



Government response to the Levelling Up, Housing and Communities Select Committee report on Building Safety: Remediation and Funding

Presented to Parliament
by the Secretary of State for
Levelling Up, Housing and Communities
by Command of Her Majesty

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Introduction

1. The government welcomes the Levelling Up, Housing and Communities Committee's reports published on 26 April 2021 and 7 March 2022 following its inquiries into cladding remediation, and building safety remediation and funding in England. We are grateful to the Committee and all those that provided evidence to it.
2. The Levelling Up, Housing and Communities Select Committee published a report on cladding remediation in April 2021. Since that report the Government has made radical changes to its approach to building safety. This response sets out the Government's position and responds to both remediation reports from the Select Committee.
3. The structure of the paper thematically corresponds to the Committee's recommendations.

Background

4. Immediately following the tragic fire at Grenfell Tower, the Ministry of Housing, Communities & Local Government (now called the Department for Levelling Up, Housing and Communities) established a building safety programme and appointed Dame Judith Hackitt to carry out an independent review of building regulations and fire safety. Her independent review found there was an unacceptable culture within the construction industry and that the regulatory system for high-rise residential buildings was not fit for purpose. The Government accepted all of Dame Judith's recommendations and committed to implementing them through delivering a risk-proportionate approach to building safety which in turn restores public confidence.
5. The Government is dedicated to ensuring that buildings are safe – and people feel safe in their homes – now and in the future. We are unwavering in our commitment to addressing the issues and recommendations highlighted by Dame Judith Hackitt in her Building a Safer Future report.
6. The Building Safety Act 2022, which received Royal Assent on 28 April 2022 will deliver on those recommendations. The Act will bring about the biggest improvement to building safety for a generation and forms the next step in the Government's programme of regulatory reform.
7. The Government has been taking steps to ensure that dangerous cladding has been removed from buildings across England through the Government's Building Safety Fund for buildings above 18 metres, as well as working with industry to ensure that they put right issues that they are responsible for.
8. On 10 January 2022 the Secretary of State announced three key principles through which the Government will approach building safety:
 - Proportionality: we will embed a proportionate approach towards the assessment of building safety – too many buildings are being judged to require expensive remediation or mitigation works.
 - Protecting leaseholders: it is fundamentally unfair that innocent leaseholders should be landed with bills they cannot afford, to fix problems they did not cause. It is only right

that building owners and landlords share in the costs of fixing dangerous buildings, and leaseholders will now have the law on their side.

- Holding industry to account: there should be commercial and reputational consequences for those that developed defective buildings or produced and sold dangerous cladding and insulation and are refusing to contribute to making buildings safe. The solution to this crisis is not just about the developers who were behind the construction of these buildings. We are clear that the building safety crisis was a systemic failure, and that cladding and insulation manufacturers must also make a collective contribution. It is their products that the Government and the industry is spending billions of pounds to remove from homes; they share the responsibility.

9. The Government has taken action on building safety in the following ways:

Making Buildings Safer

- Made an unprecedented commitment of £5.1 billion to fully fund the cost of replacing unsafe cladding for leaseholders in higher-risk residential buildings of 18 metres and above in height in England. This will protect hundreds of thousands of residents from the costs of replacing unsafe cladding on their homes.
- Driven progress on remediating unsafe cladding on buildings of 18 metres and above. Despite the pandemic, by the end of March 2022 94% of all identified high-rise residential and publicly owned buildings in England had either completed or started remediation work to remove and replace unsafe ACM cladding.
- We continue to encourage developers and building owners to act responsibly and correct safety defects. For example, in half of the high-rise private sector buildings with unsafe ACM cladding, building owners have done so without passing on costs to leaseholders. We have secured pledges from over 40 of the largest housing developers to remediate the buildings they have developed over the past 30 years. We will identify and put pressure on other developers and industry actors to follow suit and do more to pay their fair share of remediation costs.
- The Government will provide for the remediation of any remaining unsafe cladding on medium-rise buildings through a new fund, funded by a new Building Safety Levy on new residential buildings as part of the building control process, adhering to the principle that the industry must pay to remediate cladding on medium-rise buildings.

Supporting Leaseholders

- Launched a £35 million Waking Watch Relief Fund to install fire alarms in high-rise buildings, boosted with an additional £27 million in January 2022, relieving residents of costly Waking Watch patrol overheads. As of 31 March 2022, data on the progress of the Waking Watch Relief Fund shows that £27.5m funding has already been provided or has been approved covering 323 buildings. 224 buildings have completed their alarm installation. The data currently shows that, by fitting an alarm, leaseholders are expected to save on average £166 per month.

- Scrapped the proposal for loans and long-term debt for leaseholders living in their own homes in medium-rise buildings in favour of an alternative scheme, which will be funded by industry, to deliver proportionate remediation of cladding defects at no cost to leaseholders.
- Enshrined in law that leaseholders will be the last resort for building safety remediation costs, and introduced a cap on the costs that qualifying leaseholders in buildings above 11m or five storeys can be required to pay for remediation.
- Before passing costs onto leaseholders, building owners and landlords will have to first exhaust all other routes for securing funds for remediation. They will be only to pass on costs if they are not – or do not have a connection with – the developer, and do not have a net worth of more than £2 million per in-scope building.

