

Housing, Communities and Local Government

Oral evidence: Scrutiny of the draft Commonhold and Leasehold Reform Bill, HC 1681

Tuesday 17 March 2026

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Members present: Mr Gagan Mohindra (Chair); Andrew Cooper; Chris Curtis; Mr Will Forster; Andrew Lewin; Sarah Smith; Sean Woodcock.

Questions 131-185

Witnesses

[I](#): Kevin Dunleavy, Head of Leasehold Services, The Guinness Partnership and David O’Leary, Executive Director, Home Builders Federation.

[II](#): John Godfrey, Managing Director of Public Affairs, Policy and Research, TheCityUK, Hannah Gurga, Director General, The Association of British Insurers, Charles Roe, Director of Mortgages, UK Finance and Robert Stevens, Head of Property Risk, Nationwide.

[III](#): Kate Butler, Assistant Director of Policy, British Property Federation and James Raynor, CEO, Grosvenor Property.

[IV](#): Martin Boyd, Chair, Leasehold Advisory Service, Sebastian O’Kelly, CEO, Leasehold Knowledge Partnership, Sue Phillips, Representative, Shared Ownership Resources and Shula Rich, Vice-Chair, Federation of Private Residents Associations.

Examination of witnesses

Witnesses: David O’Leary and Kevin Dunleavy.

Chair: Welcome to the Housing, Communities and Local Government Committee. This is the third evidence session of our inquiry on the draft Commonhold and Leasehold Reform Bill. The Chair of the Committee, Florence Eshalomi, is unable to attend this meeting because of other, unavoidable parliamentary engagements, so I am chairing today in her place.

On a procedural point before we begin, we are aware that there is at least one ongoing legal case regarding the Leasehold and Freehold Reform Act



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2024. I remind Members and witnesses that following discussions between the Chair of the Committee and the Speaker of the House of Commons, the Committee is exercising a waiver to the sub judice resolution, to enable us to undertake this pre-legislative scrutiny. That means that the Committee and our witnesses can discuss any legal cases if they are relevant. Any evidence given to the Committee, whether orally or in writing, will in any case be protected by parliamentary privilege in the usual way. My name is Gagan Mohindra and I am the Member of Parliament for South West Hertfordshire. I invite the other Committee members to introduce themselves.

Sean Woodcock: I am Sean Woodcock, Member of Parliament for Banbury.

Chris Curtis: I am Chris Curtis, MP for Milton Keynes North.

Andrew Lewin: I am Andrew Lewin, MP for Welwyn Hatfield.

Mr Forster: I am Will Forster, MP for Woking.

Chair: Some of the other Select Committee members will be attending a bit later, so apologies for that. I ask the witnesses on the first panel to introduce themselves, please.

Kevin Dunleavy: I am Kevin Dunleavy, head of leasehold services for the Guinness Partnership, which is a 70,000-home housing association providing services to 160,000 residents across England. I have over two decades of leasehold management experience in the sector and am actively involved in a number of working groups looking at matters around leasehold reform and commonhold.

David O'Leary: I am David O'Leary, executive director at the Home Builders Federation—the principal trade body for UK developers—and a former member of the Commonhold Council.

Q131 **Chair:** I will kick off this line of questioning. The first panel is due to finish at about five past 10. We have a very busy day today, so please give short answers if possible. Are developers and housing associations supportive in principle of the move to commonhold as the default tenure?

Kevin Dunleavy: We absolutely understand the need for commonhold. We understand the frustrations that many leaseholders feel under some of the outcomes generated through the leasehold system. So we are absolutely committed to working with officials and other stakeholder groups to make commonhold a success. If it is to happen, we need it to work. It needs to work not just for the registered providers, but for our future and current residents and especially our shared owners.

David O'Leary: We are supportive in principle. We have some questions and concerns about the transition and about the detail of the forthcoming commonhold legislation, but in general we support the principle and want to work with the Government on it.



Q132 **Chair:** On the point about transition, what would you be looking for from the Government in relation to that?

David O'Leary: It is a really difficult question to answer in terms of years and months.

Chair: That is why I am asking it.

David O'Leary: What we really need is to ensure that the whole ecosystem around the housing industry and the conveyance of new and existing homes is ready for it.

As an industry, we have borne the brunt of some legislation introduced over the last few years where public bodies and others have not been ready, and it has been left to developers. That includes things like the introduction of the Building Safety Regulator and biodiversity net gain. We do not want to be in that position moving forward, because ultimately it will be new-build homebuyers who then bear the brunt.

Q133 **Chair:** Do you have any comments on the transition and what you would like to see?

Kevin Dunleavy: The main areas of concern that we are keen to explore are around how we can ensure commonhold associations are sufficiently supported for the safe management of buildings, but also practical support for registered providers and providing affordable housing tenures in those developments. Obviously, the Bill has focused on shared ownership, but the majority of the affordable units we are going to be delivering, especially with the forthcoming grant-funding period, are probably going to be for rent. We need to think about how that is going to work practically as well.

Q134 **Chair:** Do you think there will be any negative impacts from the new leasehold flat ban on housing supply and new developments? If so, how can the Government mitigate against that?

Kevin Dunleavy: It is hard to say at the moment—I think the uncertainty is the biggest concern. We are applying for funding now as part of the 2026 to 2036 funding programme. That means we are looking to make decisions now that may not deliver new homes for another 10 years, or even beyond that. Any disruption to the housing economy during that period of time has the potential to cause some degree of disruption.

What we are keen to do is to be able to work with the appropriate officials to explore what the possible disruptions could be, so that we can start identifying solutions. Fundamentally, we need that clarity as quickly as possible so that we can start making those commercial decisions and minimise the future impact.

David O'Leary: If the transition is a sensible one and one that gives everyone in the ecosystem enough time to deal with it, it need not disrupt housing supply. In a sense, it is a question more for some of your later panellists—it is a question for mortgage lenders and conveyancers and everyone else involved to know when they will be ready.

From a new-build perspective, what we are keen to ensure is that commonhold does not just become a new-build tenure, but a wholesale tenure that works across the piece. We would like to see a flow of conversion as well as just new-build commonhold associations.

Q135 Sean Woodcock: Prior to coming to this place, I spent 15 years working in housing associations, including in property management of schemes like this, blocks of flats and so on, with management companies. Registered providers are normally already pretty heavily involved in their governance arrangements. Can you set out why or whether commonhold should be more resource-intensive than it currently is with leasehold?

Kevin Dunleavy: Once again, this is what we need to understand. There is a degree of speculation here until we see more information.

As a principle, we could be developing new blocks of flats ourselves that from the outset we are not going to be in control of the management of—it is going to be through the commonhold association—but we are still going to be housing our affordable housing tenures within that building. If we look at the current standards that have come into force from the Regulator of Social Housing, they do not differentiate between our affordable housing residents who live in buildings we do control and those who live in buildings we do not control. We are still accountable. We have still got to report on the degree of safety and so on that applies to those residents.

That is going to potentially add an additional layer of complexity to how we have to engage with the commonhold association. We are not sure yet what that is going to look like. For example, are we going to be expected to fully engage—perhaps become corporate directors—of those commonhold associations? How would private flat owners feel about that? Some might think that is a good thing. Some may not.

If we were taking on that responsibility, we would almost have to look at those commonhold associations as subsidiaries of our own organisations. Our board of directors would then become responsible for ensuring those commonhold associations are discharging their duties and are fully compliant. That is where it could potentially create governance risk and it could give rise to additional resource requirements, depending on what we need to do.

David O'Leary: In terms of resource intensity, the main concern we have is to what extent consumers and customers—the buyers of new-build homes—will consider these to be desirable. I think there is an assumption that commonhold will be more desirable than leasehold. I am sure that if the transition works well and if the legislation is better than the 2002 Act, then I am sure it will be, but we don't quite know that yet. When we as developers are trying to sell homes to new-build homebuyers, will they necessarily want to take on the responsibilities and the duties that come with the commonhold association?

Q136 Sean Woodcock: Other countries have phased out leaseholds—the US, the EU, Canada, New Zealand, take your pick. There is no sense that



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people there are not getting into the housing market. In some ways you might even argue that their housing markets are in a better condition. What do you have to say to that?

David O'Leary: I would say that they will not necessarily have the duality of leasehold and commonhold where, for example, as a first-time buyer, you will have the opportunity for some time to go and purchase a leasehold rather than a commonhold property if that is more desirable—although I am not saying that it necessarily will be. I would like to hope that we will achieve this in the right way, and it is not more desirable—but that is a risk at the moment.

Q137 **Sean Woodcock:** Mr Dunleavy, you will have seen how the votes are distributed according to the Bill. Do you think that that strikes the right balance?

