



Homes
England

Date: 29 January 2021

Our Ref: RFI3261

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████████
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear ██████████

RE: Request for Information – RFI3261

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

I wish to make a new request for just item 3 in my original request.

Item 3 from your 'original request' (RFI3239) is as follows:

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.

Response

We are able to inform you that we do hold the information that you have requested. However, we rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link and we have quoted section 21 below for ease.
<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

21 - Information accessible to applicant by other means.

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
- (2) For the purposes of subsection (1)—
 - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
 - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

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(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such, we can advise that the redemption value of all Help to Buy equity loans, including those affected by cladding is at market value, in accordance with the equity mortgage agreement. The position has not changed.

Homes England generally uses the unaffected value for purpose of redeeming loans, but we always take into account the specific circumstances which can potentially result in a different valuation being used. As the lender, we cannot advise borrowers on remediating unsafe cladding, which is a matter between the borrower and their freeholder

The equity mortgage agreement for 2013-2021 is available on the following link:

[HTB Equity Mortgage 12 Feb 2016.pdf \(publishing.service.gov.uk\)](#). The relevant definition for 'Market value' is found at Clause 1.1 on page 2.

The Market Value definition specifically requires redemption valuations to be provided ***"on the assumption if not a fact that all the covenants on the part of the Borrower in [the equity mortgage] had been fully complied with"***.

The relevant covenant that is required to be complied with for cladding affected properties is Clause 4.6 of the Equity Mortgage, which requires borrowers to ***"observe and perform all restrictive and other covenants all building regulations and all restrictions conditions and stipulations (if any) for the time being affecting the Property"***. For the purposes of the equity mortgage this covenant will not be complied with unless the borrower has paid the service charge to their landlord for the costs attributable to their property incurred by the landlord in remediating any cladding.

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 – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Or by email to infogov@homesengland.gov.uk



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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.

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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