

DERELICTION OF DUTY

How housing associations failed leaseholders
trapped in the building safety crisis

February 2022



**END
OUR
CLADDING
SCANDAL**

We dedicate this report to the memory of those who lost their lives in the Grenfell Tower fire, to the Grenfell community, and to the Grenfell United campaigners whose determination to seek justice and prevent another tragedy is our greatest source of inspiration.

“They are replaying the same mistakes that come up at the Grenfell Tower Inquiry. They do not take us seriously, they do not engage with us and they treat us with no respect, it is appalling.”

Housing Association leaseholder

Acknowledgements

We would like to thank all the volunteers in the End Our Cladding Scandal campaign team who worked on this report. We also want to thank all the housing association leaseholders who responded to our survey and shared their story with us, the many external reviewers who provided invaluable feedback on the draft and people who gave their time to edit, proofread and design the document. Last but not least, we warmly thank Leilani Farha for writing the foreword.

Trigger warning

Please note that this report includes verbatim comments from leaseholders caught up in the building safety crisis, including comments on how this is having a huge impact on their mental health and wellbeing. Please note that some comments refer to suicide ideation.



About us

The End Our Cladding Scandal (EOCS) campaign is a resident-led campaign and a collaboration between Inside Housing¹, the UK Cladding Action Group², Manchester Cladiators³, Grenfell United⁴ and many other resident groups across England and Wales.⁵

The End Our Cladding Scandal campaign

Our campaign was first launched in April 2019. In September 2020 we set out 10 steps⁶ calling on the Government to fix the cladding and building safety crisis revealed in the aftermath of the Grenfell Tower fire. The 10 steps⁷ were developed in consultation with our co-founder Inside Housing and several lawyers representing families at the ongoing Grenfell Tower Inquiry, including Michael Mansfield QC. The steps are based on the recommendations of the cross-party Housing, Communities and Local Government Select Committee.⁸

Our campaign is supported by The Sunday Times⁹ and The Daily Mail¹⁰ and has been regularly featured in a wide range of media outlets¹¹.

1 <https://www.insidehousing.co.uk/>

2 <https://www.facebook.com/groups/252779735676850>

3 <https://manchestercladiators.org.uk/>

4 <https://www.grenfellunited.org.uk/>

5 See list on our website: <https://endourcladdingscandal.org/get-involved/meet-campaign-partners/>

6 10 steps to End Our Cladding Scandal <http://endourcladdingscandal.org/campaign-aims/>

7 Watch our 10 steps to End Our Cladding Scandal video: <https://youtu.be/5dajLYKZDV4>

8 Now called the Levelling Up, Housing and Communities Committee <https://committees.parliament.uk/committee/17/housing-communities-and-local-government-committee/membership/>

See also the Committee's June 2020 report <https://publications.parliament.uk/pa/cm5801/cmselect/cmcomloc/172/17202.htm> and subsequent April 2021 report <https://publications.parliament.uk/pa/cm5801/cmselect/cmcomloc/1249/124904.htm>

9 Sunday Times Hidden Housing Scandal Campaign <https://www.thetimes.co.uk/article/hidden-housing-scandal-campaign-safe-homes-for-all-v65h9pvc1>
<https://www.thetimes.co.uk/article/carey-mulligan-and-marcus-mumford-back-campaign-over-unsafe-flats-pxlwx25mb>

10 Daily Mail Towering Injustice Campaign <https://www.dailymail.co.uk/news/article-9109117/Millions-stuck-fire-trap-homes-Grenfell-blaze-hit-2bn-bill.html>

11 See our YouTube channel for a selection of radio and TV coverage https://www.youtube.com/channel/UCW6Dn5FxiEHPNF_W2X4eM3A

Foreword

The building safety scandal is a monumental human rights crisis. Since the devastating fire at Grenfell Tower in 2017, thousands of buildings in the UK have been discovered to be unsafe, with hundreds of thousands of residents affected. The impact of this has been severe.

In 2020, my final year as United Nations Special Rapporteur on the right to adequate housing, I spoke with those living in homes in the UK that were unsafe due to cladding and other defects and was told of the turmoil it had wrought. I heard from families being forced to pay tens of thousands of pounds to fix the mistakes of others and who faced bankruptcy as a result. I spoke with communities whose lives had been put on hold because of the impossibility of selling their homes and moving to safer locations. And I heard from people whose mental and physical well-being had been deeply damaged by the lack of protection afforded to them and their homes. As a result of their testimony, I wrote to the government of the United Kingdom and raised serious concerns that the human rights of those living in unsafe buildings were being disregarded.

Unfortunately, little seems to have changed since then. A significant number of people in the UK continue to be abandoned, their human rights being breached by their housing providers. Shockingly, those responsible are not only ‘the usual suspects’ – private, for-profit developers and investors – but are also HAs, who typically espouse strong social values and the objective of providing safe, affordable housing to those who need it.

Housing associations have clear duties and responsibilities to ensure the housing they provide, whether as social landlords, developers, or as sellers and part-owners of leasehold flats, meets human rights standards. All people must have access to housing that affords them with safety, security, and dignity, and which is, amongst other things, habitable and affordable.

As the following report *Dereliction of Duty* clearly demonstrates, this is not the case for leaseholders in unsafe housing association homes who remain burdened with huge remediation bills, continue to be trapped in unsellable homes, and still suffer severe consequences to their health and well-being. This must change. If housing associations are serious about providing housing in a socially responsible way, it is essential that they embrace human rights and use its standards as a framework for their policies, practices, and interactions with their leaseholders and tenants.

Dereliction of Duty provides an important contribution to the discussion on the impacts of the building safety scandal and a step forward in finding a solution that places the human rights of leaseholders front and centre. It centralises the voices of housing association leaseholders themselves and sets out strong recommendations including, crucially, the need for housing associations to understand and implement the human right to adequate housing in their policies and operations. I call upon all housing associations to incorporate the findings of this report into their work and to ensure the human rights of all of their leaseholders and tenants are realized.

Leilani Farha

Global Director, The Shift

Former United Nations Special Rapporteur on the Right to Housing (2014-2020)

DERELICTION OF DUTY

How housing associations failed leaseholders
trapped in the building safety crisis

Contents	Executive summary	7
	Key findings	8
	Introduction	9
	Methodology	12
	Survey respondents' profile	13
	Housing Associations	16
	Buildings and tenures	17
	Costs and access to public funding	22
	HAs' management of the building safety crisis	26
	Impact on wellbeing, including mental health	39
	Conclusion	43
	Recommendations	44
	Annex I - List of HAs	48

Executive summary

In the light of significant and recurring concerns leaseholders were raising about housing associations (HAs), we conducted a survey in November 2021 to gather data and document the nature and scope of those concerns. We received 352 responses from leaseholders from a total of 35 HAs. The objective of this report is to shine a light on their experience and highlight systemic issues that need to be urgently addressed.

Poor communication from HAs was one of the prevailing themes. An overwhelming number of respondents highlighted a combination of lack of information, poor quality communication, and being completely ignored or repeatedly stonewalled by their housing association as a major stress factor.

The lack of transparency about costs and accounting was a frequent complaint, along with poor customer service overall. However, respondents said that poor customer service had already been prevalent before the building safety crisis.

HAs are already passing on building safety costs to their leaseholders: over a third of respondents had already paid or were currently paying for interim measures and remediation costs.

There was no apparent consistency with regard to what costs HAs are prepared to fund themselves. Several HAs are covering costs for interim measures, but in a number of cases, this was only for some of their leaseholders. Four HAs are paying for some of the remediation costs; however, there was no evidence that this policy was applied consistently for all the buildings where they are landlords.

One housing association only charged shared ownership leaseholders for their 'share' of remediation costs - in line with the percentage share that they own in the property. It is unclear whether this is a group-wide policy decision. However, this is a notable exception to the general rule of HAs recharging 100% of costs.

Many respondents commented on the fact that their life choices had been significantly impacted, or in some cases taken away. They also commented on how interaction with their housing association was a compounding factor in the building safety crisis, making an awful situation significantly worse.