Kevin Dunleavy: Looking at clause 18 we can see that the provisions are in there. It obviously takes account of the 10-year qualifying repair period in the new model lease. We understand the reasons for that. We would be keen to work with stakeholder groups, including those that represent shared owners, because the model must be viable for both the registered provider and shared owners or it just falls down. I do not think it is necessarily appropriate for just one party to that contract to say, "Yeah, that works fine for us." We also need to give thought to the impact on shared owners. Obviously, we are going to have an interest in the asset and are going to be held accountable by the regulator, so it is important that we have got that stake and can exercise some form of meaningful control.

Q138 **Mr Forster:** Are developers and housing associations concerned about the loss of secondary income streams that leaseholds can provide?

David O'Leary: No. I have heard the current system of leasehold described as "commonhold lite". There is not an economic value in the freeholds, so I do not think that that is a consideration at all.

Kevin Dunleavy: The Guinness Partnership is not concerned at all.

Q139 **Mr Forster:** That is reassuring. David, developers are not building as they should. I have about 2,000 properties in my constituency of Woking that are not being developed, despite having had planning permission for years. Almost all of them are leasehold flats. Are leasehold flats as attractive to build as they once were? Is leasehold reform creating uncertainty that is stopping development?

David O'Leary: I do not think that leasehold reform and the transition is the thing that is stopping development now. However, we see a massive challenge in building apartment schemes. We have seen an influx of additional policy costs and taxes on new homes in general, but they disproportionately hit the development of new build apartments. Later this year, we have got the building safety levy coming into force. When you factor in the additional circulation space that comes with an apartment scheme, the cost of building those is huge and disproportionate. Generally,



developers are definitely building fewer apartment schemes today than they were a decade or two ago.

Q140 **Chris Curtis:** To flip Will's question around, anecdotally, when I speak to people, they are often nervous about taking on those apartments because of the problems that currently exist in the leasehold system, and I assume that is reducing demand. Do you not have some confidence that perhaps if the Government do fix this, it could help increase demand for those kinds of properties and help move the market along?

David O'Leary: It possibly could do. We have not seen any example of the tenure of those types of schemes being a problematic factor. I do not know whether a move to commonhold will help to increase demand for new build apartments. The question then is how the mortgage lending industry treats commonhold. I know that there are some lenders at the moment who support commonhold. I am not sure whether that would be for new commonhold schemes. When we talk about the lending industry, it is important to understand that new build lending is a very small subset of the entire lending industry. New build apartments are a smaller subset therein. The average loan to value on a new build apartment is considerably lower than new build houses, which obviously will be a factor, and essentially militates against the effective demand for new build apartments.

Chair: Thank you for those answers and for accommodating our tight timing today. Thank you both for your time.

Examination of witnesses

Witnesses: John Godfrey, Hannah Gurga, Charles Roe and Robert Stevens.

Q141 **Chair:** Can I ask the panel to introduce themselves?

Charles Roe: I am Charles Roe, director of mortgages at UK Finance. I am also a former member of the Commonhold Council.

Hannah Gurga: I am Hannah Gurga, director general of the ABI, which represents the UK's insurance and long-term savings sector.

Robert Stevens: I am Robert Stevens. I head up property risk for Nationwide Building Society and I previously sat on the commonhold technical working group.

John Godfrey: I am John Godfrey. I am the MD for public affairs, policy and economic research at TheCityUK, which is a member organisation representing the financial ecosystem.

Q142 **Chair:** Good morning; thank you all for attending. In May 2024, the then Housing Minister Lee Rowley said that the Department had seen "no substantive evidence" to suggest that a ground rent cap would present "a systematic risk to the operation of pension funds or the financial markets". Do you disagree? If so, what evidence do you have to the contrary?



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Charles Roe: As we said in our response to the previous consultation on this, we recognise that there could be some unintended consequences of a ground rent cap, particularly in terms of the long-term savings and pension sector. From a mortgage lender perspective—UK Finance represents 120 mortgage lenders—certainty over things such as lease cost and ground rent helps with affordability assessments and provides surety for those borrowers about the costs that they could pay for that property that they could be leasing.

Hannah Gurga: The ABI represents members who are major investors in the UK economy, including those who are providing pensions to millions of customers across the country. If you look at the Government's own policy statement, which they issued alongside the draft Bill, they estimate an impact of somewhere between £10 billion and £12.7 billion. We have not yet seen the Government's full impact assessment. That is disappointing, because we hoped to have that detail to support this Committee's inquiry, but I can certainly say that there is an impact on the firms that we represent.

As well as the impact on individual businesses, more broadly, the blanket nature of the proposals that the Government have brought forward raise important questions about the predictability and certainty of the UK's legal framework. Those have implications for the confidence of investors making long-term decisions. Those are not just overseas investors, but UK investors; the companies that I am representing are UK-domiciled businesses making decisions around long-term investment for pensions in the UK.

Robert Stevens: From a Nationwide perspective, we have had policies around ground rents for the last decade, which has allowed us to be able to lend on the majority of leasehold properties. We have not seen ground rents be a significant barrier for us facilitating mortgage lending. The potential cap would fall probably under the limits of the majority of the ground rents that we see on a day-to-day basis.

John Godfrey: I agree with the points made particularly by Hannah Gurga about the impact. The concern in the pension industry and on the investor side of this is a broad one, and a matter of principle, about retrospection. Those who studied the manifesto that the Government were elected on read that the goal was to tackle unfair ground rents, and I think the industry is supportive of that, but the concern is that a retrospective blanket cap of £250, resulting in a transfer of value out of the pension system of between £10 billion and £12.5 billion is not a proportionate response to that goal.

It is also not a fair response, in our view, because it ignores the fact that the leasehold world is not homogeneous. There are a variety of different types of leaseholder in there. In particular, 41% of leaseholders are not owner-occupiers, first-time buyers or any of those types of individuals, but private landlords. So £5 billion is being taken from pensioners and delivered as a windfall to landlords, with the greatest value accruing to

those who are leaseholders in the most expensive properties, often in London and quite substantially, not UK citizens.

Q143 **Sean Woodcock:** To come back on what you just said, Ms Gurga, Mr Roe and Mr Godfrey in particular, Lord Gove told this Committee a couple of weeks ago that significantly less than 1% of investments would be involved in ground rent. That doesn't sound like it is going to bring down the western economy to me. Can you suggest why he is wrong, or is he wrong?

Hannah Gurga: I do not think the headline percentage is the issue; it is the point of principle. When investors are taking decisions around very long-term investments—in the case of the members that I represent, we are talking about paying pensions for decades into the future—it is extremely important that they have certainty around the contracts that they have entered into. In the case of pensions, you have to make sure that the assets match the liabilities. That is why predictable and certain cash flows are critical. So it is not so much the headline percentage that is the issue, but the impact of retrospective action that is extremely unusual in the UK. It is unusual in most jurisdictions, but it is an unprecedented scale of intervention that the Government are contemplating.

Charles Roe: The impact of the retrospection and the uncertainty is something that our members who have an interest in this have reflected to us as well. I rely on my colleagues at TheCityUK and also at the ABI for further details of the numbers, but as Mr Stevens said, from a mortgage lender perspective, the cap helps with the certainty over the costs that homeowners and potential purchasers could incur when buying a property.

John Godfrey: To add to that, the greater the risk, or perceived risk, of legal uncertainty, the higher the premium that investors would expect to earn on their investments. That is particularly germane if you think about a Government who are encouraging, or perhaps trying to force, pension funds to invest more in the United Kingdom. It does not feel consistent with that objective, but also, if you think about the next time a Government come around to pension funds and ask for greater commitment to infrastructure or energy systems, or whatever it may be, those investors will think, "Do I really want to do that, given that the Government generally in the UK is not averse to changing the rules in hindsight?"

Q144 **Sean Woodcock:** Can I make one final point? Ms Gurga, you said that it is an unprecedented intervention, but this is what I would suggest is also unprecedented. There has been a 40-year timeline for this to come to an end, and it has been in the manifesto of two successive election-winning parties, in 2019 and 2024, so these investors have had significant notice that this is likely, and coming. So I would push back and ask, "Why is nearly 50 years of notice of the end of your ground rent such a significant barrier to investment in UK plc?"

Hannah Gurga: When it comes to pensions, the matching of assets to liabilities is prudent but also required by the regulatory framework. That is



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across multiple decades for customers of our members. The removal of that income stream has implications for that matching, which requires a transition period. In the Government's own statements that they issued alongside the Bill, they acknowledge that any shorter transition period than the one they proposed would have a more damaging impact, not only on investor confidence but potentially on freeholders, perhaps leading to insolvency.

I think the Committee has already heard evidence about previous examples in the UK of very long transition periods—I believe that there was a 60-year transition period in the case of the Rentcharges Act 1977. That goes to show that when it comes to interfering with property rights and contracts, it takes time to unwind these positions.

I can understand and sympathise with the position that leaseholders may find themselves in. That is why a proportionate approach is needed and a balance needs to be struck between delivering what was in the manifesto—which, in our reading, was to tackle unfair and unaffordable ground rents—while also preserving property rights. We feel that the Government have not got that balance right because of the blanket approach that they have taken. It is simply not targeted or proportionate enough.

