



House of Commons

Levelling Up, Housing and
Communities Committee

Building Safety: Remediation and Funding

Seventh Report of Session 2021–22



House of Commons
Levelling Up, Housing and
Communities Committee

Building Safety: Remediation and Funding

Seventh Report of Session 2021–22

*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 7 March 2022*

Levelling Up, Housing and Communities Committee

The Levelling Up, Housing and Communities Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Levelling Up, Housing and Communities.

Current membership

[Mr Clive Betts MP](#) (*Labour, Sheffield South East*) (Chair)

[Bob Blackman MP](#) (*Conservative, Harrow East*)

[Ian Byrne MP](#) (*Labour, Liverpool, West Derby*)

[Brendan Clarke-Smith MP](#) (*Conservative, Bassetlaw*)

[Florence Eshalomi MP](#) (*Labour, Vauxhall*)

[Ben Everitt MP](#) (*Conservative, Milton Keynes North*)

[Kate Hollern MP](#) (*Labour, Blackburn*)

[Andrew Lewer MP](#) (*Conservative, Northampton South*)

[Mary Robinson MP](#) (*Conservative, Cheadle*)

[Matt Vickers MP](#) (*Conservative, Stockton South*)

[Mohammad Yasin MP](#) (*Labour, Bedford*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

© Parliamentary Copyright House of Commons 2022. This publication may be reproduced under the terms of the Open Parliament Licence, which is published at www.parliament.uk/site-information/copyright-parliament/

Committee's reports are published on the Committee's website at www.parliament.uk/hclg and in print by Order of the House.

Committee staff

The current staff of the Committee are Gary Calder (Media and Communications Manager), John-Paul Flaherty (Clerk), Eldon Gallagher (Committee Operations Officer), Edward Hicks (Committee Specialist), Whitley Lane (Committee Operations Manager), Rebecca Lees (Second Clerk), and Paul Owen (Committee Specialist).

Contacts

All correspondence should be addressed to the Clerk of the Levelling Up, Housing and Communities Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6930; the Committee's email address is luhccom@parliament.uk.

You can follow the Committee on Twitter using [@CommonsLUHC](https://twitter.com/CommonsLUHC)

Contents

Summary	3
1 Introduction	7
2 Protecting leaseholders from future costs	9
The position before 10 January 2022	9
Gaps in the Government’s proposals	9
Non-cladding costs	9
Buy-to-let landlords	10
Buildings below 11m	11
3 Data	13
4 Who should pay?	15
Polluter pays	15
Multiple polluters	15
Untraceable polluters	17
Collective responsibility	17
Government responsibility	18
5 Costs already paid out	20
Leaseholders who have already paid	20
Shared owners	21
Leaseholders who have not yet been billed	21
The Government’s proposed cap on non-cladding costs	21
6 Impact on social housing	23
Leaseholders vs. tenants	23
Impact on planned developments	23
Impact on existing homes	24
Building safety levy	24
Housing associations as developers	24
Affordable Homes Programme	25
7 Guidance on building safety	27
Withdrawal of consolidated advice note	27
Decision-making	29

Conclusions and recommendations	31
Formal minutes	36
Witnesses	38
Published written evidence	39
List of Reports from the Committee during the current Parliament	43

Summary

On 10 January 2022 the Secretary of State for Levelling Up, Housing and Communities announced that the Government would protect leaseholders from the costs of building safety remediation. Instead, the Government would make the industry pay for any remaining faults. The Secretary of State has since asked residential property developers and construction product manufacturers to contribute to a fund for remediating faulty cladding on buildings 11–18m high. He has also asked developers to fund and undertake remediation works on buildings they played a part in developing. On 14 February the Government, through proposed amendments to the Building Safety Bill, set out how it would enshrine in law its protections for leaseholders and its powers to penalise industry players who do not cooperate. The Government's proposals would exclude landlords from the protections for leaseholders, except those who only own one other property besides their residence. They would also introduce of a cap on costs for leaseholders for remediating non-cladding defects of £10,000 (£15,000 within London).

It has always been this Committee's position that leaseholders should not pay a penny to rectify faults not of their doing and to make their homes safe. We have previously called on the Government for a Comprehensive Building Safety Fund that would cover all costs for all fire safety remediation in buildings of any height. **The Secretary of State said the Government would protect leaseholders from remediation costs, but too many leaseholders will fall through the cracks of the Government's piecemeal measures. Leaseholders are no more to blame for non-cladding defects than they are for faulty cladding on homes they bought in good faith. Buy-to-let landlords are no more to blame than other leaseholders for historic building safety defects, and landing them with potentially unaffordable bills will only slow down or prevent works to make buildings safe. Leaseholders of buildings under 11m in height are no more to blame than other leaseholders.**

- *The Government should scrap the cap on non-cladding costs for leaseholders.*
- *Instead of its piecemeal method of funding remediation according to building height and type of defect, the Government should implement our previously recommended Comprehensive Building Safety Fund. The fund should cover the costs of remediating all building safety defects on buildings of any height where the original "polluter(s)" cannot be traced.*

As we have emphasised in previous reports, in order to know how much money needs to be raised to fund remediation, the Government needs to know how many buildings are affected and the types of defects they have. The Government's publicly available data on building safety provides, at best, a partial picture: it covers only cladding defects and only on buildings 18m and above, and it does not capture any buildings for which an application is not made, for example because the original developer has chosen to take on the costs of remediation. The Government has now asked the industry to provide comprehensive information on the buildings for which they are responsible. It has estimated that it will cost £5.1 billion to remediate cladding on buildings 18m and above, and £4 billion to remediate cladding on buildings 11–18m high. We are baffled, then, that hardly anyone seems to be able to share with us the calculations that they have made of the number of buildings affected, or by building height or type of defect.

It is completely unacceptable that, nearly five years after the Grenfell tragedy, the Government still does not seem to know how many buildings have unsafe cladding or other historic building safety defects.

- *The Government must publish, within two months, all available data on the number of buildings of all heights with historic building safety defects—cladding and non-cladding—including data it has received from developers and manufacturers.*

The Secretary of State endorsed the “polluter pays” principle in the House of Commons Chamber. Through our inquiry, we learnt that developers and manufacturers are not the only sectors that contributed to the building safety crisis. In addition there are difficulties in holding some responsible companies to account as they are based overseas. Governments also share responsibility for the building safety crisis on account of their regulatory failings.

- *The Government should identify all relevant parties who played a role in the building safety crisis, such as product suppliers, installers, contractors, and subcontractors. It should legally require them, as it has done for developers, to (i) contribute payment to put right any individual faults in which they played a part and (ii) contribute to collective funding for building safety remediation—ideally our recommended Comprehensive Building Safety Fund. So that efforts to identify responsible parties do not delay remediation works, the Government should, where necessary, fund works upfront and recoup its costs.*
- *The Government should remove VAT on building safety activity.*
- *Insurers should be required to contribute to funds for remediation as they covered the actions of developers who failed to comply with building safety and have since received increased premiums despite remediation works being undertaken.*
- *The Government must take steps to hold overseas developers and other relevant foreign firms to account. When it is appropriate to do so, the Government should set out the actions it has taken.*

While the Secretary of State has committed to protecting leaseholders of buildings 11m and above from future costs of cladding remediation, he has not committed that leaseholders who have already paid will be compensated. The Government has said that any costs paid so far would count towards its proposed cap on non-cladding costs, including waking watch, but has not indicated that increases in insurance premiums would count. As they stand, the Government’s proposals create a bizarre lucky dip in which some leaseholders may see their costs capped at £10,000 (£15,000 in London); some, because they have not yet paid for cladding remediation, may pay nothing at all; and others, who have already paid for cladding remediation, will have paid well in excess of the proposed non-cladding cap.

- *The Government should table new amendments to the Building Safety Bill to ensure that, where the “polluter(s)” still exist, industry players*

must compensate leaseholders for remediation and interim costs already paid out and must pay for works that have been started or specified. In line with principles already set out by Government, where the original polluter no longer exists or cannot be identified, funding for building safety remediation—ideally our recommended Comprehensive Building Safety Fund—should cover the costs of compensating leaseholders for costs already paid out, including interim measures and exorbitant rises in insurance premiums.

Social housing providers can only access funds for building safety where they would otherwise pass on the costs to leaseholders (with the exception of the original fund for remediating aluminium composite material cladding). Renters see their rent payments diverted to building safety remediation, away from upgrades to their homes. We also heard that one in 10 planned new affordable homes have been axed to pay for building safety works. We have previously called on the Government to include social landlords within eligibility criteria for building safety funds. Instead, the Government has put further pressure on social housing budgets by making the Department’s budget the backstop if a funding arrangement with industry is not reached. **The Government must stop pitting the building safety crisis against the housing crisis. Without access to funds for remediation where social tenants live, residents of social housing are paying the price through the diversion of funds from maintaining their homes and other vital services provided by housing associations and councils. Those on waiting lists and those who are homeless are paying the price through the decimation of planned new builds for affordable homes, with one in 10 planned developments axed. The principle that a leaseholder should be protected from costs, while a tenant, perhaps a neighbour in the same block, should contribute through their rent, is deeply unfair.**

- *Social landlords must have full access to funds for building safety remediation—ideally our recommended Comprehensive Building Safety Fund.*
- *The Government must commit to protecting the Affordable Homes Programme at its current level should it fail to recover sufficient funds from industry.*

Uncertainty around building safety has had a significant impact on the housing market. Lenders have often asked for external wall safety assessments—known as the EWS1 process—for buildings of any height, not just those over 18m, for which the EWS1 form was designed. A lack of qualified professionals and difficulty obtaining professional indemnity insurance has caused lengthy delays, trapping people in homes they wish to sell. The Government has now introduced “new, proportionate guidance” known as PAS 9980. It has also promised to launch a professional indemnity insurance scheme for those conducting external wall safety assessments. We heard that since the PAS 9980 process is a broader, lengthier assessment, lenders were likely to continue to require EWS1 forms. **Given that the introduction of the PAS 9980 will not result in the elimination of EWS1 forms, we remain concerned that uncertainty will remain about the safety of buildings and will continue to stymie those trying to sell their homes.**

- *The Government must ensure that there is professional indemnity insurance cover for those conducting PAS 9980 assessments—whether as an extension of the scheme for external wall assessors or as a separate scheme. We ask the Government to monitor and report back to this Committee with its assessment of the impact of the introduction of PAS 9980 on the numbers of buildings that need to be inspected and remediated. We also ask the Government to report back to the Committee with its estimate of the number of currently qualified fire risk assessors and how this will increase in the coming months.*
- *The evidence we received clearly indicates that it should be the regulator—and not building owners—who decides whether a building needs a fire risk assessment. As such, we recommend that the Building Safety Regulator decides whether a building needs a fire risk assessment; sets the standard that a building need to meet; sets out the methodology for undertaking assessments; and provides a review process which enables consistency of decisions.*

1 Introduction

1. On 10 January 2022, the Secretary of State for Levelling Up, Housing and Communities, the Rt Hon Michael Gove MP, made a series of announcements relating to building safety.¹ He announced that “no leaseholder living in a building above 11 metres will ever face any costs for fixing dangerous cladding”, scrapping the Government’s proposed loan scheme for leaseholders of flats in blocks 11–18m high. He added that the Government “will make industry pay to fix all of the remaining problems and help to cover the range of costs facing leaseholders”. The Secretary of State promised to return to the House of Commons before Easter with a funding arrangement agreed with developers and cladding manufacturers. He also said that the Government would: withdraw its consolidated advice note and replace it with “new, proportionate guidance” for building safety assessors, since published as the PAS 9980 guidance; “extend the right of leaseholders to challenge those who cause defects in premises for up to 30 years retrospectively”; provide £27 million for new fire alarms to end the use of waking watches; and introduce before Easter a professional indemnity insurance scheme for those assessing external walls, among other details.²