Key findings

- 85% of respondents were still waiting for remediation work to start on their building
- 106 respondents had been told about the costs they would have to pay: 51% told us their personal bill would be over £20,000, while a staggering 35% told us it would be over £50,000.
- 8 in 10 respondents were worried about forthcoming costs and/or had researched applying for bankruptcy and 1 in 10 were already facing financial hardship or bankruptcy.
- Only 1 in 10 leaseholders had been offered the option to spread the additional building safety costs over an extended period.
- 9 in 10 respondents rated their HA's communications in relation to the building safety crisis negatively, with over half (52%) picking the worst possible rating 'very poor'.
- 9 in 10 respondents rated their HA's customer service in relation to the building safety crisis negatively, with over half (55.4%) picking the worst possible rating, 'very poor'.
- Over 9 in 10 respondents said that the building safety crisis had impacted their mental health, with over half saying that it had done so 'significantly'.
- 1 in 5 respondents told us they had been prescribed medication or had to take time off work as a result of the stress and anxiety brought about by the building safety crisis.

Introduction

Many leaseholders caught up in the building safety crisis have a housing association as their landlord, and sometimes as their freeholder as well. Housing associations (HAs) are Registered Social Landlords who primarily exist to provide social rented and affordable rented housing to tenants¹²; some of them are also developers who build large numbers of flats¹³. HAs also sell leasehold flats to first-time buyers, including people on low to middle incomes who may not be able to afford a mortgage in the open housing market. HAs do this via flagship government-backed schemes such as shared ownership, a scheme marketed as ‘affordable housing’¹⁴.

It is argued by the sector¹⁵ that HAs have a ‘social purpose’, but for many of their leaseholders caught up in the building safety crisis, such a claim is impossible to reconcile with their lived experience.

HAs repeatedly highlight the fact that they are charities¹⁶ and that their primary objective is to house the most vulnerable people in society. However, recent media reports, including Daniel Hewitt’s investigation for ITV¹⁷ into the appalling state of Britain’s social housing stock, highlight the fact that HAs are often failing to deliver on that objective. This report shows that they are also badly failing their leaseholders caught up in the building safety crisis.

Large numbers of leaseholders have contacted our campaign team to raise specific concerns about interacting with their housing association. We have raised these concerns with a range of UK housing sector stakeholders, including the National Housing Federation (NHF)¹⁸, the G15¹⁹ group of London’s largest HAs²⁰, as well as with local government funding authorities, such as the Greater London Authority (GLA), MPs, peers and elected local representatives.

In the light of significant and recurring concerns leaseholders were raising about HAs, we decided to gather data to document the nature and scope of the concerns and step up our campaign to ensure better outcomes for those leaseholders. We wanted to know more about this cohort: what costs are they facing? What has their experience of interacting with HAs been? What impact has this had on their lives? The objective of this report is to shine a light on their experience and highlight systemic issues that need to be urgently addressed by the sector.

Our report covers the experience of leaseholders from 35 HAs; several of them are named. It also makes detailed recommendations for the sector and other stakeholders.

12 <https://www.housing.org.uk/about-housing-associations/what-housing-associations-do/>

13 HAs built 53,528 homes in 2019/20 according to the National Housing Federation <https://www.housing.org.uk/globalassets/files/resource-files/supply-briefing-note-201920-final.pdf>

14 This claim is disputed. See Sue Phillips article on Red Brick blog: <https://redbrickblog.co.uk/2021/06/schrodingers-shared-ownersflat-and-the-cladding-scandal/>

15 “HAs are grounded in their social purpose, and driven by their mission to provide good quality, affordable homes for all.” Kate Henderson, CEO of the National Housing Federation (NHF) <https://labmonline.co.uk/features/qa-kate-henderson-chief-executive-at-the-national-housing-federation/>

“The combination of our social purpose, local roots, and economic weight means that our sector has a unique role to play in supporting residents and communities, and it’s absolutely vital that we showcase that.” Kate Henderson, NHF CEO <https://housingdigital.co.uk/qa-kate-henderson-chief-executive-nhf/>

16 “We’re charitable organisations that prioritise people, not profit.” <https://g15.london/tackling-the-housing-crisis/who-we-help>

17 <https://www.itv.com/hub/surviving-squalor-britains-housing-shame/10a1795a0001>

18 <https://www.housing.org.uk/about-us/>

19 <https://g15.london/>

20 <https://g15.london/who-we-are/our-members>

Implementing these recommendations will not solve the building safety crisis, but we hope it will go some way towards ensuring that leaseholders caught up in this crisis are no longer ignored, obstructed or stonewalled by their housing association, and that they receive the support they urgently need.

Our position is that leaseholders, whether in the private or social housing sector, should not bear the costs of the building safety crisis. The current building safety crisis is the result of systemic failure: unfit regulations, manufacturers who mis-sold their products, developers who sought to cut corners and maximise profit at the expense of fire safety, building control officers who knowingly signed off unsafe buildings, and insurance companies who are leveraging this crisis to increase premiums by an average of more than 400%. In brief, leaseholders should not be forced to pay to fix fire safety defects on products they did not manufacture, or on buildings that they did not build, do not own and did not certify as safe. Nor should they have to pay for the ruinously expensive interim fire safety costs that have arisen as a result, such as waking watches and exorbitantly increased insurance premiums.

The NHF says it agrees with this principle, in relation to remediation costs, stating on its website: “We do not believe that leaseholders should have to pay for works that have been caused by a systemic failure of building regulations.” It goes on to say that it gives “full support to the End Our Cladding Scandal campaign and its aims”²¹. These aims include leaseholders not paying for interim fire safety costs, although the NHF has not specifically outlined its position in relation to these costs.

The NHF says, “for buildings that do not receive government funding, HAs *do not want* to pass the costs of remedial works on to leaseholders... We want to avoid this outcome *at all costs [emphasis added]*”²².

The Government-funded Leasehold Advisory Service (LEASE)²³ advises that “leasehold ownership of a flat usually relates to ***everything within the four walls of the flat***, including floorboards and plaster to walls and ceiling, but ***does not usually include the external or structural walls [emphasis added]***”²⁴. The same misleading²⁵ advice is repeated on the Share to Buy website²⁶. Many leaseholders tell us this was also what their HA communicated to them at the point of purchase - but when the building safety crisis emerged, accompanied by potentially ruinous costs, the language of HAs appeared to change, no longer emphasising that the external and structural walls were not their responsibility. However, the LEASE and Share to Buy²⁷ advice has not changed to this day. The financial viability testing that shared owners were obliged by their HA to undertake before buying their lease, and illustrations of the costs of shared ownership in marketing materials²⁸, do not include any reference at all to building safety remediation or interim costs.

21 <https://www.housing.org.uk/our-work/building-safety/safety-tests-and-remedial-work/information-for-leaseholders/>

22 <https://www.housing.org.uk/our-work/building-safety/safety-tests-and-remedial-work/information-for-leaseholders/what-housing-associations-are-doing-to-support-leaseholders-and-find-a-solution-to-the-problem/>

23 <https://www.lease-advice.org/about-us/> LEASE is the formal government source of free information for leaseholders

24 <https://www.lease-advice.org/advice-guide/shared-ownership-leases/>

25 The leaseholder is always responsible for paying towards the external walls as part of their service charge.

26 <https://www.shareto-buy.com/guides-and-faqs/information-about-leasehold-homes/>

27 <https://www.shareto-buy.com/about-share-to-buy/> Share to Buy is a specialist mortgage broker with a focus on first time buyer mortgages

28 <https://sharedownership.net/what-it-means>

Many leaseholders therefore feel they were misled by the sales and marketing of Shared Ownership by HAs and other public bodies.

However, many HAs have chosen to pass on interim measures and remediation costs to some leaseholders, regardless of calls from government ministers²⁹ to pursue all other avenues to recover costs first³⁰. As a consequence, many HA leaseholders, including shared ownership leaseholders, are already being forced to pay these extortionate costs.

Shared ownership leaseholders are particularly impacted as they are expected to pay for 100% of remediation costs despite the fact that they only 'own' a share of their lease. This disproportionate impact on shared owners has been repeatedly recognised by Ministers³¹, but to date they have failed to protect them in law and are leaving it up to HAs to 'do the right thing'.

We hope that this report will act as an urgent wake-up call and prompt HAs to review their policies and practices in order to provide the support and services that leaseholders desperately need. HAs must urgently review the way they engage with leaseholders in order to stop making an already intolerable situation even worse.

