggling to sell.
- 1.26 Those who own leaseholds are therefore potentially unable to sell their homes and those who want to get onto the housing ladder are prevented from doing so.
- 1.27 Leaseholders have already paid a substantial sum to purchase a property and are subject to ongoing service charges to fund the maintenance and management of the building. It is not clear why leaseholders should be expected to continue to make additional payments that are neither subject to a test of reasonableness, have not been tested as fair, nor are underpinned by measurable and enforceable commitments. Some leaseholders are even being met with a charge from their freeholder for the collection of the ground rent, in addition to the ground rent itself. Any monies that a leaseholder hands over to a freeholder that are said to either contribute to or enable proper management of the building should be subject to all those requirements. Leaseholders having to pay ground rent for nothing in return has been referred to as a [scandal in the national press](#)².
- 1.28 The opportunities for existing leaseholders to remedy the current amount, or potential amount, of ground rent they pay are currently limited, the principal option being to enfranchise by buying out the freehold, removing the ground rent altogether, or through a statutory lease extension of a flat (not an option available to leaseholder house owners who continue to pay a ground rent under any lease extension), thereby reducing the ground rent to a peppercorn. However, this can be at some expense and a compounding factor [is the higher the ground rent, the higher the premium and the greater the cost of enfranchising](#)³.
- 1.29 Some freeholders have taken steps to try and tackle the most egregiously high and increasing ground rents. In March 2019, [the Public Pledge for Leaseholders](#)⁴ was

² "Leasehold scandal: Millions of homeowners to be freed from 'rip-off' ground rents after landmark reforms" The Independent 7 Jan 2021 <https://www.independent.co.uk/news/business/leasehold-ground-rents-reform-law-b1783479.html> and "Ground rent scandal: leaseholders in England get new rights", The Guardian, 7 Jan 2021 <https://www.theguardian.com/money/2021/jan/07/ground-rent-scandal-leaseholders-in-england-and-wales-get-new-rights>

³ "Leasehold home ownership: buying your freehold or extending your lease. Report on options to reduce the price payable", Law Commission January 2020, <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2020/01/Enfranchisement-Valuation-Report-published-9-January-2020.pdf>

⁴ Public pledge for leaseholders, <https://www.gov.uk/government/publications/leaseholder-pledge/public-pledge-for-leaseholders>, updated 27 June 2019

developed to alleviate the most pressing aspects of the doubling ground rent issue. Government achieved this in partnership with leading developers and freehold investors. Signatories committed to reviewing their portfolios to identify leases which had ground rent terms which doubled more frequently than every 20 years and offering these leaseholders amended terms linked to RPI, as well as committing to not insert into any future lease agreement a clause whereby ground rent doubles more frequently than every 20 years. [The Housing, Communities and Local Government \(HCLG\) Select Committee](#) questioned the merits of voluntary developer and freeholder-led schemes that offered to convert leases with doubling ground rents to RPI-based review mechanism given this may still see ground rents rise above 0.1% of a property's value.

- 1.30 [In their response to the Committee's Report](#), The Government saw the Pledge as “an important first step towards industry fixing the problem that they have created” and committed to monitor the actions of industry and take further action, as necessary.
- 1.31 Despite the Pledge, The Government continues to receive correspondence from leaseholders evidencing that some freeholders who were signatories in 2019 are exploiting loopholes in their commitments to continue to rely on lease terms which allow doubling ground rents.
- 1.32 [In 2019, the Government also asked the CMA to investigate potential mis-selling of homes and unfair terms in the leasehold sector](#)⁵. The [investigation](#) uncovered serious concerns and the CMA have sought redress for those leaseholders faced with the most egregious rents⁶. To date, they have helped a significant number of leaseholders (around 20,000), with commitments from a number of developers and freeholders who have subsequently bought freeholds. In 2021, commitments were secured from Aviva, Countryside Properties and Taylor Wimpey, to return doubling ground rent terms to original rates and from Persimmon to support leasehold house owners to buy their freehold at the original price quoted. In 2022, commitments were secured from 15 freeholders who bought freeholds from Countryside Properties and 9 companies who bought freeholds from Taylor Wimpey. These commitments remove doubling ground rents terms for their leaseholders and revert charges to original rates. A further four national developers – Crest Nicholson, Redrow, Miller Homes and Vistry – have also agreed to work with the companies who purchased their freeholds to remove doubling terms. These settlements also provide that the ground rent for affected leaseholders will remain at the amount it was when the property was first sold and will not increase over time.
- 1.33 The CMA have only been able to help consumers where they had significant concerns around consumer protection law that merited taking enforcement action. Their investigation was not a holistic market study or investigation into leasehold and they acknowledge in their Leasehold Housing Update Report that they can only partially address the issues they identified and that the most comprehensive way to tackle problems with ground rent is through legislation.

⁵ Why the CMA is taking action on leaseholds, 10 September 2020 <https://competitionandmarkets.blog.gov.uk/2020/09/10/why-the-cma-is-taking-action-on-leaseholds/>

⁶ Leasehold, Competition and Markets Authority cases and projects <https://www.gov.uk/cma-cases/leasehold>

- 1.34 The Government has been clear and consistent in its messaging that it has concerns about the escalation of existing ground rents and the adverse impact it is having on leaseholders. It has stated that it will not tolerate consumers paying for services that they gain no material benefit from (June 2019), [that any stewardship functions should be paid for via the service charge⁷](#) and that people's homes are theirs to live in and enjoy, not designed as an income stream for third party investors (Response to HCLG Select Committee, July 2019).
- 1.35 The Government does not see clear evidence that previous attempts at sector-led reform, most notably the voluntary Pledge in 2019, have resulted in an eradication of the issues caused by ground rents and delivered suitable outcomes for all leaseholders.
- 1.36 [The Leasehold Reform \(Ground Rent\) Act 2022⁸](#) demonstrates a ground rent is not necessary to underpin a lease. It provides that for future leases and leaseholders freeholders will not be able to charge a financial ground rent. The Department intends to provide existing leaseholders with the same benefit and make sure that they are not paying a ground rent for no clear service in return. Government intervention is necessary to achieve that.

⁷ Implementing reforms to the leasehold system in England, Summary of consultation responses and Government response, June 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/812827/190626_Consultation_Government_Response.pdf

⁸ https://www.legislation.gov.uk/ukpga/2022/1/pdfs/ukpgaen_20220001_en.pdf

2. Description of options considered

Do Nothing

The Government will introduce reforms through a Leasehold and Freehold Bill to make it cheaper and easier to enfranchise, including capping the value of any ground rent at 0.1% of the freehold value when used to calculate the enfranchisement premium. There will also be a right for those with a long enough lease to buy out the ground rent without having to extend their lease. Enfranchising may still be unaffordable for some, also factoring in professional fees such as conveyancing, meaning they are under an obligation to pay ground rent for the duration of their lease. There are therefore relevant measures in the Bill that will interact with the options set out in this IA. This will be taken into account in any final appraisal but the baseline for this analysis does not take those reforms into account.

A do-nothing option would maintain the status quo, with leaseholders continuing to pay a ground rent as set out in their lease. The ground rent terms contained within the lease could only be changed once created by agreement of both the freeholder and the leaseholder. The opportunities for existing leaseholders to extinguish ground rents themselves are currently limited. The principal option is to enfranchise (following a statutory route or by negotiating terms with the freeholder) by buying out the freehold, which removes the ground rent altogether, or through a statutory lease extension of a flat, thereby reducing the ground rent to a peppercorn. Both require payment of a premium to compensate the freeholder for the loss of any future rental income. However, this can be at some expense. Leaseholders with ground rents that escalate over the term of the lease can find that their premium is tens of thousands of pounds, compared with much lower premiums for leases with low, non-variable ground rents. The options for leaseholders who own a house are currently further restricted when compared to those who own flats. They can buy their freehold to extinguish their ground rent on payment of a premium, however, unlike flat owners, they are not able to extinguish their ground rent by extending their lease. Leaseholders who own a house can extend their lease for a single term of 50 years and instead of paying a premium, they pay a modern ground rent for those 50 years, subject to a rent review after 25 years.

