

# ALERTER

## FURTHER AND FASTER? PUBLICATION OF PRE-LEGISLATIVE SCRUTINY OF THE DRAFT COMMONHOLD AND LEASEHOLD REFORM BILL

### Douglas Maxwell



The Housing, Communities and Local Government Committee (the “Committee”), appointed to examine the draft Commonhold and Leasehold Reform Bill (the “Bill”), today published its final report.

The fact that the Committee was appointed to undertake the irregular pre-legislative scrutiny process highlights the many challenges and differing perspectives the Bill gives rise to.

Douglas Maxwell of Henderson Chambers was invited to give evidence to the Committee on 10 March 2026, alongside Philip Rainey KC and Mari Knowles. The Committee heard from a large number of witnesses, including Lord Michael Gove, Angela Rayner MP, Philip Freedman CBE KC, and Lord Best. Douglas’s oral evidence is cited and quoted in the final report. For example, the Committee quotes Douglas at paragraph 54 and subsequently agreed that, if enacted, it was “almost inevitable” that certain aspects of the Bill would be challenged on human rights grounds. The Committee also relied on his request for a “proper consideration” of the proposed 40-year transitional period at paragraph 68. However, the final report largely fails to properly consider his concerns that the universal cap of £250 could result in a breach of Article 1 of Protocol No. 1 (“A1PI”) to the European Convention on Human Rights.

The report covers a great deal of significant ground that cannot be covered within the confines of this short article. The headlines focus on the calls for the reforms to go further and faster.

Chapter 2 considers proposals for a universal cap on ground rent in existing leases at £250 per year, with a 40-year transitional period before all ground rents

are reduced to a peppercorn (£0). The report cites the MHCLG analysis, which states that, if enacted, this would result in a value transfer of £10bn to £12.7bn. The committee:

- Agreed with the proposed universal cap of £250.
- Called for a shorter transition period from 40 to 20 years and calls on the Government to publish the data underpinning the government’s decision to set the transitional period at 40 years to allow the committee to come to a “definitive judgment on the optimum transitional period”.
- Called for the government to provide an initial response to the Committee’s recommendations within two months, to introduce the final bill to Parliament in autumn 2026, and to “ensure” that the “bill receives Royal Assent in mid-2027, so that some of the provisions, such as the cap on ground rent, can come into force in late 2027.”

In relation to potential challenges to the proposed ground rent cap under A1PI, the Committee concluded:

*“Based on the evidence we have heard, we believe that it is likely that the ground rent provisions in the draft bill, if passed in their current form, would be subject to a legal challenge on the grounds that they breach freeholders’ property rights under Article 1 of the 1st Protocol to the European Convention on Human Rights (ECHR). We do not believe the government is able to mitigate the risk of legal challenge completely”.*

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Despite these concerns, the Committee concluded that the government should “push ahead” with an accelerated timeline.

While the Report and its recommendations have the potential to be significant, this can only be assessed once the government’s response is published.

To access the full report: House of Commons, Housing, Communities and Local Government Committee, Pre-legislative scrutiny of the draft Commonhold and Leasehold Reform Bill, First Report of Session 2026-27 (HC 40, 27 May 2026)

If you would like to discuss any matters arising from the final report or the Bill, please contact [clerks@hendersonchambers.co.uk](mailto:clerks@hendersonchambers.co.uk)

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### ABOUT THE AUTHOR

#### Douglas Maxwell



Douglas' practice covers all aspects of property law. He has particular expertise in matters concerning human rights having published his first book, *The Human Right to Property: A Practical Approach to Article 1 of Protocol No. 1 to the ECHR* (2022). Recent instructions include acting for a commercial landlord seeking to appeal a prohibition notice relying on *inter alia* Article 1 of Protocol No. 1; acting for a landlord in a dispute over the mutual enforcement of absolute covenants; and being invited to Parliament to give evidence on human rights issues before the Leasehold and Freehold Reform Public Bill Committee.

[View Douglas' profile here.](#)

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