Q145 Andrew Lewin: What would you characterise as a greater risk to the economy at the moment: the situation in the middle east or this 40-year transition?

Charles Roe: I think it is the risk in the middle east in the short term.

Hannah Gurga: I agree. There is a short-term risk arising from the conflict in the middle east.

Robert Stevens: I cannot disagree with that.

Q146 Andrew Lewin: A full house. I appreciate that it might sound like an odd question, but the point I am trying to make is that, when you are talking about pensions and investments, uncertainty always exists. None of us knew a month ago about the situation that we would be in now. You are all saying that this causes grave uncertainty, but you are in a world where you constantly have to adjust to change.

My colleague Sean has just set out that we are talking about a 40-year transition, so do you understand how this seems to members of the public, some of whom are sat behind you, who have had a very bad experience with the current leasehold system? Actually, this seems very manageable and proportionate compared with all the other uncertainty and risk you have to deal with.

Charles Roe: In terms of the proposals in the Bill, the 40-year transition provides a longer transition period than the previous Bill, which was consulted on two years ago. As Hannah said, from the point of view of investors who have invested for the long term, that is the challenge they face in relation to the match, or mismatch, of assets and liabilities in the short and medium term.



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Hannah Gurga: Of course, I can appreciate the position that leaseholders find themselves in, but, equally, we have investors who have entered into lawful contracts that were professionally advised and are supporting pension payments for customers over multiple decades. The members I represent are not making short-term speculative investments. Of course, they consider market risk and what might happen to the value of investments, but I do not think it is reasonable to expect investors to prepare for a Government intervention that would effectively wipe out billions of pounds of value in a blanket approach without compensation.

John Godfrey: To add to that, there are clearly controllable risks and non-controllable risks. We in our sector cannot do very much about what happens in the middle east, but we do not necessarily want to add unnecessary risk, which is in our control to impose or not impose. That is one point.

The other point is that the question from the manifesto was about addressing unfair ground rents, and this goes way beyond that. It is arguably not a fair result to create a £5 billion windfall for private sector landlords. Indeed, it is not a particularly fair result to retrospectively revisit contracts that people moving into retirement homes, which is a particular concern here, have entered into, based on a choice of whether to pay an up-front premium for where they live or pay over time through a higher ground rent, reflecting use of the common parts. People have taken very clear, rational and sensible decisions based on the law as it stood, and adding a risk that we do not need to add is probably unhelpful for those people. Shorter than 40 years would be a grave risk. It is in our decision-making power to minimise unnecessary risk for the sector.

Q147 **Chair:** On that final point, from the answers that you have all given, 40 years seems reasonable and fair. I think there is some query about whether the £250 limit is fair and reasonable. If it is not £250, what figure would you suggest?

John Godfrey: We would not, at this point, want to start trading figures, but the starting point is a much better analysis of what the composition of the leasehold market is, and how you reflect the breadth of that composition in arriving at a figure. If you are putting into one bracket an apartment in London—which sells for £10 million, and which, under these proposals of £250, would give the owner of that apartment a windfall of somewhere between £350,000 and £550,000—that is a very much greater windfall than anything you could deliver for a struggling first-time buyer who is worried about ground rent.

You need to base a new approach to the figure on a better analysis of what the leasehold market actually consists of—who those owners are, what they are using those properties for and how valuable those properties are. This summer, a register of leaseholds is coming in, and that should provide a good database on which to start doing that work.

Q148 **Mr Forster:** That is really helpful to hear. Do you think that the Government should introduce a tiering approach for ground rents, where,



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hypothetically, we have one that is higher than £250 for the luxury market, and a lower one for the first-time buyer and the more standard market? In relation to a ground rent cap of £250, we heard earlier today that a lot of ground rent is lower than that. Do you think the ground rent cap should be lower for some, but higher for the more complicated and luxury market?

John Godfrey: As I said, there would need to be much more analysis to figure out what those figures should be, but there is a very strong argument for having a differentiated number, depending on the nature and use of the property. That should be explored properly before the Bill reaches the statute book.

Charles Roe: In terms of where the de minimis or de maximis limit should sit, from a lender perspective, one of the things that we are aware of—certainly from my engagement with leaseholders, particularly those who have been involved in flats with cladding—is situations in which a freeholder has used the ground rent almost as a proxy for an additional service charge to cover things such as building remediation for building safety. We have seen isolated cases in which that has happened. That is why we are supportive of the cap on ground rent for those leaseholders who are impacted by that.

Q149 **Chair:** We have touched on this a bit, but do you have any concerns about the financial impact of a ground rent cap, or are you more concerned by the principles of not interfering in existing leases?

Hannah Gurga: We have concerns about both points, because the Government's own policy statement indicates that even with a 40-year transition, there is an estimated impact of between £10 billion and £12.7 billion. That is not trivial. There are also longer-term consequences for investment decisions in the UK. Once you take a decision that has retrospective impact, it weakens the overall position and the perspective that investors have about the UK as a place to invest. We know that as a country, we need a lot of investment in our infrastructure and housing. ABI members have been making those investments, but the retrospective change is so broad that it draws into question whether the UK can be relied upon, contractually and under rule of law—something that historically has been a strength for this country.

John Godfrey: I completely agree. The attitude, certainly of our members who are investors in this, has been that they are onside with trying to address egregious practices, such as they still exist, in ground rents, and with addressing unfairness. But to try to address that through a £250 cap, however—which is a pretty arbitrary number, and we are not quite sure how it has been reached, by the way—

Q150 **Chair:** Shall I help you with that? The point at which ground rents exceed either 0.1% of the property value or £250 is a common standard at which mortgage lenders have traditionally started imposing additional checks. So I think it has been led by the industry, where you as an industry decide that that requires further work.



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John Godfrey: I think there is a question about 0.1% of the value of the property. That is based on an average of £250,000, clearly, and that, I think, is a rather out-of-date figure. It is certainly not a figure that is applicable across the whole of the country, so that is slightly misleading.

The view in the industry is also that this has become conflated with an issue about assured shorthold tenancy, which has been dealt with as a separate policy issue. So there is a degree of confusion about the £250, although I have read those arguments too, Chair.

To the point about whether we are concerned about the numbers or concerned about the principle, yes it is both. These numbers need to be very much better analysed and better explained, certainly. The industry would be willing to co-operate and to work with Government on cases of egregious unfairness and trying to make the system better, as was promised in the manifesto, but we don't think that this kind of massive transfer of value—quite often to people who I can't imagine the Government had in mind as beneficiaries when they were writing this policy—is the right way to go about it.

Q151 **Chris Curtis:** There seems to be a bit of a logical jump happening. These investments are not really doing anything for Britain plc. There is no productivity gain to the British economy; there is no GDP growth from ownership of the freeholds on these flats. So I get the retrospective problem, but do you actually think that a Government's going after this kind of rent-seeking behaviour would decrease confidence in people's willingness to invest in good, pro-growth, productivity-gaining investment in the UK, which any Government of any political stripe would be supportive of? Or do you think that investors would generally not be able to see the difference between those two things?

John Godfrey: There is a bit of a myth about what freeholders do and their role. Quite often the role of the freeholder is to act as a steward for the building—to ensure that it is safe, that it is insured, and that these conditions are met. So it is not a nil economic gain.

Q152 **Chris Curtis:** They have not done a great job at that, though, have they, if you are going to set that as the standard?

John Godfrey: That is the stewardship goal, and the majority of them do a good job. The problem that you have in trying to address that is that clearly, going through a transition into a commonhold, you will find that the economic model of stewardship is much harder to deliver in a mixed-tenure building. Let us say you have some who are commonholders, some who are leaseholders. How is somebody going to provide the common services and the insurance and the safety, and all the other things that need to be done by somebody, without the benefits of scale of having the larger part of that building under their stewardship? So there is a bigger role for freeholders, and the good ones certainly do that.

On productivity, it is less obvious, as you say, than, for example, investing in equities, but the regulations do require, as Hannah has explained, that



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investment goes in on a matched basis. These things do need to be invested in by somebody.

Q153 Chris Curtis: We have been talking about this for many years. I get your point, but I think the industry really knew that eventually, a party of one political stripe or another was going to come along and do something like this retrospectively. It has been in two manifestos. I struggle to see why doing that would convince people that we would then start doing things retrospectively with bits of the economy that we think are far more productive and far more beneficial. I am not convinced that investors do not see the difference between the Government's doing retrospective policy on something like this, and doing retrospective policy on other things that we want to encourage more investment into.

Hannah Gurga: I represent a broad cross-section of firms, and I can say with confidence that those who are not in any way connected to ground rents are deeply concerned about retrospective change of this kind, because they are taking very long-term decisions around where to place their money. I am also aware that when some of my members travel internationally to seek funding for their own UK businesses, they are getting questions from overseas investors about the UK's approach to retrospective intervention.