29 Lord Greenhalgh, 5 January 2022: "*I think it wrong that these registered social landlords are in some cases seeking to pass the costs on to people whose shoulders are not broad enough to bear them*"; <https://hansard.parliament.uk/Lords/2022-01-05/debates/61094117-6D83-49AE-98D3-FAF154B40C04/BuildingSafetyDefectshighlight=costs#contribution-BE51DFFC-8DDE-4E5F-A161-374F46D55364>

30 Lord Greenhalgh, 25th Nov 2020: "*We expect developers, investors and building owners who have the means to cover remediation costs themselves to do so without passing on costs to leaseholders.*" <https://hansard.parliament.uk/Lords/2020-11-25/debates/1CBD1BB7-CF82-4BFB-8744-CEADB9751A8A/LeaseholdersAndCladdinghighlight=cladding#contribution-DEFB55BF-92E7-4403-B860-0CE6B0637C9E>

31 Lord Greenhalgh 7 January 2021: <https://hansard.parliament.uk/lords/2021-01-07/debates/B388651F-ED9B-4047-B121-2885ADF05543/LeaseholdersPropertiesWithCladding#contribution-58D483D8-98DC-43CE-8A7D-50C46428A8C3> Robert Jenrick 10 February 2021: <https://hansard.parliament.uk/commons/2021-02-10/debates/010B9751-BCBE-48F5-AEEC-6F3416777D73/BuildingSafety#contribution-A96A33C1-6EBE-42D5-93B6-3475F08B5A70>

Methodology

Our survey was designed to collect data on several different aspects including: general information, building defects, costs, interaction with HAs, and impact on mental health and wellbeing.

The survey was distributed using a number of channels, including the UK Cladding Action Group mailing list and End Our Cladding Scandal (EOCS) partners' social media channels, such as Twitter, Facebook and WhatsApp groups.

The survey was anonymous. Respondents were asked to answer as many of the questions as possible. Most questions were optional³² and three were open questions for people to provide comments.

A total of 352 housing association leaseholders answered our survey over a one-month period, in November 2021.

³² Mandatory questions included location of the building - using a drop down menu to select a region - and name of the housing association

Survey respondents' profile

Location

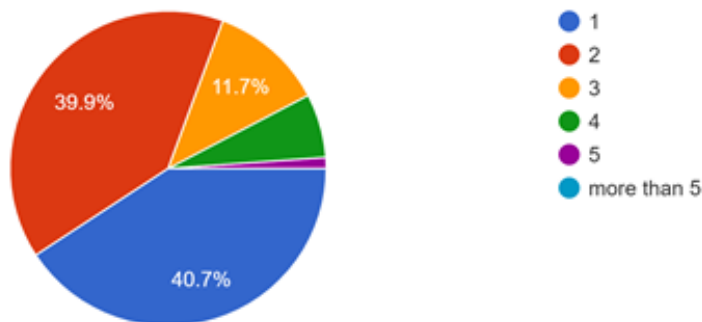
London has more than a quarter of England's leasehold homes, 1.25 million, and 50,000 shared ownership homes³³. The majority of our survey respondents were based in London and the South East (91.2%), where HAs have a significant number of buildings, with the rest spread across other regions of England. Efforts were made to distribute the survey to residents in Wales but we did not receive any responses from Wales-based leaseholders.

Household size and composition

- 1 in 4 respondents live in households with children
- 4 in 10 respondents live in single households
- 1 in 13 of respondents live in households with 4 or more people
- 1 in 15 of respondents live in households where someone is disabled

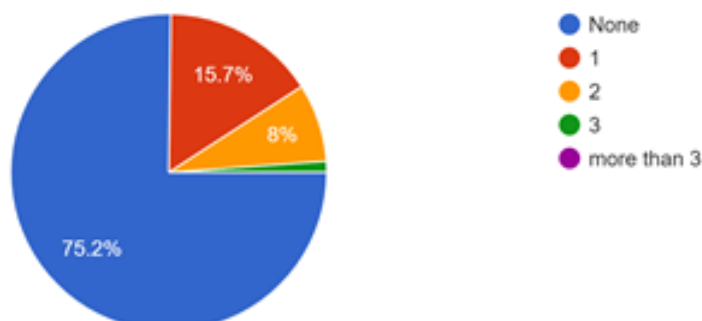
How many people are there in your household?

351 responses



How many children are there in your household?

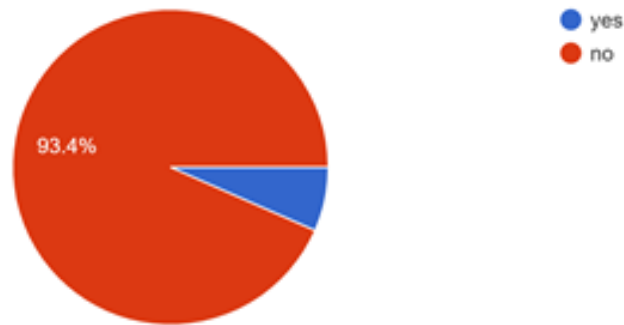
351 responses



³³ Grainne Cuffe, 21 January 2022: <https://www.insidehousing.co.uk/news/news/mayor-of-london-launches-plan-to-protect-leaseholders-from-unfair-service-charges-73996>

Are you or is anyone in your household disabled?

350 responses

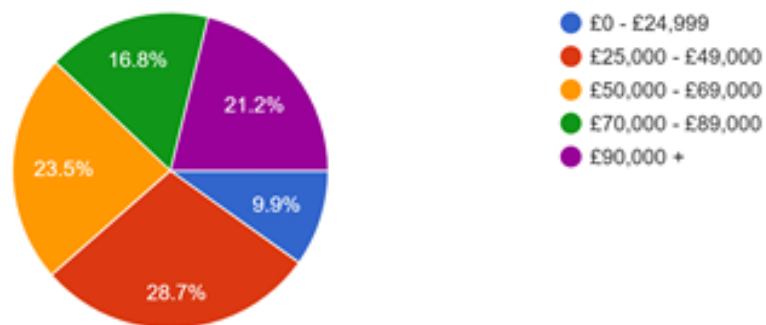


Household income

- 1 in 10 households had a total annual income of less than £25,000
- 3 in 10 households had a total annual income between £25,000 and £49,000

What is the annual income of your household?

345 responses

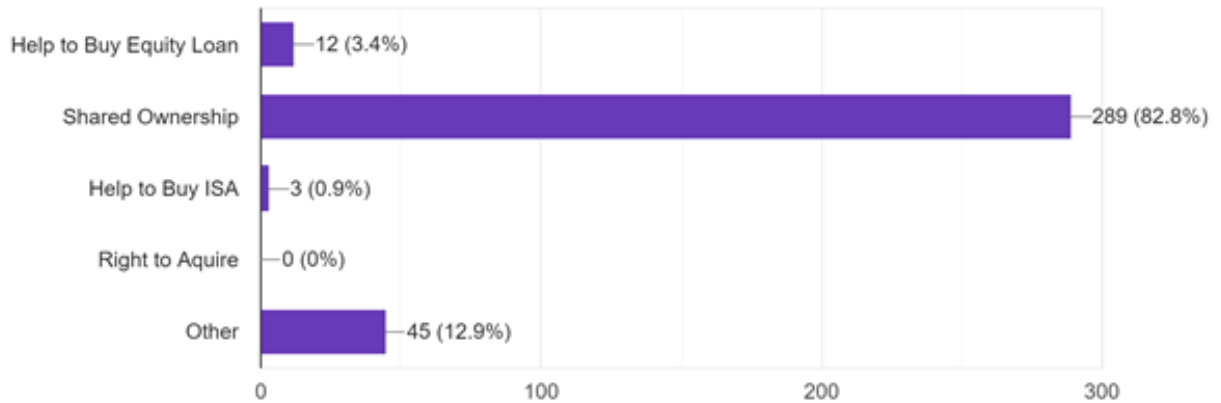


How leaseholders purchased their property

We asked respondents how they bought their properties and what scheme(s) they used or entered into. The vast majority of respondents (82.8%) had used the Government-backed shared ownership scheme.

How did you buy or what scheme(s) did you enter into?

