Title: Leasehold and Freehold Reform Bill Impact Assessment **IA No:** DLUHC-5311 **RPC Reference No:** DLUHC-5311(1) **Lead department or agency:** Department for Levelling Up, Housing and Communities **Other departments or agencies:**	Impact Assessment (IA) **Date: 31 October 2023** **Stage:** Bill **Source of intervention:** Domestic **Type of measure:** Primary Legislation **Contact for enquiries:**
Summary: Intervention and Options	**RPC Opinion: Green (Fit for Purpose)**

Cost of Preferred (or more likely) Option (in 2019 prices, 2020 present value, £m)			
Total Net Present Social	**Business Net Present Value**	**Net cost to business per year**	**Business Impact Target Status**
£90.9	-£1701.8	£222.8	Qualifying provision 1114.0

The leasehold sector represents one in five (4.98 million) properties of the English housing stock.[1] And one in six homes in Wales (approximately 235,000).

Under the current system, many leaseholders have very limited control over their property or building, with the freeholder, '(landlord)', making decisions about the management and maintenance of the building and passing on the costs to leaseholders. While many freeholders (landlords) will provide adequate service for a reasonable cost, there is growing concern, documented in various industry reports, as well as investigations, including by the Competition Market Authority and the Housing and the Communities and Local Government Select Committee, that the current legislation leaves leaseholders exposed to the risk of abuse and bad practice. It is difficult for leaseholders to enforce their rights to tackle these issues. Issues faced by leaseholders include a significant lack of transparency over charges they are required to pay, escalating ground rents and unfair lease terms, as well as limited access to redress and an unequal liability to cover legal costs in disputes.

Taking control over the freehold or the management of the building is often complex, can be prohibitively expensive and existing legislation contains barriers restricting many leaseholders from taking up these rights; and many do not have these rights at all due to outdated and restrictive qualifying criteria. These issues leave some leaseholders facing challenges when they come to sell or re-mortgage, leading to insecurity over the tenure. More than half (57%) of respondents to the National Leasehold Survey reported regretting buying a leasehold property and evidence suggests leaseholders are less satisfied with their property compared to other types of owner occupier.[23]

Government intervention is needed to help rebalance power in the market and empower leaseholders to take greater control of the homes they have paid for, whilst maintaining the legitimate rights of freeholders. In addition, intervention is required for freehold homeowners living on managed estates to address gaps in their rights to challenge the costs they face.

[1] https://www.gov.uk/government/statistics/leasehold-dwellings-2020-to-2021/leasehold-dwellings-2020-to-2021

[2] https://www.lease-advice.org/files/2016/07/Brady-Solicitors-in-partnership-with-LEASE-Leaseholder-Survey-June-16.pdf

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088477/EHS_2020-21_Owner_Occupier_Leaseholders_Report.pdfhese

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

To deliver a fairer system, where leaseholders are empowered and have greater security and control over their property, with increased transparency over the costs they are charged and improved access to redress when things go wrong – and extending the benefits of freehold ownership to more homeowners. As a result of these reforms:

1. More leaseholders will be able to exercise rights to buy their freeholds or extend their lease and it will be easier and cheaper to do so;
2. More leaseholders will also be able to take control of their buildings through exercising the right to manage;
3. Leaseholders will be protected from paying insurance commissions and will be provided with better information on the service charges they pay;
4. Where leaseholders take a dispute to court or a property tribunal, the award of legal costs will be fairer;
5. Access to redress schemes will be extended to all leaseholders and to freehold homeowners on managed estates;
6. Freeholder homeowners on privately managed estates will gain new rights to challenge costs and the management of their estates; and
7. Prospective homebuyers will also get access to quicker information at a fixed cost to better inform them of the key information relating to their potential purchase.

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

A range of options have been considered to deliver a fairer, more secure and transparent Leasehold regime:

- **Option 1 – do nothing:** This option would maintain the status quo, with leaseholders lacking control and transparency, faced with potentially unfair and unaffordable costs to enfranchise and experiencing limited security over their tenure. It will leave millions of leaseholders in an unequal and skewed regulatory environment, and with limited access to redress. Leaseholders would be left having to navigate structures that maintain a power balance in favour of freeholder but impede market efficiency. It would mean Government will fail to deliver the changes leaseholders have been waiting for since commitments were made in 2017.
- **Option 2 – non-legislative interventions**: For example, encourage the market to voluntarily provide longer leases and reduce the cost of enfranchisement, further encourage managing agents and landlords/freeholders to follow Government approved codes of practice (e.g. RICS service charges code) to promote best practice and publish guidance to encourage freeholders to voluntarily register on one of the Government approved redress schemes. We believe these are not sufficient to bring the desired change for leaseholders. In addition, many of the barriers leaseholders face in relation to taking up their enfranchisement and management rights are derived from restrictions which are set down in existing laws and using secondary legislation would not fix this. Without amendments to the current primary legislation, the policy objective could not be reached.
- **Option 3 – legislation (preferred):** It is only by changing the law that we can deliver the reforms we want to see – reforming the process by which the cost of enfranchisement is decided (valuation reforms), and prescribing rates that determine the cost of compensating freeholders, as well as changing the rules so that each side bears its own legal costs. Improving and clarifying the law around enfranchisement and intermediate leases and requiring freeholders to pay their own costs in the process. Increasing access to enfranchisement and Right to Manage, by increasing the non-residential limit in mixed-use buildings from 25% to 50%. Providing leaseholders with an automatic right to a 990-year lease extension and removing the two-year ownership requirement before being able to enfranchise. Extending access to redress schemes (already required where a managing agent is employed) to all leaseholders and freehold homeowners on privately managed estates and provide a minimum standard of information to these homeowners on the fees and charges they are required to pay. Some of this will be done through secondary legislation. Unlike options 1 and 2, this option will deliver the policy objectives, as it will re-balance power for leaseholders through amendments to leasehold law, providing them with greater security, control and transparency.

Is this measure likely to impact on international trade and investment?		Yes		
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** **N/A**	**Non-traded:** **Some savings, but likely small impact**	

Will the policy be reviewed? See section 5 **If applicable, set review date: dates tbc**

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

Signed by the responsible Minister: Lee Rowley Date: 8 December 2023

Summary: Analysis & Evidence Policy Option 3

Description: All reforms

FULL ECONOMIC ASSESSMENT

Price Base	PV Base	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
2019	**2020**	**10 years**	**Low:** -1493.7	**High:** 1510.3	**Best Estimate:** 90.9

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)	Total Cost (2020 Present Value)
Low	33.6		263.2	**2292.8**
High	53.9		449.6	**3899.1**
Best Estimate	43.7		342.9	**2984.7**

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

The main costs of the reform are expected to fall on freeholders. These include removal of marriage value (£1.9bn 2025 PV over the appraisal period); the requirement for landlords to pay their own non litigation costs as part of enfranchisement or Right To Manage (RTM) applications (£599m, 2025 PV); and setting a 0.1% cap on ground rent as part of premium payments (£588m, 2025 PV). These costs are all transfers from freeholders to leaseholders. The largest costs which are not transfers and therefore impact the NPV are the additional fees and time taken to register for redress schemes (£207m, 2025 PV); and familiarisation costs to understand and adjust to new regulations (£41m, 2025 PV). Overall, the average annual cost divided by the number of freeholders is estimated to be £828 (2025 PV). The main monetised costs to leaseholders are the additional time cost of dealing with queries to the mandatory redress body (£8.5m, 2025 PV). There is expected to be familiarisation costs for managing agents (£2.1m, 2025 PV), valuers (£1.4m, 2025 PV), legal advisors (£1.5m, 2025 PV), insurers (£0.04m, 2025 PV) and brokers (£0.01m, 2025 PV).

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

There are a number of reforms that are expected to have a cost on freeholders that we have not been able to monetise such as increased eligibility and specific valuation issues in relation to collective enfranchisements. In some instances, we expect freeholders may pass through some, if not all, of the costs incurred as a result of the reform onto leaseholders. This would represent a decrease in costs to freeholders and an increase in costs to leaseholders.] We do not expect substantial numbers of freeholders to exit the market. Following our reforms, many freeholders will continue to hold a valuable long-term interest in leasehold buildings, e.g., from lease extensions premiums. We also anticipate that strong demand for residential properties, including flats, will continue to drive developers to bring forward leasehold properties to the market.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (2020 Present Value)
Low	0.0		279.5	**2405.3**
High	0.0		442.0	**3803.1**
Best Estimate	0.0		357.3	**3075.6**

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

The main benefits of the reforms are expected to fall to leaseholders. These include the removal of marriage value (£1.9bn 2025 PV over the 10-year appraisal period); requiring landlords to pay their own non litigation costs as part of enfranchisement or RTM application (£599m, 2025 PV); setting a 0.1% cap on ground rent in the enfranchisement process (£588m, 2025 PV); and regulating the cost for leaseholder information in the home buying and selling process (£81m, 2025 PV). These represent transfers from freeholders to leaseholds. The overall benefit per annum over the 10-year appraisal period divided across all leaseholders is estimated to be £73 (2025 PV). The largest monetised benefit to freeholders is efficiency savings from a simplified valuation process (£418m, 2025 PV). This is the largest non-transfer benefit.

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

There are expected to be significant non-monetised benefits to leaseholders such as enhanced ability to hold freeholders and managing agents to account in terms of their management of properties through the increased transparency of service charges; cheaper access to courts; increased access to redress; and increased ability to directly take over management or enfranchise. Leaseholders are also expected to experience distributional and wellbeing benefits due to the reforms. Non-monetised benefits to both freeholders and leaseholders include improvements to the valuation process to make it more transparent and easier to navigate and a route to resolve particularly burdensome or complex cases through the redress system.

Key assumptions/sensitivities/risks (%)	**Discount Rate**	3.5

The assessment includes estimates of the impacts arising from primary and secondary legislation where possible. Where assumptions have been made, we have included scenarios. Valuation impacts rely on HM Land Registry data and assumptions in relation to characteristics of the stock of leases, the number of enfranchisements per year and distribution of lease length, property prices and the number of freehold titles and estimates of number of freeholders. The headline Equivalent Annual Net Direct Cost to Business (EANDCB) does not include any estimates of cost pass through from landlords to tenants as this is classified as a second order effect but does include the impacts on the 37% of leaseholders who are estimated to be landlords. In line with the Better Regulation framework, we have assumed 100% compliance with new regulations in estimating costs and benefits.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying**
Costs: 340.7	**Benefits:** 118.0	**Net: 222.8**	1114.0

Contents

Summary: Intervention and Options 1
Summary: Analysis & Evidence Policy Option 3 5
1. Rationale for intervention 8
1.1 Background 10
1.2 Problems under consideration 19
1.3 Policy objectives 30
2. Options 32
2.1 Description of options considered 32
2.2 Summary of preferred option including implementation 43
3. Monetised and non-monetised cost and benefits of preferred option 45
3.1 Analytical Approach 45
3.2 Summary of Impacts 47
3.3 Assumptions about freeholder behaviour 52
3.4 Detail of monetisation in estimates 53
3.5 Direct costs and benefits to business calculations 61
3.6 Impact on Small and Micro Businesses 67
3.7 Assumptions Underlying the Analysis 74
3.8 Wider Impacts 80
4. Risks and Uncertainties 82
5. Monitoring and Evaluation 85
6. Summary tables of costs and benefits 87
Annex 1: Terms and Definitions 97
List of policy measures in the Bill 100
Annex 2: Make it cheaper and easier for leaseholders to enfranchise – that is to buy their freehold or extend their lease 101
Annex 3: Enable more leaseholders to buy their freehold or take over management of their building 139
Annex 4: Improve homeowner access to redress 152
Annex 5: Legal Costs 163
Annex 6: Strengthen Rights for Homeowners on Freehold Estates 171
Annex 7: Provision of sales information and maximum fees 183
Annex 8: Service Charge Transparency 189
Annex 9: Banning commissions for Landlords, Freeholders and Property Managing Agents in building insurance placements 197
Annex 10: Technical Valuation Annex 208

1. Rationale for intervention

1. Leasehold is a significant part of the housing stock. Around 1 in 5 properties in England, and around 1 in 6 properties in Wales are leasehold homes. Leasehold properties can be occupied by owner occupiers, as well as renters in both the private and social sectors. Leasehold properties can be flats or houses. Leaseholders do not own the bricks and mortar of their property, but they do have a right to occupy that property for the period of their lease.

2. Under the current system, too many leaseholders have limited control over their property or building. Management structures can be complicated; there may be a series of intermediate landlords between the leaseholder and the ultimate freeholder (landlord) of the building. There is a disconnection between the party making decisions about the management and maintenance of the building and the leaseholders who those costs are passed onto. While many freeholders will provide adequate service for a reasonable cost, concerns raised over recent years suggest that the current legislation leaves leaseholders exposed to abuse and bad practice. It can also be difficult for leaseholders to exercise their rights to tackle these abuses.

3. We know there is a significant lack of transparency over charges leaseholders are required to pay. There can be escalating ground rents and unfair lease terms, as well as limited access to redress and unequal liabilities for legal costs in disputes even when leaseholders win their cases. Additionally, the process for acquiring ownership of the freehold or taking on the management of the building is often complex and can be prohibitively expensive. Existing legislation contains barriers restricting many from taking up these rights and many leaseholders do not have these rights at all given the outdated and restrictive qualifying criteria.

4. In addition, there are estimated to be approximately 15,570 freehold estates in England, which are private freehold and mixed tenure estates where the owners are required to contribute to the upkeep of the communal areas. This is increasingly common for new homes, with evidence compiled by the Competition and Markets Authority suggesting that 9 in 10 new freehold homes built by the major housebuilders in 2022 were subject to estate management charges.[4] Intervention is required for freehold homeowners living on freehold estates to address gaps in their rights to challenge the costs they may face and also to ensure that, when things go wrong, they have the same rights to redress as other property owners.

5. Government intervention is needed to help rebalance power towards leaseholders, changing this market to better empower leaseholders to have greater control and say over the management and associated costs of the homes they have paid for, whilst maintaining the legitimate rights of freeholders (landlords).

6. The Government believes the leasehold sector is subject to a number of economic **market failures** which interact to disrupt the efficient allocation of resources, sometimes leading to higher costs and a diminished user experience:

[4] CMA, p37, see: Housebuilding update report (publishing.service.gov.uk)

- **There is an inherent power imbalance** between landlords/freeholders and leaseholders, which limits leaseholders' ability to assert their rights, access redress and negotiate better terms within the system.

- There is an **asymmetry of information,** with landlords typically holding more information about properties than leaseholders. Professional freeholders are better versed on the complexities of the leasehold process. For example, leaseholders may be unaware of the full ongoing costs associated with a leasehold purchase in respect of service charges and commission fees, which can vary from initial purchase.

- **There are high barriers to entry and in particular exit,** as leaseholders are locked in and not able to easily move home if service charges or ground rents are unreasonable, or management is poor. The high cost of enfranchisement and the rules around those who have rights to enfranchise and those who do not can prevent people from taking more management control.

- **There is a separation of control and misalignment of incentives** in the basic leasehold structure, whereby responsibility for appointing and supervising property managers rests with the landlord while leaseholders bear the cost – a major cause of the problems and discontent experienced. This can lead to a misalignment of incentives; landlords/freeholders do not carry the ultimate costs of property maintenance and so may have weak incentives to ensure that leaseholders are getting a good service and value for money.

7. Alongside these market failures, there are also other reasons to justify intervention in the leasehold market:

    - **Equity / Fairness.** We want to make it simpler and cheaper for leaseholders to buy their freehold and take over management control of their homes. We know that many leaseholders are keen to take more control but have to navigate a process which has evolved over generations to place power in freeholders' hands and prevent leaseholders from readily making that change.

    - **Simplifying an overly complex process**. There is no such thing as a standard lease – leaseholders are governed by leases which are often the result of complex negotiations carried out by multiple parties and over different periods of ownership. This results in leases that are difficult for a lay person to understand and interpret, can be different from the lease for the property next door and are difficult to vary or amend. It can mean that leaseholders who are unhappy can struggle to understand how they can make things better and will need bespoke support from professionals.

    - Marriage value, in particular, adds extra complexity and cost, as highlighted by the Law Commission's report on Valuation. It means that leaseholders face extra costs when they seek to buy their freehold or want to extend their lease when the remaining lease term has fallen to 80 years or below. The outcome of the calculation itself is highly opaque while the separate elements are complex and contested and, as a result, there is asymmetric information issues surrounding its complexity. This is a cost that is not payable by other parties, for example where the freehold is bought by a third party. Furthermore, freeholders are already renumerated for the value of their lease through the 'term' and 'reversion' of the valuation calculation (see Annex 10), with the reversion component representing the value of the property. Marriage value is also not payable in all types of enfranchisement, for example if the 1987 Act is used. Where a lease is simply allowed to run its course, it would return to the freeholder without any receipt of marriage value: the proposed approach therefore reflects the value that the freeholder would receive if the lease had simply run its course.

8. The existence of these market failures means that there is a clear economic rationale to intervene. If we can address these market failures, we can expect a better functioning leasehold market with fewer power imbalances and greater transparency. We expect this will result in greater certainty in the market, a better quality leasehold experience and improved wellbeing of leaseholders. Government will introduce reforms that will enable:

    1. More leaseholders to exercise rights to buy their freehold or extend their lease and it will be easier and cheaper to do so;
    2. More leaseholders to take control of their buildings through the right to manage;
    3. Leaseholders to be protected from paying insurance commissions and be provided with better information on the service charges they pay;
    4. Leaseholders who take a dispute to court or a property tribunal to get a fairer award of legal costs;
    5. Access to redress schemes to be extended to all leaseholders and freehold homeowners on managed estates;
    6. Freeholders on privately managed estates to gain new rights to challenge costs and the management of their estates; and
    7. Prospective homebuyers to get access to quicker information at a fixed cost to better inform them on the key information relating to their potential purchase.

1.1. Background

9. All residential property is owned either as a freehold or leasehold. Put simply, freeholders own both the property and the land the property is on forever. Leaseholders own their property for a fixed amount of time, leasing it from a third-party landlord (this may be the ultimate freeholder who owns the building/land or an intermediate landlord). Ownership of the property reverts back to the landlord when the lease comes to an end, but it is possible and normal for leaseholders to pay to extend their lease and increase their period of ownership. Leasehold ownership is prevalent in England and Wales, with the vast majority of flats being held as leasehold properties and also some houses. Some leasehold blocks may also include commercial units.

10. In addition, some people who have purchased freehold houses on private or mixed tenure estates may have communal parts of the estates which are managed privately rather than by the local authority. This management can cover roads, street lighting, and communal open space. In these circumstances, freehold homeowners are required to contribute towards the maintenance of the shared areas through payment of an estate rentcharge or some other management contribution.[5]

11. A leasehold property is not the same as a freehold property in law and, generally, leasehold properties are expected to be cheaper to purchase because it is essentially a long-term rental agreement. However, the Government believes that both leaseholders and freehold homeowners should feel like their home is truly their own. The Government is reforming leasehold to help so that:

    1. More leaseholders will be able to exercise rights to buy their freehold or extend their lease and it will be easier and cheaper to do so;
    2. More leaseholders will also be able to take control of their buildings through the right to manage;

[5] Managed private freehold and mixed tenure estates: [PLACEHOLDER – future GOV.uk text]

3. Leaseholders will be protected from paying insurance commissions and will be provided with better information on the service charges they pay;
4. Where leaseholders take a dispute to court or a property tribunal the award of legal costs will be fairer;
5. Access to redress schemes will be extended to all leaseholders and freehold homeowners on managed estates;
6. Freeholders on privately managed estates will gain new rights to challenge costs and the management of their estates; and
7. Prospective homebuyers will also get access to quicker information at a fixed cost to better inform them on the key information relating to their potential purchase.

12. This Impact Assessment reviews the reforms set out in the Government's Leasehold and Freehold Reform Bill. It considers them both at an aggregate level and (in the annexes to this document) at an individual level. It provides an analysis of the reforms' rationale, anticipated impact and benefits and costs, and how these will vary by different economic agents, including small and medium sized businesses.

13. While this impact assessment covers both England and Wales, the evidence drawn on for this impact assessment is not always available for both countries (section 3.1, covers the approach taken in relation to analysis and evidence).

Background statistics

Leasehold

14. ***Size of sector*: A substantial and increasing amount of housing in England and Wales is owned as a leasehold.** About one in every five properties in England is owned on a leasehold basis (4.98 million dwellings; English Housing Survey, EHS, 2021-22),[6] In Wales, leasehold stock is estimated at one in six (approximately 235,000 properties) of all housing stock (2021).[7] Leasehold properties, predominantly new flats, continue to be built, with the leasehold market growing by 17% over the last 6 years[8](compared to a 3% growth in the freehold properties[9]).

15. ***Leasehold ownership varies by region across England and Wales.*** In England, London and the North West had the highest proportion of leasehold dwellings, at 36% and 32% respectively, significantly higher than all other regions in England which had between 9% and 17%. Similarly in Wales, the estimated stock of leasehold properties is distributed unevenly across Welsh local authorities, with Cardiff seeing the highest proportion of leaseholds.

16. ***Type of ownership*: The leasehold sector comprises both owner occupiers and properties rented out in the private rented sector, as well as a much smaller number of leasehold properties in the social housing sector.** Of the 4.98m leasehold properties in England, 2.86m (57%) dwellings are in the owner

[6] https://www.gov.uk/government/statistics/leasehold-dwellings-2021-to-2022/leasehold-dwellings-2021-to-2022#:~:text=In%202021%2D22%2C%20there%20were,in%20the%20private%20rented%20sector.

[7] https://gov.wales/sites/default/files/statistics-and-research/2021-03/research-into-the-sale-and-use-of-leaseholds-in-wales.pdf

[8] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/646152/Estimating_the_number_of_leasehold_dwellings_in_England__2015-16.pdf

[9] According to the English housing data, in 2015-16, there were 4.25 million leasehold dwellings, this has increased to 4.98m in 2021-22, representing a 17% increase in the last 6 years. In comparison, there were 19.25 million freehold dwellings in total in England in 2015-16, this has increased to 19.86m in 2021-22. A relatively smaller increase of just 3%.

occupier sector, 1.85m (37%) are privately owned and let in the private rented sector, and the remaining 272,000 (5%) are dwellings owned by social landlords and let in the social rented sector.[10]

17. ***Characteristics of leaseholders*: Leaseholders tend to be younger, less well paid and more likely to own their property with a mortgage compared to other owner occupiers**. The EHS leasehold household report (2021-22)[11] found that leaseholders who are owner occupiers are more likely to be younger (15% were aged under 35, compared with 9% of other owner occupiers). The EHS Leasehold owner occupier report (2020-21[12]) found owner occupier leaseholders are more likely to be first-time buyers (49% compared with 32% of other owner occupiers); in full-time work (56% compared with 49%), but typically earning less (about £100 a week less); own their property with a mortgage (55% compared to 45%) and living in more deprived areas (19% lived in the most deprived 20% of areas, compared with 7% of other owner occupiers).

Freeholders (landlords) of leasehold properties - we refer to Freeholders who may also be the landlords of leasehold properties, but not all landlords will be freeholders.

18. ***Freeholders comprise individuals and corporate bodies, local authorities and housing associations, charities and developers, within the UK and offshore.*** DLUHC has produced analysis by combining data from Land Registry and Ordnance Survey. Based on this, we have been able to identify around 950,000 relevant freehold titles in England and Wales. 52% of these are owned by private individuals, 38% are owned by private companies and approximately 11% are owned by other categories such as housing associations, universities, and the public sector. For Wales specifically, the distribution is more weighted towards private individual ownership (73%). There is limited information on the number of freeholders that own these freehold titles. We use a central estimate of approximately 426,000 freeholders in England and Wales, although this is subject to a wide range of uncertainty.

Freehold homes on managed estates

19. **Using data from the English Housing Survey and Hornets, we estimate there are approximately 15,570 freehold estates where freeholders contribute to maintenance in England and the number is likely to increase over time as more new homes are built.** Data provided by stakeholders suggests that the average annual maintenance cost per property is between £150-£250,[13] although the cost varies significantly. Freehold estates are run by either resident-led estate management companies or by private estate management companies (collectively known as "estate management companies"). The resident-led companies usually run only their own estate, whereas private companies may manage more than one estate. The size of each freehold estate varies. From a campaign group database (Hornets) and discussions with individual estate management companies, this figure ranges from 11 properties to nearly 2,000 properties per estate, with a median of around 100 properties per estate.

Other actors in the leasehold sector include:

[10] https://www.gov.uk/government/statistics/leasehold-dwellings-2020-to-2021/leasehold-dwellings-2020-to-2021
https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-leasehold-households/english-housing-survey-2021-to-2022-leasehold-households

[12] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088477/EHS_2020-21_Owner_Occupier_Leaseholders_Report.pdf

[13] From discussions with a small sample of resident-led and private estate management companies in 2020/21 and through examination of the Hornets database.

- **Managing agents:** These are often employed by those responsible for a building to undertake management and maintenance of the fabric of the building, its communal or shared areas and any associated services or facilities. According to the Association of Residential Managing Agents (ARMA, now part of The Property Institute), around 60% of leasehold units are managed by managing agents and 40% are looked after by some form of self-management[14];
- **Resident Management Companies and Right to Manage Companies:** These are formed when the residents of a building take up the management responsibilities from the freeholder (landlord) by exercising their Right to Manage, or during collective enfranchisement (buying the freehold). Alternatively, there may be an embedded resident management company in a tripartite lease arrangement where the Resident Management Company manages the building, but the freeholder retains the ownership of it. Residents can be members of these companies and can choose to appoint a managing agent to run the day-to-day management of the building on their behalf. There are approximately 8,000 Right to Manage Companies according to Companies House. It is not known how many Resident Management Companies there are, either those who have purchased the freehold or embedded in a tripartite lease.
- **Valuers, solicitors and conveyancers**: Valuers determine the costs involved during a lease extension or purchase of a freehold. Solicitors and conveyancers facilitate the process of buying and selling properties, as well as taking over a freehold, extending a lease, or acquiring management of a building by providing legal advice and serving required documentation.
- **Property developers:** When developers build leasehold properties or convert existing buildings, they either sell on the freehold to another party or remain as the freeholder.
- **Shared Owners and Providers:** Shared Ownership (see definitions in annex) is a leasehold product and shared owners are leaseholders. the landlord is usually a provider, such as a housing association. There are approximately 238,000 shared ownership leaseholds in England, representing less than 5% of the total leasehold stock in England.
- **Lenders:** Lenders provide mortgages for leasehold properties and, as part of agreeing to offer finance to prospective buyers (or those re-mortgaging), they will take into particular account whether there is a sufficient amount of a lease term remaining, whether the level of ground rent payable is below a specific threshold, and whether the lease includes high or escalating ground rent terms. They may also consider service charges payable in the context of affordability checks.
- **Government agencies and regulatory bodies:** These include: courts and tribunals, in particular the First-tier Tribunal (Property Chamber) in England and the Leasehold Valuation Tribunal in Wales, who make decisions in leasehold disputes; National Trading Standards, who are responsible for enforcing standards and ensure regulations are followed in the sector; and local authorities, who are responsible for ensuring compliance for example in relation to registration on redress schemes.

[14] https://arma.org.uk/wp-content/uploads/2022/03/ARMA_Overview_of_Block_Management_Sector.pdf
The relevant information: ARMA commented the following: *"ARMA has 300 member firms and the total number of firms in England and Wales is estimated to be around 870. ARMA members manage over 1.1m units and given that 9 of the top 10 firms in the country are all ARMA members and between them manage 500,000 units it would seem reasonable to estimate that non-ARMA firms manage up to 1.5m units, giving a total of 2.6m units under management. This means that 1.8m leaseholds are under some form of self-management, either by landlords, Residential Management Companies (RMC's), Right to Manage (RtM) companies or private individuals on their own."* ARMA predict that 1.1 million leaseholds are under control of their members, with a further 1.5 million leaseholders under control of non ARMA members but still under management - this gives the 2.6 million figures. 2.6+1.8 = 4.4 million total in their sample. We can use this to give an indicative figure of the proportion of managed LH properties (2.6/4.4 = 59%) to unmanaged (1.8/4.4 = 41%).

- **Redress schemes:** Since October 2014, all residential letting, managing and estate agents have been legally required to belong to one of two government-approved redress schemes (The Property Ombudsman and The Property Redress Scheme).[15,16] This means the leaseholder can access the relevant redress scheme of which their managing agent (should there be one for their building) is a member. Such redress schemes address behavioural issues, and local authorities can impose a fine of up to £5,000 where an agent has not joined one of the schemes. Meanwhile, the Housing Ombudsman has been operating in the social housing sector since 2008 and is a government established ombudsman.
- **Others working in the leasehold sector**: There are a range of campaign groups and charities who work in the sector, providing advice and support to leaseholders and pushing for reform. The *Leasehold Advisory Service (LEASE)* is an arms-length body funded by the Government which provides free advice and information for leaseholders.[17]
- **Indirect advisers**: In addition to those above, this area of law can straddle other areas of law, particularly in more complex scenarios such as mixed-use premises, buildings or estates where commercial property is involved. In those cases, commercial advisers such as lawyers, valuers and estate agents need some level of understanding of this area of law. Other professionals include residential conveyancers, planning experts, party wall experts, company lawyers and general property litigators.
- **Insurers:** Specialist insurers will provide buildings insurance for multi-occupancy buildings.

Brief overview of the history of leasehold and reforms to the tenure:

20. Leasehold has existed for centuries in England and Wales. It is generally used to manage homes built with shared areas that need to be maintained, most obviously and commonly in blocks of flats (although it has also been used for houses, particularly in the North West of England). Leasehold has remained in widespread use because there is no mainstream alternative tenure for flats. Commonhold was introduced as an alternative to leasehold for flats in 2002 but has failed to take off due for a number of reasons including market inertia, with leasehold having been used for many years and the secondary income streams such as ground rents it may generate (for developers and investors), and some flaws in the legal framework for commonhold which has limited its opportunity for use.[18] In addition, leasehold is an established part of the housing landscape, with most consumers being familiar with leasehold and open to purchasing a leasehold property, and for developers leasehold properties continue to be popular, especially in built-up areas where flatted developments are typically provided. Leasehold also provides an additional revenue for developers, who will often sell the freehold onto a third party who are attracted to what they see as an ongoing low risk /low return revenue stream from ground rents. In recent years, campaign groups such as the *National Leasehold Campaign* have described leasehold as both feudal and outdated and have raised concerns about a number of issues including escalating ground rents, high service charges and the growth of privately managed freehold estates. There has been media criticism about freehold homeowners on private estates facing costs they cannot effectively challenge and the term 'fleecehold' has become popularised.

[15] The Property Ombudsman scheme: free, fair & impartial redress (tpos.co.uk)

[16] Home Page (theprs.co.uk)

[17] The Leasehold Advisory Service (lease-advice.org)

[18] Commonhold property - GOV.UK (www.gov.uk)

21. Leasehold law is governed by decades of primary legislation and case law, as well as individual lease contracts. It is complex and the primary legislation has seen various amendments over the last 50 years but the consensus now, is that these reforms have not gone far enough to address the imbalances within the system. Previous reforms to the system have included:
    - **Leasehold Reform Act 1967** which enabled leaseholders in houses to purchase the freehold. Under this law, leaseholders in houses can extend their lease by 50 years with a modern ground rent[19]
    - **Landlord and Tenant Act 1985** which updated the regulatory framework surrounding service charges (including major works) and insurance[20];
    - **Landlord and Tenant Act 1987** which governs laws relating to leaseholders' rights of first refusal and appointment of manager rights[21];
    - **Leasehold Reform, Housing and Urban Development Act 1993** which enabled some flat owners (who qualified) to collectively purchase the freehold of the building and to individually extend their lease by 90 years at a peppercorn ground rent[22];
    - **Commonhold and Leasehold Reform Act 2002** which established commonhold, which provides freehold ownership in multi occupancy buildings and is specifically designed for use without a third-party landlord. Forms of it are widely used in countries all over the world as an alternative to leasehold, including in Scotland. The Act also introduced the Right to Manage[23];
    - **Leasehold Reform (Ground Rent) Act 2022 (30 June 2022)** which prevents landlords under most new residential long leases from charging a ground rent[24] ; and
    - **Renters (Reform) Bill 2023** which will remove long leases from the assured tenancy system. The effect of this change will mean that landlords of leaseholders with ground rents exceeding £250pa (or £1000pa in London) will no longer be able to use tenancy laws to repossess the property for modest ground rent arrears[25].

22. In recent years, there have been a number of widespread investigations into the leasehold market:

    - **Law Commission** *Termination of Tenancies for Tenant Default* (2006)[26];
    - **Competition and Markets Authority** *Residential property management services: A market study,* investigation into the misconduct of property management companies (2014-16)[27];
    - **Law Commission** *Event Fees in Retirement Properties* (2017)[28];
    - **Housing, Communities and Local Government Select Committee** on *Leasehold Reform*, inquiry into leasehold house sales and charges faced by leaseholders (2019)[29];
    - **Regulation of Property Agents: Working Group, chaired by Lord Best,** *Final Report.* The group's aim is to raise standards across the property agent sector. This also included recommendations on leasehold and freehold charges and other matters pertinent to managing agents (2019)[30];

---

[19] Leasehold Reform Act 1967, see: https://www.legislation.gov.uk/ukpga/1967/88/contents

[20] Landlord and Tenant Act 1985, see: https://www.legislation.gov.uk/ukpga/1985/70/contents

[21] Landlord and Tenant Act 1987, see: https://www.legislation.gov.uk/ukpga/1987/31/contents

[22] Leasehold Reform, Housing and Urban Development Act 1993, see: https://www.legislation.gov.uk/ukpga/1993/28/contents

[23] Commonhold and Leasehold Reform Act 2002, see: https://www.legislation.gov.uk/ukpga/2002/15/contents

[24] Leasehold Reform (Ground Rent) Act 2022, see: https://www.legislation.gov.uk/ukpga/2022/1/contents/enacted

[25] Renters (Reform) Bill, 2023, see: https://bills.parliament.uk/bills/3462

[26] https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc303_Termination_of_Tenancies_for_Tenant_Default.pdf

[27] https://assets.publishing.service.gov.uk/media/547d99b8e5274a42900001e1/Property_management_market_study.pdf

[28] https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/03/LC-373.pdf

[29] https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1468/full-report.html

[30] https://www.gov.uk/government/publications/regulation-of-property-agents-working-group-report

- **Competition and Markets Authority** *Leasehold Housing: Update report***,** an investigation into potential breaches of consumer protection law through unfair lease terms and allegations of mis-selling of leasehold property (2019-ongoing)[31];
- **University of Cambridge** *Leasehold and Freehold Charges: Summary of research findings*, a report on service charges, commissioned by the Government (2020)[32];
- **Law Commission** *Leasehold home ownership: buying your freehold or extending your lease – report on options to reduce the price payable,* review of enfranchisement legislation (2020)[33];
- **Law Commission** *Leasehold home ownership, exercising the right to manage,* review of the right to manage legislation (2020)[34];
- **Law Commission** *Reinvigorating commonhold: the alternative to leasehold ownership,* review of commonhold legislation (2020)[35];
- **Financial Conduct Authority** *Multi-occupancy buildings insurance – broker remuneration,* an investigation into multi-occupancy buildings insurance and broker remuneration (2023)[36];
- **Competition and Markets Authority** *Housebuilding market study,* market study into house building in England Wales and Scotland including review of private management of public amenities on housing estates (2023-ongoing)[37];
- **Competition and Markets Authority** *Rented Housing Sector: Consumer Research Project,* rented housing sector consumer research, including leasehold retirement sector event fees (2023-ongoing)[38].

Overview of the key challenges

23. The government believes that the current leasehold system is in need of comprehensive reform. It is outdated and unfair, leaving the balance of power tilted too far in favour of landlords. This leaves leaseholders who have bought their own homes without workable options to enforce their rights. Many buyers end up purchasing a leasehold home because they cannot afford to buy a freehold property in the same area. We believe that this should be the only compromise they need to make, and this should not automatically open them up to a lived experience over which they have little influence, which is considerably worse than freehold owner occupiers in the same area and brings unwarranted costs and fees.

24. Leaseholders are in effect renting a time-limited asset, the value of which deteriorates over time. This can mean those wanting to stay in their home for a long period or retain the property's value when they come to sell it, may need to extend their lease (see enfranchisement Chapter 3). These extensions come at a cost, one that is difficult to predict at the outset and gets more expensive the longer the process takes. The cost is the outcome of a complicated negotiation where leaseholders are often on the back foot, facing freeholders who are not paying for their costs and often have more information and power and can afford to drag negotiations out.

[31] https://assets.publishing.service.gov.uk/media/5e57e4ea86650c53b74fe6e0/Leasehold_update_report_pdf_-.-._.pdf

[32] https://www.cchpr.landecon.cam.ac.uk/files/media/mhclg_final_report_freehold_and_leasehold_charges_040521.pdf

[33] https://www.lawcom.gov.uk/project/leasehold-enfranchisement/

[34] https://www.lawcom.gov.uk/document/right-to-manage-report/

[35] https://www.lawcom.gov.uk/document/commonhold-report/

[36] https://www.fca.org.uk/publication/multi-firm-reviews/multi-occupancy-buildings-insurance-broker-remuneration.pdf

[37] Housebuilding market study - GOV.UK (www.gov.uk)

[38] https://assets.publishing.service.gov.uk/media/64e7653020ae89000df26d83/Private_Rented_Sector_Housing_pdfa.pdf

25. In addition, leaseholders pay a service charge to their landlord to cover the services provided by the landlord under the terms of the lease. The information provided to them can be limited, and in many cases, it can be hard to work out what costs are actually for or whether they are reasonable. In some cases, no information is provided at all. We know that many leaseholders find this information difficult to interpret and that costs are difficult to predict, which makes it hard for them to take an informed view on whether these costs are justified. Leaseholders are put off from formally challenging these bills by a complex legal process and the terms in their own lease which can see them paying landlords'/freeholders' costs even if they win. We want landlords to provide this information more clearly and in a more timely manner so that leaseholders better understand what they are paying for and are able to hold landlords to account where they believe charges are unfair. Having prescribed documents will also ensure consistency and improve leaseholder understanding of the finances for their building wherever they are in the country.

26. We want to reform and modernise the leasehold system in order to give leaseholders more power and control but do so in a way which respects the interests of landlords. We believe that the people who own and live in a property are best placed to make decisions about that property. We want to encourage and enable those homeowners living in shared blocks, who are unhappy with the way their block is being run to take over management control and ultimately take collective ownership of the block. Key to this is finding a way to simplify the process for taking over management and streamlining the enfranchisement process, to make it more cost effective and reduce the price payable by leaseholders. We also want to widen access so that more people can apply for these rights to begin with. Specifically, we are looking to address the following issues:

- **Leaseholders who wish to extend their lease or purchase a freehold/share of freehold find the process complex and time consuming.** To navigate the process, considerable professional assistance is recommended and required in most cases, and in all cases, it is difficult to predict with certainty the final price to be paid due to the number of variable factors. The presence and value of intermediate leases between leaseholder and head freeholder can make claims more complex, costly, and time consuming. **Marriage value (see definitions in Annex 1) adds extra complexity and extra costs** when the lease term reduces to less than 80 years. In addition, when people wish to extend their lease, their statutory right is only for 50 or 90 years which **means that the need to extend is postponed for future owners rather than eliminated** – for house owners, they only currently have the right to extend their lease once, for 50 years, which adds to the problem**.** In addition**, leaseholders who have leases which contain high/ escalating ground rent can renew their lease to extinguish their ground rent** but high levels of ground rent can themselves make this prohibitively expensive because they are included within the valuation calculation**.**

- **The legal, process and valuation costs of enfranchisement are disproportionately borne by the leaseholder.** Enfranchising leaseholders are responsible for paying the freeholder's costs, such as the professional fees for the initial stages of the transaction and the conveyancing, as well as their own. These costs can run into thousands of pounds and this lack of control is a deterrent for leaseholders as freeholders chose who represent them. Freeholders have very little incentive to keep these costs low because they will not be paying them. **When there are enfranchisement and right to manage disputes, the process is also complex and can be confusing,** requiring legal expertise to navigate adding further delays and costs to the process.

- **Leaseholders of houses and flats are required to own the property for at least two years before they can apply for a lease extension or, for a house, acquire the freehold,** during which, the cost of

purchasing the freehold or extending the lease has often increased and in some cases the freehold has been sold to a new third party.

- **Leaseholders in mixed-use buildings with over 25% non-residential floorspace do not qualify for collective enfranchisement or the right to manage.** Where more than 25% of the floor space in a building is used, or intended to be used, for non-residential purposes, the owners of long residential leases in that building do not qualify for the right to collectively purchase the freehold or take over the building's management, even when the building is majority residential in usage.

- **Leaseholders have inconsistent rights to redress. Leaseholders in buildings managed by a managing agent can access Government approved redress schemes, while the approximately 40% of leaseholders in buildings managed directly by the landlord/freeholder can only access redress through the courts**. Furthermore, **many freehold homeowners in managed estates have no access to redress schemes** at all.

- **Leaseholders lack sufficient control, information, and transparency over costs relating to buying and selling their home and many leaseholders lack understanding of the implications** of buying a leasehold property. **Leaseholders can face delays and uncertainty about the costs and timescales of getting the information they need to provide to buyers** when selling a leasehold property. This leads to inflated costs for obtaining this information and sales falling through because it is not received in time.

- **Once they have bought the property, in many cases leaseholders do not receive sufficient breakdown of ongoing costs, leaving them unsure of what they are paying for and whether the costs are justified.** There has been widespread evidence[39] of inflated buildings insurance costs which have more than doubled (125% increase) between 2016 and 2022, from £6,800 to £15,302. This includes costly building insurance commissions from the broker to the placer or manager of insurance, often the freeholder, landlord or managing agent, ranging from 30-49% of the premium, with some up to 62% which is passed on to the leaseholder as part of the premium to pay. Unless set out in the lease, there is no formal requirement for landlords to disclose insurance information and the information required to be disclosed may not show detail of the commission itself.

- Currently, under the terms of many leases, **freeholders** (**landlords) are often able to claim their legal costs from leaseholders in disputes taken to courts even when the landlord loses, while leaseholders do not generally have a corresponding right.** This means there is often a disincentive for leaseholders to enforce their rights due to the fear that the landlord's legal costs will be charged to them either in their entirety or in part even if they win. There is some protection for leaseholders who can make an application to the Tribunal to limit their liability for such costs, but these protections are often insufficient due to way the system currently works. Separately, **some homeowners on freehold estates who miss an estate rentcharge payment may face disproportionate penalties, including the risk of losing their home**. Freehold estate owners also do not have access to the First-tier Tribunal (Property Chamber) in England and the Leasehold Valuation Tribunal in Wales, which has specialist knowledge and expertise in relation to dealing with housing matters.

How the Leasehold and Freehold Reform Bill will tackle this

27. The Government has been clear that reforming the leasehold market is needed to ensure better outcomes for individual leaseholders and greater transparency and fairness within the wider leasehold

[39] https://www.fca.org.uk/publications/multi-firm-reviews/multi-occupancy-buildings-insurance-broker-remuneration

and housing market, whilst taking account of the legitimate interests of freeholders. That is why the Government asked the Law Commission to look at the sector in 2017 and make recommendations for reform. The 2019 manifesto then committed to continue leasehold reform, including *"implementing our ban on the sale of new leasehold homes, restricting ground rents to a peppercorn, and providing necessary mechanisms of redress for tenants*". These reforms need to be far-reaching across an array of different areas to address these aims properly.

28. **The Bill will:**
    1. **Make it cheaper and easier for leaseholders to buy their freehold or extend their lease,** by reforming the valuation process and mandating a valuation methodology, including removing the requirement to pay marriage value, enabling the Secretary of State to prescribe the rates used to calculate the enfranchisement premium, and increasing the standard lease extension to 990 years for both houses and flats. It will remove the requirement for a leaseholder to have owned their property for two years before they can enfranchise and give leaseholders with at least 150 years left on their lease a new right to buy out their ground rent without having to extend their lease. Equivalent lease extension rights will also be given to shared owners who presently have none.
    2. **Enable more leaseholders to buy their freehold or take over management of their building**, by increasing the 'non-residential limit', giving leaseholders in mixed-use buildings with up to 50% non-residential floorspace usage the right to collectively enfranchise or claim a right to manage.
    3. **Expand homeowners' access to redress –** by requiring more landlords in England to belong to a redress scheme.
    4. **Rebalance process costs by requiring each side (i.e., the leaseholder and freeholder) to bear their own costs** in the majority of enfranchisement and RTM claims and ensure a consistent approach to legal costs when in dispute.,
    5. **Improve redress for those homeowners on freehold estates**, with new equivalent rights to transparency and to challenge the charges they pay by taking a case to a Tribunal.
    6. **Make the buying and selling process easier and quicker for consumers,** by setting a maximum timeframe and fee for the provision of leasehold and freehold estate information.
    7. **Reform the costs leaseholders are expected to pay**, by introducing new transparency requirements for managing agents and freeholders and stopping the costs of building insurance commissions from being passed on to the leaseholder, replacing these with transparent and challengeable fees for administering insurance policies.
    8. **Reform the costs leaseholders are expected to pay in the context of litigation**, providing a legal right for leaseholders to claim their legal costs from their landlord in disputes**.**

29. There are also a number of non-legislative measures which we are introducing to improve leasehold, such as developing an **on-line valuation calculator** so that any leaseholder who is thinking about extending their lease or buying their freehold can get an indication of how much it will cost. We are also transforming the Leasehold Advisory Service (LEASE) to provide a more customer-friendly, impactful and efficient service for leaseholders, and also works with others to highlight the issues leaseholders face.

1.2 Problems under consideration

30. Significant reforms are necessary to the way leasehold operates in order to address the power imbalance in the current system and to make it easier for leaseholders to extend their lease or buy the freehold, take management control, or sell their property. In addition, there needs to be more transparency around costs and improvements to redress arrangements to ensure that all leaseholders

are covered and that freeholders on managed estates also enjoy the same rights. In this section we set out further details of the problems to be addressed by the Bill.

The existing process of enfranchisement is complex, time-consuming and costly

31. **Leaseholders who decide to extend their lease or purchase a freehold/share of freehold find the process complex and time consuming.** This view is supported by over 700 written submissions (majority from leaseholders) to the Select Committee during their inquiry on Leasehold Reform (HCLGC, 2019) as well as findings from the Propertymark report (2018) and the Law Commission report on enfranchisement (2020). To navigate the process, professional assistance is recommended and required in most cases.

32. When leaseholders exercise their enfranchisement rights, they have to compensate their freeholder (landlord) for the loss or diminution in the value of those landlords' interests because the freehold has been acquired or a new lease has been granted. The current legislation for valuing lease extensions and freehold acquisitions does not set out a methodology to be followed. Rather, it sets out that there are to be three components to the premium and requires that the value of the landlord's interest is to be determined on the basis of a number of assumptions. The methodology that is followed has been developed by valuers in line with the current law, so the calculation of premiums is a mix of law and valuation practice. For example, it is valuers who have determined that the standard valuation methodology to be followed will require rates, but the range of appropriate rates to be used has been influenced by case law. A number of elements influence the final premium cost; some are prescribed in legislation whilst other aspects, such as rates, have been, to some extent, determined by precedent cases from courts and tribunals, combined with individual lease terms. There are further factors that may contribute to the end price, such as development value, (which compensates the landlord for potential missed income from future development which will now not take place, such as through building extra storeys) when leaseholders collectively enfranchise and the treatment in the valuation of any improvements made by leaseholders. This makes it very difficult for leaseholders to confidently and accurately predict upfront what the cost of enfranchisement is likely to be.

33. **Marriage value adds extra complexity and cost to this calculation,** as highlighted by the Law Commission's report on Valuation. It means that leaseholders face extra costs when they are buying their freehold or extending their lease when the remaining lease term has fallen to 80 years or below. Marriage value relates to the difference between the value of the property with its existing lease and the value of the property as if it were freehold. It is intended to reflect additional value in the property when the freehold and leasehold interests are combined or "married".

34. The amount of marriage value paid is complex because there is no agreed methodology for calculating the freehold value of a flat. In 2009, the Royal Institution of Chartered Surveyors set up a working party of valuers to attempt to solve this problem but it proved impossible for the group to reach agreement**.** The Law Commission noted that the premium resulting from a valuation that does not include marriage value can still constitute a market premium, under the assumption that the leaseholder is not, and never will be in the market - since, under that assumption, the valuation is done as if the lease simply ran its course. The premium calculation already includes the value of the lease – this is known as the reversionary value of the lease and reflects the freehold value of the lease when it reverts to the freeholder (at the end of the lease), subject to a discount rate to reflect the number of years before that occurs. In this light, it appears to be an additional unjustified and unfair cost for the enfranchising leaseholder. In line with this argument, in two of the three options (including the one that Government has decided to follow) the Law Commission proposed removing marriage value as part of its aim to make enfranchisement easier, quicker and more cost effective.

The value attributable to the leaseholder being in the market (marriage value, and a related provision known as hope value) is therefore not payable.

35. **Leaseholders with high and escalating ground rents find it prohibitively expensive to buy their freehold or extend their lease.** The ground rent requirements in a lease may vary considerably, from a peppercorn to thousands of pounds. Some ground rents stay the same throughout the lease while others are subject to review at intervals set out in the lease. The calculation of the premium payable by the leaseholder upon enfranchisement depends in part on the ground rent provisions. Leaseholders with ground rents that escalate over the term of the lease can find that their premium is tens of thousands of pounds, compared with much lower premiums for leases with low, non-variable ground rents.

36. **The costs of this process are disproportionately borne by the leaseholder.** Enfranchising leaseholders are responsible for paying the freeholder's costs, such as the professional fees for conveyancing and valuation, as well as their own. These costs may be large, and their unpredictability is a deterrent for leaseholders. A freeholder's legal costs in a right to manage claim could reach at least £3,000. For enfranchisements, solicitors' and valuers' fees may be up to £5,000 or more per claim. These costs in some cases may be much higher as freeholders have very little incentive to keep them low because they will not be paying them. The Government asked the Law Commission to consider ways to make enfranchisement easier, quicker and more cost effective (by reducing the legal and other associated costs), particularly for leaseholders and they concluded in their report that if Government chose to proceed with a market-based valuation methodology then leaseholders should not generally be required to make contributions to their landlord's non-litigation costs.

37. The Law Commission also identified various issues arising from inconsistent methodologies, including unpredictable or arbitrary outcomes (sometimes not linked to the property's features, for example where this relates to the skill of the professional advice), technical problems and delays in the process, undesirable incentive structures, and an inequality of arms. Intermediate leases between leaseholder and head freeholder can make claims more complex and time consuming.

38. **When there are enfranchisement and right to manage disputes, the process is also complex and can be confusing and lengthy.** The Law Commission noted that many parties in enfranchisement disputes struggle to identify which forum has the power to deal with an issue or dispute. Currently, disputes arising during an enfranchisement or RTM claim are divided between the County Court and the First tier Tribunal (Property Chamber) in England and the Leasehold Valuation Tribunal in Wales, requiring legal expertise to navigate and adding further delays and costs to the process. The different costs regimes add greater uncertainty for leaseholders as to the potential costs of exercising enfranchisement or management rights, acting as disincentive as different courts have different powers when it comes to allocating costs with County Courts able to order leaseholders to pay their landlord's litigation costs which can dissuade leaseholders from pursuing claims.

39. The Law Commission made several recommendations to move all enfranchisement and RTM disputes to the Tribunal and introduce a fast-track route for certain valuation disputes. Moving cases to the First Tier Tribunal or Leasehold Valuation Tribunal will lead to quicker and cheaper resolution of disputes and enable better use of experts. Moving jurisdiction is also consistent with changes to dispute resolution across a range of civil law matters over the last 30 years, where jurisdiction has generally shifted from the traditional court to a specialist Tribunal. In addition, the more limited powers of the Tribunal to make an order requiring one party to pay the litigation costs incurred by another party should apply to all hearings, meaning that each side will bear its own costs unless the Tribunal determines otherwise.

40. **Leaseholders are required to own a property for two years before they can enfranchise.** Under current legislation, leaseholders who seek a lease extension cannot do so until they have owned a lease for at least two years. This also applies to leaseholders who seek to buy the freehold of their house. The requirement is a restriction on access to enfranchisement rights and was originally intended to prevent investors from benefiting from rights intended for residential leaseholders; however, it has not achieved this aim and has led to escalating enfranchisement costs to new leaseholders. In addition, the sale of an existing leasehold property can also be delayed because buyers insist that sellers secure a lease extension prior to purchase because they will be unable to do so for two years after they exchange.

41. **The premium for a collective enfranchisement can be prohibitively expensive when some unit owners do not want or qualify to participate.** When leaseholders in a building want to collectively buy the freehold of the building, there may be some leaseholders of flats who do not participate or do not qualify to join the collective enfranchisement, and there might be other units in the building, including commercial premises. Under the current law, the leaseholders that participate need to pay the full freehold value of every residential and non-residential unit. In order to reduce the enfranchisement premium, it may be possible to reach a voluntary agreement with the freeholder to take a 'leaseback' (a lease of 999 years) for those units that do not or cannot participate. But at present, only the freeholder can require the leaseholders grant them a leaseback; the leaseholder cannot require the freeholder to take a leaseback.

42. If a significant number of units cannot or do not wish to participate in a collective enfranchisement, it can become too costly for those leaseholders who wish to participate. **This means that many leaseholders who want to enfranchise cannot practically do so because the upfront cost of enfranchisement is prohibitively expensive.** Whilst some leaseholders may be able to secure funding via loans or 'white knight' investors to cover the cost of non-participating units, or come to voluntary agreements with their freeholder, it is likely that the majority of leaseholders will either be unaware of these options or choose not to take them and therefore simply not enfranchise.

43. **Residential leaseholders in mixed-use buildings (residential and non-residential) face restrictions on access to the right to manage and collective enfranchisement.** Under current legislation, residential leaseholders cannot collectively acquire their freehold or exercise a right to manage if their flats are located in a mixed-use building where more than 25% of the floor space (excluding common parts) is used or intended to be used for non-residential purposes. This limit is intended to stop residential leaseholders from acquiring the freehold or taking over management responsibility of otherwise commercial buildings. The 25% limit has been criticised for unfairly restricting access to collective enfranchisement and the right to manage for leaseholders in buildings that are majority residential with up to 75% residential floorspace usage.

Intermediate leases add complexity to the enfranchisement process

44. In their report on enfranchisement, the Law Commission identified that **the presence of intermediate leases in claims under the current law can be an impediment to enfranchisement.** Their presence can make claims more complex, costly, and delayed through disputes that negatively affect enfranchising leaseholders and landlords. Intermediate leases may be present in both blocks of flats and houses, although we have assumed that they are more prominent in flats as they can play a role as a vehicle for management in properties with multiple occupants. [40]

45. Under the current law, all intermediate leases superior to qualifying leaseholders must be acquired in a collective enfranchisement. However, this full acquisition may not be necessary for the enfranchising leaseholders and increases their costs. Furthermore, for leaseholders, the current valuation methodology is more complicated and expensive to navigate where intermediate leases are present. The presence of intermediate leases can mean the leaseholders in such claims incur a higher volume of non-litigation costs (e.g., multiple valuations for each interest). The value of the premium may be skewed by whether the intermediate lease has positive or negative value, depending on the amount of ground rent received by the intermediate landlord compared to the amount they have to pay to their landlord.

Repeated and costly lease extensions

46. Every day, the lease of a leasehold property is ticking down, and if it reaches a certain threshold **(usually 80 years or less) then the leaseholder can find themselves with a home that they cannot easily sell or re-mortgage and need to extend their lease, often at great cost**. This can easily happen if they buy a home, which typically have been sold with a 125 year or 99-year lease and come to sell many years later. The Land Registry estimates that there are approximately 38,900 lease extensions a year. These extensions come at a cost that is often expensive and unpredictable; the premium alone can cost tens of thousands of pounds and may incur additional professional fees up to £5,000 or more (see para 31).
47. In addition to the expiration of homeowners' assets, the law around leasehold extensions is not consistent. Under the Leasehold Reform Act 1967, leaseholders of houses can only be granted one extended 50-year term for no premium but with requirement to pay a financial ground rent ('modern ground rent'). Under The Leasehold Reform, Housing and Urban Development Act 1993, leaseholders of flats are granted an extended 90-year term at a peppercorn, for a premium, and can seek such extensions as often as they wish.
48. Shared ownership leaseholders are excluded from enfranchisement rights, and thus lease extension rights, under the 1967 Act, and their position under the 1993 Act is unclear, due to conflicting court and Tribunal decisions. When they are unable to extend, they are trapped with an asset of diminishing value.

High and escalating ground rents

49. The government believes that ground rents are difficult to justify – **it is not clear what benefit is provided to leaseholders in exchange for their ground rent payment and ground rents are not challengeable** in the same way that service charges are. The Leasehold Reform (Ground Rent) Act 2022, which commenced in June 2022, requires that any ground rent for the grant of most new residential leasehold properties may not exceed a peppercorn a year, taking out the financial value of ground rents in future homes. This also applies to the extended term of an informal lease extension. However, there are still many existing leaseholders who pay ground rents, with an estimated 900,000

leasehold properties built since 2000 which are likely to have ground rent review mechanisms [41] that are affected by escalating ground rent.[42]

50. **Ground rents can become unaffordable for leaseholders, especially when they are linked to inflation indexes or the value of the property, or where terms permit them to double every set number of years.** In general, these allow rents to grow faster than any costs. Moreover, leaseholders can become trapped in their own property by not being able to sell it or obtain a mortgage on their property. This is because purchasers are wary, and most lenders will not lend, or will seek further checks if the ground rent is considered high or is escalating, with many using a threshold of 0.1% of the value of the property to determine this. This also raises challenges where the leaseholder is looking to sell. Given the above, high or escalating ground rents present a barrier for entering or exiting the market.

51. Under the current legislation, leaseholders are required to compensate the freeholder (landlord) for the reduction in the value of their freehold as a result of granting the extended lease. Since an extended lease is granted at a peppercorn, the leaseholder must compensate the landlord for the loss of ground rent. **Leaseholders who have long leases and high or escalating ground rent terms are currently unable to extinguish their ground rent terms without extending their lease (even though they may have no need to extend it).** These leaseholders would need to pay for an unnecessary lease extension in order to get rid of their high/ escalating ground rent.

Leaseholders have limited access to redress and there are gaps in provision

52. Leaseholders have inconsistent rights to redress. Leaseholders in buildings managed by a managing agent can access Government approved redress schemes, while the 40% of leaseholders who live in buildings managed by the freeholder can only access redress through the courts. Furthermore, freehold homeowners in managed estates have no viable route to redress at all. There is no clear rationale for this distinction. Landlords/freeholders of leasehold properties who do not use a managing agent are not currently required to be a member of a redress scheme. They may choose to do so voluntarily, but we are not aware of such take up in practice.

53. Evidence of this problem was collected in the HCLG Select Committee (2019) and the Government consultation *Strengthening consumer redress in the housing market*[43] (2018). Government announced its intention to address this issue in its response to the consultation[44] (2019). The Tribunal is able to consider legal issues including those relating to costs (service charges) and breaches of a lease but cannot consider complaints concerning communication or behavioural issues (such as incompetence or discourtesy) that are within the remit of the redress schemes.

