

Minutes for CLLS Land Law Committee meeting on 17 September 2025 at 12.30pm in person at Hogan Lovells and via Teams

Attendees: Jackie Newstead (Chair)
David Hawkins (Vice Chair)
Andy Bruce (part)
Chris Cartwright
Adrian Footer
Nick Harris
Nick Barnes
Katherine Lang
Matt Hooton
Omer Maroof
Henry Moss
Anton Newton
Julian Pollock
Patrick Williams
Emma Willoughby

Apologies: Warren Gordon (Secretary)
Alison Hardy
Kevin Hart (from the CLLS)
Caroline DeLaney
Tom Goldsmith
Franc Pena
Laura Uberoi
Simon Kenley
Paul Kenny
John Nevin
Sarah Walker
Alex Watt

1. APPROVAL OF MINUTES FOR JULY 2025 COMMITTEE MEETING

The Minutes are approved and are now on the CLLS website - see Minutes for July 2025 CLLS Land Law Committee meeting

2. LAND REGISTRY

There were no further points arising from the July meeting with Mike Harlow from the Land Registry.

3. DRAFT LEGISLATION TO BAN UPWARDS ONLY RENT REVIEWS FOR COMMERCIAL LEASES

Draft legislation to ban upward-only rent reviews ("UORR") in commercial leases was introduced in Parliament in July without prior warning.

It's part of the English Devolution and Community Empowerment Bill English Devolution and Community Empowerment Bill - Parliamentary Bills - UK Parliament which is now at 2nd reading stage in the Commons. The provisions can be found in Schedule 31 English Devolution and Community Empowerment Bill and there is the following in the main part of the Bill:

"PART 5

BUSINESS TENANCIES: PROHIBITED TERMS RELATING TO RENT

71 Rent reviews and “put options”: prohibited terms

(1) After section 54 of the Landlord and Tenant Act 1954 insert—

“54A Rent reviews and “put options”: prohibited terms

(1) Schedule 7A prohibits certain terms in rent reviews.

(2) Schedule 7B prohibits certain terms relating to rent in arrangements under which a landlord can require a tenant to take a new tenancy.”

(2) Schedule 31 inserts the new Schedules 7A and 7B into the Landlord and Tenant Act 1954 and otherwise amends that Act.”

The Government said these UORRs “pit landlords against businesses and can make rents unaffordable and cause shops to shut. This will help keep small businesses running, boost local economies and job opportunities and help end the blight of vacant high streets and the unacceptable anti-social behaviour that comes with them.”

The Government says the commercial leasehold sector has historically regulated itself via industry-approved Codes of Practices where the impact of upward-only rent review clauses are explained and alternatives are encouraged, but it says multiple research studies have found this self-regulation approach to commercial leasing in England and Wales is not working well.

The change will not affect existing leases but will ban the introduction of UORR in new leases. Landlords will need to choose between agreeing fixed rents or introducing a review clause that allows rents to fall as well as go up. The ban will also apply to renewal leases where the tenant has security of tenure under Part II of the Landlord and Tenant Act 1954.

Following the ban, if a UORR clause is in a new or renewal commercial lease, the requirement for rent not to decrease will be unenforceable. The Government says: “The new rent will be determined by whatever methodology is specified in the lease, for example in line with changes to the retail price index. The new rent may be higher, lower or the same as the previous rent.”

Some very limited areas such as agricultural leases will be exempt from the ban.

The draft legislation is in Schedule 31 here English Devolution and Community Empowerment Bill which includes a new Schedule 7A and 7B to the Landlord and Tenant Act 1954.

It was agreed that a further discussion should be had once the bill has progressed further and there is opportunity for amendments to be introduced to ensure the provisions are workable.

4. **CERTIFICATE OF TITLE – BUILDING SAFETY ACT**

At the May Committee meeting, the Committee considered whether the Building Safety Act 2022 (“BSA”) should be dealt with in the Certificate of title.

The Committee considered some updates to suggested drafting for a new paragraph 28.2 in Schedule 3 (paragraph 28 being the statements for Residential and mixed use buildings). The suggested drafting has a number of statements which include Company confirmations to the effect that no relevant building on the Property (or no relevant building of which the

Property forms part) satisfies the height or storeys test for it to be a “relevant building” or “higher risk building” as defined by the BSA.

The key purpose behind the new statements is to factually ascertain (by way of company rather than solicitor confirmation) whether a building on the Property (or a building of which the Property forms part) is a “relevant building” or “higher risk building” for the purposes of the BSA. A disclosure against the statements may then prompt further actions outside the scope of the Certificate, but at least the statements would trigger practitioners to think about the BSA on transactions contemplated by the Certificate. In that way, the suggested approach is similar to that used for the existing statements covering other residential related legislation in paragraph 28.