Holding Industry to Account

- We are determined to ensure that we hold industry to account for their failures and that they pay for the costs of remediation.
- Continued to be supportive of existing regulators using enforcement action whenever appropriate to ensure that buildings are remediated. This includes support from the Joint Inspection Team, which provides expert advice and support to local authorities taking enforcement action on high-rise residential buildings with unsafe cladding.
- Introduced the new Residential Property Developer Tax (RPDT) to ensure that the residential property development sector pays a fair contribution for high-rise building safety remediation.
- Amended the Building Safety Levy so that we have scope to charge it on all residential buildings, not just buildings over 18 metres or seven storeys. This will enable Government to raise funds to remediate cladding on medium-rise buildings. The levy will be paid by developers as part of the building control process.
- The Building Safety Act introduces new legal avenues to hold industry to account against their responsibility for fixing historical building safety defects in all buildings over 11 metres that they have a role in developing.
- A dedicated Recovery Unit has been established to pursue and expose companies who fail to do the right thing.

Proportionality

- Taken steps to restore a proportionate approach to assessments of building safety risks. In January, we withdrew the consolidated advice note (CAN), the interpretation of which had driven an overly risk-averse and cautious approach to building safety.
- Supported the publication of the BSI's new PAS 9980 guidance for assessing risk in

external walls. This guidance provides a methodology for a more proportionate and consistent assessment of risk posed by the external wall of a building.

- The Home Office will shortly commence the Fire Safety Act 2021, which will make it clear that the fire risk assessment of blocks of flats should consider the external wall construction as well as other fire safety matters such as compartmentation.
- Confirmed that those at fault, not blameless leaseholders, will be the ones who pay to fix unsafe cladding. This will further remove risk for lenders and help restore confidence to the market.
- On 31 March, six of the largest lenders, supported by UK Finance and the Building Societies Association, confirmed that they lend on properties which do not require remediation and will facilitate lending on buildings which require remediation where a costed and funded remediation plan with a timeline for works is in place. Lenders have committed to further reviewing this position further once the Building Safety Act becomes law.
- The Royal Institution of Chartered Surveyors (RICS) have updated the EWS1 form to make clear that EWS1 assessments should be undertaken in accordance with PAS 9980. Data provided by seven major lenders, representing roughly 75% of the market, shows that approximately 13,000 mortgage applicants required EWS1s between April and December 2021, out of 163,000 valuations carried out. This equates to 8% of all valuations for flats.
- Providing nearly £700,000 to RICS to develop and deliver training for assessors to carry out external wall system assessments. To date more than 1,000 assessors have enrolled on the EWS1 training, so that where valuations are needed, these can be done more quickly.
- Delivering a targeted, Government-backed scheme for qualified professionals unable to obtain professional indemnity insurance for the completion of EWS1 forms. These plans are at an advanced stage, and the Government is working with an insurance industry partner that will operate the scheme on the Government's behalf.

Building Safety Act 2022

- Our legislative reforms will ensure that the problems identified with the current building and fire safety regime are rectified, protecting residents and holding building owners accountable. The passage of the Building Safety Act is the mainstay of this work, driving forward the Government's reform agenda through creating an effective, targeted, and proportionate building safety regime.
- The Act establishes a new Building Safety Regulator and introduces a more stringent, but proportionate, regulatory regime for higher-risk buildings, with clear duties and responsibilities for dutyholders throughout the lifecycle of a building. The new Building Safety Regulator will ensure improved oversight of the safety and performance of all buildings and that evidence is used to better manage risk, ensuring proportionate steps

are taken by building owners to deal with this through prevention, control, mitigation, and ongoing management – and ensuring effective steps are taken that take into account safety and cost. The Building Safety Regulator will also work with industry to improve competence levels across the built environment, as well as leading the creation of a unified building control profession, driving greater competency and transparency across individuals and organisations.

- Those responsible for occupied buildings will be required to proactively manage building safety risks through a ‘safety case’ approach which delivers documented assurance of effective risk management, but in a way that is proportionate to the potential impact and associated costs of any mitigating actions. This approach, overseen by the Building Safety Regulator, will ensure risks are actively managed whilst preventing potential ‘gold plating’ in relation to remediation where high-cost works deliver little benefit.
- The Act also introduces a range of improvements across the built environment. This includes the introduction of a new national regulator for construction products in the Office for Product Safety and Standards (OPSS), with strong regulatory powers to improve the safety of construction products. Together with the Fire Safety Act 2021, these changes will deliver a stronger, more integrated regulatory system to ensure buildings, and in particular high-rise residential and other in-scope buildings, are safe.
- While it is the case that leasehold owners of flats, like all homeowners, are generally responsible for the upkeep and maintenance of their homes, and the associated costs, the Government has always maintained that building owners, developers and other parts of the construction industry should take responsibility for rectifying works they have undertaken incorrectly, particularly where these compromise the safety of residents, without passing those costs to leaseholders. The Act will also introduce powers to create a Responsible Actors Scheme, and also give the Secretary of State the power to restrict those that do not take responsibility from operating in the housing market, through new prohibitions on planning and building control.