2. Since the announcement, the Secretary of State has written to and met with representatives of the residential property development and manufacturing industries.³ He has called for developers to “[a]gree to make financial contributions this year and in subsequent years to a dedicated fund to cover the full outstanding cost to remediate unsafe cladding on 11–18m buildings, estimated currently to be £4bn”, and to “fund and undertake all necessary remediation of buildings over 11m that [they] have played a role in developing” (reducing the amount to be contributed to the fund).⁴ He has asked manufacturers of unsafe cladding to contribute a “significant portion of the total remediation costs”.⁵ The Secretary of State has asked both developers and manufacturers to provide “comprehensive information on all buildings over 11m which have historic fire-safety defects” which they played a role in developing or providing materials or services to.⁶

3. Due to the significance of the Secretary of State’s announcements and the speed with which he intends to return to the House, we decided to launch a short inquiry to offer recommendations to the Government on its proposals. We received over 100 written submissions and would like to thank all those who took the time to contribute to our inquiry, particularly given the quick turnaround times. We held three oral evidence sessions. On 31 January, we took evidence from: David O’Leary, Policy Director, Home Builders Federation; Peter Caplehorn, CEO, Construction Products Association; John Mulryan, Group Managing Director, Ballymore; Liam Spender, representing the UK Cladding Action Group; Andrew Bulmer, CEO, Institute of Residential Property Managers; and Ben Beadle, CEO, National Residential Landlords Association. On 2 February, we took evidence from: Kate Henderson, CEO, National Housing Federation; Cllr Rachel Blake, Community Wellbeing Board, Local Government Association; Geeta Nanda, Chief

1 HC Deb, 10 January 2022, [cols 283–286](#) [Commons Chamber]

2 HC Deb, 10 January 2022, [cols 283–286](#) [Commons Chamber]

3 [Letter from Secretary of State to Residential Property Developer Industry, dated 10 January 2022](#); [Letter from Secretary of State to Construction Products Association, dated 22 January 2022](#)

4 [Letter from Secretary of State to Residential Property Developer Industry, dated 10 January 2022](#)

5 [Letter from Secretary of State to Construction Products Association, dated 22 January 2022](#)

6 [Letter from Secretary of State to Residential Property Developer Industry, dated 10 January 2022](#); [Letter from Secretary of State to Construction Products Association, dated 22 January 2022](#)

Executive, Metropolitan Thames Valley Housing and Chair, G15; Richard Collins, interim CEO, Royal Institution of Chartered Surveyors; Charles Roe, Director of Mortgages, UK Finance; and James Dalton, Director of General Insurance Policy, Association of British Insurers. On 21 February we took evidence from the Secretary of State for Levelling Up, Housing and Communities. We would like to thank all our witnesses for their time and assistance with our inquiry.

4. On 14 February 2022 the Government tabled the amendments to the Building Safety Bill that, if enacted, would enshrine in law its protections for leaseholders and powers to penalise industry players who do not cooperate.⁷ These amendments include the introduction of a cap on non-cladding costs for leaseholders of £10,000 outside London and £15,000 within London.

5. Despite these steps, nearly five years after the tragic Grenfell fire, there has been no resolution for those living in and responsible for affected flats. It is clear that the mental health toll on these people has only worsened, while the Government has offered no more in the way of mental health support since we last called for specific measures nearly a year ago.⁸ ***We repeat our previous calls for further mental health support for those affected by the building safety crisis.***

6. We understand that PAS-79 guidance from the British Standards Institute as well as guidance from the Local Government Association have been withdrawn due to concerns about their advice regarding disabled residents.⁹ We are also disappointed that the Government has not yet reported the outcome of its consultation on Personal Emergency Evacuation Plans (PEEPs), regarding the Grenfell Tower Inquiry Phase 1 recommendation that the owner and manager of every high-rise residential building should be required by law to prepare PEEPs for all residents whose ability to self-evacuate may be compromised. The consultation closed in July 2021. ***In the absence of PAS-79 guidance which was withdrawn in August 2021, it is imperative that the British Standards Institute publish its new standard as soon as possible. We urge the Government to report on its consultation on Personal Emergency Evacuation Plans at the earliest opportunity.***

7 DLUHC, [Government to protect leaseholders with new laws to make industry pay for building safety](#), 14 February 2022

8 [Qq95–96](#); Gavin Thompson, and Avery ([BRF 010](#)); Mr P Bullock ([BRF 033](#)); Miss Alison Hills ([BRF 049](#)); Wharf Block A Tenants Association ([BRF 057](#)); Mayor of London ([BRF 077](#)); Housing Safety and Wellbeing Taskforce ([BRF 116](#))

9 [Letter from the British Standards Institution dated 2 March 2022 concerning the Committee’s inquiry into Building Safety: Remediation and Funding; Q200](#)

2 Protecting leaseholders from future costs

The position before 10 January 2022

7. Currently, flats with historic building safety defects are eligible for public funds to remediate those defects only where the defect is unsafe cladding and the building's height is 18m and above. Those buildings are eligible for the £5.1 billion Building Safety Fund, which is funded by a combination of additional funds allocated to the Department from the Treasury and a new tax and levy on residential property developers announced last year.¹⁰ As is now well-known, historic building defects are not limited to dangerous cladding and a host of other issues have been discovered such as missing fire breaks and faulty compartmentation. All bills for remediating non-cladding fire safety defects in buildings of any height or cladding defects in buildings below 18m can be passed onto leaseholders. In February 2021 the then Secretary of State for Housing, Communities and Local Government announced that the Government would introduce a loan scheme for leaseholders of buildings 11–18m high to cap their monthly costs for remediating unsafe cladding.¹¹

Gaps in the Government's proposals

Non-cladding costs

8. It has always been this Committee's position that leaseholders should not pay a penny to rectify faults not of their doing and to make their homes safe. We have previously called on the Government for a Comprehensive Building Safety Fund that would cover all costs for all fire safety remediation in buildings of any height.¹² Therefore we, like many of those who gave evidence to us, welcome the Government's abandonment of its proposed loan scheme. We also welcome the Secretary of State's commitment to protecting leaseholders in law from future costs, but we are concerned about gaps in his proposals. The first area witnesses sought clarification on was whether non-cladding costs would be covered as well as cladding costs,¹³ and the vast majority of our written evidence called for non-cladding costs to be covered too.¹⁴ We heard once again that the non-cladding expenses represent at least half of total bills for building safety remediation.¹⁵ We heard about one block facing £100,000 of non-cladding costs per flat.¹⁶ We now know that the fund, as proposed in the Government's amendments to the Building Safety Bill, will only cover cladding costs. Where developers, landlords linked to the original developer, and building owners do not have the resources to fund non-cladding remediation in buildings above 11m, the Government proposes to cap costs for leaseholders at £10,000 outside London and £15,000

10 HC Deb, 10 February 2021, [col 329](#) [Commons Chamber]

11 HC Deb, 10 February 2021, [col 329](#) [Commons Chamber]

12 HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, para 20

13 [Q82](#); [Q111](#); [Q125](#); [Q129](#); [Q133](#)

14 This point was made by almost all who submitted written evidence, including numerous affected leaseholders. We have not cited them all, but see for example Mayor of London ([BRF 077](#)); End Our Cladding Scandal ([BRF 119](#)); and Local Government Association ([BRF 121](#)).

15 [Q111](#); [Q125](#); [Q131](#)

16 Mr Richard Nicholson ([BRF 007](#))

within London.¹⁷ The Secretary of State explained to us that one of the justifications for this decision is legal advice given to the Department that “if a building owner were to challenge our legislation and we had not shown that we were taking a proportionate approach, they might have more of a chance of potentially shielding themselves from these consequences”.¹⁸ However, he did not have an estimate of how many leaseholders would be in scope of the cap or how much on average an individual leaseholder would have to pay.¹⁹ He also said that, where the contributions of developers, freeholders and leaseholders were insufficient to cover the costs for remediating non-cladding defects, “the taxpayer is the backstop”.²⁰

Buy-to-let landlords

9. The second area we heard concerns about was the Government’s confirmation, in the form of its amendments to the Building Safety Bill, that only buy-to-let landlords with one other property would be included in the statutory protections for leaseholders. Ben Beadle, CEO of the National Residential Landlords Association, said that some landlords were facing costs of £65,000 per property.²¹ The Secretary of State explained that the Government was trying to avoid “subsidising people who were of significant means”.²² We heard from landlords who find themselves outside of the scope of the protections, who invested in properties to support their children, to provide income after being made redundant, to help pay for the costs of caring for relatives, or to provide for their retirement, now facing bills they cannot afford.²³ One contributor told us they had invested in flats using compensation from the Criminal Injuries Compensation Authority “after the murder of my husband in the 7/7 atrocity” and now faces “vast bills”.²⁴ Following the Secretary of State’s oral evidence, Ben Beadle, CEO of the National Residential Landlords Association, wrote to us to point out that owner-occupiers of luxury apartments worth millions may have more significant means than a pensioner renting out two or three properties, and that 70% of landlords are basic rate income taxpayers.²⁵ Reporting by The Telegraph points out that while portfolio landlords are excluded, overseas landlords who own one or two properties in the UK would be covered in the legislation.²⁶

10. As well as the fact that many landlords cannot afford remediation costs and are no more responsible for historic faults than other leaseholders, we heard of wider negative consequences. The Wharf Block A Tenants Association suggested that the exclusion of portfolio landlords from measures could hinder the Department’s objective to provide affordable quality housing, since the lack of protections for landlords would “naturally

17 DLUHC, [Government to protect leaseholders with new laws to make industry pay for building safety](#), 14 February 2022

18 [Q192](#)

19 [Q193](#)

20 [Q194](#)

21 [Q84](#)

22 [Q190](#)

23 Mr Marc Gayer ([BRF 002](#)); Gavin Thompson, and Avery ([BRF 010](#)); Mr Mark Wittcomb ([BRF 013](#)); Mr Steve Anderson Dixon ([BRF 020](#)); Mr Kulwinder Hothi ([BRF 051](#)); Ms Pauline McMillan ([BRF 055](#)); Mr Colin Spilling ([BRF 058](#)); Mrs Jing Wang ([BRF 061](#)); Mr Paul Farmery ([BRF 080](#)); Mountfield ([BRF 089](#))

24 Ros Morley ([BRF 070](#))

25 [Letter to Chair from the National Residential Landlords Association to the Chair dated 22 February 2022 concerning Building Safety: Remediation and Funding](#)

26 [“Landlord exclusion from cladding fix makes flats unsellable and blocks repairs”](#), The Telegraph, 16 February 2022

drive rental property prices higher”.²⁷ Furthermore, the Government’s exclusion may only delay or prevent making safe the homes of the leaseholders it is trying to protect, as funding would need to be secured for the whole block before works can begin.²⁸ When we put these concerns to the Secretary of State, he said “we will look sympathetically at any amendments that help to capture people”.²⁹

Buildings below 11m

11. Thirdly, we received concerns about there being no funds and no proposed statutory protections for leaseholders of buildings below 11m in height.³⁰ Charles Roe, Director of Mortgages at UK Finance, said:

The fund that was announced by Secretary of State Gove in January talked about buildings above 11 metres. However, from the discussions my team and I have been having with leaseholders, we know that there are a number of leaseholders in buildings below 11 metres who are impacted and are facing significant costs to correct those building defects.³¹

12. **The Secretary of State said the Government would protect leaseholders from remediation costs, but too many leaseholders will fall through the cracks of the Government’s piecemeal measures. As the Government’s proposals currently stand, the only leaseholders who will not pay for building safety remediation are those who have already not paid anything, who either live in their flats or only own one other property, whose flats do not also have any non-cladding defects, and whose flats are in blocks at least 11m high.**