54. **There are additional gaps for homeowners on freehold estates.** Freeholders and many leasehold homeowners on freehold estates currently have no statutory rights to challenge either the reasonableness of maintenance charges that they pay estate management companies or the reasonableness of the work carried out. They are also without the statutory rights to change or

[41] Modern variable leases are properties subject to substantial and increasing ground rents that emerged after 2000

[42] The 900,000 estimate is based on the CMA report below. The report estimates that 778k leases since 2000 are likely to have variable ground rent clauses. 778k is 18% a proportion of 4.3m stock at the time. Applying the 18% to the latest 4.98m stock results in a slightly higher figure (900k). See the CMA report: https://assets.publishing.service.gov.uk/media/5e57e4ea86650c53b74fe6e0/Leasehold_update_report_pdf_-.-._.pdf

[43] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684843/Stregthening_Redress_in_Housing_Consultation.pdf

[44] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773161/Strengthening_Consumer_Redress_in_the_Housing_Market_Response.pdf

challenge the service provider itself, even when there is an ongoing failure to provide a reasonable service or value for money. Limited redress leads to homeowners on freehold estates facing inequality in bargaining power.

Freehold homeowners at risk of disproportionate consequences over unpaid Rentcharges

55. **Some freehold homeowners who miss a rentcharge payment may face disproportionate penalties, including the risk of losing their home**. The existing system of rentcharges[45] is set up in a way which allows rentcharge owners to take possession of a home if the freeholder fails to pay a very small amount of money (as little as £1) for 40 days after it is due. Where a homeowner seeks to pay all of the rentcharge to get rid of it, they can only do so with the consent of the rentcharge owner, who in turn may charge significant administrative costs for doing so. There is currently no warning in advance of a rentcharge owner taking action for unpaid charges, even though the effects can be draconian, with the homeowner ultimately losing their home. We have no data on the number of these arrears cases, but anecdotal evidence suggests that some homeowners are not aware that they owe a rentcharge.

Leaseholders may have to pay their landlord's legal costs, even if they win their dispute

56. **Currently, under the terms of their lease, freeholders (landlords) are often able to claim their legal costs from leaseholders in disputes taken to courts or to the relevant tribunal (excluding enfranchisement and right to manage cases)[46], while leaseholders do not generally have a corresponding right**. These costs can be recoverable in full from the leaseholder (such as in breach of lease cases) or in part (via the service charge mechanism in other cases). Leaseholders who do not participate in proceedings can also be affected negatively. This means the parties are on an uneven starting position in respect of their costs rights under contract. There is some protection for leaseholders who can make an application to the Tribunal to limit their liability for such costs, but government's position is that these protections are insufficient. Even in cases where the Tribunal limits the costs recoverable by the landlord, these orders to not currently extend to those leaseholders who do not participate in the process, which adds further injustice.

57. Evidence was gathered on this issue through the *HCLG Select Committee (2019),* which recommended that the government legislate to ensure freeholders' legal costs cannot be recovered through service charges when the leaseholder won the case.

58. The First-tier Tribunal (Property Chamber) is largely cost neutral and has very limited powers to make costs orders. It can only make these where one party behaves unreasonably in bringing or defending a claim, and such orders are relatively rare.[47] Under the existing system it can therefore be very costly for leaseholders to bring a dispute, and this can deter them from bringing challenge. For example, to

[45]Rentcharges, as opposed to the legally distinct "estate rentcharges", are part of a historic system where landowners who released part of their land for development could charge a regular payment from people on it. A rentcharge is generally an annual sum of money (other than rent) which is charged to a third party (otherwise known as a "rentowner"), who would normally otherwise have no interest in the land. Where one exists it requires the freeholder to pay an annual sum to the rent owner. The value of such rentcharges vary but are generally very small (between £5-15) per annum. These requirements are usually set out in the deeds of the property and transfer with the land.
The deed (or other legal vehicle) usually sets out the provision of remedies in the event of non-payment – e.g. will seek to collect debt (plus a charge). In addition to these remedies, where homeowners fail to make their annual rentcharge payment, under section 121 of the Law and Property Act 1925 they are still at risk of being subject to draconian and disproportionate forfeiture, should they fail to pay within 40 days. Under the forfeiture provision, the rentowner may take possession until the arrears and all costs and expenses are paid, or they may grant a lease of the subject property to a trustee that the rentowner may set up (which might be themselves). The lease may be promptly registered at the Land Registry and allow the trustee to charge a fee.

challenge the reasonableness of a service charge that may be around £100, they may become liable for thousands of pounds of legal fees (their own and their landlord's). The Government has publicly stated its objective to ensure that no leaseholder is subject to unjustified legal costs, and that leaseholders should be able to claim their own legal costs from their landlord. The intention to legislate in this respect was announced in 2018 and we have not seen the market self-correct.

59. As noted above, whether a leaseholder is liable for a landlord's legal costs depends on the terms of the lease. These are private contracts and we do not hold information on how many leases contain a suitable legal costs clause that the landlord can utilise. **Anecdotally, we understand it is common for nearly all leases to contain a clause enabling a landlord to recover legal costs either in the event of a breach or generally if incurred in relation to day-to-day management** (and whether that clause can be relied upon is down to the interpretation of the relevant Court or Tribunal). Our legal advisors and external counsel have advised that they have never seen a reciprocal clause for the benefit of leaseholders, suggesting it is rare.

60. The high fees associated with bringing a challenge against the landlord and the requirement to pay landlords' legal costs even when winning their case demonstrates a clear inequality in bargaining powers, with leaseholders often settling having to settle for a less favourable deal in order to minimise costs.

Leaseholders face long delays and excessive charges for obtaining information needed to sell their home

61. In order to sell their property, leaseholders require certain material information about their home to complete a leasehold information pack for their buyers. Such information includes details on service charges, ground rent fees, insurance and, where relevant, building safety. Leaseholders need to request this information from their landlord, and landlords usually charge to provide it. There is no statutory requirement for freeholders (landlords) to respond to their requests for the information to sell their property within a set time limit. The costs for providing the information must be reasonable, but in cases where that cost is not reasonable, leaseholders have little choice but to pay the charge regardless in order to progress their sale. It is also cost-prohibitive to challenge the cost in the Tribunal. This leaves leaseholders out of pounds often by a disproportionate amount and subject to increasingly frustrating delays. There is little incentive for landlords to respond and leases do not usually require cooperation with the conveyancing process. Consequently, in more than a third of cases, leasehold information is not received by the leaseholder until more than 30 days after payment is made.[48]

62. As a result, there are knock-on effects for transaction times. It is widely acknowledged that selling leasehold properties takes longer than freehold equivalents,[49] and that any delay will increase stress and the likelihood of fall-throughs. **Leasehold transactions are estimated to account for 20% of annual transactions across England and Wales (approximately 260,000 transactions)** and research further indicates that delays to leasehold sales within broader chains of transactions can directly affect 520,000 home movers a year.[50,51] Failed transactions can cost the leaseholder thousands of pounds in conveyancing fees and requests for leasehold information, much of which are re-incurred when they attempt to sell their property again. These costs will be increasingly difficult for many consumers to

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

[49] https://www.zoopla.co.uk/discover/buying/the-timeline-of-buying-a-home-how-long-is-too-long/

[50] Land Registry Transfer for Value transaction data

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

bear during the current cost of living crisis and may mean they are forced to remain in homes that no longer suit their needs.

63. This is another example of asymmetric information and imbalanced market power; the landlord holds most information on the property and has the upper hand by being able to charge an unregulated fee when a leaseholder requests the information needed to sell their home. It also presents an inequality of bargaining power, where leaseholders are required to agree to a deal which they cannot easily influence, or face poor market outcomes (e.g., a sale falling through due to the slow process or lack of information), leading to wasted costs for both the seller and the prospective buyer.

Lack of control, information, and transparency

64. Evidence suggests that **many leaseholders lack basic understanding of the leasehold tenure.** The CMA (2014)[52] found that leaseholders lack the knowledge or understanding about the implications for buying a leasehold property and the EHS (2018) found that many will not be aware of their leaseholder status and the terms of their lease. The National Leasehold Survey (2016) [53] found that over a third (35%) of respondents noted they were not aware of their rights and responsibilities when they purchased the leasehold property and almost two-thirds (65%) said they would like to know more about their rights and responsibilities. A Propertymark report (2018)[54] also found that 45% of leasehold homeowners were not aware of their escalating ground rent and might have not purchased their property if they had known that their ground rent would increase. This is another example of asymmetric information leading to imperfect market outcomes, and which could lead to adverse selection as buyers don't know or don't understand the full costs associated with their leasehold purchase, such as the additional service charges, ground rents, and potential enfranchisement fees. A report by Propertymark (2018) further supports this argument, citing the figure that 57% of leaseholders did not understand what being a leaseholder meant until they had already purchased the property.

65. Beyond the issue above, leaseholders often lack transparency over the costs and services they are asked to pay for, with many experiencing increases in charges, often for no apparent reason, and are left unsure whether these are justified.

Service charges are opaque and lead to concerns and complaints from leaseholders that they are being overcharged for repairs and maintenance

66. According to the Cambridge centre for housing and planning research, 88% of flat owners and 77% of leasehold house owners pay service charges.[55] The average service charge stood at £32 per week in 2021-22, equivalent to an annual amount of £1,668 (EHS, 2021-22)[56], and stakeholders report significant increase in charges over the recent years.

67. Although most leases require landlords to provide information to leaseholders on what their service charge pays for, many leaseholders find the presentation of service charge accounts difficult to understand, and they are often left unclear about how the service charges were calculated and whether the costs are justified (CMA, 2014, 2020; the Regulation of Property Agents (RoPA) Working

[52] https://assets.publishing.service.gov.uk/media/547d99b8e5274a42900001e1/Property_management_market_study.pdf
53 https://www.lease-advice.org/files/2016/07/Brady-Solicitors-in-partnership-with-LEASE-Leaseholder-Survey-June-16.pdf
[54] https://www.propertymark.co.uk/asset/70FFE61A-195C-4705-8C43365419C750FB/

[56] https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-leasehold-households/english-housing-survey-2021-to-2022-leasehold-households

Group, 2019; the Cambridge Centre for Housing and Planning Research, 2020). Furthermore, many leaseholders do not receive their annual accounts in a timely manner, or in some cases at all, even where required by the lease. In 2019, the HCLG Select Committee concluded there is need for greater transparency and proposed the standardisation of the information provided to leaseholders. Without the information, or sufficient information, it is very difficult for a leaseholder to then challenge those charges in cases where those charges ought to be challenged.

68. Leaseholders are therefore concerned about being overcharged, or paying for services they are not receiving or that are of poor quality (CMA, 2014, 2020; HCLGC, 2019). In 2011, Which? estimated that leaseholders were being overcharged by £700 million a year because of excessive fees and hidden costs contained within their service charges (and this headline is likely to have increased as the leasehold sector has grown in the decade since). Over half (52%) of the total complaints received by the CMA in their investigation of the residential property management market[57] related to the level of service charges, mentioning perceived excessive or unnecessary charges, and almost a quarter (22%) mentioning a lack of transparency in how charges are calculated. Over a quarter (26%) of enquiries made to the Leasehold Advisory Service (LEASE) in 2022 were related to service charges[58] and this was the most common area of leasehold related enquiries made to the Property Ombudsman in 2022 (Property Ombudsman data). Consumers complained about fees rapidly escalating beyond initial estimates, management fees in excess of the expected norm (of 15% of the total costs billed), of big sinking funds, high building insurance costs, and charges for work not done. The National Leasehold Survey (2016) reported that 40% of respondents strongly disagreed that service charges presented value for money. Less than a fifth (19%) agreed their service charge presented value for money.

69. Concerns around unjustified or excessive charge of services can be brought to challenge in courts, adding pressure on the justice system. Since 2019, there have been approximately 3,700 applications/decisions made by the Tribunal (England FTT) dealing with service charge or administration charges[59].

70. **High and opaque building insurance charges are a particular issue**, **with costs inflated by some freeholders and property managing agents taking a proportion of the broker commission for work to undertake the policy**. The Financial Conduct Authority's (FCA) recent review of the buildings insurance market for multiple occupancy buildings demonstrated that premiums for mid-rise and high-rise multi-occupancy buildings more than doubled (125% increase) between 2016 and 2022 period, from £6,800 to £15,300.[60] This is primarily due to the more severe fire risks identified after the Grenfell tragedy and subsequent market response and reduced competition. However, these increased costs have brought to prominence concerns about misaligned incentives where some landlords/freeholders and property managing agents were taking a proportion of broker commissions. Brokers arranging multi-occupancy buildings insurance primarily work on a commission-based remuneration of the premium; in some extreme cases that we have seen this can be up to 62% of the premium. The FCA found that in 39% of their observations the broker paid more

[57] https://assets.publishing.service.gov.uk/media/547d99b8e5274a42900001e1/Property_management_market_study.pdf

[58] https://www.lease-advice.org/about-us/media/data/

[59] *Source: HMCTS Management Information (MI); First-tier Tribunal (Property Chamber) Residential Property division case management system. Prepared for DLUHC June 2023. Please note that these MI are not subject to the same quality checks as Official Statistics.*

[60] https://www.fca.org.uk/publication/corporate/report-insurance-multi-occupancy-buildings.pdf

than half of the commission to the placer/manager of insurance, which is usually the landlord/freeholder or property managing agent. With an increase in premiums over the years, such premium linked commissions have also increased, often without any equivalent increase in the quantity or quality of service provided to the leaseholder.

71. **Commission sharing incentivises the placer/manager of insurance to find a broker who will offer them the largest cut of the premium** and can incentivise them to select more expensive policies that increase their remuneration. It also weakens their incentive to choose a policy that gives the best value to the leaseholders. Leaseholders are unaware of the amount of remuneration being taken and whether that remuneration fairly reflects the work undertaken by the placer/manager of insurance relating to insurance distribution activities. In their September 2022 review, the FCA also identified that there are serious transparency issues relating to buildings insurance costs, access to information and ability to challenge. [61]

72. The FCA noted that leaseholders often have limited visibility on why a particular insurance policy may be selected over others; they are often left paying inflated premiums as a result. There is no regulatory requirement to inform leaseholders directly about the existence of these commission charges. The report highlighted the difficulties leaseholders face in obtaining even the limited or partial information to which they are entitled. This again demonstrates asymmetry in information and control. Landlords typically hold more information about a property than the leaseholder, leading to a power dynamic that might allow landlords to overcharge tenants for services or agree to deals which also benefit them which, in some cases, is exacerbated by the imbalance of demand and supply.

Impact on leaseholders' health and wellbeing

73. Research indicates that housing stability, and, housing affordability are drivers of health outcomes, with some research also suggesting a lesser link between a sense of control and health outcomes.

- Housing instability is associated with a wide range of adverse health outcomes, including poorer self-rated health, health care access, and mental health outcomes.[62] Leasehold housing is inherently less stable than other types of owner occupied housing stock given the reliance on the terms of a lease, the involvement of a third party and a constantly reducing length of tenure.
- Housing affordability can adversely affect families' ability to cover other essential expenses, creating serious financial strain and increased stress. Leaseholders are more likely than other owner occupiers to have a mortgage whilst on average earning less and are subject to greater variable costs than other owner occupiers as a result of service charges and ground rents. Living in unaffordable housing is related to poorer self-rated health. Additionally, unaffordability impacts health indirectly by draining financial resources that could otherwise be used for health-related expenses such as food and child development resources.[63]
- Studies demonstrate that a sense of control over one's life impacts health outcomes. A study by Lachman and Weaver (1998) found that higher perceived mastery and lower perceived constraints were related to better health, greater life satisfaction, and lower depressive symptoms across all the groups tested and that control beliefs played a moderating role. Participants in the lowest income group with a high sense of control showed levels of health and well-being comparable with the higher income groups. The results provided some evidence that psychosocial variables, such as sense of control, may be useful in understanding social class differences in health.[64] The lack of control

[61] https://www.fca.org.uk/publications/corporate-documents/report-insurance-multi-occupancy-buildings

[62] https://iris.uniroma1.it/retrieve/handle/11573/1455941/1597047/DAlessandro_Housing-and-heakth_2020.pdf

[63] https://iris.uniroma1.it/retrieve/handle/11573/1455941/1597047/DAlessandro_Housing-and-heakth_2020.pdf

[64] https://iris.uniroma1.it/retrieve/handle/11573/1455941/1597047/DAlessandro_Housing-and-heakth_2020.pdf
https://psycnet.apa.org/fulltext/1998-00299-016.html

leaseholders can often feel in relation to the charges they are billed or the maintenance and management of the building may lead to poorer perceived control and poorer health outcomes. Our reforms aim to give leaseholders a greater control over their property and therefore may also improve health outcomes as a result of greater sense of control.

74. These issues will undoubtedly affect the wellbeing of some leaseholders. It is difficult to find definitive data but the National Leasehold Campaign, working with Silence of Suicide, ran a confidential survey in 2018 to look at the impact on mental health for those people who have been negatively affected by purchasing a leasehold property. They had over 1,000 responses from leaseholders and 81% reported a negative impact on relationships, 73% said their physical heath had suffered with 37% reporting a need to take sick leave from work, 72% said they were very worried and anxious about the future and 92% reported that they had no faith in the leasehold legal system to protect them. Whilst this data may not be representative of leaseholders as a whole, it suggests that leasehold reform could deliver health improvement for some leaseholders. Evidence noted in the HCLG Select Committee and in the CMA reports also acknowledged the stress leaseholders can experience in response to high one-off bills, cited at tens of thousands of pounds, as they are required to need to find funding sources to cover high costs at short notice. This can become unaffordable to many and lead to severe distress over one's finance. The HCLG Select Committee report further mentions the sense of injustice when freeholders and managing agents fail to keep costs to a reasonable level as an additional cause of distress.

1.3 Policy objectives

75. The government has set out its policy objectives to make the leasehold market fairer and more transparent, where leaseholders **have greater security and are empowered to take control over their property and its management, with improved access to redress where things go wrong, while taking account of the interests of freeholders**. This means tackling all the problems set out in section 1.2. If we are able to resolve these issues, we believe that leaseholders will no longer feel like long-term tenants when compared to other homeowners. We believe that these changes will help address the inherent power imbalance between leaseholders and freeholders, allowing leaseholders to assert their rights more easily, negotiate better terms and access redress. We will begin to address the asymmetry of information, allowing leaseholders to understand and, where appropriate challenge, the costs they face. Finally, through increased use of enfranchisement and the right to manage, we will ensure that the block is managed in the interests of the people who live in that block. As a result, the leasehold market will work better, with leaseholders feeling financial and quality of life benefits with more options to improve their own circumstances and take control if they wish.

Following our reforms:

- More leaseholders will be able to exercise rights to buy their freeholds or extend their leases and it will be easier and cheaper to do so.
- More leaseholders will also be able to take control of their buildings through improved rights to manage.
- Leaseholders will be protected from paying insurance commissions and will be provided with better information on the service charges they pay.
- Where leaseholders take a dispute to court or a property Tribunal, the award of legal costs will be fairer.
- Access to redress schemes will be extended to all leaseholders and freehold homeowners on managed estates.

- Freeholder homeowners on privately managed estates will gain new rights to challenge costs and the management of their estates; and
- Prospective homebuyers will also get access to quicker information at a fixed cost to better inform them on the key information relating to their potential purchase.

2. Options

2.1. Description of options considered

76. **We have considered different options to achieve the Government's policy objectives** as outlined above. These include: leaving the existing leasehold system to self-correct and making no significant intervention (do nothing); relying on non-regulatory interventions, such as communications, guidance and funding; or legislating to tackle current market failures via a range of measures, informed by previous consultations[65] and the Law Commission's reports.

77. It is clear that neither the 'do nothing' option nor the non-legislative interventions would secure the government's policy objectives. Evidence and previous experience strongly indicate that the market on its own is unlikely to self-correct. Under both these options, leaseholders would continue to be disadvantaged by a skewed regulatory environment without the extended rights and control to enable them to free themselves from the constraints and obligations of the current leasehold system.

78. In terms of non-legislative interventions, some of these – such as incentivising the market with government funding – have already been done. Relying on other interventions, such as guidance and codes of practice, may drive some behaviour change and raise standards among key actors in the leasehold sector, but are clearly insufficient to deliver a wide whole-market reform as they are often not binding on the whole market and will be difficult to enforce and it is unlikely that all freeholders will voluntarily agree to comply with a certain code. There is also evidence that the market is reluctant to change without legislation. For example, the peppercorn ground rent policy was announced In April 2019 and yet some landlords continued to grant leases including a monetary ground rent up until the day before commencement of the Leasehold Reform (Ground Rent) Act 2022. The government is clear that only through legislating can we be confident all leaseholders will benefit from these reforms. We have listened to a wide range of views garnered through consultation responses, correspondence, meetings with stakeholders and engagement with Parliamentarians. Without significant changes to the existing legislative framework, the barriers intrinsic to the existing leasehold system would remain and continue to limit leaseholders' access to enhanced enfranchisement and management rights and their protection from unjustified costs and unfair practices. A summary of the extent to which these options – including our preferred legislative interventions – would deliver the desired outcomes is at Table 1.

[65] 5 Government consultations over the last 5 years: Tackling unfair practices in the leasehold market (2017); Protecting consumers in the letting and managing agent market (2018); Implementing reforms to the leasehold system in England (2019); Strengthening Consumer Redress in the Housing Market (2019); Reforming the Leasehold and Commonhold systems in England and Wales (launched in January 2022)

Table 1: Extent to which options will deliver desired outcomes

Policy objective: A fairer, more transparent leasehold system, where leaseholders have greater security and are empowered to take control over their property and its management, with improved access to redress where things go wrong.						
Desired outcomes	**Extent to which options will deliver desired outcomes**					
	Option 1: Do nothing		**Option 2: Non-legislative interventions**		**Option 3: Legislative interventions**	
Make it easier and cheaper for leaseholders to buy their freehold or extend their lease by: reforming the valuation methodology; giving new rights to a 990-year lease; allowing leaseholders with long leases to buy out their ground rent; allowing leaseholders who have owned a lease for less than 2yrs access to enfranchisement rights; and requiring freeholders to take leasebacks.	**X**	The valuation process would remain unreformed so complexity, high premiums and prohibitive costs will remain an issue with leaseholders still required to pay marriage value and high ground rents, making enfranchisement prohibitively expensive for some. Leaseholders will not be able to defer payment of development value. Leaseholders continue to experience a lack of security and control over their property. Maintains the status quo on lease extensions, with leaseholders only able to extend the lease on their flat by 90 years and on their house by 50 years. This gives less security of ownership, as the value of the leaseholder's asset	**X**	**There are no non-legislative options that would fully address the issues identified** – changes to law are required in order to change the valuation process to reduce premium costs or to provide leaseholders with new rights that would enable them to benefit from greater and long-term security. There would be no statutory way of deferring payment of development value. Government funding could continue to be used to incentivise the market to provide 990-year leases. This has seen some success, mainly with housing associations, but it will not reach all of the market, leaving some leaseholders with fewer rights than others. Freeholders/landlords are highly unlikely to voluntarily agree to meet their own	**✓**	The **valuation process will be reformed following the Scheme 1 option set out in the Law Commission report**, allowing a clear and consistent methodology for calculations of enfranchisement costs, which include **removing Marriage value, capping treatment of ground rent in the calculation at 0.1% of the property value, and prescribing rates used to calculate enfranchisement premiums**, as well as **requiring landlords to pay their own non-litigation costs.** Leaseholders in collective enfranchisements will have a choice to defer payment for development value, where it is claimed, if they agree not to develop. These **reforms will reduce premium costs for many leaseholders, particularly those**

		continues to decline with the lease term nearing its end, and additional costs accrue as leaseholders are required to undertake unnecessary lease extensions. Leaseholders on long leases would not be able to extinguish their ground rent without extending their lease at the same time, even if such extension is not needed, adding unnecessary costs. Leaseholders aiming to undertake collective enfranchise would continue to face high premium costs for non-participating units in their building, making it unaffordable for many. Maintaining the two-year restriction on enfranchisement rights would delay the sale of leases and in specific cases lead to increased enfranchisement costs for leaseholders.		process costs in enfranchisement claims. There is no evidence that this is the case in negotiated deals that do not follow the statutory framework. So, leaseholders would continue to bear additional high costs, which may deter many from exercising their enfranchisement rights. We think it is very unlikely that freeholders will voluntarily come to agreements with leaseholders regarding enfranchisement before they have owned their leases for two years. We think it is very unlikely freeholders will voluntarily take leasebacks of such units. Freeholders do sometimes agree to take leasebacks under the current law, but we have not seen evidence that this is widespread. We do not believe that encouragement or guidance from Government would change this behaviour. In the majority of cases, we believe leaseholders will be unable to reduce the premium via the use of voluntary leasebacks		**with 80 years or under remaining on the lease term or with high and escalating ground rents** and will remove the need for complex negotiations by professional valuers. It will make the process simpler and remove financial barriers deterring leaseholders from bringing forward enfranchisement claims. All leaseholders will get new rights to extend their lease by **990 years**. This would still allow for consistent break clauses in the last 12 months of the original term and towards the end of each 90-year period of the extension to provide landlords the opportunity to redevelop the property, given the limited lifespan of buildings. **This will provide leaseholders with real security over the ownership, without the need for unnecessary extensions.** Leaseholders with long leases – at least 150 years remaining on their lease term will get a new right – **to buy out their ground rent, with the benefit of the 0.1% cap, without**

		Freeholders retain the right to require they are granted a leaseback of any units not let to a qualifying tenant. Leaseholders would be unable to require their freeholder to take a leaseback of any non-participating units and would therefore be unable to reduce the upfront premium they must pay to collectively enfranchise. Intermediate leases will remain an issue in adding complexity to a claim, affecting the premium, and the level of costs paid for those wishing to seek lease extensions and freehold acquisitions.		and collective enfranchisement will remain inaccessible and unaffordable for leaseholders in such circumstances. We believe that it is very unlikely that the leaseholders who wish to enfranchise will not face a higher level of non-litigation costs and premiums because of the presence of intermediate leases in claims.		**needing to face the cost of extending the lease**, providing greater control over their property. This will increase some leaseholders' ability to sell or re-mortgage their property, especially where lenders are reluctant to lend on a lease which includes high ground rent. The wait for **leaseholders who have owned a lease for less than two years access to enfranchisement rights** will be removed. Leaseholders will get a new right to **require freeholders to take leasebacks of any flat or unit other than a flat let to a participating tenant as part of a successful collective enfranchisement claim**. This will reduce the upfront premium leaseholders pay to acquire the freehold and make collective enfranchisement more affordable. Freeholders will be able to choose to retain the leaseback and any regular income derived from it or sell the leaseback if they wish to no longer have an association with the property.

						The intermediate lease valuation methodology will be reformed so that the relevant interests are assumed to be merged, effectively meaning it is assumed there is only one landlord to compensate. Landlords will then divide the premium according to their interests. This will simplify the process and will reduce the level of non-litigation costs leaseholders face.
Enable more leaseholders to buy their freehold or take over management of their building.	X	Retaining the existing 25% non-residential limit would leave leaseholders of flats in buildings with over 25% non-residential floorspace usage without the right to collectively enfranchise or claim a right to manage. The most likely outcome of doing nothing is that leaseholders in such buildings will remain unable to take freehold ownership of their properties or take over their management. Leaseholders will be prevented from taking greater control over their properties.	X	Primary legislation is required to change the non-residential limit and improve access to collective enfranchisement and the right to manage. Without amending the limit this criterion will always prevent statutory collective enfranchisement and the right to manage being available to leaseholders in such buildings. The existing 25% limit is detailed in the Leasehold Reform, Housing and Urban Development Act 1993 for collective enfranchisement and the Commonhold and Leasehold Reform Act 2002 for the right to manage. The limit for collective enfranchisement has	✓	Legislate to increase the non-residential limit from **25% to 50% for collective enfranchisement and right to manage claims to allow more leaseholders in mixed-use buildings with up to 50% non-residential floorspace usage to own their freehold or takeover management responsibility for their properties.** Additionally, **requiring landlords to pay their own non-litigation costs in RTM claims will remove a key barrier currently deterring leaseholders from taking a claim forward and make the process more affordable for many.**

		In addition, without intervention leaseholders will continue to be obliged to pay their landlord's non-litigation costs when making a Right to Manage claim. This would continue to deter leaseholders from taking claims forward and mean fewer take up the management of the building.		been increased before, from 10% to 25% by amendment via the Commonhold and Leasehold Reform Act 2002. Government could encourage freeholders to voluntarily agree to sell the freehold, or relinquish management control, of such buildings. We think this very unlikely to be taken up by freeholders and in practice will not lead to increased access to freehold ownership or management control for leaseholders in such building. In addition, the Government cannot require landlords to bear their own non-litigation costs in Right to Manage claims without changes to law. While it could encourage landlords to do so and provide guidance recommending that, it is unlikely that landlords will agree to pay their costs if they are not bound to do so.		Leaseholders may still be required to cover the landlord's non litigation costs in circumstances where the RTM claim is withdrawn or where the RTM company acted unreasonably. They will also be required to cover costs related to obtaining information ahead of making a claim. This will ensure the landlord is protected where they have had to incur costs from spurious or vexatious claims.
Expand leaseholders ' access to redress.	X	Doing nothing would mean those leaseholders (around 40%) whose freeholder does not use a managing agent have unequal	X	All non-legislative routes, rely on freeholders' willingness to change their behaviour for the benefit of their leaseholders. It is unlikely that these	✓	**Require freeholders/landlords who don't use manging agents to register to one of the Government approved redress scheme**. This will

		access to redress, limited to the court jurisdiction. This option would fail to plug the gap in redress which the Government has committed to address. Moreover, leaseholders could still be required to unfairly pay their landlord's legal costs in disputes, even when they win the case, and do not have a corresponding right to claim back their costs from their landlord/freeholder.		alone would bring the desired change. Landlords/freeholders of leasehold properties who do not use a managing agent could voluntarily join a redress scheme, but we are not aware of such take up in practice. We also considered the use of **guidance** to promote best practice in relation to recovering legal costs from leaseholders. However, guidance without teeth will most likely be insufficient in resolving the issue as landlords/freeholders will unlikely volunteer to pay their own costs if those could be recovered from the other party. The intention to legislate in this space to ensure leaseholders are not subjected to unfair costs was announced in 2018 and we have not seen the market self-correct.		promote consistency across leaseholders' access to redress and enable them to seek redress for matters which are not covered within the court jurisdiction (e.g. behavioural issues of the managing agent). **Give leaseholders a new contractual right to apply to the court to claim their legal costs from their landlord.** This will give leaseholders the same right as their freeholder to recover their legal costs in disputes. **Require landlords to apply to the relevant court or Tribunal before passing their legal costs** to any leaseholder through the service charge or as a variable administration charge. This will remove a barrier deterring many from challenging their landlord and will mean leaseholders are not subjected to unfair costs.
Improve redress for those homeowners on freehold estates.	**X**	Doing nothing would leave freehold homeowners no legal recourse to tackle unreasonable maintenance charges or the	**X**	Government considered encouraging the sector to produce good practice on the handling of estate management fees and to encourage putting minimum	✓	**Ensure estate charges are transparent and give homeowners in freehold managed estates right to challenge the reasonableness of costs and services**,

		reasonableness of works. Homeowners on freehold estates would lack transparency over the bills they are required to pay. They would remain vulnerable to poor quality services, forced to pay for services and costs they have no right to challenge.		dispute resolution procedures in place. However, there is no trade body or organisation which represents estate management companies and there is not accurate data on the number of such companies. This approach would not offer significant protection for homeowners, nor would it be likely to lead to the behavioural change we are seeking.		and to change the managing agent when they fail to provide adequate service. This will give homeowners on freehold estates greater legal rights to hold their estate management companies to account and provide them with access to redress.
Freehold homeowners do not face unproportionate consequences for failed small rentcharge payments.	X	Taking no action would not close the legal loophole identified for failure to pay a rentcharge and would leave freehold homeowners at risk of forfeiture of their home for failure to pay small amounts of money.	X	Guidance could be available for rentowners on appropriate processes to follow if a homeowner fails to pay a rentcharge. However, there is no representing body for rentowners and we don't have information about the number or identity of rentowners. This approach would not close the legal loophole in current law and would keep freehold homeowners vulnerable to unproportionate consequences.	✓	Legislate to ensure freehold homeowners are given notice of the requirement to pay the rentcharge and are provided with sufficient opportunity to pay any arrears, before their rentowner can take any enforcement action against them.
Make the buying and selling process easier and quicker leasehold properties.	X	With no action taken in this area, leaseholders will continue to pay thousands of pounds for obtaining leasehold	X	With no indications of change coming from the sector, another option considered was to intervene directly to push the sector to	✓	Setting cost and time limits for the provision of leasehold information from landlords in law will provide clear,

		information from their landlords, and in many cases still be subject to long delays. They will continue to incur indirect costs in terms of transaction fall-throughs. Those sellers who cannot get the information from their landlord will continue to struggle to sell their home.		develop self-governing codes of conduct to protect leaseholders in this area. We have considered doing this through the industry-led Home Buying and Selling Group. However, initial soundings from stakeholders indicate that there is little appetite for this work and little expectation that it would be successful. This is largely due to the decentralised nature of the sector. Furthermore, the proposals to cap fees and setting fixed time frames for landlords or managing agents to respond to information requests are not contested by the industry, and support from the industry was noted in several government consultations on this issue. Nonetheless, the sector has not taken action to self-regulate on this issue and various industry players wrote an open letter to the Secretary of State in 2021 calling for Government legislation on this.		statutory protection for leaseholders to enable them to obtain the information they need to sell their property for a reasonable fee and within a reasonable time period. It will expedite the home selling process and cut costs, delivering a fairer deal for leaseholders, as well as ensuring that prospective buyers can make informed offers.
Reform the costs leaseholders are expected to pay by requiring service charge transparency	X	Doing nothing would continue to give landlords considerable discretion on how	X	We considered several options to increase transparency over costs, including some	✓	**Ensure service charge transparency and change landlord behaviour by driving**

and changes to insurance commissions.		to present their information to leaseholders. This approach would not improve transparency for leaseholders and will not change landlord behaviour, nor reduce cases of overcharging. Leaseholders would have limited visibility about hidden costs in their service charge. Leaseholders would continue to be subjected to unfair costs, with inflated building insurance premiums as the arrangers of this insurance would continue to be able to collect substantial commission payments which are then passed onto leaseholders.		that would address the issue through existing secondary legislation. While some core policy objectives might be delivered by commencing one or more of the unimplemented provisions already in law, the option was rejected on the grounds that **the resulting legislative framework would be too narrow in scope and would not provide the level of information or detail that is required** to deliver the policy objective in full. Given the complexity involved with numerous different provisions within individual leases, the **Government is the only body that could bring effective influence across multiple sectors, override leases where required and deliver behavioural change**. Other bodies (such as RICS or The Property Institute) could resolve specific points of concern but lack the reach to bring wholesale reform. We considered taking non legislative approaches to resolve the issue of inflated insurance commissions. These		**up the level of information that landlords must provide in a timely and accessible manner**. Key provisions are: i) prescribing minimum information landlords are required to provide with every service charge demand; ii) introducing a prescribed, mandatory year-end report with information of key importance to leaseholders; iii) implying in leases when and how service charge accounts should be provided; and iv) requiring landlords to provide specific information on request; v) requiring landlords to provide information on the buildings insurance policy they purchase proactively and increasing what can be requested reactively; and vi) requiring landlords to be clear about the administration charges they are likely to face. This will increase transparency and

				included engagement with industry bodies and individual firms to encourage freeholders/landlords and managing agents to stop taking commissions and improve transparency around building insurance costs. However, **industry codes of practice do not prohibit commission taking and, while they encourage increased transparency of costs, including building insurance costs, the codes of practice do not apply across the sector and are not directly enforceable.** These alone cannot lead to a whole-sector change.		access to information in this market and enable leaseholders to scrutinise their bills and challenge unfair costs. In addition, **ban the placer/manager of insurance from taking a proportion of the broker commission** for the work they have undertaken to administer the policy. Instead, the **placer/manager of insurance will charge a transparent insurance handling fee** to the leaseholder, reflecting the actual work conducted and the actual costs incurred when placing or administering the insurance.

2.2. Summary of preferred option including implementation

79. **This section provides further detail on how the preferred option will be delivered, including how interventions will be implemented and enforced.**

How the preferred option will be given effect

80. **Primary legislation will be required** to deliver the preferred option, as it will require revisions to leasehold law. This will be achieved via the Leasehold and Freehold Reform Bill. There will also be significant **secondary legislation** needed to implement various measures in the Bill. Consultation is planned ahead of secondary legislation, including seeking views on options for setting valuation rates and the details for the standardised service charge form. Where there are significant costs to business, these will be set out through an impact assessment.

81. There is no provision for piloting the reforms; however, we will provide for appropriate transitional arrangements for certain reforms as necessary. Government has signalled its intention to reform this market since 2017 and undertaken a number of consultations. The sector is therefore well aware of the planned reforms. It is our intention that the new legislative provisions will apply to and override existing leases and be applied to new leases that are granted after that part of the Bill has been commenced.

Indicative implementation approach and timings

82. Commencement of the reforms will depend on the time the Bill receives Royal Assent (expected summer 2024). The different elements of the reform will be implemented once relevant secondary legislation has been completed and, in some cases, there will be a consultation to inform the design of regulations. This will be accompanied by appropriate guidance. For the purposes of this Impact Assessment, we have assumed that the majority of the reforms will commence in 2025/26. However, our redress reform may not be operational until 2028, due to the need to implement the necessary secondary legislation before appointing a redress provider. We accept that these timings may change as we move towards the implementation phase.

Approach to enforcement

83. The Tribunal (either the First-tier property chamber or Leasehold Valuation Tribunal) in the main, or the otherwise relevant court, will be key to the enforcement of this new legislation, as they will be required to consider and take decisions on the applications they receive as the judicial body with the relevant mandate to deliver this. Due to the interactions between various elements of this reform, it is difficult at this point to estimate the additional burdens on the legal system.

84. Our reforms to legal costs, service charges and increased rights to challenge costs for those living on freehold estates may encourage more freeholders and leaseholders to pursue claims. However, by prescribing rates, providing a valuation calculator, and delivering a better functioning enfranchisement process, we may reduce the volume of claims. In addition, we would hope that a fully functioning redress ecosystem, as well as better balanced leasehold system and potentially improved standard of service due to increased accountability of landlords, would also reduce the number of enfranchisement complaints reaching the tribunal.

85. Overall, across the package of reform, we expect an increase in the number of cases brought to the FTT, mainly as a result of expanding rights to homeowners on freehold estates to access redress. In line with standard government practice, we are undertaking a robust Justice Impact Test to assess the additional cases that will be dealt with by the court system (primarily the First-tier Tribunal) across the Bill and will calculate the net costs of new regulation and will ensure these are fully funded.

86. Freeholders' (landlords') registration with Government-approved redress schemes will be enforced by local authorities' trading standards teams – supported by the National Trading Standards – who will be responsible for ensuring standards in the market are met. In line with standard government practice, we will carry out a New Burdens Assessment.

87. Reforms in this Bill apply to the statutory route to enfranchisement. With regards to non-statutory enfranchisement, – it is likely that changes to the statutory approach will influence the offers made through the non-statutory approach. For example, introducing an online valuation calculator will mean that, for the first time, leaseholders will have an easily accessible and trusted method of determining the cost to enfranchise. They will be able to use this information when negotiating with their landlord and it will represent a base cost around which an offer could be structured.

88. We are aware of reports suggesting leaseholders may have concerns around taking management responsibilities of their buildings. For example, data from the Residential Freehold Association (RFA) found only 18% of leaseholders would be interested in taking on responsibility for managing their building. Savanta's research[66] cites 73% of respondents being concerned of such added responsibility, and the IFF research commissioned by the Department[67] notes similar concerns mentioned in focus groups. The reports further note the main reason for this concern is a lack of experience in managing the building and the need to have the right skills and knowledge to deliver this role, but the IFF report did note that where leaseholders are more likely to be interested if they are unhappy with their current management arrangements. These reforms will enable more leaseholders access to enfranchisement and management rights, should they wish to use them. We are also aware that many leaseholders will be content with the current system, where their building is well managed and where they feel their concerns are addressed by the freeholder/ managing agent. We recognise that some people will not want to change their existing building management arrangement, and this is absolutely fine.

89. However, we believe that where leaseholders are not satisfied with the current arrangement, they should be able to make the necessary changes and have more control on how their building is managed. We also recognise the need to ensure that leaseholders who take the ownership or management of their building have the skills and knowledge needed to manage it well where they don't employ a professional management company to do so on their behalf. Government will work with the sector to produce guidance and training on this to provide leaseholders with the right tools

66 https://www.simarc.co.uk/wp-content/uploads/Rebalancing-the-relationship-between-Leaseholder-and-Freeholder.pdf

67 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1172133/Perspectives_on_living_in_and_looking_after_shared_buildings.pdf

and skillset. We believe, however, that in cases of larger and more complex buildings, leaseholders will employ a managing agent to manage the block on their behalf, similarly to freeholders.

3. Monetised and non-monetised cost and benefits of preferred option

3.1 Analytical Approach

90. **This section of the impact assessment sets out the costs and benefits at an aggregate level of the measures in the Bill.** Headlines in this section are based on individual assessments of each measure within the Bill, which are set out in more detail in annexes 2-9.

91. **The majority of impacts arise from the primary legislation proposed.** Some of the measures in the Bill will require supporting secondary legislation to set out more fully how they will operate, which will be subject to its own consultation where appropriate, scrutiny, and further assessment. This therefore limits how fully the potential impacts can be assessed at this stage.

92. **A proportionate approach has been taken in terms of monetised impacts** – the main monetised impacts are those relating to the policies which are likely to have the largest direct impacts – removing the payment of marriage value, setting a 0.1% cap on ground rents during enfranchisement, and requiring freeholders (landlords) to pay their own non litigation costs. Whilst these are all costs to freeholders, they are also transfers that benefit leaseholders which means they net out at zero in terms of the net present value to society overall[68]. The largest monetised direct costs outside of these transfers is for fees associated with the mandatory redress reforms and familiarisation costs.

93. There are several other reforms that will have a significant impact for leaseholders and freeholders at an individual level that we have not been able to monetise, such as increased eligibility and specific valuation issues in relation to collective enfranchisements set out in annexes 2 and 3. For these areas we have set out scenarios where possible and described the non-monetised impacts. Some of our reforms will have a benefit which cannot be quantified at an aggregate level at this time – such as the mandatory redress reform providing a direct benefit to leaseholders and freeholders in the form of fewer disputes going to court. We expect some of the benefits to become clearer once the relevant regulations are put in place.

94. As noted earlier in the document, this impact assessment covers both England and Wales. However, the evidence on leaseholds is not always available for both. The analysis captures Wales to the extent that the total number of lease extensions, which is a core assumption in this assessment, includes those that take place/are expected to take place in Wales. However, the analysis does not account for market variation in Wales. For example, marriage value calculations do not take into account house prices in Wales. As a result, we have not separated out a specific Wales component of the impacts. In addition, estimated process costs, RTM companies and court cases cover England only at this point.

[68] Transfers of resources between people (e.g. gifts, taxes, grants, subsidies or social security payments) should be excluded from the overall estimate of Net Present Social Value (NPSV). Transfers pass purchasing power from one person to another and do not involve the consumption of resources. Transfers benefit the recipient and are a cost to the donor and therefore do not make society as a whole better or worse off. The Green Book (publishing.service.gov.uk)

95. **The following evidence has been used to monetise the impact of the policies in the Bill**. This includes data from:

- **The English Housing Survey**, which is a continual survey conducted by the Department for Levelling Up, Housing and Communities (DLUHC). It collects information about people's housing circumstances and conditions. For example, we have used information on the number of leasehold dwellings, the level ground rent and service charges paid, the number of freehold estate households and reported ownership and management of buildings. This data covers England only.
- **The Leasehold Dwellings estimate,** which is an annual estimate published by DLUHC and produced by matching English Housing Survey and Land Registry data. This shows how the distribution of leasehold dwellings varies by dwelling type, tenure and region. This estimate covers England only. We used data from a Welsh Government commissioned research to estimate the stock in Wales (see bullet below).
- **Research into the Sale and Use of Leaseholds in Wales [69].** This research was commissioned by the Welsh Government to improve understanding of the leasehold market in Wales, its characteristics and the issues faced by homeowners.
- **HM Land Registry (HMLR) administrative data (covering both England and Wales)**.
  - HMLR have directly provided information on how often enfranchisements occur in the baseline, I.e., the annual number of lease extensions, notices of intention for collective enfranchisements (CE) and proxies for the number of freehold acquisitions for houses.
  - Extensive DLUHC analysis of published HM Land Registry data enabled estimates of the distribution of remaining lease terms across the stock of all leaseholders and estimates for the number of mixed-use buildings. It also enabled estimates of the number of freehold titles and the type of owner. Where the owner is not a private individual, we can identify how many freeholds are owned by each freeholder. We use this to estimate the overall number of freeholders.
- **Companies House administrative data**, collected for companies formed in England. This enabled estimates of the number of Right to Manage companies.
- **Industry bodies:** Data from annual reports from The Property Institute (formerly ARMA) and the TPRS / the Property Ombudsman have been used to generate estimates of the size and make-up of the managing agent sector, along with the nature of complaints and issues that arise in the counterfactual.
- **Ministry of Justice data** on volume and type of leasehold enfranchisement and management cases submitted to the First-tier Tribunal. This data includes England FTTs.
- **ONS data** for estimates of regional property prices.
- **Law Commission consultations and reports** which have been used to gather information on costs faced by leaseholders.
- **Government consultations[70]** which have been used to inform policy thinking. This includes consultation specifically on the impact of increasing the non-residential limit in mixed use buildings, in order to understand the impact of the changes on freeholders.

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

[70] 5 public consultations with leasehold/freehold estates content: Tackling unfair practices in the leasehold market (2017); Protecting consumers in the letting and managing agent market (2018); Implementing reforms to the leasehold system in England (2019); Strengthening Consumer Redress in the Housing Market (2019); Reforming the Leasehold and Commonhold systems in England and Wales (launched in January 2022)

- **Extensive stakeholder engagement** with freeholders, leaseholders, managing agents and developer groups including minister-led round tables. This has informed policy thinking and will ensure stakeholders are well-informed of pending reforms.
- **Desktop research** to supplement information on costs of various processes such as lease extensions, or Right to Manage applications.
- **Reports and studies conducted by non-government organisations.**

96. **An appraisal period of 10 years is used as per standard practice for Impact Assessments covering the period from 2025-2035.** This starts at the earliest point from which reforms may take effect. Implementation timings will be dependent on the timing of Royal Assent, secondary legislation, and transition periods as set out in section 2.2.

97. **The policy is assessed against a 'Do Nothing' scenario – the counterfactual.** In this scenario, the Government does not intervene through legislative or non-legislative measures to address market failures. This counterfactual is used as the baseline for the cost-benefit analysis. However, where a measure has a significant interaction with another measure in the Bill this is described and accounted for where possible.

98. **Where assumptions have been made this is stated and scenario or sensitivity analysis used to explore the impact of alternatives.** The cost benefit analysis is presented in 2019 prices with a 2025 present value and discounted from the beginning of the appraisal period in line with principles set out in the Green Book.

3.2 Summary of Impacts

99. **Overall, we assess that the monetised benefits to society of these reforms will offset the estimated costs to society. Along with the substantial non monetised benefits, this makes a strong case for measures being brought forward in the Bill.**

100. **The vast majority of the monetised impacts are transfers from freeholders to leaseholders,** as a result of valuation reform and requiring freeholders to pay their own non-litigation costs during enfranchisements and RTM applications. In these cases, the benefit to one party (leaseholders) is completely accounted for by the loss to the other party (freeholders) and the net effect of the change is zero.

101. Following our reforms, the valuation process will become much more transparent, and easier to navigate. We expect far fewer enfranchisements will require the services of a valuer, and this is the largest **benefit** (that is not a transfer) that has been monetised.

102. The largest **cost** (that is not a transfer) is due to costs associated with expanding access to redress. We expect some pass through of these costs to leaseholders, although this will be an indirect impact and is not captured in the EANDCB.

103. While we have monetised some of the main impacts of the Bill, there are other costs and benefits where we are not able to do so. Where this is the case, they have been outlined below along with available evidence. The headline figures in Table 3.1 provide a summary of the cost-benefit analysis in

the central scenario based on our individual assessment of each measure (as set out in the annexes). The table covers monetisable benefits and costs only.

Table 3.1: Summary of impacts, 2019 prices, discounted, central scenario (£ million)

Total costs (2025 PV)	Total benefit (2025 PV)	Net Present Value (2025 PV)	EANDCB (2025 PV) (Primary and Secondary Legislation)
3,527.1	3,634.4	107.3	227.0

104. Table 3.2 breaks down these headline impacts by policy area. Tables including more detail on non-monetised impacts are set out below in section 6, and in the relevant annexes.

Table 3.2 – Detailed table of impacts, 2019 prices, discounted, central scenario (£m)

	Total costs (2025 PV)	Total benefit (2025 PV)	Net Present Value	EANDCB (Primary and Secondary Legislation)
	3,527.1	**3,634.4**	**107.3**	**227.0**
Measures under Annex 2 – reforms to the valuation process to make it cheaper and easier to enfranchise, and mandate the valuation methodology for most lease extensions and freehold acquisitions				
· Removal of Marriage value	1,909.7	1,909.7	0.0	120.3
· Prescribing rates	NM	NM	NM	NM
· Cap ground rents at 0.1% of freehold value	588.3	588.3	0.0	37.1
· Development value restrictions	NM	NM	NM	NM
· Risk of holding over	NM	NM	NM	NM
· Leaseholder improvements	NM	NM	NM	NM
· Reform of intermediate lease valuation	NM	NM	NM	NM
· Require landlords to pay their own non litigation costs in enfranchisement	599.1	599.1	0.0	37.7
· 990 lease extension	20.1	20.1	0.0	-1.3
· Ground rent buy outs	NM	NM	NM	NM
· Removal of 2 years qualifying period	NM	NM	NM	NM
· Mandatory leasebacks	NM	NM	NM	NM
· Litigation costs in RTM	NM	NM	NM	NM
· Move of leasehold jurisdiction	NM	NM	NM	NM
Measures under Annex 3 – reforms to enable more leaseholders to buy the freehold or take up their management rights				

· Increase non-residential limit to 50% for RTM and ENF	NM	NM	NM	NM
· Cap landlords votes in RTM	NM	NM	NM	NM
· Landlords to pay their non-litigation costs (RTM)	8.3	8.3	0.0	0.5
Measures under Annex 4 – reforms to improve homeowners access to redress - expand redress for leaseholders				
· Require landlords who manage their property to join redress scheme	207.0	8.1	-198.9	18.2
Measures under Annex 5 – reforms to improve homeowners access to redress - legal costs				
· Leaseholders could recover legal costs from their landlords in disputes	17.1	1.8	-15.3	0.1
Measures under Annex 6 – reforms to strengthen rights for homeowners on freehold estates				
· Homeowners on managed estates may challenge reasonableness of costs	32.6	NM	-32.6	2.5
· Homeowners on managed estates may seek to appoint a managing agent	NM	NM	NM	NM
· Homeowners will not be subject to disproportionate consequences by failing to pay rent charge.	NM	NM	NM	NM
Measures under Annex 7 – reforms to make the buying and selling process easier and quicker				
· Regulating for the cost and time limits for leasehold information from landlords in the home selling and buying process	81.4	81.4	0.0	5.1
Measures under Annexes 8 and 9– reforms to the costs leaseholders are expected to pay				
· Service charge transparency	NM	NM	NM	NM
· Ban commission on building insurance	22.6	NM	-22.6	2.6
Familiarisation Costs				
· Familiarisation costs	41.0	0.0	-41.0	4.1
Efficiency Saving from simplified valuation				
· Efficiency saving from simplified valuation	0.0	417.6	417.6	0.0

Note: NM = Non-Monetised

105. **Most of the impacts in the summary impact table arise from the valuation reforms (88%), in particular removing marriage value (54%).** In terms of regional distribution, 65% of marriage value transfers occur in London, largely due to there being a higher proportion of flats in London and also reflecting the relatively higher property prices. The approach to capturing the marriage value impacts is set out in more detail below.

106. The monetised benefits are based on the annual number of enfranchisements expected to pay marriage value in the baseline, with a reduction to the premium payable. This is set out in more detail

in Annex 2. This represents the expected change in cash flow between leaseholders and freeholders and totals £1.9bn over the 10-year appraisal period.

107. We also expect that removing the requirement to pay marriage value will lead to an increase in asset value for all short leases (80 years and under) as soon as the reforms come in (not just those that enfranchise over time); however we have not included this in the headline figures and have instead opted to capture the annual cashflow impact (to do both would include double counting). We estimate a £7.1bn in England (£7.2bn in England and Wales) total increase in the value of the estimated 385,400 leases in England (401,600 in England and Wales[71]) with 80 years and less remaining that would have been subject marriage value in the counterfactual. This is an average increase of £18,500 per short lease in England (£18,000 in England and Wales) and is equivalent to a gain of approximately 7% to 8% of the property value. We have not monetised any additional impacts from the potential flow of leases into the short lease caseload over time or impacts from loss of hope value for those leases which are over 80 years.

108. The UK Collaborative Centre for Housing Evidence (UKCaCHE) has conducted similar analysis for marriage value reforms and found "Lessees who do not extend their lease will also benefit from the premium reduction capitalisation into short leasehold prices and values, as any current or future listing of the apartment will lead to higher bids by buyers due to the anticipated pay-off from extending the lease after making a purchase. For short leaseholds, the capitalisation gains are estimated to lie between 6% to 10% of the FHVP value".

109. Note that this applies to existing leaseholders of short leases. Future leaseholders will benefit from increased transparency of the cost of a leasehold property and a simpler enfranchisement process but will not benefit from a transfer. This is because although this group will no longer pay marriage value, they will pay an offsetting higher upfront property price.

110. Equivalently from the freeholders' perspective, the impacts of a reduced expected income stream over time may be felt immediately through a significant reduction in their book value which could affect their ability to borrow or invest. The individual impact will depend on the volume of and proportion of short leases (80 or less years) in their portfolio, and to what extent they are able to depend on marriage value for investment given the uncertain nature of the timing or value of marriage value payments. We note that some freeholder accounts specifically exclude enfranchisement income from their company valuation model because of its unpredictable nature.

111. These market value impacts have not been included in the headline costs and benefits, because in order for the existing leaseholder to crystallise that potential benefit, an action has to be taken. In the extreme, if the existing leaseholder never enfranchises or sells the property, there will be no gains to the leaseholder as the property will revert to the freeholder when the lease expires (at which point there is no marriage value in the existing process).

112. There are three points where this increased asset value of a lease can be capitalised into a direct cash benefit for existing leaseholders:

- at the point a leaseholder enfranchises (direct impact captured in headline figure)

[71] Different assumptions have been made for Wales where required. Leases where a lease length could be identified for Wales in Land Registry data were scaled up to the 235,000 estimate published in the Research into the Sale and Use of Leaseholds in Wales report. Similarly, ground rent estimates were taken from the same report.

- at the point a leaseholder sells (non-monetised)
- At the point the leaseholder re-mortgages where this corresponds with a cheaper mortgage rate due to a lower price to income ratio/drawing additional equity (non-monetised)

113. A discussion of direction of behavioural responses to the marriage value reform is set out in the detailed assumptions section below and is non-monetised. However, the estimates for the increase in asset value for all short leases (80 years or less) also can be thought of as representing the total potential direct and indirect impacts for those with leases i.e., if all leaseholders with short leases enfranchised in the first year. So, in that respect a high-end scenario is monetised in regard to marriage value reforms.

114. These costs are not evenly spread among freeholders; only those who have leases where the term has fallen to 80 years or below would be affected by marriage value reforms.

115. The reform package has a significant impact on those freeholders and leaseholders who will enfranchise in the assessment period, and in particular those who have leases with terms of 80 years or fewer, and a more limited impact on the larger group of all freeholders and leaseholders.

- <u>Full reform package:</u>
  a. The total reform package has total benefits of £3.6bn over the 10-year appraisal period, most of which are received by leaseholders (although not all). Dividing this by the total number of leasehold properties leads to an estimate of £73 per year per leasehold property.

  b. Equivalently, we estimate there are around 950,000 freehold titles associated with residential leases. For the purposes of estimating per freeholder impacts we have estimated a central scenario of 426,000 freeholders, although this is subject to significant uncertainty (the assumptions for this are set out below in section 3.7). Most of the £3.5bn costs are felt by freeholders (although not all). Dividing £3.5bn by 426,000 leads to an average cost of £828 per freeholder per year.

- <u>Marriage value only impacts</u>:
  a. The subgroup of 11,900 leaseholders that benefit from marriage value reforms each year will receive discounted transfers of £16,100 per affected lease. Spread over the 10-year appraisal period this is £1,600 per affected leasehold property per year.

116. Given the largest direct monetised impacts arise from enfranchisement of shorter leases or those with relatively higher ground rents, these costs are not evenly spread among freeholders. We estimate around 11,900 leases per year would have paid marriage value in the counterfactual, which represents the maximum number of affected freeholders per year in terms of an annual profile of direct impacts.

117. As shown in the headline figures, we expect that these reforms will bring substantial benefits to the market and society more broadly. However, many of the benefits associated with these changes are difficult to monetise.

118. Although the overall net present value is positive, in the technical annexes for individual measures where the benefits are difficult to monetise and the cost to business is perceived greater than the

benefits we have **estimated switching values** to demonstrate that the policy changes need only generate a small non-monetised benefit to deliver a positive net present social value.

119. The most significant are the mandatory redress and freeholder estates reforms. For mandatory redress reforms, the NPSV would be offset by a total of £198.9m across the 10-appraisal period. This equates to £99.74 per leaseholder directly affected by the reform (c.2m), at an annual rate of £9.97 over the 10-year appraisal period. If we applied this to all leaseholders these would decrease to £40.90 and £4.09 respectively. These benefits are likely to come from greater dispute resolution leading to improvements in mental health and wellbeing; greater certainty and control to resolve disputes; fewer cases going to court; and improved standards as parties comply with redress scheme requirements.

120. The negative NPSV for policy measures regarding freeholders on managed estates would be offset by a total of £32.6m across the 10-year appraisal period. This is equivalent to a total of £20.92 per household and £2.09 per household per year. Non-monetised benefits expected from this reform include greater accountability of management companies and improved service; reduced administrative costs when paying rent arrears; and greater transparency over costs.

3.3 Assumptions about freeholder behaviour

121. In calculating costs and benefits to various groups, we have made assumptions about freeholder behaviour and how this will impact legal disputes, and the degree of compliance with regulations over the ten-year appraisal period. These are set out at a headline level below, with more detail about assumptions for individual policies at the annexes. In attempting to predict the impact, it is important to recognise that freeholders are not homogenous either in terms of their portfolio or their business aims. Some freeholders will have a proportion of their properties with short leases (80 years or under) whereas others may have none. This makes the impact of our reforms more difficult to predict.

Supply side impacts

122. **We do not expect the reforms to have a significant effect on the supply of dwellings**. It will continue to be possible for developers to construct viable residential and mixed-use buildings. Developers would price in valuation and other reforms into viability and risk assessments at an early stage in devising proposals, alongside the many other costs involved in development. Developers can choose to make cost savings elsewhere in the design of their developments or bake extra costs into their sales prices.