Non-legislative interventions

Non-legislative interventions would rely on freeholders voluntarily taking action to vary lease terms and then take steps to monitor and evaluate the changes, taking action where necessary. To date, the non-legislative steps taken to remedy the problems that existing leaseholders are facing with ground rents have only targeted the most egregious examples of this type of lease clause. In March 2019, the Public Pledge for Leaseholders⁹ was developed, in partnership with leading developers and freehold investors, to alleviate what were then considered the most pressing aspects of escalating ground rents, those that doubled more frequently than every 20 years. We do not see clear evidence that the attempts at sector-led reform, most notably the public pledge for leaseholders, have delivered suitable outcomes and eradicated the issues caused by even the most problematic escalating ground rents. Correspondence from leaseholders suggests that some freeholders who signed the pledge are still using leases that contain doubling ground rent clauses. Additionally, in 2019, the Government asked the Competition and Markets Authority (CMA) to investigate potential mis-selling of homes and unfair terms in the leasehold sector. The investigation uncovered serious concerns and the CMA have sought redress for those leaseholders faced with the most egregious rents. They have helped around 20,000 leaseholders with commitments from several developers and those freeholders who have subsequently bought freeholds. These interventions had; however, a narrow-targeted focus and a significant number of leaseholders (e.g., those whose ground rents escalate in line with inflation) can still expect their ground rents to rise sharply at a given

⁹ <https://www.gov.uk/government/publications/leaseholder-pledge/public-pledge-for-leaseholders>

interval. The CMA have publicly acknowledged that they can only partially address the concerns their investigation has uncovered and that the most comprehensive way to tackle problems with ground rent is through legislation.

Legislative Option 1 – Mandate that ground rents for existing leasehold properties can be nothing more than one peppercorn (nominal financial value) per year

All ground rents in existing leases, regardless of level, to be capped at a peppercorn (zero financial value). This would mean that all leaseholders (current and future) would not pay any ground rent further to the introduction of the Leasehold Reform (Ground Rent) Act 2022. Freeholders would not receive financial compensation for lost revenue after the cap is implemented. This proposal would align ground rents in existing and new leases. It would deliver the most favourable result for leaseholders, but would mean the most significant impact on freeholders, including institutional investors.

Legislative Option 2 – Mandate that ground rents for existing leasehold properties will be capped at a given amount. This would mean that there would be an upper financial value that ground rents could rise to. Ground rents which are currently below that amount would be permitted to rise to that value in accordance with the existing lease, but never to exceed it.

All ground rents in existing leases, regardless of level, to be capped at an absolute maximum value. This would mean that any ground rent currently above that level would be reduced to at or below the maximum value and be prevented from increasing above this level for the lifetime of the lease. Leases which currently have a ground rent value of below the maximum value would be unaffected and would continue to be permitted to escalate until they reach the highest given value possible, where they too would then become capped.

The option does not allow for updating of the value of the cap over time. This means that once a ground rent charge hit this upper financial threshold, it could not rise any further over time, by RPI or any other mechanism.

This option would not achieve the fundamental change to the ground rent regime. It would fail to resolve the issue of leaseholders paying a charge without receiving a transparent service in return, and for those freeholders who do provide services outside of the lease from ground rent charges, it may put additional pressure on them to do so within the limit of maximum value permitted to be charged.

We have previously heard from stakeholders that a maximum figure of £250 per annum may be a suitable upper threshold for ground rent. This figure has been argued for as it would bring a lease within the assured tenancy trap which can ultimately lead to forfeiture of a lease if ground rent remains unpaid. However, Government intends to bring the assured tenancy trap to an end through our Renters Reform legislation and we are therefore seeking views as to what an appropriate threshold might be through consultation.

Legislative Option 3 – Mandate that ground rents for existing leasehold properties will be capped at 0.1% of their value.

This option would mean that ground rents could never escalate above 0.1% of the leasehold property's value at the time the measure came into force.

A ground rent above 0.1% of the property value is referred to by some stakeholders as being "onerous," based on the widespread limit set by many mortgage providers as a threshold for automatic approval of mortgage applications. We understand that not all mortgage lenders are aligned on this percentage, and so we are seeking views as to what an appropriate percentage might be through consultation.

This option could give rise to complexities in practice, including how such a value would be determined as no such mechanism currently exists. There would need to be an initial systematic valuation that would need to be undertaken at the introduction of a cap and a registration of the

value. It could also lead to disputes as to the valuation, and an arbiter of such disputes would need to be put in place.

Legislative Option 4 – Limiting ground rent to the original amount when the lease was granted.

This option would provide for ground rents to revert to, or remain at, the initial level provided for in a lease. As part of this option, we would legislate to prevent any further escalation beyond the initial amount set out in the lease. This means that there could be no rise in the financial value for the lifetime of the lease.

Where there has been a significant variation of a lease, usually a change in the property or an extension of the lease, this would amount to a new lease and the rent payable would revert to the amount it was when the variation was agreed and stopped from escalating further for the remainder of the term.

For those paying a ground rent for a house, the ground rent would no longer be reviewable after 25 years.

Any voluntary lease extensions, agreed outside of the statutory provisions, would be fixed at the amount payable when granted and prevented from escalating further.

Those leases falling outside of this scope would continue to be bound by the existing terms. This option recognises that there is a contract entered into between the leaseholder and freeholder to pay rent and sets the ground rent obligation to the level that the leaseholder is most likely to have been aware of. This option could prove challenging if the original value of the ground rent in individual leases proved difficult to establish.

Legislative Option 5 – Capping ground rents at their current value.

This option would provide for ground rents to remain at the value provided for in the lease at the date that such a measure was implemented. As part of this option, we would legislate to prevent any further escalation of ground rent value beyond what it is at the point of time that legislation was enacted. This means that there could be no further rise in the financial value for the lifetime of the lease.

This has the advantages of being simple to understand and implement and respects the contract between freeholders and leaseholders. It would also have lesser impacts on the revenue and business models of freeholders and would remove concerns from lenders about future escalations becoming unaffordable for leaseholders with mortgages.

3. Policy objective

- 3.1 The Government has been clear that it will not tolerate leaseholders having to make ground rent payments and receiving no clear service in return. The proposed measures are intended to make sure that leaseholders are invoiced for legitimate management functions only through the service charge regime, that any barriers to the buying and selling of leasehold properties that may be caused by ground rent are removed and to remedy the remaining unfair ground rent terms that sector led initiatives have failed to address.