13. **Leaseholders are no more to blame for non-cladding defects than they are for faulty cladding on homes they bought in good faith. Buy-to-let landlords are no more to blame than other leaseholders for historic building safety defects, and landing them with potentially unaffordable bills will only slow down or prevent works to make buildings safe. Leaseholders of buildings under 11m in height are no more to blame than other leaseholders.**

14. **Our longstanding view is that leaseholders should not pay a penny to rectify faults not of their doing and to make their homes safe. The amendments tabled to the Building Safety Bill show that the Government does not share that view. *The Government should scrap the cap on non-cladding costs for leaseholders.***

15. ***We do not agree with the Government’s proposal that only buy-to-let landlords with one other property should be included in the statutory protections for leaseholders. Should the Government continue to treat buy-to-let landlords differently to other***

27 Wharf Block A Tenants Association ([BRF 057](#))

28 Juliet Morris ([BRF 004](#)); Gavin Thompson, and Avery ([BRF 010](#)); Association of Residential Managing Agents ([BRF 035](#)); Heritage Court (Warstone) RTM Company ([BRF 040](#)); Mr Nigel Billen ([BRF 075](#)); Mr Peter Mengerink and Ms Jane Randle ([BRF 076](#)); Emily Tomlinson ([BRF 099](#)); Spectrum Residents’ Association ([BRF 100](#)); UK Cladding Action Group ([BRF 117](#)); “Landlord exclusion from cladding fix makes flats unsellable and blocks repairs”, The Telegraph, 16 February 2022

29 [Q190](#)

30 [Q82](#) [Andrew Bulmer]; Karbon Homes ([BRF 034](#)); Mr Joe Jenkins ([BRF 041](#)); Mr and Mrs Christine Valerie and Gian-Pietro Untersander ([BRF 050](#)); Mr Mark Berentzen ([BRF 054](#)); Chartered Institute of Housing ([BRF 086](#)); Liverpool City Region Housing Associations ([BRF 092](#)); Ipswich Cladiators, and Mr Chu Man ([BRF 094](#)); Miss Steph Pike ([BRF 102](#)); Ms Janeczko ([BRF 106](#)); UK Cladding Action Group ([BRF 117](#)); End Our Cladding Scandal ([BRF 119](#))

31 [Q168](#)

leaseholders there are other options available to exclude wealthy property tycoons from the protections without making landlords of more modest means liable, such as basing eligibility on the value of the company that owns the properties, or on the landlord owning a higher number of rental properties. We recommend that the Government publish an impact assessment of these options before undertaking a course of action. The Government should also publish an impact assessment on how its current proposals to exclude buy-to-let landlords with fewer than one other property could affect the progress of remediation.

16. *Our preferred option would be for the Government to table amendments to the Building Safety Bill to ensure that all leaseholders in buildings of any height have statutory protection from future costs for remediating historic building safety defects, both cladding and non-cladding.*

17. *Instead of its piecemeal method of funding remediation according to building height and type of defect, the Government should implement our previously recommended Comprehensive Building Safety Fund. The fund should cover the costs of remediating all building safety defects on buildings of any height where the original “polluter(s)” cannot be traced. Overseas owners of affected properties should not be eligible for any funds for remediation.*

3 Data

18. As we have emphasised in previous reports, in order to know how much money needs to be raised to fund remediation, the Government needs to know how many buildings are affected and the types of defects they have.³² The Government publishes a monthly data release in connection with the Building Safety Fund, which monitors applications to the fund, successful registrations, and the amount paid out.³³ The Government's publicly available data on building safety therefore provides, at best, a partial picture: it covers only cladding defects and only on buildings 18m and above, and it does not capture any buildings for which an application is not made, for example because the original developer has chosen to take on the costs of remediation. There is no publicly available record of the total number of buildings affected by the building safety crisis, let alone a picture disaggregated by height of building or cladding and non-cladding faults. One leaseholder told us they were not surprised that the Government's proposals "will not solve the issues we are all facing...because their starting point is without actual evidence of how many buildings are affected [and] how they are affected".³⁴

19. In December 2021 the Secretary of State promised to share with us the information that the Department has on affected buildings.³⁵ In January 2022 he wrote to developers and manufacturers instructing them to share with the Department "comprehensive information on all buildings over 11m which have historic fire safety defects" which their companies played a role in constructing or in providing products or services.³⁶ On 31 January, John Mulyran, Group Managing Director at Ballymore said the deadline for the data return was that day,³⁷ while David O'Leary, Policy Director at Home Builders Federation, told us the Government was "targeting some time this week" to assimilate the information.³⁸ Three days later the Department wrote again to developers asking for "a fuller return with all 11m+ buildings that you have developed so that we can match these against our database of buildings that need remediation where we do not have developer information", giving a deadline of 7 February; the Home Builders Federation replied it would aim for 25 February.³⁹

20. We welcome the fact that this data gathering exercise has finally begun and appreciate that the process is time-consuming, with tight timescales imposed by Government.⁴⁰ We also appreciate that the Government's new "proportionate" approach to risk will affect the specification of works that need to be carried out.⁴¹ However, we are baffled that hardly anyone seems to be able to share the calculations they have. The only calculations we received were estimates from the G15, the group of London's largest not-for-profit housing

32 HCLG Committee, Second Report of Session 2019-21, [Cladding: progress of remediation](#), HC 172, para 56; HCLG Committee, Seventh Report of Session 2019-21, [Cladding remediation—follow-up](#), HC 1249, paras 5–10

33 DLUHC, [Building Safety Programme: monthly data release - January 2022](#), 17 February 2022

34 Ms Denise Steadman (BRF 066)

35 [Letter from the Secretary of State to the Chair following his appearance before the Committee on 8 November 2021, dated 9 December 2021](#)

36 [Letter from Secretary of State to Residential Property Developer Industry, dated 10 January 2022](#); [Letter from Secretary of State to Construction Products Association, dated 22 January 2022](#)

37 [Q41](#)

38 [Q13](#)

39 [Letter from Richard Goodman to Residential Property Developer Industry, dated 3 February 2022](#); [Letter from Stewart Baseley to Richard Goodman, dated 9 February 2022](#)

40 [Q49](#) [David O'Leary]; [Letter from Stewart Baseley to Richard Goodman dated 9 February 2022](#)

41 [Q19](#) [John Mulyran]; [Q155](#) [Kate Henderson]; [Letter from Ballymore to the Committee dated 11 February 2022 concerning evidence given before the Committee on 31 January on Building Safety](#)

associations. They are forecasting to spend £3.6 billion on building safety works from 2021–2036.⁴² This relates to a total of approximately 4,208 buildings, 688 of which are above 18m and 3,260 are below 18m (one member was unable to provide information on the number of buildings).⁴³ Over half (55%) relates to non-cladding works.⁴⁴ When we asked the Secretary of State during oral evidence for the data, he recited statistics from the Government’s monthly data release.⁴⁵ He said that the £5.1 billion estimate for cladding remediation on buildings above 18m was reached by “a team within the Department and consultants from outside”,⁴⁶ but their workings have not been published. The Department has estimated that the total cost of remediating cladding on buildings 11–18m is £4 billion, but, despite our questions, has provided no evidence or methodology to support that estimate.⁴⁷ The Home Builders Federation deems £4 billion an overestimate, yet despite preparing information from its members for the Government—information we repeatedly asked for—the Home Builders Federation has not shown us its calculations to demonstrate why £4 billion is asking too much.⁴⁸ The Construction Products Association could not estimate the cost to its members of correcting their own faults.⁴⁹ The National Housing Federation estimates the total cost of remediating homes in the social sector at £6 billion, and possibly over £10 billion taking into account buildings 11–18m high and the new proportionate approach to risk, but is unable to break this figure down by building height, type of defect, or the number of buildings.⁵⁰ In the absence of further calculations being provided to us, it is impossible for us to assess whether the Government is asking industry for too much, or too little.

21. It is completely unacceptable that, nearly five years after the Grenfell tragedy, the Government still does not seem to know how many buildings have unsafe cladding or other historic building safety defects. We commend the Secretary of State for finally seeking information from developers and manufacturers, and commend industry for now working at pace to provide this information. *The Government must publish, within two months, all available data on the number of buildings of all heights with historic building safety defects—cladding and non-cladding—including data it has received from developers and manufacturers.*

42 G15, and MTVH ([BRF 029](#))

43 [Letter from G15 to the Chair dated 4 March 2022 following up evidence given before the Committee on 2 February concerning Building Safety](#)

44 G15, and MTVH ([BRF 029](#))

45 [Q201](#)

46 [Q204](#)

47 [Qq202–203](#)

48 [Qq3–4; Q14; Letter from Home Builders Federation to the Chair dated 16 February 2022 concerning evidence given before the Committee on 31 January on Building Safety; Home Builders Federation \(\[BRF 112\]\(#\)\)](#)

49 [Letter from the Construction Products Association to the Chair dated 17 February 2022 following up evidence given before the Committee on 31 January concerning Building Safety](#)

50 [Q115; National Housing Federation \(\[BRF 085\]\(#\)\)](#)

4 Who should pay?

Polluter pays

22. We have always said that leaseholders should not be liable for remediation costs, which our witnesses wholeheartedly agreed with.⁵¹ Where there was less consensus, however, was on the question of who should be paying instead of leaseholders. The “polluter pays” principle has often been cited in this debate, and the Secretary of State signed up to this principle in the House of Commons Chamber.⁵² As well as requiring developers to fund and undertake all necessary remediation on buildings they played a role in developing, the Government has tabled amendments to the Building Safety Bill to extend the rights of leaseholders to challenge those who cause defects in premises for up to 30 years retrospectively (although we heard that there will be challenges with implementation and insurance and this extension may not help many leaseholders in practical terms).⁵³ Putting aside the argument that many developers were complying with the regulations of the time, there are two challenges with the “polluter pays” principle: multiple polluters, and untraceable polluters.

Multiple polluters

23. Taylor Wimpey pointed out that before 10 January, developers were the only sector that had been required to contribute to public funds for building safety.⁵⁴ Developers have also voluntarily funded remediation works to the tune of £1 billion.⁵⁵ It is only developers that the Secretary of State has asked to commit to funding and undertaking remediation of faults of their own doing.⁵⁶ While manufacturers have been put on notice to contribute to the new fund, provide data on their contribution to building safety defects, and, if the Government’s amendments to the Building Safety Bill pass, to have Cost Contribution Orders placed on them where they have successfully been prosecuted under construction products regulations,⁵⁷ manufacturers have not been asked to proactively fund and undertake remediation where they produced a faulty product. Our evidence pointed out that there are many other parties who contributed to the crisis, such as product suppliers,⁵⁸ installers who may have installed products incorrectly,⁵⁹ contractors,⁶⁰ subcontractors,⁶¹

51 [Q2](#) [David O’Leary]; [Q5](#) [Peter Caplehorn]; [Q7](#) [John Mulryan]; [Q69](#) [Ben Beadle]; [Qq71–3](#) [Andrew Bulmer]; [Q75](#) [Liam Spender]; [Q111](#) [Kate Henderson; Geeta Nanda]; [Q133](#) [Charles Roe; Richard Collins]

52 HC Deb, 10 January 2022, [col 300](#) [Commons Chamber]

53 [Q56](#); [Qq97–98](#); Anonymous ([BRF 001](#)); Mr P Bullock ([BRF 033](#)); Mr David Parker ([BRF 042](#)); Miss Alison Hills ([BRF 049](#)); Richard Price ([BRF 053](#)); Mr James Brenan ([BRF 062](#)); Royal Institute of British Architects ([BRF 063](#)); Angela Levitsky ([BRF 068](#)); London Councils ([BRF 072](#)); FirstPort ([BRF 073](#)); GMV Management Ltd ([BRF 074](#)); International Underwriting Association ([BRF 084](#)); Professor Sarah Lupton ([BRF 087](#)); British Insurance Brokers’ Association ([BRF 088](#)); Association of British Insurers ([BRF 091](#)); Mr Anthony Speaight QC ([BRF 101](#)); Chartered Institute of Architectural Technologists ([BRF 108](#)); Construction Industry Council ([BRF 110](#))