123. By comparison, in anticipation of reform to charging financial ground rents, witnesses from several developers gave evidence to the Select Committee on how it might affect the supply of housing. When asked specifically whether the ground rents policy would affect housebuilding numbers, Bellway, Permission and Taylor Wimpey replied that it would not, with Persimmon stating, 'as for the effect on production, it would not have any impact at all.' [72] There were subsequent reports that the prospect of reform prompted developers to reorientate their models so that supply could be maintained without ground rent, well in advance of the introduction of legislation[73]. The impact assessment for

72 http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/leasehold-reform/oral/92747.html; https://parliamentlive.tv/event/index/2d3dece9-ed83-420c-8a5d-666e8c299a93

73 Leasehold scandal: Five major developers abolish ground rents on new flats, *The Independent*, 9 December 2020, https://www.independent.co.uk/news/business/leasehold-ground-rents-abolished-taylor-wimpey-barratt-b1768551.html

the Leasehold Reform (Ground Rent) Act 2022 anticipated that there would therefore be a low risk of an impact on supply, as some developers had already demonstrated their ability to change their financial models.

124. The relative costs of our reforms per residential unit will be minor in comparison to other viability considerations, such as design and construction considerations and planning obligations. We have heard from some freeholders and developers that investors may consider leasehold developments less attractive in future, or they may decide to build more properties for rent as one response to these reforms as this will mean buildings are not eligible for enfranchisement. Nevertheless, we anticipate that strong demand for residential properties, including flats, will continue to drive developers to bring forward leasehold properties to the market.

Pass through assumptions

125. While the reform will include familiarisation and set up costs which will be placed on the freeholder (landlord) or the estate company in managed estates, the majority of landlords may pass on these costs to leaseholders/homeowners through service, admin or estate management charges. The lease will set out whether the freeholder (landlord) is allowed to recover what costs from the leaseholder, and we understand this will be the common practice for the majority of leases. Given this will be the rational behavioural response expected from the freeholder (landlord) or estate company, we expect some, if not all, familiarisation costs, redress fees and estate management fees among other costs will in reality be borne by the leaseholders/homeowners. Leaseholders who are landlords may in turn pass those costs onto renters in the form of higher rents.

126. However, there is limited evidence to be able to make a robust assumption on the extent to which costs will be passed through to leaseholders. Therefore, pass-through costs have not been monetised in this IA. However, it is worth noting any pass-through costs would be an indirect impact, therefore not captured in the EANDCB in any case.

3.4 Detail of monetisation in estimates

127. **This section sets out further detail on how the costs and benefits that inform the Net Present Value (NPV) estimates affect different groups**. **Tables 3.3** at the end of this section provides a summary of the costs and benefits of each policy for the different affected groups.

128. **While each policy has been assessed independently, <u>the reforms we propose to legislate for are linked and often co-dependent</u> and therefore may provide benefits that are greater than the sum of their parts.** As an example, we are increasing transparency, increasing access to redress, levelling the playing field in terms of non-litigation costs and also increasing access to enfranchisement and RTM. These reforms will all come together to improve the quality of management in the leasehold sector. They will also mean that leaseholders should feel more empowered to complain about issues and will be more likely to be successful in those challenges, and there will be improved dispute resolution and enforcement mechanisms to remedy those complaints. **Individual measures with costs that may seem high in comparison to benefits should therefore be considered in the round.**

Cost and benefits for homeowners

129. We expect there will be **substantial benefits for leaseholders**, mostly in the form of transfers from freeholders to leaseholders. These are largely a result of valuation reform. **The total monetised benefit to leaseholders is estimated to be £3.6bn (2025 PV) over the ten-year appraisal period.**

130. Alongside this, there will be significant **non-monetised benefits.** We expect there will be additional benefits which are challenging to robustly monetise, such as enhanced ability to hold freeholders and managing agents to account in terms of their management of properties through the increased transparency of service charges, cheaper access to courts, increased access to redress, and increased ability to directly take over management or enfranchise and potentially reduced insurance premiums. This is likely to have a positive impact on leaseholder's day to day experiences and should reduce their concerns about living in a leasehold property and give them more faith in the legal protections. We also expect homeowners living on managed estates to feel happier as improved service charge transparency will mean they will have a better ability to hold their freeholders to account and access to redress will mean they can get help when things go wrong.

131. However, there will also be some **costs** for leaseholders. As set out in section 3.3, we expect freeholders / managing agents/ estate management companies may pass-through some, if not all, costs incurred as a result of the reforms such as familiarisation costs, ongoing redress fees and estate management fees. Whilst these costs are direct costs to business, in reality it is highly likely that such costs would be recovered from leaseholders. In many cases the lease will allow landlords to recover costs and they have an incentive to do so. As pass through costs are usually treated as indirect impacts, this is not included in the EANDCB.

132. Other indirect costs for leaseholders include the time cost of dealing with additional redress queries post mandatory redress reform and increased liability for freeholders' legal costs when leaseholders are unsuccessful in bringing additional legal cost claims in the instance of legal cost reform.

*Costs and benefits for freehold*ers

133. As set out in previous sections, we expect there to be significant **costs to freeholders** which we have been able to **monetise**. These include familiarisation costs to understand and adjust to new regulations; additional fees and time taken to register for redress schemes; removal of marriage value and a 0.1% cap on ground rent as part of premium payments; a requirement for landlords to pay their own non litigation costs as part of enfranchisement or RTM applications (subject to limited exceptions). **These costs to freeholders equate to approximately £3.5bn (2025 PV) over the ten-year appraisal period.** We have heard from freeholders that the cumulative impact of valuation reforms such as removing marriage value and introducing the 0.1% cap on ground rents in calculating the enfranchisement premium risk significant and potentially wide-ranging impacts to the sector, including pension providers who invest in freeholds for the ground rent income. We recognise there are significant financial impacts on freeholders.

134. While it is difficult to generalise about freeholders (who will hold different portfolios of short and long lease properties, and with different ground rents), large freeholders, charities who own freeholds, and pension funds are very unlikely to rely solely on income from enfranchisement. Freeholders often have diversified business interests, which mitigates the financial impact and reduces the likelihood of insolvency. We think that freeholders who hold a significant number of freehold titles are likely to pursue one of two main investment strategies: there will be those who hold a portfolio

comprised of modern developments who generate an income through ground rents and there will be those who hold the freeholds of older properties who look to generate an income from enfranchisement. For freeholders of older properties, there is a higher likelihood of leases 80 years or under and therefore payment of marriage value. For portfolios of modern leases, we know that there is a higher prevalence of leases with high or escalating ground rents. For these properties, while enfranchisement may be less common currently, there is an expectation that when it arises a significant proportion of the premium will relate to the level of ground rents. These investments are therefore significantly affected by the 0.1% on ground rent in the valuation calculation.

135. We have heard arguments from freeholder groups that the impact of our reforms will be felt in full on day one and as such will represent significant reduction in the book value of these companies. We agree that once our reforms have been implemented, it will mean that there is no future flow of marriage value payments to freeholders but we think it is appropriate within this IA to model this impact over the whole assessment period to parallel the treatment of the benefit to leaseholders. Those freeholders who currently receive high or escalating ground rents in excess of 0.1% of property value, will continue to do so until the leaseholder takes action.

136. We have also heard that freeholders consider the reforms to marriage value and the 0.1% cap are unfair, and they contest the argument that ground rents of 0.1% of freehold value are onerous. However, Government disagrees and considers these reforms are essential to make enfranchisement cheaper and fairer for leaseholders, and there is clear evidence that the 0.1% cap is used as a benchmark by sectors of the mortgage industry, causing delays and difficulty for leaseholders in securing a mortgage and selling their property.

137. The transfer of marriage value will be concentrated in London and the South East. This is because there are a disproportionately large number of flats in areas of London and leasehold property prices are highest in those regions. The Government intends its reforms to apply to all leaseholders. Given variance in average income across regions, while marriage value payments outside London and the South East may be smaller, the burden of paying them, as a proportion of income, to the leaseholder may be similar.

138. For this reason, some have argued that the transfer of marriage value will benefit already-wealthy households. The Government's policy is intended to benefit leaseholders, without distinguishing between other factors such as property value or residency which might have unintended consequences. While some owners of short leases (80 years or less) may have purchased them at a comparatively low price that reflects the term remaining (and the cost of extension), other owners of short leases are those who have lived in the property for many years and been unable to extend due to lack of funding. To avoid artificial distinction between these groups, the reforms will apply to all leaseholders.

139. The reforms will also apply regardless of whether leaseholders occupy the property, or it is rented in the private rented sector. Across the whole leasehold stock, 37% is in the private rented sector (flats and houses), and this figure is 48% for flats based 2020 to 2021 Leasehold Dwellings estimate[74]. The current law does not distinguish between leaseholders by occupancy: owner occupiers and leaseholders who let their property have equivalent enfranchisement rights. To distinguish would complexify the law, when the government's intention is to simplify enfranchisement – there might

[74] Leasehold dwellings, 2020 to 2021 - GOV.UK (www.gov.uk)

also be unintended consequences, such as for those who have become 'accidental' landlords, for example by inheritance.

140. The Government is aware that some leaseholder landlords are overseas investors but would note that some freeholders are overseas investors too.

141. Additionally, there may be both direct and indirect increases in costs for landlords in terms of dealing with new enquiries from leaseholders that comes with **increased access to redress and courts**. These policies are designed to provide a degree of security for leaseholders but will likely result in direct costs to landlords such the joining and annual fees associated with joining the mandatory redress scheme, the indirect time and compensation cost resulting from enquires to the new redress body and the direct impact of increased liability for leaseholders' legal costs.

142. Freeholders who currently charge high charges to leaseholders in exchange for providing certain information necessary for the leaseholder to sell the property will likely incur a direct financial cost from capping the maximum fee to £200 + VAT.

143. There are also some **costs** to freeholders that **we haven't been able to monetise.** Freeholders of mixed-use buildings with over 25% up to 50% non-residential floorspace usage will potentially be subject to collective enfranchisement and right to manage claims where under existing legislation they could not have been. Freeholders argue the potential for claims will make investment more expensive and discourage redevelopment of mixed-use spaces such as high streets, representing an associated depreciation in the value of existing assets in such spaces. Freeholders also argue a successful claim may result in several costs. Freeholders argue that a successful collective enfranchisement claim of such a building will negatively impact on the value of other adjacent properties in areas such as high streets and mixed-use developments, where single ownership of multiple adjacent mixed-use properties is common. They argue the inability to manage a contiguous portfolio will negatively impact the value of any remaining properties. They argue this fragmented ownership will also discourage future redevelopment and investment and make it more expensive with associated valuation implications.

144. While it is accepted there could be some impact on investment in mixed-use development and new supply, and the data in this space is limited, the Government is not convinced that an increase of the non-residential limit to 50% will lead to a significant detrimental effect on investment in mixed-use buildings and developments, including for regeneration. Decisions on the form of new or regenerative development will be affected by many factors of which the non-residential limit is one. Additionally, by an amendment made by the Commonhold and Leasehold Reform Act 2002, the non-residential limit for collective acquisition has been raised before, from 10% to 25%, and similar concerns were raised at that time, but investment in mixed-use buildings up to 25% non-residential floorspace has continued. Housing supply had continued to increase to the highest level in 2019-20, the highest in over 30 years, despite the previous change and most of these have been built by private providers for market sale.

145. Moreover, successful leaseholder-led management of mixed-use buildings already takes place in mixed-use buildings with up to 25% non-residential floorspace, and building maintenance and management may also be of higher standard if the responsibility lies with leaseholders who are likely to be more invested in it, given that they live there and own properties in the building. Appropriate safeguards for landlords to act against poor management of the building are also in place where the

leaseholders take up their right to manage and freeholders will continue to enjoy protection where a building can reasonably be described as substantively non-residential.

146. The government's view is that increasing the non-residential threshold is a proportionate change that will broaden access to collective enfranchisement and the right to manage for leaseholders, giving them more choice and control over the management of their building, and that the significant benefit to leaseholders outweighs the potential concerns. Where there are viability concerns with a development, there will be a range of options developers can explore to adapt or re-design their proposals. Many new purely residential buildings and mixed-use buildings are being built where leaseholders have the right to enfranchise and the right to manage and this has not deterred investment overall.

147. In response to concerns over depreciation of asset value in mix-used buildings, the Government takes the view that freeholders will have been fairly compensated through the implementation of some of its approach to valuation for collective freehold acquisition premiums which will reflect the market value of the property. The change is justifiable to achieve the Government's policy aim of making collective freehold acquisitions accessible for those who are excluded by virtue of the type of building in which they own their leasehold property; and those leaseholders are more likely to occupy the building than a freeholder. Retaining the non-residential threshold will mean a significant barrier for leaseholders – even in cases where a mixed-use building is majority residential – is maintained.

148. The Government agrees with the Law Commission that the test of whether a building is residential should not be based on the respective monetary value of the residential and commercial aspects to the landlord, but on whether the physical make-up of the building is predominantly residential. Raising the limit to 50% strikes a fair balance to meet a legitimate aim in the public interest. Even if a loss in value should materialise, the Government considers that that loss would be within the margin of appreciation to meet the legitimate social and economic aim to make access more readily available and more affordable for leaseholders.

149. Freeholders have also argued that the **use of a mandatory leaseback** as part of a successful collective enfranchisement claim could represent a significant loss to them. They argue they will be required to exchange a freehold interest for a less valuable leasehold interest. They argue that they will be unable to realise redevelopment opportunities for such units without freehold ownership of the wider building, making the leaseback less valuable than the freehold interest they lost. They argue that commercial units will be less attractive to commercial tenants if they only own them on a leasehold basis as an intermediate landlord. Commercial tenants will want assurance that the wider building will be maintained to an acceptable standard and faults dealt with swiftly, something they will not be able to guarantee without freehold ownership of the wider building. They argue that this loss in value will be exacerbated if leaseholders are unable to successfully manage these buildings following the transfer of freehold ownership. For the above reasons, freeholders argue that mandatory leasebacks will discourage redevelopment and investment in mixed-use buildings and spaces in the same way as increasing the non-residential limit to 50%. Whilst we acknowledge this concern, we note that the Law Commission stated, '*a 999-year leaseback is a valuable interest […] [and] virtually the whole of the value of the relevant part of the premises remains with the landlord*".[75]

[75] https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/07/ENF-Report-final.pdf

150. There are some **benefits** for freeholders that **we haven't been able to monetise**. Freeholders and intermediate leaseholders will also benefit from improving and clarifying the intermediate lease system. There will also be reputational benefits for freeholders as a result of a more transparent and workable tenure, with expected greater enforcement action against poor performing freeholders. Furthermore, reliance on some court processes will be reduced because of increased redress options, saving freeholders time.

151. Some freeholders may also get some long-term benefit from belonging to a redress scheme. It will provide them with a route to resolving particularly burdensome or complex complaints which they may not have the infrastructure to deal with. They will also be able to use feedback from the redress schemes in relation to complaints from leaseholders to determine how to improve their own internal policies and procedures, providing a better level of service.

152. We do not expect freeholders will exit the market as following our reforms; many freeholders will continue to hold a valuable long-term interest in leasehold buildings, including from the receipt of ground rent where permitted and premiums from lease extensions. While we are making it easier and cheaper for leaseholders to acquire their freehold, and this may displace freeholders of some buildings, it is possible that freeholders [subject to collective enfranchisement] might expect to hold 999-year leasebacks over flats not participating in the enfranchisement. They would then continue to receive income from a share of the premium in the event they decided to extend their leases. Where freeholders are providing a good service to their leaseholders, there may not be a strong incentive for leaseholders to collectively enfranchise to remove the freeholder.

Costs and benefits for managing agents, valuers and legal advisors

153. There will also be impacts on managing agents, valuers and legal advisors. We have **monetised** the familiarisation **costs** of understanding and adjusting to new regulations for managing agents, valuers and legal advisors. **For example, we expect managing agents will face familiarisation costs of £84.34 per agent over the ten-year appraisal period.**

154. There are also **benefits that we haven't been able to monetise**; for example, as for freeholders we expect there will also be reputational benefits for managing agents as a result of a more transparent and workable tenure. The impact on demand for managing agents will depend on whether leaseholders are more likely than freeholders to contract out management. Like freeholders, we would also expect Managing Agents for freehold estates to benefit from being able to use redress schemes to help them resolve particularly complex or burdensome complaints. We also expect them to be able to use decisions by the redress schemes in response to complaints to improve their own processes and procedures and thereby provide a better service. In addition, Managing Agents may be able to use their performance in handling complaints as a marketing tool.

155. Legal advisors may see an increase in demand from leaseholders as access to courts is made easier for leaseholders, leading to potentially greater profits for legal professions. However, freeholders may look for efficiencies now they are required to pay their own legal fees and greater dispute management through the mandatory redress body as opposed to through courts may decrease demand for legal professions. In addition, making the enfranchisement system simpler by prescribing rates and removing marriage value will be likely to reduce disputes and demand for complex legal advice but this may well be offset by an overall increase in demand as more people look to enfranchise.

156. Currently, any leaseholder wishing to extend their lease or buy their freehold will likely employ a valuer. Even if they do not, where their landlord chooses to employ one, they are responsible for paying the landlord's non-litigation costs. Valuers are more likely to be used where there are disputes about the valuation, or more complication such as in a collective enfranchisement.

157. As we set out in in our valuation annex, a valuer may be required because calculating the premium a leaseholder pays is complex. The lack of a clear methodology set in law has led to valuers and the market shaping the way enfranchisement premiums are calculated and agreed. The result is that valuation is open to interpretation, which can increase disputes and the cost of the enfranchisement. The mere fact that valuers are required to act in their clients' best interest demonstrates that the final premium represents nothing more than a negotiation between two parties. As the responsibility for paying a landlord's costs usually lies with the leaseholder, landlords do not necessarily secure value for money services, which drives up the total cost associated with enfranchisement for leaseholders.

158. Whilst valuers should independently take a view on what the premium should be, when entering negotiations, they may start at opposite ends of the extreme and work their way towards a middle ground.

159. Following our reforms, the valuation process will become much more transparent, and easier to navigate. We will have prescribed the rates to be used, both parties will be able to consult our on-line valuation calculator and we will have removed marriage value which adds real complexity and significant cost into the process. In addition, our changes mean that in most cases landlords will have to pay for their own professional advice. We expect this to mean that the use of valuers will fall and, where they are engaged, the amount of work that a valuer will need to do, and any areas of debate, will also be reduced. This means valuers will see some loss of income.

160. We estimate valuers may be used in around 20% of lease extensions and IFAs. As collective enfranchisements are more complicated, involve more properties and leaseholders and often bring a wider variety of issues to consider such as covenants, we estimate valuers will continue to be used in around 60% of cases. There will in some cases be a transfer of work, such as in deciding how a premium should be divided where there are multiple landlords involved with a claim, or in assisting with new rights such as ground rent buyouts and intermediate rent commutation.

161. In this IA, we have not attempted to monetise the impact of changing demand for services due to the reforms for managing agents, valuers and legal advisors. This is because an increase (or decrease) in demand for services and the resulting increase (or decrease) in revenue will come with a corresponding increase (or decrease) in cost to provide those services which will, in part, offset the increase (or decrease) in revenue. The net impact for managing agents, valuers and legal advisors is therefore the impact on profit of changing demand for services. However, we do not have the granular evidence needed to monetise this robustly.

Cost and benefit for social sector providers (social housing and housing association)

162. We expect freeholders (landlords) in the social housing sector will be impacted similarly to other private businesses, including lost income resulting from reforming the valuation process, for example the removal of marriage value and the 990 years lease extension.

163. Shared ownership providers are a separate case. Shared ownership leases represent approximately 5% of the leasehold stock, and extension rights are being given to shared owners (they are currently excluded under the 1967 Act, and their position is unclear under the 1993 Act due to conflicting court and Tribunal decisions). Where providers are freeholders and weren't already in the habit of providing (informal) extensions, they will begin to receive lease extension premia, albeit at the reformed, reduced price. Where providers are intermediate leaseholders, they will be given both a right to extend the whole (or relevant parts) of their headlease, at cost, in order that they can then provide extensions to their shared owners (whereafter they will be compensated, unit by unit, for the cost of extending their headlease). Additionally, they will be obliged to extend their headlease only over the sublease of a shared owner where they have not previously exercised their right to extend the whole (or relevant parts of the) headlease. Depending on the details of the case, this will sometimes be a net cash benefit to them, and sometimes a net cost.

164. While it is an example of one case, it is worth noting the Metropolitan housing association MTVH[76], as it provides anecdotal evidence suggesting that removing marriage value and allowing leaseholders 990-year extension with zero ground rent has not led to negative outcomes for the landlord. We recognise however that MTVH has taken a proactive and voluntary approach to reforming its business plan ahead of the reform, and this will not be the case across the sector.

165. On the other hand, leasehold-landlords renting to tenants in the social sector will benefit from our reforms in the same way as other leaseholders. The proportion of leasehold properties owned by social landlords is relatively small, at 5% according to the EHS (2021-22).

166. Most long leaseholders of local housing authorities do enjoy the same rights as leaseholders of private landlords to make a collective enfranchisement claim and buy the freehold of their building. The right has other qualifying criteria that may prevent a claim but in most cases leaseholders in the social sector who are dissatisfied with their freeholder are able to take ownership of their freehold and take over management responsibility for the building as part of this.

167. There will be less of an impact on registered providers of social housing who are also local authorities resulting from the measures to improve access to the right to manage. The right to manage is not available to leaseholders if a local housing authority is the immediate landlord of at least one flat in the building. This is intended to make sure that local housing authorities can always fulfil their responsibilities to social and secure tenants. This restriction applies regardless of how the local housing authority came to be the immediate landlord of at least one flat in the building. The restriction also applies in buildings that no longer contain, or never contained, any social or secure tenants. Long leaseholders and tenants of local housing authorities may establish a tenant management organisation which may take over the landlord's responsibility for managing housing services, such as repairs, caretaking and security. However, tenant management organisations can only be established in buildings that contain secure tenants. Additionally, shared owners will be excluded from collective enfranchisement rights where they have not stair-cased to 100%.

[76] https://www.leaseholdknowledge.com/metropolitan-housing-association-mtvh-tells-mps-we-wont-collect-ground-rent-we-have-ditched-marriage-value-and-all-leases-are-990-years-where-possible/

168. In addition, social landlords will be exempted from some of the reforms, such as requiring freeholders (landlords) who manage their buildings to register on a redress scheme. Social landlords will already be required to meet standards set by the Regulator for Social Housing and are covered under the social housing ombudsman. Furthermore, the detail of some of the reforms, such as service charge transparency, will be developed through consultation and set out in secondary legislation. The consultation will enable to further assess the impact on this sector and consider whether exemptions are needed.

169. We are also undertaking a robust New Burden Assessment to quantify additional new burden costs on local authorities as a result of the reform.

Costs and benefits to government / the taxpayer

170. We expect some **costs** to the taxpayer, which we have not been able to monetise. These include costs to the courts and tribunals as a result of increased volumes of cases; for example, we may see an increase in applications to challenge service charges in the First-tier Tribunal (Property Chamber). However, this may be offset to some degree by fewer disputes being brought to court due to the mandatory redress reform. There will also be some costs to Government which may realise a reduction in revenue generated by The Crown Estate as a freeholder which is returned to the Government for public services. These costs are included in the overall costs to freeholders set out above. As noted above, we are undertaking a detailed New Burdens Assessment and Justice Impact Test to quantify net additional costs to the courts, tribunals and councils.

171. There will also be **benefits** to the courts, which partially offset these costs over time. Although there may be an increase in applications relating to management disputes in the short term, the reduction in complexity and scope for dispute in enfranchisement processes should reduce applications. Moving all cases being heard in the FTT will remove the duplication and delay of cases, leading to efficiency improvements in the courts.

172. There will also be **non-monetised costs** of increased enforcement activity by councils.

3.5 Direct costs and benefits to business calculations

173. **The direct cost-benefit discussion is set out in the annexes, which detail the monetised and non-monetised benefits and costs of each policy.** The EANDCB includes freeholders, leaseholders who are landlords, managing agents, valuers and legal advisors. The EANDCB does not include any estimates of the likely degree of cost pass-through to tenants or landlords from the proposed regulation given this is an indirect impact, focusing only on the direct additional costs businesses are likely to incur. A summary of the EANDCB is shown at Table 3.3.

174. **The benefits and costs to homeowner leaseholders and council landlords are not included in the EANDCB as they are not classified as businesses**. These impacts are included in the NPV.

175. However, we know that 37% of all leasehold properties (both houses and flats) are in the private rented sector. The measures within the package of reforms affect property types differently, but as a simplifying assumption we have used the same 37% across the package. We assume that, where a leaseholder is also a PRS landlord, any direct impacts affecting this group are included in the EANDCB.

176. The direct costs considered in scope of the reforms are:
- **Transfers from freeholders to leaseholders** due to valuation reform and changes to who is responsible for freeholder litigation and non-litigation costs.
- **Hidden and policy related costs**, including familiarisation costs, set up and ongoing costs of reforms to required processes that the freeholder or managing agent has to follow, and court costs.
- **Registration costs paid by freeholders**, including the fees payable upon joining the redress scheme.

177. The **Equivalent Annual Net Direct Cost to Business (EANDCB), for the enacting legislation, of £159m** (2019 prices, 2025 present value (PV)) is the expected cost to freeholders, managing agents and associated businesses (such as legal professionals) of policy changes over the ten-year period.

178. The EANDCB typically contains the direct costs for primary legislation only. When including the expected costs of the secondary legislation, the Equivalent Annual Net Direct Cost to Business is £227m (2019 prices; 2025 PV). A breakdown of direct costs for both primary and secondary legislation is shown below.

Table 3.3: Summary of the EANDCB

Metric	EANDCB, Central	EANDCB without PRS leaseholder assumption
Estimated annual net direct cost to business (EANDCB) – primary legislation only	159	254
Estimated annual net direct cost to business (EANDCB) – primary and secondary legislation	227	348

179. The majority of this impact is due to valuation transfers as set out in section 3.2.

180. We expect some pass through of freeholder costs to leaseholders via the service charge (where permitted under the lease) in relation to the costs associated with service charge reform and the fees associated with mandatory membership of redress bodies. However, this is excluded from the EANDCB estimate, as the impact is uncertain and such costs are indirect and should not be included.

181. The EANDCB of £159m (2019 prices, 2025 PV) is equivalent to direct net costs of £37.24 per annum per freeholder and £3.19 per leasehold dwelling in England.

Familiarisation Costs

182. Groups affected will need to familiarise themselves with the reforms. The ensuing familiarisation costs measure the cost of the time in reading and understanding the new policy and the implications

of reform. Familiarisation costs can be monetised by calculating the total time individuals spend reading the new policy and valuing time using a representative wage (either the average wage for their group or a wage at which they would be able to employ someone to do it for them). All wage data is from the 2022 Annual Survey of Hours and Earnings (ASHE).

183. We have assumed reforms will begin being implemented during 2025 and be fully operational by 2028 (noting that measures will begin roll out leading up to this date). For the purposes of this impact assessment, we have grouped the familiarisation costs of all reforms in the proposed Bill, as reforms will likely be implemented at least in part in parallel. As such, we present a total familiarisation cost for relevant groups across the full legislation, rather than by individual strands as per other impacts.

184. The expected familiarisation time is based on the number of hours required to read the new legislation. We have produced an estimate based on the 2002 Commonhold and Leasehold Reform Act – taking the total word count (c. 43k), dividing it by the number of clauses (183) and multiplying by the estimated number of clauses of the new legislation (150). We then calculate the time at an average reading pace of 200 words per minute. This produces a reading time of 2.94 hours. We add an assumption of 30 minutes for other time costs (e.g., finding, acquiring, understanding, communication, etc.), leading to a total familiarisation time of 3.4 hours. In addition, Government funds LEASE to provide guidance and advice in leasehold legislation which will support the familiarisation process and industry led guidance can also be expected.

185. As per other sections of this impact assessment, all costs are presented in 2019 prices. We uprate the wage estimates by 1.3 to reflect non-wage costs. Unless specified otherwise, we assume familiarisation costs are transitory, one-off costs occurring in the first year of implementation. For new entrants into the sector, the familiarisation cost is assumed to be minimal as the new regulations replace the existing framework.

186. As such, unless otherwise stated, all familiarisation costs are calculated by multiplying a familiarisation time of 3.4 hours by the relevant representative wage, then expressing the cost in 2019 prices and applying a 1.3 adjustment to reflect non-wage costs. This per unit familiarisation cost is then multiplied by the relevant group size.

187. Taken together, the total familiarisation cost across the bill is **£41.0 million**. The breakdown of this total by type of affected group is set out below. A breakdown per group affected is set out below.

Leaseholders & Freehold Estates Homeowners

188. It is assumed that leaseholders will only fully familiarise themselves with relevant legislation when they have a dispute or an issue they might want to challenge or before they decide to enfranchise – to then see what action they are able to take. It is unlikely that many leaseholders will proactively read the full Bill itself and familiarise themselves with the legislation at the time it is enacted. As we believe leaseholders would only familiarise themselves with their new rights at the same juncture they would have with their old rights, there is no extra familiarisation cost to leaseholders that they would not have incurred in the counterfactual case.

189. In fact, the new reforms should make the process more transparent and easier for leaseholders and freehold estates households. This should mean the familiarisation time spent by a leaseholder in the event of a dispute will be lower. In many cases leaseholders will seek advice online or by speaking

to relevant bodies such as LEASE or redress bodies who will explain their rights rather than leaseholders referring back to the underlying legislation themselves.

190. We assume that the same applies to freehold households on managed estates. Similar to leaseholders, the reforms give these households the right to manage and appoint a manager for their estates. We also believe that these freehold estates households will fully familiarise with this element of the legislation when they have a dispute or issue.

Freeholders

191. We assume that freeholders will fully familiarise themselves with the legislation when it is published. As previously mentioned, we currently expect total familiarisation time to be 3.4 hours.

192. We do not have data for the average wage of a freeholder. As a proxy, we use the mean hourly wage for property, housing, and estate managers per ASHE data (£20.95) – which represents the wage for a managing agent employed by a freeholder. It is unlikely that freeholders who do not contract a managing agent will earn significantly more than this wage, as if they did, it would be cheaper to hire a managing agent. We multiply this wage by the estimate of familiarisation time, then apply the standard 1.3 wage uplift and adjust for 2019 price years – producing a per freeholder cost of £84.34.

193. Although many freeholders contract managing agents in these matters, we assume all freeholders (c.426k) will familiarise themselves with the legislation. This is then multiplied by the cost per freeholder – producing an estimated total net present value cost of **£35.9 million**. Based on discussions with industry we think that freeholders will absorb some, if not all, "learning costs" like these into their normal function – as such there may not be full pass through of costs from freeholders onto leaseholders.

Managing agents

194. In an estimated 58% of instances (per ARMA data) freeholders contract managing agents to manage their properties. As such managing agents, will familiarise themselves with the legislation. We use the mean hourly wage for property, housing, and estate managers per ASHE data (£20.95). This gives us a cost per managing agent of £84.34.

195. To estimate the number of managing agents, we use estimates from the Association of Residential Managing Agents' (ARMA, now part of the Property Institute -TPI) 2019 annual report that suggests that there are 870 firms in the sector with an average of 28.9 individuals per firm registered with ARMA. We therefore estimate that there is approximately 25k managing agents. It is worth noting this is based on data that ARMA say was collated in 2016/17, which increases the level of uncertainty that this is the true level. This estimate is also likely heavily skewed by the presence of a small number of very large nationally operating firms – where the majority are SMEs that operate at a local level. Despite this skew, we can still use the mean for the purposes of calculating the number of individuals working in the sector.

196. We assume all managing agents will familiarise themselves with the legislation – therefore, we multiply the cost per managing agent (£84.34) by the number of managing agents (25k) to produce a

total net present value cost of **£2.1 million**. Based on discussions with industry we think that managing agents will absorb some, if not all, "learning costs" like these into their normal function – as such there may not be full pass through of costs that they charge freeholders or from freeholders to leaseholders.

Lawyers

197. We assume that all legal professionals working in this area will also familiarise themselves with the legislation. We use mean hourly wage for legal professionals per ASHE data (£29.04). Applying the 1.3 wage uplift and adjusting for 2019 prices – this provides a cost of **116.91 per lawyer**.

198. We assume there are approximately 12.8k lawyers in this sector per data from The Law Society. Lawyers have to register with The Law Society who then ask them to provide their speciality (this is not mandatory but in the interests of the lawyers to do so – so we assume they do). The relevant speciality for this sector is 'landlord and tenant – residential.' Within this speciality there are 12.8k lawyers across 5.2k firms. We multiply this number to produce a total net present value cost of **£1.5m.**

199. As lawyers are not mandated to name their speciality, there is a large degree of uncertainty regarding this number – particularly as lawyers in other areas (such as residential conveyancers) may occasionally do work that would cross-over with our area. However, we do not have a way of knowing how many do, as such we believe just using the 'landlord and tenant – residential' provides the best estimate, even if it is uncertain.

Valuers

200. We assume that property valuers working in the sector would also familiarise themselves with the relevant parts of the legislation. We use the mean hourly wage for property, housing, and estate managers per ASHE data (£20.95), as this provides a proxy for individuals working in the property sector. This gives us a cost per valuer of **£84.34** per valuer.

201. The Royal Institute for Chartered Surveyors website shows 16,168 entries for 'registered valuer'. We use this as the basis for our assumption of the number of valuers. Valuers are not mandated to register with RICS, so this is likely to be an underestimate. Multiplying the cost per valuer by the number of registered valuers produces a total cost of **£1.4m**.

Brokers

202. We assume all brokers working in the multi-occupancy building insurance market will need to familiarise themselves with the legislation and subsequent regulations. We make the same assumptions regarding the familiarisation time as we have previously used. This is likely to be an overestimate given brokers are likely to be focused solely on the insurance provisions of the bill. As we do not currently have information about the length of individual provisions – using the total familiarisation time represents our best estimate at this juncture. We use the mean hourly wage for brokers per ASHE data (£29.26). This provides a cost of £117.80 per broker.

203. According to the FCA[77], 17 broker firms represent a majority of those operating in the multi-occupancy building insurance market in England. We assume that 5 employees[78] at each broker firm will need to familiarise with the policy. We multiply the cost per broker with the total number of brokers (85) to get a net present value cost of **£10k**.

Insurers

204. We assume all insurers working in the multi-occupancy building insurance market will need to familiarise themselves with the legislation. We make the same assumptions regarding the familiarisation time as we have previously for managing agents and freeholders – totalling 3.4 hours. We use the mean hourly wage for insurers per ASHE data (£21.43). Applying a 1.3 wage uplift and adjusting for 2019 prices, provides a cost of £86.30 per insurer.

205. According to the FCA[79], 26 insurer firms represent a majority of those operating in the multi-occupancy building insurance market in England. We assume that 20[80] employees at each broker firm will need to familiarise with the policy. We multiply the cost per insurer with the total number of insurers (520) to get a net present value cost of **£45k.**

Social Sector Providers (Social Housing and Housing Associations)

206. Shared Ownership providers, as freeholders and as intermediate leaseholders, will also have to familiarise themselves with lease extension provisions in the Bill, since shared owners are being given extension rights: presently, they're excluded from extension under the 1967 Act, and their position under the 1993 Act is uncertain due to conflicting court and Tribunal decisions. . It would be reasonable to make the same assumptions about time spent and wage costs as with other freeholders, and they will be managing themselves. Since the shared ownership stock is less than 5% of the total leasehold stock, shared ownership provider familiarisation costs are non-monetised.

207. Where shared ownership providers are freeholders, the effects of our policy reforms on them will be similar as on other freeholders, except that because shared owners currently have no right to extend and now will, the providers will begin to receive extension premia – they will also not, for example, lose out on marriage value payments, because they were never in receipt of them. As such, the policy overall will likely be a net cash benefit to them.

208. Where shared ownership providers are intermediate leaseholders, they will have both a right to extend their headlease, and an obligation to extend their headlease *only* over an extending shared-owner sublease when they have not exercised their right. Depending on the details of each extension – most especially, the proportion of the property "owned" by the shared owner and the amount of reversion the provider has, sometimes the obligation will impose a net cost on the provider, and sometimes a net benefit, insofar as premia are concerned – there may also be other costs associated with the division of the headlease. We are minimising costs as far as possible by prescribing valuation, and by drafting the legislation to keep any division of the headlease as easy as possible. On average,

[77] https://www.fca.org.uk/publication/corporate/report-insurance-multi-occupancy-buildings.pdf

[78] This is taken from an impact assessment done by FCA as part of a consultation: https://www.fca.org.uk/publication/consultation/cp23-8.pdf

[79] https://www.fca.org.uk/publication/corporate/report-insurance-multi-occupancy-buildings.pdf

[80] This is taken from an impact assessment done by FCA as part of a consultation: https://www.fca.org.uk/publication/consultation/cp23-8.pdf

an extension under the obligation will likely impose a small net cost on the provider, so that there will be a small net cost imposed on the sector overall.

3.6 Impact on Small and Micro Businesses

209. The measures in the Bill will affect a variety of businesses including freeholders, other landlords (such as intermediate leaseholders, but also leaseholders operating as buy to let landlords), and investment companies that have a beneficial interest in ground rents. It will affect professional services that are linked to the operation of the leasehold market, including managing agents and solicitors.

210. Freeholders comprise individuals and corporate companies, local authorities and housing associations, and charities and developers, within the UK and offshore.

Number of Freeholds

211. DLUHC has produced analysis by combining data from Land Registry (LR) and Ordnance Survey (OS). LR data is used to determine various facts about leasehold titles – including their ownership, their association with freehold titles and properties, and information on lease lengths and terms remaining. OS data is used to determine the characteristics of properties and buildings associated with a leasehold title – including whether properties are houses, flats or commercial premises, and proportions of residential versus commercial properties contained within buildings.

212. Based on this, we have been able to identify around 950,000 relevant freehold titles in England and Wales. 52% of these are owned by private individuals, 38% are owned by private companies and approximately 11% are owned by other categories such as housing associations, universities, and the public sector. For Wales specifically, the distribution is more weighted towards private individual ownership (73%).

	Freehold titles	%
England	**909,710**	100.0%
Private Individual	467,586	51.4%
Private Organisation	343,371	37.7%
Housing Association	49,737	5.5%
Local Government	43,799	4.8%
Developer	3,666	0.4%
Central Government	776	0.1%
University	427	0.0%
Foundation Trust	221	0.0%
Public Body	127	0.0%
Wales	**42,350**	100.0%
Private Individual	30,981	73.2%
Private Organisation	9,479	22.4%
Local Government	1,711	4.0%
Developer	133	0.3%
Housing Association	20	0.0%
Central Government	15	0.0%
University	7	0.0%
Foundation Trust	1	0.0%
Public Body	3	0.0%

Grand Total	**952,060**	100.0%

Number of Freeholders

213. We have been able to partially identify the number of unique freeholders (owners of freeholds set out above). We have been able to identify the number of freeholds titles owned per company. Classifying anything other than a "private individual" as a freeholder company, there are 114,151 freeholder companies owning 453,567 unique freehold titles – an average of 3.97 titles per company. This figure for 'unique' freehold titles ensures that each freehold titles is only counted once, as there are instances (6,478) where multiple companies own a freehold title.

214. We cannot do the same calculation for private individuals as the data in anonymised. It is unlikely individuals have the same average number of freehold titles as companies, especially given there are companies with as many as 20,000 freehold titles. Due to the uncertainty on this, we construct low and high scenarios for the number of freeholders – using the average of the two to create an estimate in the central case.

215. The low and high sensitivities vary the assumption of the average number of freehold titles per private individual. For the low sensitivity, we assumed that private individuals also had an average of 3.97 average titles per freeholder to construct what could be assumed to be an effective minimum number of private individual freeholders. Dividing the number of freehold titles owned by private individuals (498,567) by 3.97 gives an estimate of 125,497 private individuals – leading to a total number of freeholders as **239,648**. This low estimate might be lower in practice – due to the nature of subsidiaries and parent companies appearing as separate entities in the data which this analysis has not been able to account for. This is not accounted for in the estimates but would mean our starting point is overestimating the number of affected freeholders and overestimating the number of companies that own 1 or few freeholds.

216. For the high sensitivity, we took the lowest possible average freehold titles – 1. This implies 498,567 freeholders who are private individuals – leading to a total number of freeholders of **612,718**. This may be an underestimate of the maximum number of freeholders. Land Registry suggest that freeholds owned by private individuals were often held by 2 or more likely family members with the same surname – but these were treated as separate individuals, where one might reasonably assume they should be considered as one unit. We do not have an indication how many freehold titles this applies to and, as such, we cannot produce a further high scenario. This would be easier to estimate if we had data to suggest how many freehold titles owned by individuals were co-owned (as we do for companies).

217. For the central case, we took a mean average of these two scenarios – leading to an estimate of **426,183** freeholders at an average of 2.23 titles. This includes 312,032 private individuals at 1.60 titles per individual. The full range of estimates is shown in the table below.

Low	Central	High
239,648	426,183	612,718

218. We can also see the distribution of freehold title ownership for companies (table below), although again it is important to note that subsidiaries and parent companies will be appearing as separate entities in the data. However, while this is an indicator of size, it doesn't tell us how many leases are within each freehold, or how large the company is that owns the freehold.

Number of freeholds	Number of companies
1	97,384
2	8,155
3	2,717
4	1,316
5	760
6-10	1,554
11-50	1,467
51-100	291
101-1,000	462
1,001-2,000	26
2,001-10,000	16
10,001-20,000	3

219. Given the uncertainty around these caseloads, it is reasonable to assume a flat profile for the number of freeholders over the appraisal period. Although we know the number of leasehold properties has increased over time, it is not obvious the same would apply to freeholders. For example, there could be market consolidation with existing freeholders owning more freeholds over time.

220. Companies that hold many hundreds or thousands of freeholds often have significant turnovers, which include revenues from ground rents and premiums received from lease extensions. A significant portion of these freeholders and related companies would not qualify as micro or small companies. It is however likely that a larger proportion of individual private freeholders that hold much fewer freeholds would be more likely to qualify as micro or small business.

221. It is likely that measures that reduce costs for leaseholders, such as the removal of marriage value and capping ground rent in the enfranchisement calculation, will have a proportionally higher impact on smaller freeholders, which may have fewer financial resources to adapt, or as easily divest interests where the reforms reduce the income they receive from premiums. It is likely that the changes requiring each party to pay their own costs from an enfranchisement claim could have a proportionally larger impact on smaller freeholders. Familiarisation costs could have a larger impact on such freeholders, where these costs do not instead fall to, or on, professional services acting on their behalf.

222. **Intermediate landlords** (such as head leases) may be owned by private businesses, social landlords and individuals. Companies who own multiple intermediate leases may also own freeholds, such as social housing and shared ownership providers. Such landlords are unlikely to count as micro or small business. Individuals may own intermediate leases as a business opportunity, and a very small minority of leaseholders may also own an intermediate lease immediately superior to their sublease. The

impact of reforms will vary on a case-by-case basis, with some reductions and some increases in premiums likely depending on the circumstances.

223. **Professional services** include managing agents, estate management companies, valuers and solicitors/conveyancers. It is likely that many of such companies will be micro or small companies based in a local area.

Managing Agents

224. The Association of Residential Managing Agents (ARMA) (now part of the Property Institute -TPI) has 346 member firms, and in 2019-2020 recorded 13 firms as RMC/RTM Directors. Their most recent estimate of the number of the firms in the managing agent sector is 870 as of 2019. Due to the scale of merger and acquisition activity in the market there are a number of new firms that have entered since – meaning that this could be an underestimate. However, it remains the best we have. Their latest estimate for average head count for managing agent firms is approximately 29 (as of 2016/17). However, there are several large and nationally operating managing agent firms skewing this data, with the vast majority of the ARMA/TPI membership and the wider sector being comprised of SMEs that operate regionally.

225. The greatest concentration of portfolio size/units managed was in the 501 – 2,000 banding. 120 members representing 40% of membership managed 501-2000 properties. Whilst it is not possible to estimate the size of the companies, this indicates a sizeable proportion of firms could manage less than 500 properties, and so could be micro or small companies. Reforms to the Right to Manage (RTM) will give leaseholders a better choice about whether to manage properties themselves or to employ a managing agent. Anecdotal evidence suggests that when leaseholders exercise the RTM they often choose smaller, more local managing agents who are more accessible and accountable, which could be a positive impact for small businesses through increased demand. On the other hand, smaller managing agent companies which may rely on older IT systems in providing information to leaseholders may bear higher costs if they need to upgrade or make significant adjustments to their existing systems to meet the requirement to provide more information as part of the service charge demand or annual report. Much of the detailed requirements, for example, on forms to use and details that must be provided will be set out in secondary legislation. This will create the opportunity for greater future flexibility in amending any forms and to deal with arising costs issues as appropriate as the market changes in future. We fully intend to test with stakeholders the proposed detail and timeline required to make any necessary transitions to their systems. As part of this we will consider the cost impact on small businesses, especially freeholders, managing agents and estate management companies who do not have up-to-date systems in place. We would expect though that following a one-off implementation cost, these costs will be absorbed as business as usual.

Solicitors/ conveyancers

226. It is mandatory for lawyers to register with Law Society, although it is not mandatory to record specialty. There are around 5,000 firms or 13,000 individuals that deal with 'landlord and tenant – residential' which is the relevant subcategory for enfranchisement. The Association of Enfranchisement Professionals (ALEP), including valuers and solicitors, represents more than 260

member organisations which equates to over 1,200 individuals. It is therefore likely that a sizeable proportion of solicitors dealing with enfranchisement will be small or micro businesses. Our reforms could encourage more leaseholders to enfranchise and lead to a positive impact on solicitors through increased demand. However, our reforms will simplify the valuation calculation, meaning there will be less work for valuers on each enfranchisement transaction. This may be partly offset by an increase in the number of enfranchisement transactions, which might increase demand for basic property valuations.

227. Professional services companies will have familiarisation costs. Often these costs are built into fee and charging structures. However, familiarisation costs may have a proportionally greater impact on smaller businesses, compared to larger businesses who may have more capacity for in-house training.

Resident management companies (RMC) and directors/Right to Manage (RTM) companies

228. These companies are formed by leaseholders who take over the building management and maintenance responsibility. There are approximately 8,000 RTM companies according to Companies House data, with 600 new companies formed each year. The vast majority of such companies will be small businesses. RTM/ RMC that are formed post reform will be impacted by the measures, and as noted above, could face higher familiarisation costs. However, because these companies are held by the leaseholders themselves, we could expect costs to present better value for money.

Leaseholders who are landlords of private rented properties

229. Of the 4.98m leasehold properties in England, 1.85m (37%) are privately owned and let in the private rented sector. Leaseholders who are landlords to renting tenants are likely to be a micro business where they let a small number of properties. Between 2018 and 2021, the proportion of landlords with one property declined from 45% to 43%. The proportion of tenancies let by one-property landlords declined from 21.1% to 20.1%. By contrast, landlords with five or more properties increased from 16.7% to 17.7% accounting for 48.4% of tenancies from 47.9%[1]. These landlords will in fact benefit from our measures such as simpler and cheaper process of obtaining lease extensions, reforms to who bears costs and increasing transparency and access to information in relation to service charges.

Social landlords

230. The tables below which use the Regulator for Social Housing's Statistical Data Return shows the distribution of both social and non-social (e.g. leaseholders who exercised their Right to Buy/ Right to Acquire) leasehold properties held by Private Register Providers (PRPs). This data suggests that the vast majority of leasehold properties held by PRPs are by large providers as opposed to small.

Social Leased	Total unweighted	Total weighted (Small only)	% of Total	% of Total weighted
Small PRP Social Leased	3,025	3,191	2.1%	2.2%

Large PRP Social Leased	138,844	138,844	97.9%	97.8%
Social Leased Owned Total	**141,869**	**142,035**	**100.0%**	**100.0%**

Non-Social Leased	Total unweighted	Total weighted (Small only)	% of Total	% of Total weighted
Small PRP Non-Social Leased	5,249	5,536	7.9%	8.3%
Large PRP Non-Social Leased	61,183	61,183	92.1%	91.7%
Non-Social Leased Owned Total	**66,432**	**66,719**	**100.0%**	**100.0%**

Exemption of Small Businesses from Leasehold Reform

231. As described in section 1.2, the current leasehold system is fundamentally skewed in the favour of freeholders, intermediate landlords and other related businesses. Issues faced by leaseholders as a result apply no matter the size of the landlord. The aim of the reforms is to make enfranchisement simpler and cheaper for leaseholders, improve access to the right to manage and to redress, and increase transparency in relation to costs. This will make the system more balanced towards leaseholders.

232. SMBs in this sector will include some freeholders, RTM companies and leaseholders letting their property in the PRS, and they will also benefit from a simpler and more efficient enfranchisement process, including potential lower costs due to less involvement of professionals (e.g. valuers) and fewer disputes.

233. **Therefore, exempting SMBs would undermine the policy objective to deliver a simpler, fairer and more transparent leasehold tenure that is cheaper to enfranchise as there would be a two-tier system in place.** This would perpetuate existing problems facing the market, as set out in section 1.2 relating to negative externalities and information asymmetries, that have led to much dissatisfaction and would potentially exacerbate these problems by making regulation more unequal.

234. **Instead of exempting SMBs, we will instead focus on ways to support them with meeting new regulations**. These measures will support all landlords, but we would expect them to have a disproportionately large impact on SMBs. This includes:

- **Consulting on further important matters including the rates that form part of the enfranchisement calculation.** This will help ensure that stakeholders' views are taken into account and provide further evidence on potential impact.
- **Launching an online calculator that will also benefit small businesses involved in enfranchisement claims,** reducing the scope for costly and time-consuming negotiation, and removing the likelihood of disputes arising.
- **Consulting on the detail that freeholders or managing agents would need to provide to leaseholders and homeowners on private estates in relation to service charge transparency and testing with stakeholders the time needed to make any adjustment to existing systems.** The consultation will test whether there is a need for exemption (in whole or in part) from such information requirements.

- **Allowing sufficient transition period before key measures take effect to ensure businesses have further time to adapt their models.** Our intention to reform the market has been public since 2017, but we recognise the need to allow appropriate time for a smooth transition to the new arrangements. For example, we will provide freeholders with adequate time, including a transitional period to join the redress scheme from when it commences.
- **Providing guidance and support to help freeholders and professional services meet new requirements**. We will work with industry bodies and LEASE to issue guidance and promote training to ensure the reforms are easily understood by all key players, including small businesses. Alongside this, we will launch a communications and engagement campaign to raise awareness and promote understanding of the reforms.

Certain Exemptions from Enfranchisement Rights in addition to Existing Exemptions from Enfranchisement Rights

235. There are a number of situations where leaseholders who would otherwise qualify for enfranchisement rights will have more limited rights, or in some cases, none at all. The following new exemptions apply to the new enfranchisement regime and other specific new measures.

236. **The National Trust:** Certain specified leases of inalienable National Trust land, such as visitor attraction properties and donor leases, will be completely exempt from all enfranchisement claims under the new enfranchisement regime. However, where these leases previously benefitted from an extension right under the 1967 Act, that right to extend the lease remains available. All other leases of inalienable National Trust land are excluded from freehold acquisition rights but will benefit from the same lease extension rights as all other long residential leases. The National Trust will have a right of first refusal to buy a property being sold by a leaseholder who has extended their lease on inalienable National Trust land.

237. **The Crown**: Leaseholders living in properties on Crown Land will have the same opportunity to extend their lease or acquire the freehold of their property as other leaseholders. The Crown will act by analogy with the new enfranchisement regime, except in certain special cases which are exempt due to certain criteria, such as those for security reasons or to preserve the heritage of certain properties or places.

238. **Community-led developments** enable small groups of individuals more control over their own homes or the wider area in which they live. Legislation sets out a description of the community-led organisation which may benefit from an exemption from the right to acquire the freehold which includes Community-Land Trusts any other description set out in regulations. There will be a cost to community-led housing developments to obtain a declaration from the relevant Tribunal. We have assumed that all existing Community-Land Trusts will want to apply for the exemption and the average cost for the application is £100. According to the Community Land Trust Network, there are 350 active Community-Land Trusts in 2023[81] and another 209 communities exploring or forming one. If all these community organisations apply for the exemption, there will be a direct cost of £55,900. Following an initial influx of applications, we expect a steady and lower number of applications for a declaration that the development is community-led. Leaseholders of certain community-led developments and organisations will not be able to exercise their right to buy out their ground rent.

[81] https://www.communitylandtrusts.org.uk/wp-content/uploads/2023/03/State-of-the-Sector-2023-FINAL.pdf

239. **Providers of Lease-Based Financial Products:** Leaseholders with certain prescribed lease-based financial products will not be able to exercise the right to buy out their ground rent.
Shared Ownership Leaseholders: Shared ownership leaseholders who have not fully staircased are exempted from freehold acquisition rights because acquisition would subvert the shared-ownership model. They are currently exempt under the 1967 Act whereas their position under the 1993 Act is unclear due to conflicting court and Tribunal decisions: our reforms give them the right to extend under the former Act and clarify their right to extend under the latter.

3.7 Assumptions Underlying the Analysis

240. In calculating costs and benefits to various groups, we have made several assumptions about:
- the existing scale of enfranchisement and Right to Manage
- the size of relevant caseloads and characteristics of leases in the population
- baseline costs associated with enfranchisement and disputes
- behavioural responses to the reforms
- current membership of redress bodies

241. These are set out at a headline level below with a particular focus on valuation given the majority of costs and benefits arise from these reforms. More detail about assumptions for individual policies are in the annexes.

Scale of Enfranchisement & RTM

242. Assumptions have been made about how many lease extensions or freehold acquisitions are made over the next ten-years:

i. **Lease Extensions** – HM Land Registry have estimated a central estimate of 38,900 lease extensions in England and Wales over the period 2019/20 – 2022/23. The annual figures are broadly stable except for a dip in 2020/21, likely due to Covid lockdowns. There are a number of caveats associated with this estimate[82]. This average figure is used as the counterfactual in each year of the appraisal period for the direct impacts of valuation reforms, including marriage value. We have assumed a flat profile which is reasonable given the data we have and the appraisal period of 10 years. HM Land Registry have also provided a low and high range for the number of lease extensions on average over this period, which has been used to create low and high sensitivities for annual marriage value impacts.

19/20	20/21	21/22	22/23	Average
42,002	29,883	39,485	44,153	38,881

ii. **Collective Enfranchisement** – Figures for number of collective enfranchisements are not collected centrally. HM Land Registry does hold information on the number of notifications of *intention* to

[82] Output time may vary significantly due to both internal and external practices. It is not possible to quantify this and there may be periods of higher or lower output by type of application which may distort estimates.
3 - This estimate does only considers application volumes from 2019 onwards. The year 2020-2021 should be used with caution due to Covid related data anomalies which can impact estimates.

collectively enfranchise in England and Wales. These notifications prevent the freehold being sold elsewhere during the process, so it is in leaseholders' interests to register with Land Registry. However, it is voluntary to register this interest, so it is likely to be an underestimate in terms of those who start on the journey to collectively enfranchise. However, working in the opposite direction, HM Land Registry do not record which of those notifications of intention continue all the way though to completion so we cannot be sure this is a totally reliable estimate, and some notices may be in relation to commercial property so may overcount. This data shows notices of intention were broadly stable from 2014 to 2019, hovering between 800-900 a year. There was a downward trend in the following three years. The reduced figures in 2020 may be unusually low due to Covid lockdowns. We have used an average from 2015-2019 of 790 in the baseline in order to exclude this impact, and to limit the counterfactual estimate being reduced by potential behavioural changes by leaseholders to delay enfranchisement in anticipation of reform. We further apply an assumption of an average 4.4 flats per collective enfranchisement, in order to estimate costs associated with a collective enfranchisement. This is assumed to be a flat profile across the appraisal period, given the uncertain nature of the caseload proxy and the low levels.

2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Average all	Average 2015-2019
377	533	860	796	894	825	755	682	507	374	660	790

iii. **Owners of leasehold houses buying freehold** – Figures for the number of houses which acquire their freehold each year are not collected centrally. HM Land Registry have extracted data for England and Wales on instances of either a merge of a lease (with a freehold title) or a surrender of a lease as a proxy for where a leaseholder of a house may have acquired the freehold. This shows 15,600 in 2021/22, but HM Land Registry note that this may have missing data due to operational delays and is likely to be an undercount. Given the lack of a time series, this is assumed to be constant each year for the counterfactual. Note, only a subset of this figure has been used to estimate the number of high value freehold acquisitions in London.

iv. **Right to Manage** – It is mandatory for Right to Manage companies to include 'RTM Company Limited', or its Welsh equivalent, in the company name. A search of Companies House data for RTM suggests a total of 8,000 active RTM companies, with an average 600 forming each year. Again, there is not much movement in the series, so we assume a flat profile for the counterfactual.

2020	2021	2022	Average
585	657	573	605

Caseloads and Characteristics of Leases in the Population

243. This section sets out the information we have on groups affected by the reforms and assumed profiles for the counterfactual over the appraisal period.

244. As noted above, analysis of HM Land Registry data has enabled estimates of distribution of remaining lease terms across the leasehold stock, where those leases met the relevant criteria (e.g.

residential property), where we were able to identify the lease length, and where the original term was over 21 years. We have identified c4m houses and flats in England that met these criteria (2.6m flats and 1.4m houses). In total, 13% of these leases were 80 years or under.

	Flats	Houses	All
Total Leases	2,629,032	1,358,862	3,987,894
Total Number Leases 80 years or under	290,491	218,649	509,140
% 80 years or under	11%	16%	13%

Lease Lengths at the Point of Extension

245. A key assumption underpinning the annual marriage value impacts is the number of leases with 80 years or less remaining that enfranchise in the counterfactual. For example, we know 11% of the stock of leases of flats fall into this category, so assuming an equal chance of extending for any lease would lead to an assumption that 11% of all annual lease extensions that enfranchise each year would pay marriage value. To illustrate for the assumed 38,900 lease extensions per year, this would equate to around 4,200 per year paying marriage value in the counterfactual.

246. We have made an additional assumption that those 38,900 leases extending are likely to have leases with terms below 110 years in all cases. The lease data shows that 30% of leasehold flats have leases over 750 years and it is unlikely they will be extending. This assumption leads to leases with 80 years or less remaining accounting for 27% of all flats that extend, and results in an assumption of 10,310 lease extensions for flats per year that pay marriage value in the counterfactual.

	Flats
Total Leases under 110 years	1,095,493
Total Number Leases 80 years or under	290,491
% 80 years or under	27%

247. Looking at the regional distribution of flat leases, a large proportion of leases are found in London, although the proportion of leases 80 years or under is in line with the overall average.

	Distribution of all flat leases	Distribution of leases <80 years	Proportion of flats leases within region <80 years
Total	100%	**100%**	**11%**
North East	3%	4%	15%
North West	9%	5%	7%
Yorkshire and The Humber	5%	4%	9%

East Midlands	4%	4%	11%
West Midlands	6%	9%	18%
East of England	10%	12%	13%
London	40%	**36%**	**10%**
South East	17%	20%	13%
South West	9%	7%	9%

248. While the annual profile for marriage value impacts relies on assumptions about the distribution of lease lengths combined with the number of lease extensions, the impacts on market value of the stock of leases with 80 years or under is dependent on the total stock of relevant leases. For this estimate we have scaled up the caseloads to match those in the English Housing Survey. Note that we have also we assumed that all houses with leases of 80 years or less in London would pay marriage value in the counterfactual but apply average ONS prices.

Costs Associated with Enfranchisement

249. Assumptions have been made about how much leaseholders pay to enfranchise, both in the baseline and following the reforms.

