

## Written evidence submitted by Anonymous [BSB 215]

### 1.0 Introduction

- 1.1 This evidence is submitted on behalf of a tenants association recognised by the freeholder as an 'unofficial' advisory body which has been granted permission to liaise with the freeholder's representatives on key issues relating to the running of the building. The building is a high-rise apartment block, located in Bristol city centre.
- 1.2 The evidence submitted will respond to the following question:
  - **Is the Government right to propose a new Building Safety Charge? Does the bill introduce sufficient protections to ensure that leaseholders do not face excessive charges and that their funds are properly managed?**

### 2.0 Background

- 2.1 The building is an eight-storey building (including a basement) with the floor of the top storey being above 18m. It was originally constructed as a commercial office building and converted into residential accommodation in 2017 with the first apartments being occupied a few weeks after the Grenfell Tower tragedy. In addition to original brick cladding the conversion included at least five new cladding systems and the installation of balconies. A small area was clad using ACMs, other systems include non-ACM metal composite systems. The balconies have timber decking.
- 2.2 The Building owner's managing agent first advised leaseholders about fire safety issues relating to cladding systems at the owners' annual meeting in September 2019, approximately two years after completion. Leaseholders were advised about ACM cladding which needed to be assessed. It is believed the matter was instigated by a leaseholder who required an EWS1 form to sell their property.
- 2.3 Some months later the managing agent commissioned intrusive inspections in line with the Ministry of Housing, Communities and Local government Advice (January 2020). The resulting report, dated May 2020, highlighted fire safety concerns relating to the quality of build of some elements where steel composite panels had been cut to fit, exposing the insulation core.

The report recommended:

- larger scale removal of panels / systems to assess overall quality of the construction detailing;
  - a risk assessment of the fire spread of timber decking used on balconies and
  - further details be provided on ground floor window spandrel panels.
- 2.4 On 3 September 2020 the managing agent wrote to shareholders advising them that an application had been made to the Building Safety Fund for a grant to carry out remediation works to: "unsafe non-Aluminium Cladding Materials contained in the external wall system." Leaseholders were advised that if the grant application was unsuccessful the freeholder would seek to recover the costs for the works via the service charge and for this reason a Section 20 Notice of Intention to Carry Out Works was issued.

### 3.0 Regulatory and Legal Context

- 3.1 A fire engineer's report, dated September 2017, prepared prior to first occupation concluded that some of the cladding systems did not comply exactly with any of the three recommended options for external wall construction for a residential building higher than 18m, therefore an alternative

solution for Part B compliance was required. The report recommended five actions and we understand Practical Completion was delayed until the necessary works were undertaken and until a Building Control final certificate could be issued.

- 3.2 In our opinion, the investigations and report commissioned in 2020 did not fully consider the alternative solution for Part B compliance, nor are we aware of sufficient liaison between the freeholder, the managing agent or their surveyor and the original contractor and designer responsible for the conversion of the building. However, the findings of this report have been used to justify remediation works.
- 3.3 The Section 20 Notice stated that the proposed works were required to ensure the property was fully compliant with the requirements of the MHCLG Advice. This statement demonstrates a misunderstanding between guidance and regulations. Due to a lack of information and or understanding of the statutory requirements, and or their legal responsibilities, the freeholder is seeking to remove and replace any cladding or other components attached to the external walls where any fire safety risk is present. This action does not seem to be motivated by a genuine desire to improve the safety of residents, but by a fear of litigation, or a desire to create a more valuable asset.
- 3.4 If the proposed works related to building defects the freeholder would have been able to arrange the necessary rectification via the building contract. As this approach has not been used it suggests the proposed works are seeking to achieve a standard higher than that required by the building regulations applicable when the building was constructed.
- 3.5 If the proposed works were motivated by the objective to improve the safety of residents the shortcomings would have been identified in the building fire risk assessment and action would have been taken much sooner.

#### **4.0 Building Safety Charge & Protection of Leaseholder Interests**

- 4.1 If the draft Building Safety Bill passes into law accountable persons and building safety managers are likely to seek to protect their interests by pursuing the same course of action as the freeholder and managing agents of the building. This is likely to lead to the carrying out of works that eliminate rather than minimise fire safety hazards. The cost of the works is very likely to exceed the funds provided by the government and the cost for excessive or unnecessary works will ultimately be passed on to leaseholders.
- 4.2 There are insufficient measures in the Bill to protect leaseholders from charges for excessive or unnecessary works.
- 4.3 Who will be held responsibility under the draft Bill to mitigate the risk of excessive or unnecessary works being carried out? We suggest the Residents' Engagement Strategy will not deliver this objective as residents will not be qualified to assess the risk. This responsibility should rest with the Building Safety Regulator and there should be an appeals process available to leaseholders to defer proposed works, if it is believed the works are excessive or unnecessary, until an assessment is carried out by the Building Safety Regulator. Alternatively, leaseholder contributions towards the cost of works should be capped at a percentage of the value of leaseholders' properties.