Recommendations

The Committee lists its conclusions and recommendations in pages 31-36 of its Building Safety: Remediation and Funding report, and on pages 22-25 of its Cladding Remediation report. The recommendations are not numbered to set them apart from the Committee’s conclusions but are identified by italic text in the report. We have grouped recommendations together in the themes that the Committee identified.

Protecting leaseholders from future costs

Recommendation: *The Government should scrap the cap on non-cladding costs for leaseholders. (Paragraph 14)*

Government Response:

We have delivered robust protections for leaseholders, completely reversing the legal presumption

that leaseholders are automatically responsible, with uncapped and unlimited liability, for all costs associated with historical building safety defects. These protections are significant and far-reaching.

Our protections will ensure that many leaseholders pay nothing at all. First, leaseholders are fully protected from costs associated with the removal of unsafe cladding. Where a developer has signed up to our developer pledge, they will fix non-cladding defects – as well as cladding defects – in their own buildings, and their leaseholders will pay nothing. If a building owner is, or is linked to, the developer, that building owner will be liable for the costs associated with non-cladding defects, and their leaseholders will pay nothing. If the building owner or landlord is not linked to the developer but has the wealth to meet the non-cladding costs in full, their leaseholders will pay nothing. And if a leasehold property is valued at less than £175,000, or £325,000 in London, the leaseholder will pay nothing.

Where the building owner or landlord is not at fault – where they have no link to the developer who created these defects – and do not have the wealth to meet the remediation costs in full, and only in this situation, leaseholders may be asked to contribute towards non-cladding defects; these contributions are subject to the fixed caps. It is important that the Government takes a proportionate approach where there is no clear party that needs to pay in full. In these circumstances capped leaseholder contributions will help to make sure the necessary remediation works take place. This will allow banks to lend on properties, reduce leaseholders' insurance premiums and crucially, ensure affected buildings are made safe for all living in them.

Recommendation: *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)*

Government Response

Our policy is fundamentally designed to protect leaseholders living in their own home (including those who have moved out and sublet, and shared owners). All buy-to-let landlords, regardless of their UK property portfolio size, will always be covered for their principal home.

We engaged with Parliamentarians and other interested parties on this issue, to make sure that our proposed measures produce a fair outcome for those affected by the cost of historical remediation. We listened carefully to a range of views, and as a result extended the number of protected properties from two to three. This means that leaseholders living in their own home and those with up to three UK properties in total will be protected.

In addition, all leaseholders (including those with large buy-to-let portfolios) will be protected from all historical building safety remediation costs where the building owner or landlord is – or is connected to – the developer.

Recommendation: *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).*

Government Response:

Our assessments have shown that there is no systemic fire safety issue in buildings below 11 metres. The fire safety risk for these buildings are far lower than those in taller buildings, and where there are concerns identified these low-rise buildings need little or no remediation to make them safe. Often, lower-cost mitigations are more likely to be proportionate than full-scale remediation. That is why the scope has been set at above 11 metres or five storeys.

Leaseholders in buildings below 11 metres continue to have access to protections from costs through warranties and will be able to utilise the new redress measures that the government has introduced through the Building Safety Act to seek compensation from those responsible for the construction of their homes.

Recommendation: *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).*

Recommendations from 2021: *The Government should establish a Comprehensive Building Safety Fund for full remediation works of affected buildings. In allocating funds from the Comprehensive Building Safety Fund, the Government should move away from the current height- and product-based approach and should instead take a holistic, risk- and evidence-based approach that prioritises occupants who are most at risk. To support that approach, the Government should consider establishing a more formal process for identifying and prioritising risk holistically and report back to the Committee on the best way to achieve this, along with the evidence (paragraph 19).*

We call for a Comprehensive Building Safety Fund that:

- *applies to all high-risk buildings of any height, irrespective of tenure;*
- *covers all fire safety defects, including combustible insulation; and*
- *covers all associated costs (paragraph 20).*

The Comprehensive Building Safety Fund should be fully funded by Government and industry, and the Government should establish clear principles regarding how the costs should be split between the two. Total contributions should not be capped, given that, as we have already highlighted, the full scale of remediation needed is not yet fully known (paragraph 21).

The Government should abolish the loan scheme. We reiterate our call on the Government to re-establish the principle that leaseholders should not pay anything towards the cost of remediating

historical building safety defects. Instead, as we have stated, costs should be fully met by the Comprehensive Building Safety Fund, to be funded by Government and industry (paragraph 29).

Government Response:

We believe that establishing a “Comprehensive Building Safety Fund” as the Committee recommends would drive unnecessary remediation works to the detriment of leaseholders. The Government is advocating a proportionate approach to building safety. This will deliver a safe level of risk management, whilst preventing unnecessary, expensive works that would be disruptive for people living in the buildings in question.