54 Taylor Wimpey ([BRF 114](#))

55 [Q2](#) [David O’Leary]; [Letter from David O’Leary to the Chair dated 16 February 2022 concerning evidence given before the Committee on 31 January on Building Safety](#); Home Builders Federation ([BRF 112](#))

56 [Letter from Secretary of State to Residential Property Developer Industry, dated 10 January 2022](#)

57 [Letter from Secretary of State to Construction Products Association, dated 22 January 2022](#); DLUHC, [Government to protect leaseholders with new laws to make industry pay for building safety](#), 14 February 2022

58 [Q71](#); [Q114](#); Taylor Wimpey ([BRF 114](#))

59 [Q9](#)

60 [Q9](#), [Q114](#); Taylor Wimpey ([BRF 114](#))

61 [Q9](#)

architects,⁶² building control,⁶³ and the redevelopment industry.⁶⁴ Governments, through their oversight of the regulatory framework, also share responsibility for the building safety crisis. For example, this was a regulatory framework which resulted in the construction industry not being alerted about unsafe cladding materials—for which the Building Research Establishment has recently been heavily criticised.⁶⁵

24. Some suggested that the insurance industry should also be included in the funding arrangement.⁶⁶ We have received evidence of building insurance premiums being increased by 500%, 600%, 700%, 1,400%, and 2,000%.⁶⁷ Unsurprisingly, James Dalton, Director of General Insurance Policy at the Association of British Insurers (ABI), resisted this suggestion on the basis that insurers did not build any of the buildings in question.⁶⁸ In written evidence the ABI added that levying the insurance industry could lead to insurers increasing their premiums “for a wide number of policyholders”.⁶⁹ James Dalton conceded that there might be a conversation worth having about the providers of warranties on such buildings,⁷⁰ but the ABI subsequently wrote to downplay that suggestion, saying:

New home warranty insurers, like other insurers, are not responsible for the quality of the build of homes. A new build warranty is designed to provide cover for latent defects, usually within ten years of the build being completed. A new build warranty is not a guarantee that a home complies with Building Regulations, the responsibility for which (as recognised in statute and in Government guidance) rests with those carrying out the work.⁷¹

James Dalton agreed to write to us with the level of pay-outs on medium and high-rise buildings since the Grenfell fire, so that we could compare these to the levels of premiums that have been charged.⁷² In written evidence, the ABI stated that in 2019 its members paid out £1.2 billion in response to 54,000 domestic and commercial fire claims—which does not address in detail the issues concerned in this inquiry, though we understand there are challenges in obtaining data on payouts for fire safety claims in medium and high-rise buildings due to the way this data is collected by different insurance companies.⁷³ While the ABI sought to impress upon us that insurers face requirements on the level of capital which firms must hold, we think it is important that there is transparency about whether the insurance industry has profited excessively from the building safety crisis.⁷⁴

25. When we put these suggestions about other sectors to the Secretary of State, he placed developers at “the apex of the system” and explained that they were “first in line” in negotiations because “[u]ltimately, the developer, the building owner, is responsible

62 [Liverpool City Region Housing Associations \(BRF 092\)](#)

63 [Liverpool City Region Housing Associations \(BRF 092\)](#)

64 [Q134](#)

65 [Q183](#); [Q200](#)

66 [Q114](#); [Mr P Bullock \(BRF 033\)](#)

67 [Mr Jonathan Campkin \(BRF 003\)](#); [Juliet Morris \(BRF 004\)](#); [Miss Alison Hills \(BRF 049\)](#); [Ms Denise Steadman \(BRF 066\)](#); [Mr Joseph Douglas \(BRF 081\)](#); [A Fidler \(BRF 109\)](#)

68 [Q135](#); See also [International Underwriting Association \(BRF 084\)](#)

69 [Association of British Insurers \(BRF 091\)](#)

70 [Q138](#)

71 [Association of British Insurers \(BRF 091\)](#)

72 [Qq149–153](#)

73 [Association of British Insurers \(BRF 091\)](#)

74 [Qq149–151](#); [Association of British Insurers \(BRF 091\)](#)

for every aspect of building control and development”.⁷⁵ He added: “If it is the case that either contractors or insurers have a responsibility that we have not correctly and properly apportioned and identified, let us discuss what it is that we can do”;⁷⁶ on the subject of warranty providers contributing to a scheme, he said the Government was “not ruling anything out at this stage”.⁷⁷

Untraceable polluters

26. The Government has taken welcome action to hold some untraceable developers accountable, by tabling amendments to the Building Safety Bill that would give courts “new powers to allow developers to be sued where they have used shell companies to manage specific developments, so they can avoid taking responsibility for their actions”.⁷⁸ However, this alone cannot hold all original developers accountable, since many who were responsible for buildings with historic defects have since gone out of business.⁷⁹ Some are overseas companies.⁸⁰ David O’Leary, Policy Director at Home Builders Federation, described as unfair the Government’s plans to tax UK homebuilders and product manufacturers and not their international counterparts:

[I]n a year’s time, we do not want to be in a position where the UK based homebuilders are subject to a new tax but international developers can come in from outside and not pay any new tax or not be subject to any sanctions. That does not feel like a fair outcome. Peter [Caplehorn, CEO of Construction Products Association] has the same issue. A large number of those companies are international firms. Putting the focus on UK based homebuilders does not seem entirely fair.⁸¹

When pressed on what the Government could do to ensure that overseas developers are made to pay their fair share, the Secretary of State said the Government has “a range of levers”.⁸² He did not provide more detail on the basis that “when we are dealing with some determined actors that want to do everything possible to evade their responsibility, we do not necessarily want to show every bit of our hand there”.⁸³

Collective responsibility

27. If the polluter is to pay, then all polluters should share responsibility. Indeed, requiring stakeholders such as suppliers, installers, contractors, subcontractors, redevelopers, and insurers to pay into public funds could help to raise funds to pay for non-cladding defects. We appreciate that some sectors, or some individual organisations within those sectors, may feel indignation at being lumped together with “polluters” when they feel they

75 [Q175](#); [Q178](#); [Q182](#); [Q235](#)

76 [Q182](#)

77 [Q181](#)

78 DLUHC, [Government to protect leaseholders with new laws to make industry pay for building safety](#), 14 February 2022

79 [Q14](#); Gavin Thompson, and Avery ([BRF 010](#)); Evolution Cove Residents Association ([BRF 014](#)); Miss Sophie Bichener ([BRF 047](#)); Mr Kulwinder Hothi ([BRF 051](#)); Mr Colin Spilling ([BRF 058](#)); Ipswich Cladiators, and Mr Chu Man ([BRF 094](#)); Home Builders Federation ([BRF 112](#))

80 [Q9](#); [Q14](#); Home Builders Federation ([BRF 112](#))

81 [Q55](#)

82 [Q176](#)

83 [Q177](#)

played a lesser or limited role in the crisis. But unless the wider industry takes collective responsibility the crisis will not be solved. Liam Spender from the UK Cladding Action Group put it thus:

I do not think we should get into there being innocent industry players and not innocent industry players. They were all in the same industry. What is coming out of the Grenfell Tower inquiry is the high degree of knowledge within the industry about what was going on. In our view, the ones who stayed silent are exactly as culpable as the ones who built shoddy buildings.⁸⁴

Government responsibility

28. A key concern about the funding arrangement was the length of time it would take to gather funds from all the relevant parties and distribute funds from the collective pot where the original polluter cannot be traced. This time-consuming process will affect how quickly works can be carried out. To avert this delay, several contributors suggested that Government should fund the works upfront and recover the funds afterwards.⁸⁵ Another way in which Government could speed up works, by releasing more funds while at the same time reducing the overall financial burden by industry, is to remove VAT on building safety activity. This suggestion received support in evidence.⁸⁶

29. **We commend the Government for finally taking action to require industry players to remediate and pay for faults of their own doing, and we commend those organisations who have already done so. However, developers and manufacturers are not the only sectors that contributed to the building safety crisis, and we appreciate the Secretary of State’s openness to pursuing other sectors. The whole industry must take collective responsibility for remediation funding: while some organisations may feel they are more innocent than others, no party in this crisis is more innocent than the leaseholders whom such funding is supposed to protect. Government should identify all relevant parties who played a role in the building safety crisis, such as product suppliers, installers, contractors, and subcontractors. It should legally require them, as it has done for developers, to (i) contribute payment to put right any individual faults in which they played a part and (ii) contribute to collective funding for building safety remediation—ideally our recommended Comprehensive Building Safety Fund. So that efforts to identify responsible parties do not delay remediation works, the Government should, where necessary, fund works upfront and recoup its costs.**

30. **Governments share responsibility for the building safety crisis on account of their regulatory failings. Everyone involved would instantly have more funds to spend on remediation if the Government played its part by removing VAT on building safety activity, which would enable homes to be made safer. The Government should remove VAT on building safety activity.**

31. **While insurance premiums for leaseholders have gone up, buildings have become**

84 [Q75](#)

85 New Providence Wharf Leasehold and Residents Association ([BRF 043](#)); Dukes Palace Wharf (Norwich) Management Company ([BRF 056](#)); Mr Reece Lipman ([BRF 079](#)); Kirsty Walsh ([BRF 104](#)); A Fidler ([BRF 109](#)); Bristol City Council ([BRF 113](#)); UK Cladding Action Group ([BRF 117](#)); End Our Cladding Scandal ([BRF 119](#))

86 [Q124](#) [Geeta Nanda]; G15, and MTVH ([BRF 029](#)); New Providence Wharf Leasehold and Residents Association ([BRF 043](#)); Miss Alison Hills ([BRF 049](#)); Ms Pauline McMillan ([BRF 055](#)); Chartered Institute of Housing ([BRF 086](#)); Anonymous ([BRF 098](#)); Marc Duschenes ([BRF 107](#)); A Fidler ([BRF 109](#))

safer as a result of remediation works that have been carried out. The risk to insurers has reduced as a result. *Insurers should be required to contribute to funds for remediation as they covered the actions of developers who failed to comply with building safety and have since received increased premiums despite remediation works being undertaken. The Government should ask the Financial Conduct Authority to publish an analysis to illustrate on an annual basis since the Grenfell fire how the level of pay-outs by insurers for fire safety claims in medium and high-rise buildings compares with the increase in premiums for buildings insurance for medium and high-rise buildings.*

32. *Product manufacturers found to have been criminally responsible for defective products extending back 30 years must be legally required to automatically replace faulty materials free of charge, including compensating others who have already paid to replace the materials in question.*

33. **The Government rightly proposes to take strong action against UK firms, however its options against overseas firms who have also contributed to the building safety crisis are more limited. The Secretary of State told us that to reveal its options would be showing too much of the Government's hand. *The Government must take steps to hold overseas developers and other relevant foreign firms to account. When it is appropriate to do so, the Government should set out the actions it has taken.***

5 Costs already paid out

Leaseholders who have already paid

34. When the Secretary of State made his statement on 10 January, he was asked—since leaseholders will now be protected in law from cladding remediation costs—whether leaseholders who have already paid for remediation would be compensated.⁸⁷ He replied: “I cannot...say that we will be in a position to compensate those who have already contributed”.⁸⁸ Our witnesses said this was “unjust” and other contributors were equally concerned.⁸⁹ Andrew Bulmer, CEO of Institute of Residential Property Managers, said:

It is very simple: it is unjust. You have people who have been trying to do the right thing, often working with their team, their building manager, perhaps their landlord, whoever, but they have tried to do the right thing. The right thing, of course, is to get the building safe as quickly as possible. For them to be penalised for that at high levels seems to be unjust. If the polluter is to pay, it would suggest that, if we are not to pursue the polluter for those where the leaseholders have already paid, that is throwing those leaseholders under a bus. I feel that that would be unjust.⁹⁰

35. As we have said more than once, leaseholders have not just paid for remediation works.⁹¹ They have also paid eye-watering bills on interim costs such as waking watches and sky-rocketing insurance premiums (as noted above, we received evidence of increases of 500%, 600%, 700%, 1,400%, and 2,000%).⁹² While the Government has taken some action to minimise future interim costs, first with a waking watch relief fund,⁹³ and now with a waking watch replacement fund,⁹⁴ and also by asking the Financial Conduct Authority and Competition and Markets Authority to look into the issue of insurance premiums,⁹⁵ according to the Government’s proposals the money that has already been spent is money these leaseholders will never get back. We asked the Secretary of State if the Department had tried to calculate how much leaseholders have already paid for this crisis, and he replied that the figures the Department had were “more about mitigating a future wave of costs than dealing with a significant amount that has already been paid”.⁹⁶

87 HC Deb, 10 January 2022, [col 294](#) [Commons Chamber]

88 HC Deb, 10 January 2022, [col 294](#) [Commons Chamber]

89 [Qq83–84](#); Mr Jonathan Campkin ([BRF 003](#)); Mr Paul Durston ([BRF 016](#)); Mr Nigel Campkin ([BRF 021](#)); Mr Malcolm Bruce ([BRF 023](#)); R Bint ([BRF 030](#)); Mr P Bullock ([BRF 033](#)); Mr Joe Jenkins ([BRF 041](#)); London Councils ([BRF 072](#)); FirstPort ([BRF 073](#)); Mayor of London ([BRF 077](#)); Bristol City Council ([BRF 113](#)); UK Cladding Action Group ([BRF 117](#))

90 [Q83](#)

91 HCLG Committee, Second Report of Session 2019–21, [Cladding: progress of remediation](#), HC 172, paras 67–80; HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, paras 34–40

92 [Q83](#), [Qq85–87](#); [Q140](#); [Q143](#); Mr Jonathan Campkin ([BRF 003](#)); Juliet Morris ([BRF 004](#)); Miss Alison Hills ([BRF 049](#)); Ms Denise Steadman ([BRF 066](#)); Mr Joseph Douglas ([BRF 081](#)); A Fidler ([BRF 109](#))

93 DLUHC, [Waking Watch Relief Fund](#)

94 DLUHC, [Waking Watch Replacement Fund opens for applications](#), 27 January 2022

95 [Letter from the Secretary of State to the Financial Conduct Authority and the Competition and Markets Authority, dated 28 January 2022](#)

96 [Q229](#)

Shared owners

36. Shared owners, who have been landed with 100% of bills despite not owning 100% of their property, also stand to receive no compensation.⁹⁷ The Government has taken some steps to address the burden on shared owners. It has made it easier for shared owners to sub-let—although, as one shared owner pointed out to us, shared owners may not wish to pass on the fire risk to a renter, sub-letting may not help to recoup the full costs, and not all shared owners have somewhere else to live.⁹⁸ The Government has also proposed that shared owners’ cap on non-cladding costs be proportional to their share of their property.⁹⁹ But, like other leaseholders, shared owners are not expected to recoup anything they have already spent.

Leaseholders who have not yet been billed

37. We are also concerned about cladding remediation works for which leaseholders have not yet been billed, either because they have not finished or because they have been specified but not started. Without a retrospective date on the Government’s amendments to the Building Safety Bill, these leaseholders may not benefit from the new statutory protections. We were struck that the Secretary of State’s advice to leaseholders who receive a bill ahead of passage of the Building Safety Bill was effectively to refuse to pay, saying:

[I]f I were advising a leaseholder I would say to the freeholder, “I am terribly sorry; it is your responsibility to deal with this. That is what the Government have spelt out. We are not going to acquiesce to your demands when there is this legislation before the House of Lords that is explicitly intended to support us and that has been brought forward by the Government and backed by the House of Commons.”¹⁰⁰

It is very concerning that companies could rush to invoice leaseholders before the Building Safety Bill receives Royal Assent, and the Government is doing nothing more to support people in this position than advising them to withhold payment.

The Government’s proposed cap on non-cladding costs

38. With regards to its proposed cap on non-cladding costs, the Government has indicated that “[a]ny costs paid out by leaseholders over the past 5 years will count towards the cap, meaning some leaseholders will pay nothing more”.¹⁰¹ It also states that waking watch charges will count towards the cap; when questioned, the Secretary of State did not confirm whether exorbitant rises in insurance premiums would be included in the cap, leading us to believe that they would not be included.¹⁰² When we asked the Secretary of State whether the costs counting towards the cap include both cladding and non-cladding costs, he replied “yes”, and when we asked whether the difference would be reimbursed

97 [Qq93–4](#)

98 HC Deb, 10 January 2022, col 285 [Commons Chamber]; Anna Vaughan ([BRF 015](#))

99 DLUHC, [Government to protect leaseholders with new laws to make industry pay for building safety](#), 14 February 2022

100 [Q212](#)

101 DLUHC, [Government to protect leaseholders with new laws to make industry pay for building safety](#), 14 February 2022

102 [Q231](#)

if they had already paid in excess of the cap he replied: “That is the aim”.¹⁰³ While those measures would put some limits on the total spent by leaseholders, it still creates an unfair situation whereby some leaseholders will have paid while others will not.

39. As they stand, the Government’s proposals create a bizarre lucky dip in which some leaseholders may see their costs capped at £10,000 (£15,000 in London); some, because they have not yet paid for cladding remediation, may pay nothing at all; and others, who have already paid for cladding remediation, will have paid well in excess of the proposed non-cladding cap. Leaseholders who have already paid for remediation and other interim measures to make their homes safe are no more responsible for the crisis than leaseholders who will now be protected in law from such costs. *The Government should collect and publish data on the costs paid out by leaseholders since the Grenfell fire and the costs that leaseholders have not yet been billed for. It would have had to collect data on the amount paid out for its proposed cap on non-cladding costs, so the administrative burden is not a reason not to.*

40. *The Government should table new amendments to the Building Safety Bill to ensure that, where the “polluter(s)” still exist, industry players must compensate leaseholders for remediation and interim costs already paid out and must pay for works that have been started or specified. In line with principles already set out by Government, where the original polluter no longer exists or cannot be identified, funding for building safety remediation—ideally our recommended Comprehensive Building Safety Fund—should cover the costs of compensating leaseholders for costs already paid out, including interim measures and exorbitant rises in insurance premiums. The additional costs for leaseholders generated by increases in insurance premiums are another reason why insurers should be required to contribute to funds for building safety remediation.*

6 Impact on social housing

41. We have long expressed our concerns about the impact of the building safety crisis on the quality and quantity of social homes.¹⁰⁴ As the crisis continues, the true impact on those living in social housing, waiting to be accommodated and currently homeless, is being revealed. We heard that the Government is “playing building safety off against the wider housing crisis”.¹⁰⁵

Leaseholders vs. tenants

42. To date, social housing providers have only been able to apply to Government funds for remediation and waking watches where they would otherwise have passed on the costs to leaseholders (with the exception of the original £400 million allocated for ACM cladding announced in May 2018).¹⁰⁶ Consequently, social renters are not protected. As Geeta Nanda, Chair of G15 and CEO of Metropolitan Thames Valley Housing, told us: “Currently, private landlords can access the fund for renters and we can’t access the fund for our renters”.¹⁰⁷ She and Cllr Rachel Blake explained that social landlords pay for the works using “rents that are coming into business plans”, so that, in an “indirect” way, social tenants are contributing to the costs of remediation.¹⁰⁸ We already knew that this situation resulted in funds being diverted from carrying out upgrades and maintenance work on existing stock as well as from developing new homes.¹⁰⁹ During this inquiry we received some shocking figures that reveal the consequences of the Government excluding social landlords from building safety funds.

Impact on planned developments

43. According to a survey of more than 100 housing associations, one in 10 planned new affordable homes have been scrapped because of funds being diverted to building safety remediation.¹¹⁰ G15, which represents the largest housing associations in London, wrote: “The investment G15 members are making in tackling building safety issues is equivalent to the housing association investment required to build approximately 72,000 new affordable homes. Some G15 members are already reducing their development pipelines by between 20–40%”.¹¹¹ Some housing associations wrote to us to say their development pipeline was also affected.¹¹² Kate Henderson, CEO of the National Housing Federation, described what this means in human terms with this example:

I recently visited Evolve Housing. It is a housing association that provides housing and support in Croydon to 1,300 people who have experienced, or are experiencing, homelessness. It is building Alexandra House—an 80-bed, supported housing service for vulnerable homeless people. In effect,

104 HCLG Committee, Second Report of Session 2019–21, [Cladding: progress of remediation](#), HC 172, paras 18–19, 25; HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, paras 45–47

105 [Q124](#) [Kate Henderson]

106 MHCLG and HM Treasury, “[Government announces it will fully fund unsafe cladding removal in social housing](#)”, 16 May 2018

107 [Q125](#)

108 [Qq125–128](#)

109 HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, paras 45–47

110 [Q125](#)

111 G15, and MTVH ([BRF 029](#))

112 Midland Heart ([BRF 026](#)); Moat Homes ([BRF 060](#))

it is having to be rebuilt because of building safety defects. That is costing around £2.5 million. Currently, Evolve is having to cover those costs itself, with money that it planned to use to build a new development for vulnerable homeless people.¹¹³

Impact on existing homes

44. As for the impact on maintaining existing stock, the same survey of housing associations revealed that £730 million was being diverted from routine improvement works such as upgrading bathrooms and kitchens.¹¹⁴ Kate Henderson explained that the impact of the diversion of this funding would be felt by residents not only in terms of bricks and mortar but also in terms of the important services that housing associations provide:

We are absolutely committed to ensuring that all residents have a good quality of service. However, without additional funding for the remediation of social homes, we will have to find that money from elsewhere, and that may well be diverting money away. That is not just from planned longer-term investments. Housing associations don't just do bricks and mortar. They support people with education and training; they provide welfare advice; they support people with their physical and mental health; they provide after-school clubs and holiday camps. They do a whole range of other activities.¹¹⁵

Building safety levy

45. We were concerned to hear that social housing providers are not exempt from the Building Safety Levy, and see that as another pressure on budgets for affordable housing.¹¹⁶ Cllr Rachel Blake told us:

Social housing providers are not exempt from the building safety levy, which was out for consultation until the end of last year. The Local Government Association has a real concern about the impact that that will have on social housing providers, should they be eligible for it...There is concern about the negotiations; about the impact of the building safety levy on the supply of genuinely affordable homes; and about how the levy interacts with the viability system in planning applications, because developers come forward with an application, and payment of the building safety levy is part of the viability assessment. There is a real risk that that comes off the affordable, and that is a really serious issue to consider in depth.¹¹⁷

Housing associations as developers

46. Another concern of housing associations was whether, for the purposes of identifying responsible parties for remediation, housing associations would be considered “developer

113 [Q115](#)

114 [Q119](#)

115 [Q126](#)

116 London Councils ([BRF 072](#)); Local Government Association ([BRF 121](#))

117 [Q121](#)

freeholders” and therefore be expected to fund and undertake necessary remediation.¹¹⁸ This would again put pressure on housing budgets. The National Housing Federation said it was right for housing associations with their own construction arms to cover costs for buildings they built that need to be fixed, which they have already agreed to do, but that it would be wrong for housing associations to pay where they are the “customer of a developer, commissioning a building through a “design and build” contract or acquiring homes through section 106”.¹¹⁹ It continued:

In both instances, the responsibility for the design and delivery of a building that is safe and compliant with building regulations sits squarely with the lead contractors. If housing associations were instead made to absorb these costs, not only would it divert funding away from building new social housing and other key services, it could delay remediation. Not-for-profit housing associations have finite capacity and resources to remediate buildings each year, so any proposal to increase their liability for remedial works may add more years to their programmes.