349 responses



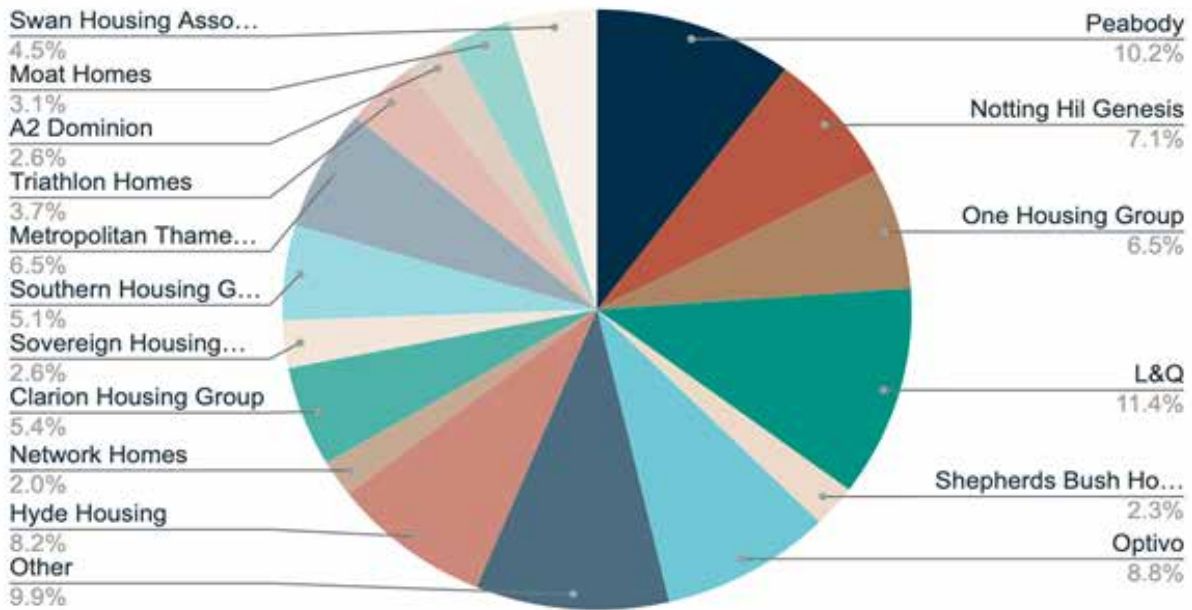
Of those who responded that they had purchased their flat through the shared ownership scheme, the majority (67.3%) currently own a minority equity share, of 50% or less.

Housing Associations

We received responses from leaseholders living in a wide range of housing association properties, including large G15 HAs³⁴ as well as medium size and smaller HAs in various regions of the country.³⁵

- More than 7 in 10 respondents had a landlord that is a member of the G15 group

What is the name of your housing association?



³⁴ The G15 consists of London's largest HAs <https://g15.london/>

³⁵ Annex 1 includes the full list of HAs

Buildings and tenures

Building height

Of those who responded and knew the height of their building, 49% live in buildings over 18 metres, 41% in buildings 11-18 metres and 5% in buildings under 11 metres tall. Just over 5% of respondents did not know the height of their building, whether because this was still to be measured or, in a number of cases, because this was disputed.

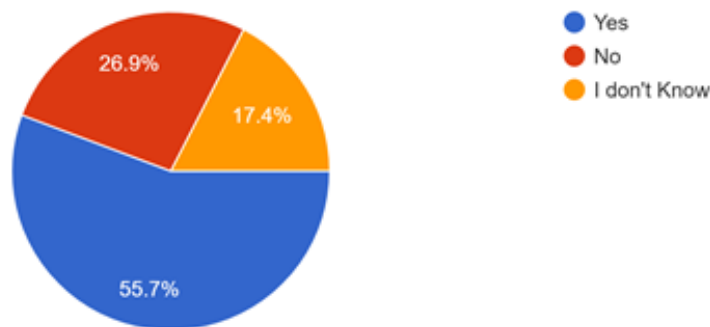
Tenure

We asked respondents whether their housing association was the freeholder of their building. 350 respondents answered this question. Just over half answered yes, while just over a quarter answered no. However, nearly a fifth did not know the answer to this question.

This raises a number of concerns: was this information provided to leaseholders at the point of sale? Are the ownership and management structures so complex that the freeholder is difficult to identify?

Is your housing association also the freeholder of your building?

350 responses



Having to deal with complex ownership and management structures and/or a mix of tenures within a single building was a compounding factor for many leaseholders. In particular, there were several comments in relation to difficulties faced where the housing association was not the freeholder of the building, including having to find out information from private leaseholders³⁶ on the same development. In this scenario HAs were sometimes accused of not taking an interest, or of 'blocking communication' with the freeholder, although occasionally they were described as more helpful at holding 'others' to account.

Several leaseholders commented on the fact that their HA was not actively involved because they were not the freeholder, which had a negative impact on the ability to access timely information. Some said they had no information at all about how their HA was

³⁶ In this report we refer to 'private leaseholders' as leaseholders who do not have a housing association as a landlord and/or freeholder.

engaging with their freeholder. Others stated they were often the last leaseholders to find out about significant developments on their estate and that information usually came from private leaseholders.

L&Q leaseholder: “Our HA is not the freeholder so is washing their hands of what is happening to us.”

A2 Dominion leaseholder: “They (...) just act as a block on leaseholders communicating directly with the owner and charge 10% for their non-existent services.”

EWS1 forms

In 2019 lenders started to ask for information on the safety of external wall systems as a condition of approving mortgage applications; an increasing number of mortgage applications were rejected due to safety concerns. The Royal Institution of Chartered Surveyors (RICS) developed a form to assist with valuation of tall buildings: this ‘External Wall System’ form (EWS1)³⁷ was introduced in December 2019. While the EWS1 form was initially intended for buildings over 18m with visible cladding or combustible materials on balconies, its use was extended to buildings of any height by the Government, via an advice note in January 2020. Leaseholders who do not have an EWS1 form for their building, or who have a non-compliant EWS1 form, cannot sell or remortgage their property³⁸.

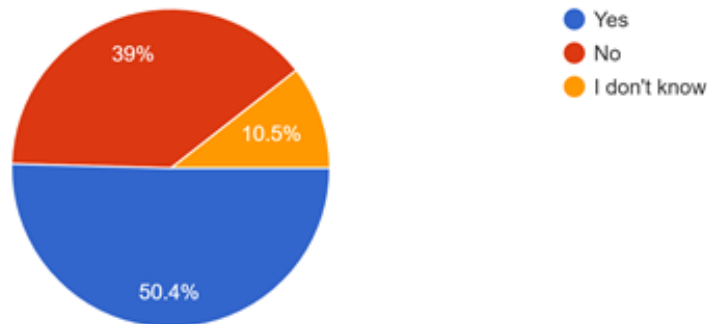
Just over half of respondents (50.6%) said an EWS1 had been produced for their building, while over a third (38.9%) said none had been undertaken and 10.5% did not know.

³⁷ RICS describes it as an “industry-wide valuation process which will help people buy and sell homes and remortgage in buildings above 18 metres (six storeys).” <https://www.rics.org/uk/news-insight/latest-news/fire-safety/new-industry-wide-process-agreed-for-valuation-of-high-rise-buildings/>

³⁸ See this Commons library note on EWS1 form: <https://commonslibrary.parliament.uk/the-external-wall-fire-review-process-ews/>

Has an EWS1 assessment been undertaken?

351 responses



Of the 180 respondents who said an EWS1 had been carried out for their building,

- 114 (63%) had been told their building was rated B2
- 14 (8%) were rated B1
- 2 (1%) had received an A2 rating
- 4 (2%) had received an A3 rating
- 46 (26%) had not been told the rating for their building or did not answer

Disappointingly, fewer than 4 in 10 respondents (39%) had been given access to the EWS1 document for their building.

Peabody leaseholder: "My housing association has not communicated with me at all about the EWS1. Some of my neighbours who are trying to sell or staircase have enquired but all they will tell us is if 'the process has started' and they will not give us a timescale for its completion or any indication of how they intend for any remedial works to be paid for."

One Housing leaseholder: "The Housing association haven't given us any information yet — not even informed us of the B2 rated EWS1. We know through contact with building management and private tenants that the B2 rating was certified months ago."

Swan Housing leaseholder: "They won't share results of the intrusive wall survey. All we know is that we got a B2 rating on the EWS1."

Fire risk assessments (FRAs)

In her 2018 report **Building a Safer Future: Independent Review of Fire Regulations and Fire Safety**³⁹, Dame Judith Hackitt said “Residents should have the right to access both current and historical fire risk assessments, safety case documentation and information on the maintenance of safety systems and changes that could impact on safety.”