The Committee accepted the principle of including such statements for the BSA. Consideration will need to be given to whether alternative wording is required for properties in Wales and the Committee will ask Eversheds if their Cardiff office might be able to assist with this.

Once the new wording has been finalised, the questionnaire and confirmation letter will be updated to reflect the changes to be made to the Certificate. The Certificate will remain the Eighth Edition 2025 Update.

The Committee thanked Emma Willoughby and Katherine Lang for their work on providing the draft wording. Any final comments from Committee members should be sent to them by Friday 26 September.

5. UPDATING OF THE COMMITTEE’S SERVICE CHARGE PROVISIONS

The RICS has launched a new 2nd edition of its professional standard for Service charges in commercial property Service charges in commercial property, which is usually called the Service Charge Code. This is the first update in 7 years, but it does not come into effect for some time, until 31 December 2025.

This sets down industry best practice guidance in the management and administration of service charge in commercial property. There are mandatory requirements for RICS accredited professionals and regulated firms, but this doesn’t have any binding effect for landlords not regulated by the RICS. The Professional Standard strikes a balanced perspective for both landlord and tenants and is intended to promote best practice, uniformity, fairness and transparency throughout the management process of service charges in commercial property.

The key changes are set out here [Service-Charges-in-Commercial-Property_Basis-for-Conclusions.pdf](#) and the timing issue below is one of the more significant ones.

Timing for budgets and year end accounts

The timing requirements for the issue to tenants of budgets and service charge year end accounts are now in the mandatory requirements section of the Professional Standard (relevant wording below). Previously they were a so-called “core principle” for which, unlike mandatory requirements, strict compliance may not always be possible.

“Managers must issue to tenants:

- budgets, including an explanatory commentary at least one month prior to the start of the service charge year.

- an approved set of service charge year end accounts showing a true and accurate record of the actual expenditure constituting the service charge within four months of the service charge year end.”

Although this is a mandatory requirement, the Professional Standard does state that where these timescales cannot be met, a timely explanation must be provided of when they will be issued and the reason for the delay in line with the mandatory communication provisions. This does not dispense with the obligation to provide both. Where there is a legitimate reason for the delay in issuing budgets or reconciled year end accounts, managers must use all reasonable endeavours to issue these as soon as practicably possible.

The new Professional Standard refers to the Committee's service charge provisions as below -

“The City of London Law Society Precedent Documents has previously drawn up service charge lease provisions that reflected the provisions of the code at the time. These may also be subject to review and updating, therefore, it is recommended that interested parties keep abreast of any updates.”

The Committee's working group is close to finalising the update of the provisions (see 4th attachment). Separate provisions will need to be created for a shopping centre and an office building. The provisions will be launched around the time that the new Professional Standard comes into force (end of 2025, start of 2026).

Katherine Lang kindly agreed to consider what updates may be needed to the CLLS template wording and will circulate suggestions for discussion in the November meeting.

6. LAW COMMISSION'S INTERIM STATEMENT ON THE DIRECTION OF 1954 ACT REFORM

The Law Commission has published an interim statement on the direction of reform of the Landlord and Tenant Act 1954 Business tenancies: Interim statement on direction of reform – Law Commission.

The key provisional conclusion was that the existing “contracting-out” model is the right model. The Law Commission said that the arguments in favour of retaining this model were powerful, and it received the broadest support among consultees. Suggestions to have a so-called “contracting-in” model (by which tenancies would by default not benefit from 1954 Act rights, unless they are contracted-in) were rejected.

The Law Commission provisionally favoured keeping the current law on the types of tenancy that can benefit from security of tenure under the 1954 Act.

The Law Commission also provisionally concluded that the six-month threshold (for exclusion from the 1954 Act) should be increased, and, in its 2nd consultation paper, it expects to consult on increasing the threshold to 2 years.

Otherwise, there should be no change to the 1954 Act's scope.

The 2nd consultation (timing to follow) will focus on the technical detail of how the 1954 Act might be reformed, including potential reform to the contracting-out procedure. Many practitioners will hope that the procedure for contracting out, while alerting prospective tenants to the statutory rights from which they will not benefit, will be made less administratively burdensome. As we all too readily know, the procedure is full of potential

issues which can cause unnecessary cost and delay on transactions and it is hoped that the Law Commission will seek to address this.

The Committee awaits the detailed proposals with interest.

7. RENTERS' RIGHTS BILL

The Renters' Rights Bill - Parliamentary Bills - UK Parliament is in its Final Stages when various amendments from the House of Lords will be considered.