- 3.2 The Government is also consulting on whether there are any types of lease which may, for legitimate reasons, need to be exempt from having their ground rent terms overridden.
- 3.3 The Government introduced the Leasehold Reform (Ground Rent) Act 2022, which put an end to ground rents for most new long residential leases from 30 June 2022. Certain types of lease are, however, exempt from the Act, which means a leaseholder can be required to pay a rent which is more than a peppercorn rent. These are leases for community-led housing, leases that are not regulated leases, leases for certain financial products, business leases and shared ownership leases, where a specified rent is payable on the freeholder's owned share. We permitted these narrow exemptions to the peppercorn cap, where there is clear rationale for the continued use of a lease such as:
- to avoid interference with legitimate commercial practices,
 - to avoid interference with a freeholder's ability to determine a market rent for a rented property
 - making sure that home purchase financial products that rely upon rent to operate as a route to purchase a home, such as Islamic finance compliant products, can continue to serve their purpose.
- 3.4 For existing leases (i.e., those that were first signed before the Leasehold Reform (Ground Rent Act 2022) came into effect) we are consulting on the following exemptions to any future cap:
- Where a lease that is less than 21 years in length
 - A long residential lease where the current freeholder can prove they have negotiated an agreement resulting in the current leaseholder not having to pay a premium.
 - Where leases are for community-led housing: where it is a community housing lease (where the freeholder is a community land trust) or it is in a building controlled or managed by a co-operative society as the rent is used deliver services for community benefit in line with statutory obligations.
 - Leases that are for home reversion plans or 'rent to buy' arrangements that rely upon rent to operate as a route to purchase a home.
 - Business leases as defined by the Leasehold Reform (Ground Rent) Act 2022.
- 3.5 Shared Ownership in England is an affordable homeownership scheme that enables people to purchase an equity stake in a home worth between 10% and 75% of the home's full market value. The equity stake in the home not purchased by the shared ownership leaseholder is retained by the freeholder. The shared ownership leaseholder must then pay rent to their freeholder in respect of their retained equity stake in the home. This rent is known as a 'specified' rent. Specified rents are different from ground rents. Over time, the shared ownership leaseholder can increase the size of their equity stake in their home through 'staircasing' (usually all the way to 100%).
- 3.6 Currently, freeholders who granted shared ownership leases before the Leasehold Reform (Ground Rent) Act 2022 came into force can charge a ground rent on the shared ownership leaseholder's equity stake in their home. We believe that the cap on ground rents should be applied to these existing leases, limiting any ground rent charged on the shared ownership leaseholder's equity stake to the chosen cap. Our proposal for a cap on ground rents would have no impact on the ability of freeholders to charge a specified rent.

4. Summary and description of implementation plan

- 4.1 Primary legislation would be required to cap ground rents in existing leases and set out any exemptions to the cap.
- 4.2 The Government is consulting on a range of options with no preferred option. The option to cap ground rent in existing leases at a peppercorn would deliver the most favourable result for leaseholders, providing the same benefits that new leases have that are granted post the Leasehold Reform (Ground Rent) Act 2022. This option would have the most significant impact on freeholders, including institutional investors and we are asking part of the consultation process for respondents to share any evidence on the potential impacts on freeholders, leaseholders, investors and the wider market.
- 4.3 For the purpose of this impact assessment, freeholder means any party who is owed ground rent. Often this will also be the party who granted the lease. Other times, it may be an intermediate freeholder. There may be several layers of freeholders. For example, the freeholder (who owns the building and land forever) may grant a lease of the whole building to a leaseholder who may then grant further subleases of the individual flats and would be the intermediate freeholder for the subleases.
- 4.4 Legislation would seek to override existing leases with new terms to apply only to future ground rent payments when the arrangements come into effect. This means that leaseholders who receive ground rent demands which are in scope of any future intervention brought forward can refuse to pay them, even if they are (wrongly) specified in the lease. Freeholders would not be able to take leaseholders to the Tribunal to recoup any such ground rents.
- 4.5 The Government does not propose to reimburse leaseholders for payments of ground rents already made, which may fall outside of the scope of reforms. We do not believe that it would be proportionate to seek financial remuneration from either freeholders or government for charges already settled as part of the lease. We are seeking views on the provision of compensation through consultation.
- 4.6 We are consulting on the basis the measures would apply regardless of whether leaseholders occupy the property, or it is rented in the private rented sector. Across the whole leasehold stock, 37% is in the private rented sector (flats and houses), and this figure is 48% for flats based on a [2020 to 2021 Leasehold Dwellings estimate](#). The current law on enfranchisement does not distinguish between leaseholders by occupancy: owner occupiers and leaseholders who let their property have equivalent enfranchisement rights. To seek to make a distinction and apply the cap to only those leaseholders who are owner-occupiers add significant complexity to implementing the measures, though the final scope will be informed by consultation.
- 4.7 If a freeholder (or person acting on the freeholder's behalf) of a regulated residential long lease were to require a tenant to make a payment of prohibited rent after a cap has come into force, the leaseholder would be able to seek remedy by having the ground rent refunded. A financial penalty mechanism would be established to allow local enforcement authorities and the First-tier tribunal to enforce the policy. The statute of limitations would apply to this policy for the purposes of claiming a refund of ground rent. Additionally, leaseholders should not face any costs as a consequence of having to pursue a ground rent refund.

- 4.8 There is no provision for piloting a cap to existing ground rents prior to introducing the legislation. The Government has demonstrated that a financial ground rent is not needed to underpin a lease contract through the Leasehold Reform (Ground Rent) Act 2022.
- 4.9 Given the potentially short period between an announcement and the introduction of legislation there would need to be a suitable period of transition prior to the cap coming into effect. We are consulting on what a suitable period would be. The length of time between the Government announcing its intention cap ground rents on new leasehold properties and Royal Assent of the Leasehold Reform (Ground Rent) Act 2022 was 5 years.

5. Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

- 5.1 As this is a consultation-stage impact assessment (IA), it is important to note that: (a) the policy proposals are still in development; (b) the analysis is still in development; and (c) this analysis will be presented alongside a consultation before a final-stage IA.
- 5.2 Presenting the analysis alongside a consultation will give all stakeholders an opportunity to communicate their views, which will be thoroughly considered in the development of the final-stage IA. The final-stage IA will outline the finalised policy proposals and the analytical assessment of their impact, both in more conclusive detail.
- 5.3 This IA follows standard practice, as outlined by the HM Treasury Green Book. It assesses the expected costs and benefits of each of the policy options, against the counterfactual scenario (Do Nothing). The counterfactual sets out what would occur if existing market arrangements continued, and the Government did not intervene. In this scenario there would be no caps on existing ground rents, meaning they would remain at existing levels provided in the lease and permitted to escalate for the remainder of the term. This option is provided purely as an analytical tool to assess the impact of the proposed policy options and is not a genuine option.
- 5.4 The modelled monetised cost looks at the static impacts of reduced ground rent due to a cap. It does not consider behavioural impacts (for example freeholders recouping ground rents from service charges or to exiting the market), or wider impacts on freeholder viability, pension fund investments, or building safety programmes.
- 5.5 As this is a consultation-stage IA, the consultation will be used to test existing evidence and assumptions with stakeholders, invite any views they have and to provide feedback on the analysis presented in this IA to inform the final-stage IA. This will reduce the uncertainty in the final-stage appraisal.

6. Monetised and non-monetised costs and benefits of each option (including administrative burden)

- 6.1 This section outlines the costs and benefits associated with the 5 options of capping existing ground rents against the continuation of existing market arrangements in the counterfactual scenario (option 6). For the counterfactual, the Government does not intervene through legislative or non-legislative measures.

- 6.2 The options are compared by considering the extent to which they respond to the issues outlined in the rationale for intervention and their overall costs and benefits.
- 6.3 While we have monetised the main costs and benefits, there are other significant benefits and costs that have not been monetised. They have been outlined below and further evidence as to their relevance will be sought through consultation.
- 6.4 All figures in this section are presented in 2019 pounds with a present value year of 2025, discounted with the Green Book standard discount rate of 3.5% declining after 30-years and are shown over a 10-year appraisal period unless stated otherwise. Impacts from the policy are assumed to begin in 2025 for the purposes of the modelling, however decisions on any implementation date (or dates) have not yet been taken and will be informed by the outcome of the consultation.
- 6.5 The monetised impacts in the headline figures are calculated based on the expected change in cash flow between leaseholders and freeholders over the 10-year appraisal period.
- 6.6 We also expect that capping all ground rents will lead to an increase in asset value for all leases (decrease in the value of ground rent assets) below the proposed caps; however, although we estimate this impact, we have not included this in the headline figures and have instead opted to capture the annual cashflow impact (to do both would involve double counting).
- 6.7 We approximate this change in asset values by calculating the present value of the stream of ground rents (above the proposed caps) for the remainder of the lease term. We present this estimated impact for each option alongside the 10-year (or 11-year for option 5) present values which are in the headline figures.
- 6.8 All monetised figures cover both England and Wales, however the main source of evidence used to estimate the impact of the reforms (the English Housing Survey) is not available for Wales. An estimate of the impact of the proposed reform options in Wales has been estimated using alternative data sources where possible, however there is a higher level of uncertainty for all figures concerning Wales. A regional breakdown of options can be found in Table 8 and a full list of assumptions can be found in section 'Key Assumptions – Wales' at 6.25.
- 6.9 Table 1 sets out the monetised costs and benefits associated with the proposed options in England and Wales.