It is extremely important that this Committee encourages the Government to be mindful about this sort of intervention. Whether you like it or not, overseas and domestic investors join dots. It is not just this intervention; we have seen the announcement about the Government changing the tariff for renewables contracts from RPI to CPI. That has had other types of investor raising questions about retrospection.

In this case, the concern is not the reform itself, but the blanket approach that the Government are taking. Retrospectively rewriting contracts is extremely unusual, particularly for the UK, and it creates a policy risk that goes well beyond leasehold. That matters, because this Government are trying to actively seek investment in infrastructure and housing to support growth. Undermining confidence in the stability of the UK's legal and regulatory framework cuts across that objective.

Chair: We have about 10 minutes left for this panel, so I am going to gently move on.

Q154 Andrew Lewin: Charles, I am keen to come to you first. UK Finance has said: "Moving to commonhold prematurely risks creating operational disruption across the housing system, undermining the government's ambition to deliver 1.5 million homes". That is a bold statement. We have heard testimony over the last few weeks about people who are living in a completely dysfunctional leasehold system. Can you explain to us why you think this is the problem?

Charles Roe: There is the whole ecosystem, but let's start off with the consumer. There is a need for a consumer awareness campaign to make sure that consumers understand what commonhold is. We know from our engagement with first-time buyers and home movers in particular that



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there is a confusion between freehold and leasehold, so what will it mean to then bring in a third tenure, particularly in relation to the setting up of commonhold groups for new units?

We are supportive of the transition for new homes, which would be the first place to start, but we are also conscious that the Leasehold and Freehold Reform Act is going through at the moment, and those changes need to be implemented. The Government have consulted on improvements to the homebuying and selling process. If you look further down the route in relation to leasehold conversion to commonhold, how would that work? We would like to see a phased approach: new build first of all, implementation of the Act, looking at the priorities for homebuying and selling, and then doing the existing transition.

I have talked about the consumer, but let's not forget people like estate agents, valuers, and the surveying and conveyancing community. This tenure is not particularly common, so they would need educating and bringing up to speed in terms of what would happen. We anticipate that that would take a minimum of two years. On the transition to new builds, we have talked to our lenders, who would need to make changes to their systems to be able to facilitate the operation of commonhold and do staff training in-house.

There has been some concern around why more lenders do not lend on commonhold at the moment. That is primarily because of supply and demand: the demand is not there for it. We saw a parallel situation with buy-to-let properties and buy-to-let limited companies. When that first started, there were few very few mortgage deals and offers for limited company buy-to-let organisations. That is now much more wide-ranging, because lenders have adopted the system and adapted their processes. Mr Stevens has some practical experience of dealing with commonhold; he and I were talking about this only last month.

Robert Stevens: At Nationwide, we already lend on commonhold. As was mentioned, there are a limited number of such buildings out there at the moment. We have had some practical challenges when it comes to the ecosystem: finding a conveyancer who is able to act or finding a valuer who is able to value the property and understand the tenure. We would reiterate all the points that were just made. There needs to be time to scale the ecosystem across the whole journey to ensure that consumers fully understand what they are taking on and the differences in the tenure.

Today, we see that a lot of people do not necessarily understand the differences between freehold and leasehold, let alone adding a third tenure into that mix. From our perspective as a lender, the other challenges—apart from those of scale and the need to build the systems—are around understanding what the costs will look like from an affordability perspective, who is going to manage the building, and whether the people taking on that management, especially in large blocks, understand the details of building safety and the impact that will have. We are also looking at how it works in relation to managing agents and their regulation, to ensure that buildings are maintained, and that we are in a



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situation where we have no concerns around our customers being able to live safely in such buildings.

Q155 Andrew Lewin: Robert, I am pleased that you are already lending to commonhold. Charles, I agree with what you said about consumer awareness and education. That has to be an important part of this reform. There is a little bit of a contradiction in some of the quite dramatic language that has been using in written evidence about this reform “undermining” the whole housing system. I hope the panel can agree that this reform, if done properly and in conjunction with consumer awareness and education, is absolutely deliverable and not something that would threaten to undermine everything else that is going on in the housing market. Is that fair?

Charles Roe: The transition is going to be a big piece of work. The concern from a lender perspective is the impact that the reform could have on the existing leaseholders who wish to convert. When they convert into a commonhold, what is the process for those lenders that have the security on those properties at the moment? What does that mean for those lenders? What assurance do they get that the management company, particularly in a very large or multi-use block, has the relevant expertise, knowledge and insight to discharge their responsibilities correctly without falling foul later down the line—for example, if they have not insured the property, or not kept on top of some of the regulations, maybe in relation to building safety?

Lenders are also concerned that the commonhold group running the premises may decide, unilaterally, to make changes. They may, for example, sell off a car park for development, or decide that they do not want any short-term Airbnb-type rentals in the property. What does that mean for the people who have invested in that property? What does it mean for the lenders that have security on the property when part of that property has been sold off?

Q156 Andrew Lewin: Couldn't a freeholder do that now? Why is that any different?

Robert Stevens: At the moment, there are mechanisms in play that inform us if there are going to be any changes. For commonhold to work we would need a similar framework to be put in place so that if, as Charles just mentioned, there was going to be a change to the commonhold agreement that would be detrimental to the property, we would be made aware. We are looking here at how we would get the same level of assurance around how a building is managed, how it is maintained and any changes that could impact the security, our lending, and so on. That is what we are really saying.

Hannah Gurga: Similarly, from an insurance perspective, having that transparency will be important. The message is really that there is little detail on the face of the draft Bill on how some of this reform will be operationalised. It is extremely important that the Government engage with industry in its widest sense, as the legislation progresses, to make



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sure that the transition is managed effectively, and that commonhold associations get the support and guidance that they need.

Robert Stevens: The devil is always in the detail on this stuff—that is what we are saying.

Chair: We have only a couple more minutes left with this panel, so I am going to cut answers short.

Q157 **Sean Woodcock:** Mr Roe, you previously called for more detail on the conversion process to understand the potential risk for lenders. I am taking from your comments today—feel free to correct me—that, having had that detail, you do not believe that you have the assurance needed by lenders.

Charles Roe: At the moment, lenders would need further reassurance around that. That was one thing that we were developing on the Commonhold Council—trying to understand how that conversion would work. To pick up on an earlier comment of one of my colleagues, we feel that the Bill has missed an opportunity to bring in regulation of managing agents. From a mortgage lending perspective, we would fully support and wholeheartedly get behind such regulation to make sure that managing agents were regulated and held to a minimum standard.

Q158 **Sean Woodcock:** To return to a point made last week, I think it was Lord Best who was very keen on the regulation of managing agents as well. But we heard very clearly from representatives of leaseholders that their concern with regulation is that all the costs will be loaded on to them. That is why they don't want regulation—they want this. Do you have a challenge to that?

Charles Roe: I would say it's horses for courses. We know that there will be some commonhold blocks where they will be happy to manage. There will be others that are particularly complex—they may be multi-use; there may be different types of tenancy arrangements in there—where the layperson would not be able to, or probably would not want to, rise to that challenge. We believe that it would be outsourced to managing agents, which is why we would like to see them regulated.

Robert Stevens: On that point, the key for me is that we are talking about removing complexity from the process. From a lending perspective, we want to get the assurance that a building is being managed properly and in accordance with legislation. If the route to that is through regulated managing agents, that is brilliant. If we can get it some other way, we would also be happy with that. It is about the simplicity of getting that confirmation and reassurance through the lending process so we know how a building is being managed.

Q159 **Sean Woodcock:** What I am trying to understand is that it seems like we are getting to a situation where, as long as the leaseholders pay the bill for sorting this out, you guys are fairly happy. But if the shoe is on the other foot, frankly, you are not interested and you will continue to say that whatever is proposed is not good enough. Is that fair?



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Charles Roe: In terms of any bills that any commonholder or leaseholder has to pay, as long as there is transparency in how those bills are calculated, and as long as the commonholders or leaseholders can challenge them, that is a fair way of approaching it.

Robert Stevens: I would echo that point. From a lender's perspective, we are very keen to ensure that the building is being managed properly and that actions are being taken when there are things like outstanding fire risk assessments. We would also scrutinise, today, service charges, and if we thought they were unreasonable, we would have an issue with that. That does not matter from tenure to tenure; it is more around whether the building is being managed correctly.

Chair: I thank the panel for their attendance this morning. That was really informative. Thank you.

Examination of witnesses

Witnesses: Kate Butler and James Raynor.

Chair: Good morning, panel 3. Can I ask you to introduce yourselves?

Kate Butler: Good morning, I am Kate Butler. I am the assistant director of policy at the British Property Federation. We are the membership body for the UK real estate industry.