On this point, we fully agree with Dame Judith. It was therefore extremely disappointing to see that more than two thirds (68.9%) of respondents had not been provided with access to FRAs for their building. Four and a half years after the Grenfell tragedy, this is not acceptable and it raises significant questions about HAs’ willingness to be transparent and share critical fire safety information with residents.

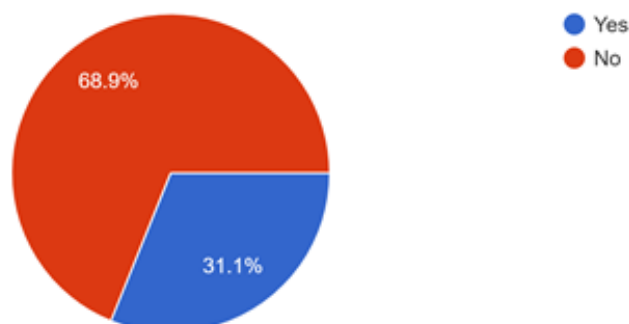
More than two thirds of respondents had not been provided with access to the Fire Risk Assessments for their building.

Hyde Housing leaseholder: “The housing association is refusing to share the results of our FRA level 4 with us. We just know there are ‘some’ issues but we don’t have details and we don’t know anything about remedial works costs/nature/ timeframe etc.”

Notting Hill Housing (NHG) leaseholder: “We also have a huge issue with NHG not sharing survey results or any important documentation with us, as they claim it is legally privileged information.”

Have you had access to Fire Risk Assessments for your building?

347 responses



³⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf

Cladding and other fire safety defects

Cladding was the most commonly mentioned defect needing remediation and was cited by 234 respondents (66%); this was quite closely followed by cavity barriers (166 respondents, 47%), balconies (152 respondents, 43%) and fire-stopping or compartmentation (145 respondents, 41%).

Fire doors required remediation for 106 respondents (30%), as did insulation for 100 respondents (28%).

Very few respondents had only one defect in their building requiring remediation; on average, respondents cited defects in three of the categories mentioned above. It is particularly alarming to note the high proportion of leaseholders citing multiple non-cladding defects requiring work - for which there is currently no government funding available - in buildings of any height.

The vast majority of respondents (82.5%) were still waiting for remediation work to start.

Costs and access to public funding

High costs and ongoing uncertainty

Figures from the Association of Residential Managing Agents (ARMA) and the Institute of Residential Property Management (IRPM) - based on data that looked at more than 750 buildings - concluded that leaseholders must still pay “impossible sums” of £27,000 each to fix smaller blocks and more than £14,000 for unfunded fire risks in tall buildings⁴⁰.

Four and a half years after the Grenfell tragedy, the majority of respondents (69.7%) had still not been told the total costs they could be facing to make their homes safe.

The majority of respondents (69.7%) had still not been told the total costs they could be facing to make their homes safe.

However, there was clear evidence that HAs were already passing on costs to their leaseholders as over a third (34.4%) of respondents had already paid or were currently paying for costs directly linked to the building safety crisis - including fire alarm installation, waking watch, increased insurance costs, surveys, plus cladding and other fire safety remediation costs. Many had also experienced large service charge increases but had not been informed of what they were actually paying for and whether that included building safety related costs.

Hyde Housing leaseholder: “They’ve not told us. Just issued approximate bills and said we have a year to pay - £44.5k for us.”

Shepherds Bush Housing Group leaseholder: “The problem is we have no idea what costs we face or how we are supposed to pay for them. We are completely in the dark.”

- 1 in 5 respondents had already paid increased buildings insurance costs
- 1 in 10 had already paid costs in relation to waking watches
- 1 in 10 had already paid costs for fire alarms
- 1 in 7 had already paid costs for EWS1 surveys

106 respondents had been told about the costs they would have to pay: 51% told us their personal bill would be over £20,000, while a staggering 35% told us it would be over £50,000.

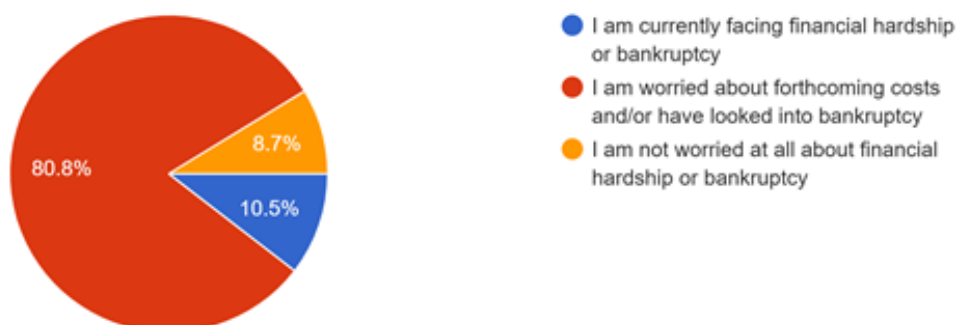
⁴⁰ Sunday Times 20 June 2021 <https://www.thetimes.co.uk/article/footing-the-bill-for-the-cladding-crisis-will-cost-more-than-my-flat-xhbljdzkx>

Concerns over financial hardship and bankruptcy

The overwhelming majority of respondents (4 out of 5) were worried about forthcoming costs and/or had researched applying for bankruptcy, while 1 in 10 were already facing financial hardship or bankruptcy.

Do you face financial hardship or bankruptcy or have you looked into bankruptcy as a result of current or potential costs?

344 responses



Hyde Housing leaseholder: "We are two years from retirement and are constantly worrying about how we will cope if unable to sell our property as our pensions will not cover costs."

Swan Housing leaseholder: "I moved location prior to getting an EWS1 B2 rating and then couldn't sell (...). I now rent a bedroom in someone's tiny flat during the week and return to an unsellable flat, which I pay mortgage and service charges for, at weekends. I save no money as I didn't budget to be renting, paying big petrol costs and paying a mortgage at the same time."

Optivo leaseholder: "They failed to provide a breakdown of my service charges so I couldn't claim it on Universal Credit when I was out of work for three months and entitled to it."

L&Q leaseholder: "I've had to take on a second job, cut back on all spending. (...) I usually work 7 days a week now. (...) I feel I have no future now and working all the time is my only source of security yet I still feel it won't be enough, no one else in my life seems to understand the repercussions this could have for me so I face this alone with no real support, my first property purchase has turned out to be a big mistake and I currently feel like it will be my ruin."

Moat Homes leaseholder: "Moat are supposed to be a charity but they are trapping vulnerable people and causing a lifetime of financial hardship and uncertainty. They should be shut down and held responsible for the lives they are ruining"

Building Safety Fund (BSF)

Four out of 10 of respondents said their buildings were ineligible for the BSF or that no application had been made for their building. 15% said they did not know whether an application had been made and 1.4% of respondents said an application had been made but had been rejected.

Of the 154 leaseholders who were aware an application had been made to the BSF for their building (44% of survey respondents), only 19 (12.4%) said it had been accepted.

Only 4 respondents (less than 1%) indicated that they expected all of their building's remediation costs would be funded by the BSF.

Shepherds Bush Housing Group leaseholder: "Like many, we're still in the dark about whether the government grant application has been successful (our block is just over 18m). However, our housing association has instructed builders to erect scaffolding on our block, while providing us with no information on timescales/cost/what they are doing".

One Housing leaseholder: "They've missed repeated deadlines to apply for government assistance, they provide leaseholders with no information but will happily add to our high levels of anxiety with sudden announcements of additional costs."

Waking Watch Relief Fund (WWRF)

Interim measures imposed on an unsafe building usually include a change from a 'stay put' strategy to 'simultaneous evacuation', with a 24/7 'Waking Watch' patrol that periodically checks for signs of fire, with the intention of alerting residents in a fire incident. Based on data collated by MHCLG in 2020, the mean average cost of waking watch is £499 per dwelling per month in London, and £331 per month elsewhere in England⁴¹. In practice, these costs are often anything but 'interim', sometimes lasting for several years.

The WWRF is a Government fund that allocates grants to cover the costs of installing an alarm system in some buildings with unsafe cladding and waking watch measures currently in place⁴². Despite the fund's name, there is no relief for the cost of the Waking Watch itself, only relief for the capital cost of the alarm; there is also no retrospective relief where action was taken to install an alarm earlier than the fund launch date. Many leaseholders have noted that even once an alarm is installed, 'evacuation managers' are often still required, which is an expensive Waking Watch in all but name.