250. HM Land Registry data does not record the premium paid by those that extend their leases in a way that can be retrieved across all leases, so we have modelled this based on the valuation process and the data set out below.

251. Key data inputs into the valuation calculation are: the remaining term on the lease; the property value (assuming it was held as a freehold); and the ground rent and the prescribed capitalisation and deferment rates (see Annex 10 for a detailed explanation of the valuation calculation).

252. As noted above, HM Land Registry data does show the distribution of lease lengths for the leases that were extended in each year. Based on this and combined with regional ground rent data from the English Housing Survey, and price paid data (HMLR) for the sample of those properties that sold in recent years, we have been able to model the premium paid in the baseline.

253. We have also made assumptions on the elements of the valuation calculation which are applied by valuers, such as the choice of capitalisation rate, reversion rates and the relativity applied in the valuation calculation (see annex for explanation of these terms). In practice, these rates are subject to a degree of negotiation between the freeholder and leaseholder, although the evidence points to a reasonable range. For example, an Upper Tribunal case in 2007 known as *Sportelli* has set a precedent for reversion rates, meaning they are effectively set at 4.5% for houses and 5% for flats. For the purpose of this analysis, we have retained these rates in the modelling. For capitalisation rates the evidence suggests this is usually between 5%-8%, with the rate determined on a case basis depending on various factors, particularly the level of ground rent and type and frequency of any review. If a single capitalisation rate is prescribed, the impacts will vary depending on where the current rate sits in the 5-8% range. For the purposes of the marriage value and ground rent analysis, we have assumed 6%.

254. Assumptions have also been made about the costs of valuation and legal costs faced by leaseholders during enfranchisement.

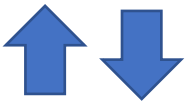
Behavioural Responses to Valuation Reforms

255. This section sets outs the incentives and expected direction of behavioural responses for various aspects of valuation reform. On balance we think it likely that more leaseholders will enfranchise as a result of these reforms. This is not monetised but will overlap heavily with the total asset value estimates in response to marriage value reforms set out above.

256. For those leaseholders with leases with fewer than 80 years remaining or with long leases, the reduced cost to enfranchise increases the incentive to bring forward enfranchisement.

257. For those with leases approaching 80 years, there are incentives working in two directions. The process of enfranchisement will be more transparent, certain, and cheaper which would incentivise enfranchisement. However, the artificial trigger point at 80 years will be removed as a result of removing the requirement to pay marriage value. As such, leaseholders will be able to enfranchise at a time which better suits them (such as when they have the savings or are looking to move).

258. There is also a possibility that during the passage of the legislation leaseholders will delay enfranchisement in anticipation of the reforms, leading to an initial increase in enfranchisement claims at the start of the appraisal period.

	Factors that may increase enfranchisement in the appraisal period	**Factors that may reduce enfranchisement in the appraisal period**	**Expected direction**
Short or very long leases	• Cheaper enfranchisement premium for specific types of leases • Cheaper and simpler process		
Leases approaching 80 years remaining	• Cheaper leases • Cheaper and simpler enfranchisement premium for specific types of process	• Artificial trigger point at 80 years removed enabling leaseholders to enfranchise at a time which better suits them.	
Those considering enfranchising during the passage of legislation	• Some leaseholders that would have enfranchised during the passage of legislation in the counterfactual may delay in order to benefit from reforms (bringing more		

	enfranchisements into the appraisal period)		
Combined impact relative to the counterfactual			

259. Another factor which could affect leaseholders' behaviour in relation to enfranchisement is the current financial climate. The increased cost of living may have affected people's ability to save money. This, along with evidence suggesting leaseholders are on average earning less than other owner occupiers[83], and the removal of a trigger point at 80 years, could mean that some leaseholders may be less likely to spend a great sum of money on extending their lease or buying their freehold now, even if those were made cheaper. However, this will depend on individual circumstances such as lease term, income level and spending habits, and it is difficult to estimate its impact on enfranchisement take up post reform. However, this would also affect the counterfactual.

Current Sign Up to Redress Bodies

260. A key assumption underpinning the impact of redress reform is how many freeholders will be required to join the mandatory redress scheme.

261. Currently, property managing agents in England must belong to a UK Government approved redress scheme; therefore, there are a proportion of leasehold properties that are already part of a redress scheme. Data from ARMA (now part of TPI) shows approximately 59% of leasehold properties are currently managed by a managing agent, which has led us to assume the remaining 41% of leasehold properties are not currently required to be part of a redress body thus would be affected by the reform.

262. In order to make an assumption about the number of freeholders who will be required to join the mandatory redress scheme, we then assume that the proportion of leasehold units are not already part of a redress body is representative of the proportion of freeholders not currently signed up to a redress body.

263. The number of freeholders affected by the reform is affected by the estimated total number of freeholders. In our central case, we assume there are 426,183 freeholders, therefore by multiplying this by 41%, we assume 174,735 freeholders are required to join the mandatory redress scheme.

Interactions Between Reforms

264. Although each element of the reform in the Bill is assessed independently, there are interactions. For example, within the valuation estimates ground rent values affect marriage value estimates, so the interaction between the 0.1% cap and removing marriage value is captured.

[83] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088477/EHS_2020-21_Owner_Occupier_Leaseholders_Report.pdf

265. Reforms to make enfranchisement cheaper, easier and more accessible may also lead to a reduction in counterfactual RTM applications, as to some extent RTM is a substitute for collective enfranchisement. However, in parallel reforms in this package will also make it cheaper and easier to exercise the RTM and will increase access to that right. This has not been modelled.

266. Other reforms to increase transparency of service charges, increase access to redress, or to make it cheaper overall to take a dispute to FTT could result in an improvement in service and reduction in leaseholder dissatisfaction regarding freeholders and managing agents. This could lead to a reduction in demand for buying freehold or exercising the RTM. This has not been modelled.

3.8 Wider Impacts

Equalities Impact

267. In line with the Public Sector Equality Duty, we have undertaken a separate assessment to estimate the impact our reforms will have on individuals with protected characteristics. It concluded that our policy reforms will act to increase the rights of leaseholders throughout the sector. Due to the size of the leasehold market, **all protected groups will be represented within, and will all benefit to some extent**. Our analysis, based on EHS data, shows that there will be a disproportionate positive effect on some individuals with protected characteristics.

268. Owner occupier leaseholders are more likely to be younger, with LGB+ sexual identity, single/ widowed/ divorced compared with other owner occupiers. Based on this evidence, we can say that these groups with protected characteristics will disproportionally benefit from the reform. However, we expect leaseholders, regardless of their protected characteristics and depending on their specific circumstances, will benefit from the reforms.

269. **Conversely, freeholder (landlord) rights will be reduced by these measures**. The total number of individual freeholders of leasehold titles (landlords) has been difficult to accurately define, and the department does not hold data regarding the demographics or protected characteristics these individuals may hold. It is likely that freeholders as a collective will also represent a full range of protected characteristics within their number. The total number of individual freeholders (landlords) to which the public sector equality duty would apply is likely to be small (large numbers of freeholds are held by companies or organisations), especially compared to the very large numbers of leaseholders known across England and Wales.

270. **Overall, we believe the negative impact they would bear is proportionate and justified** compared to the millions of leaseholders and freehold homeowners in managed estates who will benefit – and from the data we have available, we have not detected an outsized or disproportionate impact (positive or negative) from our policies specifically on people who share protected characteristics.

Geographical Disparity in Leasehold Tenure:

- In 2021-22, there were **an estimated 4.98 million leasehold dwellings in England**. More than two thirds (70%, 3.5 million) of the leasehold dwellings in England were flats; 30% (1.5 million) were houses.

- At regional level, **London and the North West** (which jointly account for 29% of England's population) **have consistently had the highest proportion of leasehold dwellings,** currently at 36% and 32% respectively, whilst other regions in England have between 9% (East Midlands) and 17% (South East).

- London had the highest proportion of leasehold dwellings of the 9 regions in England at 36% (1.4 million dwellings), closely followed by the North West at 32% (1.1 million dwellings). This is not a surprise, given the density of development. Leaseholders are less likely to live in rural areas than in suburban/urban ones. The remaining regions had a lower proportion of leasehold dwellings, with the East Midlands having the lowest (9%), just 192,000 dwellings. There are significant proportions of leasehold stock however in both the South East and South West.

- Recent research commissioned by the Welsh government (2021) estimated that 16.3% (approximately 235,000 dwellings) of housing in Wales is leasehold. This is also distributed unevenly across Welsh local authorities, being focused on more urban areas such as Cardiff but also – as in the North West of England – in some formerly traditional industrial areas.

- The proportion of **leasehold houses** varies significantly by region. Most notably, for historic reasons, 28% of houses in the North West are owned on a leasehold basis, a significantly greater proportion than in any other region (the next highest is 10% in neighbouring Yorkshire and the Humber).

- When it comes to **leasehold flats,** however, the North West has a smaller proportion (48%) than the South East (66%), East of England (65%) and London (63%). Given that almost all new flats currently being built are leasehold, we would expect the impact of our reforms to support existing leaseholders – especially in terms of savings from making enfranchisement cheaper and easier – to be felt increasingly in these regions.

- **Short leases (80 years or under)** as a proportion of total leases are around 10% in London but highest in the West Midlands (18%). It is also above 10% in the North East, East Midlands, East of England and South East.

- **The largest share of modelled benefits** as a result of valuation reforms are in London as a result of the removal of marriage value payment. As above, this reflects the number of leaseholds in London and property values and is not due to there being a higher proportion of short leases (80 years or under) in London.

Environmental Impacts

271. In line with the Environment Act 2021, we have undertaken a separate environmental impacts assessment. From our analysis we do not anticipate the package of reforms to have negative environmental impacts. As such, we do not find that the five environmental principles are directly

relevant to the development of this policy. The principle of environmental integration is important in all policy making, but within the scope of the proposed reforms there is no proportionate way to embed environmental protections in this case.

272. **We do not anticipate the package of reforms to have negative environmental impacts**. Overall, the reforms will empower leaseholders to take control over the ownership of the freehold or the management responsibility for their building. It will improve access to redress for leaseholders and homeowners on freehold estates and help ensure they do not face unjustified costs. We do not foresee potential harm to the environment as a result of these changes.

4. Risks and Uncertainties

273. The table below summarises the main risks identified that would impact the appraisal contained in this Impact Assessment.

Table 4: Risks and assumptions that would impact the appraisal

Risk description	Impact	Mitigations
Poor quality of the data has an impact on the assumptions underpinning the analysis	The estimated costs and benefits could change if the assumptions around the counterfactual and behavioural responses to the reforms change as a result of developments in the data available. As an example, on redress we assume that 41% of freeholders will be required to join a redress scheme. This assumption follows the data that 41% of leasehold properties are not managed by a managing agent. We also assume that the associated costs with joining a redress scheme would follow the existing redress scheme in the PRS. If these assumptions/data prove to be incorrect, and in reality, there are more or fewer freeholders required to join the scheme, or the costs of joining differ, these would have an impact on the estimated costs and benefits.	• We have used the best evidence we have, basing our estimates on reliable data sources, such as the EHS (National Statistics) and the Land Registry. We have also made significant efforts (working with partners) to close data gaps. However, data continues to be limited in some areas. • The annexes include detailed assumptions and data used to estimate the impact of individual measures. To account for any uncertainty in the data and assumptions made, we have added sensitivity analysis, considering how the impact may change under a low/ central/ high scenario. Sensitivity analyses are presented in the annexes for individual measures.
The Bill receives Royal Assent in summer 2024. Delay to this would lead to	A delay in receiving Royal Assent would mean that we have to delay our programme of secondary legislation, which will have a	• We have adopted a rigorous programme management approach which will help us to mitigate delivery risks.

delayed implementation.	knock-on impact for the delivery of benefits and long-term outcomes.	
Leaseholders continue to use the non-statutory approach to enfranchisement rather than the statutory route.	We assume that more leaseholders will adopt the statutory route to enfranchisement as a result of these reforms. If fewer leaseholders take up these rights, potentially due to limited awareness, this will impact the costs and benefits associated with the reforms.	• We will be supporting these reforms with a targeted communications campaign (including publication of guidance) designed to raise awareness of the changes. • We will be providing tools such as the online valuation calculator to set expectations around how much enfranchisement should cost – we expect this to influence non-statutory approaches. • We will be working with LEASE to ensure that leaseholders are provided with proper advice.
Wider cost of living challenges may limit leaseholders' ability to take up their enfranchisement and management rights	The current economic climate may impact leaseholders' ability to take up their enfranchisement and management rights, even where these become cheaper and easier. Fewer leaseholders taking up their rights will impact the costs associated with the reforms.	• Our reforms have been specifically designed to make the enfranchisement process cheaper and easier for leaseholders. We expect that because leases will continue to decline over time a proportion of leaseholders will need to extend their lease and our reforms will mean they will save money compared to the process pre-reform.
An economic shock arising from the cumulative impact of our reforms on freeholders.	The cumulative impact of all our reforms could spook investors and force freeholders out of business leaving leaseholders without a freeholder landlord.	• These reforms have been known about for a considerable period of time and we know that large freehold companies have been including warnings about the impact of these reforms in their annual accounts. • These reforms could have significant impact for individual firms but the overall impact on the sector will not be as significant. We believe that the overall exposure for institutional investors to this market is very small and they will diversify their investment into other areas. • Many of the impacts of the reforms will not be cumulative on the same freeholders. For example, as noted elsewhere, reforms on marriage value will tend to affect some types of freeholder whereas the 0.1% cap

		on ground rents in valuation will tend to impact others. Cumulative impacts of these will therefore be limited. • Freeholders will continue to receive income from service charges.
Unintended consequences for Government's building safety objectives	Our reforms seek to make it easier and cheaper for leaseholders to buy their freehold. Building safety obligations and liabilities, where any enfranchising leaseholders of buildings over 11 metres would also acquire associated remediation obligations and costs, may however risk deterring leaseholders from taking up these additional rights.	• We continue to work closely across the department and with other government departments to consider and work through the impacts of respective reforms. • Government guidance and communications as part of implementation of the reforms will ensure that leaseholders are aware of any potential liabilities as well as the benefits from the legislation. • We do not think that the freeholders of buildings over 11 metres currently receive substantial income from enfranchisement and so the financial impact of these reforms on them should not be significant.
Our reforms result in a reduction of housing in the Private Rented Sector or an increase in rents.	As a result of our reforms, those leaseholders who are also landlords will benefit, (particularly those landlords who rent out property with a short lease). There is a risk that these landlords will wish to capitalise on their property's increase in value when they enfranchise by selling up rather than continuing to rent it out or will increase rents to cover cost of enfranchisement.	• Although a significant amount of leasehold property is rented in the PRS, there are a lot of privately rented properties which are not leasehold, particularly houses. Therefore, we expect that the impact of these reforms on the whole PRS sector will not be substantial. • In addition, leaseholders renting out their property will need to take action to realise any gain by extending their lease – this may accelerate the decision of some landlords to leave the market but not in substantial numbers. • We do not believe that unexpired lease length particularly correlates with rents.

5. Monitoring and Evaluation

274. We are committed to robustly monitoring and evaluating the leasehold reform legislative programme. Our approach will build on the Department's existing long-term housing sector monitoring work, and we will conduct our process, impact, and value for money evaluation in line with DLUJHC's recently published Evaluation Strategy[84]

275. As part of the policy making process, we developed a Theory of Change model for the reform programme, identifying long term measurable outcomes and benefits, to help develop the interventions needed to facilitate the desired change. Our monitoring and evaluation plan will seek to assess whether the outcomes identified have been achieved and the change in measures materialised, as well as whether the identified benefits associated with those outcomes realised.

276. Monitoring and evaluating the changes delivered through the Leasehold and Freehold Bill will be complex. The leasehold sector is not a single entity; it comprises both owner occupier leaseholders and those who rent out their property in the private or social housing sectors, as well as shared owners. Likewise, freeholders (landlords) are not a cohesive group but adopt different business models. An evaluation plan will also review changes for homeowners on freehold managed estates. Whilst the reform provides improved rights to leaseholders and greater choice for consumers over their tenure, its impact will not be experienced equally by all leaseholders and will depend on behavioural decisions derived from individual circumstances. Some of the impacts of policy changes will also interact, increasing the challenge in identifying an isolated impact resulting from one measure within the reform package. Furthermore, some of the reforms require secondary legislation, hence we expect the impact to increase over time.

277. We will develop an evaluation approach that aims to capture these nuances. We will publish the evaluation findings in a timely manner, consistent with our policy for publication of research.

278. An **impact evaluation** will review the reform outcomes for leaseholders, homeowners on freehold estates, freeholders(landlords), managing agents, estate management companies and courts. The intervention aims to empower leaseholders to take control over the ownership of their freehold or the management responsibility, hence we expect to see:

- an increased number of leaseholders will take up their enfranchisement and management rights;
- a fall in the average cost to leaseholders of enfranchisement and less concern when unexpired leases approach 80 years remaining;
- an increase in the average length of unexpired leases over time, as 990 year leases become more prevalent in the market;
- leaseholders and homeowners on freehold estates will enjoy fairer terms and conditions.

279. The intervention also seeks to ensure leaseholders are better supported, hence we expect to see:

- increased satisfaction levels with this tenure, including improved understanding of the obligations and rights of leaseholders;
- more freeholders registered with a redress scheme, enabling more leaseholders and homeowners on freehold estates access to alternative dispute resolutions;

[84] https://www.gov.uk/government/publications/dluhc-evaluation-strategy/dluhc-evaluation-strategy

- greater transparency over costs, with leaseholders and homeowners on freehold estates better understanding the charges they are billed for;
- potentially an improved service standard as freeholders can be held accountable more easily,
- a reduction in the cost and time for getting the information necessary to sell a leasehold home or homes on freehold estates.

280. The specific outcomes and benefits and the changes to be measured, as well as the questions the evaluation aims to answer, will be set out in the evaluation and monitoring plan.

281. A **process evaluation** will review the effectiveness and efficiency of intervention, including how leaseholders' awareness of the reforms has increased following the government communication campaign and how the guidance provided assisted leaseholders and freeholders in getting familiar with the new obligations and rights. A **value for money evaluation** will consider the cost and benefits following the intervention across those impacted and wider society.

282. To evaluate the outcomes and benefits of the reform, we will use a combination of existing data sources, including the Land Registry, the English Housing Survey (EHS) and court data, as well as potentially commissioning external research.

283. To ensure the monitoring and evaluation plan is robust and takes account of the various measures and interlinkages, we will also work to improve data collection on leasehold to enable improved long-term monitoring of changes. The department does not collect data on the number of enfranchisement / Right to Manage cases annually, nor on the number of leasehold cases brought to courts. We are working with delivery partners, such as the Land Registry, and other government departments to explore ways to improve data collection for future monitoring and evaluation of the reform.

Preparation and Timing

284. We are working towards having a monitoring and evaluation plan in place ahead of commencement, in line with government requirements, to establish robust baselines. The impacts of the reforms and delivery of long-term outcomes depend on behavioural changes that will likely take time.

285. We expect to commission an interim evaluation to monitor the changes and assess early outcomes and impacts, followed by a later evaluation which will assess the longer-term identified outcomes and benefits. We will publish both the interim and final evaluation reports.

6. Summary tables of costs and benefits

Table 3.2 extended

All figures in the tables below are in 2019 pounds, discounted with a present value year of 2025 and are shown over a 10-year appraisal period (2025-2034).

Measures under Annex 2 – reforms to the valuation process to make it cheaper and easier to enfranchise, and mandate the valuation methodology for most lease extensions and freehold acquisitions

Impact	Value (M)	Group impacted	Direct/ Indirect
Transfers			
By removing marriage value payment	£707	Freeholders to Leaseholders (Businesses)	Direct
	£1,203	Freeholders to Leaseholders (Non-Businesses)	Direct
By prescribing market rates	Non-monetised	Freeholders/Leaseholders (Businesses)/Leaseholders (Non-Businesses)[85]	Direct
By capping ground rents within the valuation process	£218	Freeholders to Leaseholders (Businesses)	Direct
	£371	Freeholders to Leaseholders (Non-Businesses)	Direct
By restricting payment of development value	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
By clarifying discounts for holding over	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
By simplifying the calculation for leaseholder improvements and continuing to protect leaseholders from 'paying twice'	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
By reforming the intermediate lease valuation methodology by assuming leasehold interests are merged with the freehold	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct

[85] The direction of the transfer is not certain at this stage given it is not possible to identify for any given prescribed rate at this stage

Commuting Intermediate Rent to reduce an intermediate landlord's rental liabilities to superior landlords following statutory lease extensions and ground rent buy outs.	Non-monetised	Intermediate leaseholders to Freeholders	Direct
Additional rights in collective enfranchisements and lease extensions where intermediate leases are present.	Non-monetised	Freeholders and Intermediate Leaseholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders and Intermediate Leaseholders to Leaseholders (Non-Businesses)	Direct
By decreasing non-litigation costs paid by leaseholders by requiring landlords to pay their own costs	£222	Freeholders to Leaseholders (Businesses)	Direct
	£377	Freeholders to Leaseholders (Non-Businesses)	Direct
By extending leases to 990 years	£7	Leaseholders (Businesses) to Freeholders	Direct
	£13	Leaseholders (Non-Businesses) to Freeholders	Direct
By giving the right to buy out the ground rent where leases are 150 years or more without needing to extend the lease at the same time.	Non-monetised	Freeholders to Leaseholders (Businesses)	Indirect
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Indirect
By removing the two-year ownership requirement	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
By requiring landlords to take a leaseback for non-participating units in collective enfranchisement	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
Benefits			
Efficiency saving from simpler enfranchisement process (reduction in valuer services)	£209	Freeholders (Businesses)	Indirect
	£77	Leaseholders (Businesses)	Indirect
	£132	Leaseholders (Non-Businesses)	Indirect
Reduced disputes arising from greater certainty due to the removal of marriage value and prescribing rates	Non-monetised	Freeholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Businesses)	Indirect

	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Increased security of tenure for leaseholders given longer lease term (990 years)	Non-monetised	Leaseholder (Business)	Indirect
	Non-monetised	Leaseholder (Non-Business)	Indirect
Reduction in the premium payable in collective enfranchisement claims when landlords are required to take leasebacks of non-participating units	Non-monetised	Leaseholders (Businesses)	Direct
	Non-monetised	Leaseholders (Non-Businesses)	Direct
Simplify the process by moving leasehold enfranchisement **jurisdiction** to FTT	Non-monetised	Leaseholder (Businesses	Direct
	Non-monetised	Leaseholder (Non-Businesses)	Direct
Make leasehold a more **workable tenure for leaseholders** by equalising market dynamics and addressing historic imbalances, making it a fairer, simpler, and more transparent system	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Improved access to enfranchisements due to process being simpler and cheaper	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Costs			
Total Benefits	£3,535		
Direct Benefits	£3,117		
Direct Benefits to Business	£1,166		
Total Cost	£3,117		
Direct Cost	£3,117		
Direct Cost to Business	£3,105		
Total Net Benefits	£418		
Direct Net Benefits	£0		
Direct Net Benefits to Business	-£1,939		
EANDCB	£194		

Measures under Annex 3 – reforms to enable more leaseholders to buy the freehold or take up their management rights

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Change in non-litigation costs due to leaseholders not paying freeholders' costs for right to manage claims. Freeholders (landlords) will be incentivised to reduce their own costs	£3.1	Freeholders / Managing Agents to Leaseholders (Businesses)	Direct
	£5.2	Freeholders / Managing Agents to Leaseholders (Non-Businesses)	Direct

Benefits			
Increased access to collective enfranchisement and the right to manage, leading to improved outcomes for leaseholders	Non-monetised	Leaseholders (Businesses)	Direct & Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Direct & Indirect
Fairer outcomes by allowing more leaseholders to collectively acquire mixed-use buildings or exercise the right to manage, leading to democratic decisions on management from residents	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Certainty of control for leaseholders who exercise their enfranchisement or right to manage rights	Non-monetised	Leaseholders (Businesses)	Direct & Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Direct & Indirect
	Non-monetised	Managing Agents	Direct & Indirect
Improved wellbeing from having greater security, control and cost certainty	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Loss of control for freeholders when leaseholders exercise their collective enfranchisement rights or the right to manage	Non-monetised	Freeholders	Direct
Potential for negative impacts on high streets and business if buildings are poorly maintained	Non-monetised	Shops / Freeholders/ Society	Indirect
Potential for increased development costs	Non-monetised	Developers / Investors	Indirect
Total Benefits	£8.33		
Direct Benefits	£8.33		
Direct Benefits to Business	£3.08		
Total Cost	£8.33		
Direct Cost	£8.33		
Direct Cost to Business	£8.33		
Total Net Benefits	£ -		
Direct Net Benefits	£ -		
Direct Net Benefits to Business	-£5.25		
EANDCB	£0.52		

Measures under Annex 4 – reforms to improve homeowners access to redress

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Compensation awarded by redress bodies	£3.0	Freeholders to Leaseholders (Businesses)	Indirect
	£5.1	Freeholders to Leaseholders (Non-Businesses)	Indirect

Possible cost pass-through of redress fees onto leaseholders	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Benefits			
More leaseholders benefit from redress services and dispute resolution, for issues beyond the courts' jurisdiction (with associated benefits for mental health and wellbeing)	Non-monetised	Leaseholder (Businesses)	Direct
	Non-monetised	Leaseholder (Non-Businesses)	Direct
Improved standards as the responsible body complies with redress scheme requirements and/or improves behaviour to due to being held to account	Non-monetised	Leaseholder (Businesses)	Direct
	Non-monetised	Leaseholder (Non-Businesses)	Direct
	Non-monetised	Freeholder	Direct
Disputes resolved, leading to greater homeowner satisfaction and fewer calls for potentially costlier remedies such as right to manage or enfranchisement	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Reduction in cases going to court as disputes taken to redress scheme first	Non-monetised	Courts	Direct
Greater certainty and control to resolve disputes due to improved access to redress, as well as potential cost savings	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Handling complex complaints outside the organisation (after internal complaints process exhausted)	Non-monetised	Freeholder	Direct
Costs			
Fees paid to be a member of redress scheme.	£181.8	Freeholder	Direct
Time cost of additional redress enquiries post reform	£3.2	Leaseholder (Businesses)	Indirect
	£5.4	Leaseholder (Non-Businesses)	Indirect
	£8.5	Freeholders	Indirect
Total Benefits	£8.09		
Direct Benefits	£0.00		
Direct Benefits to Business	£0.00		
Total Cost	£206.96		
Direct Cost	£181.78		
Direct Cost to Business	£181.78		
Total Net Benefits	-£198.87		
Direct Net Benefits	-£181.78		
Direct Net Benefits to Business	-£181.78		
EANDCB	£18.18		

Measures under Annex 5 – legal costs

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Change in liability for leaseholders' legal costs for baseline representation and caseload	£0.7	Freeholders to Leaseholders (Businesses)	Direct
	£1.1	Freeholders to Leaseholders (Non-Businesses)	Direct
Benefits			
Fairer treatment of leaseholders by rebalancing the legal costs system	Non-monetised	Leaseholders (Businesses)	Direct
	Non-monetised	Leaseholders (Non-Businesses)	Direct
Increased access to dispute resolution by decreasing potential cost of dispute	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Improved decision making for parties in dispute due to increased representation	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Lower legal/court costs due to increased settlements by landlords outside of court tribunal	Non-monetised	Local Authorities	Indirect
	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Freeholders	Indirect
	Non-monetised	Courts	Indirect
Improved service for leaseholders, as bad actors in the market will be better held to account, and therefore reduce bad practices	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Increased liability for freeholders' legal costs when leaseholders are unsuccessful in claiming their legal costs in instances of additional representation and/or additional cases	£2.8	Leaseholders (Businesses)	Indirect
	£4.8	Leaseholders (Non-Businesses)	Indirect
Increased liability for leaseholders' legal costs when leaseholders are successful in claiming their legal costs in instances of additional representation and/or additional cases	£7.6	Freeholders	Indirect
Increased cases being brought to court	Non-monetised	Courts	Indirect
Total Benefits	£1.8		
Direct Benefits	£1.8		
Direct Benefits to Business	£0.7		
Total Cost	£17.1		
Direct Cost	£1.8		
Direct Cost to Business	£1.8		

Total Net Benefits	-£15.3
Direct Net Benefits	£0.0
Direct Net Benefits to Business	-£1.1
EANDCB	£0.1

Measures under Annex 6 – reforms to strengthen rights for homeowners on freehold estates

Impact	Value (M)	Group Impacted	Direct/Indirect
Transfers			
Increased administration charges to homeowners from estate management companies due to pass through of change in working practices costs	Non-monetised	Estate Management Companies to Homeowners	Indirect
Benefits			
Increased access to redress, via tribunal access and compensation pay-out	Non-monetised	Homeowners	Indirect
Fairer treatment as homeowners have greater transparency over costs, and greater control as they can appoint a manager following poor performance. This will ensure consistency with other homeowners' rights	Non-monetised	Homeowners	Indirect
Greater accountability of management companies, and **improved service** as their performance can be challenged	Non-monetised	Homeowners	Indirect
Reduced administrative costs when paying rent arrears	Non-monetised	Homeowners	Indirect
Fairer, more proportionate approach for failure to pay a rent charge	Non-monetised	Homeowners	Indirect
Costs			
Costs of **changes to working practices**	£24.7	Estate Management Companies	Direct
Increased tribunal costs due to increased tribunal cases	£4.2	Homeowners	Indirect
	£3.6	Estate Management Companies	Indirect
Costs to courts and tribunal services	Non-monetised	Courts & Tribunal Services	Indirect
Reduced income for rent owners from not being able to take possession of a property in the event of rentcharge arrears	Non-monetised	Rent owners	Indirect
Total Benefits	Non-monetised		
Direct Benefits	Non-monetised		
Direct Benefits to Business	Non-monetised		
Total Cost	£32.6		
Direct Cost	£24.7		
Direct Cost to Business	£24.7		
Total Net Benefits	-£32.6		
Direct Net Benefits	-£24.7		
Direct Net Benefits to Business	-£24.7		
EANDCB	£2.5		

Measures under Annex 7 – Provision of sales information and maximum fees - reforms to make the buying and selling process easier and quicker

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Lower fees due to fee cap of £200 + VAT	£30.1	Freeholders to Leaseholders (Businesses)	Direct
	£51.3	Freeholders to Leaseholders (Non-Businesses)	Direct
Benefits			
Decreased turnaround time	Non-monetised	Leaseholders (Businesses)	Direct
	Non-monetised	Leaseholders (Non-Businesses)	Direct
	Non-monetised	Estate Agents	Direct
Improved wellbeing and reduced stress due to increased certainty	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Prospective buyers	Indirect
Improved buying and selling process of leasehold properties	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Prospective buyers	Indirect
Costs			
Total Benefits	£81.44		
Direct Benefits	£81.44		
Direct Benefits to Business	£30.13		
Total Cost	£81.44		
Direct Cost	£81.44		
Direct Cost to Business	£81.44		
Total Net Benefits	£ -		
Direct Net Benefits	£ -		
Direct Net Benefits to Business	-£ 51.31		
EANDCB	£5.13		

Measures under Annexes 8 and 9– reforms to the costs leaseholders are expected to pay

Service Charge Transparency

Impact	Value (M)	Group Impacted	Direct/Indirect
Transfers			
Reduced excess fees	Non-monetised	Freeholders / Managing Agents to Leaseholders (Businesses)	Indirect

	Non-monetised	Freeholders / Managing Agents to Leaseholders (Non-Businesses)	Indirect
Increased service charges costs to be repaid	Non-monetised	Freeholders to Leaseholders (Businesses)	Indirect
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Indirect
Pass through	Non-monetised	Freeholders to Leaseholders (Businesses)	Indirect
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Indirect
Benefits			
Fairer treatment / increased transparency	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Better value for money for leaseholders, given leaseholders' increased ability to scrutinise and challenge costs which seem unfair or unreasonable	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Improved wellbeing and reduced stress, given greater control over ability to challenge overcharges	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Reduced leaseholders' time spent on complaints	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Implementation costs	Non-monetised	Freeholders	Direct
	Non-monetised	Managing Agents	Direct
Legal costs	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Freeholders	Indirect
Short-term increase in caseload/complaints	Non-monetised	Courts	Indirect
Total Benefits	Non-monetised		
Direct Benefits	Non-monetised		
Direct Benefits to Business	Non-monetised		
Total Cost	Non-monetised		
Direct Cost	Non-monetised		
Direct Cost to Business	Non-monetised		
Total Net Benefits	Non-monetised		
Direct Net Benefits	Non-monetised		
Direct Net Benefits to Business	Non-monetised		
EANDCB	Non-monetised		

Banning Commission Fees

Impact	Value (M)	Groups impacted	Direct/indirect
Transfers			
	Non-monetised	Landlords, Freeholders, Property Managing Agents	Direct

Reduced cost of insurance where the insurance handling fee is lower than the commission		to Leaseholders (Businesses)	
	Non-monetised	Landlords, Freeholders, Property Managing Agents to Leaseholders (Non-Businesses)	Direct
Benefits			
Increased transparency and fairer treatment for leaseholders from moving from a commission to a fee system	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Building insurance which provides better value to leaseholders (instead of insurance which is decided based on the highest commission for the placer)	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Transition implementation costs from setting up and using systems for tracking time to calculate time taken to place and manage insurance	£3.6	Landlords, Freeholders and Property Managing Agents	Direct
On-going costs of tracking time	£19	Landlords, Freeholders and Property Managing Agents	Direct
Total benefits	Non monetised		
Direct benefits	Non-monetised		
Direct benefits to business	Non-monetised		
Total cost	£22.6		
Direct cost	£22.6		
Direct cost to business	£22.6		
Total net benefits	-£22.6		
Direct net benefits	-£22.6		
Direct net benefits to business	-£22.6		
EANDCB	£2.6		

Familiarisation Costs

Impact	Value (M)	Group impacted	Direct/Indirect
Costs			
Familiarisation Costs	£-	Leaseholder (Businesses)	Direct
Familiarisation Costs	£-	Leaseholder (Non-Businesses)	Direct
Familiarisation Costs	£35.94	Freeholders	Direct
Familiarisation Costs	£2.12	Managing Agents	Direct
Familiarisation Costs	£1.50	Legal Professionals	Direct
Familiarisation Costs	£0.04	Insurers	Direct
Familiarisation Costs	£0.01	Brokers	Direct
Familiarisation Costs	£1.36	Valuers	Direct

Annex 1: Terms and Definitions

What is leasehold and freehold?

Generally, homeownership in England and Wales consists of two tenure types: Freehold and Leasehold. Freehold is ownership that lasts forever, and generally gives fairly extensive control of the property. Leasehold provides time-limited ownership (for example, a 99-year lease), and control of the property is shared with, and limited by, the freehold owner (that is, the landlord).

What is enfranchisement?

Enfranchisement is the process by which qualifying leaseholders may extend their lease or buy the freehold of their property (either individually for houses, or collectively with fellow leaseholders for blocks of flats). When a leaseholder exercises their right to enfranchise (either extending their lease or purchasing the freehold) they will usually pay a price (known as the premium) to the freeholder. The level of the premium reflects the value of the enhanced interest that the leaseholder acquires from the landlord, which will vary from case to case. For example, the valuation of the premium will factor in the terms of the lease, such as the level of ground rent and any rent reviews, the remaining length of the lease, the value of the property etc.

What is statutory and non-statutory enfranchisement?

Leaseholders looking to enfranchise can use either the statutory route or they can choose to negotiate directly with the freeholder through a non-statutory approach. The statutory approach provides legal protections but it may take longer to process. The non-statutory route can be quicker, but it is a voluntary negotiation between parties and so the cost for leaseholders is often higher and terms can be less favourable for them. **The reforms outlined in this Impact Assessment would apply only to statutory enfranchisement**. But we would hope that the leasehold reforms will make it more likely that leaseholders would choose to use the statutory approach.

What is the Right to Manage?

The Right to Manage allows leaseholders to take over the management of their building, without having to buy the freehold. It is a "no-fault" right, which leaseholders can exercise without the need to prove a complaint against their landlord or managing agent.

What are the Law Commission's Enfranchisement and Right to Manage reports?

In 2017 the Government asked the Law Commission, as part of its 13th Programme of Law Reform, to review the legislation on Right to Manage and leasehold enfranchisement, with the aim of making enfranchisement easier, quicker and more cost effective, and Right to Manage simple, quicker and more flexible. We also asked them to examine the options to reduce the premium payable by existing and

future leaseholders to enfranchise, whilst ensuring sufficient compensation is paid to landlords to reflect their legitimate property interests.

The Law Commission published their Enfranchisement and Right to Manage reports in July 2020. The Law Commission also published a valuation report in January 2020 which set out options on how to make buying the freehold or extending a lease cheaper.

What is enfranchisement valuation?

Valuation is the process for determining the value (the premium) to be paid for the freehold or lease extension in enfranchisement. The price is determined by various factors, including:

Term: Compensates the landlord for the value of the ground rent (if any is paid) for the remaining years on the lease. A discount rate, known as the 'capitalisation rate' is applied to reflect the present value of receiving ground rent for the duration of the lease.

Reversion: Compensates the landlord for their delayed or extinguished right to have the property back when the lease expires. A discount rate, known as the 'deferment rate', is applied to reflect the present value of the right to vacant possession at the end of a lease.

Marriage value: the notional additional value that is gained when the landlord's and leaseholder's separate interests are "married" into single ownership. Marriage value is not payable if the lease has more than 80 years to run, or where the lease expires and the property reverts back to the freeholder.

Development value: the additional price a leaseholder may have to pay to reflect the development potential of a property – for example, the addition of an extra floor on a property.

Holding over: in some circumstances, the law may allow for the leaseholder to have continuing security of tenure, known as "holding over". This usually involves the leaseholder continuing to occupy the property under a Rent Act Tenancy or Assured Tenancy and can result in a discount being applied in the case of a lease extension or freehold acquisition claim.

Leaseholder improvements: works that improve the quality of the leasehold property and increase its value are discounted when calculating the value of the premium, to avoid the leaseholder paying twice. Currently, the process often includes negotiations between professional valuers from both the freeholder and leaseholder sides, with the aim of agreeing the premium.

What are intermediate leases?

Intermediate leases, such as head leases, are part of a chain of leases in a building that are held by landlords. They sit like rungs on a ladder, between a freeholder at the top, and leaseholders at the bottom (such as those qualifying for enfranchisement rights). Intermediate leases might be used by a landlord managing the building as a business or an investment property.

There can be several rungs of intermediate leases in a building. There are also leases that do not act as landlords to leaseholders, such as those covering only common parts.

What are enfranchisement leasebacks?

Under the current law, there will be some situations in which leaseholders carrying out a collective enfranchisement claim are obliged to grant the freeholder a 999-year lease, at a peppercorn rent, over certain parts of the premises being acquired. These leases are generally described as "leasebacks" and will be granted by the leaseholders' nominee purchaser immediately after the collective enfranchisement claim completes. For example, a freeholder may wish to retain the consistent long-term rent derived from a commercial unit rather than immediately realise its full value as part of the collective enfranchisement claim. In this situation the freeholder can require that the leaseholders carrying out the collective enfranchisement claim grant them a 999-year intermediate lease of the commercial unit, making sure the freeholder retains control over the commercial unit, any potential tenant, and continues to receive any rent derived from it.

Leasebacks are required to be granted in certain cases where a flat is let on a secure or introductory tenancy or let by a freeholder who is a housing association to a tenant who is not a qualifying tenant. A landlord can also require the leaseholders to grant them a leaseback of any unit which is not let to a qualifying tenant (such as a flat let on a short tenancy, or a commercial unit), and may get a leaseback of a flat or unit which they occupy.

What is enfranchisement-based ground rent buy-out?

Ground rent is payable to the freeholder purely as rent and is separate from the service charge, which covers the cost of maintenance. Some leaseholders have high or escalating ground rent which may affect their ability to sell the property. A buy-out is a lump-sum payment to the freeholder which extinguishes future ground rent to peppercorn. Presently, ground rent can be bought out for flats upon lease extension, but not for houses. It can also be bought out as part of an individual freehold acquisition. Presently, there is no statutory means of buying out ground rent without either extending the lease (for flats) or buying the freehold.

What are freehold estates?

Most houses are sold as freehold. An increasing number of freehold homeowners live on estates where the communal areas are owned, paid for and maintained privately, rather than by the local authority. These can include the roads, street lighting, and communal open space. In these circumstances, freehold homeowners are required to contribute towards the maintenance of the shared areas through payment of an estate rentcharge or equivalent contribution.

What is a shared ownership lease?

A shared ownership lease is a lease under which the leaseholder purchases a "share" of a house or flat (usually between 25% and 75%) and pays a market rent on the remainder of the property. The lease generally permits the leaseholder to acquire additional shares in the property over time, usually up to 100%.

List of policy measures in the Bill

Measures under Annex 2 – reforms to the valuation process to make it cheaper and easier to enfranchise
• Removal of Marriage value • Prescribing rates • Cap Ground Rent at 0.1% of the freehold value • Development value restrictions • Risk of holding over • Leaseholder improvements • Reform of intermediate leases valuation methodology (assumption of merger) • Commutation • Landlords to pay their non litigation costs (enfranchisement; ENF) • 990 lease extension • Ground rent buy outs • Removal of 2 years qualifying period • Mandatory leasebacks • Litigation costs in Right to Manage (RTM) • Move of Leasehold jurisdiction
Measures under Annex 3 – reforms to enable more leaseholders to buy their freehold or take up their management rights
• Increase non-residential limit to 50% for RTM and ENF • Cap landlords votes in RTM • Landlords to pay their non-litigation costs (RTM)
Measures under Annexes 4 and 5 – reforms to improve homeowner access to redress
• (4) Mandatory redress scheme membership for landlords who don't use a managing agent and for management companies of homeowners on freehold estates • (5) Legal costs may be claimed by both parties (landlords and their leaseholders)
Measures under Annex 6 – reforms to strengthen rights for homeowners on freehold estates
• Homeowners on managed estates may challenge reasonableness of costs • Homeowners on managed estates may seek to appoint a managing agent • Homeowners will not be subject to disproportionate consequences for failing to pay a rentcharge
Measures under Annex 7 – Provision of sales information and maximum fees -reforms to make the buying and selling process easier and quicker
• Cap the cost and time for the provision of home buying and selling information for leaseholders and homeowners on freehold estates
Measures under Annexes 8 and 9 – reforms to the costs leaseholders are expected to pay
• (8) Service charge transparency • (9) Ban on building insurance commissions being passed to the leaseholder

Annex 2: Make it cheaper and easier for leaseholders to enfranchise – that is to buy their freehold or extend their lease

The Bill will make it **cheaper and easier for leaseholders to buy their freehold or extend their lease,** by reforming the valuation process by -

- removing marriage value;
- enabling the Secretary of State to prescribe the capitalisation and deferment rates used in the valuation calculation (which will be reviewed on a 10-yearly basis);
- capping the treatment of ground rent in the premium calculation;
- increasing the statutory lease extension to 990 years for both houses and flats;
- giving leaseholders with at least 150 years left on their lease a new right to buy out their ground rent without having to extend their lease.
- removing the requirement for a leaseholder to have owned their property for two years before they can enfranchise.

1. Enfranchisement can be done through statutory and non-statutory routes. The former is governed by leasehold enfranchisement law, whereas the latter will be in the form of a voluntary agreement between the leaseholder and the freeholder (landlord). As noted in section 3.2 para 86, the reforms in this Bill will apply to those taking the statutory route. Currently leaseholders are often tempted to take up an offer of a lease extension that is not on statutory terms because they are unaware of the statutory process, or because of perceived weaknesses in the existing statutory regime (timescales, payment of their freeholder's (landlords') non-litigation costs, delays as a result of taking a dispute to the First-tier Tribunal etc). Removing the requirement for leaseholders to contribute to their freeholder (landlord's) non-litigation costs will make a freeholder's (landlord's) argument that a leaseholders' overall costs will be reduced by entering into a transaction outside the statutory regime less persuasive.

2. While non-statutory enfranchisement agreements will still be permitted and not need to follow the new legislation, it is anticipated that the increased transparency and simplicity of the reformed statutory route means that landlords and leaseholders will include elements of the reforms in their voluntary agreements and there will be an increase in the number of leaseholders pursuing the statutory route, or for non-statutory settlements to be agreed on similar terms.

3. This annex sets out the individual measures comprising the valuation reforms and their impacts. The analysis in this annex captures Wales to the extent that the total number of lease extensions, which is a core assumption in this assessment, includes those that take place/are expected to take place in Wales. However, the analysis doesn't account for market variation in Wales. For example, marriage value calculations do not take into account house prices in Wales. As a result, we are not able to separate out a specific Wales component of the impacts. In addition, estimated costs and court cases cover England only at this point.

4. Freeholders (landlords) of leasehold properties - we refer to Freeholders who may also be the landlords of leasehold properties, but not all landlords will be freeholders.

5. One of the first questions leaseholders who want to extend their lease or purchase their freehold want to know is "how much is it going to cost?". The current process leaseholders go through to determine the premium (cost to pay) is opaque and complex. It is advisable that both the leaseholder and freeholder (landlord) employ the services of a professional valuer to negotiate on their behalf. This process, one of negotiation by valuers, does not try to objectively conclude what the 'real premium' should be, but rather what is the 'deal to be struck' to determine what the 'right price' for their respective clients is to pay or receive. Both parties are often presented with two premiums, one which will be used as the opening gambit (a higher or lower opening amount) and another which is where the valuers expect to land at the conclusion of their negotiations. Whether the likely cost is set out via a valuer or from their freeholder(landlord), leaseholders often struggle to know whether the cost they are being quoted is 'fair'.

6. We are making significant reforms to the enfranchisement valuation process to fix these problems.

A fairer, more affordable, and more transparent valuation process

7. The package of measures taken forward in this Bill is based on analysis and options presented by the Law Commission to reform the way premium costs are calculated and to simplify the valuation process[86]. The reforms will make the enfranchisement process cheaper for leaseholders and address the current imbalance in power, which make the cost of the process hard to predict and borne mostly by leaseholders, directly benefitting the freeholder (landlord). It will help ensure the premium calculation is more straightforward and demystify the process so that outcomes for leaseholders and freeholders are more consistent. The reforms will support more leaseholders in buying their freehold or extending their lease, giving them greater control and security over their homes. The package of measures on valuation includes:

8. **Valuation Reform A -** Simplifying the valuation method by **mandating the valuation methodology for most lease extensions and freehold acquisitions. Reforming the methodology by removing marriage value** from the enfranchisement calculation to reduce premiums for leases with 80 years or fewer unexpired. Removing marriage value will be fairer for leaseholders, who will no longer face significant extra costs when they buy their freehold or extend their lease when they have a lease of 80 years or fewer unexpired. This will help leaseholders understand that first question of a lease extension or freehold acquisition of 'how much should it cost' from the beginning of the process. Introducing an online calculator will also support this aim.

9. **Valuation Reform B** - Providing long term market stability and consistency, by **enabling the Secretary of State to prescribe rates** used in the calculation of the premium. The rates used in the modelling reflect those typically used in the valuation market to calculate the cost of premiums. The reforms will confer a power upon the Secretary of State to prescribe the rates which will remove the need for valuers to negotiate appropriate rates on a case-by-case basis, or for parties to challenge rates through

[86] https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/01/Enfranchisement-Valuation-Report-published-9-January-2020.pdf

the Tribunal system. This will provide greater certainty from the outset of the cost for leaseholders and freeholders, reducing professional costs for both parties and speeding up the valuation calculation.

10. **Valuation Reform C -** Making enfranchisement a more affordable and realistic prospect for more leaseholders by **capping the treatment of ground rent in the premium calculation at 0.1% of the property value.** At present, high or escalating ground rents disadvantage leaseholders in two distinct ways. The first, is that they can make properties unmortgageable, with some lenders assessing ground rents at or above 0.1% of the property value as part of their lending criteria test. This can lead leaseholders to struggle to sell their properties as a result. The second is that ground rent is a key input into the valuation calculation for determining the premium, and ground rents which are high or escalate lead to inflated and disproportionate enfranchisement costs, which can make lease extensions and freehold acquisitions unreachable.

11. Capping the treatment of ground rent in the premium calculation at 0.1% of the freehold value, at the time of enfranchisement, reduces premiums for properties affected and removes the current inequality between leaseholders with high or escalating ground rents and those without. The reduction of premiums for properties affected will make enfranchisement a more affordable and realistic prospect for those leaseholders who want to buy the freehold (of a leasehold house, or collectively of a block of flats) or extend the lease. Where the lease is already long (over 150 years), leaseholders will have the option of buying out the ground rent, subject to the 0.1% cap, without the need to extend the lease. This increased access to enfranchisement and ground rent buy-out offers a route out of the high or escalating ground rent terms that can affect access to mortgages and ability to sell the property.

12. Valuation Reform D - Giving leaseholders who purchase the freehold of a block of flats a new choice to reduce their premium **by deferring the cost of development value.** Currently as part of enfranchisement, freeholders of blocks of flats may claim additional compensation for lost access to development potential (such as the potential to build further flats on the roof). Some landlords' claims can be speculative. This prospect can add thousands to a premium and make it prohibitively expensive to enfranchise. It can also introduce costly disputes and delay into the process as leaseholders can be faced with a difficult decision whether to dispute the landlord's claim (adding costs and delay to the process), to drop the point and pay, or - if they cannot pay - stop the enfranchisement process. In limited circumstances, some leaseholders have been able to come to agreements with their freeholders so as not to pay the development value. The new right will give leaseholders a statutory choice in addressing claims for development value in collective enfranchisements for certain parts of premises, by deferring the payment and calculation of development value in exchange for a guarantee by those leaseholders not to develop, or dispose of property, until they pay the value. At the point of the collective enfranchisement, the freeholder will be paid reasonable out of pocket expenses that have been genuinely incurred in pursuit of development up to that point to mitigate the immediate impact. The former freeholder will then be paid the deferred development value upon certain events, for instance when the property is sold, or development is undertaken in future.

13. **Valuation Reform E -** Providing greater transparency for leaseholders by **clarifying when leaseholders can apply for a discount for the risk of holding over**. When a long lease comes to an end, certain statutes provide leaseholders with the right to remain in the property, usually in the form of a Rent Act tenancy or an assured tenancy at market rent. This is known as 'holding over'. These provisions

can result in a reduced premium for qualifying leaseholders who apply for a lease extension or freehold acquisition, as recognition that the freeholder would not be able to gain the property back with vacant possession at the end of the lease. However, the onus to prove that a leaseholder would or would not 'hold over' is different for houses and flats and there is no defined period remaining on a lease for determining whether the discount should be applicable. Our reforms will clarify that the discount can only be applied to leases with 5 years or fewer unexpired for qualifying leaseholders.

14. **Valuation Reform F - Simplifying the calculation for leaseholder improvements and continuing to protect leaseholders from 'paying twice'.** Under the existing statutory framework, an increase in the value of a flat or house that is attributable to an improvement carried out by the leaseholder, or any predecessor in title, at his or her own expense can be discounted from the freehold value, which reduces the premium. If the value of leaseholders' improvements were not disregarded, both the value of the freeholder's asset and the premium would increase. This would result in the leaseholder paying twice for those improvements. Leaseholders and freeholders often disagree over whether items or alterations are repairs (required by the terms of the lease) or improvements, and whether those improvements have added value. Under the current legislation, it is the value of the improvements, not the improvements themselves that are disregarded.

15. The process valuers are required to follow is complicated. First, they value the property in its improved state, then they work out what the improvements are worth (which causes disputes), and finally they deduct this from the value of the property. In practice, valuers value the property without the improvements, which is more practical, removes disputes, and achieves the same outcome. To speed up the process and align our reforms with current professional practice we will update the statutory framework to disregard improvements from the calculation, rather than their value.

16. **Valuation Reform G - reforming the valuation methodology for lease extensions and freehold acquisitions where intermediate leases are present, by assuming intermediate interests are merged with the freehold**. The current methodology for calculating the premium is more complicated where intermediate leases are present. It introduces delays and disputes, and leaseholders often pay more on professional services i.e., conveyancing and valuation costs for each affected interest. Under the reforms it will be assumed that any intermediate leasehold interest is merged with the freehold. In effect, it is assumed that the leaseholders only have one landlord to compensate. The premium the leaseholders pay will then be split between all the affected intermediate leaseholders and the freeholders in proportion with their losses. The new approach will reduce non-litigation costs for leaseholders (such as for valuation), as the process is simplified. The process of standardising and levelling premiums will mean that in some cases (relative to current) the approach will reduce premiums, whilst in others it will increase them, but this will offset with the saving in non-litigation costs. Intermediate leaseholders will benefit from a right to reduce ('commute') their rental liabilities in proportion to the reduction in ground rent income received, following statutory lease extensions and ground rent buyout claims.

17. In addition, where collective enfranchisements and lease extensions interact with intermediate leases, there will be new rights and choices available for leaseholders. Leaseholders will have a choice in collective enfranchisements to reduce the premium by leaving in place the part of an intermediate lease that is superior to non-participating qualifying leases. The current law will also be clarified to confirm that leaseholders continue to be able to exercise a choice over how much of a common parts

lease they may acquire. Protections will be added to prevent the acquisition of parts of intermediate leases in special cases. The right to a lease extension will also be expanded for subleases, who are currently blocked if the superior intermediate lease was previously extended.

18. **Valuation Reform H -** Reducing the imbalance between leaseholders and landlords**, by requiring landlords to pay their own process (non-litigation) costs when leaseholders enfranchise**, as they would need to do if they were selling a property on the open market. Currently leaseholders are required to pay these professional or 'non-litigation' costs incurred by the landlord which can result in elevated fees as freeholders are not motivated to keep the cost low.

19. **Valuation Reform I -** Removing the need for further lease extensions by **extending the statutory lease extension to 990 years** from 50 years for houses and 90 years for flats. Leaseholders of houses and flats will be given the right to extend their lease by 990 years at a peppercorn ground rent (on payment of a premium), so that the need to extend a lease only arises once, and effectively no ground rent is payable following the extension. Equivalent lease extension rights will also be given to shared owners; presently, they're excluded from extension rights under the 1967 Act, whereas their position under the 1993 Act is uncertain due to conflicting court and Tribunal decisions - our reforms give them extension rights under the former Act and clarify their right to extension under the latter Act.

20. **Valuation Reform J -** Saving costs for leaseholders on long leases (150 years plus) by giving them **new right to buy out the ground rent without needing to extend the lease at the same time.**

21. **Valuation Reform K -** Making enfranchising easier by **removing the requirement to own premises for two years before exercising enfranchisement rights.** Leaseholders will be able to exercise their enfranchisement rights immediately upon taking ownership of a leasehold property, reducing complexity and reducing the risk of an increased enfranchisement premium due to a delayed claim or the selling of the freehold to another party in the interim period. We are abolishing the need to wait two years before buying the freehold or extending the lease of a house; and the need to wait two years before extending the lease of a flat.

22. **Valuation Reform L -** Making collective enfranchisement more affordable **by requiring landlords, if requested, to take leasebacks of non-participating units or non-qualifying units (including commercial units).** This will reduce the upfront premium leaseholders have to pay to buy their freehold, improving access to collective enfranchisement. Leaseholders will have the choice as to whether they wish to use leasebacks as part of their enfranchisement claim. Once the claim has completed, landlords will be able to choose to retain or sell the leaseback.

23. **Valuation Reform M -** Making Right to Manage more affordable by **removing the current "qualified one-way cost shifting power"** which permits landlords to claim their costs if they successfully defend a right to manage claim, at the Tribunal, but does not allow the right to manage company to get their costs if their claim is successful.

24. **Valuation Reform N - Making enfranchisement simpler and cheaper by moving jurisdiction of (almost) all leasehold enfranchisement disputes to the First-tier Tribunal** and providing leaseholders with a clear fast track to bringing claims forward, making enfranchisement simpler and more affordable as each side will bear their own litigation costs, in accordance with existing First-tier Tribunal rules.

25. **Table A1 sets out the breakdown of costs and benefits of changes to make enfranchisement cheaper and easier, with a net present social value of £418m.** Where possible, these impacts have been monetised in 2019 prices and discounted with a present value year of 2025 over a 10-year appraisal period. They are referenced whether they are direct or indirect. The monetised net present social value of the valuation policies is calculated at £418 million, although there are considerable non-monetised benefits, such as making the leasehold system simpler and fairer, which are discussed below.

26. **The major benefit is making it cheaper and easier for leaseholders to enfranchise.** This would mean more leaseholders are able to enjoy the benefit of greater security of tenure and greater control over their property. A mandated methodology for calculating the premium costs in enfranchisement would increase consistency and certainty in the process and could in turn reduce the number of disputes that occur because of the complicated arrangements. These could in turn reduce the negative impacts on the wellbeing of leaseholders. Following our reforms, the valuation process will become much more transparent, and easier to navigate. We expect far fewer enfranchisements will require the services of a valuer, and this is the largest **benefit** (that is not a transfer) that has been monetised. The main costs are a transfer from leaseholders to freeholders, specifically due to removing marriage value, capping the ground rent at 0.1% of the freehold value, requiring lease extension of 990 years and requiring freeholders to pay their own non litigation costs.

Table A1: Total Costs and benefits of making enfranchisement cheaper and easier, and mandating the valuation methodology for most lease extensions and freehold acquisitions.

