

ENGLISH DEVOLUTION AND COMMUNITY EMPOWERMENT BILL
European Convention on Human Rights – Lords Supplementary Memorandum
No.2

Introduction

1. This memorandum supplements:
 - a. The memorandum published on 27 November 2025¹ (“the initial ECHR memorandum”) which addressed issues under the European Convention on Human Rights (“ECHR”) in relation to the English Devolution and Community Empowerment Bill (“the Bill”) as brought from the House of Commons to the House of Lords.
 - b. The supplementary memorandum published on 13 January 2026² in respect of government amendments tabled ahead of Committee Stage in the House of Lords (and re-tabled on 17 March 2026 ahead of Report Stage in the House of Lords).
2. This supplementary memorandum addresses the issues under the ECHR from government amendments tabled for the first time on 17 March 2026 ahead of Report Stage in the House of Lords. This memorandum has been prepared by the Ministry of Housing, Communities and Local Government with the support of the Department for Transport.
3. The amendments considered in this memorandum relate to:
 - a. New clause and new Schedules (Mayoral CCAs: overview and scrutiny committees) and (Mayoral Combined Authorities: overview and scrutiny committees) which engage the following Convention rights: the right to a fair trial (Article 6), the right to respect for private and family life (Article 8) and the right to free elections (Article 3 of the First Protocol).

¹ [ECHR memorandum published on 27th November 2025](#) upon the Bill being brought from the House of Commons to the House of Lords.

² [ECHR memorandum published on 13th January 2026](#) in respect of Committee Stage amendments in the House of Lords

- b. New clause and Schedule (Pavement parking: Prohibition of parking on footway and verges) which engage the following Convention right: the right to a fair trial (Article 6).
- c. New clause (duty to report concerns about drivers licensed in other areas) which engages the following Convention right: the right to respect for private and family life (Article 8).
- d. New clause (power to suspend licence temporarily) which engages the following Convention rights: the right to a fair trial (Article 6) and the right to peaceful enjoyment of property (Article 1 of the First Protocol)
- e. Amendments to clause 85 and Schedule 34 (business tenancies: rent reviews and arrangements for new tenancies) which engage the following Convention right: the right to peaceful enjoyment of property (Article 1 of the First Protocol).

The government regards these amendments as being compatible with Convention Rights for the reasons outlined below.

Amendment introducing new clause and new Schedules Mayoral CCAs: overview and scrutiny committees) and (Mayoral Combined Authorities: overview and scrutiny committees).

Article 6 (Right to a fair trial)

- 4. The new clause enables overview and scrutiny committees to impose a civil penalty, capped at £5,000, for specified failures to comply with scrutiny requirements, including non-attendance at compulsory meetings, refusal to answer questions, failure to provide information or documents, or misleading a committee. While the £5,000 cap may be adjusted by regulations in future, it may only be adjusted to reflect changes in the value of money, ensuring that the maximum penalty remains limited and not unduly severe. To the extent that the imposition of a financial penalty may engage Article 6, the Government considers the measure to be compatible because it is subject to clear statutory

conditions, includes a defence of reasonable excuse, and will be accompanied by regulations providing for a right of appeal to an independent court or tribunal with the power to confirm, withdraw or vary the penalty.

Article 3 of Protocol 1 (Right to free elections)

5. The provision for termination of office following persistent non-attendance at compulsory overview and scrutiny committee meetings, conditions the continuation of an elected mandate, with the aim of ensuring effective democratic accountability. The Government considers this to be compatible with Article 3 of Protocol 1 because the measure is objective, proportionate and non-arbitrary. It applies only where a person has failed, without reasonable excuse, to attend six compulsory meetings either consecutively or within a twelve-month period, and it does not prevent the person from subsequently standing for, or being appointed to, the same or another office.

Article 8 (Right to respect for private and family life)

6. The government recognises that, in some circumstances, termination of office may have consequences for an individual's professional life or reputation and could therefore engage Article 8. The government considers that any such interference is in accordance with the law, pursues the legitimate aim of maintaining effective and transparent democratic governance, and is proportionate. The threshold for termination is high, requiring repeated unjustified non-attendance; a reasonable-excuse defence is provided; and a decision that there is no reasonable excuse for failure to attend is susceptible to judicial review. Taken together, these safeguards ensure that the measure does not impose a disproportionate interference with private life.