Table 1: Summary of Monetised Impacts (2019 Prices, 2025 PV, Discounted)			
	Total number of leases affected	Total transfer from freeholders to leaseholders	
		10-year* appraisal period (used in headline figures)	Remaining lease term / proxy for asset values (not in headline figures)
Option 1: Capping ground rents to a peppercorn	4,472,497	£5,080m	£27,327m

Option 2: Capping ground rents at £250	939,684	£2,309m	£14,571m
Option 3: Capping ground rents at 0.1% of a property's value	1,020,064	£2,323m	£14,658m
Option 4: Capping ground rent to the original amount when the lease was granted	940,942	£624m	£7,014m
Option 5: Capping ground rents at their current value	937,407	£439m*	£4,206m

*Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for option 5 as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11 years in order to provide a monetised estimate.

6.10 As implied by Table 1 above, a product of our modelling assumptions means that, generally, only leases with variable ground rents would be impacted by the majority of options, given the assumed average ground rent paid by those with fixed ground rents is equal to or below the majority of the cap options. The only key exception is the peppercorn cap option which would affect all those who pay ground rents.

6.11 Table 2 sets out the average cost transfer per lease across the different options in England and Wales:

Table 2: Average Cost Transfer per Lease (2019 Prices, 2025 PV, Discounted)		
Option	10-year* appraisal period	Remaining lease term
Option 1: Capping ground rents to a peppercorn	£1,136	£6,110
Option 2: Capping ground rents at £250	£2,457	£15,506
Option 3: Capping ground rents at 0.1% of a property's value	£2,277	£14,369
Option 4: Capping ground rent to the original amount when the lease was granted	£663	£7,454
Option 5: Capping ground rents at their current value	£469*	£4,487

*Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for option 5 as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11-years in order to provide a monetised estimate.

6.12 Because the modelling assumes much higher levels of average ground rents for variable leases, there is a significant difference between the average impact of the peppercorn option on those with variable leases and those with fixed leases. This explains why the average transfer per lease is lower for option 1 than some of the other options despite having a larger total impact.

Key Assumptions – England Analysis

6.13 **Total number of leasehold dwellings:** The 2021/22 Leasehold Dwelling publication from DLUHC estimates there are 4.98 leasehold dwellings in England. This figure is assumed to be the number of leasehold dwellings at the point of implementation of the options.

- 6.14 **Proportion paying ground rent:** Analysis of EHS data from 2021/22 estimates 86% of EHS of owner-occupier leaseholders pay some form of ground rent. We have applied this to all leaseholders, giving us the assumption that c.4.3 million leaseholders may pay some form of ground rent. The 14% who do not pay ground rent (c.700,000 leases) are assumed not to be impacted by any of the proposed options.
- 6.15 **Number of leases with variable ground rents:** Using data from the Competition and Market Authority (CMA) investigation¹⁰, we estimate that approximately 18% of all leases have escalating ground rents. We have applied this to the latest estimate of the number of leasehold properties (4.98 million as of 2021/22), giving us an estimate of approximately 900,000 variable ground rent leases. We assume the highest ground rents are those that are variable. The remaining 68% of leaseholders (100% minus 14% who do not pay ground rent minus 18% who pay variable ground rent) are assumed to pay fixed ground rent.
- 6.16 **Average ground rents: We do not hold perfect data on the level of ground rents on all leases, therefore estimates of impact have a significant degree of uncertainty.** For the purposes of this consultation analysis, we use reported ground rents from the English Housing Survey (Tables 3, 4 and 5). Average ground rents estimates have been calculated using a 4-year sample from the English Housing Survey (EHS) covering the period 2018/19 – 2021/22. A 4-year sample has been used to smooth year to year fluctuations and to increase the sample size enough to calculate average variable and fixed ground rents for 3 regional areas (North, Midlands and East, London & South). The top quintile of ground rents in the sample has been used to estimate average variable ground rents, in line with the evidence from CMA about the proportion of leases with escalating ground rents. It has been adjusted to 2019 prices using the GDP deflator.

Table 3: Average ground rent in top quintile by region, 2018-19 to 2021-22

<i>all leaseholder owner occupiers</i>		
	£ per year (mean)	<i>sample size</i>
North	621	32
Midlands and East	870	47
London and South	904	125
England	852	204

Source: English Housing Survey, full household sample (2018-19, 2019-20, 2020-21 and 2021-22)

Table 4: Average ground rent in bottom 80% by region, 2018-19 to 2021-22

<i>all leaseholder owner occupiers</i>		
	£ per year (mean)	<i>sample size</i>
North	44	359
Midlands and East	104	122
London and South	100	303
England	75	784

¹⁰ https://assets.publishing.service.gov.uk/media/5e57e4ea86650c53b74fe6e0/Leasehold_update_report_pdf_-__.pdf

Table 5: Average ground rent by region, 2018-19 to 2021-22

all leaseholder owner occupiers

	£ per year (mean)	sample size
North	90	503
Midlands and East	316	241
London and South	324	677
England	230	1421

Source: English Housing Survey, full household sample (2018-19, 2019-20, 2020-21 and 2021-22)

6.17 It is possible that ground rents, particularly those in the top quintile, are overestimates of the level of ground rents if survey respondents are confusing ground rents and service charges. For illustration, taking the median (rather than the mean) of the top 20% of ground rents, and removing a very small number of ground rents over £5,000, suggests a median annual ground rent of £480 for the top 20% in England compared to £852 per year using the mean (Table 6). This would mean the estimated impact of the proposed options would be lower.

Table 6: Median ground rent in top quintile, and bottom 80% by region, 2018-19 to 2021-22

	Median of top 20%, £ per year	Median of bottom 80%, £ per year	Median, £ per year
North	400	12	15
East and Midlands	500	100	160
London and South	475	100	150
Total	480	25	80

Source: English Housing Survey, full household sample (2018-19, 2019-20, 2020-21 and 2021-22)

6.18 In respect of the c.900,000 leases that we estimate that have ground rents that are subject to escalation, a number of assumptions are made as to how much those rents will increase and how often they are reviewed.

6.19 **Frequency of Ground Rent reviews:** We have assumed that these leases are reviewed every 10 years based on anecdotal evidence, however, in practice there are a greater range of review periods from as low as every 5 years up to every 25. The modelling assumes ground rents increase at 10 yearly intervals, therefore decrease in real value between review points. We have assumed that ground rents will increase in line with the Retail Price Index (RPI) up until 2030 when RPI is due to be phased out, from which we assume ground rents will increase in line with CPI. This is on the basis of the CMA estimating that the majority of leases granted since 2000 have clauses that increase ground rent in line with RPI. This is a simplification as there are a range of means by which ground rents can increase including a simple doubling of the rent, by a fixed amount or by the house price index. The RPI and CPI forecasts are based on the March 2023 Office of Budget Responsibility forecast.