Specific Reform	Impact	Value (M)	Group impacted	Direct/ Indirect
	Transfers			
A	**By removing marriage value payment**	£707	Freeholders to Leaseholders (Businesses)	Direct
		£1,203	Freeholders to Leaseholders (Non-Businesses)	Direct
B	**By prescribing market rates**	Non-monetised	Freeholders/Leaseholders (Businesses)/Leaseholders (Non-Businesses)[87]	Direct
C	**By capping ground rents within the valuation process**	£218	Freeholders to Leaseholders (Businesses)	Direct
		£371	Freeholders to Leaseholders (Non-Businesses)	Direct
D	**By restricting payment of development value**	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
		Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct

[87] The direction of the transfer is not certain at this stage given it is not possible to identify for any given prescribed rate at this stage

E	**By clarifying discounts for holding over**	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
		Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
F	By simplifying the calculation for **leaseholder improvements** and continuing to protect leaseholders from 'paying twice'	Non-monetised	Freeholders to Leaseholders (Businesses)	Direct
		Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Direct
G	**By reforming the intermediate lease valuation methodology,** by assuming leasehold interests are merged with the freehold.	Non-monetised	Freeholders and Intermediate Leaseholders to Leaseholders (Businesses)	Direct
		Non-monetised	Freeholders and Intermediate Leaseholders to Leaseholders (Non-Businesses)	Direct
	Commuting Intermediate Rent to reduce an intermediate landlord's rental liabilities to superior landlords following statutory lease extensions and ground rent buy outs.	Non-monetised	Intermediate leaseholders to Freeholders	Direct
	Additional rights in collective enfranchisements and lease extensions where intermediate leases are present.	Non-monetised	Freeholders and Intermediate Leaseholders to Leaseholders (Businesses)	Direct
		Non-monetised	Freeholders and Intermediate Leaseholders to Leaseholders (Non-Businesses)	Direct
H	**By decreasing non-litigation costs paid by leaseholders by requiring landlords to pay their own costs**	£222	Freeholders to Leaseholders (Businesses)	Direct
		£377	Freeholders to Leaseholders (Non-Businesses)	Direct
I	**By extending leases to 990 years**	£7	Leaseholders (Businesses) to Freeholders	Direct
		£13	Leaseholders (Non-Businesses) to Freeholders	Direct
J	**By giving the right to buy out the ground rent where leases are 150 years** or	Non-monetised	Freeholders to Leaseholders (Businesses)	Indirect

	more without needing to extend the lease at the same time	Non-monetised	Freeholders to Leaseholders (Non-Businesses)		Indirect
K	**By removing the two-year ownership requirement**	Non-monetised	Freeholders to Leaseholders (Businesses)		Direct
		Non-monetised	Freeholders to Leaseholders (Non-Businesses)		Direct
L	**By requiring landlords to take a leaseback for non-participating units in collective enfranchisement**	Non-monetised	Freeholders to Leaseholders (Businesses)		Direct
		Non-monetised	Freeholders to Leaseholders (Non-Businesses)		Direct
	Benefits				
	Efficiency saving from simpler enfranchisement process (reduction in valuer services)		**£209**	Freeholders (Businesses)	Indirect
			£77	Leaseholders (Businesses)	Indirect
			£132	Leaseholders (Non-Businesses)	Indirect
A+B	Reduced disputes arising from greater certainty due to the removal of marriage value and prescribing rates		Non-monetised	Freeholders (Businesses)	Indirect
			Non-monetised	Leaseholders (Businesses)	Indirect
			Non-monetised	Leaseholders (Non-Businesses)	Indirect
I	Increased security of tenure for leaseholders given longer lease term (990 years)		Non-monetised	Leaseholder (Businesses)	indirect
			Non-monetised	Leaseholder (Non-Businesses)	Indirect
L	Reduction in **the premium payable** in collective enfranchisement claims when **landlords are required to take leasebacks of non-participating units**.		Non-monetised	Leaseholder (Businesses)	Direct
			Non-monetised	Leaseholder (Non-Businesses)	Direct
N	Simplify the process by moving leasehold enfranchisement jurisdiction to FTT		Non-monetised	Leaseholder (Businesses)	Direct
			Non-monetised	Leaseholder (Non-Businesses)	Direct
	Make leasehold a more **workable tenure for leaseholders** by equalising market dynamics and addressing historic imbalances, making it a fairer, simpler, and more transparent system		Non-monetised	Leaseholder (Businesses)	Indirect
			Non-monetised	Leaseholder (Non-Businesses)	Indirect
	Improved access to enfranchisements due to process being simpler and cheaper		Non-monetised	Leaseholder (Businesses)	Indirect

		Non-monetised	Leaseholder (Non-Businesses)	Indirect
	Costs			
	Total Benefits	£3,535		
	Direct Benefits	£3,117		
	Direct Benefits to Business	£1,166		
	Total Cost	£3,117		
	Direct Cost	£3,117		
	Direct Cost to Business	£3,105		
	Total Net Benefits	£418		
	Direct Net Benefits	£0		
	Direct Net Benefits to Business	-£1,939		
	EANDCB	£194		

Modelling Approach

27. The modelling makes a number of assumptions about the calculation of premia in the baseline, how often it occurs, and the characteristics of the leases involved.

28. The valuation formula has been modelled in four parts**: the term, reversion, marriage value and the residual.** The estimation method set out in this assessment follows the same valuation process carried out by valuers, although it relies on regional property prices and lease length averages by region rather than for an individual property. Details of the key steps in calculating the change in premia are shown in Annex 10.

29. The central annual impacts assume a constant annual number of lease extensions, collective enfranchisements and freehold acquisitions across the ten-year appraisal period in the baseline. Data from HM Land Registry for England and Wales, shown in section 3.7 shows that the number of lease extensions have been relatively stable for the last 4 years (excluding the impact of Covid).

30. The central estimate uses HM Land Registry data on the distribution of remaining terms within the stock of leases, which is applied to the assumed number of annual enfranchisements.

31. The process to create estimates of baseline and policy premia and aggregate change in premia is shown in Annex 10. These are estimated by calculating average premia paid across housing type and region and weighting them by how often each extension type occurs. A policy scenario is then compared against a do-nothing baseline. The key assumptions and sensitivities include:

    a. **Distribution of lease lengths**: This is estimated by taking the proportion of stock at or below 80 years and applying this to the number of annual lease extensions or acquisitions. The cost of extension varies by lease length remaining (as term, reversion and marriage value vary with the unexpired term remaining) and also by region (as average house prices vary). Sensitivities are shown for the range of annual lease extensions estimated by HM Land Registry (range 31,000 to 54,000). We further assume that there is a 110-year lease cut off to reflect the fact it is unlikely that those on leases longer than this will extend as the reversionary value will be lower and they are still a number of years away from having to pay marriage value. This ensures that the average

premia calculated isn't biased downwards by a subgroup of leaseholders who are very unlikely to extend in practice. Sensitivities are shown looking at the impact of the 110-year lease cut off point on the marriage value NPV.

b. Proportion of fixed / variable leases: the proportion of fixed vs variable leases determines the average ground rent which is paid upon enfranchisement. In line with CMA (2020)[88] findings , approximately 19% are assumed to be variable leases. The CMA Reports that:

"Historically ground rent was viewed as payment for a lease of land in distinction to the further payment for the right to use the buildings on that land. It is impossible to generalise but there is a widely held view, though one with which some developers disagree, that until the early 2000s ground rents were most frequently set at peppercorn levels, or nominal sums, as some rent was thought necessary for a valid lease…The increase in the initial level of the ground rent, the use of escalation clauses, and the number of leasehold properties paying higher ground rents over the last 20 years has created two categories of leasehold properties. First there are a large number of historic-stock leasehold properties with annual ground rents at low or nominal levels (typically £50 or less)…Secondly, there are modern long lease properties with annual ground rents typically at several hundred pounds and usually increasing over the term of the lease. These are a mix of flats and houses across England and Wales. There were 671k new-build leasehold flats and 107k newbuild leasehold houses sold since 2000. While not all of these will be modern leaseholds, in meetings with developers and investors we have been told that the vast majority of these are modern leaseholds".

Applying this to the latest number of leases (c.4.98m), we assume that there are approximately 900k variable leases.

c. **Average Ground Rents**: It is assumed 20% of ground rents are variable and 80% fixed, in line with CMA estimates as set out above, and that the top 20% most expensive ground rents are variable. Average ground rents estimates have been calculated using a 4-year sample from the EHS (18/19 – 21/22). A 4-year sample has been used to smooth year to year fluctuations and to increase the sample size enough to calculate average variable and fixed ground rents for houses vs flats, and for 3 regional areas (North, Midlands, South). Sensitivities are shown using overall average ground rents for both fixed and variable ground rents.

d. Freehold Vacant Possession / House prices: The freehold vacant possession value (FHVP) is the value of the freehold if there was no leaseholder (i.e., the value if it was returned to the landlord unencumbered). Savills reports that in the long run, this is approximately 1% higher than a standard long lease valuation. There is limited data on house prices split by tenure type and lease length. ONS average house prices[89] (which are weighted by type, sample, and location) are used as a proxy for FHVP.

e. **Relativities (which inform Marriage Value)**: 'Relativity' is the relative value of a property held on an existing lease compared to its freehold value in percentage terms, on the assumption that tenants do not have the right to enfranchise. When calculating marriage value, valuers rely on relativity charts which estimate how the lease value falls in relation to the freehold value over

[88] https://assets.publishing.service.gov.uk/media/5e57e4ea86650c53b74fe6e0/Leasehold_update_report_pdf_-.-._.pdf

[89] UK House Price Index summary: July 2023 - GOV.UK (www.gov.uk)

time in a pre-1993 Act scenario (known as the unenfranchisable relativity) rather than current market values. The modelling is based on the combination of two available sets of relativities known as the 2016 Savills and 2016 Gerald Eve Relativities[90].

f. **Number of extensions and acquisitions by type**: We have worked with HM Land Registry to identify an average of 38,900 lease extensions from 2019/20-2022/23 for England and Wales. The model is highly sensitive to these inputs as average change in premia is multiplied by the number of extensions. High and low estimates for the annual number of lease extensions have been used to create sensitivities for the marriage value annual impact.

g. **Baseline capitalisation rate:** The rate used to calculate the 'term', I.e. the capitalised value of the ground rent, is called the capitalisation rate. It is a discount rate and can be considered as the rate of return on a lump sum that would produce an equivalent income stream. It is based on market conditions alongside enfranchisement valuer judgment. The rate tends to lie between 5%-8%[91],with lower capitalisation rates typically used for higher or escalating ground rents (i.e. more attractive to investors, such as those with doubling or RPI rent review provisions), and higher capitalisation rates being used for less attractive ground rents (i.e. where the amount of ground rent is fixed and or remains low from the outset). There is no data as to the distribution of rates within this range across enfranchisement. In practice, based on analysis of the Law Commission's report, expert valuation advice and representations from stakeholders, we believe that a smaller number of leases will be subject to a 5% capitalisation rate, because this rate tends to only apply where leases contain particularly high or escalating ground rents (estimated to be around 20% of the total). We think the majority of valuations are settled with rates between 6% and 8%. For the purposes of the marriage value and ground rent analysis, we have assumed 6%.

h. **Baseline deferment rate**: The rate used to calculate the 'reversion' is called the deferment rate. It is used to work out the value of the delayed or extinguished right to have the property back when the lease expires. For the central scenario it is assumed these are set at the *Sportelli*[92] levels (4.75% for houses, 5% for flats). There is some disagreement about whether or not this provides a 'true' indicator of a reasonable deferment rate, but no test cases have successfully changed the rates set in *Sportelli.*

Detail of Impacts by Reform

Valuation Reform A – Removing Marriage Value

32. The first and largest impact of the valuation reforms is the direct effect on landlords and leaseholders of a reduction in premia paid upon the point of enfranchisement due to the abolition of marriage value payments for those leaseholders on short leases. Where marriage value is paid, it makes up a

[90] Gerald-Eve-2016-Relativities.pdf (geraldeve.com)
Savills UK | How To Calculate Relativity?

[91] Leasehold home ownership: buying your freehold or extending your lease. Report on options to reduce the price payable (publishing.service.gov.uk)

92 *Earl Cadogan v Sportelli* [2007] 1 EGLR 153

significant part of the enfranchisement premia, hence its removal leads to large decrease in premia for those who would have paid it in the non-intervention baseline.

33. The removal of marriage value is estimated to lead to **a £1.9bn transfer from landlords to leaseholders across the 10-year appraisal period, an average of £191m per year**. This can be broken down into a total benefit across the appraisal period of £707m for business leaseholders and £1.2bn for non-business leaseholders. The annual cost to landlords is spread over the estimated annual 11,900 extensions and acquisitions.

34. The impacts of the policy vary across leaseholders and are dependent on length of lease remaining, house value, and level of ground rents. However, on average, a leaseholder who would have paid marriage value in the counterfactual will pay £16,100 less per enfranchisement (note this includes discounting and is in real prices). There is significant regional variation, for example the average reduction in London is estimated to be £26,800 compared to the North East which has an average reduction of £5,100.

Table 1 Average Discounted Marriage Value Impact per Region

Figures are in 2019 prices, discounted and in 2025 present value over a 10-year appraisal period.

Region	Average Marriage Value Impact (£)
Total	16,076
North East	5,126
North West	7,323
Yorkshire and The Humber	6,618
East Midlands	6,734
West Midlands	7,327
East of England	10,663
London	26,816
South East	11,568
South West	9,357

35. The cost is split between lease extensions and freehold acquisitions. Approximately 87% of the cost comes from extensions, and 13% from acquisitions. Approximately 65% of the annual marriage value impacts are in London, due to high average property prices and prevalence of flats. London also has additional marriage value impacts from the modelling assumption that all acquisitions of high value houses in London would be subject to marriage value.

	Annual Discounted Marriage Value impact (£m)	Distribution of Marriage Value Impacts	Distribution of all flat leases	Distribution of leases <=80yrs	Proportion of flats leases within region less <=80 years
Total	191	100%	100%	**100%**	**11%**
North East	2	1%	3%	4%	15%
North West	5	2%	9%	5%	7%
Yorkshire and The Humber	3	2%	5%	4%	9%
East Midlands	2	1%	4%	4%	11%
West Midlands	8	4%	6%	9%	18%

East of England	13	7%	10%	12%	13%
London	124	65%	40%	**36%**	**10%**
South East	26	14%	17%	20%	13%
South West	7	4%	9%	7%	9%

36. For the purposes of the EANDCB, it is assumed 37% of the transfer value will go to landlord-leaseholders rather than owner-occupiers. The 37% is the average proportion across leasehold of houses and flats let in the private sector. Each policy will affect different property types in different ways. We know that there is variation in the percentage of different types of leaseholder property in the private rented sector. For example, according to the Leasehold Dwellings data (2021-22), 48% of leasehold flats are let in the private rented sector. In the case of valuation reforms, these impact mainly flats but also high value houses. However, we do not have the equivalent figure for the proportion of leasehold flats and high value houses, so instead apply the 37% average as a simplifying and conservative assumption, noting the potential for some bias in our estimate and the potential that our EANDCB overstates the net burden on business.

37. The figures above are for England, but it is likely that London would have a higher proportion of PRS relative to the England average – this would push up the proportion of marriage value going to leaseholders who let out their properties. Given 65% of marriage value impacts occur in London, it is likely that a significant proportion of marriage value transfers will go to non-owner occupiers. However, the share of marriage value going to leaseholders who rent out their property would also be affected by factors such as whether they are more likely to own more or less expensive flats relative to owner occupiers, and whether they are more or less likely to own flats with shorter leases.

38. The current law does not distinguish between leaseholders by tenancy: enfranchisement rights are equivalent as between owner-occupiers and landlords.

39. In the case of tenanted property, the transfer of marriage value is a transfer between one landlord and another. It is acknowledged that the removal of the requirement to pay marriage value will therefore benefit landlords of tenanted property as well as owner-occupiers. This is an effect of the policy objective to simplify the process, meaning that all leaseholders benefit from the reforms regardless of any other status they may hold.

40. To exempt landlords from the marriage value transfer would complexify the law, when our policy objective is to simplify it. The original 1967 Act did indeed only confer enfranchisement rights to resident leaseholders, but the 2002 Act later repealed the residency test. The reforms do not include differential pricing between owner-occupiers and landlords, on the grounds firstly of complexity and secondly of unintended consequences. For example, freeholders may be incentivised to sell to landlord-leaseholders rather than owner-occupiers, being able to receive higher premiums from them, and “accidental” landlords, such as those who’ve inherited property or who have had to move out of their primary residence, but do not own another, would find themselves paying the differentially higher price.

41. Exempting landlords might also impose costs on the tenant, say, where a lease is running down to 80 years, and the landlord can’t afford to pay the marriage value, and so has to sell the property to prevent the diminution of his interest, and evict the tenant. Alternatively, if the landlord proved unable to prevent the lease from falling to 80 years or below, since his interest would be diminishing,

so might his commitment to maintaining the property in good standard. Furthermore, the existence in the market of properties liable for marriage value reduces market liquidity, since they are difficult or impossible to mortgage.

Change in leasehold asset value

42. We also expect removing the requirement to pay marriage value will lead to an increase in asset value for all short leases (80 years or fewer remaining) as soon as the reforms come in (not just those that enfranchise over time); however we have not included this in the headline figures and have instead opted to capture the annual cashflow impact. We estimate a £7.1bn in England (£7.2bn in England and Wales) total increase in the value of the estimated 385,400 leases in England (401,500 in England and Wales) with fewer than 80 years remaining that would have been subject marriage value in the counterfactual. This is an average increase of £18,500 per short lease in England (£18,000 in England and Wales) and is equivalent to a gain of approximately 7% to 8% of the property value. We have not monetised any additional impacts from the potential flow of leases into the short lease caseload over time, or impacts from loss of hope value for those leases which are over 80 years.

43. The UK Collaborative Centre for Housing Evidence (UKCaCHE) have conducted similar analysis for marriage value reforms and find "*Lessees who do not extend their lease will also benefit from the premium reduction capitalisation into short leasehold prices and values, as any current or future listing of the apartment will lead to higher bids by buyers' due to the anticipated pay-off from extending the lease after making a purchase. For short leaseholds, the capitalisation gains are estimated to lie between 6% to 10% of the FHVP value".*

44. The impact varies dramatically by region due to differences in FHVP value (as estimated by ONS house price index). This gives an average undiscounted benefit ranging from £31,000 in London to 6,000 in the North East.

45. Note that this applies to existing leaseholders of short leases. Future leaseholders will benefit from increased transparency of the cost of a leasehold property and a simpler enfranchisement process but will not benefit from a transfer. This is because although this group will no longer pay marriage value, they will pay an offsetting higher upfront property price.

46. UKCaCHE have highlighted a potential risk that this increase in the value of shorter leaseholder properties could impact the ability of those with lower purchasing power to use them to step onto the property ladder. They argue that *"Dwellings on short leaseholds sell at a large discount to the FHVP value and provide a route for low-income households to own a home. By raising the short leasehold values or encouraging existing lessees to extend to a very long lease, the proposed reforms are likely to lower homeownership affordability, especially for low-income households in higher priced regions"*.

47. We do not have data to quantify this risk. However, affordability will be based both on property price and ability to access mortgage finance. Low-income households are less likely to be cash buyers. As properties with a short lease are likely to be difficult to mortgage, we believe this substantially works against such a risk. Banks and building societies differ in their lending criteria. Some draw the line at 75 years remaining on the lease; others may be happy with anything over 70 years. Below 60 years, it may be difficult to get a mortgage at all[93] Moreover, the 'true' cost of such a property should take account not just of its purchase price but also the future cost of having to extend the lease to secure

[93] Extending a Flat Lease - The 80 Year Trap - The Leasehold Advisory Service (lease-advice.org)

a long-term housing option. Under these reforms the 'true' value of purchasing a property for the longer term becomes more transparent and certain by decreasing the potentially unknown premia costs further down the line. By purchasing a property with a short lease, and without the means to extend, the leaseholder faces a rapid diminution of his interest: it's possible that some buyers purchase a short lease without full information, and then become trapped.

48. Equivalently from the freeholders' perspective, the impacts of a reduced expected income stream over time may be felt immediately through a significant reduction in their book value which could affect their ability to borrow or invest. The individual impact will depend on the volume and proportion of short leases (80 years or fewer remaining) or properties with high or escalating ground rents in their portfolio, and to what extent they are able to depend on marriage value for investment given the uncertain nature of the timing or value of marriage value payments. We note that some freeholder accounts specifically exclude enfranchisement income from their company valuation model because of its unpredictable nature.

49. These market value impacts have not been included in the headline costs and benefits, because in order for the existing leaseholder to crystallise that potential benefit, an action has to be taken. In the extreme, if the existing leaseholder never enfranchises or sells the property, there will be no gains to the leaseholder as the property will revert to the freeholder when the lease expires (at which point there is no marriage value in the existing process).

50. There are three points where this increased asset value of a lease can be capitalised into a direct cash benefit for existing leaseholders:
    a. at the point a leaseholder enfranchises (direct impact captured in headline figure)
    b. at the point a leaseholder sells (non-monetised)
    c. At the point the leaseholder re-mortgages where this corresponds with a cheaper mortgage rate due to a lower price to income ratio/ drawing additional equity (non-monetised)

51. A discussion of direction of behavioural responses to the marriage value reform is set out in the detailed assumptions section in the IA main body and is non monetised. However, the estimates for the increase in asset value for all short leases (80 years or fewer remaining) also can be thought of as representing the total potential direct and indirect impacts for those with leases, i.e., if all leaseholders with short leases enfranchised in the first year. So, in that respect a high-end scenario is monetised in regard to marriage value reforms. These costs are not evenly spread among freeholders, only those who have leases where the term has fallen to 80 years or fewer would be affected by marriage value reforms.

Valuation Reform B – Making the lease extension and freehold acquisition process simpler and saving costs by prescribing market rates

52. The second impact of the valuation reforms concerns prescription of the two deferment rates (capitalisation and deferment rates) used in enfranchisement calculations.

53. The capitalisation rate impacts the size of term. The capitalisation rate sits in a range, which we have taken to be between 5% and 8%, based on the evidence, such as in the Law Commission's report, advice from valuers, as well as from representations from freeholders; but we are aware from looking at case law that there are some outliers to this at both ends. Capitalisation rates are determined on an individual basis, often based on valuers' custom and convention, using factors such as price, level and terms of ground rent, region, locality, and other key negotiating factors. The ground rent terms

are particularly important: we know that ground rents that are high and escalating tend to attract a lower capitalisation rate whereas low and static ground rents will attract rates at the upper end of the range. For leaseholders with high and escalating ground rents, where their lease is long, this is a double whammy, as the low capitalisation rate means a higher premium; and for those with leases of 80 years or fewer, this is a triple whammy as a separate ground rent adjustment is made which reduces the leasehold value and increases the premium further.

54. We estimate that there are around 900,000 leases with escalating ground rents as set out in section 1.3 in this annex, with the remainder tending to be lower and static. However, more detailed data as to the distribution of rates within this range is limited.

55. The capitalisation rate will be prescribed by the Secretary of state at a market level. For those leases that currently attract a low capitalisation rate of c.5%, the premium will reduce if rates are prescribed above that level, with the reverse also being true. It should also be noted that as these leases are likely to have variable ground rent terms, they are also likely to be subject to the 0.1% cap on ground rents. Where a lease would currently attract a capitalisation rate at the upper end of the range, prescribing rates below this level would result in those premiums increasing.

56. In the absence of detailed information on lease terms and current capitalisation rates, the net impacts on leaseholders and freeholders are not possible to identify for any given prescribed rate, **therefore the impact of this reform has not been monetised.**

57. We can estimate, however, that there would be a smaller number of leases that would have attracted a lower (5%) rate, based on the 900,000 leases indicated above, but that the premiums involved for these leases might be disproportionately higher due to the nature of the ground rents. Conversely, there is a larger number of leases that would be likely to attract rates of 7-8% (the remaining 4m leases on non-variable ground rent terms). An illustrative example is set out in the following section. Furthermore, prescribing rates will likely make the process cheaper due to reduced disputes on the rates that should be used, as well as due to a reduction in the need for professional input.

Valuation Reform C – Capping the treatment of ground rent in the premium calculation

~~58.~~ Currently, where the ground rent is high or will become so, the enfranchisement premium will (i) take account of that high ground rent, (ii) apply a lower capitalisation rate to reflect its attractiveness to investors, and then, (iii) where marriage value is payable, reduce the existing leasehold value to reflect the high ground rent. Each of these steps increases the premium payable by the leaseholder.

59. By way of example, the enfranchisement premium for a house with a freehold value of £250,000, an existing lease term of 60 years and a fixed ground rent of £250 per annum (pa) would be £36,600.

- Step 1: Taking the same scenario, but increasing the current ground rent to £1,000 pa, with an RPI rent review to an estimated £1,500 pa in 15 years time: the premium increases to £43,100.

- Step 2: If the capitalisation rate is then reduced to reflect the attractive nature of the ground rent from 7% to 3.35% (as used in the *All Saints* case[94]): the premium increases to £51,220.

[94] *St Emmanuel House (Freehold) Limited and others v Berkeley Seventy-Six Limited CHI/21UC/OCE/2017/0025*

- Step 3: If in the marriage value calculation, the value of the existing lease is reduced to reflect the increased rent obligation: the premium increases to £64,390.

Following Government's proposed reforms, and continuing to use the same example,

- Step 4: The high ground rent will be reduced to 0.1% of the freehold value - £250 pa (reversing steps 1 and 3 above): the premium will decrease to £38,060 and;

- Step 5: The capitalisation rate will be increased, to reflect the less attractive nature of the ground rent from 3.35% to 7% (reversing step 2 above): the premium will decrease to £36,600.

	Current GR	Review GR	Cap Rate	*OGRA	*Premium
Present – GR below 0.1% FHVP	£250	N/A	7%	No	£36,600
Present – GR above 0.1% FHVP					
Step 1	£1,000	£1,500	7%	No	£43,100
Step 2	£1,000	£1,500	3.35%	No	£51,220
Step 3	£1,000	£1,500	3.35%	Yes	£64,390
Post Reforms – Impact of 0.1% Cap					
Step 4	£250	N/A	3.35%	No	£38,060
Step 5	£250	N/A	7%	No	£36,600

*Onerous Ground Rent Adjustment (OGRA)

*All figures are to the nearest £10.

60. The third impact of the valuation reform comes from capping of ground rents at 0.1% of the freehold value within the enfranchisement valuation process. The increased awareness of the problems with higher or escalating ground rents, which are so highly valued by investors and traded without leaseholders' knowledge or control has led to such leases becoming increasingly difficult to sell, as purchasers are wary, and some mortgage providers refuse to lend on them.

61. The cap is designed to neutralise these negative impacts by reducing premiums for leaseholders with ground rents in excess of 0.1% of the property value. This will be of particular benefit to 900k leaseholders we think have high or increasing ground rents. The cap decreases the term value (the net present value of the stream of ground rents) so that all leaseholders are treated equally, irrespective of the type of ground rent provisions in their lease.

62. Over the 10-year appraisal period it is estimated that the effect of the 0.1% cap will lead to a net discounted transfer of £588m from freeholders to leaseholders. This is based on applying the ground rent cap and a capitalisation rate of 6%. This can be broken down into a total benefit of £218m for business leaseholders and £371m for non-business leaseholders.

63. The level of the capitalisation rate to apply to high and escalating ground rents is still debated, with evidence from tribunal decisions suggesting that rates as low as 3.35% have been applied (the impacts

of which are demonstrated in the example in paragraph 59) and commonly as high as 6%. The ground rent cap would have a direct impact on these types of investment being traded in the market in that they should no longer have the same 'attractiveness' to investors that they had before application of the 0.1% cap. This would indicate that the lower level of capitalisation rates that have been used in some cases to value these types of ground rents may fall away.

64. When this is combined with marriage value, there are some interaction effects between the policies. While most of the calculation is done independently from the other parts there is an interaction between term and marriage value. When calculating the premia, $MV = \delta Residual + LVpost - \sum \beta GR - \delta Reversion - LVpre$. Therefore, as the term gets smaller, MV gets larger and hence the potential savings from removing Marriage value get larger. Over the 10-year appraisal period, this is equivalent to an **additional £62m transfer over the 10-year appraisal period from landlords to leaseholders than compared to the two reforms calculated separately**. This has been netted off from the ground rent cap headline figures in order to avoid double counting.

Valuation Reform D - Decrease in Premium Payable by restricting payment of development value

65. In collective enfranchisements for a block of flats or mixed-use buildings, freeholders may claim they should be additionally compensated if a property could have development potential. For instance, a freeholder may claim additional value because there is potential to build further flats on the roof. This 'development value' can make an enfranchisement prohibitively expensive, and also introduces costly disputes and delay. The freeholder does not necessarily have had to act, pay out expenses, or intend to develop to claim this value, although there will be cases where the freeholder has done so. Leaseholders currently have limited options to address claims for development value, which may not always have merit, and can be costly and lead to disputes. The Law Commission's consultation identified that some leaseholders currently reach a voluntary agreement with freeholders to restrict development in return for a reduction. Over half of consultees to the Law Commission's consultation were in favour of such a right being at the election of leaseholders.

66. Where a freeholder claims development value in a collective enfranchisement, a new statutory right would allow leaseholders to reduce the upfront premium they pay. They would be able to defer payment of the development value in exchange for an indefinite guarantee that the enfranchising leaseholders will not themselves develop the parts of property, or dispose of property, until they "buy out" development value at a future point. This is a deferral of the calculation and payment of development value until a future point. The process means that the former freeholder has banked a right to be compensated for the lost development value, which may be realised at a future point. This addresses some freeholders' claims that they should be compensated at the point of collective enfranchisement for development potential that leaseholders subsequently could benefit from. At the point of the collective enfranchisement, the freeholder will be paid certain reasonable out of pocket expenses (to be consulted on and specified in secondary legislation) that have been genuinely incurred in pursuit of development up to that point. This will mitigate the impact on freeholders of deferring payment of development value to a future point.

67. The restriction can only apply to certain parts of premises, such as common parts, the roof, a communal garden and appurtenant property. The right could not apply to any flats qualifying for enfranchisement or to certain flats with non-qualifying tenants (for instance a commercial unit or a vacant flat held by the freeholder at the time of the collective enfranchisement). Where development value arises for the parts of premises that are excluded from the right, the value would then be covered in the premium that leaseholders pay at the enfranchisement claim.

68. Leaseholders can choose at any time and for any reason to request the restriction be released, provided they pay the development value then owing. The restriction must however be released, and the payment made before certain events take place, such as the onward sale of the freehold by the enfranchised leaseholders, or where they intend to develop. Payment would not however become due for certain reasonable or necessary changes such as undertaking fire safety changes in line with legislation.

69. The amount that is then paid in future to the former freeholder would be determined by valuers or the Tribunal at the time of release. It would be calculated using the market and building regulatory requirements of the time, which might for instance allow more or less flats to be developed than currently. The enfranchised leaseholders would be entitled to deduct the amount they may previously have paid towards the former freeholder's expenses.

70. Former freeholders who hold the benefit of the development value will have means of seeking redress if enfranchised leaseholders begin development, or enter into a restricted disposal, without paying the development value. It will be possible for former landlords to sell on the benefit to the restriction, should they so wish.

71. There is limited evidence as to whether there is consistency on the size and scale of development value as this can vary considerably based upon the premises, the type of development potential that exists or is claimed, location and costs (services materials etc). For instance, the amount of development value can be much higher in central London. Published First-tier Tribunal (Property Chamber) decisions indicate there were a small number of cases across England since 2019 where development value may have featured, although it was not necessarily payable in each case, and this may not represent a complete picture.

72. Collective enfranchisements may already interact with the supply of new flats but there is no data to demonstrate how exactly the supply is affected, although there may be reduction in development where this occurs. It should not however be assumed that it is only freeholders who are interested in developing. Not every block subject to collective enfranchisement would feature a claim for development value. The block may not feature premises that would fall within the qualifying criteria of the new right. Leaseholders may decide that their circumstances mean they will not use the right (such as if it does not make financial sense, or if they wish to just buy out the freehold). Therefore, the new right would not be used in every case. Assumptions can however be made that:
    - Freeholder behaviour is likely to see a short-term increase in developments ahead of the right commencing in law.
    - After the right commences, there may be a small reduction per year in developments that are then transferred to a future year when the development is realised. If planning and building requirements change between the point of the enfranchisement claim and the point the development is realised, the number of developments could be more or less than currently projected.

73. Development value can make it unaffordable for some groups of leaseholders to collectively enfranchise. However, the payment is only made on collective enfranchisements, therefore in aggregate terms we estimate that the impact will be small. Therefore, for proportionality reasons combined with high uncertainty and lack of data, **these benefits are non-monetised**.

Valuation Reform E - Change in Premium Payable by applying discounts for holding over

74. When a long lease comes to an end, certain statutes make provision for some leaseholders to have continuing security of tenure. The right of a leaseholder to "hold-over" is currently reflected in the enfranchisement valuation by way of a discount to the premium.

75. Our reforms will retain the discount for holding over and prescribe details including the length of lease to which it is applied and make it clear that it is for leaseholders of both houses and flats to show that both they and the property qualify. This will simplify the process, save freeholders from dealing with spurious claims and treat all leases where it applies equally.

76. As the legislation broadly maintains the status quo of the premia, **the impacts of this reform are non-monetised.**

Valuation Reform F -Simplifying the calculation for leaseholder improvements

77. Under the existing statutory framework, an increase in the value of a flat or house that is attributable to an improvement carried out by the leaseholder, or any predecessor in title, at his or her own expense can be discounted from the freehold value, which reduces the premium. If the value of leaseholders' improvements were not disregarded, both the value of the freeholder's asset and the premium would increase. This would result in the leaseholder paying twice for those improvements. Leaseholders and freeholders often disagree over whether items or alterations are repairs (required by the terms of the lease) or improvements, and whether those improvements have added value. Under the current legislation, it is the value of the improvements, not the improvements themselves, that are disregarded.

78. The process valuers are required to follow is complicated. First, they value the property in its improved state, then they work out what the improvements are worth (which causes disputes), and finally they deduct this from the value of the property. In practice, valuers value the property without the improvements, which is more practical, removes disputes, and achieves the same outcome. To speed up the process and align our reforms with current professional practice we will update the statutory framework to disregard improvements from the calculation, rather than their value.

79. However, there is limited data on how many cases will be affected by the reform or how leaseholders and freeholders will respond, therefore **the impact of this reform is non-monetised.**

Valuation Reform G - Reform of intermediate lease valuation methodology, assumed merger

80. The current valuation methodology is more complicated and expensive to navigate where intermediate leases are present. This requires leaseholders to pay part of the premium and non-litigation costs (such as for professional valuation services) for the acquisition of each intermediate lease, based upon the loss incurred by each landlord. Furthermore, the premium is skewed by the existence of the intermediate lease and whether has a positive or negative value. Negative value is an imbalance between ground rent income received and the outgoing debit rent that the intermediate landlord needs to pay to a superior landlord (such as the freeholder). An intermediate lease may enter negative value following a lease extension, or in future, a ground rent buy out claim, which reduces or extinguishes the ground rent income received by the landlord. Whilst individual circumstances will

differ, it can be assumed that an intermediate lease is superior to a number of leases of units that may be the subject of lease extension claims and that claims from the owners of multiple units would be required before an intermediate lease would fall into negative value. If an intermediate lease does not have a profit rent, then the first lease extension could cause it to have a negative value. Negative value can also arise from different factors that do not relate to a claim from a leaseholder, such as the terms upon which the lease was granted.

81. For leaseholders, a premium can be higher where negative value intermediate leases exist (especially for statutory lease extensions) because the current methodology requires a low capitalisation rate to value the lost ground rent, and this drives up the premium. The presence of an intermediate lease can therefore create disparities between what leaseholders pay. For instance, there could be two identical properties subject to lease extensions, but the premium could vary because of the intermediate lease's negative value. This variation might happen even within the same building, where previous lease extensions have caused the intermediate lease to fall into negative value, and this affects subsequent claims.

82. Negative value can also create a financial liability for the landlords, who may be unable to secure a rent commutation from their superior landlord. This can push some intermediate landlords to wind up their companies, potentially affecting the block management services leaseholders receive. It may also cause loss to the freeholder, who loses any income from the intermediate lease, but did not receive a portion of the premium for the lease extension. In a freehold acquisition claim, a freeholder may also receive a lower share of a premium because in a collective enfranchisement claim the negative value of an intermediate lease is deducted from the freehold value. It is not possible to estimate how many intermediate leases fall into negative value as a result, or how many leaseholders, landlords and freeholders will be affected by specific reforms to the intermediate lease valuation process.

83. Under our reforms, we will simplify the approach to valuation methodology, so that the presence of intermediate leases and various other leasehold interests can be disregarded for valuation purposes (except in some collective enfranchisement claims where intermediate leases and other leasehold interests are not acquired). The aim of this is to move from a scheme where the leaseholder compensates each and every landlord for what the landlords are losing (which is more complex and costly), to a scheme where the enfranchising leaseholder pays for what they are acquiring.

84. When compared to the current system, some leaseholders will pay a higher premium, whilst others would pay significantly less (especially where negative value would currently have increased a lease extension premium). Landlords will receive higher premiums in some cases, and lower premiums in others. Disregarding negative value will in turn end the deduction made to freehold value in collective enfranchisement claims, so that some freeholders may be entitled to a larger share of premiums than before.

85. In the enfranchisement report[95], the Law Commission provided examples of the changes to premiums under the simplified system, as shown below[96].

95 See page 744 Leasehold home ownership: buying your freehold or extending your lease (publishing.service.gov.uk)

96 The estimates do not include the effects of removing marriage value, affecting leaseholders with 80 years or fewer remaining. The estimates used capitalisation rates that have since changed. The rate of 1% is now historic and would be higher at the present time. Changing the rates may reduce the figures in the columns 'Decrease C to A' but it would not affect the general principles demonstrated.

Example 1

Freehold Vacant Possession Value £250,000
Ground Rent £250pa fixed

Unexpired Term (Years)	A No IL	B IL Positive	C IL Negative	Increase B to A	As a %age	Decrease C to A	As a %age
100	£6,032	£5,863	£17,635	£169	2.9%	£11,603	65.8%
75	£16,486	£16,345	£21,002	£141	0.9%	£4,516	21.5%
50	£43,986	£43,776	£46,915	£210	0.5%	£2,929	6.2%
25	£98,679	£98,466	£99,834	£213	0.2%	£1,155	1.2%

Example 2

Freehold Vacant Possession Value £1,250,000
Ground Rent £1,250pa fixed

Unexpired Term (Years)	A No IL	B IL Positive	C IL Negative	Increase B to A	As a %age	Decrease C to A	As a %age
100	£30,160	£29,316	£88,174	£844	2.9%	£58,014	65.8%
75	£82,430	£81,727	£105,012	£703	0.9%	£22,582	21.5%
50	£219,928	£218,878	£234,575	£1,051	0.5%	£14,646	6.2%
25	£493,393	£492,329	£499,168	£1,063	0.2%	£5,775	1.2%

[i] In both examples, a single capitalisation rate of 6% has been used where there is no intermediate lease. A dual capitalisation rate of 6% and 2.25% has been used where the intermediate lease has a positive value and a single capitalisation rate of 1% has been used where the intermediate lease has a negative value.

86. Compared to the current valuation of positive value intermediate leases, the option could increase the premium; for example, it may lead to a 0.9% increase at 75 years remaining. This is however likely to hit a ceiling (such as under £1,051-£1,063 in the second higher value example). Where an intermediate lease has a negative value, the option could create a significant decrease in the premium; for example, a 21.5% reduction at 75 years remaining may lead to a saving of £4,516. It is expected that the relative changes in premiums during freehold acquisitions will be similar, except that there may be a more limited difference in premiums where there is a positive intermediate lease due to differing current methodology; where a landlord is compensated for the proportion of rent that represents a profit.

87. We do not have data on the proportion of intermediate leases which have negative value and so cannot estimate the proportion of leaseholders who would pay more or less than under the current valuation system. Based on the indicative figures above, if approximately 10% of intermediate leases were in negative value, then the average net cost to leaseholders pursuing a lease extension with such intermediate leases present, would be £495. If 19% of intermediate leases were in negative value, then the policy would be cost neutral. Whilst a lack of information on the proportion of negative value intermediate leases means **the impact of the reform is non-monetised**, we are confident the number will be small in aggregate.

	Positive Value	Negative Value	Net Total Value
Max Value	-£1,050	£4,500	-

Assumed Equity Split	90%	10%	-£495
Break Even Split	81%	19%	£0

Commuting Intermediate Rent

88. Currently where lease extensions occur, this can cause an intermediate lease to fall into negative value. This can create a financial liability for the landlords, who may be unable to secure a rent commutation from their superior landlord. This can push some intermediate landlords to wind up their companies.

89. When a lease extension or a ground rent buy out claim occurs, landlords under intermediate leases affected by the claim will have the right to request a commutation of their rent. This new right will help to prevent intermediate leases entering negative value because of lease extensions or ground rent buy-outs.

90. Where there is a chain of intermediate leases, commutation will act like a 'domino effect' commuting the intermediate rents. Due to the differing approaches of the current law, commutation will end at the freeholder in houses and the competent landlord in flats. It will also end where an intermediate rent is already set at a peppercorn (e.g., through prior voluntary agreement, or as a leaseback).

91. Commutation will only affect the rent payable in respect of the house or flat. If a lease demises other property, the rent relating to that other property is unaffected. It includes restrictions preventing over-reductions e.g., if a leaseholder pays a ground rent sum of £100 per annum, it would not be possible to reduce the rent under a superior lease by more than £100 per annum. Landlords may require the services of valuation professional to help assess the commutation.

92. This will mean that some superior landlords may receive a reduced rental income but will receive a share of a premium in return.

Procedural reforms involving intermediate leases

93. Where collective enfranchisements and lease extensions interact with intermediate leases, there will be new rights and choices available for leaseholders to reduce the premium payable, but to also address certain situations where the law negatively affects leaseholders and landlords.

94. Leaseholders will have a choice in collective enfranchisements to reduce the premium they pay by leaving in place the part of an intermediate lease that is superior to non-participating qualifying leases.

95. The current law will be clarified (in line with a decision by the Upper Tribunal) to confirm that leaseholders should be able to exercise a choice over how much of a lease of common parts they may acquire if certain existing legal tests are met. This will help to reduce premiums, as leaseholders need only acquire as much as is required for the maintenance of the property, rather than the whole lease.

96. Some intermediate leases will be protected from acquisition in collective enfranchisement where it creates particularly negative effects. This will be for special cases where landlords have enfranchisement rights and are at risk of losing their flat and where leaseholders own the immediately superior and longer intermediate lease, instead of seeking a lease extension.

97. The right to a lease extension will also be expanded for subleases, who are currently blocked if the superior intermediate lease was previously extended.

98. It is not possible to say how often these choices will be used, or by how much a premium may reduce. Where only part of an intermediate is acquired, the intermediate landlord will retain the portion and value that is not acquired. These measures are non-monetised.

Valuation Reform H – Decrease in non-litigation costs paid by leaseholders by requiring landlords to pay their own costs

99. Our reform would mean freeholders are now liable for their own non-litigation costs, substantially reducing the costs that the leaseholder pays for a lease extension, collective enfranchisement or freehold house acquisition where applicable.

100. Based on evidence gathered from consultation responses and desk research it is clear that valuation costs will vary depending on location and the purpose of the valuation - whether a lease extension, a freehold house acquisition or a collective enfranchisement, with the latter having the highest cost and most variability because the size and nature of the property being valued can vary significantly. Generally, there is no distinction between the fee charged to a leaseholder and the fee charged to a freeholder, although it should be borne in mind that under the current system, the leaseholder will pay the freeholders costs but not be able to choose the provider and so the freeholder may be less incentivised to keep the costs down.

101. Lease extension valuation costs varied from £600+VAT - £1250+VAT with £750 quoted as the most typical cost.

102. Collective enfranchisements were more difficult to price – a factor of their relative rarity and also because the price will be very influenced by the nature of the property and the number of individual units. It was suggested that the valuation cost could start from £1000+VAT. For the purposes of the modelling, we have assumed the same per property prices as a lease extension.

103. Information from CompareMyMove[97] suggests that the average range of process costs are as follows:

Item	Low (£)	Mid-Point (£)	High (£)
Surveyor's valuation	600	750	900
Solicitor's fees	600	900	1200
Freeholder's valuation	600	750	900
Freeholder's solicitor costs	600	900	1200
Surveyor's negotiation costs	£150 per hour	£175 per hour	£200 per hour
Land Registry fees	20	30	40

104. The modelling assumes the policy will transfer the freeholder's valuation costs (£750 central, range £600-£900) and solicitor costs (central £900, range £600 - £1,200) from the leaseholder to the

[97] https://www.comparemymove.com/advice/conveyancing/extending-a-lease-cost

freeholder. This figure is multiplied over the 38,900 extensions and 3,500 collective enfranchisements per year as calculated from Land Registry data (assuming collective enfranchisements average 4.4 flats per building[98]) to estimate the total impact of the reform for England and Wales.

105. This leads to a total direct cost to freeholders and a total benefit to leaseholders of **£599 million present value over the ten-year appraisal period**. This can be broken down into £222m total benefit for business leaseholders and £377 total benefit to non-business leaseholders.

106. Sensitivities showing the responsiveness of the results to changes in the average process cost can be found in the sensitivities section of this annex.

Valuation Reform I - Extending the statutory lease extension to 990 years

107. Currently the statutory lease extension for flats is 90 years and 50 years for houses, whereas this reform will give leaseholders of houses and flats the right to extend their lease by 990 years at a peppercorn ground rent (on payment of a premium). This means the need to extend a lease arising only once and effectively no ground rent is paid post-extension.

108. This will have a direct impact of an increase in premia paid upon the point of enfranchisement due to the lengthening of extension period and the effective removal of the residual from the enfranchisement valuation. The residual represents the value of the lease remaining post extension, which the freeholder retains. Under a 990-year lease this is assumed to be close to zero. This will represent a transfer from leaseholders to landlords.

109. The same methodology has been used to calculate this impact as used to calculate the impact of the removal of marriage value and the capping of ground rents.

110. The increase in lease extension period is estimated to lead to a payment from leaseholders to freeholders of **£20m across the 10-year appraisal period.** This is presented as a cost to leaseholders and a benefit to freeholders. However, freeholders will experience a corresponding diminution in their asset value which has not been captured. Another way to express this is that over the longer term there would have been a payment made for a further extension which will no longer be necessary. The impact of this is not captured because it is outside of the appraisal period.

111. Equivalent lease extension rights are also being given to shared owners; presently, they are excluded from extension rights under the 1967 Act and their position under the 1993 Act is uncertain due to conflicting court and Tribunal decisions. Their being granted will result in a cash transfer from shared owners to their providers – where the provider is also the freeholder – and an increase in the capital value of the shared owner's interest. Where the provider is not the freeholder but owns a headlease, the provider will have first a right to extend the whole (of the relevant parts of the) headlease, and secondly an obligation to extend the headlease over the relevant extending sublease. The former will result in a cash transfer from providers to freeholders and an increase in the capital value of the provider's interest; thereafter, when the shared owner extends, transfers and capital values will change as in the case where the provider is the freeholder. The latter will result in simultaneous cash transfers from shared owners to providers and providers to freeholders, with increases in the capital value of both the headlease and sublease: depending on the particularities of

[98] Detailed analysis of fires attended by fire and rescue services, England, April 2018 to March 2019 (publishing.service.gov.uk), English Housing Survey 2017-18 Households

the case – specifically, the amount of reversionary interest the provider has, the obligation may be a net cash gain or loss to the provider, but on average we expect net costs imposed on the provider to be small therefore they **have not been monetised**.

Valuation Reform J – Giving leaseholders the right to buy out their Ground Rent without having to extend their lease

112. Leaseholders with 150 years or more remaining will also be able to buy out their ground rent subject to the 0.1% cap without extending their lease. We estimate there are 1.3m leases for flats (2.5m including houses) leases across flats and houses that have leases over 150 years. Within this, the group which would benefit the most from this reform are those with ground rents that would exceed the 0.1% cap as taking forward this option would mean a reduction in overall ground rent paid.

113. As noted above, we estimate that 900,000 leases are likely to have escalating ground rents. We do not know what proportion of the 900,000 leases would overlap with those with more than 150 years remaining so **this has not been separately monetised**. Those with long leases and non-onerous rent may also benefit, but there would be no transfers captured as the ground rent term calculation will not be capped.

114. The threshold was set at 150 years so that the lease is sufficiently long that the leaseholder is unlikely to be interested in an extension, and so would prefer just to buy out the ground rent without paying for an extension, and without the valuation complications associated with an extension that are not associated with a buy out. Further, the threshold was set high to avoid poorly advised leaseholders with shorter terms only extinguishing the ground rent, and then having separately to extend the lease later, with two sets of transaction costs.

Valuation Reform K - Removal of the two-year homeownership requirement

115. We are removing the existing requirement, following purchase, to have to wait for two years before acquiring the freehold or extending the lease of a house.

116. The original purpose of the two-year ownership requirement for enfranchisement was to prevent investors from benefitting from rights intended for residential leaseholders, however, it has not achieved that purpose. The requirement can be easily avoided but remains an obstacle for ordinary leaseholders wanting to exercise their rights. Delays in claims can result in higher premiums particularly where the lease term is close to 80 years or where the freehold of the property is sold on to another party during the qualifying period.

117. The two groups that are likely to benefit from the removal of the two-year ownership requirement are those buying new build leasehold houses, and those buying properties with relatively short leases.

118. There have been reports of mis selling where the buyers of new build leasehold houses are promised the freehold at a lower cost during the sales process, and then having waited two years find that it has been sold to another company who are now asking a higher cost for a lease extension or freehold acquisition. There has been CMA enforcement action in this area. The direct impacts for this group will be small overall, as the supply of leasehold houses has fallen over recent years following

Government intervention. For England and Wales, the proportion of new build houses sold as leasehold was less than 1% in December 2022[99]. In practice, it would be reasonable to assume that only a proportion of new build house purchasers will want to enfranchise within two years. Therefore, **it is not proportionate to monetise the impacts for this group** due to the relatively small number of parties impacted by the change.

119. In 2022, c200,000 transactions in England and Wales were leasehold[100]. These will benefit from the ability to enfranchise immediately rather than having to wait two years or to go through a complicated work around process. Those with shorter leases will have the most to gain financially, as the premium increases as the remaining lease term decreases.

120. EHS data suggests that around 8% of leasehold households bought their property with a remaining lease of 70 years or less, and 19.5% with a lease of between 71-98 years.

Annex Table 1.5: Length of leasehold at purchase, 2020-21

all leaseholder owner occupiers

	thousands of households	*percentages*	*sample sizes*
30 years or less	*44*	*1.9*	*9*
31 to 50 years	*65*	*2.8*	*20*
51 to 70 years	*69*	*3.0*	*22*
71 to 98 years	444	19.5	*121*
99 to 120 years	591	25.9	*181*
121 to 150 years	411	18.1	*115*
151 to 499 years	*57*	*2.5*	*19*
500 years or longer	411	18.0	*142*
unknown length of leasehold	186	8.2	*60*
median length of leasehold (years)	112		
all households	**2,277**	**100.0**	***689***

Notes: figures in italics are based on a small sample size and should be treated as indicative only.

1) the table excludes cases where owner occupier leaseholder status is unknown

2) figures in italics are based on a small sample size and should be treated as indicative only

Source: English Housing Survey, full household sample

121. There are two routes through which reform can impact this second group:

i. Reduced legal costs and simplified process for those enfranchising within two years of buying a leasehold flat in the baseline (direct), and;

ii. Reduced premia for those who would have waited two years to enfranchise due to the barriers to enfranchise in the baseline, but with a simpler system may choose to enfranchise sooner (indirect, transfer).

[99] Leasehold and commonhold reform - House of Commons Library (parliament.uk)

[100] Leasehold and commonhold reform - House of Commons Library (parliament.uk)

Reduced legal costs and simplified process

122. The requirement to wait for two years is easily avoided. A claim for a lease extension is begun by a qualifying tenant (who has owned the lease for the requisite two-year period) serving a notice on his or her landlord. But the benefit of such a notice can be assigned to another party along with the lease. This means that it is already possible for leases to be extended before two years elapses, but this process adds complexity, cost and risk, and can cause delays in the buying and selling process. Solicitors may disagree on how to process these claims and there is a lot of scope for landlords to delay the process. Removal of the requirement to wait for two years will mean that there will be no further additional legal costs associated with avoiding the requirement as the process to extend the lease or acquire the property can begin immediately when a leasehold home has been acquired. There may be a cost saving in combing the purchase of a property with extending the lease or acquiring the freehold, rather than pursuing these at different time.

Reduced premiums due to bringing forward lease extensions (flats)

123. A simpler process may bring forward some lease extensions resulting in lower premiums.

Valuation Reform L - Decrease in premium payable in a collective enfranchisement due to required leasebacks to landlords

124. Government's reforms aim to improve access to collective enfranchisement, in part, by lowering the cost of collective enfranchisement claims for those leaseholders who meet the requisite qualifying criteria. Required leasebacks to landlords will allow leaseholders to reduce the premium they must pay for the freehold as part of a collective enfranchisement claim. This is because granting a leaseback over a non-participating unit for 999 years at a peppercorn ground rent will have the effect of transferring virtually all of the freehold value of the unit to the owner of the leaseback. As a result, the premium leaseholders must pay for the freehold will not include the value of non-participating units where leasebacks are to be granted. It will depend on the specific circumstances of the building and the number of non-participating units as to the scale of reduction in the premium versus a claim where leasebacks to landlords are not used. Claims in buildings with a high percentage of non-residential units would likely benefit from a significantly reduced premium when leasebacks to landlords are used.

125. Aside from mandatory leasebacks for certain protected and social tenants, currently there is an optional leaseback available, where the freeholder may choose to take a leaseback of a unit other than one let to a qualifying tenant, for example commercial units or residential units not granted on long leases. This is similar to the right we are introducing for leaseholders, but only applies to non-qualifying units and is at the freeholder's discretion. If a freeholder chooses to take an optional leaseback it has the same effect of reducing the premium that leaseholders must pay for the freehold. Therefore, in practice, currently the freeholder may enable a collective enfranchisement claim where it would otherwise be prohibitively expensive for leaseholders if the freeholder elected not to take a leasebacks. Leaseholders may also be uncertain as to how much a claim will ultimately cost until a freeholder decides whether they are taking leasebacks or not. Providing a right to leaseholders in collective enfranchisement claims to require the freeholder to take a leaseback of non-participating units will increase certainty for leaseholders in addition to reducing the cost of claims. This will support our aim of improving access to enfranchisement.

126. Landlords will receive a leaseback of a non-participating unit for 999 years at a peppercorn ground rent and will be entitled to any rent or lease extension premiums from any sub-leases. The exchange of a freehold interest for a leasehold interest represents a loss to a landlord. However, in the majority of cases we expect this intermediate lease will represent virtually equivalent value to the interest landlords have lost, and the wider valuation methodology will account for cases where there is a discrepancy. We therefore believe this exchange of a freehold interest for a leasehold one is justified given the significant benefit to leaseholders of a reduced enfranchisement premium and increased certainty of this cost.

127. Arguments have been presented that a 999-year peppercorn ground rent intermediate lease does not represent virtually equivalent value to a freehold interest in the unit. It is argued that firstly, a leasehold interest is inherently less valuable than a freehold one; secondly, that a leasehold interest is significantly less valuable than a freehold in cases where freehold ownership allows modifications to premises that create a higher value (i.e., to knock through two adjacent flats with tenants that do not qualify for enfranchisement); and thirdly, leasehold ownership of a commercial unit is significantly less valuable than a freehold interest because the suite of requirements from a commercial tenant, including expectations such as prompt repair and reasonable adjustments to the space, may be harder to meet if their immediate landlord is a leaseholder not the freeholder.

128. Regarding the first argument, the Government wants more leaseholders to have greater access to collective enfranchisement by being able to reduce, and predict with greater certainty, the premium payable. Required leasebacks to landlords will be key to achieving this, as without this ability, certain other reforms to increase access, particularly for mixed-use buildings, will be of limited benefit to leaseholders. The Government consulted on mandatory leasebacks and of 2087 respondents, 63% either supported or strongly supported the measure. Amongst leaseholders living in buildings with over 25% up to 50% non-residential floorspace this rose to 74%. We recognise that a leasehold interest is inferior to a freehold one. However, we believe the significant benefit to leaseholders, and the level of support which indicates the measure will be taken up, justifies this proportionate loss to freeholders.

129. We explain below why we believe this loss is proportionate and why we do not agree with the second argument above. It is accepted that a freeholder will be required to accept an inferior tenure. However, they will receive a premium for the freehold reversion, which will be reduced by giving back to the freeholder a valuable intermediate lease from which they can continue to derive an income or sell to another party. The Government believes this approach is justified in order to achieve the policy aim to make collective enfranchisement and, thus freehold ownership, more accessible and affordable for leaseholders. Collective enfranchisement will no longer be conditional on freeholders deciding or agreeing to take a voluntary leaseback, as is currently the case, and it will make collective enfranchisement claims affordable in practice in properties with up to 50% non-residential internal floor space.

130. Regarding value arising from the potential modification of premises to gain a higher value, it is already the case that the freeholder taking a leaseback over flats with tenants that do not qualify for enfranchisement rights, could agree terms with a nominee purchaser that permit the former freeholder (and holder of the leaseback) to continue to develop the units. The freeholder may also take this matter to a tribunal. This will remain the case under the reformed scheme and therefore such value could be retained in the leaseback. Where this is not possible, and there are multiple interests (i.e., intermediate landlords), it may be possible for the former freeholder to argue they should receive a larger share of the premium at the point the premium is divided (see 'valuation option

for reform' on intermediate leases valuation methodology**Error! Bookmark not defined.**). If the freeholder was being offered a leaseback of only one of two units by the enfranchising leaseholders (that did not have tenants qualifying for enfranchisement), the freeholder could then use the existing law to insist on a leaseback for the other unit. It will not however be possible for such value to be retained in the leaseback if the development would have required the renegotiation or ending of a long lease qualifying for enfranchisement.

131. The third argument raised by freeholders is linked to concerns raised that leasebacks complicate the management of commercial units and mixed-use buildings, potentially increasing costs and the likelihood of poor management, and making commercial units subject to a leaseback less attractive to commercial tenants. The Government is not convinced by this argument. We have not seen significant evidence demonstrating that leaseholders will be any less invested in the successful management of a building once they have acquired the freehold. Conversely, we think it is likely that participating leaseholders will have a greater interest and incentive in the successful management and maintenance of their building following a successful claim. In many cases leaseholders will have elected to take forward a collective enfranchisement claim precisely because they are dissatisfied with the current management of the building. Leaseholders who acquire the building through a collective enfranchisement claim are likely to choose to employ a professional managing agent which suits their needs and the makeup of the building, in much the same way as existing freeholders employ managing agents. Furthermore, leasebacks on a voluntary basis are currently taken by landlords and we have received no evidence that they generally act to degrade or complicate the management of buildings, and, if that were the case, nor that they make commercial units less attractive to commercial tenants. If these outcomes were common, it is unlikely that landlords would currently take them voluntarily as they do.

132. We have not been able to identify data on the frequency of the use of existing leasebacks in collective enfranchisement claims. Existing leasebacks are at the landlord's discretion and therefore differ from required leasebacks to landlords which will be at the leaseholder's discretion. The usage of existing leasebacks is not however considered useful for modelling predicted usage of required leasebacks to landlords. We have not been able to identify data on the exact valuation of collective enfranchisement claims where existing leasebacks are used. We expect that in the majority of cases a 999-year intermediate lease at a peppercorn ground rent will represent virtually the equivalent value to the interest being lost. In cases where this is not the case, additional compensation to landlords may be required, if appropriate, but will depend on the specific circumstances of the collective enfranchisement claim. However, we have not been able to model how frequently this might occur nor the average level of compensation. **For these reasons this change has not been monetised.**

Valuation Reforms M and N – Removing the current "qualified one-way cost shifting power" and moving jurisdiction of all leasehold cases to the First Tier Tribunal (FTT)

133. Reform M will make Right to Manage (RTM) more affordable by removing the currently "qualified one-way shifting power" which permits freeholders (landlords), but not RTM companies, to claim their costs if they successfully defend an RTM claim.

134. However, this will only apply to a limited number of cases. For example, freeholders (landlords) already have to pay their own litigation costs except in RTM if the RTM company fails. Therefore, it is not proportionate to monetise the impacts of this reform due to the relatively small number of cases

impacted by the change. There is also interaction between this reform and moving jurisdiction, therefore it is not possible to robustly separate out the impacts of the individual reforms.

135. The reform to move jurisdiction of all leasehold cases to the FTT (Reform N) will have a direct impact on freeholders and leaseholders by removing complexity and confusion in the process, which will reduce delays and costs to the process. The division of cases between the County Court and the FTT in the counterfactual creates uncertainty for both leaseholders and freeholders as to where their case should be heard. This leads in some cases to the duplication of cases and delays caused by cases moving between different forums. Moving to all cases being heard in the FTT will remove the duplication and delay of cases leading to both time and cost saving for leaseholders and freeholders. The transfer of jurisdiction also enables more specialised judges with expertise in a technical area of law to hear these cases. There are also expected to be decreased public sector costs due to avoidance of duplication of cases.