Only 10% of respondents knew if an application had been made to the WWRF for their building. Of these, less than half had been accepted with the remainder either rejected or

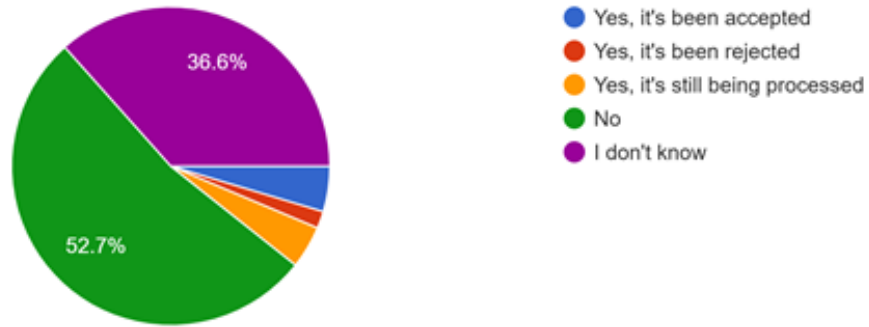
⁴¹ <https://www.gov.uk/government/publications/building-safety-programme-waking-watch-costs/building-safety-programme-waking-watch-costs>

⁴² <https://www.gov.uk/guidance/waking-watch-relief-fund>

still being processed. Just over half of respondents said no application had been made to the WWRF⁴³, while just over a third were unaware of whether an application had been made to the WWRF or not.

Has an application been made to the Waking Watch Relief Fund?

347 responses



⁴³ Consistent with survey sample as 48% of respondents are in buildings under 18m. WWRF only applies to buildings over 18m; however, the new Waking Watch Replacement Fund, which opened for applications at the end of January 2022, may also apply to buildings below this height.

HAs' management of the building safety crisis

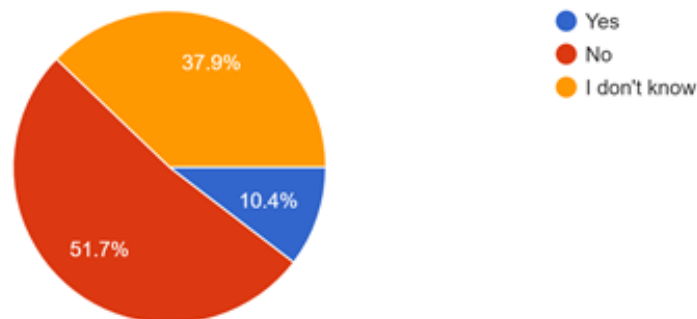
The ability to spread the costs should not be a lottery

Our position is that HAs should not be passing on any building safety related costs to leaseholders. Under no circumstances should they be passed on before all responsible parties have been actively pursued, and evidence provided to demonstrate this. Where a Housing Association chooses to pass on these costs, despite repeated warnings not to do so by Government Ministers, consideration must be given to the impact of sending an enormous and unpayable bill with no mechanism to spread the sum demanded. While we remain concerned at the implicit terms included in a leaseholder having no option but to enter into a payment plan, steps must be taken to reduce the immediate impact. This is currently by no means the case - some leaseholders have already been forced to pay large sums, were refused the potential option to spread costs by their HA, and as a result some leaseholders had to take hugely expensive personal loans.

Our survey showed that only 1 in 10 leaseholders had been offered the option to spread the additional costs in relation to the building safety crisis over an extended period. Over a third did not have information about the possibility to spread costs, while over half said they had not been offered such an arrangement.

Has your housing association offered the ability to spread the additional costs you are facing?

346 responses



Onward Homes Group leaseholder: "No solutions offered, just expected to pay the extra demand within 28 days."

Swan Housing leaseholder: "It wasn't offered outright, but I emailed them to ask if I could spread the payment of the extra service charge which included waking watch fees. (...) After I asked they offered to spread it over 8 months. They also said I should start saving now for the unknown cladding costs to come."

We asked leaseholders to comment on the issues they faced in relation to costs and any solutions offered by their housing association.

It was disappointing to find out that many leaseholders do not hear from their housing association at all until they are sent a huge, in many cases life-changing, remediation bill for cladding or other building safety defects. Even at that stage, it is staggering that some HAs fail to provide any information about payment options that may be available.

L&Q leaseholder: "Out of nowhere L&Q sent us the cladding remediation bill, which they had included in our service charge finals. Many of us had asked them before how they would pass on the costs to us but had had no response at all. (...) We only had 30 days to pay. This bill is huge - thousands of pounds - so people panicked. They called L&Q to see if payment plans could be offered. The only offer was to spread the cost until the end of the current financial year, which is still not enough for many of us. Some asked for a 2-year payment plan but the HA refused. Some people have had to take personal loans."

Optivo leaseholder: "They have mentioned a 10 year interest-free loan."

We found significant differences in terms of what HAs offered to their leaseholders. Some leaseholders were not offered any facility to spread payments for service charge bills at all, while others were offered up to 10-year payment plans. But we also found inconsistencies in terms of what was available to different leaseholders from the same housing association.

The vast majority of comments regarding payment options decried the lack of communication about this critical matter. While most leaseholders had to meet stringent affordability tests in order to access 'affordable housing' schemes to get on the housing ladder, most HAs have apparently failed to develop, offer and/or communicate regarding payment options for leaseholders who are facing exceptionally high bills.

Wandle leaseholder: "Payment plan was mentioned over a year ago, no details have been provided - they pretty much don't respond to any kind of questions."

Optivo leaseholder: "Only told they are doing everything to mitigate costs to leaseholders. No information on how, even when specifically requested."

Onward Homes Group leaseholder: "Costs not yet confirmed but estimated at £47k. It was suggested we could approach our banks or mortgage providers for a loan, or spread payments over 10 months."

We know that stress about the huge financial pressures leaseholders are under has a major impact on their mental wellbeing. In her recent report⁴⁴, Dr Jenny Preece of the University of Sheffield found that while fear of a dangerous fire breaking out was a very significant driver of negative mental health outcomes for some individuals, for most this was eclipsed by fear of the financial impact, which was seen as a more likely and immediate danger⁴⁵.

Poor communication with leaseholders

In their report⁴⁶ published in May 2021, the Housing Ombudsman made the following three key recommendations to social landlords.

- Firstly, it is clear most landlords are taking a risk-based approach to inspections and, whilst this is rational, these plans do not appear to adequately consider the broader implications for all residents, especially those living in buildings below 18 metres. We believe it is essential for landlords to provide a clear roadmap – with timescales – to all residents.
- Secondly, effective communication is vital, and landlords need to assure themselves that their strategy for this is robust, well-resourced and proactive. The risk otherwise is increased frustration and deterioration of the resident and landlord relationship. This extends to being open and transparent about long-term plans.
- Thirdly, landlords should always address the individual circumstances presented in a complaint and, where appropriate, exercise discretion as they would with other complaints. The longer this crisis continues the greater the impact will be on individuals' life chances, their finances, mental health and well-being. Our investigations have found landlords could do more to respond to an individual resident's circumstances which is why, in exceptional cases, we have proposed equity release instead of subletting as an appropriate remedy.

Unfortunately, our survey found little evidence that HAs had taken the Housing Ombudsman's recommendations into account.

Poor communication from HAs was one of the prevailing themes among respondents and elicited a huge number of comments. The impact that this is having on leaseholders' wellbeing came through very strongly in their responses.

One Housing leaseholder: "When I originally put my flat on sale I had no information from the Housing Association about the fact that the flat was a fire risk. It is only through the sales process, the work of my estate agents, and the work of my solicitor to help get answers from the Housing Association that I finally found out."

44 Living through the building safety crisis: impact on the mental wellbeing of leaseholders - Dr Jenny Preece <https://housingevidence.ac.uk/publications/living-through-the-building-safety-crisis/>

45 We shared Dr Preece's report with the National Housing Federation and asked that it be circulated to all its members.

46 Spotlight on Cladding Complaints: three lessons for social landlords - Housing Ombudsman (May 2021) <https://www.housing-ombudsman.org.uk/wp-content/uploads/2021/05/Housing-Ombudsman-Spotlight-report-on-cladding.pdf>

L&Q leaseholder: "They do not communicate. We are left in the dark. No information. No meetings. Nothing. Appalling."

