

PRESS RELEASE

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For Immediate Release

Rights to Light consultation

[The City of London Law Society](#) (“CLLS”) welcomed the Law Commission's [consultation paper](#) on the critical issue of rights to light. The CLLS's Land Law and the Planning and Environmental Law Committees responded jointly to the consultation.

The CLLS are aware of an increase in the number of claims for damages and the size of the claims in respect of rights to light issues, following the *Heaney* decision in 2010. In addition, uncertainties involved in ascertaining whether property interests benefit from a prescriptive right to light are a major delaying factor and consequential cost in property development.

However, the CLLS does not regard the Law Commission paper as a “developer’s charter,” as the proposals provide significant protection for those with an interest in property seeking to protect their light.

Warren Gordon, Head of Real Estate Know How at Olswang LLP and Secretary of the CLLS's Land Law Committee, commented:

“At a time when property development needs a boost, the Law Commission's carefully crafted analysis and proportionate proposals provide greater certainty for developers and less opportunity for procrastination by opponents of development.”

“The issues are complex and have divided opinions, which are reflected in our response. The City of London Law Society agrees with the principle of the new Notice of Proposed Obstruction procedure, although some of the detail requires further consideration.”

Within the detailed submission to the Law Commission, the CLLS also made the following points:

- The CLLS opines that the new Notice of Proposed Obstruction procedure is intended to provide greater comfort to developers in relation to injunctions. Furthermore, the

CLLS support the introduction of measures such as applying respective four month periods to respond and negotiate a Notice of Proposed Obstruction, which would allow sufficient time to respond and negotiate without unreasonably halting the development process.

- The CLLS recommends the Law Commission gives further thought to the introduction of a statutory cap on equitable damages in a rights to light context, in order to avoid disproportionate awards far exceeding the actual loss suffered by the dominant owner in a dispute.

The consultation period ended on 16 May 2013. The Law Commission has stated that if the project proceeds to a final report with draft bill, it anticipates that publication will be in late 2014.

The full response can be viewed on the [website of the CLLS](#).

***** Ends *****

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Notes to Editors

1. A "right to light" is an easement that gives landowners the right to receive light through defined apertures in buildings on their land. The Law Commission's paper made several provisional proposals and requested consultees' views on a number of other areas. The consultation paper is available [here](#).
2. The **City of London Law Society** ("CLLS") represents approximately 15,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.
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