James Raynor: Good morning, thank you for inviting me. My name is James Raynor and I am the chief executive of Grosvenor Property. Grosvenor is a primarily commercial property company, with over 75% of our assets in either office or retail. We do have some residential: in London, we have about 700 affordable homes and 500 private rented homes. We are also obviously involved in residential ground rents, but actually, this makes up about 1% of our turnover. We have not actually granted a new leasehold with a ground rent in the last decade.

Q160 **Mr Forster:** Earlier this month, Lord Gove told us that leaseholders "do not need to have a Member of the House of Lords being responsible" for their property "in order for it to be managed effectively." What do you think of what Lord Gove said?

James Raynor: This has been discussed elsewhere, but I think the management of property that has multiple occupiers is a very complicated business. I think that it can be done, but we should not assume that just a move into commonhold is the panacea for all the issues that have been discussed. We need to take into account that different people within a property will have different interests. The approach of somebody who has just moved in versus somebody who has lived there for 10 years to common parts works will be different, and the approach of somebody who lives on the first floor versus somebody who lives on the 10th floor to lift



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reparations will be different, and so on. It is not necessary, but we provide, and freeholders do provide, a range of services. We think—on our behalf; I won't speak on behalf of others—we do that very well.

Q161 **Mr Forster:** Because it can be so complicated, do you think this Bill should also regulate managing agents?

James Raynor: Your question comes to the nub of some of the issues. Freeholders can provide all these services in managing the buildings themselves. That is what we choose to do; others will subcontract that to managing agents, and in there lies a lot of frustration. That needs to be looked at. Some of the issues that I hear about are, frankly, very shocking, and I feel very sorry for the people involved. We have an issue with structural advice on this issue, in terms of people going into leaseholds without being fully informed and understanding exactly what is going on. How the management of these properties is undertaken in a fair, transparent, just and more simple way should also be looked at.

Q162 **Mr Forster:** I am pleased to hear you having some sympathy for the people involved in these bad cases. How is your involvement in the ongoing judicial review litigation about LAFRA, which has delayed the implementation of that Act, helping people?

James Raynor: We have constructively engaged with Government all the way through on this process. We have one issue with what is going on with that proposed reform, which we do not agree with. We think it will cause us financial loss. As a result, we are trying to protect our rights on that. In principle, we are very happy with reform in this area and are not against it. We have a very specific issue.

Q163 **Mr Forster:** Do you understand why MPs and possibly the public are frustrated by the LAFRA judicial review? There are already threats that this Bill, if passed, would be taken to judicial review, despite the fact that it has been in two winning political parties' manifestos?

James Raynor: Of course I understand the frustration. A lot of the consultation and the time and effort we have put into the consultation has been exactly to avoid this situation. A judicial review is not to be taken lightly. It should only be used as a last resort, and we should try everything we can to avoid it. I am very pleased with the way that you are approaching all of this discussion, in terms of trying to get all the different viewpoints, because that will allow you to form legislation that is in the best interests of all parties and will pass fairly and quickly, I hope.

Q164 **Mr Forster:** That being said, do you think that you and some of your colleagues in the sector would take this Bill to judicial review, if passed?

James Raynor: As I pointed out, we are not a ground rent investor. We hold some ground rents, but it is not a significant area of business for us. I can imagine—if you think about the previous panel—that there are people with significant financial interests at stake. They are going to want to protect their interests, but I am certainly not capable of speaking on their behalf.



Q165 **Chair:** Kate, what are your views on the draft Bill?

Kate Butler: There are a number of things in the Bill that we support. The BPF are tenure-agnostic. We think that commonhold can bring long-term benefits, if done sensibly. We would echo the things that have been said by previous witnesses today and throughout the Committee's sessions on what needs to be done to make sure that it is introduced sensibly. Our primary concern is around the proposed ground rent cap, which we do not believe is proportionate to the issue that the Government are trying to address.

Q166 **Chair:** What figure would you suggest is fair and reasonable?

Kate Butler: We do not want to see a cap as introduced. We think that if the Government want to take the time to find ground rents that are genuinely unaffordable and prevent mortgage affordability problems, they should undertake the work to do that. What is proposed in the Bill is not proportionate to the issue that the Government are trying to address, and nor is the manifesto commitment. As other witnesses have said, it is an unprecedented interference in existing property rights, and it is detrimental to the UK's reputation as a safe place for investment.

Q167 **Chair:** Will mentioned potential phasing or step change on the property value. Do you consider that appropriate? I am an Opposition MP, but I imagine that the Government would want a simple model that everyone could understand, hence their going for the £250 40-year transition. Judging by the evidence we are hearing from you and others, in extremis, in some cases, that will be be disproportionate, so what model would you suggest?

Kate Butler: I sympathise with the preference for simplicity. We need to go back to the issue that the Government are trying to address and the manifesto commitment to tackle unaffordable ground rents. From what we understand, those are ground rents that affect the ability of leaseholders to access mortgage finance. A broad-based cap does not just affect those leaseholders. We see no evidence in the policy statement that the Government have identified ground rents that genuinely impact mortgage availability.

We know—you mentioned it previously, Chair—that a £250 cap, again in the context of the Housing Act and the assured shorthold tenancy trap, has been removed by the Renters' Rights Act. The policy statement also sets out that 0.1% of the property's value is when lenders start to become more restrictive, but that does not paint a nuanced picture. Of the top six lenders, for example, which represent 70% of the lending market, two are silent on nominal ground rent restrictions; one provides finance up to 0.1% to 0.2%; and one does so up to 0.5%. So it is not quite as simple a picture as a cap based on £250 across the board or even £250 in some instances and £1,000 in others. It is still not proportionate to the issue that the Government are trying to address, which is, we understand, the ability to access mortgages.

Q168 **Sarah Smith:** I want to step back slightly. In the end, these reforms will



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not satisfy everybody, because politics and governing are about choices. This very important reform is also about recognising that you, Grosvenor and other businesses have the facility and the money to take these reforms to judicial review, unlike the everyday man or woman who is living in the property, unable to access the mortgage that they need and unable to get a good home to live in and make simple choices for themselves. This Government's ambition is to increase everyone's ability to get a decent home to live in and to remove the barriers that the current system holds for them. There is a challenge in ground rents: what are the leaseholders receiving in return for those ground rents? Is it morally defensible that businesses like yours are using their resources to challenge the Government's rights to change the law when that is at the heart of what we are trying to achieve?

James Raynor: For over a decade we have not issued a leasehold with a ground rent attached to it; nor do we have any of the escalating ground rents that you refer to. There is a number of questions here, but people have talked about what you get for the ground rent. Well, the reality is that the ground rent is part of the purchase price. So the question is about the price of the flat purchased versus an up-front payment versus an ongoing payment. In many cases the ongoing payment is about reducing the entry price to facilitate the acquisition of the flat in the first place. The intention to some extent is very logical. As I said, we do not do it, but that is the position.

I think about leasehold reform on the basis of three principles. The first is that the ground rent should absolutely not be a hidden mechanism to create windfall gains. It is not about that. If there is a ground rent, it is about how you proportion the price of entry for buying the flat, and that could be a lot simpler and a lot clearer. That points to the issues brought up in the previous panel. On the basis that there is an up-front payment and a deferred payment, changing the deferred payment aspect inherently represents a transfer of value.

Chair: Anyone else? No? I thank James and Kate for coming this morning. It has been very helpful. Thank you both.

Examination of witnesses

Witnesses: Martin Boyd, Sebastian O'Kelly, Sue Phillips and Shula Rich.

Q169 **Chair:** Can I invite the panel to introduce themselves, starting with Sebastian?

Sebastian O'Kelly: I am Sebastian O'Kelly, director of the Leasehold Knowledge Partnership, which is a registered charity, and the secretariat of the all-party parliamentary group, which was very active with Sir Peter Bottomley, who remains one of our trustees. Justin Madders is now the chair of the all-party parliamentary group.

Martin Boyd: My name is Martin Boyd. I am here today as the chair of the Government-funded Leasehold Advisory Service. I am also chair of trustees of the Leasehold Knowledge Partnership.

I am also chair of an RMC of a high-rise building in Kingston, where we have 240 flats, a 900-seat theatre, eight commercial units, two rivers, three bridges, a large public area and an awful lot of responsibility.

Shula Rich: Good morning. My name is Shula Rich. I represent today the Federation of Private Residents Associations, which is the only association representing organised leaseholders within blocks.

I am also the chair of Brighton, Hove and District Leaseholders, which has been going since 1976. I see in my voluntary work at least 500 leaseholders a year, which adds up to probably 15,000 to 20,000 issues over the 30 years that I have been involved with leasehold. I also wrote the first courses for managing agents, working with the National Federation of Property Professionals, and drafted a national contract for leasehold management. That is the beginning.

Sue Phillips: My name is Sue Phillips and I am here representing Shared Ownership Resources, a registered charity that offers information and signposting from a shared owner perspective and that advocates for the best interests of shared owners.