- 6.20 **Lease lengths:** Analysis of Land Registry data has been used to estimate the distribution of remaining time on leases across the stock. An adjustment has been made to remove leases less than 21 years in length.
- 6.21 **Caps:** The modelling compares average fixed and variable ground rents to the corresponding cap by region. Where the ground rents are higher than the cap, all the leases of a given type (fixed / variable) that hit the threshold in a region are capped. For rents below the cap, they are assumed to remain fixed for those with fixed ground rents or increase every review period as set out above for those with variable ground rents.
- For the 0.1% cap option, it is assumed the house price value remains constant at the value it was at the point of implementation. This means that over time more escalating leases would hit the cap.
 - For the original value cap, we backdate average variable ground rents back to 2011 based on RPI.
- 6.22 **House Prices:** To calculate the impact of the 0.1% cap option, the modelling uses ONS median house prices per property type and per region covering the year ending December 2022¹¹. GDP deflator has then been used to convert the figures into 2019 prices. This data has also been used to model the 0.1% cap in Wales. The 0.1% cap ranges from £89 for flats in the North East to £570 for houses in London (in 2019 prices).
- 6.23 **The proportion of leaseholder impacts attributable to businesses:** Of the 4.98m leasehold properties in England, 1.85m (37%) are privately owned and let in the private rented sector. Therefore, we assume 37% of the impact of the caps on leaseholders are classed as a business impact for the purposes of the business NPV and the EANDCB (along with 100% of the freeholder impacts, which are all classed as business impact).
- 6.24 **Exemptions:** The modelling does not fully account for potential exemptions. The modelling does make adjustments to remove leases that are less than 21 years in length. However other potential exemptions have not been explicitly accounted for in the analysis.

Key Assumptions – Wales Analysis

- 6.25 **Total Number of Leases:** “Research into the Sale and Use of Leaseholds in Wales” report¹² estimated there were approximately 235,000 leasehold dwellings. However, as stated in the report it is not currently possible to identify the exact number of leasehold homes in Wales with current data available.
- 6.26 **Average ground rents:** Survey findings from “The Research into the Sale and Use of Leaseholds in Wales” report find the median ground rent for flat leaseholders to be £150 per annum and £200 for house leaseholders. We have not been able to establish an average variable and fixed ground rent for Wales, so we have used the median ground rent as a proxy for the average variable and fixed ground rent. In reality, there is likely to be a significant difference between average fixed and variable ground rents in Wales.
- 6.27 **Lease lengths:** The distribution of remaining time on leases in Wales has been estimated using analysis of Land Registry data and the number of leases per lease length updated using the estimated total number of leases set out above. As with

¹¹<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/medianhousepriceformationalandsubnationalgeographiesquarterlyrollingyearhpssadataset09>

¹²<https://www.gov.wales/sites/default/files/statistics-and-research/2021-03/research-into-the-sale-and-use-of-leaseholds-in-wales.pdf>

England, an adjustment has been made to exclude leases that are less than 21 years from the data.

- 6.28 It has not been possible to estimate the proportion of leaseholders in Wales who do not pay ground rent, pay a fixed ground rent or pay a variable ground rent with any kind of certainty. Therefore, we assume the same proportions as in the England level analysis. This results in an estimate of c.33k leaseholders who do not pay ground rent, c.43k leaseholders who pay variable ground rent and c.160k leaseholders who pay a fixed ground rent. We also assume the same proportion of leaseholders are freeholders in Wales as in England (37% or c.87k leaseholders).

7. Monetised Costs for Freeholders

- 7.1 We have sought to monetise the costs of our options for freeholders. For the purpose of this impact assessment, freeholder means any party who is owed ground rent. Often this will also be the party who granted the lease. Other times, it may be an intermediate freeholder. There may be several layers of freeholders. For example, the freeholder (who owns the building and land forever) may grant a lease of the whole building to a leaseholder who may then grant further subleases of the individual flats and would be the intermediate freeholder for the subleases. This is subject to a number of policy assumptions around transitional arrangements, exemptions and the balance between compensation and reimbursement between freeholders/freeholders and leaseholders.
- 7.2 The key cost to freeholders we have monetised is the estimated reduction in the revenue from ground rent. Whilst this is a cost to freeholders, this is also a benefit to leaseholders which means this nets out at zero in terms of the net present value to society overall (i.e. this scores as a transfer in the NPSV).
- 7.3 The total cost to freeholders over the 10-year* appraisal period per option in England and Wales are set out below. All costs are assumed to represent a direct cost to business.
- Option 1: £5,080 million
 - Option 2: £2,309 million
 - Option 3: £2,323 million
 - Option 4: £624 million
 - Option 5: £439 million*

*Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for option 5 as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11-years in order to provide a monetised estimate.

- 7.4 We have heard from freeholders that the cumulative impact of the reforms The Government will introduce through a Leasehold and Freehold Bill to make it cheaper and easier to enfranchise, including capping the value of any ground rent at 0.1% of the freehold value when used to calculate the enfranchisement premium. risk significant and potentially wide-ranging impacts to the sector. We recognise that a potential cap to existing ground rents would have further significant financial impacts on freeholders and our consultation asks for evidence as to what impacts any form of cap to existing ground rents would have. This include freeholders who are pension providers and invest in freeholds for the ground rent income. This evidence will be taken into account in any final appraisal but the baseline for this analysis does not take those reforms into account.

- 7.5 We have not attempted to provide an estimate of the monetised impact per freeholder in this consultation IA. This is because freeholders vary significantly both in size and the proportion of the leases, they hold that are variable ground rent leases or that already contain a low or peppercorn ground rent. There will be those who hold a portfolio comprised of modern developments who generate an income through ground rents and to a lesser extent enfranchisement premiums and there will be those who hold the freeholds of older properties who look to generate an income from leaseholders undertaking enfranchisement. Both will be significantly impacted by a proposed cap to existing ground rents, Our understanding of the freeholder landscape will be supplemented by the consultation.
- 7.6 Freeholders may be impacted immediately as a result of publishing a consultation, given it indicates a potential future reduction in their income stream and therefore their book value, affecting their ability to borrow or invest.
- 7.7 We estimate significant regional variation in the impact on freeholders. For example, under the peppercorn option, we estimate 27% of the leases affected by the proposed cap will be in London, compared to 4% in the North East. This is due to the prevalence of leasehold dwellings in London. This is then reflected in the total impact of the proposed reform options across regions as can be seen in Table 7 below.

**Table 7: Total Impact per Option per Region in England and Wales
(2019 Prices, 2025 PV, Discounted, 10-year* Appraisal Period)**

	North East	North West	Yorkshire and The Humber	East Midlands	West Midlands	East of England	London	South East	South West	Wales**
Option 1: Capping ground rents to a peppercorn	£120m	£557m	£215m	£206m	£336m	£475m	£1,736m	£837m	£458m	£139m
Option 2: Capping ground rents at £250	£50m	£213m	£88m	£91m	£147m	£223m	£872m	£407m	£218m	£0m
Option 3: Capping ground rents at 0.1% of a property's value	£70m	£268m	£116m	£109m	£173m	£241m	£666m	£430m	£243m	£8m

Option 4: Capping ground rent to the original amount when the lease was granted	£16m	£67m	£28m	£24m	£39m	£58m	£225m	£105m	£56m	£5m
Option 5: Capping ground rents at their current value	£10m	£45m	£18m	£16m	£26m	£39m	£150m	£70m	£38m	£28m

*Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for option 5 as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11-years in order to provide a monetised estimate.

** The impact of the reform options has been calculated differently for Wales than the other England regions. Please see paragraph 6.25 to 6.28 and section 'Key Assumptions - Wales Analysis'

8. Monetised Benefits to Leaseholders

- 8.1 We expect there will be substantial benefits for leaseholders. The key benefit for leaseholders that we have monetised is the ground rent savings that will be realised from a cap. This features as a transfer in the net present social value given that these are a saving to leaseholders and a cost to freeholders. Once the level of any cap has been reached, further escalation of ground rent value across the term of the lease will not be possible.
- 8.2 The total benefit to leaseholders over the 10-year appraisal period per option in England and Wales are set out in Table 8 below.
- 8.3 37% of leaseholders are estimated to be landlords in the private rented sector, therefore a proportion of the total benefits to leaseholders represents a benefit to businesses. The table below shows the benefits to business and non-business leaseholders of the proposed ground rent caps.