Affordable Homes Programme

47. Despite our repeated appeals to Government to include social landlords within eligibility criteria for building safety funds,¹²⁰ instead of accepting our recommendations the Government has put further pressure on social housing budgets. A leaked letter from the Treasury Chief Secretary to the Secretary of State indicates that the Secretary of State has agreed to make DLUHC’s budget the backstop if a funding arrangement with industry is not agreed; the package is dependent on no further contributions from the taxpayer.¹²¹ This backstop has been widely interpreted to refer to the Government’s Affordable Homes Programme.¹²² Far from taking action, then, to address the impact of the building safety crisis on the provision of affordable housing, the Government has only added more risk that the crisis will directly lead to even fewer affordable homes being built in the future.

48. When we put our concerns about the impact on social housing to the Secretary of State, he said the Government had a “responsibility to interrogate” the assertion that one in 10 new affordable homes would be axed, but did not give any indication that his own Department had attempted to quantify how many new affordable homes would be affected, instead saying: “it is one of those cases where we need to kick the tyres to assess exactly what the impact will be”.¹²³ Nor did he answer whether the Government had conducted an impact assessment on the maintenance of existing stock, instead pointing to a commitment in the Levelling Up White Paper to improve housing quality in general and the forthcoming social housing Bill.¹²⁴ Of the Affordable Homes Programme, the Secretary of State said “[w]e will do everything we can to protect it” at its current level,¹²⁵ but fell short of providing a guarantee, saying: “I have learnt that you can never give a cast

118 Local Government Association ([BRF 121](#))

119 National Housing Federation ([BRF 085](#))

120 HCLG Committee, Second Report of Session 2019–21, [Cladding: progress of remediation](#), HC 172, para 25; HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, para 47

121 Twitter, https://twitter.com/lewis_goodall/status/1479547522712580108?s=20&t=nGakSxvyJpiEF6ejtmL8g

122 “Gove’s building safety plan: the full rundown of what he said in his speech”, *Inside Housing*, 10 January 2022; [Q124](#); Liverpool City Region Housing Associations ([BRF 092](#))

123 [Q216](#)

124 [Q218](#)

125 [Q220](#)

iron guarantee. You can only commit to best endeavours. If, for any reason, I have to resile from that, I will come and let the Committee know”.¹²⁶ On 7 March the Committee held an evidence session on the Department’s Annual Report and Accounts. We took the opportunity to press the Permanent Secretary on arrangements for the residential property developer tax and levy and the implications for the Department if it did not receive full funding from the industry. The Permanent Secretary told us the Department’s preference was for industry to meet any shortfall rather than relying on the Affordable Housing Programme.¹²⁷

49. The Government must stop pitting the building safety crisis against the housing crisis. Without access to funds for remediation where social tenants live, residents of social housing are paying the price through the diversion of funds from maintaining their homes and other vital services provided by housing associations and councils. Those on waiting lists and those who are homeless are paying the price through the decimation of planned new builds for affordable homes, with one in 10 planned developments axed. The principle that a leaseholder should be protected from costs, while a tenant, perhaps a neighbour in the same block, should contribute through their rent, is deeply unfair. *Social landlords must have full access to funds for building safety remediation—ideally our recommended Comprehensive Building Safety Fund.*

50. *Social housing providers must be exempt from the Building Safety Levy and any other taxes or levies connected to building safety remediation. Social housing providers must be exempt from requirements to fund and undertake necessary remediation on buildings they played a role in developing where they were the customer of a developer.*

51. *The Government must commit to protecting the Affordable Homes Programme at its current level should it fail to recover sufficient funds from industry.*

126 [Q221](#)

127 LUHC Committee, [Formal meeting \(oral evidence session\): DLUHC Annual Report and Accounts 2020–21](#)

7 Guidance on building safety

52. In our previous report, *Cladding Remediation—Follow-up*, we highlighted the significant impact that uncertainty around building safety was having on the wider housing market.¹²⁸ Some of that impact concerned lenders’ decisions around the need to complete an EWS1 form on selling or re-mortgaging, and we were told that the problem was also in relation to the “underlying uncertainty” around building safety, which affects the entire property chain.¹²⁹

Withdrawal of consolidated advice note

53. Following the Grenfell Tower fire, the Government published advice notes for building owners on the measures they should take to ensure their buildings were safe. The Consolidated Advice Note provided guidance on how to assess a building’s external walls, smoke control systems and identified the types of short-term interim measures that could be put in place if significant risks to life safety were identified. The Consolidated Advice Note led lenders to ask for EWS1 forms on buildings of any height (not just those over 18m, for which the form was designed). We have repeatedly heard criticism of the EWS1 process, and in our previous report, *Cladding Remediation—Follow-up*, we noted delays in EWS1 surveys due to a lack of qualified, insured surveyors, the high costs of the surveys being passed on to residents, and mission creep.¹³⁰ We also wrote to the former Secretary of State in May 2021 with our concerns.¹³¹ Despite this, we still received evidence for this inquiry of ongoing issues with the EWS1 process,¹³² which have prevented leaseholders from being able to sell or mortgage their flats,¹³³ and incurred an extra cost to leaseholders.¹³⁴

54. On 10 January, in his statement in the House of Commons on Building Safety, the Secretary of State said:

We must also restore common sense to the assessment of building safety overall. The Government are clear—we must find ways for there to be fewer unnecessary surveys. Medium-rise buildings are safe, unless there is clear evidence to the contrary. ... [T]oday I am withdrawing the Government’s consolidated advice note. It has been wrongly interpreted and has driven a cautious approach to building safety in buildings that are safe that goes beyond what we consider necessary. We are supporting new, proportionate guidance for assessors, developed by the British Standards Institution, which will be published this week.¹³⁵

The position now is that, where a detailed assessment of external walls of existing multi-storey, multi-occupied residential buildings is deemed necessary, it should be carried out in accordance with the guidance included in Publicly Available Specification (PAS) 9980.¹³⁶

128 HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, paras 41–44

129 HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, para 42

130 HCLG Committee, Seventh Report of Session 2019–21, [Cladding remediation—follow-up](#), HC 1249, paras 41–44

131 [Letter from the Chair to the Secretary of State dated 21 May 2022 concerning the EWS1 process](#)

132 Gavin Thompson, and Avery ([BRF 010](#)); Ms Caroline Milne ([BRF 017](#)); Anonymous ([BRF 036](#))

133 Dr Mark Azavedo ([BRF 009](#)); G15, and MTVH ([BRF 029](#)); Miss Sophie Bichener ([BRF 047](#)); Mr Colin Spilling ([BRF 058](#)); Ms Turner ([BRF 065](#)); Angela Levitsky ([BRF 068](#)); Dr David Bateman ([BRF 083](#)); Bristol City Council ([BRF 113](#))

134 Mr Joseph Douglas ([BRF 081](#))

135 HC Deb, 10 January 2022, [col 284](#) [Commons Chamber]

136 British Standards Institute, [PAS 9980:2022](#) (accessed 25 February 2022)

The Secretary of State also announced that the Government would introduce, before Easter, a “scheme to indemnify building assessors conducting external wall assessments”.¹³⁷

55. In November 2021, Sir Ken Knight, Chair of the Independent Expert Advice Panel on building safety, told us that he hoped the PAS 9980 would replace the consolidated advice note and “quickly overtake the EWS1 assessment needed separately by each occupier and that it is on a more proportionate basis”.¹³⁸ However, despite the introduction of the PAS 9980, the EWS1 form will continue to be used. The British Standards Institute, who created the PAS 9980, states:

PAS 9980 is not intended as an alternative to the EWS1 form, which is for valuation purposes and is administered by RICS. However, if the likes of RICS and others wish to refer to the PAS in the future that is a matter for themselves to consider.¹³⁹

56. Richard Collins, interim CEO of Royal Institution of Chartered Surveyors, told us he thought that the EWS1 form and process would continue for as long as there continued to be concerns about high-rise buildings being unsafe.¹⁴⁰ He said that the PAS 9980 “quite rightly introduces a much broader fire safety assessment process” but noted that the process was lengthy and will take more work than the EWS1 process to complete.¹⁴¹ He concluded: “we think that the slightly simpler process—the EWS1 process, which looks at cladding—will continue and that is for the benefit of all parts of market. I think it has broad support from lenders, valuers and conveyancers”.¹⁴²

57. Other stakeholders were concerned that this new, longer PAS 9980 process may not remove the market uncertainty generated by the EWS1 process, with some expressing scepticism that it would necessarily introduce a more proportionate approach.¹⁴³ We also heard concerns that there was a lack of qualified fire risk assessors and that this was delaying the commencement of some remediation work.¹⁴⁴ It was emphasised to us that more qualified assessors were essential,¹⁴⁵ but while we were informed that there was capacity to train 2,000 additional assessors, we were not informed what the overall capacity for undertaking fire risk assessments was.¹⁴⁶ In addition, we received concerns that the professional indemnity insurance scheme being introduced by the Government would only cover those conducting the EWS1 process and not the PAS 9980 process.¹⁴⁷ We were told that uncertainty about the indemnity scheme was having an impact on the number of assessors who could do fire risk assessments.¹⁴⁸

58. The Secretary of State told us that it was a decision by lenders to require an EWS1 form, and that the Department had been talking to lenders about reducing the use of EWS1

137 HC Deb, 10 January 2022, [col 284](#) [Commons Chamber]

138 Oral evidence taken on 22 November 2021, HC (2021–22) 894, [Q43](#)

139 British Standards Institute, [PAS 9980:2022](#) (accessed 25 February 2022)

140 [Q155](#); See also: Miss Alison Hills ([BRF 049](#)); London Councils ([BRF 072](#))

141 [Q155](#); See also: Gavin Thompson, and Avery ([BRF 010](#)); Mr Nigel Campkin ([BRF 021](#)); Association of Residential Managing Agents ([BRF 035](#)); Richard Price ([BRF 053](#)); Royal Institute of British Architects ([BRF 063](#)); FirstPort ([BRF 073](#))

142 [Q155](#)

143 G15, and MTVH ([BRF 029](#)); Dr Mustafa Selçuk Çıdık and Dr Steve Phillips ([BRF 064](#))

144 [Q28](#)

145 [Q65](#)

146 [Q169](#)

147 [Q165](#); See also British Insurance Brokers' Association ([BRF 088](#))

148 [Q59](#)

forms. He said that the introduction of the PAS 9980 “will not lead to the elimination of EWS1 forms overnight...the sector’s estimate is that 5% of properties 11 to 18 metres may still require EWS1 forms at the moment. That will diminish over time [as more fire risk assessments under the PAS 9980 are undertaken]”.¹⁴⁹ He also told us that work was being undertaken to share information across lenders so that “once one potential lender has said, “You need this work required on this building”, you do not need multiple lenders to do the same”.¹⁵⁰

59. The Secretary of State also informed us “in terms of meeting the need for trained personnel, we have provided nearly £700,000 worth of funding to RICS to help train more assessors. There are now 1,000 additional candidates in training in order to do this work”.¹⁵¹ In addition, he told us that the professional indemnity insurance scheme was currently under review in respect of it covering the PAS 9980 assessments, and he undertook to inform us of the conclusions of that work.¹⁵²