At the last Committee meeting, a significant point was highlighted about the proposed prohibition on rents being "due in advance" (see proposed new section 4B in the Housing Act 1988). Query whether there has been any update on the "due in advance" concern.

The BPF reported at the start of July on the section 13 rent increase appeal process:

"Section 13 rent increase appeal process: Following extensive debate in the House of Lords, and amendments introduced by peers that were supported by the BPF, the Government has taken steps to improve the Section 13 rent increase appeal process. The Government passed an amendment allowing the Secretary of State to make regulations enabling the backdating of rent to the date of the Section 13 notice where an appeal is unsuccessful, and yesterday committed to exploring a filtering body to prevent spurious appeals from proceeding to tribunal. While these steps don't address the fundamental principle that reasonable rents should be payable from the date of the Section 13 notice, they represent a positive step towards improving the appeal process."

There have also been further changes to the student exemption for larger student operators (the PBSA exemption).

It is expected that Royal Assent will be given soon, but that the legislation will not come into force until April 2026. That timing would be helpful in relation to student accommodation.

8. LAW COMMISSION CONSULTATION ON CHANCEL REPAIR LIABILITY

The Law Commission is consulting on reforms to the law governing land registration and chancel repair liability.

There is an issue about the legal status of the liability and whether property owners are nevertheless bound despite the Land Registration Act 2002 (by which chancel repair ceased to be an overriding interest back in 2013). Millions are spent each year on searches and insurance. The 2002 Act also only governs registered land and purchasers of unregistered land can still find that they are bound by an unexpected and undiscoverable chancel repair liability.

The Law Commission project aims to ensure that chancel repair liability does not bind purchasers of land, unless it is registered – and therefore visible – to purchasers. It will also help avoid the need for purchasers to undertake chancel repair searches, or to pay for insurance – potentially saving millions.

Provisional proposals (in Chapters 6 and 7) to amend the Land Registration Act 2002 clarify that:

- it is possible to register a notice relating to a chancel repair liability that affects a registered estate; and

- a purchaser of a registered estate is not bound by a chancel repair liability unless the liability is protected by a notice registered against the estate.
- for unregistered land, it is possible to lodge a caution against first registration relating to a chancel repair liability; and
- a chancel repair liability that is not recorded in the register during first registration ceases to bind the newly registered estate.

The consultation document is here Chancel repair liability and registration – Law Commission and the consultation closes on 15 November 2025. The Law Commission will look to publish a final report with recommendations in 2026.

The Committee agreed that it would be helpful to have clarity. Matt Hooton kindly volunteered to draft a response to the consultation on behalf of the Committee. This may take the form of a letter rather than replies to the individual questions in the consultation.

9. **CLLS BORROWER'S SOLICITORS' UNDERTAKINGS DOCUMENT**

There will be a project in the new year to review the Borrower's solicitors' undertakings document. Thank you to Emma Willoughby, Matt Hooton and Chris Cartwright for volunteering to be part of that.

10. **REGISTRATION GAP CLAUSES**

The only feedback on Example clauses to cover the Registration Gap issue - Dec 2024 was that they are useful. There have been no negative comments

11. **APPROACH TO GREEN LEASE TOOLKIT PM AMENDS**

15.05.2023 202304 GLT - consolidated draft clauses - V5 May 22-4 compared with PM Amends 15.05.2023 202304 GLT - consolidated draft clauses - V5 May 22-4-1 (betterbuildingspartnership.co.uk) . It was noted that these have not been adopted as widely as they might be and that adoption varies across different asset classes, with offices more likely than others to adopt darker green provisions. There was a discussion on trying to ensure that Heads of Terms deal with the point in more detail. Katherine Lang is part of the working group promoting this amongst agents and would welcome comments.

12. **AOB**

An application from David Horan of Sidley Austen to join the Committee was approved, subject to him meeting the CLLS eligibility criteria. Jackie will follow up on that with Kevin Hart.

Jackie announced that she will be retiring on 31 December 2025, so would be stepping down from the Committee and from her role as Chair. The Committee is required to vote on the new Chair preferably in person or if on screen, with camera on and the vote (or ratification if only one candidate) will take place at the next meeting on 19 November. Any Committee member who would like to put themselves forward for the position of Chair should let Jackie know by 31 October, by email with a copy to Kevin Hart. Jackie is happy to discuss what the role entails with anyone who would like to know more before deciding whether to put themselves forward.

13. **LENGTH OF MEETING : 1 HOUR 15 MINUTES**
14. **DATE FOR REMAINING 2025 MEETING, AT 12.30PM AND HYBRID IN PERSON/VIRTUAL – 19 NOVEMBER. 2026 DATES TO FOLLOW**