Chair: Welcome, all.

Q170 **Chris Curtis:** I might have to run off a little bit early, so I apologise in advance for that. Sebastian. for many years, your organisation has been at the forefront of the campaign for commonhold. From first principles, why do you think commonhold will be better for flat owners than the leasehold system?

Sebastian O'Kelly: To get back to first principles, this is a fight for control of homes. What you have at the moment is speculators who have come into this market over the past 25 years and have bought up the freeholds. At the scuzzier end of the market, they are picking them up at auctions. At the top end of the market, there are sophisticated financial transactions. Many of these freeholds are owned offshore.

You were expressing frustration that these freeholders would not turn up to address your Committee. I have been expressing frustration that they have been hiding their beneficial ownership behind nominee directors, often offshore, for many years. It has been a way of hitching a ride on other people's homes and it has been systematically abused over the past 25 years. It was a way for big money to get involved in the UK residential property market, one of the world's stellar performing investment assets—not now, but it was. This has resulted in the complete disempowerment of ordinary homeowners.

You have heard that 41% are buy-to-let owners. I wonder where that figure comes from, frankly; 41% of new-build owners might be buy-to-let owners, but it certainly does not apply to the 5 million leaseholders out



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there, many of whom are living in perfectly blameless Victorian conversions with very small ground rents.

This morning we have heard a lot of the money talking about this issue. They should hang their heads in shame, frankly. They were behind the 10-year doubling in ground rent scandal. UK Finance doled out mortgages on impossible leases with highly aggressive ground rents that doubled every 10 years—and it still seems to be doing it. My niece owns a £165,000 flat in Rebecca Long-Bailey's Salford constituency. Her ground rent is £470 a year. Why did Halifax issue a mortgage on that? It is not going to offer a remortgage on it, and no prospective buyer's mortgage lender will automatically lend on that either. It is a very high ground rent for a £165,000 flat.

This has happened again and again. One of your MPs talked about the conveyancing process. Not one solicitor—not one of the many firms involved—raised the slightest issue with ground rents doubling every 10 years for the first six decades, which means that a £250 ground rent ends up at more than £8,000. Those homes were unsellable. This sector built those homes and is now advancing a load of rather sophisticated arguments that investment in this country will dry up and so on if we do not address this. This battle is about the control of ordinary homes. Homeowners have been right royally shafted and it must end.

Q171 Chris Curtis: Let me put this argument to you: we have heard that deals, contracts and investments in the UK were made based on the law at the time and it is unfair to go back retrospectively. They also argue that it is costly to the British economy—£10 billion to £12 billion to make these changes was the figure that we keep having repeated back to us. How would you respond to that?

Sebastian O'Kelly: They have done extremely well making hay over the past 25 years. I got involved in this as a national newspaper journalist, and my question was, "Is a financier like Vincent Tchenguiz a very probable person to look after your granny in a retirement flat?" The reason that he owns the freehold of retirement properties is that it pays out such a huge amount of money in ground rent and other leasehold income streams. They have done very well. This is a battle for control. Control should go to the people who actually pay the service charges; instead, as you have already heard, it is massively difficult to take on these institutions in the courts. They use the service charges to defeat the people who are complaining about the service charges. It is quite Kafkaesque in this sector. I do not have much sympathy with them.

I also think that you were very misled by the representative from TheCityUK talking about retirement housing ground rents paying for communal aspects of retirement sites. I know a lot about retirement housing. McCarthy Stone and Churchill Retirement made this argument in favour of ground rents before the 2022 Act, when ground rents were banned, and it failed. However, many operators in the retirement sector such as Audley and Legal and General's Renaissance group have publicly said that they repudiate ground rents in the retirement sector and do not



have them—or rather did not have them before the ban in 2022. It is not a complete picture.

Q172 Chris Curtis: You have given a good account of the arguments for the change to commonhold, but getting around many of the collective action problems that it creates can be complex. We have to ensure that the regulations are right. Are you confident that this Bill has got the balance right to ensure that we create a thriving commonhold system that does not run into those problems further down the road?

Sebastian O’Kelly: It is a very good first step, but let’s face it: since Australia introduced strata title, it has had to revisit it a number of times. You are not going to get this right first time. The most important thing is that this is the nail in the coffin of the leasehold system. You might not appreciate that you are actually pushing on an open door. Although you heard from the Home Builders Federation, you have not heard from the Berkeley Group plc, which handed over control of Chelsea Bridge Wharf—1,100 flats across the river—which, by the way, includes its corporate headquarters, to a right-to-manage company. It has ceded control to leaseholders. McCarthy Stone was talking to us about commonhold. A very important point buried away in the written submissions to this Committee is that the Property Institute—usually the obliging little helpers to freeholders—is supporting the £250 ground rent cap, which is the first time that it has broken with the freeholders.

Q173 Chris Curtis: You are right that nailing it first time is going to be very difficult, but we want to get as close as we possibly can. Is there anything that we can learn from the Australian experience about how to get it as right as we can first time round?

Sebastian O’Kelly: I don’t think I have enough detail about the precise evolution of strata, but you are talking about communal living and about people squabbling in communal living is inevitable. Squabbling is okay over relatively small amounts of money; what is not okay is institutionalised rip-offs, which is what we have at the moment.

Shula Rich: You asked if anybody else wanted to come in on what we can learn from Australia. One of the most important things, which has been ignored so far in our legislation, is that leaseholders, for their funds, have less protection than assured shorthold tenants do. There is no protection for the client account beyond £50,000 with a RICS surveyor’s client account, or £120,000 in a bank. In Australia, the leaseholders’ funds are all put together and insured, the cost of which is covered by the interest, so all commonhold unit owners have their reserve funds protected in a fund to the full amount, and the cost of that protection is covered by the interest. That is something huge that could be introduced, both for leaseholders and for commonhold unit owners, which we are completely missing. While assured shorthold tenants have their deposits insured, leaseholders have millions and millions of pounds that are not insured in any way.

Q174 Chris Curtis: Do we need to care about that in the legislation though?



Shula Rich: Yes.

Q175 **Chris Curtis:** Why wouldn't commonholders organise that themselves?

Shula Rich: It is not available. There is no insurance scheme, no fidelity bond, no cyber-crime bond. I have been researching for my own block, where we have £2 million in leaseholders' funds, what assurances and insurances we can get. It is not commonly available.

Q176 **Andrew Lewin:** We spoke earlier about the transition in the context of what it might mean for pension funds and the financial element. I am keen to talk about what the transition might mean for homeowners. Martin, I will come to you first. The Leasehold Advisory Service promotes awareness of the status quo, but I am interested in your thoughts on how it could work to promote awareness of commonhold, and what resources it might need to scale up, if and when the Bill passes.

Martin Boyd: I have to wear at least two hats to answer that question. I was brought in to help radically reform LEASE to make it more impactful for consumers. Commonhold has always been within the remit of the organisation. One relevant point that has not come out so far in any of the discussions on the draft Bill is that commonhold was not introduced as a piece of housing legislation; it was introduced under what is now the Ministry of Justice's purview primarily as a land tenure. It was never actively funded as a housing matter by the Housing Department. LEASE was funded to provide some initial advice from the Justice Department at the time. That changed in the middle of 2017, when the legislation moved across; shortly after that, it moved off to the Law Commission.

At LEASE, we have been preparing for what will happen to commonhold to make sure that people understand it. The level of knowledge that an individual consumer needs is not that great, but we need to begin to educate far more people who will become directors. Education resources for RMC and RTM directors is inadequate at the moment. It is a big project that we are working on.

I have to tell you though, with my other hat on, that I will not be moving to commonhold the day it comes in, because although it is very cheap for us—I helped to start the campaign in this very room in the middle of 2014, sitting in one of these chairs, so I am a massive advocate of it—we have to be realistic and understand that while a lot of people think, "Yes, I want to move to commonhold quickly," I cannot do it at my site until I pass three tests. I have to believe that the value of my flat is going to go up, or at least not go down. I have to convince at least 50% of the other people who live at my site that they want to convert. Then, collectively, we have to find the right amount of money so that we can convert.

I do not think that can happen on day one, because we will not get an increase in our property values until we know the market is established. The Government will need to support the market initially to ensure that it develops, because it is a new form of tenure.



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Q177 **Andrew Lewin:** I want to pick up on that and then open it to the rest of the panel. It is quite striking that you said you would not change on day one, but would be a lifelong—

Martin Boyd: No, I want to get there as quickly as possible.

Andrew Lewin: Absolutely—that would be noticed. You have then laid down the gauntlet to the Government that you need to do more to support people—blocks—in that early transition. What form would that take? I am interested in the views of the panel on how you see that working practically, because this is really important. We have to get the legislation right, but it is of no value if we legislate and then there is no demand for conversion.