MTVH leaseholder: "They've said there is an 80 year wait list. We've gone to the ombudsman and our MP, but had zero response apart from we're not a priority. Meanwhile we can't sell or remortgage. It's horrific."

Swan Housing leaseholder: "Our housing association has been very secretive (...). It's impossible to get information from them."

Hyde Housing leaseholder: "They send very little information proactively and when they do it is very hard to decipher. I am stunned that they are legally allowed to keep us in limbo like this."

We asked respondents how they would rate **communication** from their housing association in relation to 'current building safety issues' on a scale of 1 (very poor) to 10 (excellent), where ratings of 1 to 5 would be considered negative and ratings of 6 to 10 would be considered positive.

9 in 10 respondents rated their HA's communications in relation to the building safety crisis negatively, with over half (52%) picking the worst possible rating, 'very poor'.

There was a huge amount of comments - some strongly worded - on HAs' poor communication and how this impacted leaseholders who are experiencing the building safety crisis.

One Housing leaseholder: "Communication is truly appalling."

MTVH leaseholder: "Directors (...) need communication skills training in how to cut the bullsh*t and be human, transparent and accountable."

Swan Housing leaseholder: "The lack of communication or incorrect communication is staggering. It has got to the stage where I am anxious of receiving any communication for fear of a bill for thousands being attached."

Notting Hill Housing (NHG) leaseholder: "It was a humongous struggle to get NHG to have monthly meetings with us."

L&Q leaseholder: "If HAs (...) communicated regularly with us in a helpful - as opposed to unhelpful and condescending - manner, then yes, it would make a huge difference. Right now interaction with our housing association is the primary reason for our declining mental health."

Several HA leaseholders referred to the fact that they were often the last leaseholders to find out about significant developments on their estate and that information usually came from private leaseholders⁴⁷.

Notting Hill Genesis leaseholder: "Private leaseholders are often told things that we never hear about until news spreads round the grapevine."

A rare case of good practice was highlighted, showing that simple changes to communicate effectively can make a huge difference:

Newlon Housing Trust leaseholder: "Initially their communication was very poor and confused with mixed messaging. However they have since set up a monthly residents meeting which has made things better and provides regular updates."

Finally, frequent comments were made around the lack of transparency of costs and accounting, and the difficulties leaseholders faced when trying to access information about this from their housing association. Several mentioned increasing service charges with no communication of what the increases were for.

Moat Homes leaseholder: "Refusal to provide detailed service charge breakdowns in line with RICS guidance - they categorically refuse to provide these even after 4 years of persistent pressure. Over 40 emails required to access all invoices."

Peabody leaseholder: "Every year they over charge us on the service charge for our building and every year we have to serve a section 22 notice on them to get the charges reduced. This year they have failed to comply with the section 22 notice so now we are considering tribunal action but the process is long and costly."

⁴⁷ In this report we refer to 'private leaseholders' as leaseholders who do not have a housing association as a landlord and/or freeholder.

Substandard customer service

We asked leaseholders to rate the **overall customer service** they experienced from their HA in relation to the building safety crisis on a scale of 1 (very poor) to 10 (excellent), where ratings of 1 to 5 would be considered negative and ratings of 6 to 10 would be considered positive.

9 in 10 respondents rated their HA's customer service in relation to the building safety crisis negatively, with over half (55.4%) picking the worst possible rating, 'very poor'.

These are shocking scores and, perhaps unsurprisingly, a far cry from any published customer satisfaction survey results⁴⁸ produced by individual HAs⁴⁹ and the average reported level of satisfaction of residents of 78% reported by the G15 for the year 2020/21⁵⁰.

Optivo leaseholder: "They have not been empathic at all and their communication is very unprofessional."

Hyde Housing leaseholder: "When I ask them for information I am given a different answer depending on who I speak to."

An overwhelming number of respondents highlighted a combination of lack of information, poor quality communication, and being completely ignored or repeatedly stonewalled by their housing association as a major stress factor.

Many said they had to repeatedly ask the same questions but were not getting answers. There was significant frustration at HA staff's inability to deliver basic customer service and exasperation at staff attitudes towards leaseholders and the lack of transparency.

Optivo leaseholder: "Poor communication, poor maintenance in general. Slow to respond to problems with fire safety aspects of management, eg faulty alarms (...) Rude and dismissive, have to wait weeks for uninformative responses. Overall they have a culture of disregard towards residents' concerns in general."

48 We note that the majority of HAs do not appear to publish disaggregated data based on the resident's tenure (e.g. social tenant, shared ownership leaseholder, other leaseholder)

49 L&Q claimed a 71% customer satisfaction rating in its 2020 Financial Statement <https://www.lqgroup.org.uk/-/media/files/financial-statements/financial-statements-2020.pdf>
Catalyst Housing Group claimed a 74% customer satisfaction rating for tenants - and 60% for shared owners - in its 'Value for Money' year end March 2020 report http://www.chg.org.uk/wp-content/uploads/2020/09/200922_Value-for-Money-V5.pdf

Clarion claimed an 80% customer satisfaction rating to year end March 2021 <https://cdn.myclarionhousing.com/-/jssmedia/clarion-housing-association/documents/reports-and-accounts/resident-annual-report-2020-2021.ashx?rev=0d2e5b274d8c409282220c283e35e831>

50 G15 written evidence submitted to the Select Committee in December <https://committees.parliament.uk/writtenevidence/42032/pdf/>

One Housing leaseholder: “They are now communicating with me and a handful of residents via Zoom to update us. They stonewalled us before then, and I worry that not all residents have the information that I do, because I was tenacious and complained.”

L&Q leaseholder: “I am completely abandoned and have no representation or stake in decisions being made because of their total lack of engagement or action. Having been their leaseholder for 9 years, I have not come to expect much support from L&Q but this really is unacceptable.”

Leaseholders said that poor customer service had already been prevalent before the building safety crisis came about.

Many of the comments evidence that poor customer care is a systemic issue.

A2 Dominion leaseholder: “The communication is dreadful. Because they are so incompetent at dealing with smaller issues (eg we have had an abandoned vehicle in our car park for a year) I have zero faith that they will be able to deal with building safety issues in a competent and efficient fashion.”

One Housing leaseholder: “It takes months and many emails through various layers of bureaucracy to get anything resolved, and knowing this is the case when facing a situation as bad as this is incredibly stressful.”

Peabody leaseholder: “They are singularly unhelpful every time we need them to do anything.”

Shepherds Bush Housing Group leaseholder: “Very very poor service, the cladding issue is just one amongst so many other stressful issues with them”.

Hyde Housing leaseholder: “We have always struggled with our housing association to get anything done or corrected/fixed. It’s no surprise they are not doing a better job with the building safety crisis”

Optivo leaseholder: “Appalling treatment due to outright lies, deception, disrespect, and patronising withholding of all key data. (...). Zero trust due to the way we’re being treated. Told it’s all for our safety. Utter madness and abuse frankly. (...). We feel like we’re being fast-tracked to fit into a schedule that is convenient for them. Deep concerns about process.”

Subletting: a potentially helpful option that is not offered to all

In our survey we asked leaseholders if they were told by their HAs that they had the option to sublet their flat. This can be a potentially helpful option for some. For example, we have spoken with leaseholders who have lost jobs requiring relocation because they cannot sell/let out their flat, have put off having children because they cannot accommodate them in such a small space, have been unable to move closer to loved ones who are terminally ill, have been unable to move closer to loved ones when the leaseholder themselves is facing illness, and have been unable to move to a ground floor flat when their mobility has become restricted⁵¹.

While subletting is not routinely allowed for shared owners due to restrictions imposed by Homes England's capital funding guidance and written into their leases, it is possible for HAs to grant leaseholders the right to sublet in 'exceptional circumstances' and some have done so. However, other HAs have interpreted these provisions in a very restrictive manner, and effectively made unilateral decisions affecting people's right to choose where they live. These restrictions and policies must be urgently reviewed as they appear to conflict with leaseholders' human rights to adequate housing.

44% of respondents had been given the option to sublet their property

However, 46% said they had not been given this option and 10% did not answer. More research would be necessary to understand whether this is due to HAs' policy decisions not to offer the right to sublet or if it is just a failure to communicate that this is an option available to shared ownership leaseholders, especially as existing rules have been relaxed by funding authorities such as the Greater London Authority⁵². It is worth noting that some HAs turn down requests based on their own interpretation of the rules - or possibly because they have failed to stay up-to-date with evolving rules.