The recommendation would also have likely negative impacts on the wider housing market by removing the incentive to undertake work only in proportion to risk and thus exacerbating incorrect perceptions of risk. The Government is working closely with industry to restore market and leaseholder confidence by rebuilding and supporting the housing market, so it responds proportionately to risk, especially for lower and medium rise buildings.

The Government’s approach to cladding remediation prioritises the safety of all residents and leaseholders according to the risk of loss of life and structural damage that a fire could pose, based on expert advice which consistently shows that the height of a building is a key factor. Our approach to supporting unsafe cladding remediation therefore aligns with the new building safety regime that ensures a proportionate approach to managing building-safety risk is balanced against costs to industry and the taxpayer.

We have provided £5.1 billion for the remediation of unsafe cladding in building over 18 metres, which will ensure that high-rise buildings can be made safe.

It is right that we have focused grant funding on the tallest buildings – this is in line with longstanding independent expert advice on which buildings are at the highest risk – because the risk to multiple households is greater when fire spreads in buildings of this height. Cladding remediation also typically represents the highest costs.

It is generally easier to tackle fires in lower-rise buildings and easier for residents to evacuate if fire does spread. We do understand that a minority of buildings may need remediation to remove and replace unsafe cladding where other mitigations and fire protection measures are not sufficient.

We agree with the Committee that it is fundamentally unfair that innocent leaseholders, who have worked hard and made sacrifices to get a foot on the housing ladder, should be landed with bills they cannot afford, to fix problems they did not cause.

We have been in intensive talks since January with the home-building sector to come forward with proposals on how it will take responsibility for fixing unsafe buildings built over the past 30 years. Over 40 of the largest residential developers have now agreed to a pledge to:

- take responsibility for all necessary work to address life-critical, fire-safety defects on buildings 11 metres and over that they had a role in developing or refurbishing, and
- withdraw any such buildings from the Building Safety Fund and Aluminium Composite Material (ACM) Fund and reimburse funding approved from those funds for such buildings.

In addition to the commitment made by firms to fix buildings they have played a role in developing in the last 30 years we will establish a new 11-18m cladding remediation scheme through which to fund work on buildings where a responsible developer cannot be identified. The new scheme will be funded by expanding the scope of the Building Safety Levy to raise an additional estimated £3 billion, providing the necessary funds to address cladding issues on these remaining buildings.

We believe this is the fairest approach to ensure a broad range of firms involved in residential property development pay towards addressing the problem whilst continuing to protect leaseholders from these costs.

The Government recognises that it is not right that leaseholders should be the first port of call for the funding of non-cladding remediation and we have made it clear in the Building Safety Act 2022 that, where the freeholder of a building is, or is associated with, the developer, or where the freeholder has sufficient resources, they should pay for all remediation work needed to address non-cladding. Where the freeholder is not linked to a developer they will only be able to pass on costs to leaseholders where they have a net worth of less than £2 million per in-scope building and have first exhausted all other available options.

We do not agree with the recommendation that overseas building owners should not be eligible for remediation funding. This would delay remediation by preventing buildings with overseas owners and complex ownership structures from undergoing remediation, which would delay the building being made safe.

Data and wider impacts of cladding crisis

Recommendation: *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).*

Recommendation from 2021 report: *We reiterate our recommendation from our June 2020 report that in the same way as it has done for buildings with ACM cladding, the Government should publish a monthly data release on the number of buildings with non-ACM cladding and other serious fire safety defects awaiting remediation. This data release should also explicitly include buildings between 11m and 18m as well as buildings 18m and above. (Paragraph 10)*

Government Response:

We are committed to publishing information in data releases as soon as it is appropriate to do so. We currently publish a monthly data release on progress with remediation of unsafe ACM cladding. We also publish a monthly update on the progress of buildings through the Building Safety Fund and provide quarterly updates on Building Safety Fund funding.

All new analysis is published in the release when it has been appropriately quality assured. The principle underpinning the monthly release is transparency of high-quality analytical outputs to inform decision making and the public, in line with the Code of Practice for Statistics.

We separately publish monthly data related to the progress of the Building Safety Fund (covering remediation of unsafe non-ACM cladding on buildings 18 metres and above) – including the number of applications approved and the amount of funding allocated.

We have published on 16th May the findings of a data collection on the estimated prevalence of 11-18m residential buildings with external wall systems that require remediation or mitigation, and the estimated costs of remediation and mitigation.

Further analysis and data related to the Building Safety Fund, external wall systems on high-rise residential buildings data collection will be published in due course.

Data collections are currently being undertaken in these areas, and the data is being analysed. We continually review the information we hold and publish all appropriate information when ready, which includes undertaking appropriate quality assurance.