136. There will also be an impact on litigation costs for freeholders and leaseholds for ENF/RTM disputes. This is because the rules on awarding costs differ between the County Court and the FTT. In the County Court, the party with the successful claim normally has their costs covered by the other party, whereas going forwards in the FTT, each party pays their own costs as a general rule. Therefore, those who would have otherwise had their dispute covered by the County Court will be impacted by the change in who pays the litigation costs. It is unclear as to which parties will pay higher or lower litigation costs due to the reform because of a lack of granular data on litigation rulings at the County Court.

137. Anecdotal evidence suggests there are a small number of ENF/RTM claims disputes which take place at the County Court and thereby would be affected by this reform compared to the number of ENF/RTM claim disputes already covered by the FTT. Therefore, it is not proportionate to monetise the impacts of this reform due to the relatively small number of parties impacted by the change.

138. There is also expected to be a reduction in public sector costs due to the amendment to the existing Tribunal procedure rules so that the Tribunal can order that certain valuation-only disputes be determined on the papers by a single valuer member of the Tribunal rather than at a full hearing. This will reduce the resources required to process certain disputes. This may also produce a time saving for leaseholders and freeholders if disputes can now be processed quicker, as well as a cost saving from reduced need for legal representation for certain valuation only disputes.

Detail of leaseholder impacts

Make leasehold a more workable tenure by equalising market dynamics and addressing historic imbalances, making it a fairer, simpler, and more transparent system

139. The heart of these reforms is about making it easier and cheaper for leaseholders to take management control and feel more like owners not like tenants, whilst also ensuring there is sufficient compensation for landlords. Where leaseholders are happy with the services their landlord is providing, then the existing arrangement can continue.

140. The package of reforms in respect of the valuation of premiums goes some way to addressing substantial imbalances in the market that lead to leaseholders being forced to pay high prices and fees to save their asset from depreciating and reducing the associated costs in this process. These reforms will reduce the income a landlord receives when leaseholders enfranchise but will also stop some injustices such as: leaseholders paying for a landlords' costs; paying an excessive premium to extend their lease just because they have 80 years or fewer unexpired; and not being able to buy their freehold or sell their home because of an escalating ground rent clause.

141. The reform packages also help increase confidence in tenure and therefore in one's home, by removing the most complicated/contested aspects of valuation (varying rates and marriage value) and allowing leaseholders to better understand their costs. This will also in time permit the introduction of an online calculator to help the process. A more simple and straightforward process will not only help leaseholders make better decisions but will help equalise asymmetric information constraints that may have previously stopped them getting a fair deal.

142. Increased transparency within the process - removing marriage value and the complex valuation method that is required to calculate it will help remove the need for negotiation and the involvement of valuers where, due to financial disparity, leaseholders have an historic disadvantage.

143. Increased flexibility due to being able to take a development restriction will not only decrease the upfront cost of enfranchisement but also allow those considering collective enfranchisement to make their mind up about what is best for them.

144. The reform will also improve the affordability of collective enfranchisement, through a reduced upfront premium when landlords are required to take leasebacks of non-participating units.

145. The major benefits of removing the two-year ownership requirement are reduced cost involved in extension as well as cheaper premiums from being able to extend a lease earlier. This could in turn reduce the number of negative impacts on the wellbeing of leaseholders.

146. The reform will increase security of tenure as leaseholders will be able to extend their lease for a time almost equivalent to freehold, 990 years.

Efficiency saving from simpler enfranchisement process (reduction in valuer services)

147. The largest non-transfer indirect benefits to leaseholders of the valuation reforms is the reduced demand for valuer services from a simpler enfranchisement process. Following our reforms, the valuation process will become much more transparent, and easier to navigate. We will have mandated the valuation methodology for calculating the premium for most leaseholders, prescribed the rates to be used, removed marriage value and both parties will be able to consult our on-line valuation calculator. All of these remove real complexity and significant cost to the process.

148. We expect this to mean that the use of valuers by leaseholders will fall and where they are engaged, the amount of work that a valuer will need to do, and any areas of debate, will also be reduced. This in turn will mean valuation reforms will result in an indirect benefit to leaseholders in the form of cost savings on valuation services.

149. We assume post-reform valuers may be used in around 20% of lease extensions. As collective enfranchisements are more complicated, involve more properties and leaseholders, and often bring a wider variety of issues to consider, such as covenants, we assume valuers will continue to be used in around 60% of cases.

150. There will in some cases be a transfer of work, such as in deciding how a premium should be divided where there are multiple landlords involved with a claim, or in assisting with new rights such as ground rent buyouts and intermediate rent commutation, however we have not been able to monetise this.

151. Based on the estimated number of lease extensions and collective enfranchisements annually in England and Wales, and the valuation cost assumptions set out above under reform H, the total benefit to leaseholders over the 10-year appraisal period is estimated to be £209m; £77m for business leaseholders and £132m for non-business leaseholders.

Reform of intermediate lease valuation methodology

152. Leaseholders currently face a complex methodology that causes them to pay a larger volume of non-litigation costs and in some cases, to pay higher premiums. By simplifying the intermediate lease methodology, and treating interests as merged with the freehold, this will reduce the volume of non-litigation costs leaseholders pay, it will create a simpler system that effectively assumes there is one landlord to pay, and the premium will no longer vary based upon an intermediate lease's positive or negative value. As detailed in para 84 above some leaseholders will see increases in premium, and others reductions.

153. **This is a non-monetised benefit as we are not able to quantify the monetary impact on landlord behaviour**.

Detail of business impacts

Efficiency saving from simpler enfranchisement process (reduction in valuer services)

154. Following our reforms, the valuation process will become much more transparent, and easier to navigate. We will have prescribed the rates to be used, both parties will be able to consult our on-line valuation calculator and we will have removed marriage value which adds real complexity and significant cost into the process. In addition, our changes mean that in most cases landlords will have to pay for their own professional advice. We expect this to mean that the use of valuers by freeholders to fall and where they are engaged, the amount of work that a valuer will need to do, and any areas of debate, will also be reduced. This in turn will mean valuation reforms will result in cost savings on valuation services for freeholders. This is an indirect benefit.

155. As stated in the leasehold efficiency savings section above, we assume post-reform valuers may be used in around 20% of lease extensions and 60% of collective enfranchisements. This assumes reform H is implemented such that freeholders pay their own valuation costs, and therefore the efficiency benefits are attributed equally to each group as an indirect impact The total benefit to freeholders is estimated to be £209m over the 10-year appraisal period.

156. In this IA, we have not attempted to monetise the impact of changing demand for services due to the reforms for valuers (as well as managing agents and legal advisors). This is because a decrease in demand for services and the resulting decrease in revenue will come with a corresponding decrease in cost to provide those services which will, in part, offset the decrease in revenue. The net impact for managing agents, valuers and legal advisors is therefore the impact on profit of changing demand for services. However, we do not have the granular evidence needed to monetise this robustly.

Commuting Intermediate Rent

157. Currently where lease extensions occur, this can cause an intermediate lease to fall into negative value. This can create a financial liability for the landlords, who may be unable to secure a rent commutation from their superior landlord. This can push some intermediate landlords to wind up their companies.

158. When a lease extension or a ground rent buy out claim occurs, landlords under intermediate leases affected by the claim will have the right to request a commutation of their rent. This new right will help to prevent intermediate leases entering negative value because of lease extensions or ground rent buy-outs.

159. Where there is a chain of intermediate leases, commutation will act like a 'domino effect' commuting the intermediate rents. Commutation will end at the freeholder in houses and the competent landlord in flats. It will also end where an intermediate rent is already set at a peppercorn (e.g., through prior voluntary agreement, or as a leaseback).

160. Commutation will only affect the rent payable in respect of the house or flat. If a lease demises other property, the rent relating to that other property is unaffected. It includes restrictions preventing over-reductions e.g., if a leaseholder pays a ground rent sum of £100 per annum, it would not be possible to reduce the rent under a superior lease by more than £100 per annum. Landlords may require the services of valuation professional to help assess the commutation.

161. This will mean that some superior landlords may receive a reduced rental income but will receive a share of a premium in return.

Reform of intermediate lease valuation methodology

162. Currently in lease extension claims, a premium can be higher where a superior interest has a negative value (especially for statutory lease extensions) and also creates a financial liability for the landlords, who may be unable to secure a rent commutation from their superior landlord. Currently, in a collective enfranchisement claim, the owner of an intermediate lease with negative value is unlikely to get a share of the premium, but the freeholder may receive a lower share of a premium because negative value is deducted from the freehold value.

163. The reform to the valuation process will mean that landlords of negative value intermediate leases may receive a lower share of the premium. There may be no change compared to the current law for collective enfranchisements, where such a lease may not receive a share of the premium if it is in negative value. Freeholders would no longer incur a deduction from the freehold value for negative value, so this may increase their share of a premium.

164. Whilst individual circumstances will differ, it can be assumed that typically lease extensions from multiple leases would be required before an intermediate lease would fall into negative value. It is not possible to estimate how many intermediate leases fall into negative value as a result, or how many leaseholders, landlords and freeholders will be affected by specific reforms to the intermediate lease valuation process. We are not able to **quantify the monetary impact on landlord behaviour.**

165. The heart of these of reforms is about making it easier and cheaper for leaseholders to take control of their home, whilst also ensuring there is sufficient compensation for landlords. By improving the intermediate lease system, it makes it simpler and easier and a more workable tenure in the long term.

Reduced premium received in collective enfranchisement

166. As detailed earlier, we have not been able to model how frequently mandatory leasebacks to landlords will be used in collective enfranchisement claims. We have also not been able to model how often an intermediate lease will not be virtually equivalent value to the interest landlords have lost. Previously landlords would have received monetary compensation representing the whole freehold value at the point the collective enfranchisement completed (which might be reduced if the landlord elected to take a leaseback). Post reform, following a claim involving leaseholder mandated leasebacks to landlords, landlords will receive less monetary compensation once a claim completes, some of this compensation instead being received in the form of one or more leaseback' leases. Landlords will be able to sell these leaseback' leases immediately once the claim has completed. There may be associated administrative costs involved in the selling of a leaseback' lease, but we do not expect they will be significant. Landlords may also choose to retain the intermediate lease and any income derived from it. We have not been able to quantify the potential impact on landlords of this change in the form of compensation, and potential delay in receiving monetary compensation. Therefore, this cost is non-monetised.

167. Leasebacks would force a current landlord to exchange a freehold interest for a leasehold interest through a leaseback. Under the existing process a landlord can elect to sever all involvement with a property in return for monetary compensation. The introduction of mandatory 'leasebacks' would force landlords to retain a leasehold interest in a property, with this interest replacing some of the monetary compensation they would have received under the existing process.

168. The leaseback of non-participating units (including potentially commercial units) constitutes a valuable interest and the grant of a leaseback to a landlord will reduce the premium payable to that landlord when leaseholders collectively acquire the freehold. Leaseholders are most likely to elect to use leasebacks in situations where they reduce the premium payable significantly and enfranchisement would otherwise be unaffordable. The leaseback policy will enable many more leaseholders to collectively enfranchise. A landlord will receive an asset with value which they can then choose to sell if they wish to sever all involvement with the property or retain the interest and any income derived from it.

Detail of public sector impacts

169. Local councils, courts and tribunals in England and Wales will need to familiarise themselves with the proposed regulations so they can enforce the new system. Councils, courts and tribunals will also need to update relevant guidance – though we will also be providing comprehensive national guidance to support with this. **This national guidance will cover all reforms and incur public sector costs.**

170. Local authorities who are landlords will need to familiarise themselves with the provisions, such as regarding lease extension terms being for 990 years at a peppercorn for both flats and houses. This is likely to incur familiarisation costs, which may be borne by in-house legal teams. The immediate impact should be no different to that of private sector landlords.

171. We expect there to be a mixed impact on the number of cases seen by the courts or Tribunal. The reformed approach to lease extension and enfranchisement valuation may create an initial increase in certain types of cases where the system is tested, but an overall reduction through a simplified, mandated system and with use of the online calculator. For example, with less need for lease extensions (as lease extensions will be for longer periods and therefore needing extension only once over longer-terms), with clear and mandated valuation process and with changes to collective enfranchisement process (such as on leasebacks or acquisition of common parts), we may see reduction in disputes, so overall the number of cases in dispute is likely to fall. However, additional technical components to consider such as development value restrictions may add a small number of complex cases taken to the tribunals and courts.

172. Additionally, we expect fewer disputes compared to now as a consequence of leaseholders generally not being responsible for their landlord's non-litigation costs. Landlords will also generally be responsible for their own litigation costs. Landlords will therefore be incentivised to keep costs low and to seek agreement on issues outside the court.

173. There will be a transfer of certain cases from the county court to the Tribunals and there will be a small increase from new types of cases arising, such as regarding the ground-rent buyouts and the practicalities of intermediate rent commutation.

174. We are undertaking a robust New Burdens Assessment and Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement

175. When landlords do not comply with new regulation, the enforcing bodies will be the courts and Tribunals. The measures will consolidate the First-tier Tribunal in England and the Leasehold Valuation Tribunal in Wales as the expert body in dealing with leasehold disputes, although the Courts (and county court in particular) will continue to play a role, including where a landlord does not comply with Orders made by the Tribunal.

Sensitivities

176. The central estimates are sensitive to some key assumptions, set out below. All figures below cover the 10-year appraisal period, are in 2019 prices and discounted with a present value year of 2025.

a) Number of lease extensions per year

The central scenario for the annual marriage value cash flow impacts assumes 38,900 lease extensions per year over the 10-year appraisal period. HM Land Registry recommended the mid-point we have used, but also provided a range from 31,000 to 54,000 which has been used to produce a range of annual marriage value impacts.

	31,000 Lease Extension	**38,900 Lease Extensions (central Assumption)**	**54,000 Lease Extensions**
Marriage Value Net Present Value(£m)	1,595	1,910	2,495

b) Distribution of leases at the point of enfranchisement

	No Restriction	**110 Years (central Assumption)**
Marriage Value Net Present Value £m	757	1,910

c) *Average ground rents*

177. A key assumption is the level of average ground rents. These are based on a pooled sample from the EHS survey and are cut by groups of regions and property type. They are also cut by point in the distribution of ground rents i.e. the average of top 20% of ground rents are assumed to apply to variable leases, while the average of the bottom 80% of leases are assumed to apply to fixed leases. The table below sets out the impact of assuming the average ground rent across all properties as an alternative.

	Central – different ground rents applied to leases based on assumptions of fixed vs variable leases	Scenario – average EHS ground rent for all leases
Ground Rent Cap Net Present Value (£m)	588	431

d) Average process costs

178. A key assumption in calculating the impact of reforming non-litigation costs and efficiency savings is the average process costs per enfranchisement transaction. Data from CompareMyMove[101] provides a range of average process costs, therefore the table below sets out the impact of this range on the non-litigation cost and efficiencies net benefit.

	Low Scenario	Central Scenario	High Scenario
Non-litigation cost Net Present Value £m	436	599	762
Efficiencies Net Present Value £m	334	418	501

Switching values analysis

179. Throughout the technical annexes, we have looked to use switching analysis to consider how great the monetised value of non-monetised benefits would have to be for the benefits of the policy to equal its costs. As the net-present social value of the policies in this annex is already positive, switching analysis has not been included for this section.

[101] https://www.comparemymove.com/advice/conveyancing/extending-a-lease-cost

Annex 3: Enable more leaseholders to buy their freehold or take over management of their building

The Bill will increase the number of leaseholders in England and Wales who qualify for collective enfranchisement and the right to manage in mixed-use buildings. This will allow more leaseholders in mixed-use buildings to choose whether to collectively buy the freehold of their building or collectively take over management responsibility for their building. The Bill will also make right to manage claims cheaper for leaseholders by no longer requiring them to pay their freeholders non-litigation costs.

Description of policies

1. Measures in the Bill will:

   a. **Allow more leaseholders in mixed-use buildings to collectively acquire the freehold of their building, by increasing the non-residential limit to 50% from 25%.** Leaseholders in mixed-use buildings currently do not qualify for collective enfranchisement if the parts of their building used, or intended to be used, for non-residential purposes exceed 25% of the total internal floor area (excluding common parts). The Bill will increase the non-residential limit to 50% meaning that leaseholders of flats in buildings where up to 50% of the floor space (excluding common parts) is used, or intended to be used, for non-residential usage will be able to collectively enfranchise.

   b. **Allow more leaseholders in mixed-use buildings to exercise the right to manage by increasing the non-residential limit to 50% from 25%.** Leaseholders in mixed-use buildings currently do not qualify for the right to manage if the parts of their building used, or intended to be used, for non-residential purposes exceed 25% of the total internal floor area (excluding common parts). The Bill will increase the non-residential limit to 50% meaning that leaseholders of flats in buildings where up to 50% of the floor space (excluding common parts) is used, or intended to be used, for non-residential usage will be able to claim a right to manage.

   c. **Cap landlords' total votes in right to manage companies to guarantee leaseholders' control.** Following our reforms to increase the non-residential limit to 50%, the right to manage will be possible in buildings with up to 50% non-residential floorspace. Consequently, it will be possible for the ratio of non-residential to residential floorspace to be as high as 1:1. If left unchanged, the current formula for allocating right to manage company voting rights, combined with the change to a 50% non-residential limit, could result in right to manage companies where landlords can exercise a simple majority of votes. This would allow landlords to appoint their own directors and dismiss those who were appointed by leaseholders. Following Governments reforms, votes allocated to landlords in right to manage companies will be capped at one-third of the total votes of qualifying tenants (leaseholders). This will guarantee that leaseholders will always be able to exercise an absolute majority in the company if they all vote unanimously.

   d. **Non-litigation costs of landlords when leaseholders exercise their right to manage will no longer be paid by leaseholders**. Currently, a right to manage company is liable for the "reasonable costs" incurred by a landlord as a result of a right to manage claim. Following our reforms, right to manage companies will not generally be required to contribute towards landlord's (or other relevant persons) non-litigation costs unless claims are withdrawn and the company has acted unreasonably.

Summary of major impacts

2. Table B1 sets out the breakdown of costs and benefits associated with legislation that will result in **more leaseholders having a right to collectively buy their freehold or collectively take over management of their building.**

2 **The major benefit of improved access to collective enfranchisement and the right to manage is fairer outcomes for leaseholders who exercise these rights.** Access to collective enfranchisement and the right to manage gives leaseholders a mechanism to take collective ownership of their freehold or collectively take over management responsibility for their building. Management responsibility gives leaseholders fairer collective control over maintenance and repairs, service charges, and the appointment of a managing agent. Freehold ownership gives leaseholders all the benefits of management responsibility in addition to collective ownership and control of the whole building and long-term security over the ownership of their individual properties. In both cases, improving access to these rights will enable more participating leaseholders to enjoy improved wellbeing from direct control of their property and a say in how it is maintained and run. In some buildings, leaseholders may be able to achieve cost savings by appointing and overseeing their own managers or through managing buildings themselves. All leaseholders in the building will benefit from an improved buying and selling process because of reduced uncertainty and risk for buyers regarding freehold ownership and/or building management.

3 The main costs are the transfer of non-litigation costs from leaseholders to freeholders, loss of control for freeholders over the building if leaseholders exercise their right to collectively acquire the freehold of the building or loss of control of the management of a building where leaseholders exercise their right to manage. There may potentially be an indirect impact on a local area's ability to regenerate and improve high streets, for example if areas previously benefitting from ownership by a single freeholder and management approach, become fragmented or poorly maintained, however leaseholders may also be invested in improving the local area.

4 Where possible benefits have been monetised and clearly referenced whether they are direct or indirect. All calculations are at 2019 prices and discounted with a present value of 2025 and a 10-year appraisal period. The net present social value is calculated at £0 million. The modelling covers England only due to limited data on Wales.

Table B1: Costs and benefits of enabling more leaseholders to buy their freehold or take over management of their building

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Change in non-litigation costs due to leaseholders not paying freeholders' costs for right to manage claims. Freeholders (landlords) will be incentivised to reduce their own costs.	£ 3.1	Freeholders / Managing Agents to Leaseholders (Businesses)	Direct

	£5.2	Freeholders / Managing Agents to Leaseholders (Non-Businesses)	Direct
Benefits			
Increased access to collective enfranchisement and the right to manage, leading to improved outcomes for leaseholders.	Non-monetised	Leaseholders	Direct & Indirect
Fairer outcomes by allowing more leaseholders to collectively acquire mixed-use buildings or exercise the right to manage, leading to democratic decisions on management from residents.	Non-monetised	Leaseholders	Indirect
Certainty of control for leaseholders who exercise their enfranchisement or right to manage rights.	Non-monetised	Leaseholders / Managing agents	Direct & Indirect
Improved wellbeing from having greater security, control and cost certainty.	Non-monetised	Leaseholders	Indirect
Costs			
Loss of control for freeholders when leaseholders exercise their collective enfranchisement rights or the right to manage.	Non-monetised	Freeholders	Direct
Potential for negative impacts on high streets and business if buildings are poorly maintained.	Non-monetised	Shops / Freeholders/ society	Indirect
Potential for increased development costs.	Non-monetised	Developers / Investors	Indirect
Total Benefits	£ 8.33		
Direct Benefits	£8.33		
Direct Benefits to Business	£3.08		
Total Cost	£8.33		
Direct Cost	£8.33		
Direct Cost to Business	£8.33		
Total Net Benefits	£ -		
Direct Net Benefits	£ -		
Direct Net Benefits to Business	-£ 5.25		
EANDCB	£ 0.52		

Detail of leaseholder impacts

Reduced non-litigation costs for leaseholders (transfer)

5 Leaseholders seeking to acquire the right to manage will benefit from not having to pay the freeholder (landlord) non-litigation costs (except in cases where claims are withdrawn, and they have behaved unreasonably). The Law Commission found that currently right to manage companies are liable to not only pay for its own costs, but also for the landlord's non-litigation costs. Landlords are incentivised to find minor and inconsequential defects of a right to manage claim on the basis that they will be able to recover the non-litigation costs from the right to manage company. Right to manage companies are usually in a weaker financial position and costs incurred represent a significant financial commitment which will often need to be met by individual leaseholders, often with no ability to limit or predict the costs. Furthermore, if the right to manage company does not consider that claimed costs are "reasonable" it must take it to the

Tribunal, which is time consuming and increases the costs payable. These requirements present a significant barrier to leaseholders exercising the right to manage in particular because they are unlikely to be in a position to pay uncertain costs because they are pursuing the right to manage rather than collective acquisition. We believe right to manage companies should not be liable to contribute to landlords' and other relevant persons' non-litigation costs. Requiring right to manage companies to pay such costs may act a significant deterrent to claiming the right to manage given that right to manage companies are likely to be in a weaker financial position than landlords.

6 Analysis of Companies House data suggests there are currently around 8,000 active companies with 'RTM' in the company name (which is a requirement in law). Around 600 new companies with 'RTM' in the name formed on average per year between 2020 and 2022. This has been relatively stable in the past 3 years, so we assume it remains flat at 600 in the counterfactual.

	Total	2020	2021	2022	Average
RTM or Right to Manage	8,259	585	657	573	605

7 In the central case, we assume that freeholder non-litigation costs total £1,800 per claim by a right to manage company (range £0 - £3,000). This is based on a range of evidence from advisory and specialist company websites advertising their services. For example, the Homeowner's Alliance suggest "this could run to a couple of thousand pounds, typically a budget of around £200 per flat is sensible"[102]. We also considered responses to both the Law Commission's Leaseholder Survey and the Right to Manage consultation. For example, The Right to Manage Federation suggested that in their experience the Tribunal considered reasonable non litigation costs to range from a few hundred pounds for a small block to around £1,500 - £2,000 for a block of 75 – 100 flats. However, the Law Commission consultation revealed a variety of experiences of RTM costs[103]:

- *How much did the process of acquiring the RTM cost the RTM company/qualifying tenants (including to cover the landlord's costs)? (Question 9)*
- *27 respondents answered this question.*
- *Some respondents provided the overall cost, with various experiences including £1000; £2000; £2300; £2500; £3500; £4000; £4881; £5000; £8000; £10,000; £12,000 and £15,000. Other respondents quoted the cost per leaseholder, variously: including £50; £140; £308; £400 and £500.*
- *Respondents most commonly referred to solicitors' fees, but also mentioned the costs of company formation, surveyors' reports, the cost of filing documents with Companies House, and legal costs incurred by manging agents. One respondent explained: "We employed a "Lease" recommended law firm to handle the RTM… at a cost of £4000, this was split between 5 of the total of 7 flats… the managing agent served counter notice for unknown reasons… our solicitor then informed us that to take the case to tribunal would cost us a further £10,000 and*

[102] Right To Manage - HomeOwners Alliance (hoa.org.uk)

[103] Law Commission Leasehold home ownership: exercising the right to manage - Law Commission Consultation Paper - Analysis of responses to Leaseholder Survey".

at that point we decided we could not afford to continue…. On top of this the landlords managing agent charged us nearly £3000 in legal fees".

- *By contrast, one respondent said that that managing agents covered these costs: "It didn't cost anything as a managing agent offered to facilitate on condition that they then took over management of the block. Certain managing agents have identified an opportunity here, and actively promoted RTMs, recognising that the structure pretty much lets them off the hook since the RTM company takes on all legal liability and the chances of the RTM company (and its amateur directors) then holding the managing agent to account under contractual law are very remote.*

8 In practice, costs differ depending on the size of blocks or estates, and while this is reflected in the variety of costs used to calculate the range above, the central figure is not weighted for prevalence of size of claim as we do not have this data.

9 Multiplying 600 by our estimate for freeholder's non-litigation costs of £1,800 (range £0 - £3000) results in an annual discounted impact of £830,000 (range £0 - £1.4m) and a total discounted impact of £8.3m over the appraisal period. This is a direct impact and is transfer from freeholders to leaseholders. Potential additional indirect costs associated with increased take up have not been monetised.

Increased access to collective enfranchisement and the right to manage

10 Increasing the non-residential limit will increase the number of leaseholders who qualify for collective enfranchisement and the right to manage. The immediate benefit of this change for leaseholders in impacted buildings is they will have a mechanism to remove their freeholder or managing agent if they are dissatisfied with the service they provide. A secondary benefit of this, is that it will likely incentivise existing freeholders to fulfil their responsibilities to a high standard and engage collaboratively with their leaseholders to avoid their leaseholders pursuing a claim. The potential but larger impact to leaseholders is that they will be able to gain collective ownership or collective management control of their building, and the benefits that come with this, through successful collective enfranchisement and right to manage claims.

11 We have analysed Land Registry data to estimate the number of buildings where there are both commercial and residential leases attached, and the proportions of each type within a building (see Annex 10 for more detail on methodology). The estimate is a proxy as it is based on the proportion of titles rather than the proportion of floorspace, which is the basis of the test. For example, if a building contains two residential leases and one commercial lease, it will be assumed to be two thirds residential, even if in practice the commercial lease has more than 50% of the floorspace.

12 From this we estimate there are around 21,900 mixed use buildings, of which around 5,300 mixed-use buildings could become eligible for collective enfranchisement or the right to manage as a result of raising the non-residential limit to 50%. The cohort of eligible leaseholders will be the same for both enfranchisement and the right to manage. For these leaseholders, the existing 25% limit for collective enfranchisement or the right to manage was a barrier to accessing these rights.

13 In terms of take up, the Government consulted on increasing the non-residential limit from 25% to 50% for collective enfranchisement and right to manage claims and received 2087 responses. In relation to collective enfranchisement, 81% of respondents supported or strongly supported increasing the non-residential limit. Support was particularly high amongst leaseholders who will directly benefit from an increased limit. 96% of leaseholders living in buildings with over 25% up to 50% non-residential floorspace

supported or strongly supported increasing the limit. 61% of respondents indicated that if they were to benefit from a new 50% non-residential limit, they would buy their freehold. Similarly, in relation to increasing the limit for right to manage claims, 78% of respondents supported or strongly supported the proposal. 94% of leaseholders living in building with over 25% up to 50% non-residential floorspace supported or strongly supported increasing the limit for the right to manage.

14 It is clear from responses to our 2022 consultation and wider engagement with stakeholders representing leaseholders that increasing the non-residential limit to 50% will lead to an increase in collective enfranchisement and right to manage claims. Those participating leaseholders whose claims are successful will gain the benefits that come from collective freehold ownership and/or collective management responsibility listed in the paragraphs below.

15 In addition, we also anticipate wider take up of collective enfranchisement and the right to manage due to the reduced costs involved in these processes as a result of our reforms. Landlord non-litigation costs are the main costs faced by leaseholders (excluding the premium paid to enfranchise, and any disputes taken to the Tribunal) and can often be an unpredictable cost to leaseholders seeking to pursue a right to manage or collective enfranchisement claim. Requiring leaseholders to pay such costs may act a significant deterrent to collective enfranchisement or claiming the right to manage given that they are likely to be in a weaker financial position than landlords, it can force them to accept terms that might otherwise reject; or pay inflated non-litigation costs, rather than incur the costs of disputing a claim. In removing these, leaseholders will no longer have to meet the unpredictable and potentially unreasonable non-litigation costs of their landlord.

Fairer outcomes resulting from leaseholders having ultimate management control

16 Leaseholders who have not exercised a right to manage or collectively enfranchised have limited influence over how their building is managed and maintained. This is despite having to pay the costs of these through their service charges. Their building is managed by their freeholder or their managing agent who control decision making, the work completed, the timeliness and level of service provided, and therefore determine the associated costs leaseholders must pay. This can lead to work that is incomplete, delayed or of a poor quality and costs which leaseholders believe are unjustified because they do not represent good value for money or are simply so high as to be unaffordable. Dissatisfaction at high or unjustified costs is exacerbated by the leaseholders having no say in the management decisions around the work. Taking collective control over the management of a building, either through collective enfranchisement or the right to manage, enables leaseholders to control decisions around the management and maintenance of the buildings and associated costs. A survey commissioned by the Competition and Markets Authority found that leaseholders were more content with the service they received and could see cost savings when their building is managed by other leaseholders (through right to manage or resident management companies).[104] Leaseholders will have control of quality, completeness and timeliness, and clear accountability for costs. In some cases this may lead to better value for money for leaseholders but in all cases, leaseholders will benefit from control over decision making and better transparency over accrued costs.

17 Increasing the non-residential limit to 50% for the right to manage will improve access to the right to manage but without changes to the right to manage company voting rights, leaseholders will not be able to guarantee effective control of a right to manage company. Capping landlords voting rights to a third will

[104] Among leaseholders managed by an RTMCo/RMC, overall satisfaction was high, with eight in ten rating overall services as good (83%) compared with just over half (58%) for non-RTMCo/RMC leaseholders.
(https://assets.publishing.service.gov.uk/media/547d99b8e5274a42900001e1/Property_management_market_study.pdf)

allow leaseholders to exercise an absolute majority in right to manage companies if they vote unanimously. Capping landlords voting rights to one-third strikes a fair balance between the rights of landlords and leaseholders in a right to manage company that primarily manages residential space. It would be counter intuitive if landlords could exercise effective control over a right to manage company which was created to facilitate leasehold led management.

18 Our reforms strike a fairer balance between the rights of freeholders and leaseholders in mixed use buildings. They give more leaseholders the ability to choose how they manage their building. Those leaseholders who want to, can take on the responsibilities of freehold ownership or collective management. These leaseholders will enjoy the benefit of genuine control over decision making for their building and will no longer rely on and be required to defer to a third-party landlord, over areas such as repairs, maintenance, their managing agent, and service charges. Through giving more leaseholders the right to obtain collective ownership or management responsibility, the reforms could lead to significantly fairer outcomes, by increasing their sense of security and control, and making sure there can be collective decision making on how to manage and maintain buildings.

Long term security of ownership and control for leaseholders

19 Participating leaseholders taking collective freehold ownership of their building will gain the benefits of long-term security that come with freehold ownership. They will have collective freehold ownership in perpetuity, unless subject to a further claim, and can be sure that their freehold will not be sold to a poor-quality landlord. They will be able to retain the value of their properties in perpetuity without the additional cost of lease extensions. They will have all the benefits that come from ultimate management control. These benefits will also be available to leaseholders where they do not qualify for collective enfranchisement and where taking over management responsibility of the building is the alternative. There is evidence linking sense of control[105] and housing stability[106] with improved health outcomes and wellbeing.

Improved wellbeing for leaseholders

20 Long term security of ownership and/or ultimate management control are likely to lead to improved wellbeing for participating leaseholders due to reduced levels of stress associated with lack of control over repairs, maintenance, costs and poor service.

Detail of business impacts

Increased non-litigation costs for freeholders (transfer)

21 As discussed above, we estimate around 600 new right to manage companies form each year. Multiplying this by our estimate for freeholder's non litigation costs £1,800 (range £0 - £3000) results in an annual discounted impact of £830,000 and £8.3m over the 10-year appraisal period. This is a transfer from freeholders to leaseholders and is a direct cost to freeholders.

[105] https://psycnet.apa.org/buy/1998-00299-016

[106] https://iris.uniroma1.it/retrieve/handle/11573/1455941/1597047/DAlessandro_Housing-and-heakth_2020.pdf

22 The requirement that freeholders should bear their own costs will mean that they have an incentive to behave reasonably and where possible reduce their costs, so post-reform the average cost faced by freeholders may decrease.

23 However, if volumes of right to manage claims increase there will be additional instances where freeholders will have to pay non litigation costs, so the total cost may increase.

24 The cohort of eligible leaseholders will be the same as those who choose to exercise their right to manage or collective acquisition of the freehold of the building.

Loss of control for freeholders

25 Increasing the non-residential limit and improving access to enfranchisement and the right to manage has the potential to lead to a loss of control for existing freeholders. More successful enfranchisement and right to manage claims will mean more existing freeholders losing management responsibility for, or freehold ownership of, their buildings. The extent of this loss will depend on the uptake of these rights amongst leaseholders and the number of these claims that are successful. However, existing freeholders argue that the potential for this loss of control will have an immediate impact on new mixed-use development. It is argued that freeholders and developers will be less likely to invest in mixed-use buildings due to the risk of future enfranchisement claims jeopardising returns on investment. This might impact on their appetite to take forward regeneration of town and city centres and large mixed-use developments. 75% of investors who responded to our consultation opposed or strongly opposed increasing the limit for collective enfranchisement; and 57% of developers and 79% of investors opposed the proposal to increase the limit for the right to manage. Freeholders also argue that increasing the limit will undermine long-term estate management, affecting their ability to provide expert long-term stewardship and curation of an area, leading to negative outcomes for all. However, decisions on the form of new or regenerative development will be affected by many factors of which the non-residential limit is one. It is not possible to quantify the affect the 50% threshold will have as there are wide range of considerations such as land ownership, local planning requirements and the viability of individual schemes. Developers may look to build more units for rent or increase the non-residential proportion of a new development to avoid future enfranchisement claims.

26 The Government has considered arguments from those opposed to the change, that if this potential loss of control disincentivises freeholder ownership by third parties, then reforms may also act as a disincentive to investment. This is because being able to guarantee freehold ownership can secure investment for a development or redevelopment. Investors want to be assured that they will receive regular returns and that value will be safeguarded by professional long-term management. It is argued that under the reforms, returns could be realised at any point (when leaseholders choose to enfranchise), rather than at regular intervals over a long period. This could make the development less attractive to investors who are looking for regular, long term and guaranteed returns. Additionally, any interest that an investor retains in a development after a successful enfranchisement claim (for example, in non-participating residential or commercial units) may be affected by leaseholder-led management. If such management is of a poor quality, the value of any retained interest could be negatively affected. The Government takes the view that freeholders will have been sufficiently compensated through the enfranchisement premium they receive, which will reflect the market value of the property, and the timing of when an investment receives a return is determined when leaseholders are in a position to, and choose, to acquire the freehold of the building.

27 The Government has received arguments that no qualitative justification is provided for an arbitrary threshold of 50% which focusses on floorspace alone, with no consideration of value or context. It is

argued that it is arbitrary because planning policy does not define building as “residential” or “commercial” according to floorspace; and it does not represent in planning practice or investment decisions a threshold where buildings become one use or another. Wide-ranging and comprehensive consultations have taken place over the last six years. Floorspace is the current method, in law agreed by Parliament, for calculating whether a building is residential or non-residential for the purpose of collective freehold acquisition and is well understood. A 50% non-residential limit is less “arbitrary” than 25% in that it is a much better understood threshold to determine whether a building is primarily residential or non-residential, whereas it is more arbitrary to have a 25% limit currently even where a building may be overwhelmingly residential (up to 74% residential by floor space).

28 The Government has considered concerns that development opportunities will be frustrated, and investment and redevelopment opportunities will be discouraged; and that the proposal conflicts with national and local policies which promote or mandate mixed-use development. It is accepted there could be some impact on investment in mixed-use development and new supply. However, the Government is not convinced that an increase of the non-residential limit to 50% will lead to a significant detrimental effect on investment in mixed-use buildings and developments, including for regeneration. The non-residential limit for collective acquisition has been raised before, by an amendment made by the Commonhold and Leasehold Reform Act 2002, the non-residential limit for collective acquisition has been raised before, from 10% to 25%, and similar concerns were raised at that time, but investment in mixed-use buildings up to 25% non-residential floorspace has continued. It is also a fact that housing supply continued to increase to the highest level in 2019-20, the highest in over 30 years, despite the previous change. Policies which promote or mandate mixed-use development will take into consideration the weight placed on commercial and residential mix on a case-by-case basis, as they do currently and an increase in the non-residential limit will be one of a number of factors that decision makers, investors and developers will make. Such arguments suggest that all new mixed-use building rely on residential units sold on a long lease to make a return on an investment or ensure viability, which is clearly not correct. Even if that were the case, the selling of long-leaseholds attract high premia and will receive further compensation if leaseholders choose to acquire the freehold of a mixed-use, primarily residential, building.

29 The Government’s view is that the 25% limit is a significant barrier to the ability of leaseholders to undertake a collective freehold acquisition and raising the limit improves access to enfranchisement. Investors and developers will need to adjust their business models, as they previously have done. Where collective enfranchisement has taken place, the new freeholders may seek to exercise investment opportunities, development or redevelopment in the same way as other freeholders. Building maintenance and management may also be of higher standard if the responsibility lies with leaseholders who are likely to be more invested in it, given they live there and own properties in the building.

30 Our reforms will mean that the right to manage company takes over all of the management functions for the premises under leases in the building/premises. ‘Management functions’ are defined in legislation as ‘functions with respect to services, repairs, maintenance, improvements, insurance and management’. The management of any non-residential parts of the buildings or any non-qualifying flats, and functions relations to forfeiture and possession remain the responsibility of the landlord.

31 A key concern raised in relation to increasing the non-residential limit to 50% for the right to manage is that it complicates the management of properties with substantial commercial parts and making the right to manage available to more leaseholders would undermine good management and result in increased costs. As above, similar arguments were raised for those made in relation to collective acquisition. It has been argued by those opposed to the measure, that fragmented ownership may prolong decision making on mixed-use developments and regeneration and increase disputes if the interests of leaseholders and

freeholders do not align. There would also be an additional time commitment to reach an equitable compromise. However, such compromise could lead to better and democratic outcomes.

32 Restricting landlords' voting rights in right to manage companies to a third will restrict voting rights of those who may still have a significant interest in, and ultimately still own, the building – so that they do not have a controlling say over a buildings management. Nonetheless, it is not proportionate for non-residential and residential elements to be allocated equal voting rights in a right to manage company that primarily manages residential space. Landlords will still enjoy voting rights in the right to manage company, they will simply be limited, with leaseholders able to achieve a majority on votes.

33 The Government is not convinced by the arguments against raising the non-residential limit for right to manage claims. Following a claim the right to manage company does not take on responsibility for commercial units, but they do for much of the rest of the building, including its common parts. Right to manage companies are free to appoint a professional management company but, crucially, will be able to choose how the day-to-day running of the building occurs, in the same way that freeholders can. There is an incentive for residents to make sure that the building is well run and there is nothing to suggest that leaseholders are incapable of making these decisions if they are invested in the right to manage company.

34 There are also safeguards for landlords and freeholders where a right to manage company has acquired control of a mixed-use building. Landlords will retain the right to make an application to the Tribunal for the appointment of a manager if they believe the right to manage company has failed on certain specific grounds. This provides an appropriate safeguard for landlords to act against poor management of the building. The reform may also incentivise freeholders and landlords to manage their buildings to a higher standard and work more closely with leaseholders to seek to avoid claims in the first instance; and there are benefits in freeholders and landlords working with leaseholders on the overall management of a building in that they can lead to outcomes which suit all parties with an interest.

35 Furthermore, the proposed reforms to increase the non-residential limit to 50% will not apply in a uniform way across all buildings. Wider qualifying criteria still have to be satisfied, including: a restriction on collective acquisition or the right to manage in predominantly non-residential buildings; two-thirds of the flats must be owned by a qualifying tenant (i.e., generally a leaseholder with a lease of more than 21 years when first granted); qualifying tenants representing at least 50% of the total number of flats in the building need to participate; and where an individual leaseholder holds three or more leases in the same building, those flats will not qualify towards the two-thirds requirement, thus restricting investors with multiple units from acquiring the freehold of a building not otherwise available for sale. By way of example, in a block of ten flats, seven must be held on a long lease and owners of at least five of the leases must participate.

36 Increasing the non-residential threshold is a proportionate change that will broaden access to the right to manage for leaseholders, giving them more choice where they want more control over the management of their building but cannot afford or do not want to make a collective acquisition claim. The Government believes that the significant benefit to leaseholders outweighs the potential concerns. There are sufficient safeguards for developers, investors and freeholders; and freeholders will continue to enjoy protection where a building can reasonably be described as substantively non-residential.

Potential for negative impacts on high streets and business

37 Freeholders have argued that there would be the potential for negative impacts on high street and businesses and that the reforms might lead to poorer running of buildings particularly where they make an important contribution to the economic health of towns and cities and create better places. Owners of

existing high streets argued that a single freehold ownership of all the properties on a high street facilitates positive holistic, long-term management and that a third-party freeholder can balance the needs of leaseholders, commercial tenants, and the wider community whilst taking a very long-term view.

38 We are unconvinced by the argument that leaseholders will be unable to successfully manage mixed-use buildings in relation to collective enfranchisement or the right to manage, as successful leaseholder-led management of mixed-use buildings already takes place in mixed-use buildings with up to 25% non-residential floorspace. We have not seen evidence to show that leaseholders are unable to manage such buildings and their commercial elements. In the majority of cases we expect leaseholders will employ a managing agent for day-to-day management mirroring the existing method adopted by most institutional landlords.

39 Freeholders argue that fragmented ownership risks disjointed leaseholder led management which would lack the necessary expertise and would not take a long-term holistic view on management, ultimately degrading the high street for all. It was argued that the consequences of this would be a disincentive to regeneration of high streets. However, the shape and scope of new regeneration schemes are affected by a range of factors including the ownership of land (e.g., a solely privately led scheme may have different requirement to a joint scheme with a local authority or a local authority led scheme), local planning requirements, and the viability of different housing and non-housing tenures in a particular area. We do not consider that collective enfranchisement and leaseholder led management would be a blocker to wider regeneration where this is required.

40 Leaseholders, whether owner-occupiers or investors, will want to maintain the value of their asset. They are just as likely as institutional landlords to want to avoid poor management or change of usage in their building or the surrounding area that will lead to a depreciation in the value of their asset. For this reason, we do not expect leaseholders will significantly alter the usage of any commercial units they have direct responsibility for after a successful collective enfranchisement claim versus their usage when an institutional landlord was directly responsible for them.

Potential impact on development costs and freehold values

41 The availability of enfranchisement and the right to manage in properties with 50% non-residential floorspace may lead developers/investors to adjust the type of development they take forward. Developers will need to build properties with over 50% non-residential floorspace, or more units for rent, if they wish to avoid them being subject to enfranchisement and right to manage claims. The mix of uses may however be subject to planning rules. In some scenarios investors may ask for higher returns as security against the potential for claims. This could lead to increased development costs which may be passed on to buyers, or a reduction in the expected returns. Where there are viability concerns with a development, there will be a range of options developers can explore to adapt or re-design their proposals. Many new purely residential buildings and mixed-use buildings are being built where leaseholders have the right to enfranchise and the right to manage and this has not deterred investment overall.

42 Some freeholders have argued that changing the non-residential limit could affect the value of the freehold in buildings where enfranchisement was previously not possible. Given developers have set the proportion of non-residential space to ensure that properties are not eligible for enfranchisement or right to manage suggests that they perceive possible future enfranchisement as a disadvantage and as a result it is unsurprising that reforms which make properties eligible could, in turn, make properties less attractive and affect their overall value. However, it is not certain as to how the overall value of mixed-use development

will be affected. Some responses to the consultation on increasing eligibility to more mixed-use buildings[107] suggested a negative impact on value of their asset. Furthermore, the overall value of a mixed-use property will depend on a number of factors with the potential for enfranchisement and management being but one.

43 The Government takes the view that freeholders will have been sufficiently compensated through receiving enfranchisement premiums which will reflect the market value of the property. The change is justifiable to achieve the Government's policy aim of making collective enfranchisement more accessible for those whom are excluded by virtue of the type of building in which they own their leasehold property. Without the measures, there is a significant barrier for leaseholders even in cases where a mixed-use building is majority residential and can reasonably be described as a residential building. The Government agrees with the Law Commission that the test of whether a building is residential should not be based on the respective monetary value of the residential and commercial aspects to the landlord, but on whether the physical make-up of the building is predominantly residential, as this best represents its usage. Raising the limit to 50% strikes a fair balance to meet a legitimate aim in the public interest. Even if a loss in value should materialise the Government considers that that loss would be within the margin of appreciation to meet the legitimate social and economic aim to make access more readily available and more affordable for leaseholders.

Detail of public sector impacts

44 The following section details costs to councils, courts and tribunals. We are undertaking a robust New Burdens Assessment and Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Change in nature and number of cases taken to Tribunal

45 As a result of the new regime there are likely to be fewer cases taken to the tribunal where a right to manage company challenges the landlords' non-litigation costs (as the latter will be required to bear their own costs). There may be more cases where costs are sought by freeholders on the grounds of unreasonable behaviour as a consequence of there being more claims overall, and more cases as more leaseholders are eligible to undertake Right to Manage and collective enfranchisement, but the number of these is likely to be low.

Enforcement

46 When freeholders or managing agents will not comply with new regulation, the enforcing bodies will be the courts and Tribunals in England and Wales.

Risks and sensitivities

Sensitivities

<u>Non litigation costs</u>

[107] https://www.gov.uk/government/consultations/reforming-the-leasehold-and-commonhold-systems-in-england-and-wales

47 We assumed a central estimate of £1,800 based on estimated costs given by advisory and specialist websites. If costs were larger in practice that would have direct impacts on freeholders. For example, assuming a cost of £3000 would increase the direct discounted annual cost from £0.83m to £1.4m.

Switching Analysis

48 Throughout the technical annexes, we have looked to use switching analysis to consider how great the monetised value of non-monetised benefits would have to be for the benefits of the policy to equal its costs. As the net-present social value of this policy area is already zero, switching analysis is not needed.

Annex 4: Improve homeowner access to redress

The Bill will address the gaps in English homeowners' access to UK Government approved redress schemes.

Description of Redress Reform

1. Currently, property managing agents in England must belong to a UK Government approved redress scheme. This provides relevant homeowners with a route to seek redress beyond the Courts and Tribunal services. Where works are provided or overseen by a third-party landlord and associated costs are incurred without the use of a managing agent, such as in a leasehold property or for homes on privately managed freehold estates, these homeowners are not able to access redress scheme support. The new provisions will in England compel freeholders (landlords) of leasehold properties as well as management companies on private freehold and mixed tenure estates that undertake their own property management to be a member of a UK Government approved redress scheme.

2. This provisions in the Bill will apply to relevant parties who undertake management of properties without managing agents. This includes where leaseholders have acquired the freehold interest and there is a Resident Management Company in place or where leaseholders have acquired the Right to Manage, and undertake their own property management, these bodies will also be required to be a member of a redress scheme. Likewise, management companies on private freehold or mixed tenure estates with or without homeowner directors who undertake their own property management will also be required to be a member of a scheme. For ease, we will refer to "relevant responsible bodies" in this annex.

3. Landlords who rent properties on the private rented market will be required to join the new *Private Rented Sector Ombudsman* which is being legislated for as part of the *Renters (Reform) Bill* (and is therefore, not covered in the reforms discussed here)[108].

4. Social landlords are exempt from these provisions as they are already required to be a member of the *Housing Ombudsman Service*.[109] Relevant responsible bodies will not need to sign up to the new scheme if they fully discharge their management responsibility to a managing agent (as property managing agents are already required to be a member of either *The Property Ombudsman* or the *Property Redress Scheme*). Other exemptions include responsible bodies overseeing business leases, as well as Commonhold Associations. The Secretary of State will also have a power to make further exemptions in secondary legislation.

5. This change will deliver greater consistency in accessing redress support and dispute resolution outside of the courts for relevant homeowners. It will fulfil the Government's 2019 commitment to extend mandatory membership of a redress scheme to freeholders (landlords), as reinforced in the Conservative 2019 manifesto to provide the "necessary mechanisms of redress" to

[108] Private Rented Sector Ombudsman: Renters (Reform) Bill, see: Private Rented Sector Ombudsman: Renters (Reform) Bill - GOV.UK (www.gov.uk)

[109] Housing Ombudsman Service, see: Home | Housing Ombudsman Service (housing-ombudsman.org.uk)

leaseholders.[110] It will also fulfil the commitment made in 2020 to extend mandatory membership of a redress scheme to freeholders or management companies who manage communal spaces on private or mixed tenure estates who do not employ a managing agent.[111] These measures will address gaps in the existing redress system to provide greater access to dispute resolution for issues such as poor service, bad communication or service failures. Redress schemes have powers to "put things right" for relevant homeowners, including compelling the issue of an apology, the provision of information, a requirement to take remedial action, and if appropriate, to require the payment of compensation to the homeowner.

6. The reforms provide a correction to the market as many existing homeowners and tenants already have access to redress schemes and these provisions will ensure access is extended to those leaseholders and homeowners on freehold estates without current access. There will be costs for relevant responsible bodies to join a redress scheme, which will replicate the costs borne by existing bodies already required to belong to a scheme. Additional costs to relevant responsible bodies arising due to action required by a redress scheme resulting from a dispute brought forwards by a homeowner will accrue where disputes arise and are upheld by the redress scheme.

Summary of major impacts

7. Table C1 sets out the breakdown of costs and benefits associated with legislation **to expand access to redress to relevant homeowners.** Where possible, these have been monetised and clearly referenced as to whether they are direct or indirect. All terms are presented in 2019 pounds with a present value year of 2025, discounted and are shown over a 10-year appraisal period. Impacts from the policy are expected to begin in 2028 due to the time it takes to implement the reform. The net present social value of the legal cost reforms is calculated at (minus) -£198.9 million.

8. Note: figures provided in the table provide estimates for costs and benefits relating to extending redress scheme membership to leasehold properties not currently covered by redress schemes and is based on data relating to the leasehold sector. It has not been possible to provide cost and benefit estimates for extending redress membership for private and mixed tenure freehold estates due to limited data on freehold estates and the extent to which this group will be impacted in the same way as leaseholders and freeholders.

9. **The major benefits include: increased homeowner access to redress, widening homeowners ability to seek resolution for issues such a poor service or communication, which fall beyond the court jurisdiction, as well as relive pressure on the courts for matters which can otherwise be considered by a redress scheme. Giving more leaseholders access to redress will** indirectly likely increase the number of disputes taken to redress bodies. **Most costs are placed on responsible bodies, resulting from having to join a redress scheme and indirect fees associated with increased number of cases taken to a redress scheme.** Further costs occur from transfers between groups in the form of compensation resulting from an increase in redress claims.

[110] MHCLG (2019) *Strengthening Consumer Redress in the Housing Market*, see: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773161/Strengthening_Consumer_Redress_in_the_Housing_Market_Response.pdf

[111] MHCLG (2020) *Redress for purchasers of new build homes and the Hew Homes Ombudsman*, see: Redress for Purchasers of New Build Homes and the New Homes Ombudsman: Summary of responses to the consultation and the Government's response (publishing.service.gov.uk)

Table C1: Costs and benefits of expanding redress (all figures excluding freehold estates)

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Compensation awarded by redress body	£3.0	Freeholders to Leaseholders (Businesses)	Indirect
	£5.1	Freeholders to Leaseholders (Non-Businesses)	Indirect
Possible cost pass-through of redress fees onto leaseholders	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Benefits			
More leaseholders benefit from redress services and dispute resolution, for issues beyond the courts jurisdiction (with associated benefits for mental health and wellbeing).	Non-monetised	Leaseholder (Businesses)	Direct
	Non-monetised	Leaseholder (Non-Businesses)	Direct
Improved standards as the responsible body complies with redress scheme requirements and/or improves behaviour due to being held to account	Non-monetised	Leaseholder (Businesses)	Direct
	Non-monetised	Leaseholder (Non-Businesses)	Direct
	Non-monetised	Freeholder	Direct
Disputes resolved leading to greater homeowner satisfaction and fewer calls for potentially costlier remedies such as right to manage or enfranchisement.	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-businesses)	Indirect
Reduction in cases going to court as disputes taken to redress scheme first.	Non-monetised	Courts	Direct
Greater certainty and control to resolve disputes due to improved access to redress, as well as potential cost savings.	Non-monetised	Leaseholder (Businesses)	Indirect
	Non-monetised	Leaseholder (Non-Businesses)	Indirect
Handling complex complaints outside the organisation (after internal complaints process exhausted).	Non-monetised	Freeholder	Direct
Costs			
Fees paid to be a member of redress scheme.	£181.8	Freeholder	Direct
Time Cost of additional redress enquiries post reform	£3.2	Leaseholder (Businesses)	Indirect
	£5.4	Leaseholder (Non-Businesses)	Indirect
	£8.5	Freeholders	Indirect
Total Benefits	£8.09		

Direct Benefits	£0.00
Direct Benefits to Business	£0.00
Total Cost	£206.96
Direct Cost	£181.78
Direct Cost to Business	£181.78
Total Net Benefits	-£198.87
Direct Net Benefits	-£181.78
Direct Net Benefits to Business	-£181.78
EANDCB	£18.18

Modelling approach

10. The modelling has made assumptions to assess the impact of the reform based on the composition and fees of the two existing redress bodies that deal with leasehold cases, *The Property Redress Scheme* and *The Property Ombudsman.*

11. It is to be determined whether the extension of redress coverage will be provided by a redress body which is either a private or public entity. For the purposes of the modelling, we have assumed it is a private body in the central case. However, we have also tested a sensitivity to assess the impact on the NPV and EANCB if were to be a public body.

12. The impacts of the reform are split between the direct effect of requiring relevant responsible bodies to sign up to a redress scheme, and the indirect behavioural changes this requirement will induce.

- The direct impact is the cost to relevant responsible bodies who are now required to join a redress scheme and the associated benefit for the redress body.

- The indirect impacts are the behavioural decisions of newly eligible homeowners to bring cases to redress schemes. This presents a cost to relevant responsible bodies and a benefit to relevant homeowners and the redress body.

13. The modelling does not include the indirect impact arising from an improvement in responsible body behaviour due to joining the redress body. However, this may reduce claims to the redress body resulting in lower complaint fee and compensation costs for responsible bodies as well as improved and more consistent services for homeowners.

14. To estimate the direct impacts, we have gathered data from several sources to inform assumptions on the baseline:

a) **Number of leaseholders**: The English Housing Survey 2021/22 estimates that there are **4.98m leasehold dwellings.** It is assumed that the total number of leasehold dwellings equals the number of leaseholders, and this number will remain constant throughout the period. While leaseholders may own more than one property, we do not have any robust data by which to improve this estimate. Leaseholders may be both owner occupiers or let out their homes in the private or social rented sectors. All these types of leaseholders may have need for redress scheme services.

b) **Number of freeholders:** DLUHC has used data from Land Registry and Ordnance Survey estimate the number of freeholders of leasehold properties in England and Wales as set out in section 3.6 of the main body). We use a central estimate of approximately **426,00 freeholders**.

c) **Proportion of leaseholders with access to redress schemes:** Using information from the Association of Residential Managing Agents (ARMA), we assume a central assumption of **41% (c.2 million) of leasehold units that are not managed by a managing agent**, and are therefore, not required to be a part of a redress body[112].

d) **Number of freeholders (landlords) of leasehold properties required to join a redress scheme:** The same proportion of freeholders (41%) are assumed not to have a managing agent giving a central estimate of 175,000 freeholders required to join a redress scheme. We assume all freeholders join the scheme within the first year in line with implementation timelines. Sensitivities to this assumption are shown below.

e) **Baseline redress costs, caseloads and redress payments:** Data is taken from the 2022 *The Property Redress Scheme* and *The Property Ombudsman* reports for average number of cases, average costs, and average redress payments. This has been used to form an estimate of the redress body fees, caseloads and redress payment expected under the mandatory redress scheme. The cost to join the redress body are assumed in the central case to be a £42 joining fee and a £173 annual fee for relevant responsible bodies. The redress payment per case is assumed to be £150. VAT is not included in the calculations in line with Greenbook recommendations. Sensitivities around potential additional fees are shown in the sensitivities section below.

15. To estimate the behavioural effects, we assumed that the newly eligible caseload will bring the same proportion of cases to redress bodies as those eligible in the baseline. Based on TPO and TPRS reports we estimate that 5% of eligible leaseholders bring a case in the baseline each year. Applying this percentage to the newly eligible leaseholders leads to around 9,500 additional cases per year. Sensitivities to this assumption are shown below.

Detail of homeowner impacts

More leaseholders benefit from redress services and dispute resolution, for issues beyond the courts' jurisdiction (with associated benefits for mental health and wellbeing)

16. A direct benefit is increased access to redress outside of the courts will help homeowners to resolve disputes relating to issues like behaviour or poor communication. Currently homeowners whose relevant responsible body manages their building themselves can only challenge on matters which are within the court's jurisdiction (e.g. reasonableness of charges or a breach of lease). They are unable to challenge issues such as poor communication, or inappropriate behaviour. The change will enable more homeowners to hold their relevant responsible bodies to account on such

[112] https://arma.org.uk/wp-content/uploads/2022/03/ARMA_Overview_of_Block_Management_Sector.pdf
The relevant information: ARMA commented the following: "ARMA has 300 member firms and the total number of firms in England and Wales is estimated to be around 870. ARMA members manage over 1.1m units and given that 9 of the top 10 firms in the country are all ARMA members and between them manage 500,000 units it would seem reasonable to estimate that non-ARMA firms manage up to 1.5m units, giving a total of 2.6m units under management. This means that 1.8m leaseholds are under some form of self-management, either by landlords, Residential Management Companies (RMC's), Right to Manage (RtM) companies or private individuals on their own." ARMA predict that 1.1 million leaseholds are under control of their members, with a further 1.5 million leaseholders under control of non ARMA members but still under management - this gives the 2.6 million figures. 2.6+1.8 = 4.4 million total in their sample. We can use this to give an indicative figure of the proportion of managed LH properties (2.6/4.4 = 59%) to unmanaged (1.8/4.4 = 41%)

matters and seek redress where failures on these fronts has occurred. This will have associated benefits for mental health and wellbeing. However, it is unclear how many homeowners will be impacted by this and to what extent therefore this benefit has not been monetised.

Compensation awarded by redress body

17. An indirect benefit of the reform is homeowners may receive compensation pay-outs from appropriate successful claims they make to redress body which they wouldn't have otherwise made in the absence of intervention. This has been calculated by multiplying the increased number of claims (9,533 in the central case) by the average assumed compensation pay-out (£150 in the central case). This gives a total discounted benefit of £8.1m over the appraisal period (not including the impact on freehold estates). This is divided into £3m total benefit to business leaseholders and £5.1m for non-business leaseholders. This represents a transfer from relevant responsible bodies to homeowners.

