June 2026
Summer edition

Central London Estates

Newsletter

Welcome to our summer edition of our Central London Estates Quarterly Newsletter

Commonhold and leasehold reform, together with continued focus on upward only rent reviews, remain firmly on the agenda. While the detail can be complex, the implications are significant. In this summer edition of our newsletter, we highlight the points most likely to shape thinking in the months ahead.

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Upwards only rent review ban

The English Devolution and Community Empowerment Act 2026 received Royal Assent in April of this year and introduces a significant shift in the treatment of rent reviews in commercial leases.

The Act will ban upwards only rent reviews, although the provisions are not expected to come into force until 2027. The government's aim is to support high street businesses, which it considers have been adversely affected by traditional rent review structures. While similar regimes operate in jurisdictions such as Ireland and Australia without apparent detriment to their property markets, the long term impact on investment and leasing dynamics in England and Wales remains to be seen.

The ban covers any rent review mechanism where the potential rent increase is not known at the date of the lease grant. This will capture index linked rent reviews as well as open market reviews. Whilst upwards only reviews will be prohibited once the ban is in force, we have seen initial guidance from the Ministry of Housing, Communities and Local Government stating that post ban it will be permitted for the rent to be reviewed to the higher of two references, such as the higher of open market and index linked rent, provided that if both reference amounts fall the rent can go down. This isn't stated in the legislation and so we hope to receive more detailed guidance from the government in this regard.

There is a retrospective element to the Act in relation to lease renewal arrangements entered into on or after 17 March 2026. This means that any options to renew and agreements for renewal leases entered into after 17 March will be caught by the ban. Aside from these renewal arrangements, any agreements for lease or leases granted before the Act comes into force will not be caught and can continue to operate upwards only rent reviews.

The legislation also includes anti avoidance provisions to prevent landlords from negating the effect of the ban by, for example, entering into side arrangements with tenants to provide for rental top ups should the rent decrease on review. Pursuant to the Act, these types of provisions will be void. The Act also renders void any lease provision stating that only the landlord can trigger the rent review. This is to prevent landlords carrying out the review in an upwards market. Under the Act, tenants will be allowed to trigger the rent review even if this is not provided for in the lease.

Underleases entered into post the ban coming into force are also caught. This means that any provisions in leases requiring underleases to contain upwards only reviews will not be enforceable. Instead, the landlord and tenant to the underlease will agree the rent review provisions between themselves, and the superior landlord won't have the same degree of control as would usually be expected over the underlease rent review.

We are awaiting a government consultation as to whether caps and collars will be permissible, although initial commentary from the government suggests that if a collar is allowed then a corresponding cap will be required. The timing of this consultation has not yet been confirmed by the government.

For more information on the ban, including details of which transaction types will be caught by the ban and from when, please refer to our more detailed **Briefing Note**. If you have any specific questions or concerns about ongoing transactions, please speak to your usual Forsters contact who will be happy to review and advise.

Louise Irvine
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Coming up

24.09.2026
Home House 6pm

Great Estates Quiz

Curate your strongest team and put your collective expertise to the test at the Great Estates Quiz.

Draft commonhold and Leasehold Reform Bill

The draft Commonhold and Leasehold Reform Bill landed in January 2026 and quickly sparked extensive engagement across the property sector, with 187 written submissions received to the consultation. While most stakeholders welcome the direction of travel, the responses raise legitimate concerns about a hasty move to commonhold.

Unintended critics

Some of the most significant criticism comes, rather unexpectedly, from the very group the reforms are designed to support: leaseholders themselves. While the shift towards commonhold is appreciated, there is a strong consensus that the draft Bill falls short of addressing the real source of leasehold harm - entrenched power imbalances.

Some leaseholders are also concerned that they will have less security under commonhold, as rights and obligations can be changed by a majority vote - in stark contrast to the fixed, reliable contractual terms of a long leasehold interest with share of freehold. The 80% threshold to terminate a commonhold has also raised concerns about undermining the principle of perpetual freehold ownership.