Table 8: Total Impact per Option for Business Leaseholders and Non-Business Leaseholders (2019 Prices, 2025 PV, Discounted, 10-year* Appraisal Period)

Option	Leaseholders: Businesses	Leaseholders: Non-Businesses	Total
Option 1: Capping ground rents to a peppercorn	£1,880m	£3,201m	£5,080m
Option 2: Capping ground rents at £250	£854m	£1,455m	£2,309m

Option 3: Capping ground rents at 0.1% of a property's value	£860m	£1,464m	£2,323m
Option 4: Capping ground rent to the original amount when the lease was granted	£231m	£393m	£624m
Option 5: Capping ground rents at their current value	£163m*	£277m*	£439m*

*Due to modelling assumptions, there is no impact captured over the 10-year appraisal period for option 5 as a result of the assumption that variable ground rents increase every 10 years. Therefore, we have chosen to present the impact of this option over 11-years in order to provide a monetised estimate.

- 8.4 However, although the table above indicates a benefit to business (leaseholders that are landlords), the net impact of these reforms on business overall is negative. For example, the direct monetised net impact to business of the peppercorn option is equal to the benefits to business (£1,880m) minus the costs (£5,080m), therefore the net impact is -£3,201m over the 10-year appraisal period. It is important to note that the businesses realising these costs are not the same businesses that will be realising the benefits.
- 8.5 The impact across regions is the same as set out in section 7.8 and Table 7 above.

9. Non-Monetised Costs to Freeholders/Freeholders

- 9.1 There are potentially significant non-monetised costs to freeholders/freeholders, though these would be dependent on the measure pursued. Evidence as to the impact on freeholders of each potential measure will be gathered as part of the consultation exercise.
- 9.2 Whilst many freeholders would continue to hold a valuable long-term interest in leasehold properties, e.g. from lease extensions premiums, we would expect several freeholders to exit the market, particularly if a peppercorn cap were introduced. We are testing this assumption through consultation. The key non-monetised costs could include insolvency and forfeiture costs where the freeholder defaults on contractual obligations as a result of losing ground rent income and we see the risk of insolvency being more acute for capping at a peppercorn compared to options that allow a permissible level of ground rent, particularly where ground rent income is used to service debt.
- 9.3 Institutional investors have argued in response to previous consultations that restricting ground rents to a peppercorn would remove all financial incentive to purchase freehold interests, and they would withdraw from the market¹³. By institutional investor we mean major institutional and large-scale investors including pension funds, life assurance companies, property companies, including real estate investment trusts (REITs), sovereign wealth funds, fund and investment managers and developers.
- 9.4 The UK Residential Property: Institutional Attitudes and Investment Survey 2020 provides an overview on trends in the UK residential sector based on a survey of 48 respondents, managing investments worth in excess of £13.9tn. The overall value of UK residential exposure from the 39 contributors providing data on the survey was £30.0bn, representing 12.9% of their UK real estate assets. (The average holding of respondents who have invested in the residential sector is £769m). Their assessment is that the residential sector as a whole, including student accommodation and private rented

¹³ [Leasehold Reform - Housing, Communities and Local Government Committee - House of Commons \(parliament.uk\)](https://www.parliament.uk/commons-committee/housing-communities-and-local-government) at 81 Freeholders argued that the ground rent provides them with an incentive to participate in the market; to be the "custodian of the building or estate" who provides the "very long-term view on the decisions affecting the building and grounds

sector, remains a relatively small, albeit growing, proportion of most institutional investor portfolios, compared to the potential scale of the market. This includes residential ground rents. In the 2012 survey, residential constituted just 4.6% of UK real estate portfolios but, by 2020, this figure had risen to nearly 13.0%. In 2015, the survey shows investment by asset class with residential ground rents presenting the second highest asset class.

- 9.5 The survey findings in 2020 showed that investment in the 'Other' has declined, amounting to 8% of the residential total in 2020. Residential ground rents sat within the 'Other' category alongside senior living/retirement housing and residential care homes. [Specialist press](#) have commented that in the wake of the obligations put on freeholders to remediate unsafe buildings that "UK residential ground rent assets leased directly to consumers could become uninvestable for institutional investors after Railpen, manager of the UK's rail transport pension schemes, revealed it is rethinking its strategy for residential investing" and that where there is a consumer on the far end, "it makes managing the asset much more difficult". It may therefore be the case that many institutional freeholders have already changed the approach to residential investment
- 9.6 It is difficult to currently assess to what extent a cap on ground rents will impact those investors who still hold an interest in residential ground rents or form an understanding as to what proportion of the total investment remains in residential ground rents. The Government is hoping to plug evidential gaps as to the impact on investors through this consultation.
- 9.7 We would expect a significant number of freeholders will change their model for delivering management services as a result of a change to ground rent income, particularly where they manage more than one building, across their existing stock. Freeholders will no longer be able to hedge ground rent income from their portfolio to meet any statutory obligations they may need to perform across their existing stock. They will only be able to recover costs and invoice the service charge for legitimate management functions specific to a given building, in line with existing service charge practices. It is likely that measures that cap ground rent, will have a proportionally higher impact on smaller freeholders who have high and escalating ground rents in their lease terms, given they may have fewer financial resources to adapt, or as easily divest interests where any measures reduce the income, they receive from ground rent.
- 9.8 There may be existing service agreements that are related to the cost of collecting ground rent. These will either have to be renegotiated or ended if an option to cap at a peppercorn was taken forward. This is a lesser concern with the other options as a level of ground rent would still be permissible. The Association of Residential Managing Agents (ARMA, now part of The Property Institute) estimate that [58% of freeholds are managed through agents](#).
- 9.9 There will be certain costs for familiarisation following introduction of the reforms for freeholders as well as other parties such as leaseholders, the courts and those enforcing the measures. However, given the policy options are still in development and subject to consultation, it was not proportionate to monetise these costs at this stage.

10. Non-Monetised Costs to Leaseholders

- 10.1 It is likely that freeholders will pass through costs of any legitimate management functions that have previously been funded through ground rents to leaseholders via the service charge – to offset those costs and maintain a degree of profit. This may be more prevalent if a cap at a peppercorn was implemented as opposed to another option with permits freeholders to continue to collect a financial ground rent. It is difficult to estimate the extent to which this will take place and is dependent on the specific property and the services that need to be provided.
- 10.2 Any costs invoiced to the service charge would be limited, by statute, to costs reasonably incurred and only for the provision of services or the carrying out of works to a reasonable standard (Section 19 of the Freeholder and Tenant Act 1985). This means freeholders/freeholders will not be able to set the service charge at whatever level they wish to offset the lost ground rent revenue.
- 10.3 We are currently not able to provide a robust estimate of costs likely to pass through to leaseholders and are seeking to plug this gap through consultation by asking questions about the extent that ground rents currently fund freeholder management functions, however any cost pass through will reduce the benefits realised by leaseholders.

11. Non-Monetised Benefits to Leaseholders

- 11.1 There will be significant un-monetised benefits whichever measure may be taken forward. We would expect leaseholders to be incentivised to enfranchise and improve the security of tenure. Whereas previously leaseholders would have had to incur the cost of enfranchising, either extending their lease or buying out their freehold, to expunge a high and/or escalating ground rent, any measure to cap existing ground would provide that without needing to undertake this process.
- 11.2 [Research](#)¹⁴ has indicated that rising rents is one of the conditions that can lead to housing instability. Housing instability is associated with a wide range of adverse health outcomes, including poorer self-rated health, health care access, and mental health outcomes. Leasehold housing is inherently less stable than other types of owner-occupied housing stock given the reliance on the terms of a lease, the involvement of a third party and a constantly reducing length of tenure. Leaseholders are more likely than other owner occupiers to have a mortgage whilst on average earning less and are subject to greater variable costs than other owner occupiers. In a report by [Propertymark](#) undertaken in 2018, 36% of leaseholders said they “can afford to pay their ground rent now but say they would not be able to if it increases any further” and 46% said “they might not have purchased their property if they knew their ground rent was going to increase”. We expect that there will be improved health and wellbeing at a time of a cost-of-living crisis if the potential for having to pay escalating ground rents is removed and greater transparency as to the cost of being a leaseholder for the term of their lease. This includes the removal of the risk of forfeiting the lease for non-payment of ground rent.
- 11.3 A further potential supply consequence to those outlined is an increase in the overall number of household moves per annum; 78% of property agents reported in a recent survey by Propertymark that properties with an escalating ground rent are struggling to sell, meaning people who want to move are currently prevented or delayed from doing