60. Given that the introduction of the PAS 9980 will not result in the elimination of EWS1 forms, we remain concerned that uncertainty will remain about the safety of buildings and will continue to stymie those trying to sell their homes. We welcome the work being done with lenders to try to share information and reduce the demand for EWS1 forms. We also welcome the funding that has been provided to the Royal Institution of Chartered Surveyors to train assessors. However, we are concerned that these assessors are still in training and will not be able to undertake surveys for some time. This raises questions about how quickly the backlog of buildings requiring assessments can be cleared. Furthermore it is uncertain whether their work in respect of PAS 9980 assessments will be covered by the professional indemnity insurance scheme that has been established. *In addition to the Secretary of State’s commitment to update us on the coverage of the professional indemnity insurance scheme, the Government must ensure that there is professional indemnity insurance cover for those conducting PAS 9980 assessments—whether as an extension of the scheme for external wall assessors or as a separate scheme. We ask the Government to monitor and report back to this Committee with its assessment of the impact of the introduction of PAS 9980 on the numbers of buildings that need to be inspected and remediated. We also ask the Government to report back to the Committee with its estimate of the number of currently qualified fire risk assessors and how this will increase in the coming months.*

Decision-making

61. We also heard from witnesses that the regulator, rather than building owners, should be the one to decide which buildings required fire risk assessments. Liam Spender, UK Cladding Action Group told us:

The only way you do that [decide who has responsibility for assessing which buildings are at risk] is you give a central body the power to set the standard and make sure whoever is doing the inspection meets the standard, so the same way you would mark an exam. Then you ensure consistency of decisions. Getting a regulator with teeth is part of the solution.¹⁵³

149 [Q225](#); See also [Q205](#)

150 [Q205](#)

151 [Q226](#)

152 [Q227](#)

153 [Q106](#)

Andrew Bulmer, CEO of the Institute of Residential Property Managers added:

The regulator should set the standard and the methodology for making sure that those that are undertaking the risk assessments adhere to that standard.¹⁵⁴

62. The Secretary of State told us that discussions were ongoing with the Health and Safety Executive on how the new Building Safety Regulator should work. This included whether it was the regulator or building owners who would have responsibility for deciding whether a fire risk assessment was required. When pressed he said that that this was an issue that needed resolution and would let us know when a decision had been taken.¹⁵⁵

63. The evidence we received clearly indicates that it should be the regulator—and not building owners—who decides whether a building needs a fire risk assessment. As such, we recommend that the Building Safety Regulator decides whether a building needs a fire risk assessment; sets the standard that a building need to meet; sets out the methodology for undertaking assessments; and provides a review process which enables consistency of decisions.

154 [Q107](#)

155 [Q226](#)

Conclusions and recommendations

Introduction

1. We repeat our previous calls for further mental health support for those affected by the building safety crisis. (Paragraph 5)
2. *In the absence of PAS-79 guidance which was withdrawn in August 2021, it is imperative that the British Standards Institute publish its new standard as soon as possible. We urge the Government to report on its consultation on Personal Emergency Evacuation Plans at the earliest opportunity.* (Paragraph 6)

Protecting leaseholders from future costs

3. The Secretary of State said the Government would protect leaseholders from remediation costs, but too many leaseholders will fall through the cracks of the Government's piecemeal measures. As the Government's proposals currently stand, the only leaseholders who will not pay for building safety remediation are those who have already not paid anything, who either live in their flats or only own one other property, whose flats do not also have any non-cladding defects, and whose flats are in blocks at least 11m high. (Paragraph 12)
4. Leaseholders are no more to blame for non-cladding defects than they are for faulty cladding on homes they bought in good faith. Buy-to-let landlords are no more to blame than other leaseholders for historic building safety defects, and landing them with potentially unaffordable bills will only slow down or prevent works to make buildings safe. Leaseholders of buildings under 11m in height are no more to blame than other leaseholders. (Paragraph 13)
5. Our longstanding view is that leaseholders should not pay a penny to rectify faults not of their doing and to make their homes safe. The amendments tabled to the Building Safety Bill show that the Government does not share that view. *The Government should scrap the cap on non-cladding costs for leaseholders.* (Paragraph 14)
6. *We do not agree with the Government's proposal that only buy-to-let landlords with one other property should be included in the statutory protections for leaseholders. Should the Government continue to treat buy-to-let landlords differently to other leaseholders there are other options available to exclude wealthy property tycoons from the protections without making landlords of more modest means liable, such as basing eligibility on the value of the company that owns the properties, or on the landlord owning a higher number of rental properties. We recommend that the Government publish an impact assessment of these options before undertaking a course of action. The Government should also publish an impact assessment on how its current proposals to exclude buy-to-let landlords with fewer than one other property could affect the progress of remediation.* (Paragraph 15)

7. *Our preferred option would be for the Government to table amendments to the Building Safety Bill to ensure that all leaseholders in buildings of any height have statutory protection from future costs for remediating historic building safety defects, both cladding and non-cladding. (Paragraph 16)*
8. *Instead of its piecemeal method of funding remediation according to building height and type of defect, the Government should implement our previously recommended Comprehensive Building Safety Fund. The fund should cover the costs of remediating all building safety defects on buildings of any height where the original “polluter(s)” cannot be traced. Overseas owners of affected properties should not be eligible for any funds for remediation. (Paragraph 17)*

Data

9. *It is completely unacceptable that, nearly five years after the Grenfell tragedy, the Government still does not seem to know how many buildings have unsafe cladding or other historic building safety defects. We commend the Secretary of State for finally seeking information from developers and manufacturers, and commend industry for now working at pace to provide this information. *The Government must publish, within two months, all available data on the number of buildings of all heights with historic building safety defects—cladding and non-cladding—including data it has received from developers and manufacturers. (Paragraph 21)**

Who should pay?

10. *We commend the Government for finally taking action to require industry players to remediate and pay for faults of their own doing, and we commend those organisations who have already done so. However, developers and manufacturers are not the only sectors that contributed to the building safety crisis, and we appreciate the Secretary of State’s openness to pursuing other sectors. The whole industry must take collective responsibility for remediation funding: while some organisations may feel they are more innocent than others, no party in this crisis is more innocent than the leaseholders whom such funding is supposed to protect. *Government should identify all relevant parties who played a role in the building safety crisis, such as product suppliers, installers, contractors, and subcontractors. It should legally require them, as it has done for developers, to (i) contribute payment to put right any individual faults in which they played a part and (ii) contribute to collective funding for building safety remediation—ideally our recommended Comprehensive Building Safety Fund. So that efforts to identify responsible parties do not delay remediation works, the Government should, where necessary, fund works upfront and recoup its costs. (Paragraph 29)**
11. *Governments share responsibility for the building safety crisis on account of their regulatory failings. Everyone involved would instantly have more funds to spend on remediation if the Government played its part by removing VAT on building safety activity, which would enable homes to be made safer. *The Government should remove VAT on building safety activity. (Paragraph 30)**

12. While insurance premiums for leaseholders have gone up, buildings have become safer as a result of remediation works that have been carried out. The risk to insurers has reduced as a result. Insurers should be required to contribute to funds for remediation as they covered the actions of developers who failed to comply with building safety and have since received increased premiums despite remediation works being undertaken. *The Government should ask the Financial Conduct Authority to publish an analysis to illustrate on an annual basis since the Grenfell fire how the level of pay-outs by insurers for fire safety claims in medium and high-rise buildings compares with the increase in premiums for buildings insurance for medium and high-rise buildings.* (Paragraph 31)
13. *Product manufacturers found to have been criminally responsible for defective products extending back 30 years must be legally required to automatically replace faulty materials free of charge, including compensating others who have already paid to replace the materials in question.* (Paragraph 32)
14. The Government rightly proposes to take strong action against UK firms, however its options against overseas firms who have also contributed to the building safety crisis are more limited. The Secretary of State told us that to reveal its options would be showing too much of the Government's hand. *The Government must take steps to hold overseas developers and other relevant foreign firms to account. When it is appropriate to do so, the Government should set out the actions it has taken.* (Paragraph 33)

Costs already paid out

15. As they stand, the Government's proposals create a bizarre lucky dip in which some leaseholders may see their costs capped at £10,000 (£15,000 in London); some, because they have not yet paid for cladding remediation, may pay nothing at all; and others, who have already paid for cladding remediation, will have paid well in excess of the proposed non-cladding cap. Leaseholders who have already paid for remediation and other interim measures to make their homes safe are no more responsible for the crisis than leaseholders who will now be protected in law from such costs. *The Government should collect and publish data on the costs paid out by leaseholders since the Grenfell fire and the costs that leaseholders have not yet been billed for. It would have had to collect data on the amount paid out for its proposed cap on non-cladding costs, so the administrative burden is not a reason not to.* (Paragraph 39)
16. *The Government should table new amendments to the Building Safety Bill to ensure that, where the "polluter(s)" still exist, industry players must compensate leaseholders for remediation and interim costs already paid out and must pay for works that have been started or specified. In line with principles already set out by Government, where the original polluter no longer exists or cannot be identified, funding for building safety remediation—ideally our recommended Comprehensive Building Safety Fund—should cover the costs of compensating leaseholders for costs already paid out, including interim measures and exorbitant rises in insurance premiums. The additional costs for leaseholders generated by increases in insurance premiums are another reason why insurers should be required to contribute to funds for building*

safety remediation. (Paragraph 40)

Impact on social housing

17. The Government must stop pitting the building safety crisis against the housing crisis. Without access to funds for remediation where social tenants live, residents of social housing are paying the price through the diversion of funds from maintaining their homes and other vital services provided by housing associations and councils. Those on waiting lists and those who are homeless are paying the price through the decimation of planned new builds for affordable homes, with one in 10 planned developments axed. The principle that a leaseholder should be protected from costs, while a tenant, perhaps a neighbour in the same block, should contribute through their rent, is deeply unfair. *Social landlords must have full access to funds for building safety remediation—ideally our recommended Comprehensive Building Safety Fund.* (Paragraph 49)
18. *Social housing providers must be exempt from the Building Safety Levy and any other taxes or levies connected to building safety remediation. Social housing providers must be exempt from requirements to fund and undertake necessary remediation on buildings they played a role in developing where they were the customer of a developer.* (Paragraph 50)
19. *The Government must commit to protecting the Affordable Homes Programme at its current level should it fail to recover sufficient funds from industry.* (Paragraph 51)

Guidance on building safety

20. Given that the introduction of the PAS 9980 will not result in the elimination of EWS1 forms, we remain concerned that uncertainty will remain about the safety of buildings and will continue to stymie those trying to sell their homes. We welcome the work being done with lenders to try to share information and reduce the demand for EWS1 forms. We also welcome the funding that has been provided to the Royal Institution of Chartered Surveyors to train assessors. However, we are concerned that these assessors are still in training and will not be able to undertake surveys for some time. This raises questions about how quickly the backlog of buildings requiring assessments can be cleared. Furthermore it is uncertain whether their work in respect of PAS 9980 assessments will be covered by the professional indemnity insurance scheme that has been established. *In addition to the Secretary of State's commitment to update us on the coverage of the professional indemnity insurance scheme, the Government must ensure that there is professional indemnity insurance cover for those conducting PAS 9980 assessments—whether as an extension of the scheme for external wall assessors or as a separate scheme. We ask the Government to monitor and report back to this Committee with its assessment of the impact of the introduction of PAS 9980 on the numbers of buildings that need to be inspected and remediated. We also ask the Government to report back to the Committee with its estimate of the number of currently qualified fire risk assessors and how this will increase in the coming months.* (Paragraph 60)

21. *The evidence we received clearly indicates that it should be the regulator—and not building owners—who decides whether a building needs a fire risk assessment. As such, we recommend that the Building Safety Regulator decides whether a building needs a fire risk assessment; sets the standard that a building need to meet; sets out the methodology for undertaking assessments; and provides a review process which enables consistency of decisions. (Paragraph 63)*

Formal minutes

The following declarations of interest were made at meetings relating to Building Safety: Remediation and Funding:

31 January 2022

Clive Betts declared that he is a Vice-President of the Local Government Association (also declared on 2 and 21 February).