Amendment introducing new clause and Schedule (Pavement Parking: Prohibition of parking on footways and verges)

Article 6 (Right to a fair trial)

7. This new clause will enable the Secretary of State to make regulations to give English Local Transport Authorities the power to prohibit parking on footways and verges within those parts of their areas that fall within a civil enforcement area. Any contravention of a pavement parking prohibition introduced under the powers will be subject to civil enforcement. No criminal sanctions are envisaged. The existing legislative framework will apply to the contravention of any parking prohibition introduced by regulations made under the new clause. This is considered to be compatible with Article 6 by ensuring a fair system of civil sanctions, with a right to appeal, and will maintain consistency with how similar parking contraventions are handled.
8. The existing framework, in place since 2008, provides a right of representation to the authority that serves a penalty charge notice. If the authority rejects the representation, the person on whom the notice was served may appeal to an independent adjudicator. No further challenges can be made other than on a point of law through an application to the High Court for judicial review. Outside London, adjudication is carried out by the Traffic Penalty Tribunal.
9. Civil penalty charges for parking contraventions outside of London are set by enforcement authorities in accordance with guidelines made by the national authority. The national guidelines are under the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022. To provide flexibility, the guidelines prescribe two penalty bands for penalty charges with higher and lower-level charges reflecting the seriousness of a contravention. Higher penalty charges are currently capped at £60 for Band 1 and £70 for Band 2.

Amendment introducing new clause (duty to report concerns about drivers licensed in other areas)

Article 8 (Right to respect for private and family life)

10. This amendment relates to the sharing of personal data between licensing authorities in England. Given that this data may likely include personal data and

its collection, use and disclosure may, in principle, constitute engage the right to respect for private life. However, the Government considers that to the extent this power interferes with the privacy rights in Article 8(1) ECHR, it is justified under Article 8(2). The disclosure is in accordance with the law, pursues a legitimate aim and is necessary in a democratic society.

11. The Government considers that the provision is sufficiently clear, precise and foreseeable to meet the “in accordance with the law” requirements. Although the amendment will expand upon an existing statutory duty to share personal data between responsible licensing authorities, the expansion of that duty is limited to *information about a breach of a national standard*.
12. The measure pursues the legitimate aim of protecting the public, in the interest of the public safety and for the prevention of disorder or crime and is considered to be proportionate to that aim.³
13. This amendment would ensure that information relating to a breach of a national standard would be reported to the home licensing authority who would then be able to consider whether to take a permitted response. This will enable licensing authorities to share information effectively relating to a breach of national standards and for action to be taken. As the information shared will be limited to information relating to a breach of national standard, it is therefore considered that this measure is proportionate to the legitimate aims pursued.

Amendment introducing new clause (power to suspend licence temporarily)

Article 6 (Right to a fair trial)

14. Amendments will introduce a power to temporarily suspend taxi and private hire vehicle licences. It is considered that Article 6 applies to civil sanction procedures including revocation and suspension of taxi & PHV licences. No criminal sanctions are envisaged. It is envisaged that a system of civil sanctions embedded in the bill framework, giving a right of appeal to the magistrates’ court

³ As highlighted by the [National Audit on Group-based Child Sexual Exploitation and Abuse](#) by Baroness Cassey.

and a statutory right to compensation, will apply to the process. Provision is also built for a statutory right to compensation to be paid by licensing authorities under specific circumstances.

15. The Department considers that this should ensure a fair system of civil sanctions, with reasonable time limits, by an independent and impartial tribunal. The Department is therefore satisfied that the provision is compatible with Article 6 of the ECHR.

Article 1 Protocol 1: right to peaceful enjoyment of property

16. From a reading of the standard textbook *Button on Taxis*, it would appear that there is a distinction between the two types of licences relating to hackney carriages and private hire vehicles that local authorities grant: a. vehicle licences (both hackney carriage/taxi and PHV) that can be transferred to another party (often at a premium); and b. hackney carriage/taxi and private hire drivers' licences, and private hire operators' licences, which are personal and therefore have no transfer value.
17. For example, in *Cherwell DC v Anwar 4* [2011] EWHC 2943 (Admin), it was a secondary question as to whether a driver's licence was a possession and it was held that a driver's licence was not a possession for the purposes of Article 1 Protocol 1.
18. If a vehicle licence is however held to be a possession for the purposes of Article 1 Protocol 1 and if the license is temporarily suspended under this amendment, this can be justified on the basis of legitimate public interest: that of protecting public safety in the wake of the Casey report, and temporary suspension is proportionate to the aim.