¹⁴ Swope CB, Hernandez D. Housing as a determinat of health equity: a conceptual model. Soc Sci Med 2019; 243: 112571. doi:10.1016/j.socscimed.2019.112571

so. Research ¹⁵ shows that selling leasehold properties takes longer than freehold equivalents, and that delays increase stress and the likelihood of fall-throughs. Leasehold transactions are estimated to account for 20% of annual transactions across England and Wales (approximately 260,000 transactions) and research further indicates that delays to leasehold sales within broader chains of transactions can directly affect 520,000 home movers a year. Failed transactions can cost the leaseholder thousands of pounds in conveyancing fees and requests for leasehold information, much of which are re-incurred when they attempt to sell their property again. These costs will be increasingly difficult for many consumers to bear during the current cost of living crisis and may mean they are forced to remain in homes that no longer suit their needs. Leaseholders will benefit from a simpler, more transparent approach as a result of the proposed measures which will support a more efficient and effective marketplace for purchasers as a result of those involved in the process either not being deterred by the lease containing an escalating ground rent or successfully securing a mortgage as a result of lenders relaxing their criteria.

12. Risks and sensitivities

- 12.1 The risks, and potential mitigations, will be informed by consultation but there are several key risks to realising the desired policy outcomes that we have identified
- 12.2 **Cost pass-through:** Freeholders may attempt to recoup some of the lost income stream by invoicing the service charge for costs over and above what is needed to manage the building. We currently have not been able to provide a robust estimate of the degree to which this may happen, but the consultation will help plug evidence gaps. A mitigation to the risk would be that leaseholders would be able to challenge any costs they saw as unreasonable through existing routes in the First Tier Tribunal.
- 12.3 **Leaseholder awareness:** We assume that leaseholders would be aware of any ground rent cap. If leaseholders continue to pay a ground rent where it is collected by freeholders and is in excess of any cap, potentially due to limited awareness, this would impact the costs and benefits associated with the reforms. We would support any reforms with a targeted communications campaign (including publication of guidance) designed to raise awareness of the changes and as part of the wider communication on the leasehold reform programme.
- 12.4 **Freeholder compliance:** The policy intention is to introduce sanctions for freeholders who fail to comply with the legislation and collect a ground rent in excess of any cap. Lack of enforcement of any measures may lead to an increase in non-compliance and hamper the objectives, though this has not been monetised due to the assumption of full compliance from all private freeholders operating in the sector, in line with the Better Regulation Framework
- 12.5 **Delays to implementation:** Delays would have a knock-on impact for the delivery of benefits and long-term outcomes. Decisions on any implementation date have not yet been taken and will be informed by the outcome of the consultation
- 12.6 **Measures impact on wider leaseholder reform programme:** Leaseholders have statutory rights enabling them to extend their lease or purchase the freehold of a leasehold property. In the cases of some houses and all flats, this requires the leaseholder to pay a premium, which in part accounts for the loss of future ground rent. A

¹⁵ Conveyancing Association White Paper 'Modernising the Home Buying and Selling Process'
<https://www.conveyancingassociation.org.uk/wp-content/uploads/2021/11/Modernising-the-Home-Moving-Process-White-Paper1.pdf>

series of reforms to the leasehold regime, which will make lease extensions and freehold acquisitions cheaper, will include capping the treatment of ground rent at 0.1% of the freehold value. Capping ground rents without the requirement to extend a lease or purchase the freehold may mean that fewer leaseholders seek to take up these rights, meaning they would not benefit from better security of tenure. The cumulative impact of a proposed ground rent cap, the measures in a Leasehold and Freehold Bill and existing statutory obligations on freeholders may increase the likelihood of freeholders exiting the market, potentially leaving leaseholders in the position of their building escheating to the crown if no buyer is found.

13. Direct costs and benefits to business calculations

- 13.1 A full assessment of the Direct Cost to Business (EANDCB), which will detail the monetised and non-monetised benefits and costs of each policy will be undertaken as part of finalised IA having been informed by the evidence gathered following consultation. The direct costs that will need to be assessed will be transfers from freeholders to leaseholders, familiarisation costs and policy related costs such as court costs and enforcement.
- 13.2 The proposed measures to cap ground rents will affect a variety of businesses including freeholders, other freeholders (such as intermediate leaseholders, but also leaseholders operating as buy to let freeholders), and investment companies that have a beneficial interest in ground rents. Freeholders comprise individuals and corporate companies, local authorities and housing associations, and charities and developers, within the UK and offshore. It will affect professional services that are linked to the operation of the leasehold market, including managing agents who collect ground rent.
- 13.3 A finalised EANDCB would not include any estimates of the likely degree of cost pass-through to leaseholders from the proposed cap given this is an indirect impact, focusing only on the direct additional costs businesses that are likely to incur.
- 13.4 The benefits and costs to homeowner leaseholders and council freeholders will not be included in the EANDCB as they are not classified as businesses. These impacts will be included in the finalised IA as part of the NPV. The 37% of leasehold properties (both houses and flats) in the private rented sector, where a leaseholder is also a PRS freeholder, will be included in any EANDCB.

14. Impact on small and micro businesses

- 14.1 We will conduct a full assessment of the impact on small and micro businesses in a final impact assessment using the evidence gathered through consultation.
- 14.2 Any proposed measures to cap ground rents will affect a variety of businesses including freeholders, other freeholders (such as intermediate leaseholders, but also leaseholders operating as buy to let freeholders), and investment companies that have a beneficial

interest in ground rents. It will affect professional services that are linked to the operation of the leasehold market, including managing agents who collect ground rent.

- 14.3 A significant portion of freeholders, institutional investors and related companies would not qualify as micro or small business. Those with thousands of freeholds often have significant turnovers, which include revenues from ground rents.
- 14.4 It is however likely that a larger proportion of individual private freeholders that hold much fewer freeholds would be more likely to qualify as micro or small business. Measures that cap ground rent, would have a proportionally higher impact on smaller freeholders, which may have fewer financial resources to adapt, or as easily divest interests where any measures reduce the income, they receive from ground rent. For example, Resident management companies (RMC) are often reliant on ground rent income to fund administrative costs outside of the service charge and we are consulting on ways to make sure they continue to be able fund these costs.
- 14.5 Of the 4.98m leasehold properties in England, 1.85m (37%) are privately owned and let in the private rented sector. Leaseholders who are landlords to renting tenants are likely to be a micro business where they let a small number of properties. [97% of freeholders have a total rental income of less than £150,000 per annum and over half \(56%\) of freeholders have a gross rental income of less than £20,000.](#) These freeholders would stand to benefit from the proposed measures given they will be paying ground rents.
- 14.6 Given the proportion of freeholders and leaseholders who are SMBs, our current assessment is that the policy intention will not be met if SMBs are exempted.
- 14.7 The department intends to consult on mitigations that will lessen the impact for certain freeholders, including those who would be defined as SMBs. These include whether to exempt community land trusts, co-operative societies who manage freeholds and any leases of commercial premises which include a dwelling, use of which substantially contributes to the business purposes. The department is also consulting on the length of suitable transition period. The policy intention is also to make sure that any costs associated with management of the building are charged through the service charge as opposed to using ground rent income, which should allow freeholders and freeholder SMBs to offset the loss where services are currently funded in this way.

15. Wider impacts

Costs and benefits to Government/ the taxpayer

- 15.1 We expect some costs to the taxpayer which we will seek to monetise as part of a finalised impact assessment. These include costs to the courts and tribunals as a result of disputes. The extent of the impact could be dependent on which option is taken forward. An option of a 0.1% cap of the value of the property has the greatest potential to lead to disputes as to the value of the property at both the initial introduction of the cap and any subsequent review of the level of ground rent.
- 15.2 There will also be some costs to Government which through reduction in ground rent revenue generated by The Crown Estate as a freeholder where that revenue would previously have been returned to the Government for public services.