A divided market in the making?

A common concern is that the proposals risk creating a two-tier market, with commonhold seen as the superior tenure and existing leasehold properties becoming harder to sell or mortgage. The draft Bill is seen as prioritising future commonhold developments while offering no clear, workable route for existing leaseholders.

Lenders share these concerns, warning that mandating commonhold could destabilise the mortgage market, slow transactions and create “mortgage prisoners” unless the sector is given time to adapt.

Ground rent conundrum

One of the most contentious aspects of the proposals is the cap on ground rents which to many, feels like a blunt instrument; ripe for a human rights challenge.

This is an area in which stakeholders appear united but only in opposition; having fundamentally different perspectives.

On the one hand, leaseholders question the rationale for the preservation of ground rent (albeit capped) for any period. They argue that it still leaves them paying “money for nothing”; offering no meaningful relief. There are concerns also that a further two-tier perception could be created with buyers favouring newer, rent-free alternatives. On the other hand, landlords and pension funds predictably continue their strong opposition to the cap, arguing that it retrospectively rewrites freely negotiated contracts without fair compensation. The unindexed, blanket rate of £250 is seen as arbitrary and disproportionate which they say, could trigger loan covenant breaches, insolvencies and corporate failures, and undermine long-term building management and safety obligations.

Pension funds go further, arguing that the cap could trigger a major transfer of value away from pension beneficiaries, wiping value from ordinary workers’ retirement savings.

Ironically, those who have already collectively purchased their freehold interests could also be worse off. For leaseholders who have already collectively enfranchised and paid to acquire the ground rents of non-participating flats, the ground rent cap will drastically reduce the value of their investments, unfairly penalising affected leaseholders for their proactivity.

So what do all these groups want to see from a new framework?

The short answer is: a lot, and not all of it is aligned.

Broadly, stakeholders want a framework that works in practice, gives existing leaseholders a realistic route into commonhold, and allows the market time to adapt. There is also a clear expectation that reform should improve outcomes for current leaseholders as well as future commonhold owners.

The Select Committee’s view

Following the consultation, the Select Committee published their report on the 27 May 2026. Despite the reservations of stakeholders, the Committee consider the draft Bill to represent a significant step towards giving leaseholders greater control, but they acknowledge that the final Bill will require amendment to fulfil leaseholders’ expectations and deliver on prior government pledges.

Capping ground rents

On the most contentious point – the Committee backs the government's proposal of a uniform £250 cap with the intention to reduce to a peppercorn. They question whether a 40-year transitional period is necessary though; suggesting that 20 years could also represent a fair balance.

Conversely, they find the arguments of pension funds and landlords less persuasive. Whilst the Committee acknowledge that the draft Bill may have a significant financial impact, they note that all investment decisions carry risk, and they don't believe the argument is strong enough to dissuade the governments' pursuance of the policy. They vehemently reject the suggestion that ground rent is required as a contribution towards building safety remediation and find no evidence to support the claim that a cap may result in "widespread insolvency" of landlords.

Strengthening leaseholder's rights

The Committee agree with stakeholders that leaseholders require additional protections as the conversion of tenure takes place. They are critical of the fact that the draft Bill lacks any provision for the regulation of managing agents including the creation of an independent regulator with meaningful enforcement powers, and recommend that this is included in the final Bill.

Commonhold

The Committee is generally content with the new framework for commonhold as the long-term replacement for leasehold. Their two main recommendations are for commonhold to be the default outcome of collective enfranchisement (with the ability for leaseholders to opt out) and for there to be a requirement for any leaseholders who join enfranchisement/commonhold later to contribute to all shared costs; thereby avoiding any incentive for leaseholders to refrain from participating from the outset.

So where does that leave us?

The Committee's report is, in many ways, a reality check – supportive of the government's direction but clear that the Bill still needs refinement. It echoes some of the concerns raised during the consultation while maintaining a broadly positive view of the fundamental reforms. The ball is now in the government's proverbial court, with a final Bill expected as early as July.

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