

CMA responds to the government's proposals on restricted ground rent



The Competition and Markets Authority (CMA) is the UK's main competition and consumer authority. It is an independent government department whose key responsibilities include carrying out investigations into markets, relevant proposals and enforcing competition and consumer law. They also have a key role in advising and providing information to government and public authorities and have been asked to comment on the recent government proposals in relation to the restriction of ground rent for existing leases as part of the leasehold reforms taking place.

A key point found by the CMA in their initial investigations in 2019 and 2020, was that up-front information about annual costs is very important to leaseholders and many leaseholders felt they had been misled in their understanding and believed they would have made better decisions had they understood all the costs involved right at the start of their transaction. As a result, the CMA strongly supported legislation to improve outcomes for consumers. In their most recent update, they confirmed that this is still the case and that they strongly support the steps already taken by the UK government to prohibit ground rents in new leases under the Leasehold Reform (Ground Rent) Act 2022.

In their conclusions, the CMA found that ground rent was neither legally nor commercially necessary, and they saw no persuasive evidence that consumers receive anything in return. They also did not think that there was good reason to believe that ground rent improved the standard of estate management. In essence, it seemed to be money for nothing.

In terms of the proposal for differing ground rent caps, the CMA held the least advantageous to leaseholders would be ground rent capped at a percentage value of the property as this gives freeholders a share in the



change in value of a leaseholder's property.

One of the key takeaways from the CMA report is that any remedies should be implemented without delay. The effect of a delay on leaseholders is that they will continue to be impacted by the collection of ground rent and face the risk that the level of ground rent charged may increase substantially during this period of delay if for example, a rent review in the lease is due. This clear position as outlined by the CMA will hopefully provide key input into the consultation process and we will wait to see how this progresses in the next update.

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