Shula Rich: I have always said that I would like to see commonhold as a condition of planning. If there were even a preference given to commonhold under section 106 agreements, that would be acceptable now within our present legal framework. However, if it were said that commonhold could be a condition of planning for new build, or that there would be benefits to developers in offering commonhold, perhaps more of those 1.5 million homes that are planned would actually be commonhold. We need to lay the ground, and not silo ourselves in one set of laws but look outwards so that we can have tenure-responsive planning, as other countries do.

Andrew Lewin: Sue or Sebastian, any thoughts?

Sue Phillips: Just that shared ownership is not commonhold, of course. It is going to exist in parallel with it. It has maybe been shoehorned into it, and I am sure we will come to that in later questions.

Sebastian O'Kelly: I see this, and have always seen it, coming from new build, and it is about pressure on developers to do it. Homes England could have put pressure on developers about resident management companies or co-ownership of the freehold. It hands out grants to a small minority of developers, and I am thinking here of a retirement developer called Platinum Skies, which sells private flats and also shared ownership, but has extremely onerous leases.

Why on earth is Homes England giving grants to developers creating impossible leases? In the end, it fined Platinum Skies a quarter of a million pounds for failures over the scaling-up aspect of shared ownership. That was kept quiet until Andrew Ellson of *The Times* revealed this through an FOI request.

We have given out public money to disadvantage consumers. Let us give some public money to support commonhold. When people see commonhold at big sites coming through from new development, there might be an issue for people converting to it. It is going to take some years, because if you have a share of freehold at Martin's sites—for goodness' sake, it is the most expensive, most valuable enfranchised site in the country—it is going to take some persuading for him to move on to



commonhold. It will come, but it will be slow. The most important thing is you have removed that sort of predation in this area of the market.

Q178 **Andrew Lewin:** Thank you. Last question: it seems to me that there is a consensus that this is likely to come first via new build, and the value of doing it through the planning system, potentially. Sebastian, to your comments a second ago, just once more for the panel—particularly because we have heard from so many frustrated leaseholders in the weeks preceding today, many of whom, although I cannot speak for them, I think will, in theory, have a desperation to want to convert to commonhold if and when the opportunity arises—would you have any message for Government on how to set up a system that encourages and enables conversion? What would you prioritise?

Sebastian O’Kelly: I would start with new build, but I am afraid I have bad news, because I know that you talked about your postbox being full of complaints from leaseholders; I think you are going to get quite a few from commonholders as well. They are going to bicker among themselves. I am not a leaseholder; I am a commonholder and have been a commonholder in another jurisdiction to England and Wales—thank God I do not own a flat in this jurisdiction.

Frankly, if there is some good daytime television, watch that instead of going to a commonhold meeting—it is gruelling to go through all this. It is all minor stuff. At the moment, we seem to be very exercised about cigarettes being thrown over the balcony and landing on the roofs of people’s cars—that seems to be the issue at the moment. You are going to get down to that sort of stuff.

Martin Boyd: To your question earlier, I do not think there is a single lawyer in the land, or ex-law commissioner who is assisting you, who understands all of leasehold law. There are so many different bits of legislation; it is one of the most complex systems we could possibly contrive, and we add layer upon layer to that.

The commonhold system is entirely different. You are looking at having a collective interest in the building—perhaps we should always have had that in this country. I would expect everyone at my site to understand that the moment we are no longer in the leasehold world, we have got rid of us as a landlord, we all collectively own a building, and we have a vested interest in making sure that building succeeds. That is what we do not have in the leasehold world.

Shula Rich: On prioritising commonhold, I have to speak up for leaseholders. If commonhold is promoted as better—I absolutely believe that it is—we are devaluing the tenure of 5 million or more leaseholders.

Let’s also look, for the sake of our members, at making leasehold liveable. One of the ways that we can do that, even within this Bill, is to make it possible for whole estates to have the right to manage, which would also facilitate the move towards commonhold for whole estates. Presently, one can only get the right to manage for one set of premises, so I would like to



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suggest that 50% of blocks on an estate could ask for the right to manage, or 50% of qualifying leaseholders, which would echo the 50% and smooth the path towards commonhold.

Right to manage was always intended to be a step towards buying one's freehold, so the right to manage for whole estates would stop the terrible abuses that have now grown up where freeholders grab people's gardens, for example. As they have learned that blocks prior to the Settlers Court case are now managing whole estates, they are coming back to people I know and grabbing gardens and car parks and trying to take back control. If we are going to make the path towards commonhold viable, let's set the ground right in allowing big estates to also get the right to manage with far less complication than there is at present, where it is not allowed.

Q179 Chair: Before I come to Andrew, there have been various comments about commonhold and how easy it is to get to that stage. Do you think that converting to commonhold should be made the default outcome of a collective enfranchisement, or should leaseholders have to explicitly vote for the conversion?

Martin Boyd: Should it become default? Absolutely, yes. Should leaseholders vote on conversion? Of course. If only 50% of a site wants to convert to commonhold, though, we have to consider carefully how those choosing not to convert are likely to behave. The last thing we want to do is create a system where we replace the third-party freeholder with a set of disputes between the leaseholders and the commonhold on a site.

Shula Rich: Fifty per cent is very hard to get in large blocks and on large estates, because of the number of absent owners—I think in 18% of new builds, there are Chinese owners and almost equal numbers of people from Hong Kong. We could look at the definition of the qualifying leaseholder and think about whether they are UK-based. That does not rule out large investors in several flats, for example, but it does mean that people who are impossible to get hold of cannot spoil it for other people looking for a 50% that they will never get. That would obviously be a huge help, so we want to redefine the qualifying leaseholder as being UK based.

Sebastian O'Kelly: Can I just add to that? Yes, there are an awful lot of baby boomer generation investors and investors from overseas in leasehold, but that is an anomaly of the past 25 years. It was not the case before then, and I do not think it is going to be the case now. We are only producing sub-20,000 new flats a year at the moment. It is not a very attractive investment market. Even the ground rent investors here said that you cannot sell ground rents for love nor money. This is a feature of the British housing market that is dying. UK residential property is not the stellar investment asset that it was.

Sue Phillips: In our evidence, we spoke about the impact of commonhold on shared owners, as well as the impact of shared ownership on commonhold. Another aspect that is relevant to this question is that shared owners will not be qualifying leaseholders, and there are situations in which they may have no votes at all. We will come back to that later, I



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am sure. The number of shared ownership units or homes in a block or development could be very significant to these kinds of questions—whether there are a few pepper-potted homes or a large amount in any particular block or development.

Q180 Andrew Cooper: Sue, you are correct: we are indeed turning to questions of shared ownership. Currently, all shared ownership homes are leasehold, and they are not able to benefit from the current commonhold legal framework, because of the nature of how it is set up. I think the intention in the draft Bill is that, although shared owners will continue to be leaseholders, you will be able to have those specific types of leases within the commonhold block. Given how the draft Bill is written now, how confident are you that shared owners will be able to fully embrace and benefit from commonhold?

Sue Phillips: With the proviso that a great deal of detail is missing from the draft Bill and may be added through secondary legislation—making it even more complicated to answer this question—the short answer is no, they will not be confident they can embrace it. They are not going to be commonholders. I said earlier that it looks as if shared ownership has been shoehorned into commonhold. As you said, commonhold does not bring leasehold to an end for shared owners, and it does not tackle the unique set of challenges that they encounter as a very particular subset of leaseholders or assured tenants—that is obviously a moving picture, given other legislation.

One of the issues that is most important for shared owners is that it offers a meaningful pathway to full home ownership. We could substitute commonhold for full ownership, but there is nothing to make commonhold a more likely outcome than full home ownership is at the moment. The statistics show that there are very low rates of staircasing to 100%, so it seems that there is nothing to make commonhold more likely as an outcome than full home ownership is at the moment.

Ongoing financial sustainability is important to shared owners. Some aspects of the Bill might be problematic in that regard—I will come to those in a moment. Another problem for shared owners is the existence of viable exit routes. Here, we might be looking at even more two-tier markets than we have at the moment, and that might create even more problems in terms of exit from shared ownership.

It could also directly exacerbate problems. I will not go into detail about these, but I will give a summary: as the Bill is set up at the moment, ground rent, or the ambiguities around it, could be problematic; the initial repair period could cause problems; and the loss of some existing avenues for complaints and redress could be problematic. There has been reference to squabbles. Obviously there are differences between people living in the same areas, properties, blocks or developments—that is human nature—but there is also a diversity of interests between commonholders, who bought on the open market, and shared owners, who by definition have come into their homes via an affordable home ownership scheme, and who have a different kind of stake in their home, particularly given low rates of



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staircasing to 100%. As the Bill is set up at the moment, it may be that there are structural issues that are likely to increase the possibility of a lack of alignment of interests.

As it stands at the moment, commonhold could exacerbate problems for shared owners: directly, through the issues I have mentioned, and indirectly, through the creation of an additional two-tier market where shared ownership, some forms of shared ownership or some sized shares—obviously, shared ownership is complex—may be unattractive to buyers or, more importantly, to lenders, which is the same thing in some respects.