Recommendation from 2021: *We ask the Government to report back to this Committee with its assessment of the impact of fire safety remediation on the wider housing market. The Government should ask the Prudential Regulation Authority to assess the impact of fire safety remediation on banking capital ratios. (Paragraph 44).*

Government Response:

We have withdrawn the consolidated advice note (CAN) the interpretation of which had driven an overly risk-averse and cautious approach to building safety. We have also supported the publication of the BSI's new PAS 9980 guidance for assessing risk in external walls which provides a methodology for more proportionate and consistent assessment of risk. Our expectation is that industry will now make far greater use of sensible mitigations, such as sprinklers and fire alarms, in place of unnecessary and costly remediation work. This will help restore confidence to the housing market.

In 2021, the Prudential Regulation Authority engaged with banks and building societies to understand more about their exposure to residential blocks of varying heights with identified, or risk of, cladding or fire safety issues. This was with a view to assessing financial risks to lenders and their capital provisions. Since then, the Government's leaseholder protection measures have fundamentally changed the way in which fire safety building remediation is approached and will reduce risk for mortgage lenders by confirming that leaseholders will not pay to fix unsafe cladding.

Who should pay?

Recommendation: *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).*

Recommendation from 2021: *The developer levy and tax should be extended and should serve as an additional contribution to the Comprehensive Building Safety Fund, in line with principles to be set out by the Government, as we have recommended, about how the full funds for remediation should be split between industry and Government. The Government should also consult with all relevant stakeholders to design the Gateway 2 developer levy in such a way so that costs are not passed onto house buyers, including housing associations (paragraph 32).*

Government Response:

The Government agrees with the Committee's recommendation that those responsible for building safety defects should be made to contribute to the costs of remediation. Alongside its negotiations with developers the Government has been engaged in discussions with various product manufacturers to ensure that industry contributes to the costs of remediation.

As construction products manufacturers have not made a reasonable commitment, we will do whatever it takes to make sure that construction product manufacturers are held to account through the powers established in the Building Safety Act. The department's new Recovery Unit will pursue firms that have failed to do the right thing, including through the courts.

We have created a power in the Act to make regulations that would allow the Secretary of State to compel construction products manufacturers, their authorised representatives, importers and distributors ('economic operators') to contribute towards the cost of remediation works where construction products they have supplied have caused or contributed to dwellings being unfit for habitation.

These regulations would enable the Secretary of State to serve a costs contribution order on an economic operator following successful prosecution for non-compliance with construction product regulations. The order will specify the amount that they will be required to pay towards the cost of remediation works. The order may also require them to contribute to the cost of building assessments carried out as part of this process.

Alongside this measure, we have also created a power to make regulations to enable the Secretary of State to take an alternative route via the courts. The Secretary of State will be able to apply to a court for a costs contribution order to be made against an economic operator. The grounds on which the court may make such an order would be the same as those for a costs contribution order made by the Secretary of State.

Through ensuring that industry is held accountable for its mistakes, this will encourage compliance with strengthened regulatory requirements for construction products.

The Government will continue to fund cladding remediation through the Building Safety Fund for buildings above 18 metres, as well as providing funding for 11-18 metre cladding removal through the building safety levy.

We note the Committee's recommendation that the government should consult on the impacts of the building safety levy on housing provision. The government launched a consultation, which closed on 15 October 2021 to seek views on the design of the levy and gain evidence of possible impacts on housing supply and regeneration and the housebuilding industry. We are considering the feedback we have received, as well as the impact of the changes to the levy and will update in due course.

Recommendation: *The Government should remove VAT on building safety activity. (Paragraph 30)*

Government Response:

The Government is committed to supporting leaseholders and ensuring essential works are taken forward. The supply of fire safety equipment, under qualifying circumstances is already eligible for VAT relief when provided alongside the construction and renovation of residential or charitable buildings. The cost of replacing cladding can also already be zero rated if it is tied to the initial construction of the building and the cladding is shown to be defective.

Although it would be possible to apply a reduced or zero rate of VAT to the renovation or repair of private dwellings, it would not be possible to limit such a rate to repairs of specific items or elements. The reduction would therefore extend to all renovations and repairs, and if we were to expand the reduced rate that is already available, it would come at an estimated cost to the Exchequer of at least £3.75 billion per year.

There is also no guarantee any savings made via VAT recovery on building and renovation work would be passed on to leaseholders – as the primary beneficiaries would be product manufacturers, contractors, and developers rather than leaseholders. Given the other elements the Government is taking forward, in particular the legislative protections introduced as part of the Building Safety Act, we do not believe that further VAT relief represents the most effective way of protecting leaseholders.

Tax policy is a matter for HM Treasury Ministers and tax issues are considered by the Chancellor as part of the annual fiscal process. All tax issues are regularly kept under review.

Recommendation: *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).*

Recommendation from 2021: *The time has come for the Government to consider setting a deadline for the insurance industry to act. If that deadline is not met, the Government should intervene to require industry to resolve the problem of eye-watering building insurance premiums. (Paragraph 40).*

Government Response:

On 28 January, the Secretary of State called on the Financial Conduct Authority (FCA) and the Competition and Markets Authority (CMA) to review buildings insurance premiums for people living in medium and high-rise blocks of flats.