Improved standards as the responsible body complies with redress scheme requirements and/or improves behaviour to due to being held to account

18. An indirect benefit is improved service from relevant responsible bodies as they raise their standards to meet both redress scheme requirements and because they can be held more accountable for poor performance. Relevant responsible bodies will need to follow guidance and standards set by the redress scheme, and additionally, they will know homeowners could raise complaints against them more easily. These will lead to an improved and more consistent service, benefitting homeowners. This has not been monetised due to uncertainty on the expected improvement in standards.

Increased sense of assurance and control for homeowners as they have another route to resolving issues where things go wrong, contributing in turn to improved wellbeing

19. More homeowners will be able to seek dispute resolution via a redress scheme, rather than solely through the relevant responsible bodies own complaint process or through the courts. The process will not entail heavy costs as can be the case seeking redress through the legal system, and homeowners will, therefore, have more options over how they challenge their relevant responsible body where issues occur. Increased access to redress will also provide greater sense of assurance to homeowners that matters will be addressed. These will alleviate some of the stress associated with disputes which will contribute to improved wellbeing. This has not been monetised because due to lack of data regarding the impact of the reform.

Disputes resolved leading to greater homeowner satisfaction and potentially fewer calls for costlier remedies such as Right to Manage or enfranchisement.

20. More homeowners will be able to seek dispute resolution via a redress scheme, rather than solely through the relevant responsible bodies own complaint process or through the courts. The process will not entail heavy costs as can be the case seeking redress through the legal system, and homeowners will, therefore, have more options over how they challenge their relevant responsible body where issues occur. This has not been monetised because due to lack of data regarding the impact of the reform.

Greater certainty and control to resolve disputes due to improved access to redress, as well as potential cost savings.

21. More homeowners will be able to seek dispute resolution via a redress scheme, rather than solely through the relevant responsible bodies own complaint process or through the courts. Increased access to redress will provide greater sense of assurance to homeowners that matters will be addressed. These will alleviate some of the stress associated with disputes which will contribute to improved wellbeing. This has not been monetised because due to lack of data regarding the impact of the reform.

Time cost of additional redress cases

22. An indirect cost is that the **total time cost** of bringing cases to the redress body that wouldn't have otherwise be made in the absence of the reform. Homeowners are assumed to take on average 7 hours to make/deal with a redress claim. However, this assumption is highly uncertain, so sensitivity testing has carried out in sensitivity section below. This has been multiplied by the assumed value of an hour of leaseholders' time (£18.71) based on Annual Survey of Hours and Earnings (ASHE) data. This gives a total discounted value of £8.5m excluding those on freehold estates; £3.2m for business leaseholders and £5.4m for non-business leaseholders.

Cost pass-through

23. An indirect cost is that relevant responsible bodies may attempt to recoup some of the costs of the reform, particularly the annual fee of being part of the redress body, by increasing charges for homeowners. However, it is unclear to what extent this may happen therefore, we have been unable to monetise this impact.

Detail of business impacts

Cost to join redress body

24. **A key part of the reforms is that relevant responsible bodies who undertake their own property management will have to join a redress scheme**. As described above, this is a direct cost, and it is estimated that this will apply to 174,000 freeholders (landlords) of leasehold properties who will have to pay a joining fee and annual fee (figures set out in section 'Modelling Approach'). The total discounted cost is estimated to be **£181.8m** excluding the impact on management companies on private freehold or mixed tenure estates who undertake their own property management. This is an average cost of £104.03 per year over the 10-year appraisal period per freeholder affected by the reform. However responsible bodies pass on some, if not, all the annual fee onto homeowners.

25. Whilst these are direct costs of the intervention, it should be noted that this **change is a correction to the current market**. Landlords in the social housing sector are already required to be registered with the *Housing Ombudsman* and landlords in the private rented sector will face similar requirement through the *Renters (Reform) Bill.* Additionally, managing agents looking after residential leasehold properties in England have been required to be part of a redress scheme since 2014. This means that where leaseholders live in buildings that are managed by managing agents, they have access to redress schemes. Requiring freeholders who undertake their own property management in the leasehold sector to join a redress scheme will plug this gap, increasing consistency in the market and equalising leaseholders' access to redress.

Compensation awarded by redress bodies

26. An indirect business impact is relevant responsible bodies will incur a compensation cost if a homeowner makes a successful claim to the redress body. This is the same benefit experienced by leaseholders set out paragraph 17. The total discounted cost is £8.1m over the appraisal period excluding management companies on private freehold or mixed tenure estates who undertake their own property management. This represents a transfer from relevant responsible bodies to homeowners.

Time cost of additional redress cases

27. An indirect business impact is that the total time cost that will occur due to cases being brought to the redress body. The same assumptions have been made as set out in paragraph 22 regarding the amount of time it takes to deal with a redress claim and the assumed value of a freeholders' time. This gives a total discounted value of £8.5m.

Handling complex complaints outside the organisation (after internal complaints process exhausted)

28. We would expect some relevant responsible bodies to benefit from having access to a redress scheme with a set complaints process to make decisions on complex complaints, as it will possibly save them time and effort trying to resolve it themselves. This has not been monetised due to uncertainty as to how this will be valued by responsible bodies.

Improved standards as the responsible body complies with redress scheme requirements and/or improves behaviour to due to being held to account

29. Relevant responsible bodies will need to comply with redress scheme requirements, which will likely lead to an indirect benefit of raising their standards to meet these requirements. This will benefit relevant responsible bodies as it will mean a potential reduction in the number of complaints received from their leaseholders or homeowners on freehold estates (as services will improve). This in turn could save them cost and time in handling complaints. This has not been monetised due to uncertainty on the expected improvement in standards.

Detail of public sector impacts

Reduction in cases going to court as disputes taken to redress scheme first

30. We would expect to see a reduction in reliance on courts, driven by access to alternative dispute resolutions via the redress scheme. We expect homeowners will seek to use this route first for relevant matters, given it doesn't entail heavy costs and may be less stressful than challenging the relevant responsible body through the legal system. This may mean reduction in caseload and time spent on cases at Tribunal when compared to the counterfactual.

31. We are undertaking a robust New Burdens Assessment and Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement

32. Local housing authorities in England will play a role in the enforcement of the legislation and by taking appropriate actions when relevant responsible bodies have not complied. This will have a resourcing burden – however, we expect this to be low due to the relatively low caseload and high compliance rates.

33. **The TPO and TPRS report a very high level of compliance**. The TRPS state that "*Most decisions are settled within our timescales without us needing to follow up. However sometimes we need to take a proactive approach. This results in more than 90% of consumers receiving the full amount they were owed. Ultimately, we can cancel an agent's membership where they do not settle an award. Last year 61 agencies were expelled, more than an 32% increase from 2021. This may reflect the current economy but also highlights the quality of our compliance process.*"[113] The TPO report that over 98% of cases in which a financial award is made are the awards paid.[114]. Monetised figures in this annex assume 100% compliance.

Risks and assumptions

Sensitivities

34. The modelled impacts of the reform rely on a number of assumptions, some of which are highly uncertain. Therefore, sensitivity analysis has been done to test the sensitivity of the net benefits to changes to the main assumptions. All terms are presented in 2019 pounds and discounted with a present value of 2025 and a 10-year appraisal period.

35. For the redress cost reforms, sensitivities relate to:
    1. **The proportion of freeholders currently not covered by a managing agent**: It is currently assumed 41% of freeholders would be affected by the reform based on the number leasehold units that are not managed by a managing agent and are therefore not currently required to access to a redress body. However, there could be a different distribution of freeholders not covered by a managing agent than that of leasehold units. Therefore, two scenarios have been tested looking at how the headline results may change if the proportion of freeholders not covered by a managing agent was 25% lower or higher.

Table 1: Impact on the Net Discounted Benefit of changing the proportion of freeholders currently not covered by a managing agent

	Low Scenario	Central Scenario	Higher Scenario
Assumption	31%	41%	51%
Net Discounted Benefits (Holding All else equal)	-£149.2m	-£198.9m	-£248.6m

2. **Proportion of leaseholders who bring cases to the redress body**: The central assumption has been made that newly eligible leaseholders will bring cases to redress bodies at the same rate as existing eligible leaseholders (5%). However, this is highly uncertain therefore, a low and a high scenario have been tested. The low scenario is based on the proportion of members of the recent redress

[113] TPRS annual report 2022: https://content.theprs.co.uk/story/prs-annual-report-2022/page/1

[114] 2022 TPO report here: https://www.tpos.co.uk/images/documents/annual-reports/2022_TPO_Annual_Review.pdf (p26)

scheme for landlords that made complaints (3%). The high scenario is based on the current number of complaints per member across the two existing redress schemes for leasehold (10%).

Table 2: Impact on the Net Discounted Benefit of changing the proportion of leaseholders who bring cases to the redress body

	Low Scenario	Central Scenario	Higher Scenario
Assumption	3%	5%	10%
Net Discounted Benefits (Holding All else equal)	-£191.1m	-£198.9m	-£213.0m

1. **Paying a complaint fee**: Currently leasehold managing agents who are part of an existing redress body have to pay a complaint fee to the redress body based on the number of redress cases made to the new body. It is unclear whether this will feature in the new mandatory redress body, therefore a sensitivity has been conducted to test the impact of those complaint fees on the NPV and EANDCB. This has been calculated by multiplying the increased number of claims (9,533 in the central case) by the assumed complaint fee (£302). This gives a discounted annual value of £1.6m and a total discounted value of £16.3m over the appraisal period.

Table 3: Impact on the Net Discounted Benefit of the inclusion of a complaint fee

	Sensitivity	Central Scenario
Assumption	Complaint Fees	No Complaint Fees
Net Discounted Benefits (Holding All else equal)	-£215.2m	-£198.9m

Switching value analysis

36. There are significant non-monetised benefits to this policy, specifically: increased access to redress for more leaseholders on issues such as poor service or communication; greater assurance that issues will be resolved by opening another route to seek redress; improved service standards as a result of landlords' behavioural change following the intervention. In turn, this could alleviate homeowner's stress and contribute to improved wellbeing. These are not accounted for in the underlying Net Present Value. Therefore, the current net benefit is calculated to be negative, at -£198.9m in the central scenario.

37. It can be instructive to consider how great the monetised value of the non-monetised benefits of a policy area would need to be for the benefits of the policy to equal its costs (i.e., to achieve a net present social value of zero). This can be done by calculating a switching value representing the required valuation of this benefit both at an aggregate level and per leaseholder.

38. For the mandatory redress reforms the total non-monetised benefit would need to be a total of £198.9m across the 10-year appraisal period for the NPSV to equal zero. For each of the roughly 2 million leaseholders affected by the reforms, this would be £99.74 at £9.97 per year over the 10-

year appraisal period. These decrease to £40.90 and £4.09 respectively when applied to all leaseholders.

Annex 5: Legal Costs

The Bill will rebalance the legal costs regime to give equal rights to both landlords and leaseholders to reclaim their legal costs arising from a dispute. This provision will apply to both England and Wales.

Description of policy

1. The Bill will require landlords to apply to the relevant court or tribunal before passing their legal costs to leaseholders through the service charge or as a variable administration charge. It will also provide a new right for leaseholders to claim their own legal costs from their landlord where appropriate and enable leaseholders to apply to the relevant court or tribunal to claim their costs.

2. The effect of these changes when taken together will mean both leaseholders and landlords will have the ability to apply to pass their legal costs onto the other, with the relevant court or tribunal having discretion as to the granting of orders. This would mean both parties will have equal rights when it comes to recovering legal costs in disputes. It will correct the existing imbalance in power, where currently only the landlord has the right to pass on their legal costs to the leaseholder, even when the latter wins the case. It will mean removing a barrier which currently can deter leaseholders from bringing a challenge against their landlord when things go wrong, leading to an inequality of bargaining power. The reform will create a fairer environment for leaseholders.

3. The new legislative provisions will apply to both existing leases and also be applied to new leases that come into existence. The relevant court or tribunal will consider applications on legal costs and make an order that is "just and equitable" in the circumstances. Where a landlord or leaseholder fails to comply with a determination by the relevant Court or Tribunal, the other party will be required to go to the County Court to seek enforcement. This aligns with existing enforcement processes for many other leasehold management issues.

Summary of major impacts

4. Table D1 sets out the breakdown of costs and benefits associated with legislation **to require landlords to apply to the relevant court or tribunal before passing their legal costs through to leaseholders and to legislate to provide a new right to legal costs for leaseholders.**

5. Where possible these have been monetised and clearly referenced whether they are direct or indirect. All terms are presented in 2019 pounds and discounted with a present value of 2025 over a 10-year appraisal period. The net present social value of the legal cost reforms is calculated at **-£15.3 million.**

6. There are substantial benefits resulting from this intervention, but they have not been possible to monetise and are therefore, not included in the present social value calculation. These include fairer treatment to leaseholders, increased access to dispute resolution by removing barriers, potentially lower court costs as more cases settle outside of the court, and improved service for leaseholders due to greater accountability.

Table D1: Costs and benefits of requiring landlords to apply to the relevant court or Tribunal before passing their legal costs through to leaseholders and to legislate to provide a new right to legal costs for leaseholders.

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Change in Liability for Leaseholders' Legal Costs for baseline representation and caseload	£0.7	Freeholders to Leaseholders (Businesses)	Direct
	£1.1	Freeholders to Leaseholders (Non-Businesses)	Direct
Benefits			
Fairer Treatment of Leaseholders by rebalancing the legal costs system	Non-monetised	Leaseholders (Businesses)	Direct
	Non-monetised	Leaseholders (Non-Businesses)	Direct
Increased access to dispute resolution by decreasing potential cost of dispute	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Improved decision making for parties in dispute due to increased representation	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Lower legal/court costs due to increased settlements by landlords outside of court tribunal	Non-monetised	Local Authorities	Indirect
	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Freeholders	Indirect
	Non-monetised	Courts	Indirect
Improved service for leaseholders, as bad actors in the market will be better held to account, and therefore reduce bad practices.	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Increased liability for freeholders' legal costs when leaseholders are unsuccessful in claiming their legal costs in instances of additional representation and/or additional cases	£2.8	Leaseholders (Businesses)	Indirect
	£4.8	Leaseholders (Non-Businesses)	Indirect

Increased liability for leaseholders' legal costs when leaseholders are successful in claiming their legal costs in instances of additional representation and/or additional cases	£7.6	Freeholders	Indirect
Increased cases being brought to court	Non-monetised	Courts	Indirect
Total Benefits	£1.8		
Direct Benefits	£1.8		
Direct Benefits to Business	£0.7		
Total Cost	£17.1		
Direct Cost	£1.8		
Direct Cost to Business	£1.8		
Total Net Benefits	-£15.3		
Direct Net Benefits	£0.0		
Direct Net Benefits to Business	-£1.1		
EANDCB	£0.1		

Modelling Approach

7. The impacts of the reform are split between the direct effect of giving a new right to apply for legal costs for leaseholders, combined with preventing landlords from passing on their legal costs unless they have successfully applied to the court or tribunal, and the indirect behavioural changes the new legislation will induce.

8. All modelling covers England only due to limited data on Wales.

9. The direct impacts are calculated by taking estimates of current cases in which legal costs claims are made, and current representation levels to estimate the value of the increased freeholder's liability for legal costs.

10. To estimate these impacts, we have gathered data from several sources. Based on leasehold management matters in the London Tribunal between April 2020 and March 2023, we estimate that there are currently around 418 annual individual cases brought to the Tribunal that will be directly affected by the reform[115]. Based on HM Courts & Tribunal Service data of national caseloads from January 2019 to March 2023, we uprated these figures (by assuming proportionality of case type across the country) to estimate national figures of 1,377 legal cost cases per year. Sensitivities around these assumptions are presented in the sensitivities section below.

11. An application to the First-tier Tribunal costs £100 (and an additional £200 if there is a hearing) and will generally be borne by the party who has brought the challenge. However, the Tribunal does have the power to require one party to pay any Tribunal fees paid by the other. This is assumed to apply to all cases affected by the reform.

12. The legal costs of each party include fees for legal representation. These will not be any different to what they are now, but who is liable to pay them may change. The average cost of legal representation has been constructed using an estimate of the average legal hourly wage (£26.26) and multiplying it

[115] The 3 groups of leasehold management cases that we think represent the number of cases directly impacted by the reforms are Limitations of Landlords costs s20c, Costs (Rule 14) and Limitation of Landlords costs sch 11 5a.

by the assumed average length of the case (3 days) combined with a wage uplift (1.3) and billable uplift (2). This gives an estimate of £1,476 in the central scenario. However, there is uncertainty surrounding the assumptions underpinning this estimate. Therefore, sensitivities looking at lower and higher legal representation costs have been tested.

13. A landlord will only be able to charge legal costs in the existing system with a suitable clause, and where they are legally represented. A 2017 consultation by the Tribunal Procedure Committee reported that in leasehold management cases approximately 70% of landlords are legally represented, compared with 30% of leaseholders. Anecdotally we understand legal representation may be lower. As such we have presented a low scenario of 50% and 5% respectively. So, our central estimates on legal representation are the central point between the two (60% and 18% respectively). Sensitivities around these assumptions are presented in the sensitivities section below.

14. The indirect impacts are calculated by assuming there will be an increased incentive for leaseholders to make legal cost claims due to the reform, alongside an increased incentive for leaseholders to take up representation. Under the central scenario it was assumed all applications in relation to management disputes would be accompanied by a cost claim giving an estimate of 2,881 cases in total by the end of the appraisal period with 1,505 new cases due to the reform. Legal representation is assumed to stay static for freeholders (at 60%) as their incentives to take up legal representation are unchanged. However, legal representation for leaseholders is assumed to increase to be in line with freeholders (from 18% to 60% in central scenario). It was assumed that these changes would happen at a constant rate throughout the ten-year appraisal period. Sensitivities around these assumptions are presented in the sensitivities section below.

15. It is assumed 50% of legal cost cases are won by leaseholders both in the counterfactual and post reform. This assumption is highly uncertain and is not backed by substantial evidence, therefore a sensitivity testing the impact of this assumption on the headline monetised impacts can be found in the sensitivity section below. However, it is worth noting this assumption does not impact the overall size of the impact of the reform, only how much of the impact sits with leaseholds versus freeholders.

Detail of Leaseholder Impacts

Decreased liability for the leaseholders' legal costs for baseline representation and caseload

16. A key direct impact of the reforms is that freeholders now may be potentially liable to pay the legal fees of their leaseholders. In the central scenario, average legal costs payable is assumed to be £1,746, which includes the cost of legal representation plus the £300 application charge for bringing the case to the First Tier Tribunal. This figure is applied to all cases where leaseholders have taken representation and they have won the case. This gives an average discounted annual value of £180k, and a total benefit of £1.8m. This can be divided down into £0.7m direct benefit for business leaseholders and £1.1m for non-business leaseholders. This represents a transfer from freeholders to leaseholders.

Fairer treatment of leaseholders by rebalancing the legal costs system

17. The first major benefit is that leaseholders will be treated more equally, being brought into line with other claimants in most types of legal challenge. The current system is a legal outlier, in that the spread of legal liabilities is not equal between parties, with freeholders able to pass through costs to

leaseholders but not vice-versa. Following the reform, leaseholders will be empowered to challenge their landlord when things go wrong, knowing that the new legal costs regime is fairer, and that they will not have to unjustly pay their landlords legal costs. It has not been possible to monetise the benefit associated with fairer treatment of leaseholders due to a lack of data on how leaseholders will value fairer treatment and the knock-on behavioural impacts from both leaseholders and landlords.

Increased access to redress by decreasing potential cost of dispute

18. A related benefit is increased access to dispute resolution to individuals who may not have taken up a legal challenge in the counterfactual. Leaseholders who were previously deterred from challenging their landlords in the courts, given the barrier faced, would now be able to do so more confidently. This means leaseholds will be treated more fairly, giving them additional bargaining power. However, there is a high level of uncertainty as to how leaseholds will value this increased access to dispute resolution, therefore this impact has not been monetised.

Lower legal/court costs due to increased settlements by landlords outside of court tribunal

19. We can expect to see an increase in settlements outside of court following the intervention. With increased landlord liability to pay legal fees, and with increased ability of leaseholders to bring legal challenge, we might expect that disputes are more likely to be settled out of court. This will likely decrease legal costs for both leaseholders and freeholders and reduce resource burden on courts and tribunals. However, there is limited data on how many cases may be settled out of court due to the reform, therefore, this impact is non-monetised.

Improved decision making for parties in dispute due to increased representation

20. Additionally, through increased legal representation, we might expect the quality of decision making to increase for parties in the dispute. Currently, it is estimated only 18% of leaseholders take on legal representation. Through increased representation, we might expect decisions, and hence outcomes to improve. These are non-monetised due to uncertainty as to how we expect better decisions to impact outcomes.

Improved service for leaseholders

21. Landlords providing poor service will be better able to be held to account. We may expect to see landlords incentivised to change bad practices in the knowledge that the barriers to challenge poor service in the form of legal costs have been lessened. This may mean improved services to leaseholders and residents living in the building. These are non-monetised because there is a high level of uncertainty as to what extent landlords will change their practices due to the reform.

Increased liability for freeholders' legal costs when leaseholders are unsuccessful in claiming their legal costs (increased representation and increase caseload)

22. An indirect cost of the reforms is that leaseholders may be more likely to take up representation or bring forward legal cost cases in response to the reforms, which could lead to increased costs for them in instances in which the cases they bring or have representation for are unsuccessful. This has been calculated in 3 parts:

23. First, we take number of cases the number of cases that would have otherwise not have been brought forward in the absence of the reform (1505 in the final year of the appraisal period), multiply it by the chance of bringing forward an unsuccessful case (50%), then times it by the cost to leaseholders of the case (£1,746). This gives us the cost to leaseholders of unsuccessful cases they would have otherwise not brought forward in the absence of the reform. It is assumed an increase in new cases will begin the year after implementation and will increase at a constant rate up until the end of the appraisal period.

24. Secondly, we estimate the cost of leaseholders of taking up representation of unsuccessful cases that they would have otherwise not done in the absence of the reform. This is calculated by multiplying together the total number of cases post reform (2,881 in the final year of the appraisal period) by the change in representation (43% in the final year of the appraisal period), the chance of bringing forward an unsuccessful case (50%) and the cost of that case (£1,746).

25. Thirdly, we estimate the interaction between the two cases above – instances in which leaseholders seek representation for new successful cases that they wouldn't have previously sought representation in. This gives an average discounted annual cost is £0.8m, and the total discounted cost is £7.6m in the central scenario. This breaks down to a total cost of £2.8m for business leaseholders and £4.8m for non-business leaseholders.

Detail of Business Impacts

Increased liability for leaseholders' legal costs for baseline representation and caseload

26. **As per paragraph 16, a key direct cost of the reforms to freeholders is they may now be potentially liable to pay the legal fees of their leaseholders.** In the central scenario, the average legal costs payable is assumed to be £1,746 which includes the cost of legal representation plus the £300 average charge which is paid by those bringing the case to the First Tier Tribunal. This figure is applied to all cases where leaseholders have taken representation and they have won the case. As this is a transfer from freeholders to leaseholders, the cost to freeholders is equal to the benefit to leaseholders; an average discounted annual value of £180,000, and a total cost of £1.8m.

Increased liability for leaseholders' legal costs when leaseholders are successful in claiming their legal costs (increased representation and increase caseload)

27. Mirroring paragraph 18, there will be an indirect cost of reforms for freeholders from leaseholders successfully claiming their legal costs in instances of increased representation and increased case numbers. As above, an increase in caseload is assumed to begin the year after implementation and increase at a constant rate until the end of the appraisal period. The average discounted annual cost and total cost are estimated to be the same as leaseholders in the central case - £0.8m and £7.6m respectively.

Detail of public sector impacts

28. The following section details costs to councils, courts and tribunals.

Change in court caseload

29. We anticipate an initial increase in cases as leaseholders who were previously deterred from bringing a challenge against their landlord due to the risk of being liable for their landlord's legal costs, now feel able to do so. However, in the longer term we expect to see more cases settle outside of court as landlords have increased liability for their leaseholder's legal costs. We are undertaking a robust Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement

30. Where a landlord or leaseholder fails to comply with a determination by the relevant Court or Tribunal, the other party will be required to go to the County Court to seek enforcement. This aligns with existing enforcement processes for many other leasehold management issues. All monetised figures in this section assume 100% compliance with the reform.

Risks and sensitivities

Sensitivities

31. For the legal cost reforms, sensitivities relate to:

a. **The expected number of cases**: a significant assumption has been made about the caseload now and over the 10-year appraisal period. A significant deviation in the number of cases brought to the tribunal will lead to large changes in the estimate cost and benefits. We have applied a number of assumptions on the conjoining of cases within the data set on leasehold management matters in the London Tribunal to estimate low and high case number scenarios.

Table D2: Impact on the Net Discounted Benefit of changing the assumption on the expected number of cases

	Low Scenario	Central Scenario	Higher Scenario
Assumption	373 annual cases rising to 746	1377 annual cases rising to 2881	2921 annual cases rising to 4939
Net Discounted Benefits (Holding All else equal)	£3.9m	-£15.3m	-£23.7m

b. **Legal representation:** another significant assumption has been made about the proportion of individuals take up legal representation now and over the 10-year appraisal period where the evidence underpinning it differs depending on the source. A significant deviation in the take up of representation at the tribunal will lead to large changes in the estimate cost and benefits.

Table D3: Impact on the Net Discounted Benefit of changing the assumption on the expected proportion of leaseholders taking up legal representation

	Low Scenario	Central Scenario	Higher Scenario
Leaseholders	5% representation rising to 50% representation	18% representation rising to 60% representation	30% representation rising to 70% representation
Freeholders	50% representation	60% representation	70% representation
Net Discounted Benefits (Holding All else equal)	-£13.4m	-£15.3m	-£17.2m

c. **Proportion of cases won by leaseholders:** another significant assumption is that the proportion of cases won is split 50:50 between leaseholders and freeholders. This was due to the lack of evidence, despite significant effort to find an indicative figure. A significant deviation in the take up of representation at the tribunal will not lead to a change in the net discounted benefit as it will

shift costs between freeholders and leaseholder, however it will lead to changes in the direct cost and benefits to businesses.

Table D4: Impact on the Net Discounted Benefit of changing the assumption on expected proportion of cases won by leaseholders

	Low Scenario	Central Scenario	Higher Scenario
Assumption	25%	50%	75%
Net Discounted Benefits (Holding All else equal)	-£15.3m	-£15.3m	-£15.3m
Net Discounted Direct Business Benefits (Holding all else equal)	-£0.6m	-£1.1m	-£1.7m

Switching analysis

32. As with other technical annexes, we have considered how great the monetised value of the non-monetised benefits of a policy area would need to be for the benefits of the policy to equal its costs (i.e. to achieve a net present social value of zero). This can be done by calculating a switching value representing the required valuation of this benefit both at an aggregate level and per leaseholder.

33. For the legal cost reforms the total non-monetised benefit would need to be a total of £15.3m across the 10-year appraisal period for the NPSV to equal zero. This equates to approximately £3.07 per leaseholder in England over 10 years or £0.31 on average per annum.

Annex 6: Strengthen Rights for Homeowners on Freehold Estates

The Bill will introduce new rights for freehold homeowners on private and mixed tenure estates in England and Wales, by providing them new rights to challenge the costs they are required to pay, as well as the services they receive.

Description of the policy

Right to Challenge & Appointing a manager

286. Freehold estates are private and mixed tenure estates where some or all the communal areas are owned, paid for and maintained privately, rather than by the local authority. Currently, there is a disparity between the rights of leaseholders and freehold homeowners in such estates. Unlike leaseholders and the service charges they pay, **freehold homeowners on private estates currently have no statutory rights to challenge the reasonableness of the maintenance charges ("estate management contributions") that they pay estate management companies, nor on the reasonableness of the work carried out.** This inability to challenge reasonableness also extends to administration charges levied on homeowners in relation to individual transactions (e.g. late payment). **They are also without statutory rights to change or challenge the service provider** (whether a management company or private company) in the instance that there is an ongoing failure to provide a reasonable service in line with contractual agreements, or value for money, on the estate. They currently are limited to remedies through contract law.

287. Freehold estates are run by either resident-led estate management companies or by private estate management companies (collectively known as "estate management companies"). The resident-led companies usually run only their own estate, whereas private companies may manage more than one estate.

288. There is no clear rationale as to why leaseholders and freehold homeowners should be treated differently when they are both subject to charges for the provision of works and/or services. The Government believes that homeowners (largely freeholders but can also include leaseholders) who pay estate management charges for the maintenance of communal areas and facilities should be able to access rights equivalent to those available to leaseholders to challenge the reasonableness of service charges and has committed to amend existing legislation to meet this. With no Government intervention the existing system leaves freeholders in managed estates exposed to abuse over charges and poor management, with no viable routes to redress. It leaves freehold homeowners on managed estates subject to substantial inequality in bargaining powers, as estate management companies have the upper hand and are able to negotiate deals which benefit them but provide less favourable outcomes for those homeowners living on the estates.

289. The Bill will provide freehold homeowners in managed estates in England and Wales a set of new rights, giving them more control over the cost and management of their home environment.
    - The Bill will standardise the information estate management companies must provide to homeowners in managed estates, and the timeline for delivering this information, in line with reforms to also increase transparency of information for leaseholders (see Annex 7). Where

homeowners do not receive the information, they may apply to the appropriate Tribunal (the First-tier Tribunal in England and the Leasehold Valuation Tribunal in Wales), who may issue an Order requiring the provision of information, issue an Order for damages of up to £5,000, or both.

- The Bill will also provide these homeowners a new statutory right to challenge at the appropriate Tribunal the reasonableness of estate management charges, as well as any administration charges that might be incurred.
- Freeholders in managed estates will also have right seek a determination at the appropriate tribunal to appoint a manager to take over some or all the management services provided by an estate management company.

290. These changes will provide leaseholders with greater transparency and control and make estate management companies more accountable to freehold homeowners, providing greater scrutiny of costs, means to challenge them and minimising risk of unjustified or disproportionate fees on managed estates arising in the first place.

Rent Charges

291. A "rent charge" is an annual sum paid by a freehold homeowner to a third party who normally has no interest in the property. Since the Rentcharges Act 1977, no new income supported rentchages can be created, and existing rent charges will be phased out by 2037. The current system of rent charge is set up in a way which allows rent charge owners ("rentowners") to exploit a legal loophole in the event of a failure of freehold homeowners ("homeowners") to pay even a very small amount of money (as little as £1) over 40 days after it is due. **Homeowners who miss a single payment may face disproportionate penalties, including the risk of losing their home.** Furthermore, where a homeowner seeks to redeem the rent charge, it can only do so with the consent of the rentowner, who in turn may place significant administrative costs for doing so, which can lead to the devalue of the property.

292. There is currently no process in place to ensure that homeowners are warned in advance of the need to pay any outstanding sum – and hence are not provided with the opportunity to pay off any arrears – before the rentowner is able to take any action. We have no data on the number of arrears cases, but anecdotal evidence suggests that some homeowners are not aware that they owe a rent charge.

293. The government believes there is need to amend existing law to provide greater legal protection and more proportionate consequences for failure to pay small sums of money for a short/defined period of time. We consider that the rentowner taking possession of or granting a lease on the property are disproportionate consequences where the rent charge remains unpaid and will also look to put a process in place to inform homeowners of such demand in advance.

294. The Bill will amend existing legislation to increase protections for freehold homeowners in England and Wales by ensuring that:

- Rentowners must provide notice and give evidence they are entitled to receive a rent charge before taking enforcement action against freehold homeowners. They must also give the homeowner sufficient opportunity to pay any arrears.
- Rentowners are no longer able to take possession of or grant a lease on the home if they take action (disapplying Sections 121 and 122 of the Law of Property Act 1925).
- Any administration charges payable to rentowners for amending title at HM Land Registry once rent charge arrears are paid are limited. This fee should be separate from the cost that is directly payable to the Registry.

Summary of major impacts

295. Table E1 sets out the breakdown of costs and benefits associated with legislation to provide homeowners on managed estates the right to challenge the reasonableness of estate management charges, the right to apply to the tribunal to seek appointment of a manager, and the right to appoint a surveyor to carry out investigative works on communal areas. It further sets out the costs and benefits associated with legislation to increase protection of freehold homeowners in relation to failure to make a rentcharge payment.

296. Where possible these have been monetised and clearly referenced whether they are direct or indirect. All figures are presented in 2019 pounds and discounted across a 10-year appraisal period with a present value of 2025.

297. The major impacts are due to costs of changes to working practices and increased tribunal costs as homeowners can now challenge the estate management company at the tribunal over unreasonable costs or poor performance. Increased tribunal access is also a major benefit as it allows homeowners on freehold estates improved access to redress, which they didn't have before, and compensation payments if it is found they have been overcharged. Other major benefits include greater transparency over costs and greater control to challenge poor performance, reduction in unfair practices as estate management companies could be held more accountable, and a fairer, more proportionate, approach when it comes to freehold homeowners missing a rentcharge payment.

Table E1: Costs and benefits of reforms relating to freeholders on managed estates

Impact	Value (M)	Group Impacted	Direct/Indirect
Transfers			
Increased administration charges to homeowners from estate management companies due to pass through of change in working practices costs	Non-monetised	Estate Management Companies to Homeowners	Indirect
Benefits			
Increased access to redress, via tribunal access and Compensation Pay-out	Non-monetised	Homeowners	Indirect

Fairer treatment as homeowners have greater transparency over costs, and greater control as they can appoint a manager following poor performance. This will ensure consistency with other homeowners rights.	Non-monetised	Homeowners	Indirect
Greater accountability of management companies, and **improved service** as their performance can be challenged	Non-monetised	Homeowners	Indirect
Reduced administrative costs when paying rent arrears	Non-monetised	Homeowners	Indirect
Fairer, more proportionate approach for failure to pay a rent charge	Non-monetised	Homeowners	Indirect
Costs			
Costs of **changes to working practices**	£24.7	Estate Management Companies	Direct
Increased tribunal costs due to increased tribunal cases	£4.2	Homeowners	Indirect
	£3.6	Estate Management Companies	Indirect
Costs to Courts & Tribunal Services	Non-monetised	Courts & Tribunal Services	Indirect
Reduced income for rent owners from not being able to take possession of a property in the event of rent charge arrears	Non-monetised	Rent owners	Indirect
Total Benefits (Discounted)	**Non-monetised**		
Direct Benefits (Discounted)	**Non-monetised**		
Direct Benefits to Business (Discounted)	**Non-monetised**		
Total Cost (Discounted)	**£32.6**		
Direct Cost (Discounted)	**£24.7**		
Direct Cost to Business (Discounted)	**£24.7**		
Total Net Benefits (Discounted)	**-£32.6**		
Direct Net Benefits (Discounted)	**-£24.7**		
Direct Net Benefits to Business (Discounted)	**-£24.7**		
EANDCB	**£2.5**		

Modelling approach

7. The impacts of the reform are split between the direct effects to homeowners, estate management companies and legal professionals and the indirect behavioural changes the new legislation will induce. The key direct effect is the cost to changing working practices. Indirect impacts resulting from behaviour change include the benefits from improved tribunal access, as well as greater transparency and control of charges for homeowners. Taken together, this should precipitate fairer outcomes for homeowners. Other indirect effects include court costs for homeowners and estate management

companies and increased administration costs to homeowners. The modelling below applies to England and does not cover Wales due to limited data.

8. Throughout the Impact Assessment, we have made a number of key assumptions. We base our assumption of the number of households on managed estates on the English Housing Survey (EHS), which suggests that there are 1,557,000 freehold estate households. Whilst we believe this is our best estimate, we believe this has the potential to be an underestimate due to its reliance on individuals understanding their circumstances properly. As such, in the sensitivities section we also use an alternate estimate based on a c25% higher number of households. To calculate the number of freehold estates – we take this estimate of households and divide by an estimate for the number of households per estate provided by Hornets. Hornets database at the time of our review (Jan 2023) had 796 estates across the UK – which has a median number of 100 households per estate. This produces an estimate of 15,570 estates. We use the median here rather than the mean due to a small number of very large estates skewing the data.

9. A report from the Competition and Markets Authority into housebuilding suggests a "majority of new properties being built in the past 5 years" comprise freehold homes on managed estates – based on analysis of the 11 largest housebuilders.[116] For example, 90% of freehold properties built in 2022 by these housebuilders were on managed estates (this represents 71% of total new homes that year). However, this does not offer a projection and we do not have evidence to estimate at what level the number of freehold estates will be across the 10-year appraisal period. As such these assumptions remain constant across the appraisal period. This is also consistent with other assumptions in group sizes across the Impact Assessment.

10. When estimating the cost of changing working practices, we used indicative data from a consultation with large estate management company, *Meadfleet*, on the annual cost of providing annual reports containing the new information for homeowners (£65k). This was then divided by the number of estates that company managed (320)– then multiplied by the total number of estates (15,570) to find a total cost. As this data is the indicative rough estimate of one company, it comes with a high degree of uncertainty, but due to the lack of information in this space, it remains our best estimate at this time. We are continuing to test potential costs with stakeholders.

11. We expect some, if not all, of the costs to estate management companies regarding change to working practices to be passed through to homeowners in the form of higher administration charges. However, there is limited evidence to be able to make a robust assumption on the extent to which costs will be passed through to homeowners. Therefore, pass-through costs have not been monetised. This would represent an indirect transfer from homeowners to estate management companies.

12. To estimate the indirect impact of increased court costs to homeowners, we multiply the number of households by the proportion of those who we estimate will go to court, multiplied by legal costs per plaintiff. To calculate the proportion who we expect to go to court, we used data from the London Tribunal in 2021. We collated the leasehold management cases relevant to the freehold estate reforms (appointment of manager - 47, administration charge - 28, and liability to pay services charge - 493) then scaled up to a national level (noting London represents 65% of total cases in England). This comes to a total 880 cases.[117] We then divide this by the number of leaseholders

[116] CMA, *Housebuilding market study*, p37, 2023
https://assets.publishing.service.gov.uk/media/64e7859a1ff6f3000f70af49/Housebuilding_update_report_pdfa_25_Aug.pdf

[117] (Appointment of a manger + admin charge + liability to pay service charge) / London cases as proportion of England =(47+28+493)/0.65

(~4.9m) to find the percentage of individuals would apply to tribunal – 0.02%. This assumes freehold estate homeowners are analogous to leaseholders in the propensity they would apply to tribunal. This figure might be an underestimate, as we expect homeowners to be incentivised to bring more cases to court after the reform is enacted. It could also be an overestimate as the charges leaseholders face through service charges tend to be much higher than estate charges for freehold homeowners on managed estates.

13. To calculate legal costs, we take the cost to hire a lawyer and add the expected tribunal cost. The cost to hire a lawyer is assumed to be £1,639 per case – based on the average hourly wage for solicitors and lawyers (£26.6), multiplied by the number of hours expected (24) and both a wage and billable uplift (1.3 and 2 respectively). An application to the First Tier Tribunal costs £100, with an additional £200 if there is a hearing. The expected tribunal cost is a weighted average of tribunal costs, dependent on the percentage of applications that go to tribunal - £100 if they do not, £300 if they do. In practice a high percentage of cases never reach court so only £100 is paid, however we do not have robust information to suggest what proportion this is. As such we assume all applications go to tribunal to provide the highest cost possible. This means the expected tribunal cost is £300.

14. Tribunal costs are usually borne by the party who has brought the challenge (most often the homeowner); however, the Tribunal has the power to require one party to pay any amount of the other's fees under existing tribunal rules if they have acted unreasonably or as a result of improper conduct. We do not have an estimate for the number of instances of this or the average required amount. As such, we assume that each side will pay their own representation costs and that the costs will be borne by the challenging party. This means we assume legal costs for estate management companies are only the amount they pay for representation (£1,476 per case).

15. There are some impacts of the reform that are unable to be monetised. The benefit of improved court access for homeowners could not be monetised due to too much variance in costs between cases to construct a reliable estimate. Such costs will depend on the issue at hand, the size of the estate, the number of participating homeowners, and the nature of the estate management company. The benefit of fairer outcomes for homeowners as a result of increased legal representation is non-monetised due to difficulties quantifying equity considerations. The cost of increased strain on the First Tier Tribunal is non-monetised due large amounts of uncertainty regarding the scale of the strain and potential use of public funding to combat it.

16. The impacts of the reform relating to rentcharges are also non-monetised. We do not know how many are likely to fall into arrears which impacts estimates of both the reduced income to rent owners and reduced administrative costs to homeowners. We have anecdotal evidence to suggest that a small number will fall into arrears, therefore the impacts are likely small. For the above reasoning, we are comfortable with rentcharge impacts remaining non-monetised.

Detail of homeowner impacts

Increased access to redress, via tribunal access and compensation pay-out

17. Homeowners will be given improved access to courts allowing them recourse to challenge unfair outcomes and seek redress. Homeowners on managed estates will have the right to challenge unreasonable charges and poor-quality works (including excessive administration charges) as well as

the right to apply to the Tribunal to appoint a manager in circumstances where they are not receiving a reasonable level of service or are not receiving value for money. If homeowners are found to have overpaid for management fees or for costs to be unjustified, they may be entitled to a compensation pay out. This change will plug the gaps in redress and dispute resolution and provide homeowners on managed estates a route to challenge when things go wrong, increasing consistency with other homeowners' rights. This benefit cannot be monetised as there will be too much variance in costs between cases to construct an estimate.

Fairer treatment as homeowners have greater transparency over costs, and greater control as they can appoint a manager following poor performance

18. The reform provides homeowners with greater transparency over the charges that they face, as estate management companies will be required to provide them with more information about their charges. This also includes the new discretionary powers to appoint a surveyor and carry out a managing audit. This will enable homeowners a better chance at knowing when estate management companies are employing unfair practices or seeking to artificially inflate costs. This should lead to fairer outcomes for homeowners, as it reduces the information asymmetry that can prevent them from knowing if they are over-charged or not – which would allow homeowners to challenge unfair charges more easily. The reform will also provide homeowners with greater sense of control as they could act against the estate management company when things go wrong, potentially contributing to improved wellbeing. These benefits are non-monetised due to lack of data about homeowner's perception of fairness and the level of individuals' wellbeing.

Greater accountability of estate management companies and improved service for homeowners

19. Estate management companies will face new requirement to provide more information to homeowners, and given homeowners' new court access, management companies will know they are less likely to get away with over-charging homeowners. This will lead to greater accountability and potentially improved service standard benefitting homeowners on these estates.

Fairer more proportionate approach for failure to pay a rent charge

20. The reform also proposes a fairer, more proportionate approach for failure to pay a rentcharge, by requiring rentowners to provide advance notice regarding any arrears and limiting the actions rentowners can take against homeowners in such circumstances. As such, unfair treatment by rentowners toward homeowners will decrease. This will alleviate stress level of homeowners as they will no longer face unproportionate consequences, such as losing their home, when they fail to pay small rentcharge. This impact is non-monetised due to limited data, but also as anecdotally we understand this will affect a very small number of cases. We are also unable to monetise the impact of increase in perception of fairness.

Increased administration charges to homeowners from estate management companies due to pass through of change in working practices costs

21. We expect that the cost of estate management companies changing working practices will likely be passed on to the homeowner in the form of a higher charge for the provision of services. If this charge does increase, we will see the estimated costs of change to working practices borne on the homeowner. For those estate management companies who already provide a good service, there will

be limited or no benefit to homeowners but potentially higher costs due to the publishing of annual reports to demonstrate compliance.

22. However, in line with the rest of the Impact Assessment, there is limited evidence on the extent to which costs will be passed through to leaseholders. Therefore, pass-through costs from estate management companies to homeowners in this instance have not been monetised.

23. We expect the increase in costs to be initially higher as estate management companies implement new provisions or review the existing process for handling complaints. However, we do not have the evidence to confirm this or produce an estimate.

Increased tribunal costs due to increased tribunal cases

24. We expect to see an increase on households taking estate management companies to court, which incurs legal costs in the form of hiring a lawyer and Tribunal costs. An application to the First Tier Tribunal costs £100, with an additional £200 if there is a hearing. The Tribunal costs are usually borne by the party who has brought the challenge – however, the Tribunal does have the power to require one party to pay any of the other party's Tribunal fees. We have no estimate on how frequently this occurs, so we assume costs will be borne by the challenging party. The legal costs of each party will not be any different to what they are now, but who is liable to pay them may change owing to other reforms in the bill.

25. We estimate the legal costs to be £4.2m in total. We estimate this by multiplying the number of households in freehold estates by the proportion of those who we estimate will go to court (0.02% - as explained in the modelling approach section) – which comes to a caseload of 282. We then multiply this by legal costs per plaintiff. We calculate costs over a 10-year period and discount appropriately. To calculate legal costs, we take the cost to hire a lawyer (£1,639) and add the expected tribunal cost (a weighted average of tribunal costs dependent on the percentage of applications that go to tribunal – £100 if they do not, £300 if they do). We assume all applications go to tribunal, so this expected cost is £300.

Reduced administrative costs when paying rent arrears

26. As a result of the reform, homeowners will face significantly lower administrative costs when paying rentcharge arrears. Previously, homeowners could be charged significant administration fees to clear arrears and remove any restrictions on the property. For example, in an Upper Tribunal Case in 2016 a homeowner was demanded to pay £650 despite only having £15 worth of arrears. Due to a lack of information on the number of freehold estates who fall into arrears and due to the likely small scale, this impact is non-monetised.

Detail of business impacts

Change to working practices

27. As part of the reform to allow homeowners to have more information about their charges, estate management companies will have to make more documents available to homeowners – presented in

the form of annual reports. A large estate management company that we consulted (Meadfleet) estimated the annual cost of this to them to be approximately in the region of £60k-£70k per year. In the central case, we took the mid-point of this range and divided by the number of estates this estate management company managed (320) to find the estimated cost per estate. This was adjusted to 2019 prices for an estimated cost per estate of £185. This cost per estate is then multiplied by the number of estates to come to a total PV cost to estate management companies of **£24.7m**.

28. As described previously in the cost to homeowners section, we assume some, if not total, pass through of this cost to homeowners in the form of increase administration charges. These administration costs represent a transfer of costs from estate management companies to homeowners, being an indirect benefit to estate management companies. This impact is non-monetised.

29. It must be noted that information of this impact came from a large estate management company. Smaller companies may be impacted differently, so the figures regarding cost per estate might not be completely representative for them. In addition, the cost will vary depending on the extent of change companies have to make, e.g. companies that already use a system that could easily generate the required information may not require a large-scale change to their working practice. There is limited data about this sector and its profile. Our evidence base to know what the cost of changes to working practices might be for these companies is therefore limited, and as such, we continued to use the range provided to us from the large estate management company.

Increased tribunal costs due to increased tribunal cases

30. These changes mean freehold homeowners are more likely to bring a case to court. This comes with legal costs – in the form of tribunal costs and representation costs.

31. As described in the impacts to homeowners section, the tribunal costs consist of £100 to bring an application to Tribunal, rising by an additional £200 if there is a hearing. These costs are usually borne by the party who has brought the challenge, so increasing legal costs should be of limited significance to estate management companies. However, the Tribunal does have the power to require one party to pay any Tribunal fees and other litigation costs paid by the other. We currently do not have an estimate for this, as such we assume that court costs will be borne by the challenging party. Therefore, we estimate there to be no additional tribunal cost to estate management companies (see change to working practices element in homeowner impacts section for further explanation of court costs).

32. In this case, we assume estate management companies would still have to pay for their own representation. As per our previous assumptions on legal costs, we assume representation costs £1,639 per case. Multiplying this by the number of cases leads to a total cost of approximately **£3.6m**.

Reduced income for rent owners from not being able to take possession of a property in the event of rent charge arrears

33. Rentowners would have reduced income occurring from an inability to take possession of or grant a lease on a property in the event of non-payment of rent charges, nor to charge high administrative fees for clearing arears. Due to information constraints regarding the number of people who will default on a rentcharge, as well as the likely small scale of the impact, this cost is non-monetised.

Detail of public sector impacts

34. The following section details costs to councils, courts, and tribunals.

Increase in applications

35. The First Tier Tribunal in England and the Leasehold Valuation Tribunal in Wales may see an increase in applications as homeowners use their new powers. This might place extra strain on the tribunal. The scale of this strain is currently unclear and might be small given the relatively few extra cases likely to be taken (based on our modelling we expect approximately a couple of hundreds new cases per year). We are undertaking a robust Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement cost

36. Compliance will be enforced through the courts, and a Justice Impact Test is being undertaken to assess the level of additional burden. 100% compliance is assumed when monetising all impacts.

Risks and sensitivities

37. Uncertainty given limited evidence and behavioural changes will impact the costs and benefits of the reform. The sensitivity analysis below demonstrates the range of potential impacts.
For the freehold estate reforms, sensitivities relate to costs of changing working practices, court costs, and increasing numbers of freehold estates and households.

Changes to working practices

38. An area with a significant assumption is the costs of working practices. We are using the estimated costs to a major estate management company as a starting point – with a range of £60-70k. The difference in these scenarios have a clear bearing on total costs.

Table E.2 – sensitivities of costs related to changes to working practices.

	Low Scenario	Central Scenario	Higher Scenario
Assumption	£60k	£65k	£70k
Net discounted benefits (holding all else equal)	-£30.7m	-£32.6m	-£34.5m

Court Costs

39. Based on work conducted in the legal cost policy (Annex 5), we have a range of estimates on the cost to representation – from £819-£2,485 per case - impacting the costs to homeowners estate management companies taking cases forward to court.

Table E3 – sensitivities of court costs

	Low Scenario	Central Scenario	Higher Scenario

Assumption	£819	£1,639	£2,458
Net discounted benefits to **households** (holding all else equal)	£2.4m	£4.2m	£6.0m
Net discounted benefits to **estate management companies** (holding all else equal)	£1.8m	£3.6m	£5.4m

Number of households

40. As mentioned previously, there is uncertainty regarding the number of households on freehold estates. We use an estimate of 1.56 million as per the English Housing Survey (EHS). As noted, this is likely to be an underestimate. As such we also construct a higher sensitivity.

41. According to data from the lobby group Hornets, detailing the number of households across a sample of 795 estates, the median number of households per estate is 100. To construct our higher sensitivity we use a higher assumption of 2m households.

42. The only monetised impact where the headline figure is impacted is increased court costs – raising from £4.2m to £5.4m for homeowners and from £3.6m to £4.6m for estate management companies. This is because the caseload increases from 282 to 362 The total value of the other monetised impact on homeowners, indirect cost of increased administration charges due to cost pass through from EMCs, remains constant. This is because this is a pass-through cost initially borne by EMCs, so the number of households is not a component of the cost. However, as the number of homeowners increases, the increase in administration charge per household reduces from £2.37 to £1.85 per estate per year.

43. The scale of non-monetised benefits for homeowners is likely higher in this higher scenario.

Table E4 – court costs as impacted by different assumptions in number of households

	Central Scenario	**Higher Scenario**
Assumption	1,557,000	2,000,000
Net discounted costs to **households** (holding all else equal)	£4.2m	£5.4m
Net discounted costs to **estate management companies** (holding all else equal)	£3.6m	£4.6m

Switching Analysis

44. As before it can be instructive to use switching values to consider how great the monetised value of non-monetised benefits would need to be for the benefits of the policy to equal its costs.

45. For the freehold estates reforms the negative Net Present Social Value (NPSV) would be offset by a total of £32.6m across the 10-year appraisal period. This is equivalent to a total of £20.92 per freehold estates household and £2.09 per household per year.

Annex 7: Provision of sales information and maximum fees

The Bill will make the buying and selling process easier and quicker for consumers in England and Wales, expediting the time and process costs for leaseholders and homeowners on freehold estates, by setting the maximum fee chargeable and the maximum turnaround response time of freeholders (landlords), managing agents and estate management companies.

Description of the policy

1. Currently, a leaseholder must obtain certain information from their freeholder (landlord) or managing agent in order to sell their property. This information includes the service charges, ground rent, and insurance fees applicable to the property, and is often referred to as a leasehold information pack. Freeholders and managing agents usually charge leaseholders a fee to provide this information. These fees are currently uncapped and there is no statutory time limit for freeholders or managing agents to provide the information. Fees can, therefore, be significant, and freeholders or managing agents can take a long time to provide the information leading to delays and transactions falling through. Similar issues occur in the buying and selling process of freehold homes on private managed estates. This is an example of asymmetric information and imbalanced market power, where the freeholder (landlord) or estate management company holds most information on the property and has the upper hand by being able to charge uncapped fees when homeowners request information needed to sell their home. It also presents an inequality of bargaining power, where homeowners are required to agree to a transaction which is not in their favour (i.e., wait a long time and pay high charge to obtain the needed information), or facing poor market outcomes (e.g. when a deal falls through due to the slow process, leading to wasted costs both on the seller and prospective buyer sides).

2. Government intervention will regulate **for setting a maximum fee of £200 + VAT and a maximum turnaround time of 15 working days for the provision of leasehold sales information by freeholders and managing agents to leaseholders during sales. This provision will be mirrored for the buying and selling process of homes on freehold managed estates, capping the time estate management companies can take to respond, and the fees they can charge, when homeowners request information needed to sell their property**. We plan to consult on the amount and response time for this provision for homeowners on freehold estates. Therefore, the analysis and monetised impacts in this annex apply to leaseholders only. Table **F1** sets out the breakdown of costs and benefits associated with this legislation.

Summary of major impacts

3. **The major benefits include capped fees and time savings for leaseholders and homeowners on freehold managed estates**. This should result in a better experience for these consumers as they will have more certainty on when information will be received. This in turn may contribute to fewer instances of sales falling through. It will also benefit professionals involved in the home buying and selling process such as conveyancers and estate agents as they will also have more certainty over when the information will be provided.

4. Where possible benefits have been monetised and clearly referenced whether they are direct or indirect. All terms are presented in 2019 prices and discounted with a present value of 2025 over a 10-year appraisal period. The net present social value is calculated at **£0 million**.

Table F1: Costs and benefits of setting a maximum fee and turnaround time for leasehold sales information.

Impact	Value (M)	Group impacted	Direct/Indirect
Transfers			
Lower fees due to fee cap of £200 + VAT	£30.1	Freeholders to Leaseholders (Businesses)	Direct
	£51.3	Freeholders to Leaseholders (Non-Businesses)	Direct
Benefits			
Decreased turnaround time	Non-monetised	Leaseholders (Businesses)	Direct
	Non-monetised	Leaseholders (Non-Businesses)	Direct
	Non-monetised	Estate Agents	Direct
Improved wellbeing and reduced stress due to increased certainty	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Prospective buyers	Indirect
Improved buying and selling process of leasehold properties	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Prospective buyers	Indirect
Costs			
Total Benefits	£81.44		
Direct Benefits	£81.44		
Direct Benefits to Business	£30.13		
Total Cost	£81.44		
Direct Cost	£ 81.44		
Direct Cost to Business	£81.44		
Total Net Benefits	£ -		
Direct Net Benefits	£ -		
Direct Net Benefits to Business	-£ 51.31		
EANDCB	£ 5.13		

Modelling approach

5. Our modelling, covering both England and Wales, is largely based on historical fees data from The Conveyancing Association.[118] We used fees from a sample of around 2,000 leasehold transactions[119] to estimate the distribution of sales fees in the absence of the reform. This sample is based on members from the conveyancing association which covers around 25% of property transactions. Scenario based analysis is used where we do not have data to support behavioural assumptions.

6. While this provision will be mirrored for homeowners on freehold managed estates, the figures in the analysis do not capture them and include leaseholders only. This is due to the lack of data on the average fees involved in a sale on a managed estate, as well as the information on the number of sales on freehold estates. We intend to consult stakeholders on the proposed fee level on buying and selling of managed estates to better understand the impact on both homeowners and estate management companies.

7. The effect of the cap on leaseholders who would be charged under £200 + VAT for the information is unclear. The introduction of the cap may incentivise freeholders and managing agents to increase their fees to the new cap value if they were previously charging less. However, it is unclear to what extent we would see this in reality. Our analysis assumes that overall, these transactions will not be affected by the new cap although this behavioural affect is captured within the sensitivity analysis. Any impact would be an indirect effect and would not be included in the EANCDB.

8. As per green book guidance, modelling on the impact of the policy does not take into account VAT, however it will remain a part of the sales fee post reform.

Detail of Leaseholder impacts

Lower fees due to fee cap of £200 + VAT

9. The benefits leaseholders are estimated to see from capped fees have been calculated using the median difference between the £200 + VAT cap on sales fees and median fees above this cap based on historical fees from the Conveyancing Association. The leasehold sales fees data is from 2018 and has been adjusted to 2019 prices. There are instances where fees far greater than £200 + VAT have been charged for the provision of information and those charging these fees will be the most affected by the cap. Equally, those being charged these fees will seek the greatest benefit.

10. The total benefit to leaseholders of the sales cap has been calculated by taking the median difference between the current fees above the rate of the cap (£100) and the cap (£200) and multiplying it by the number of leaseholders we estimate to be charged fees above the cap (94,526).

11. The number of leaseholders current charged above the cap has been estimated by multiplying the c.200,000 annual leasehold transactions reported in 2020 in England and Wales by the proportion of transactions within the Conveyancing Association data with fees greater than £200 + VAT (48.5%). We have made the assumption that the proportion of fees greater than the cap in the sample will be

[118] Data Evidencing Leasehold Administrator Costs from The Conveyancing Association November 2018

[119] The 2,063 transactions sampled in this data are based on members from the Conveyancing Association. This covers 25% of property transactions.

representative of all leasehold transactions over the 10 years for which costs and benefits are being estimated. As well as this, we are assuming the c.200,000 leasehold transactions represent an average over these 10 years. The risks associated with the uncertainty in this assumption are discussed below.

12. Therefore, the benefit to leaseholders of capping sales fees is **£8.1m per annum and £81.4m over the 10-year appraisal period**. This can be broken down into a total benefit of £30.1m for business leaseholders and £51.3m for non-business leaseholders. This represents a transfer from freeholders and managing agents to leaseholders.

Decreased turnaround time

13. Leaseholders will see non-monetised benefits from a better sales experience as their sales will no longer be delayed due to long turnaround times for receiving sales information. As things stand, around 25 – 30% of all home buying transactions fall through, costing consumers c.£900 million each year[120]. Fall-throughs add to delays and wasted costs in the sales process and can put people off from going through the process again. Desk-based research suggests that legal and surveyor fees can range from c£800 to £3,500 per transaction.[121]

14. Expediting the selling process will help reduce the risk of a deal falling through, contributing to savings of thousands of pounds, as well as reduced stress levels, for leaseholders, and prospective buyers.

15. The introduction of a 15-day maximum turnaround time for freeholders and managing agents to provide this information should cut these delays and help improve the sales experience for leaseholders. Using data on the 2,063 leasehold transactions from the Conveyancing Association, the median requester currently has to wait 31 days for the provision of sales information. With the new legislation capping this at 15 days, the median requester can expect to wait 16 days less for this information than before.

Improved wellbeing and reduced stress due to increased certainty

16. Leaseholders and prospective buyers should seek to benefit from the increased certainty of fees equal to or below the £200 + VAT figure, whereas before fees were uncapped and therefore no boundaries were assured. As well as this, a guaranteed turnaround time within 15 days should alleviate some of the stress to leaseholders where this may have previously been a stressful process as the provision of this information may have been delayed, increasing the risk of the deal falling through.