- 15.3 We will undertake a detailed New Burdens Assessment and Justice Impact Test to quantify net additional costs to the courts, tribunals and councils as part of developing a final policy position.

Impacts on Housing Supply

- 15.4 We do not expect the proposed cap to existing ground rents to have a significant effect on the supply of dwellings.
- 15.5 The introduction of the Leasehold Reform (Ground Rent) Act 2022 already results in the vast majority of new leases being granted with a peppercorn (nominal financial) ground rent. The impact assessment for the Leasehold Reform (Ground Rent) Act 2022 noted that there would be a low risk of an impact on supply, as some developers had already demonstrated their ability to change their financial models. The capping of existing ground rent, coupled with the measures in the Leasehold Reform (Ground Rent) Act 2022, may result in investors and developers focusing on alternative models such as build to rent though investment in this model has been an upward curve, according to the findings of the UK Residential Property: Institutional Attitudes and Investment Survey, prior, to the announcement of reforms to leasehold rather than as a direct response.

16. Enforcement

- 16.1 The current policy intent, being tested through consultation, is to mirror the enforcement provision contained within the Leasehold Reform (Ground Rent) Act 2022. The Act defines an enforcement authority, to refer to both local weights and measures authorities in England and Wales who have a duty to enforce and a district council that has a power to enforce. The enforcement authority can impose a financial penalty if it is satisfied beyond reasonable doubt that the freeholder/freeholder has required a leaseholder to make a payment of a ground rent above a peppercorn on a new leasehold property. The amount of the financial penalty is at the discretion of the enforcement authority, subject to a minimum of £500 and a maximum of £30,000.
- 16.2 Freeholders who seek to charge a ground rent in excess of any cap, could therefore be liable for enforcement action by the local council, courts and the tribunals. We expect that the majority of freeholders will seek to comply with the legislation and any enforcement would be targeted at a small minority of rogue freeholder/freeholders. Further to consultation, we will be undertaking a separate New Burdens Assessment and Justice Impact Test to understand the likely net additional cost to councils, the courts and tribunals, including for enforcement action.

17. Equalities Assessment

- 17.1 A separate equalities impact assessment under the Public Sector Equality Duty (PSED) is being undertaken to assess the impact of the any measure taken forward on people with protected characteristics, informed by evidence gathered through consultation.
- 17.2 Leaseholders with protected characteristics would stand to gain under the proposals to cap existing ground rents and could realise significant savings. Subject to the further evidence gathered through consultation, our assessment is that these measures do not

directly impact on groups with a protected characteristic but have the potential to impact on some groups with protected characteristics more than others.

- 17.3 Owner occupier leaseholders are more likely to be younger, single/ widowed/ divorced and have a household reference person (HRP) who is from an ethnic minority background compared with other owner occupiers. Based on this evidence we can say that these groups with protected characteristics will disproportionately benefit from the reform. However, we expect leaseholders, regardless of their protected characteristics and depending on their specific circumstances, will benefit.
- 17.4 We are proposing to exempt certain types of leases from the cap. These include home purchase plans which allow buyers to avoid paying interest. Conventional mortgage arrangements are not compliant with Sharia law, which prohibits the payment of interest. Exempting these leases, will mean that certain groups of leaseholders will not benefit from the cap to ground rent. However, these exemptions are essential in order for these financial products to remain available to assist prospective homeowners purchasing on a leasehold basis. Subject to the outcome of the consultation, we think it is proportionate to exempt these leases on this basis and protect relevant protected groups from the being adversely affected by the policy.
- 17.5 There is limited data about freeholders and their profile. Based on Land Registry data, many of the freeholders are companies, to which PSED is not applicable. The Land Registry data for private individuals is anonymised. This allows for an estimate to be made of the number of private individuals who hold freehold titles and the average number of freeholds they own, but no data is held relevant to whether a freeholder has a protected characteristic.
- 17.6 Freeholders lose existing and future income as a result of introducing any measure to cap ground rent. Given data limitation we are unable to assess the impact of the reform on freeholders with protected characteristics, but as we suspect there is a relatively small number of individual freeholders to whom such assessment will be applicable, we believe the negative impact they would bear is proportionate and justified compared to the millions of leaseholders who stand to benefit from capping existing ground rents.
- 17.7 Further evidence will be gathered as part of the consultation process.

18. Geographical Disparity in leasehold tenure:

- 18.1 In 2021-22, there were an estimated 4.98 million leasehold dwellings in England. More than two thirds (70%, 3.5 million) of the leasehold dwellings in England were flats; 30% (1.5 million) were houses.
- 18.2 At regional level, London and the North West (which jointly account for 29% of England's population) have consistently had the highest proportion of leasehold dwellings, currently at 36% and 32% respectively, whilst other regions in England have between 9% (East Midlands) and 17% (South East).
- 18.3 London had the highest proportion of leasehold dwellings of the 9 regions in England at 36% (1.4 million dwellings), closely followed by the North West at 32% (1.1 million dwellings). Leaseholders are less likely to live in rural areas than in suburban/urban ones. The remaining regions had a lower proportion of leasehold dwellings, with the East

Midlands having the lowest (9%), just 192,000 dwellings. There are significant proportions of leasehold stock however in both the South East and South West.

- 18.4 Recent research commissioned by the Welsh government (2021) estimated that 16.3% (approximately 235,000 dwellings) of housing in Wales is leasehold. This is also distributed unevenly across Welsh local authorities, being focused on more urban areas such as Cardiff but also – as in the North West of England – in some formerly traditional industrial areas.
- 18.5 The proportion of leasehold houses varies significantly by region - 28% of houses in the North West are owned on a leasehold basis, a significantly greater proportion than in any other region (the next highest is 10% in Yorkshire and the Humber).
- 18.6 For leasehold flats, the North West has a smaller proportion (48%) than the South East (66%), East of England (65%) and London (63%).

19. Environmental impacts

- 19.1 In line with the Environment Act 2021, we would undertake a separate environmental impacts assessment as part of the policy development on any chosen measure. At this stage of policy development, we would not anticipate any proposed measure to cap existing ground rents would have negative environmental impacts and it is unlikely that the five environmental principles would be relevant to the development of this policy.

20. Monitoring and Evaluation

- 20.1 How the impact of the reforms will be monitored and evaluated is predicated on the outcome of the consultation, A monitoring and evaluation plan for any final measure will be undertaken post consultation and set out in the final IA.
- 20.2 Any evaluation process, impact, and value for money evaluation would be conducted in line with the Department's published Evaluation Strategy and include
 - Impact evaluation of any cap to existing ground rents on leaseholders, freeholders, lenders, property agents, the Courts system, external advice providers and wider stakeholders and potentially local council enforcement teams.
 - Process evaluation, to examine the efficacy and efficiency of any enforcement mechanisms, how aware leaseholders are of the reforms, the efficacy of any associated guidance and how easily leaseholders are able to seek redress in the event they are being charged a ground rent in breach of any measure and
 - Value for money evaluation, to assesses the benefits and costs of the ground rent cap across the sector and wider society.
- 20.3 It will be a complex process to undertake fully as different stakeholders in the leasehold sector and beyond will feel the impact differently, for example investors through to leaseholders. Any evaluation approach will need to capture the impacts across that spectrum. We envisage using several types of data to support our monitoring and evaluation work and the plan will take account of future data sources in developing the scope of evaluation. Current data sources include

- Established data sets such as the English Housing Survey alongside specific research commissions;
- Qualitative and quantitative data from trusted stakeholders, including other government departments and external organisations; and
- Data generated by the leasehold reforms themselves, to monitor and evaluate the impact of the reforms on the sector (for example, data generated through the online calculator and the level of ground rent used in the calculation of an enfranchisement premium).