



Homes  
England

Date: 23 December 2020

Our Ref: RFI3239

Tel: 0300 1234 500

Email: [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

Making homes happen

By Email Only

Windsor House  
Homes England – 6<sup>th</sup> Floor  
50 Victoria Street  
London  
SW1H 0TL

Dear [REDACTED]

**RE: Request for Information – RFI3239**

Thank you for your recent email, which was processed under the Freedom of Information Act 2000 (FOIA). For clarification, you requested the following information:

*Pursuant to the Freedom of Information Act, please provide me with all information held by you or under your control falling within the description below.*

1) any policy, guidance, correspondence or instructions (internal or external) relating to the redemption of Help to Buy mortgages where the property is affected by unsafe cladding or other fire safety defects. This should cover the period from 1 Jan 2018 to today's date. Please see <https://www.insidehousing.co.uk/news/news/help-to-buy-leaseholders-can-only-sell-homes-with-cladding-at-unaaffected-market-value-68534> and <https://www.theguardian.com/money/2018/apr/25/help-to-buy-agency-writes-down-loan-on-flat-over-grenfell-style-cladding> for context

2) details (in excel format or similar) of the number of redemptions per month where the value of redemption is affected by unsafe cladding or fire safety defects, identifying I) the number of mortgages redeemed at full market value or II) reduced value (as described in the inside housing article) that month.

3) confirmation of the authority's current position on the redemption value to be used in relation to properties with fire safety defects or unsafe cladding, details of any prior position (if this has changed) and identify the provisions in the standard form mortgage deed relied in relation to the position adopted.

4) any legal advice received in relation to the positions set out above. It is noted that while there is ordinarily a public interest in the maintenance of legal privilege as recognised by the ICO, that interest is outweighed in this particular circumstance by the following factors:

- if the authority has changed its position there is a public interest in transparency to understand the reasons for that. Significant sums of personal money are at stake and any decision could involve a windfall gain for individuals or expose them to unfair costs. There are possible discriminatory outcomes associated with differing approaches and also potentially wastage of public money. There is a public interest in this being subject to scrutiny and full transparency.

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*- further to the extent there have been identified weaknesses in the documentation used such as mortgage deeds, transparency is required in order ensure these are identified and to facilitate corrective action being taken to avoid wasting public money*

### **Response**

We are able to inform you that we do hold some of the information that you have requested. However, to comply with your request would exceed the appropriate limit for the cost of compliance. We therefore rely on section 12, exemption where the cost of compliance exceeds the appropriate limit under the FOIA.

The full text of the legislation can be found on the following link and we have quoted section 12 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/contents>

### **Section 12 - Exemption where cost of compliance exceeds appropriate limit**

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Minister for the Cabinet Office may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority:

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

(5) The Minister for the Cabinet Office may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

We have considered the current wording of your request and in its current scope we have determined that to establish where all elements of the information is held, to locate the information, retrieving the information and extracting the information would exceed the appropriate limit in terms of timeframes.

Under the terms of the Act we are not obliged to provide any information compiled in the course of our searches prior to concluding section 12 is engaged.



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### Advice and Assistance

In compliance with the Section 45 Code of Practice (Paragraph 14) and to offer advice and assistance under section 16 of the Freedom of Information Act 2000, you may wish to consider narrowing the scope of your request.

Please note that due to the broad scope of your request we cannot confirm that any further request would not also exceed the section 12 cost limit at this time.

### **Section 21 - Information accessible to applicant by other means.**

We are able to inform you that some of the information you have requested is available elsewhere.

The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such we can advise that some information that falls in scope of your questions has been published in a report by the National Audit Office which can be found via the link below;

<https://www.nao.org.uk/report/investigation-into-remediating-dangerous-cladding-from-high-rise-buildings/>

Regarding your question on policy, we can confirm that we act in accordance with the Equity Mortgage as the contract between us and the homeowner. This is set out in Customer Information Pack and related guidance on

<https://www.myfirsthome.org.uk/>.

### **Right to Appeal**

If you are not happy with the information that has been provided or the way in which your request has been handled you may request an internal review by writing to;

The Information Governance Team  
Homes England – 6<sup>th</sup> Floor  
Windsor House  
50 Victoria Street  
London  
SW1H 0TL

Or by email to [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

You may also complain to the Information Commissioner however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.



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The Information Commissioner's details can be found via the following link

<https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

**The Information Governance Team**

For Homes England

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