This was not an inevitability. We are looking at substantive legislative reform, which offered—and offers—an important opportunity to review and improve shared ownership so that it delivers on what it promises: a pathway to full home ownership and affordability, thereby increasing satisfaction, which is very low at the moment, per tenant satisfaction measures.

To end, how you might do that is outside our technical expertise, but I was interested in Professor Sue Bright's evidence to the Committee, when she said, "There are numerous documented problems with the sale of the misnamed 'shared ownership'. This seems a timely moment to review how shared ownership can be delivered within a commonhold system. Shared commonhold, delivered potentially through a trust, will provide a fairer and more robust route into home ownership." I think there are more conversations to be had about how shared ownership sits within commonhold reform to the benefit of everybody—commonholders and shared owners.

Q181 Andrew Cooper: It sounds like you do not think the Bill is anywhere near where it needs to be at the moment.

Sue Phillips: No. In a number of respects, it seems that there is some ambiguity with ground rent—both about how it is defined, full stop, and about whether shared owners will be excluded from the benefit of caps on ground rent, when it comes to ground rent on the landlord's share. This is important, and you will have seen the London Assembly housing committee's evidence. Its investigation into service charges in London found that the median ground rent paid by respondents who were leaseholders in shared ownership properties was 42% higher than for other respondents or leaseholders.

So ground rent is an issue. It is not necessarily the most important issue for shared owners—a lot of people say service charges are a bigger issue—but per Homes England's guidance, ground rent was never meant to be part of the package for shared ownership. However, it has crept in, and in some cases, ground rent is problematic. For shared owners for whom ground rent is a problem, the Bill does not seem to offer reassurance.

Q182 Andrew Cooper: With the Bill as it is at the moment, in what circumstances do you think shared owners alone should exercise votes in a



commonhold association? When do you think the vote should sit with the registered provider?

Sue Phillips: It is a very interesting question, and it strikes at an aspect of shared ownership that creates a lot of dissatisfaction. Regardless of the size of their share, which could be 10% under the new model, shared owners are liable for 100% of the costs, except in the initial repair period, when the housing provider contributes up to £500 towards qualifying costs and is responsible for external structural repairs. You then have a dilemma because, as things stand at the moment, it seems there is a possibility that shared owners could be excluded from voting rights in a commonhold association for 10 years—that is a long time.

Should the vote be divided? It really depends on how much of the cost is actually borne by the provider or the housing association landlord. Part of the criticism of this new model, when it came out, was that those costs should surely be covered by new build warranties and guarantees. Was it a meaningless offer anyway?

So to be able to answer this question, one would need a lot more data on whether housing associations are actually paying substantial sums of money on structural and external repairs during that 10-year period, or whether shared owners are set to miss out on a vote for no good and meaningful reason. If they are not, how would you allocate it? If a shared owner has a 10% share, does that put them in a different position than if they were to have a 75% or 80% share? Again, there are all kinds of questions.

One reason why we have recommended a taskforce is that there is far too little time to even scratch the surface of the issues raised by shared ownership for commonhold. It needs to be looked at in detail.

Q183 Andrew Cooper: To be fair, the Bill has not set this out yet, has it? It says that the Secretary of State will make regulations, so they will use secondary legislation to define where that would sit. Is it your view, then, that a taskforce or some body should be set up to look into this to define what that secondary legislation should look like? Is that what you are arguing?

Sue Phillips: It is my view that there are so many issues with the relationship between commonhold and shared ownership, and one would not want to see shared ownership brought into commonhold without tackling any of the existing problems with the 10 years. It would be such a missed opportunity. I think there would two aspects for whatever body—a taskforce or a working group—to look at. First, how do we take the opportunity to ensure that shared ownership is structured to deliver what it is intended to deliver? Secondly, how do we do that so that it integrates with commonhold to the benefit of commonholders and shared owners?

Q184 Andrew Cooper: I am conscious of time, so I will ask you one last thing. Do you think there will be any differences between people on older person's shared ownership versus the more mainstream new model of shared ownership that are relevant to how the Bill will operate?



Sue Phillips: We have raised that issue, and it also occurred in other written evidence to the Committee. Without wanting to make generalisations about people who go into shared ownership, some of them will be there over a period of time and may develop age-related conditions that make it unrealistic for them to take on the kind of complex decision making associated with being a member of a commonhold association. It seems that there are questions to be asked around older person's shared ownership, particularly extra-care older person's shared ownership, where, by default, people require extra care. That is not necessarily a demographic that is going to be inclined to want to participate in these kinds of collective decision-making processes. There are questions to be asked there and, perhaps, with some other variants of shared ownership as well.

Q185 **Sarah Smith:** We have heard a number of perspectives during our hearings over recent weeks, particularly around whether the Bill should also include something around managing agents and regulation of managing agents, as well as around the Law Commission's recommendations around right to manage. I am interested to hear from anyone on the panel whether you would like to see either of those areas included within the legislation, or whether anything else is missing from the current Bill, taking on what Sue has just outlined about the shared ownership model.

Shula Rich: Managing agents should have a qualification. That qualification can be available from many places, including the Institute of Workplace and Facilities Management, the TPI or the College of Estate Management. In terms of mental health, being a managing agent has been documented as one of the worst occupations in the country, so better training is going to make them better managers. You can regulate and you can qualify managing agents, but you cannot regulate the blocks and say that they must take a regulated or a qualified managing agent on.

So I would like to see a range of good, high-level academic and practical qualifications for managing agents, and it should be shown that these may be the people of choice. But one single managing agent is not always suitable, particularly for a large development; even in a block of 109 like my own, we prefer an onsite manager. We prefer our own accountants and bookkeepers, who can be welded into a team with proper procurement practices.

In a practical sense, therefore, there are things that have been left out of the education of managing agents—particularly procurement policies, guarantees and fidelity bonds. All power to the institutions that are offering better qualifications. I hope it makes agents better agents and the agents of choice, but not the agents of compulsion.

Sebastian O'Kelly: You heard from the money earlier, and they have were talking about regulation of managing agents. I think it is very much a secondary thing. When it comes to reforming leasehold, experience teaches us that if you make the Bill too complicated, it will get entangled in endless lobbying and be rendered impotent—that is what happened to



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the 2002 Act. I would leave the regulation of managing agents for a later date.

The most important regulation in terms of managing agents is that the people who pay the bills can have the power of hire and fire. That is far more important than any regulatory regime. At the moment, property managers are the clients of the freeholders, and they do the freeholders' bidding. If they do not sweat an asset, they will be replaced. That is the reality of the situation. I think regulation of managing agents is a secondary issue. Control of the service charges by the residents is far more important.

Martin Boyd: The very short answer to your question is yes, but I would like to step back for a few moments and comment on some of the evidence you have previously had on the structure of the market. You have been told repeatedly that leaseholders control most of the sites that are out there. I asked the Building Safety Regulator, and he has provided me with the data on how the market is actually working, because all high-rise buildings have to be registered with him. His data says that 4.5% of high-rise buildings are RTM-controlled, and 14.8% are MC-controlled. So less than 20% of the market is actually controlled by the people who pay the bills. That puts a very different picture on why we have to have more powers in the Bill to support and help the consumer.

There is another statistic I would like to give you, and I will provide some more detailed data. Of the requests for help that come to the Leasehold Advisory Service, service charge is by far and away the largest item. However, 10% of the inquiries that come to us are on section 20 consultation specifically. Section 20 is a very important piece of legislation for major works. It has not worked properly since the Supreme Court case in 2013. The Competition and Markets Authority asked the Housing Department to review section 20 in 2014. It still does not work, and it is perhaps one of the most important things that might be considered for adding to the Bill.

Shula Rich: There is one other thing. Right to manage could be made to work within this Bill for estates, because people are being bullied out of their right to manage by freeholders writing letters to whole estates saying, "You will get your premises, but we will still control the car parks, the gardens and the security." Recently, the Metropolitan Thames Valley housing trust wrote to three blocks that had just got right to manage to tell them that all their leases were going to have to be altered because they would no longer be contributing towards the communal areas. Brookside, for example, has sent out a threatening letter to all its leaseholders in a Cambridge estate saying that, if they go for right to manage, they will have to pay the costs. That sort of bullying occurs because of the profit that is being taken away from the freeholders who are managing the estates. When it first came in, right to manage did allow RTM for estates to include leasehold houses and freehold houses. If we can introduce just one thing, can we look at allowing that again?



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Everything on an estate should be able to get right to manage as a whole estate; that will end the threats, the bullying and the misinformation.

Sarah Smith: Thank you. Martin, I am sure it would be appreciated if you wrote to the Committee with some of the further detail you referenced.

Chair: I thank all the witnesses we have had today. Their contributions will help us formulate our views on this draft Bill.