Amendments to clause 85 and Schedule 34 (business tenancies: rent reviews and arrangements for new tenancies)

Article 1 Protocol 1: right to peaceful enjoyment of property

19. Clause 85 and Schedule 34 insert new provisions into the Landlord and Tenant Act 1954, being section 54A and Schedule 7A and 7B.
20. **Part 1** of Schedule 7A deals with key terms used in the Schedule. It explains the terms “business tenancy” and a “business tenancy with a rent review”. The Schedule ensures that a tenant who is still bound by their tenancy does not lose the protection of the upwards only rent review (“UORR”) ban simply because they are not physically in occupation, for example because they have vacated or not yet occupied.
21. **Part 2** gives tenants the right to trigger rent reviews, even if their tenancy does not allow them to do so. These trigger provisions apply to rent reviews generally, not just where there is an UORR clause contained in the tenancy, and also apply if the tenancy is granted in a compliant manner but is later varied to include non-compliant terms. The trigger provisions will not apply if the grant or variation of the tenancy was made under protected pre-commencement arrangements, such as an agreement for lease entered into before the Schedule comes into force. However, the amendments mean the trigger provisions will apply if the tenancy is a new tenancy granted under a tenancy renewal arrangement (defined in Schedule 7B) entered into on or after 17 March 2026. This is to ensure that, in such a renewal tenancy, the trigger provisions apply to any subsequent rent reviews that take place during the term of the tenancy.
22. **Part 3** sets out the details of rent review terms in tenancies which will be of no effect to the extent that they require an upwards only rent review, to ensure the intended clauses are also captured by the UORR ban. These provisions ensure that the UORR ban also applies where a tenancy is granted in a compliant manner but is later varied to include non-compliant terms, but will not apply if the grant or variation of the tenancy was made under protected pre-commencement arrangements, such as an agreement for lease entered into before the provisions come into force. However, the amendments mean that the UORR ban will apply if the tenancy is a new tenancy granted under a

tenancy renewal arrangement (defined in Schedule 7B) entered into on or after 17 March 2026.

23. **Part 4** disapplies any requirement is a pre-commencement superior lease for a tenant to include rent review terms when subletting, to the extent that such terms would be in contravention of the UORR ban. The provisions disapply such terms and permit post-commencement subleases to include compliant rent review terms.
24. **Part 5** includes anti-avoidance and interpretation provisions.
25. **Schedule 7B** deals with arrangements for the renewal of tenancies and ensures that tenancy renewal arrangements such as options and rights of first refusal are also in scope of the UORR ban. Schedule 7B deals with the initial rent setting of a new tenancy entered into under a tenancy renewal arrangement. The amendments mean that the UORR ban will apply to the renewal tenancy if it is granted pursuant to a tenancy renewal arrangement that was entered into on or after 17 March 2026 (Condition C).
26. The government considers that Article 1 Protocol 1 is engaged by these measures, as amended, as they will prohibit certain types of rent review clauses from being included in commercial tenancies. However, as stated in the initial ECHR memorandum, the government considers that these measures are proportionate and strike a fair balance between the interests of commercial landlords and tenants. Any interference pursues a legitimate aim of making commercial leases fairer by addressing a common lease term that can benefit landlords over tenants, especially where there is a power imbalance during negotiations. The ban seeks to allow the market to set rental levels more efficiently, ultimately helping the high street and boosting economic growth. Therefore, the measures are justified because the government considers that these measures are proportionate and strike a fair balance between the interests of commercial landlords and the public or general interest.

27. The amendments mean that both the initial and subsequent setting of rent in a new tenancy (granted under a tenancy renewal arrangement entered into on or after 17 March 2026) will be caught by the ban. This seeks to minimise the risk that such renewal arrangements could be used as a means to circumvent the ban. The amendments are considered to be proportionate and strike a fair balance by only capturing renewal arrangements entered into on or after the date on which the amendments were published.

Ministry of Housing, Communities and Local Government

17th March 2026