Although the initial request for a review came from the Department, the scope of the review will be defined by the FCA as the independent regulator of the financial services sector. The FCA are focusing their attention on areas where they observe unfair or unexplained prices for leaseholders.

The FCA has met with Chief Executives of key insurers and insurance brokers to explain their expectations for engagement in the review and affirm their regulatory expectations. The FCA is currently collecting data on market conditions to inform their review, and we understand that the FCA and CMA will provide recommendations in summer 2022.

Recommendation: *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).*

Recommendation from 2021: *We also ask the Government to consider how others, including product manufacturers and suppliers, can contribute to the costs of fire safety remediation, in line with principles set out by the Government about the proportion of costs to be met by industry (paragraph 33).*

Government Response:

The Building Safety Act introduces a range of provisions related to construction products. These are intended to require construction products companies to contribute towards the cost of putting right building safety defects that they have contributed to causing.

First, we are introducing a new cause of action that will provide an additional route for redress. It will enable a party who has suffered a loss to bring civil claims against manufacturers or suppliers of construction products that are defective, mis-sold, or in breach of existing construction product regulations. If these products have been incorporated in a dwelling, and they have caused or contributed to a dwelling being unfit for habitation, then relevant parties will be able to seek compensation.

We are also creating a power in the Act to make regulations that would allow the Secretary of State to make a costs contribution order or apply to the court for an order to be made, to require construction products manufacturers, their authorised representatives, importers and distributors ('economic operators') to contribute towards the cost of remediation works. The Secretary of State would be able to use this power following a successful prosecution for non-compliance with construction products regulations, where the relevant product has caused or contributed to dwellings being unfit for habitation.

Cladding and insulation manufacturers are yet to accept their share of responsibility and come forward with a proposal. We will do whatever it takes to make sure that construction product manufacturers are held to account through the powers in the Building Safety Act. We are establishing a new Recovery Unit that will pursue firms that have failed to do the right thing, including through the courts. Other powers will also be carefully considered to make sure that there are significant commercial and reputational consequences for those firms that have not stepped up.

Recommendation: *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)*

Government Response:

Where they are responsible for the development of in scope buildings, the Government has engaged with overseas developers and firms as part of its negotiations with industry to provide a funded solution for the remediation of unsafe cladding in England. Non-UK firms such as Ballymore have been engaged with this process for buildings that they are responsible for in the UK and have made the commitments expected.

The measures set out in the Building Safety Act 2022 provide the Secretary of State with the powers to establish a scheme will be used to identify responsible actors who have committed to rectifying building safety defects and improving wider building safety. For those who have not committed to this, the Secretary of State also now has powers to prohibit developers from commencing new development where planning permission has been granted and to block developers from obtaining building control sign-off. Those powers can be exercised where a firm operates in England, regardless of ownership structures. In terms of construction product companies, firms that have any element of overseas ownership, or sources products from overseas, cannot be treated any less favourably than UK domiciled firms or products, in accordance with the UK's international trade agreements.

The Building Safety Act 2022 also confers on the High Court the power to extend relevant liabilities, including liabilities under the Defective Premises Act 1972, from the original company which incurred the liability to companies associated with it, though a Building Liability Order. The High Court may choose to apply a Building Liability Order to a company based overseas if it is an associated company, which would be enforced in the normal manner.

Recommendation from 2021: *[Waking Watch Relief Fund] Funding should be extended—either through the relief fund or through the Comprehensive Building Safety Fund—to cover all interim fire safety costs in all high-risk buildings (as defined by our recommended risk-based approach), including those below 17.7m (paragraph 36).*

Government Response:

The Government recognises that the costs of prolonged interim measures can be a significant burden on leaseholders. That is why, in January 2021, we launched the £35 million Waking Watch Relief Fund to install common fire alarm systems in high-rise residential buildings where the fire safety strategy has moved from 'stay put' to 'simultaneous evacuation'. As of 31 March 2022, data on the progress of the Waking Watch Relief Fund shows that £27.5m funding has already been provided or has been approved covering 323 buildings, 224 buildings have completed their alarm installation. The data currently shows that, by fitting an alarm, leaseholders are expected to save on average £166 per month.

On 27 January 2022, we launched the Waking Watch Replacement Fund which made a further £27 million available to fund fire alarms in all buildings, regardless of height or cladding status, where a Waking Watch is in place at leaseholders' expense. We will publish data on the fund shortly. Government is providing over £60m of funding to protect leaseholders from the continued burden of costly Waking Watch measures. Public funding must incentivise the right behaviour. The installation of alarms is consistent with industry led guidance and best practice. We are using public funding to end the reliance on Waking Watch measures in as many buildings as possible so that as many leaseholders as possible can be free of these costs.