Improved buying and selling process of leasehold properties

17. Capping the time for response and the fee for the information needed to sale their home would help ensure leaseholders and homeowners on estates have better home buying and selling experience. This is because the risk of deals falling through will likely reduce, and with it – as mentioned above - the level of stress involved in the process. Homeowners will not need to wait

[120] https://propertyindustryeye.com/property-fall-throughs-on-the-rise/ Please note that this data was collected by a 'quick buy' property firm, which has a vested interest in consumers being concerned about a high rate of fall through.

[121] https://www.moneyhelper.org.uk/en/homes/buying-a-home/estimate-your-overall-buying-and-moving-costs ; https://www.zoopla.co.uk/discover/buying/buying-costs/ ; https://hoa.org.uk/advice/guides-for-homeowners/i-am-buying/the-hidden-costs-of-buying-and-owning-a-property/

for long, not knowing when they would hear back from their freeholder/ managing agents, nor would they be charged excessive amount for this information.

Detail of business impacts

Lower fees due to fee cap of £200 + VAT

18. The decrease in fees from the new cap is costed as a transfer between leaseholders and freeholders/managing agents since the benefits from leaseholders are identical to the costs for freeholders/managing agents. The total discounted cost of lower fees to freeholders over the 10-year period is **£81.4m**.

19. It is possible the effects of lower fees may differ between small and large businesses. Assuming freeholders or managing agents with larger portfolios will be selling properties more often, they will see a more significant decrease in profits than smaller businesses.

Decreased turnaround time

20. Similar to leaseholders we believe Estate Agents and conveyancers would benefit from decreased turnaround time, leading to a more efficient and overall better sales experience.

Detail of public sector impacts

21. We are expecting some increase in court cases where freeholders, managing agents or estate management companies don't comply with the new time and fee capped when information is requested from homeowners. We are undertaking a robust Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement

22. When freeholders or managing agents will not comply with new regulation, the enforcing bodies will be the courts and Tribunals in England and Wales. All monetised impacts in this annex assume a 100% compliance rate with the reform.

Risks and sensitivities

Sensitivity analysis

23. The analysis above is based on the assumptions that leasehold transactions will remain at current level, and freeholders or managing agents who currently charge fees below the proposed £200 + VAT cap will continue to do so.

24. Given uncertainty around individuals' behaviour following the reform, we provide sensitivity analysis, which sets out what the maximum and minimum costs and benefits could look like under difference scenarios. The sensitivity analysis is based on the following:
    - Scenario analysis where annual leasehold transactions may increase over the 10 years of costing due to it being easier and cheaper to sell for some.
    - Analysis on a potential behaviour impact where those who would charge fees below the £200 + VAT cap increase their fees to the cap.

25. The resulting calculations show that a 10% cumulative increase in transactions each year would increase the value of decreased fees by £44.9m to an overall figure of £126.4m.

26. There is the possibility of an indirect behavioural impact where those freeholders/ managing agents who currently charge less than £200 + VAT may choose to increase their costs to the new cap. The potential gain for this group can be calculated by taking the median difference between the cap and fees charged under the cap and multiplying it by the estimated number of transactions that previously had fees charged under the cap.

27. In this scenario, the average gain per transaction is £77 + VAT, which when multiplied by the estimated 87,727 transactions that fall under the fee cap, provides an overall gain of £57.8m to freeholders/managing agents. In this scenario, the overall cost to businesses is £27.4m where the cost of £81.4m from for freeholders/managing agents charging above the cap is somewhat counteracted by the £57.8m gain from those charging below the cap increasing their fees to the level of the cap. However, given this represents an indirect transfer from leaseholders to freeholders/managing agents, the net benefit and direct cost to business remain the same as the central scenario.

Switching Analysis

28. Throughout the technical annexes, we have looked to use switching analysis to consider how great the monetised value of non-monetised benefits would have to be for the benefits of the policy to equal its costs. As the net-present social value of this policy area is already zero, switching analysis has not been done.

Annex 8: Service Charge Transparency

The Bill will require landlords to provide leaseholders in England and Wales with minimum levels of financial and non-financial information, including greater rights to obtain information on request, so that they may better understand the costs they pay and are better informed to decide whether to challenge the reasonableness of these costs.

Description of services charges policy

1. Service charges are classified as either "fixed" or "variable". Individual leases will set out whether leaseholders are required to pay a fixed or variable charge, as well as what services landlords will provide as part of that charge. Leases with fixed service charges will specify the amount that leaseholders have to pay but have no right to challenge the level of the charge in an appropriate Tribunal. In contrast, leases with variable service charges will not include the specific cost leaseholders must pay at the point of signing or for the duration of the lease. Variable charges are more common than fixed charges as it allows the landlord greater flexibility to recover all costs. The overwhelming majority of leases also require landlords to provide service charge accounts, or a summary of these accounts, to their leaseholders within six months of the end of the reporting year.

2. Leaseholders who pay variable service charges also enjoy other statutory protections. As indicated above, the law is clear that variable service charges must be reasonable. Individual service charge demands must be in writing and be accompanied by details of the landlord's name and address, as well as a summary of rights and obligations. If a landlord's address is outside England or Wales, the demand must contain an address in England or Wales which can be used to send notices to the landlord. Leaseholders may also ask for a summary of the service charge account for the last accounting year or, if accounts are not kept by accounting years, the past 12 months. Leaseholders also have the right to inspect documents relating to the service charge to provide more detail on the summary. Service charge money must also be held on trust by the landlord.

3. Landlords who charge variable charges are also expected to comply with the Royal Institute of Chartered Surveyors' "*Service charge residential management Code and additional advice to landlords, leaseholders and agent (3rd edition)*".[122] Formally approved via statutory instrument by the Secretary of State,[123] this Code sets out key expectations and good practice for landlords and managing agents in dealing with tenants of residential leasehold properties in England, and can be used in evidence where there are disputes which require resolution in the First-tier Tribunal or Courts. The first version of the code is approved in Wales.

4. Although most leases require landlords to provide information to leaseholders on what their service charge pays for, many leaseholders find the presentation of service charges difficult to understand, and they are often left unclear about how the service charges were calculated and whether costs justified. As noted, landlords will hold more information about the property or the maintenance

[122] https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/real-estate/service-charge-residential-management-code-3rd-edition-rics.pdf

[123] https://www.legislation.gov.uk/uksi/2016/518/pdfs/uksi_20160518_en.pdf

work for the building compared to the leaseholder. Providing limited information on costs which do not allow leaseholders to sufficient understand the required payment is an example of asymmetric information. This means that high service charges without reasonable service can be demanded of leaseholders, driven by power imbalances that limit leaseholders' ability to challenge such costs.

5. The Bill will introduce **a standardised service charge demand form,** with the Secretary of State (and Welsh Ministers in Wales) taking powers to enable the detail to be set out in secondary legislation. This will set out the minimum amount of information that must be provided by landlords. This implements a recommendation made by Lord Best's Regulation of Property Agents working Group report[124], and reflects and builds on the requirement in the RICS Service Charge Code that: "All service charge demands should be clear, easily understandable, relate to available budget estimates or actual accounts and be served in accordance with the lease" (Section 7.7). This change will require landlords and managing agents to review and potentially adjust the system/ software they use to comply with the new regulation, bearing initial upfront costs which may be greater for landlords/ management companies relying on older processes.

6. The Bill will also mandate the **provision of an annual report within one month of the end of the accounting period determined by the lease**. The Secretary of State (and Welsh Ministers) will have powers to prescribe information that landlords must provide in relation to each accounting period. This is all information (regarding the management, maintenance, and improvements to the buildings) that the leaseholder is entitled to receive as they (the leaseholder) ultimately pay for it. This report may be served or integrated within the preceding provisions

7. **The above proposals will be subject to extensive consultation with landlords, managing agents and leaseholders before it is finalised and introduced through secondary legislation.** This will include whether the provisions will apply to landlords who charge both fixed and variable service charges. Most landlords will have much of this information already available. However, there may be some landlords, for example, from smaller properties who might not have easy access to some specific requirements (e.g. major works plans) on the grounds that they may not have planned maintenance plans in place. For most landlords and managing agents, the first-year costs will be higher due to the initial process of gathering and sending the required information out, but in subsequent years the costs will be lower and absorbed as business as usual, once the process becomes more efficient.

8. The Bill will also extend existing leaseholder rights by **compelling landlords to provide specific information to leaseholders on request**. This expands on existing provisions that apply only to financial information, where leaseholders are entitled to receive a summary of costs on their service charge, and to inspect documents that make up that charge. **This provision goes further by ensuring that landlords provide other key documents, principally related to the condition of the building where they have been produced. The full list of information would be set out in secondary legislation** and follow consultation**.** Examples might include an asbestos survey, a structural survey, recommended plan of works, contracts with suppliers carrying out works to the building**.** As noted above, most if not all landlords/managing agents will have access to much of this information, as a lot will be necessary to discharge their functions in managing and maintaining a building. The cost to the landlord will depend on the nature of the demand from the leaseholder (e.g. whether a request for one document or multiple documents) and the ease by which the landlords can obtain the information (e.g. whether the report is in electronic form). We are proposing that landlords may

[124] Regulation of Property Agents: working group report - GOV.UK (www.gov.uk)

make a small charge to provide this information should they wish.

9. In addition, the Bill will introduce a new provision so that landlords must provide a **minimum amount of information on building insurance to leaseholders.** For the vast majority of leaseholders this will be on an annual basis, although we are aware that some landlords (mainly in the social housing sector) renew their building insurance policy on a less frequent basis. Landlords will need to provide more detailed information on: i) the policy that was purchased; ii) the procurement process they undertook to procure the insurance and iii) a declaration of any possible conflicts of interest. **Further details will be set out in secondary legislation**. We also propose to set out in secondary legislation any types of leaseholder properties for which this obligation does not apply.

10. Almost all landlords have an obligation to insure the common parts of buildings (including external structure) for which they are responsible. Furthermore, leaseholders are also entitled to see – on request – a written summary of the building insurance and to inspect other related documents. This is reinforced by the RICS Code of Practice, which reaffirms the need to ensure key insurance information is available. These new proposals will have the effect of making sure that the landlord proactively provides a lot of the information that they already have, while ensuring that even more detail is available on request (such as the full policy wording of documents).

11. To ensure all leaseholders, regardless of their lease rights, receive financial information in a timely manner, we intend to make it clear that all **service charge accounts** – both existing and future – **must be provided within six months of the end of the previous accounting period that it covers, regardless of the lease terms**. We will take a power that would enable the Secretary of State (and Welsh Ministers) to require that service charge accounts to be broken down into specific categories to enable the leaseholder to clearly understand specific components. This will align with the provision on annual reports (set out above).

12. Most landlords already provide service charge accounts in line with the lease arrangements, and this is the expectation set out in the RICS Code of Practice. Anecdotally, we have heard that the level and timeliness of information may vary. This will be a new provision which may override some leases and will place a new obligation for some landlords. However, some landlords will be expected to provide detailed financial information for the first time.

13. While the focus is on leaseholders, some tenants in social housing also pay service charges (albeit for a limited number of issues) and are subject to the service charge regime that we are seeking to amend. Some provisions will not apply to them – for example some rights to receive information on the building - but these will be set out in secondary legislation.

14. Finally, we intend to ensure leaseholders are provided with more, and better quality, information about the variable **administration charges** they may be liable to pay should they make an application to the landlord/managing agent. All landlords and managing agents will be required to provide information on their administration charges in a prescribed manner, and to set out the process in cases where costs cannot be determined immediately. This builds on the RICS Service Charge Code, which already requires managing agents to provide a basic summary of their charges for duties outside the scope of their annual management fee to leaseholders on request (section 3.5). The cost to the landlord in complying with this request should therefore be small and depend on the existing arrangements that landlords already have in place.

Summary of major impacts

16. Table G1 sets out the breakdown of costs and benefits associated with legislation standardising and improve the information delivered to leaseholders through service charges.

17. The main benefits of the reform are **fairer treatment** & **increased transparency** for leaseholders, **better value for money for the services delivered,** given leaseholders' **increased ability to scrutinise and challenge costs** which seem unfair or unreasonable**.** This will lead to **a greater sense of control contributing to improved wellbeing and reduced stress.** The main costs include **implementation costs** for freeholders, which may be passed through to leaseholders, and **increased legal costs given the anticipated short-term rise in complaint cases** being brought forward as service charges become more transparent.

Impact	Value (M)	Group Impacted	Direct/Indirect
Transfers			
Reduced excess fees	Non-monetised	Freeholders / Managing Agents to Leaseholders (Businesses)	Indirect
	Non-monetised	Freeholders / Managing Agents to Leaseholders (Non-Businesses)	Indirect
Increased service charges costs to be repaid	Non-monetised	Freeholders to Leaseholders (Businesses)	Indirect
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Indirect
Pass through	Non-monetised	Freeholders to Leaseholders (Businesses)	Indirect
	Non-monetised	Freeholders to Leaseholders (Non-Businesses)	Indirect
Benefits			
Fairer treatment / increased transparency	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Better value for money for leaseholders, given leaseholders' increased ability to scrutinise and challenge costs which seem unfair or unreasonable	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Improved wellbeing and reduced stress, given greater control over ability to challenge overcharges	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Reduced leaseholders' time spent on complaints	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Implementation costs	Non-monetised	Freeholders	Direct
	Non-monetised	Managing Agents	Direct
Legal costs	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
	Non-monetised	Freeholders	Indirect

Short-term increase in caseload/complaints	Non-monetised	Courts	Indirect
Total Benefits	**Non- monetised**		
Direct Benefits	**Non- monetised**		
Direct Benefits to Business	**Non- monetised**		
Total Cost	**Non- monetised**		
Direct Cost	**Non- monetised**		
Direct Cost to Business	**Non- monetised**		
Total Net Benefits	**Non- monetised**		
Direct Net Benefits	**Non- monetised**		
Direct Net Benefits to Business	**Non- monetised**		
EANDCB	**Non- monetised**		

Detail of leaseholder impacts

Fairer Treatment & Increased Transparency

18. The reform mandates increased transparency from landlords on fees charged to leaseholders. This should reduce unfair treatment of leaseholders by freeholders due to a reduction in information asymmetry. Leaseholders will have a better understanding of the fees that they have been charged, as a result of this change. We expect that this will create more leaseholder, landlord and managing agent engagement, as well as creating trust with the leaseholder (as there is now less reason to distrust the landlord). This impact is non-monetised given the challenge of quantifying perception of fairness, in line with both the Green Book and DLUHC appraisal guidance.

19. Driving up transparency of service charges will present better value for money, given leaseholders' increased ability to scrutinise the costs they pay, and the work carried out in exchange for these costs, and challenge costs which seem unreasonable. Leaseholders will have a greater sense of control in ensuring their service charges are reasonable and fair. They will likely feel better able to manage their bills and to seek justice when things go wrong. As mentioned in section 1.2, evidence suggests many leaseholders do not find their service charge provide value for money and are worried about being overcharged or paying for poor services. Moreover, the transparency and ability to challenge costs are likely to lead to service improvements and greater economic efficiency.

20. There is evidence suggesting that greater sense of control has positive impact on one's wellbeing. We also anticipate that leaseholders will experience reduced stress levels in relation to being overcharged. In the longer term, we anticipate there will be less need to complain about service charges, as the costs will be clear and transparent, and this will save time for leaseholders.

Greater value for money

21. We expect freeholders to be held more to account as a result of the reform, as freeholders will no longer be able to overcharge by hiding unfair elements of services charges behind opaque reporting. This may lead to reduction in service charges or obtaining greater value for money for the costs incurred. Whilst leaseholders' complaints and stakeholders report suggest that service charges have significantly increased over the last years (one report suggesting 25% increase), it is not possible to conclude that all costs are due to overcharging, as other factors (e.g. inflation) will impact costs. The size of any potential overcharging will vary, as some freeholders will carry out best practices through

following RICS guidance and not overcharge. We do not have an indication on the level of overcharging (and therefore how much the charges might reduce by) or the proportion of freeholders / managing agents that might overcharge. As such, this is non-monetised.

Increased Service charge costs to be repaid

22. The reforms should see an increased amount of service charge costs repaid to leaseholders, as we expect a short-medium term increase in both the caseload and the number of cases where the Tribunal requires service charge monies to be returned. We do not have data on the increased number of cases, the proportion where compensation was ordered by the courts, nor the expected amount of compensation received. As such, this cost is non-monetised.

Potential Pass Through

23. Pass through is a cost on leaseholders associated with increased service charges, since freeholders and/or managing agents are likely to pass through the administrative costs of the suggested reform onto their tenants. This cost will likely be passed onto leaseholders through increased management fees. We do not have an estimate what proportion of costs will be passed through, and the total costs remain non-monetised. As such, the cost of pass through is non-monetised.

Legal Costs

24. We expect there to be at least a short to medium term increase in legal challenges due to increased transparency from the reform, with leaseholders seeking redress from landlords who either fail to comply with the new standard or are considered to be overcharging. As such, the associated legal costs will increase. These costs include both representation and possible challenge fees. We do not have information on the increased caseload – therefore, this cost is non-monetised.

25. There is interaction with the reform to legal costs regime (Annex 5), which means that while leaseholders' legal costs could increase due to bringing more cases to court, leaseholders may also be able to claim some or all their legal costs back from their landlord if they won the case at Tribunal.

Detail of business impacts

Freeholders impacts

Implementation costs

26. There are costs associated with implementing the new reforms. These costs can be viewed as a combination of the time cost associated with implementation (e.g., time to gather additional information and time to present additional information, additional admin time), both as a one off and ongoing cost, combined with the capital cost of carrying out the reforms (e.g., storage costs, costs of updating IT systems, postal costs, electricity costs, etc.). Implementation costs will vary depending on the current practice of the freeholder, with implementation costs likely lower for those following best practice as outlined by RICS. We do not have requisite information regarding the proportion of freeholders who currently manage their properties in line with the RICS standard or what the relative change required would be – i.e., what new processes they would have to implement and how this will monetarily affect them. As such, this cost is non-monetised.

Legal Costs

27. Freeholders will also see an increase in legal costs due to the increased caseload brought by leaseholders following the reform. While we expect the increased accountability would improve service standards, we'd still expect, specifically in the shorter term a spike in court cases, as leaseholders would be able to better scrutinise costs and be less deterred to challenge their landlords in costs. We expect that in the long run the number of cases will reduce given the increased transparency. As with leaseholders, we do not know what this caseload will be, so this cost is non-monetised.

Increased Compensation Payable

28. As described previously, the reforms should see an increased amount of compensation payable by freeholders. As we do not have data on the increased number of cases, the proportion where compensation was ordered by the courts, nor the expected amount of compensation payable, this cost is non-monetised.

Managing agent impact

Implementation costs

29. Managing agents will face the same sort of implementation costs to freeholders described previously. We also do not have the information regarding the proportion of managing agents who report in line with RICS guidance, or the relative change required for those not following best practice. Therefore, this cost is also non-monetised.

Detail of public sector impacts

Increased Cases at First Tier Tribunal

30. We expect an increase in caseloads at the First-tier Tribunal (and Leasehold Valuation Tribunal in Wales) in the short-medium term, due to the increased transparency from the reform, as more homeowners will now be seeking redress from landlords who either fail to comply with the new standard or are considered to be overcharging. This comes with costs to local authorities who are also freeholders. We expect that in the longer-term there will be less reasons for homeowners to bring cases to court, as the system becomes more transparent and balanced, and service standard improve due to increased accountability of the landlord. We do not have information on the scale of the anticipated trends in caseload, or the costs that are associated with it. As such, this cost is non-monetised.

31. We are undertaking a robust Justice Impact Test and New Burdens Assessment to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement

When freeholders or managing agents will not comply with new regulation, the enforcing bodies will be the First-tier Tribunal in England and Leasehold Valuation Tribunal in Wales. The County Court will enforce any Order of the Tribunal that is not complied with.

Risk and sensitivities

Assumptions

32. The most significant assumption is that leaseholders need further clarification of their service charge bill and are willing to accept a small short-term increase in their service charge in return for better quality information. There is a wealth of evidence, detailed in section 1.2 as well as from focus groups commissioned by the department [add reference], indicating leaseholders are lacking information and clarity around their charges.

33. Another assumption is that leaseholders will be aware of the new obligations on landlords, taking advantage (where appropriate) of the new rights for additional information, and being more confident in challenging unjustified fees. A campaign to increase awareness of the reform is planned to be taken alongside the Bill.

34. Finally, we assume that the enforcement measures are an effective deterrent.

Risks

35. The main risk would be the Secretary of State (or Welsh Ministers) failing to get the form right and/or imposing a short lead-in time to make adjustments to their systems. This will result in increased cost with little added value for leaseholders which, in turn, would fail to change the prevailing culture and landlord behaviour would not change. Reasonable doubts could also be raised about the capacity of both the First-tier Tribunal and Leasehold Valuation Tribunal to deal with the inevitable increase in cases in a timely manner. We will be consulting extensively before setting out the detail of the reform in secondary legislation.

36. There may also be a cost to leaseholders. Landlords and managing agents will need to review their processes and software systems to ensure that they can collect and disseminate all the required information in a timely manner. This may result in an increase in ongoing management costs to leaseholder, beyond the one-off implementation costs mentioned above. However, this might be offset by: i) more efficient processes being put in place; ii) lower costs of going to the First-tier Tribunal an Leasehold Valuation Tribunal as more landlords comply with the new obligations.

Switching analysis

37. Throughout the annexes we have looked to use switching analysis to consider how great the value of non-monetised benefits would have to be for the benefits of the policy to equal its costs. As all impacts in this section are non-monetised – this is not necessary.

Annex 9: Banning commissions for Landlords, Freeholders and Property Managing Agents in building insurance placements

The Bill will ban building insurance commissions from being passed on as a cost from the placer and/or manager of insurance to the leaseholder, ensuring that the latter is not subject to unfair inflated costs. The provision will apply to both England and Wales.

Description of policy

1. There has been a sharp rise in building insurance charges for multi-occupancy residential buildings over the recent years (125% between 2016 and 2021), driven in part by more severe fire risks identified after the Grenfell tragedy and subsequent reduced competition in the market[125]. These increased costs have brought to prominence concerns about misaligned incentives where some freeholders (FHs) and managing agents (MAs) are taking a proportion of the broker commission for work to undertake the policy. This means that MAs/FHs are currently incentivised to select the insurance premium that offers highest commission for them, rather than best value for money for leaseholders. The rationale for intervention is to remove these misaligned incentives.

2. There are related issues around asymmetric information. MAs and FHs often pass on costs as part of opaque service charges which leaseholders do not have sufficient information to challenge. The policies look to remedy this by requiring MAs and FHs to clearly outline the costs associated with placing insurance in service charges which will allow leaseholders to more effectively challenge high or unreasonable costs (see Annex 8 on this issue). The new provision will ban building insurance commissions and other forms of remuneration from being passed on as a cost from the placer and/or manager of insurance to the leaseholder.

3. We will require any charges related to arranging and managing building insurance placements to be charged through a separate transparent handling fee. Detail on how this handling fee will be calculated and what activities it should cover will be set out further in regulations, however, it will need to be commensurate with the work and time undertaken to place and manage the insurance. It will be detailed as part of the service charge to increase transparency (see Annex 8 above) and leaseholders will be allowed to challenge what they see as an unreasonable charge.

4. Throughout this analysis we are concerned with the actors responsible for arranging/purchasing, managing, or charging the cost of buildings insurance to leaseholders through a service charge. We have defined this as the placer and/or manager of buildings insurance. The most common actors involved in this process are freeholders (who may also be the landlord placing the insurance) and the managing agent who is appointed by the freeholder/landlord.

5. The main policy objectives of this intervention are to ensure landlord, freeholder or managing agent **remuneration to place and manage buildings insurance policies is commensurate with the work undertaken and to adjust the incentives of the placer/manager of insurance**. **By decoupling their remuneration from the total value of the insurance policy, the placer/manager of insurance will be incentivised to purchase insurance that represents good value for the leaseholder, rather than to maximise their own benefits.**

[125] FCA: Report on insurance for multi-occupancy buildings (September 2022)

6. The policy also seeks to **enhance the effectiveness and efficiency of enforcement action** - by splitting out the remuneration of the 'placer/manager of insurance' so that commissions are replaced with a transparent fee, and by giving leaseholders greater access to information, they will be able to make a judgement on the cost of the insurance policy and the handling fee, and decide whether to challenge either element. Finally, it aims to make the placing and/or managing of insurance **more competitive, more affordable and of a higher standard.**

Summary of major impacts

7. Table H1 sets out the breakdown of costs and benefits associated with legislation **banning building insurance commissions from being passed to the leaseholder through the service charge and replacing them with a transparent fee.**

8. Where possible these have been monetised and clearly referenced as to whether they are direct or indirect. All impacts in table 1 are presented in 2019 prices with a present value of 2025 over a 10-year appraisal period. The net present social value of the policy is calculated at -£22.6 million (excluding familiarisation costs which are estimated for the entire Bill).

9. The main costs include those of familiarisation with the requirements of the policy, the set-up costs of new systems for tracking time to place and manage insurance (for the purposes of calculating the insurance handling fee) as well as the on-going costs of tracking time. Although freeholders and landlords are mentioned separately throughout, for this analysis where impacts on freeholders are estimated, these are assumed to also capture landlords given freeholders can also be landlords. Where landlords are not also freeholders (and not captured in freeholder numbers), we think that it is unlikely that they would be involved in placing the insurance of a building, as this will be done by the freeholder/ managing agent, and they are therefore out of scope of policy impacts.

10. The main benefits include those of transparency and fair treatment for leaseholders. This could lead to better engagement between leaseholders and their agents, as well as potential downward pressure on insurance costs. As we expect some commissions taken in the past, to reflect work done to place and manage the insurance. the cost will be replaced by insurance handling fees which will be commensurate with work done and will be transparent and easier to challenge. In cases where commissions taken does not reflect work undertaken these costs will fall.

Table H1: Total Costs and benefits

Impact	Value (M)	Groups impacted	Direct/indirect
Transfers			
Reduced cost of insurance where the insurance handling fee is lower than the commission	Non-monetised	Landlords, Freeholders, Managing Agents to Leaseholders (Businesses)	Direct
	Non-monetised	Landlords, Freeholders, Managing Agents to Leaseholders (Non-Businesses)	Direct

Benefits			
Increased transparency and fairer treatment for leaseholders from moving from a commission to a fee system	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Building insurance which provides better value to leaseholders (instead of insurance which is decided based on the highest commission for the placer)	Non-monetised	Leaseholders (Businesses)	Indirect
	Non-monetised	Leaseholders (Non-Businesses)	Indirect
Costs			
Transition implementation costs from setting up and using systems for tracking time to calculate time taken to place and manage insurance	£3.6	Landlords, Freeholders and Managing Agents	Direct
On-going costs of tracking time	£19	Landlords, Freeholders and Managing Agents	Direct
Total benefits	Non-monetised		
Direct benefits	Non-monetised		
Direct benefits to business	Non-monetised		
Total cost	£22.6		
Direct cost	£22.6		
Direct cost to business	£22.6		
Total net benefits	-£22.6		
Direct net benefits	-£22.6		
Direct net benefits to business	-£22.6		
EANDCB	£2.6		

Assumptions:

11. Unless otherwise stated, assumptions below are based on intelligence from industry experts and advice from our external consultants, Adroit. The modelling takes account of both England and Wales.

Detail of leaseholder impacts

Reduced cost of insurance where the insurance handling fee is lower than the commission:

12. Some leaseholders, who were previously paying an unreasonably high commission to their placer of insurance, not commensurate to the work carried out, could see a reduction in their overall cost of insurance. Conversely, placers of such insurance would see a reduction in their income. However, this has not been monetised due to the difficulty of measuring the existing aggregate differential between the amount of commission taken relative to the economic value of the work undertaken by the placer and/or manager of insurance when placing insurance. As the policy is further developed through secondary legislation supplemented by consultations covering the activities and time involved in placing building insurance, these impacts may become possible to monetise.

Increased transparency and fairer treatment for leaseholders from moving from a commission to a fee system:

13. The policy repairs a market failure of unequal information around fees which can lead to unfair treatment of leaseholders by the placer and/or manager of insurance. More transparent pricing will create heightened levels of trust with the leaseholder and their placer/manager of insurance as they will be able to understand fully the services provided and the associated prices. This might also create increased engagement with the leaseholder and placer/manager of insurance.

14. The policy will also improve leaseholders ability to challenge insurance costs passed on to them by the placer and/or manager of insurance. We would also expect it to incentivise those placing insurance to consider a range of options before taking out an insurance policy. As the placer and/or manager of insurance would not be able to pass on the commission pricing to leaseholders, the placer/manager of insurance will likely shop around for brokers when arranging building insurance to get the best value for leaseholders.

15. The intervention will likely lead to improved wellbeing for leaseholders. Anecdotally, we have heard from leaseholders whose building insurance costs have multiplied quickly about the level of stress it has caused them, as well as the financial burden they suffered. Banning commissions from building insurance policies will provide leaseholders with the assurance that government is intervening to make buildings insurance costs fairer, more transparent and easier to challenge.

Building insurance which provides better value to leaseholders (instead of insurance which is decided based on the highest commission for the placer)

16. With building insurance commissions banned, incentives for policy placers/ managers will shift to benefit leaseholders. Alongside greater transparency over the cost, which enable leaseholders to challenge unfair costs more easily, the policy change will likely result in building insurance policies which are more affordable and of better quality, providing better value for money to leaseholder.

Detail of business impacts

Transition implementation costs

17. Implementation costs apply only to the placer and/or manager of insurance who are currently on a commission-based remuneration and would make a switch to charging a transparent fee following the ban. It measures the cost of implementing the new reforms. This can be viewed as a combination of the cost of setting up/accessing a formal time recording system per relevant member of staff and the time required to set up and train relevant staff in using a time recording system.

18. Transition implementation costs are assumed not to apply to:

- Landlords or Freeholders that are also leaseholders via some form of communal freehold ownership vehicle. It is assumed that this will apply to a very high proportion of the under 11m stock of properties[126]

- Social Landlords and Freeholders. Comprehensive information on current practices in the market is not available, however, FCA (2022) found that in around 30%[127] of building insurance placements, no broker commission was shared with the managing agent. Using our knowledge as to how the market operates, we have assumed for this analysis that this captures all social registered landlords (SRLs) who are believed to not take commissions, because of this only private building stock is in scope.[128]

19. Estimating implementation costs requires an understanding of what the current industry practice is and what proportion of FHs and MAs currently operate on a commissions-based system. There is very limited information available on these aspects. Furthermore, the policy will require actors to demonstrate, if challenged, the 'reasonableness' of a transparent fee. However, the policy is not prescriptive at this stage on how time should be recorded by placer and/or manager of insurance and how reasonableness of the fee should be demonstrated. This makes it challenging to model the change in behaviour and the corresponding implementation costs. However, it is reasonable to assume that larger organisations, managing larger portfolios of property, will probably set up, if they don't already have one, a formal time recording system. At the other end of the spectrum, small organisations managing a small number of properties or just one property, will probably not do so, but will instead adopt a more informal process, which may be no more than estimating the time spent on insurance matters, at the point at which they prepare their overall property management invoice. The former will involve time and cost over the current system, the latter may well not involve any material additional time/cost.

20. The cost of a time recording system could vary by the size of the organisation. For this reason, we split the number of MAs and FHs into small, medium, and large organisations using indicative figures from ONS sector data for financial services.

21. 870 MAs manage the stock of all buildings (derived from ARMA estimate). There are an estimated 426,200 FHs attached to all residential properties. We further assume that half of these own properties which are out of scope for reasons which could range from them being owned by housing associations or properties without flats e.g. houses. The 213,100 FHs for in scope properties are further adjusted down to remove those FHs that are also leaseholders – we assume this is the case for 30% of FHs managing under 11m buildings and 5% managing 11-18m buildings, and none of those managing 18-30m and 30m+ buildings. We make further adjustments to remove those FHs who use MAs for placing their building insurance as these numbers should already be covered in the MA calculations. We assume 20% for under 11m buildings, 30% for 11-18m, and 50% each for 18-30m, and 30m+ use MAs for placing insurance. This provides us a c.120,700 figure of relevant FHs who are in scope and will place their own building insurance.

[126] This has been checked with a small number of stakeholders

[127] https://www.fca.org.uk/publication/corporate/report-insurance-multi-occupancy-buildings.pdf

[128] This is assumed based on our understanding of how the market operates and engagement with a number of stakeholders.

22. We have made assumptions regarding the proportion of organisations that will set up formal time recording systems. As noted in para 11, the assumptions below are based on work done by the Department policy officials and industry experts:

- 90% of the 870 MAs are assumed to take a commission and of these 90% are expected to set up some form of time recording system.
- 90% of the 10,200 FHs managing over 11m buildings are assumed to take a commission and of these 90% are expected to set up some form of time recording system.
- One-third of the 110,400 FHs managing under 11m buildings are assumed to take a commission and of these one-third are assumed to set up formal time recording systems.
- This provides a figure of c. 20,600 FHs who are going to implement systems for tracking time. The remainder are either not affected by the proposed policy because they do not take a share of the broker's commission or are managing only one or two buildings such that they are assumed to instead adopt a more informal process, no more than estimating the time spent on insurance matters, at the point at which they prepare their overall property management invoice, which is accounted for under the counterfactual.

23. We assume 10 FTEs at small firms, 25 at medium firms, and 50 at large firms for MAs and FHs managing over 11m buildings while we assume 1 FTE for a small and 3 FTEs for a medium FH managing under 11m buildings. Using the FTEs assumed at each size of firm, we make assumptions regarding the average proportion of staff within each type of actor organisation, by size, that will be involved in formally recording time spent on insurance matters, and hence will need to use a recording system. These are captured in table H2 below.

Table H2: Assumed proportion and numbers of Employees that will need to use a time recording system across organisation size

	Small	*Medium*	*Large*
Managing agents (derived from ARMA estimate)	*30%*	*20%*	*20%*
	3	*5*	*10*
FHs that manage their own stock 11m+	*30%*	*20%*	*20%*
	3	*5*	*10*
FHs that manage their own stock under 11m	*100%*	*100%*	
	1	*3*	

24. Each organisation is assumed to comprise of three grades of staff: senior manager, project manager and administrator. We further assume that in small firms, 10% of FTEs are senior managers, and 50% are project managers, in medium firms these ratios are 15% and 50%, and in large firms these are 20% and 50%, respectively.

25. Salary costs are taken from the ONS Annual Survey for Hours and Earnings (ASHE) 2021[129]. For senior managers we use the median hourly pay for SOC code 1122 which relates to production managers/directors in construction which is £21.09 per hour. The wage for project managers is based on the median hourly pay for SOC code 2455 for construction project managers which is £19.98. The wage for admin staff is based on median hourly pay for SOC code 4159 which is £11.80. We apply an uplift of 1.3 to adjust this for non-wage costs which provides per hour costs of £27, £26, and £15 for senior managers, project managers, and admin staff respectively.

26. Given that cost of accessing/ setting up a time recording system represents a large proportion of total transition costs, and the uncertainty around outcomes, sensitivity analysis is carried out later on this aspect to reflect a range of potential unit costs. We also assume some ongoing costs for tracking time which are covered in the next section. The central scenario assumes that all except small organisations purchase a timesheet system which involves a one-off payment while small organisations are assumed to still set up a basic excel spreadsheet.

27. For the central scenario, small organisations are assumed to set up their own in-house timesheet which takes 2 hours at £42 per hour. This is a blended wage which is an average of salary costs (based on ASHE data and an uplift for non-wage cost) and charge out rates. Charge out rates reflect the cost of an external company to undertake the work and given the high degree of outsourcing in the sector, an average of salary costs and charge out rates is considered reasonable. We assume that both administrators and project managers would be involved in this work and so take an average of the blended wage for these professions.

28. Medium organisations are assumed to purchase a budget system with up to 3 users with a one-off cost of £195, whereas large organisations purchase an online timesheet system with unlimited users, costing £500[130].

29. There is a high degree of uncertainty involved in these estimates given lack of data on current practices and therefore shifts required because of the policy. These assumptions will be tested with the sector when the secondary legislation is laid.

30. In addition, to accessing a formal time recording system, we assume that organisations will need to spend time at the outset, organising and communicating the processes to be used internally, and undertaking training regarding use of the chosen system.

31. We assume that project managers and admin staff will be needed to do this. For FHs managing over 11m buildings, project managers will need to spend 3 hours for setting up and 0.5 hours for training, while admin staff will need to spend 8 hours of set up time and another 3 hours for training. It is assumed that no additional time for setting up and training is expected to be needed for FHs managing under 11m buildings. These are monetised by combining the time requirement with wage rates based on ASHE data. These values are then scaled up to cover the number of

[129] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/earningsandhoursworkedallemployeesasheta ble14

[130] Based on the Office 365 professional app with unlimited users:
https://www.ignatiuz.com/products/office-365-timesheet-app/#:~:text=Professional%3A%20The%20Professional%20variant%20of,Timesheet%20App%20costs%20%24499%20annually.

landlords, FHs, and MAs that are assumed to set up some form of time recording system, whether in house or external.

32. Transition implementation costs are estimated at £3.6m in the central scenario. The on-going costs of tracking time are estimated in the next section.

On-going costs of tracking time

33. We assume that once actors set up systems (whether formal or informal) they would invest some time in tracking their activities and time. We assume some time is needed per building per annum for this. The number of buildings used reflects the stock of private buildings in England and Wales, covering only those that are managed by actors assumed to currently take commissions as these are the ones who would be changing their behaviour over and above the counterfactual. The buildings are split into those that will be new insurance placements and those that will be renewals. We also scale up to account for change of hands of existing stock as well as new builds (3 years after they are built), assuming that 5% of the existing stock and cumulative new builds change hands each year.

34. Given lack of data, there is uncertainty around how long it would take actors to track time when they move to a fee-based system. Therefore, to reflect this uncertainty we carry out sensitivity analysis on this aspect. In the central scenario, we assume it takes 20 minutes per building per annum to track time for a new insurance and for a change of hands for a new build or an acquisition of a freehold, whereas it takes 10 minutes per building per annum for a renewal, across all building heights.

35. We assume a blended wage of £42 per hour as for transition implementation costs. We assume that both administrators and project managers would be involved in this work and so take an average of the blended wage for these professions. Overall, we estimate an ongoing cost of tracking time of £2.2m per annum in 2019 prices the central scenario, or £19m in present value terms over 10 years.

Detail of public sector impacts

Additional caseload/complaints for redress bodies and courts:

36. We do not expect this policy to lead to a large number of additional cases to the tribunals over and above the counterfactual. Although leaseholders could bring forward cases in regard to the increased transparency and awareness of disproportionate charges, generally we expect the additional burden on courts to be small and for these to be captured within existing cases. Therefore, to remain proportionate these have not been monetised in this Impact Assessment. We are undertaking a robust New Burden Assessment and Justice Impact Test to calculate the net costs of new regulation and will ensure these are fully funded.

Enforcement

37. When freeholders or managing agents do not comply with new regulation, the main enforcing body will be the appropriate Tribunal and the existing route of challenging service charge reasonableness will be available via the court.

Detail of impacts on society

38. The policy is expected to have a positive impact on incentives in the insurance placement market resulting in better quality of information provided to leaseholders as the final customer. Although they won't be able to choose their insurance policy, leaseholders will be better equipped to scrutinise their insurance arrangements and challenge their FH/MA on whether the work done and chosen policy provides value for money. This in turn would put pressure on firms in the distribution chain to manage remuneration practices and conflicts of interest more appropriately.

39. Given the policy involves banning commission costs from being passed on the leaseholder and replacing these with an alternative remuneration mechanism, we do not expect there to be any significant exiting from the market which could impact competition. The policy imposes familiarisation and implementation costs on businesses, but we expect that at least some of these will be passed through into service charges as one-off costs. Furthermore, placing of insurance is just one part of a FH/MA offering and therefore is unlikely to drive actors out of the market.

40. There could be an initial increase in legal cases following the legislation due to greater transparency, however in the long run we would expect case volumes to go down as increased transparency drives accountability and encourages fairer overall outcomes. There could be wider economic gains from this, if the value to society of resolving such cases was lower than the total amount of resource used to resolve them.

Risks and sensitivities

Risks:

41. We assume that there will be one-off familiarisation costs for businesses as they implement the new legislation.

42. There is a risk that landlords, FHs, MAs will adjust their pricing structures to recover any potential loss in revenue. This cost may be passed through to leaseholders either by an increased management fee to manage each individual block, or through higher administration charges when dealing with individual claims. The service charge reforms will drive up transparency of management costs and administration charges, making it harder to hide excessive or unjustified costs.

43. While we have analysis through publicly available information such as the FCA report and have received data from this, there is still a degree of uncertainty in the analysis, because there are gaps in the data to explain the:

    - Lack of data on the structure of market for insurance placement
    - Lack of data on current remuneration practices and systems used in the market
    - Uncertainty in the behaviour of businesses in response to the policy given the policy involves both a ban of one remuneration method i.e. commissions and its replacement by remuneration only through a transparent fee within the service charge.

44. Reasonable assumptions drawing on publicly available data are applied wherever possible alongside consultation with a small number of actors, however large uncertainty remains. These limitations mean that there is a risk of overestimating or underestimating the scope of the policy

impact both in terms of the numbers of actors that will be affected, as well as the magnitude of impact on each actor.

Sensitivity analysis

a. The degree of change needed in systems to switch from commission-based remuneration to fee based remuneration

A low and a high scenario is tested around the central case:

- Low scenario – all those expected to use a time recording system for recording insurance handling time, are assumed to build their own system in-house, using a basic excel spreadsheet. The cost is therefore the time (number of hours) taken to create such a system.
- High scenario – all organisations are assumed to access an online system which involves a cost per person per calendar month (pcm).

The cost of a time recording system varies by the size of the organisation across the two scenarios. Under the low scenario, we assume it takes 2, 4 or 8 hours for a small, medium or large organisation respectively, at £42 per hour (as in the central case) to set up a spreadsheet in-house. Whereas, under the high scenario, we assume it costs an organisation £60 per employee per year (£5 per month) needing to use the online time recording system. This is estimated as a cost of £3.2m (low scenario) and £25.5m (high scenario), in present value terms. The wide range reflects the uncertainty in the system change that will be required to comply with a policy of transparent fee-based remuneration and the associated costs of these systems.

Scenario[131]	Low	Central	High
Assumption	All organisations assumed to build own spreadsheet system in-house	All except small organisations assumed to purchase a timesheet system (one off payment)	All organisations assumed to access online system - cost per person pcm
Net discounted benefits	-£22.1m	-£22.6m	-£44.4m

b. Time spent recording time on insurance activities in the future

A low and a high scenario is tested around the central case:

- In the low scenario, we assume it takes 7.5 minutes per building per annum to track time for a new insurance and for a change of hands for a new build or an acquisition of a freehold, whereas it takes 5 minutes per building per annum for a renewal, across all building heights.
- In the high scenario, we assume it takes 45 minutes per building per annum to track time for a new insurance and for a change of hands for a new build or an acquisition of a freehold, whereas it takes 15 minutes per building per annum for a renewal, across all building heights.

The ongoing cost of tracking time is £1.0m per annum in the low scenario and £4.2m per annum in the high scenario.

[131] The bigger difference in scenarios is between low/central and high. This is because the low/central scenario assumes that either an in-house time sheet system is built or purchased, thus incurring only a one-off cost, whereas the high scenario assumes that organisations of all sizes rent an online system incurring an annual ongoing cost, generating a much larger overall cost. The cost different between a small and medium sized organisation of building an in-house system or purchasing one is assumed to be marginal because the volume of work to build one is assumed to be not much greater than purchasing one.

Scenario	Low	Central	High
Net discounted benefits	-£11.8m	-£22.6m	-£39.6m

Switching analysis

45. As benefits from the policy are hard to quantify ex ante, we have conducted switching analysis to consider how great the value of the non-monetised benefits would need to be for the net present value to equal zero. Table 3 illustrates the monetised benefits that leaseholders in multi-occupancy buildings under 11m and over 11m would need to obtain over the next 10 years in order for the proposed intervention to break even against the estimated costs.

46. **For the policy, the annual benefit for each leasehold dwelling would need to be at least £0.6, in the central scenario, for the net present social value to become £0 – where the costs equal benefits.** We believe that the benefits to leaseholders will exceed these breakeven estimates.

Table 3: Switching analysis (excluding familiarisation costs)

	Total benefit over 10 years	Average benefit per year
Monetary benefit per building[132] needed, on average, to break even	£34.6 (£17.5 - £94.4)	£3.5 (£1.7 - £9.4)
Monetary benefit per leasehold dwelling[133] needed, on average, to break even	£6.1 (£3.1 - £16.8)	£0.6 (£0.3 –1.7)

[132] The stock of buildings in scope include private buildings only (assuming 50% of the total stock is private and 50% social)

[133] The number of leasehold dwellings with flats is taken from: https://www.gov.uk/government/statistics/leasehold-dwellings-2021-to-2022/leasehold-dwellings-2021-to-2022, with an uplift for Wales applied

Annex 10: Technical Valuation Annex

The Valuation Method

1. **Enfranchisement is the process** by which qualifying leaseholders may extend their lease or buy the freehold of their property (either individually for houses, or collectively with fellow leaseholders for blocks of flats). When a leaseholder exercises their right to enfranchise (either extending their lease or purchasing the freehold) they will usually pay a price (known as the premium) to the freeholder. **The premium is the price paid to enfranchise.** The level of the premium reflects the value of the enhanced interest that the leaseholder acquires from the landlord, which will vary from case to case. For example, the valuation of the premium will factor in the terms of the lease, such as the level of ground rent and any rent reviews, the remaining length of the lease, the value of the property etc.

2. **The premium (P) is broken into four elements for the purposes of our modelling.** This is shown in Figure 1 Equation 1 and the key elements are described below.

Figure 1 – Fundamental valuation equation

$$(1)\ P = Term + Reversion - Residual + \frac{1}{2}MV$$

3. **Term:** The net present value of the sum of ground rents over the remaining term of the lease. Sometimes called the 'term'. The rate used to calculate the 'capitalised value' of the ground rents is called the capitalisation rate (β). It is a discount rate and can be considered as the rate of returns on a lump sum that would produce an equivalent income stream. It is based on market conditions alongside valuer judgment and tends to lie between 5%-8%.

4. **Reversion:** the net present value of the property reverting to the freeholder in the future. The rate used to calculate the Reversion Value of the property is a discount rate and can be considered the rate of returns on a lump sum that would produce an investment of equivalent value in the future and is called the Deferment Rate (δ). These rates have historically been subject to valuers' judgement and through negotiation. However, the methodology and values for Deferment Rate were set by the *Sportelli* decision in 2007[134] (4.75% for houses and 5% for flats). The court determined there had to be a significant shift in conditions for it to be successfully challenged.

5. **Residual:** the net present value of the property remaining with the freeholder after the extensions. This can be thought of as what the freeholder still owns after the extension. In the case of buying out the lease (acquiring the freehold) this will be 0. In the case of extensions this is often assumed to be approximately 1% of the total freehold value.

6. **Marriage Value (MV):** The Law Commission defines marriage value as:

Marriage value comprises the additional value an interest in land gains when the landlord's and the leaseholder's separate interests are "married" into single ownership. The aggregate value of those

[134] Earl Cadogan v Sportelli [2007] 1 EGLR 153

two interests held separately is often significantly less than the value of both are held by the same person. The analogy often used is that of a pair of Chinese vases: the vases are worth more as a pair than the sum of their individual values if owned separately. The additional value, where they are owned as a pair, is equivalent to marriage value.

This can be calculated as the difference between the value of the property on the open market post enfranchisement (minus term and reversion) and the value of the property *before the right to enfranchise was created in legislation* (noting this is a different and lower value than the open market value of the property immediately before the right to enfranchise is exercised). The distribution of marriage value is currently prescribed in law to be split 50:50.

7. **When working out the premium, valuers first calculate the 'diminution in valuation of freehold interests' (DVF)** (what the freeholder has lost), then the marriage value, and finally add them together for the premium. This process is shown in figure 2 Equations 2-4, such that:

Figure 2 **– Further valuation equations**

$$(2)\ DVF = Term + Reversion - \delta Residual$$
$$(3)\ MV = Residual + LVpost - Term - Reversion - LVpre$$
$$(4)\ P = \frac{1}{2}MV + DVF$$

Figure 3 – Terms Explained

DVF	Diminution in valuation of freehold interests, the free market value of the freehold
$Term$	Present value of the sum of remaining ground rents discounted by the capitalisation rate (β).
$Reversion$	Net present value of future property value when it reverts to the freeholder, discounted by the deferment rate (δ)
$Residual$	Net present value of the property remaining with the freeholder after the extensions (typically approximately 1% of total freehold property value), discounted by the deferment rate (δ)
$LVpre$	Leasehold value pre-extension otherwise known as the 'existing leasehold interest' (based on valuations before the right to enfranchise existed)
$LVpost$	Leasehold value post extension otherwise known as the 'extended leasehold interest' (based on valuations before the right to enfranchise existed)
P	Premia paid for extensions / acquisition
MV	Marriage value, the difference between the value of the property on the open market post enfranchisement (minus term and reversion) and the value of the property before the right to enfranchise was created in legislation

Calculating average premia and aggregate change in premia

Step 1: Calculate the term by type

9 **The first step is to calculate capitalised ground rents based on regional average ground rents and the capitalisation rate. This was done for every lease length from 0-1000 years and is calculated for**

flats, low value houses, and high value houses, for variable and fixed ground rents, based on the policy and benchmark capitalisation rate.

10 The term is calculated by taking the sum of the net present value of the stream of future ground rents based on term length remaining and the capitalisation rate (β), such that:

$$Term = \sum_{i=1}^{Term\ Remaining} (\frac{1}{(1+\beta)^i} * Ground\ Rent_i)$$

11 The CMA has estimated 778k leases since 2000 that are likely to have variable ground rent clauses. We have assumed in this modelling that there are 900k variable leases. This is based on the CMA estimate of 778k as a proportion of 4.3m stock at the time, which was 18%. Applying the 18% to the latest (4.98m) stock results in a slightly higher figure.

12 We have used a 4-year sample from the EHS (18/19 – 21/22) to smooth year to year fluctuations and to increase the sample size enough to allow a calculation of the average of the most expensive 20% of ground rents and the least expensive 80% ground rents. The sample was sufficient to calculate this for for 3 regional areas (North, Midlands, South).

Note the EHS figures do not distinguish between traditional and modern ground rents. Modern ground rents are a different type of agreement where instead of paying a premium to extend, a higher ground rent is paid instead. This applies only to houses. Some of the houses with high ground rents in the EHS sample could be capturing modern ground rents, but we do not know the extent of these in the population. Modern ground rents will not be capped as part of the reforms, therefore the modelling may be producing an overestimate of the impact.

13 All houses buying their freehold in London are assumed to be high value for the purpose of modelling marriage value impacts and ONS London property prices are assumed. This is likely to lead to an overestimate of the number of high value houses in London, but also is likely to underestimate the average marriage value due to using average property prices. There may also be high value houses buying their freehold outside of London where marriage value would be payable, but these are not captured.

14

15 To calculate the size of the potential ground rent cap, regional median house prices as per ONS estimates were taken, inflated using the OBR March 2023 House Price Index and the cap of 0.1% on house price is applied at the time of enfranchisement. Average house prices from the ONS are taken to represent the FHVP.

16 Capitalised ground rents were calculated separately for fixed and variable ground rents. Variable ground rents were assumed to rise in line with RPI as per OBR forecasts, based on 10-year review periods. The ground rent cap was also assumed to increase in line with HPI to be a proxy for potential house price growth.

17 It was assumed that approximately 82% of those who enfranchise will face fixed ground rents, compared to 18% of variable. This was again taken from the raw CMA figures of variable leaseholds uprated to current EHS leasehold figures. This was done for averages, flats, and house as follows:

Dwellings by GR	Fixed GR	RPI uprated
Flats	78%	22%
Houses	92%	8%
Average	82%	18%

18 It was assumed that the baseline capitalisation rate lies between 5%-8%. The central scenario shows a capitalisation rate of 6% for variable ground rents, and 6% for fixed ground rent leases. Due to the complexity of the issue, several parts of the standard valuation calculation were not included.

a. It was assumed that rent reviews for variable ground rents were standardised to every tenth year. In practice, reviews are more irregular and may have a final end date (e.g. after 50 years).

b. It is assumed that there is no sinking fund (as cap rate) and therefore only a single discount rate is used (6% in the baseline).

c. No tax is assumed to be paid.

d. There is no onerous ground rent adjustment for those whose ground rents exceed 0.1% of the FHVP value. This applies to properties where ground rents are high as a proportion of FHVP value and hence diminish the value of the leasehold interest. In practice this will apply to a small group of properties.

e. There is assumed to be a single (unified) capitalisation rate for all enfranchisements. In practice, we know that the capitalisation rate ranges from 5-8%, For the purposes of the modelling, a single capitalisation rate of 6% is assumed.

Step 2: Calculate residual and reversionary values by type

19 **Step two was to calculate a reversionary value using the deferment rate and property values. The maximum extension period was used alongside the deferment rate to calculate the residual. This was done for all regions and all lease lengths, both policy and baseline extension period and deferment rates.**

20 The reversion is calculated using baseline and policy deferment rates ($\boldsymbol{\delta}$). For the central scenario it is assumed these are set at the Sportelli levels (5% for flats, 4.75% for houses). It is calculated for all years from 0-130+ as:

$$Reversion = \frac{100}{(1+\delta)^{Term\ Remaining}} * (Freehold\ Vacent\ Possession)$$

21 The residual is calculated assuming that each person will do the maximum possible extension (+50 years for original valuation houses and +90 years for flats under the baseline, and <990 years for policy). It is calculated using the same equation as the reversion, but instead of term remaining, the number of years left on lease after extension such that:

$$Residual = \frac{100}{(1+\delta)^{Term\ Remaining\ post\ extension}} * (Freehold\ Vacent\ Possession)$$

22 The reversionary and residual value is calculated based on ONS property prices

Step 3: Calculate average Diminution in Value of Landlords interest (DVF) by type

23 **The DVF is calculated by combining the above two stages such that:**

$$DVF = Term + Reversion - Residual$$

24 This is done for every lease length and for each region, for both baseline and policy options.

Step 4: Calculate average leasehold interest ($LVpre$) and leasehold value post extension ($LVpost$) by type

25 On valuers' advice, the leasehold interest is calculated using a composite unenfranchisable relativity, created by combining the 2016 Savills and 2016 Gerald Eve Relativities. These show the value of leasehold interest compared to value of corresponding freehold for different unexpired terms, assuming leasehold interest is subject to nominal ground rents and exclusive of tenants' rights to enfranchise.

26 The leasehold interest maxes out at 99% for an extension, as the landlord always retains some residual value. When buying the freehold, the residual is 0.

27 The leasehold share post extension is also calculated as $(1 - Residual)$ multiplied by average house prices, added to the residual as calculated in step 2, replicating the process done in real valuation calculations.

Step 5: Calculate average Marriage Value (MV) by type

28 **The MV is calculated by combining the stages above such that:**

$$MV = Residual + LVpost - Term - Reversion - LVpre$$

29 Once again this is done for every lease length and for each region, for both baseline and policy options.

30 Marriage value is only paid on properties which have a term remaining of 80 years or under and are covered under the mainstream valuation basis.

Step 6: Calculate average Premia (P) by type

31 **The premium is calculated by combining the above two stages such that:**

$$P = \frac{1}{2}MV + DVF = \frac{1}{2}MV + (Term + Reversion - Residual)$$

32 Once again this is done for every lease length and for each region, for both baseline and policy options.

Step 7: Calculate the difference in premia

33 A difference in premia is then calculated by subtracting the premia under individual or combinations of policy scenarios from the benchmark scenario, such that a positive number indicated a saving to leaseholders in the premia payable.

34 These changes in premia were calculated for all regions and lease lengths, split by those with variable and fixed ground rents.

35 The central benchmark scenarios are as follows:

Parameters	**Baseline**
Capitalisation Rate	6.0%

Deferment Rate (Flats)	5% (Sportelli)
Deferment Rate (Houses)	4.75% (Sportelli)
Ground Rent Cap	No Cap
Marriage Value	Half paid for <80-year leases
Maximum Extension (Flats)	+90 years
Maximum Extension (Houses)	+50 years

Step 8: Calculate number of extensions and acquisitions

36 The steps above described the method for calculating the premium for a given property price or lease length per region. The next step is to model the number of enfranchisements occurring each year in the baseline, along with the assumed characteristics of those enfranchisements– such as the distribution of lease lengths

37 There is limited data in this area. Estimates are based on Land Registry data. It is assumed that annually there are approximately 38,900 lease extensions, 3,500 properties involved in collective enfranchisements (the collective enfranchisement figure is multiplied by 4.4 flats to arrive at the number of flats that collectively enfranchise). We also have a figure of 15,700 freehold house acquisitions.

38 These are distributed across region and lease length to give an estimate of number of extensions and acquisitions lease length 'bucket'. This leads to an assumption of 1,025 freehold house acquisitions in London. We have assumed that that freehold house acquisitions in London are high value.

39 Further assumptions are made to estimate the number of transactions within these groups that would have a lease with 80 years or less based on lease length distributions in the stock. For lease extensions, the figure is 10,310, for collective enfranchisements the figure is 930 and for high value house acquisitions the figure is 640 (in London). This leads to a total annual estimate of 11,880 per year of transactions where marriage value would be paid.

Step 9: Estimate change in premia due to reforms

40 The distributions described above were used to produce estimates of a total premia change by region and term remaining.

41 This was then summed to give the total annual change in premia by region across extensions and acquisitions

42 In line with the Green Book, these annual figures were then aggregated, discounted at 3.50% per annum over a 10-year appraisal period, and deflated to 2019 prices using the GDP Deflator, based off a 10-year appraisal period of 2025-2034.

43 This method gives an estimation of the change in net premiums over the 10-year appraisal period

44 No annual behavioural impact is quantified, although as discussed in the detailed assumptions section in the IA main body, we have quantified the marriage value impacts for the stock of leases with 80 years or less remaining.

Land Registry Title data project outputs – detailed methodology

DLUHC has linked together various Ordnance Survey and Land Registry sources of data and deliver evidence insights:

Data inputs:

From **Land Registry**, via GDAP:

1. Title Number and UPRN Look Up dataset
2. National Polygon dataset
3. Title descriptor dataset
4. Registered Leases dataset
5. UK companies that own property in England and Wales
6. Overseas companies that own property in England and Wales

From **Ordnance Survey**, via GDAP:

1. Address Base Premium
2. MasterMap topography layer

From **ONS**, via public GeoPortal:

1. Local Authority District Boundaries, names and codes
2. Local Authority to Region lookup

The approach starts by combining the lists of UPRNs recorded in Land Registry's Registered Leases, and Title Number and UPRN lookup datasets.

It uses this combined list to discover:

a. The associated Land Registry title/s, and whether they are Freehold or Leasehold

b. Characteristics of the associated property - such as whether the UPRN relates to a Flat, House or Commercial property, and which building it falls within.

The result is:

a. a single list of all properties (UPRNs) contained within buildings, and their associated Freehold and Leasehold titles

b. For leasehold properties, information on the age and length of leases

The Land Registry's data is essentially a simple list of registered titles. It does not include the relationships between freehold and leasehold titles.

For this analysis, we have tried to define this relationship by looking for freehold and leasehold titles at the same location and determine the spatial relationship between them – e.g. where do freeholds fully contain or overlap leasehold title extents?