Ian Byrne declared that he employs a councillor in his office (also declared on 2 and 21 February).

Bob Blackman declared that he is a Vice-President of the Local Government Association and that he employs a councillor in his office (also declared on 21 February).

Andrew Lewer declared that he is a Vice-President of the Local Government Association (also declared on 2 and 21 February) and that the National Residential Landlords Association provides the secretariat for the Private Rented Sector All-Party Parliamentary Group which he chairs.

2 February 2022

Mohammad Yasin declared that he is a member of the Bedford Town Deal Board.

Matt Vickers declared that he has family members who are councillors, and employs a councillor in his office.

Ben Everitt declared that he is Chair of the All-Party Parliamentary Group for Housing Market and Housing Delivery, and that he met with Richard Collins the previous week as part of a roundtable.

21 February 2022

Kate Hollern declared that she employs a councillor in her office.

Brendan Clarke-Smith declared that he employs councillors in his office.

Mary Robinson declared that she employs a councillor in her office.

Monday 7 March 2022

Members present:

Mr Clive Betts, in the Chair

Ian Byrne

Florence Eshalomi

Andrew Lewer

Bob Blackman

Matt Vickers

Mohammad Yasin

Draft report (*Building Safety: Remediation and Funding*) proposed by the Chair, brought up and read.

Ordered, That the report be read a second time, paragraph by paragraph.

Paragraphs 1 to 63 read and agreed to.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned until Wednesday 9 March at 9.45am]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Monday 31 January 2022

David O'Leary, Policy Director, Home Builders Federation; **Peter Caplehorn**, Chief Executive, Construction Products Association; **John Mulryan**, Group Managing Director, Ballymore

[Q1–65](#)

Liam Spender, Representative, UK Cladding Action Group; **Ben Beadle**, Chief Executive Officer, National Residential Landlords Association; **Andrew Bulmer**, CEO, Institute of Residential Property Management

[Q66–109](#)

Wednesday 2 February 2022

Kate Henderson, Chief Executive, National Housing Federation; **Geeta Nada**, Chief Executive, and chair of the G15 group of London housing associations, Metropolitan Thames Valley; **Cllr Rachel Blake**, Member of the Community Wellbeing Board, Local Government Association (LGA)

[Q110–131](#)

Richard Collins, Interim Chief Executive, Royal Institution of Chartered Surveyors (RICS); **James Dalton**, Director General Insurance Policy, Association of British Insurers (ABI); **Charles Roe**, Director of Mortgages, UK Finance

[Q132–172](#)

Monday 21 February 2022

Rt Hon Michael Gove MP, Secretary of State, Department for Levelling Up, Housing and Communities

[Q173–236](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

BRF numbers are generated by the evidence processing system and so may not be complete.

- 1 Anonymous, ([BRF0059](#))
- 2 Anonymous, ([BRF0098](#))
- 3 Anonymous, ([BRF0036](#))
- 4 Anonymous, ([BRF0006](#))
- 5 Anonymous, ([BRF0001](#))
- 6 Association of British Insurers ([BRF0091](#))
- 7 Association of Residential Managing Agents ([BRF0035](#))
- 8 Azavedo, Dr Mark (Associate Fellow, KITA, National University of Malaysia) ([BRF0009](#))
- 9 Bateman, Dr. David (Managing Director, Bateman Homes Limited) ([BRF0083](#))
- 10 Berentzen, Mr Mark ([BRF0054](#))
- 11 Bichener, Miss Sophie ([BRF0047](#))
- 12 Billen, Mr Nigel (Volunteer Director, The Shaftsbury Management Company Ltd) ([BRF0075](#))
- 13 Bint, R ([BRF0030](#))
- 14 Brenan, Mr James (Solicitor , Spencer West LLP) ([BRF0062](#))
- 15 Bristol City Council ([BRF0113](#))
- 16 British Insurance Brokers' Association (BIBA) ([BRF0088](#))
- 17 British Property Federation ([BRF0012](#))
- 18 Brown, Mr Miles (Teacher, Haverstock school) ([BRF0082](#))
- 19 Bruce, Mr Malcolm ([BRF0023](#))
- 20 Bullock, Mr P ([BRF0033](#))
- 21 Campkin, Mr Jonathan (Media manager, Football Club) ([BRF0003](#))
- 22 Campkin, Mr Nigel (Retired) ([BRF0021](#))
- 23 Chartered Institute of Architectural Technologists ([BRF0108](#))
- 24 Chartered Institute of Housing ([BRF0086](#))
- 25 Çıdık, Dr. Mustafa Selçuk (Lecturer in Construction Management, The Bartlett School of Sustainable Construction, University College London); and Phillips, Dr. Steve (Senior Lecturer in Building Surveying, School of The Built Environment and Architecture, London South Bank University) ([BRF0064](#))
- 26 Christine, Mr. and Mrs. (Retired) ([BRF0050](#))
- 27 Churchill Retirement Living ([BRF0111](#))
- 28 Construction Industry Council ([BRF0110](#))
- 29 Delahunty, ([BRF0093](#))
- 30 Dixon, Mr Steve Anderson ([BRF0020](#))

- 31 Douglas, Mr Joseph ([BRF0081](#))
- 32 Duke's Palace Wharf (Norwich) Management Company ([BRF0056](#))
- 33 Durston, Mr Paul (Retired Police Officer, Metropolitan Police) ([BRF0016](#))
- 34 Duschenes, Marc (former CEO, Ground Rent Income Fund plc) ([BRF0107](#))
- 35 End Our Cladding Scandal ([BRF0119](#))
- 36 Evans, Ms Rowena ([BRF0028](#))
- 37 Evolution Cove Residents Association ([BRF0014](#))
- 38 FIRSTPORT ([BRF0073](#))
- 39 Farmery, Mr Paul ([BRF0080](#))
- 40 Federation of Private Residents Associations ([BRF0031](#))
- 41 Fidler, A ([BRF0109](#))
- 42 Fraser, Julie ([BRF0115](#))
- 43 G15 and MTVH ([BRF0029](#))
- 44 GMV Management Ltd ([BRF0074](#))
- 45 Gayer, Mr Marc (Landlord and Individual Investor) ([BRF0002](#))
- 46 Goar, Richard (Train driver, Avanti West Coast) ([BRF0095](#))
- 47 Graham, Mrs Tracey ([BRF0025](#))
- 48 Heritage Court (Warstone) RTM Company Limited ([BRF0040](#))
- 49 Hills, Miss Alison (Solicitor-Advocate, Slater & Gordon Lawyers) ([BRF0049](#))
- 50 Home Builders Federation ([BRF0112](#))
- 51 Hothi, Mr Kulwinder ([BRF0052](#))
- 52 Housing Safety and Wellbeing Task Force ([BRF0116](#))
- 53 International Underwriting Association ([BRF0084](#))
- 54 Ipswich Cladiators ([BRF0094](#))
- 55 Islington Gates Leaseholder Management Company ([BRF0027](#))
- 56 Janeczko, Ms ([BRF0106](#))
- 57 Jenkins, Mr Joe ([BRF0041](#))
- 58 Karbon Homes ([BRF0034](#))
- 59 Leasehold Knowledge Partnership ([BRF0118](#))
- 60 Levitsky, Angela ([BRF0068](#))
- 61 Lipman, Mr Reece (Filmmaker, Self Employed / Freelance) ([BRF0079](#))
- 62 Liverpool City Region Housing Associations; and Onward Homes ([BRF0092](#))
- 63 Local Government Association (LGA) ([BRF0121](#))
- 64 London Councils ([BRF0072](#))
- 65 London First ([BRF0069](#))
- 66 Lupton, Professor Sarah (Professor, Cardiff University) ([BRF0087](#))
- 67 Mayor of London ([BRF0077](#))
- 68 Mengerink, Mr Peter; and Randle, Ms Jane ([BRF0076](#))

- 69 Midland Heart ([BRF0026](#))
- 70 Milne, Ms Caroline ([BRF0017](#))
- 71 Mistry ([BRF0097](#))
- 72 Moat Homes ([BRF0060](#))
- 73 Morley, Ros ([BRF0070](#))
- 74 Morris, Juliet ([BRF0004](#))
- 75 Moseley, Mrs Sue (Retired Teacher) ([BRF0019](#))
- 76 Mountifield, ([BRF0089](#))
- 77 National Federation of Roofing Contractors (NFRC) ([BRF0071](#))
- 78 National Fire Chiefs Council ([BRF0120](#))
- 79 National Housing Federation ([BRF0085](#))
- 80 New Atlas Wharf Leaseholders ([BRF0044](#))
- 81 New Providence Wharf Leasehold and Residents' Association ([BRF0043](#))
- 82 Nicholson, Mr Richard ([BRF0007](#))
- 83 Parker, Mr David (Consultant / Director, NHS) ([BRF0042](#))
- 84 Parkman, Mr Laurence (Retired) ([BRF0067](#))
- 85 Pike, Miss Steph ([BRF0102](#))
- 86 Price, Richard ([BRF0053](#))
- 87 Speaight QC, Mr Anthony ([BRF0101](#))
- 88 Kenwood, Mr Richard and Hedger, Mr Graham ([BRF0011](#))
- 89 RISC Authority ([BRF0038](#))
- 90 Rodgers, Mr Raymond ([BRF0008](#))
- 91 Royal Institute of British Architects ([BRF0063](#))
- 92 Spectrum Resident's Association ([BRF0100](#))
- 93 Spilling, Mr Colin (Retired) ([BRF0058](#))
- 94 Steadman, Ms Denise (Retired) ([BRF0066](#))
- 95 Taylor Wimpey ([BRF0114](#))
- 96 The Panorama House RTM Company Limited ([BRF0048](#))
- 97 The Wharf Block A Tenants Association ([BRF0057](#))
- 98 The Wren Insurance Association Limited ([BRF0039](#))
- 99 Thompson, Gavin ([BRF0010](#))
- 100 Tomlinson, Emily ([BRF0099](#))
- 101 Triathlon Homes LLP ([BRF0096](#))
- 102 Turner, Ms ([BRF0065](#))
- 103 UK Cladding Action Group ([BRF0117](#))
- 104 Vaughan, Anna ([BRF0015](#))
- 105 Velicky (Member, Group of New Atlas Wharf Leaseholders) ([BRF0045](#))
- 106 Walsh, Kirsty ([BRF0104](#))

- 107 Wang, Mrs Jing ([BRF0061](#))
- 108 Wittcomb, Mr Mark ([BRF0013](#))
- 109 McMillan, Ms Pauline ([BRF0055](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2021–22

Number	Title	Reference
1st	The future of the planning system in England	HC 38
2nd	Local authority financial sustainability and the section 114 regime	HC 33
3rd	Permitted Development Rights	HC 32
4th	Progress on devolution in England	HC 36
5th	Local government and the path to net zero	HC 34
6th	Supporting our high streets after COVID-19	HC 37

Session 2019–21

Number	Title	Reference
1st	Protecting rough sleepers and renters: Interim Report	HC 309
2nd	Cladding: progress of remediation	HC 172
3rd	Building more social housing	HC 173
4th	Appointment of the Chair of Homes England	HC 821
5th	Pre-legislative scrutiny of the Building Safety Bill	HC 466
6th	Protecting the homeless and the private rented sector: MHCLG's response to Covid-19	HC 1329
7th	Cladding Remediation—Follow-up	HC 1249