The Government's view is that Waking Watch measures should be used only exceptionally and where the risk in a building is such that the only alternative is the evacuation of the building. Where Waking Watch is used it should be in place for the shortest possible period, for example the time taken for an alarm to be installed. The expert guidance published by the National Fire Chiefs Council provides a clear rationale as to why alarms must be installed quickly, and significant

Government funding has been made available to provide for this. There is no excuse for building owners to keep imposing the prolonged and excessive costs associated with Waking Watch measures on leaseholders, and we will be setting out measures to discourage inappropriate use of waking watches.

Costs already paid out

Recommendation: *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)*

Government Response:

This information has not been collected systematically by the department, and the department does not have plans to collect this information from leaseholders.

Recommendation: *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. (Paragraph 40)*

Government Response:

The Building Safety Act makes it a legal requirement for building owners to exhaust all other routes to fund essential building safety work before passing any costs onto leaseholders. We have been in intensive talks since January with the homebuilding sector to come forward with proposals on how it will take responsibility for fixing unsafe buildings built over the past 30 years.

As well as making clear that no qualifying leaseholder in a building over 11 metres or five storeys will have to pay for the costs of remediating defective cladding, the Building Safety Act 2022 requires that where the freeholder or landlord of a building is, or is associated with, the developer or where they have sufficient resources, they should pay to fix all historical safety defects, including non-cladding defects and interim measures.

While the Government will not repay leaseholders for the costs of work already undertaken the caps for leaseholder contributions to non-cladding costs in building above 11 metres will take into account costs that leaseholders have already incurred for remediation or interim measures. As such where leaseholders have already contributed to the costs of remediation it is highly unlikely that they will face for any further costs.

Leaseholders will also be able to utilise the Government’s new measures expanding the Defective Premises Act and our measures relating to construction product manufacturers to recover costs from those responsible.

Impact on social housing

Recommendation: *Social landlords must have full access to funds for building safety remediation - ideally our recommended Comprehensive Building Safety Fund. (paragraph 49).*

Recommendation from 2021: *Social housing providers should have full and equal access to Government funds for remediation, whether through the existing Building Safety Fund or our proposed Comprehensive Building Safety Fund. Our proposed Comprehensive Building Safety Fund would cover all necessary remediation, including relating to non-cladding fire safety defects, but if the Government does not accept this recommendation and continues to fund only cladding-related works, it should:*

- *update the Building Safety Fund contract to make clear that funding does not need to be in place for non-cladding remediation works in order for any recipient to access funding for cladding remediation works; and*
- *engage with relevant stakeholders to ensure that any confusion regarding this issue is resolved (paragraph 22).*

Government Response:

Social housing providers have access to the £400m Social Sector ACM Cladding Remediation Fund for the removal and replacement of unsafe ACM cladding systems. Social housing providers were also eligible for the Building Safety Fund for other combustible cladding types provided they could demonstrate during the registration process that the costs of remediation were unaffordable or a threat to their financial viability. They can also submit claims to the Building Safety Fund for the proportion of eligible works which would otherwise be chargeable to residential leaseholders through service charges in their buildings, in line with the Government's commitment to protect leaseholders from costs.

Further details about eligibility, including registered providers of social housing' eligibility, for the 11-18 metres Remediation Fund will be made available as soon as possible.

Recommendation: *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)*

Government Response:

We are already considering an exemption from the levy for affordable housing as a whole, which includes social housing, housing for rent or sale at least 20% below market rent or sale rates, shared ownership, and rent to buy. This is because the Government recognises that applying a levy to affordable housing would increase the cost of developing affordable housing and is therefore likely to disincentivise supply. We will consult on the levy; possible exemptions will be considered as part of that consultation and a final decision will be made once it is complete and responses have been analysed. Where residential property is developed by a non-profit registered provider of social housing or its subsidiaries, this will be out of scope of the Residential Property Developer Tax, which is based on profits.

Social housing providers that are freeholders/landlords will be required to meet all non-cladding remediation costs where they are – or have links to – the developer, or where costs exceed the leaseholder cap. It is not our default expectation that they will have to fund in-scope remediation works from their own resources; we want them to be able to pursue those responsible for defective work. That is why we are bringing forward an ambitious toolkit of measures to allow those responsible for defective work to be pursued, including a cause of action relating to product manufacturers and the provisions enabling associated companies to be sued.

Recommendation: *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)*

Government Response:

The Government is confident that funding from industry will cover the cost of remediation of unsafe cladding in buildings between 11-18 metres. Our negotiations with the industry at the start of this year have resulted in leading housebuilders committing to making their buildings safe, covering a large section of the market. Industry will contribute the remainder of the money through an increase in the Building Safety Levy. The Government will not be required to provide funding for the remediation of unsafe cladding beyond that which it has already committed.

The Government recognises that that some social landlords face significant building safety costs, and that they are having to balance their existing budgets to support this which could have an impact on the development of affordable homes. That is why the Government has committed up to £400 million to fully fund the removal and replacement of unsafe ACM cladding systems on buildings over 18 metres that are owned by registered providers of social housing. The Government has also committed to meet the cost of removing other types of unsafe cladding on social sector buildings over 18 metres where a registered provider's financial viability would otherwise be threatened.

Recommendation from 2021: *In addition to our recommendation that social housing providers should have full and equal access to the Building Safety Fund, preferably our proposed Comprehensive Building Safety Fund, the Government should:*

- *ensure that social housing providers have full and equal access to the waking watch relief fund; and*
- *carry out and publish an impact assessment on the knock-on effects of fire safety remediation on maintaining existing social homes and building new social homes (paragraph 47).*

Government Response:

The Government has provided over £60 million to protect leaseholders from costly Waking Watch measures. Government funding under the Waking Watch Relief Fund and, latterly, the Waking Watch Replacement Fund incentivises the installation of common fire alarm systems in high-rise residential buildings where the fire safety strategy has moved from 'stay put' to 'simultaneous evacuation'.

The aim of the Fund is to protect leaseholders, but a Registered Provider of Social Housing can claim for the proportion of the alarm installation costs that would have been charged to leaseholders where the Registered Provider has had a Waking Watch prior to installing the alarm system (and where the costs of the outgoing Waking Watch were charged to leaseholders).

We expect that where necessary most Registered Providers, as responsible building owners, will have taken responsibility for the installation of a common alarm system in line with the guidance published by the National Fire Chiefs Council. We also expect that most Registered Providers will have done so without recourse to charging leaseholders. Where they have passed on costs the fund provides protection to affected leaseholders.

The Government has no plans to publish an impact assessment on the effects of fire safety remediation on maintaining and building social homes, but we will continue to have regular discussions with social housing landlords about this. We recognise that some social landlords face significant remediation costs, and we appreciate that they will need to balance their existing budgets to support this.

Guidance on Building Safety

Recommendation: *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).*

Government Response:

The Government remains committed to setting up a state-backed professional indemnity insurance scheme for assessors undertaking EWS1 forms.

We recognise that the demand for qualified professionals to undertake fire risk appraisals to PAS 9980 standards may increase and is taking steps to better understand the market. The Home Office has recently completed a survey of the fire risk assessor sector to better understand the extent of the sector's capacity and competence, including in relation to external wall appraisals. This does not cover the entire fire safety sector, or all those who can undertake external wall appraisals to PAS 9980 standards but should indicate whether further actions are necessary.

The department has carried out an early assessment of the number of buildings between 11-18 metres that would require remediation if assessed under more proportionate guidance.

The Government has provided funding to RICS to train up to 2,000 assessors to undertake EWS1 assessments to PAS 9980 standards. To date, over 1,000 candidates have enrolled on the programme.

Recommendation: *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).*

Government Response:

Responsibility for conducting fire risk assessments sits with the Responsible Person under the Fire Safety Order. These assessments can be audited by fire and rescue services who can take enforcement action should it be required. As the person accountable for the fire safety of the building it is appropriate that the Responsible Person should be the individual who determines the need and timing of fire risk assessments for their buildings.

As part of the new higher-risk regime for buildings, Accountable Persons for high-rise residential buildings will be required to create and maintain a safety case. The safety case will form part of an application for a Building Assessment Certificate. The duties placed on Accountable Persons in the Building Safety Act include a requirement to carry out an assessment of building safety risks, including the spread of fire. As part of the Building Assessment Certificate application process, the Building Safety Regulator will assess if relevant duties are being complied with and issue a Building Assessment Certificate if they are satisfied this is the case.

If the relevant duties are not being complied with the Building Safety Regulator can carry out enforcement action. The Act also provides the Building Safety Regulator with a power to direct an Accountable Person to undertake an assessment of building safety risks.

It would not be appropriate for the Building Safety Regulator to determine the requirements for fire risk assessments for all building. It will be focused on the higher-risk regime of buildings over 18 metres, as evidence is clear that the risk to multiple households is greater when fire spreads in buildings of this height.

Health and Wellbeing

Recommendation: *In the absence of PAS-79 guidance, which was withdrawn in August 2021, it is imperative that the British Standards Institute publishes 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).*

Government Response:

The development of any new PAS guidance is a matter for the British Standards Institution to consider and as such the Government is unable to comment on this.

As Lord Greenhalgh stated at the Third Reading of the Building Safety Act in the House of Lords on 4 April, the Government will publish its response to the PEEPs consultation alongside the commencement of the Fire Safety Act 2021 in May 2022, as soon as practical after the pre-election period.

Recommendation: *We repeat our previous calls for further mental health support for those affected by the building safety crisis. Recommendation from 2021: The Government should work with local authorities to ensure that affected residents have access to the physical and mental health support they need. The Government should make it an explicit requirement that the information that the “accountable person” is required to share with residents includes signposting to support services for residents worried about their safety, financial situation, and physical and mental health. In the interim, the Government itself should supply this information to residents. (Paragraph 50)*

Government Response:

We recognise that the building safety crisis has had a negative effect on many residents; leaseholders, who are blameless, have been shouldering a desperately unfair burden and for some this has had an adverse impact on their mental health.

Government is working to make sure that all people, regardless of their residential situation, get the help and support they need with their mental health.