Moat Homes leaseholder: "We have been told that we can sublet if we want to move out and cover the costs."

However, there was evidence that some leaseholders within the same HAs had been given a different message.

Moat Homes leaseholder: "I am not allowed to sublet the property so I literally have no way out."

51 One of the key asks from our partner, the Leaseholder Disability Action Group (CLADDAG), is 'Ensure disabled leaseholders live in accessible homes of their choice, unimpeded by the building safety crisis.' See <https://claddag.org/our-asks/>

52 The Deputy Mayor of London for Housing has informed the End Our Cladding Scandal campaign that he has asked HAs to show flexibility over subletting rules. However, HAs make their own assessments and there is no transparency over criteria used. See <https://endourcladdingscandal.org/newsfeed/housing-association-leaseholders/>

Hyde Housing leaseholder: “I discovered my flat was unsellable and I couldn’t rent it out. I moved to Spain a year ago and am having to pay for my empty London flat, which is devastating me financially.”

Sanctuary Housing leaseholder: “They have recently agreed that it may be possible to sublet the property.”

Hyde Housing leaseholder: “Some people had lost their jobs, had to move to another country, but were not allowed to rent.”

Subletting alone is not a solution to the building safety crisis, but HAs can and should offer subletting as a temporary relief to enable those who request it to move, for whatever reason. Any policy preventing leaseholders from choosing where they reside is at odds with their right to adequate housing under human rights law⁵³. The right to adequate housing contains freedoms, including the right to choose one’s residence, to determine where to live and the right to freedom of movement. It is absolutely staggering that any housing association should wilfully interfere with such basic human rights. It is equally shocking that public authorities should set funding criteria that so glaringly fail to uphold these rights.

Allowing leaseholders to temporarily sublet their flats must be done in a way that is simple and straightforward. Right now leaseholders who are able to go down that route have to navigate an overly complex process or impossible set of criteria⁵⁴.

Catalyst leaseholder: “The rules for subletting are so onerous and convoluted (no profit at all allowed, tenant must be eligible for affordable housing etc) it is functionally impossible to do (...). As I have had to move city for work I have therefore been forced to sublet illegally with all the added stress and anxiety that brings too.”

L&Q leaseholder: “Subletting is complicated and it feels like a battle.”

Wandle Leaseholder: “I had to fight for months to get permission to sublet. Even then the conditions attached made it almost impossible for me to do.”

Swan Housing leaseholder: “Renting our flat won’t help. I will have to pay 40% tax and it won’t increase my ability to rent something better.”

⁵³ See UN Human Rights Office website <https://www.ohchr.org/EN/Issues/Housing/Pages/AboutHRandHousing.aspx>

⁵⁴ See <https://www.sharedownershipresources.org/category/need-to-know/subletting/>

Buybacks must be considered before it's too late

Only two respondents mentioned that their HAs had offered to buy back some of their shares. On reviewing the relevant HAs' websites, this 'downward staircasing' appears to be limited to only some shared owners experiencing severe financial hardship. There was no suggestion that buybacks were available more widely.

Some leaseholders had asked their housing association to buy back their shares to get out of a situation that had become impossible for them to cope with, to no avail⁵⁵.

Optivo leaseholder: "We complained to the highest level in our housing association asking them to buy us out. We live in a one bedroom flat with a 3 year old. (...). We are unable to grow our family. We have just a small window of opportunity due to our IVF treatment, age and health conditions. We told the HA this. Still they won't buy us out."

We have already heard of cases where shared owners are put in impossible situations, where a buyback would obviously help. In her adjournment debate on Building Safety and Cladding in Putney on 21 January 2022, Fleur Anderson MP said⁵⁶:

"Another constituent, who has terminal cancer, wrote:

'At the moment, I am facing a bleak death. I had hoped I could use the capital from my flat (I own 25%, Notting Hill Genesis own 75%) to either fund future hospice care or transfer to sheltered housing... However, I am unable to sell this flat, and am pretty much trapped here.'

We are aware of other shared owners who have lost their flats and suffered repossession because there was no willingness to assist them, including a leaseholder in Bermondsey, London, who despite losing his flat because of the fire safety costs that he had been charged, was still required by his housing association to pay the rent after the repossession took place⁵⁷.

Shared ownership schemes are government-backed 'affordable housing' schemes. They are targeted at first-time buyers on lower to middle incomes who cannot afford to buy a home on the open market. It is not morally right or decent for HAs to let leaseholders lose their home as a result of job losses or illness, when the building safety crisis is preventing them from selling their only asset. People should not face severe financial hardship, bankruptcy, homelessness or be unable to access end-of-life care when a buyback of some or all of their equity⁵⁸ could prevent this.⁵⁹

55 The unacceptable treatment of a disabled shared ownership leaseholder by his HA Optivo was exposed by ITV: <https://www.itv.com/news/london/2021-11-11/im-living-in-hell-paralysed-man-trapped-in-home-by-100k-cladding-bill>

56 <https://hansard.parliament.uk/Commons/2022-01-21/debates/7B73092E-D858-465A-8B17-9440223C83C5/BuildingSafetyAndCladdingPutney#contribution-9254EB26-597D-4A4B-B3E9-2757F053E32A>

57 <https://www.southwarknews.co.uk/news/exclusive-bermondsey-homeowners-flat-repossessed-after-cladding-scandal-left-it-unsellable/>

58 Partial equity release may be preferred by some leaseholders who still want to hold on to their shared ownership home if they can, but need to release equity due to life circumstances or financial hardship. Alternatively full equity release and, where relevant, conversion to a secure tenancy agreement, should be explored.

59 See recommendations, Spotlight on Cladding Complaints: three lessons for social landlords, Housing Ombudsman (May 2021) <https://www.housing-ombudsman.org.uk/wp-content/uploads/2021/05/Housing-Ombudsman-Spotlight-report-on-cladding.pdf>

We note that the Welsh Government⁶⁰ has announced plans to set up a scheme to buy back properties impacted by the building safety crisis. While this may not be a solution for all impacted leaseholders, it will undoubtedly be welcome for some, especially those facing financial hardship or difficult personal circumstances⁶¹. We are urging local governments and HAs, as well as central governments, to look into such schemes as part of the solutions to the building safety crisis⁶².

Lease extensions

Many HAs sold short leases⁶³ to their leaseholders, so a number of leaseholders are now trapped in a situation where they are unable to staircase because of the building safety crisis and as a result are also unable to extend⁶⁴ a lease that has close to 80 years to run. This means that they may no longer be able to extend their lease in the future⁶⁵. We have not seen any evidence that HAs are looking into this issue or offering any solution to help the leaseholders involved. This must be addressed as some leaseholders, through no fault of their own, may potentially have to wait several years⁶⁶ for their building to be fixed.

Aster leaseholder: "We are facing mounting costs because we are needing to extend our lease and Aster cannot value the property."

Optivo leaseholder: "I am in a position where my flat is 'worthless' yet banks still give it a value. Optivo gave me the shortest possible lease at 99 years and charge the legally permissible amount to apply to increase. Not only have I got cladding and building safety issues, my lease is now at 83 years and I can't afford to purchase additional years. This means that I can't sell now and if I do sell in the future I am likely to get less than the value as the lease extension costs will be taken into consideration."

Are HAs contributing to costs? It's yet another lottery

There was no apparent consistency with regard to what costs HAs are prepared to fund themselves, and many leaseholders deplored a lack of information.

Sanctuary Housing leaseholder: "My HA are not responsible for the service charge element of my property as the block is mixed with S.O. properties and fully private leaseholds. Service charge is issued by our resident-managed management company (RMC) for the block (...). Our RMC has told us they have contacted Sanctuary who have said they MAY be willing to foot the bill but certainly no guarantee."

⁶⁰ People would either be able to sell their flat to the government and stay in it as a tenant, or take the equity <https://www.bbc.com/news/uk-wales-59680095>

⁶¹ Disabled leaseholders must be included in these plans: <https://claddag.org/2021/12/16/disabled-leaseholders-must-be-included-welsh-governments-buy-out-plans/>

⁶² Maureen Corcoran, It is time to buy back the homes of the cladding crisis: <https://www.thetimes.co.uk/article/its-time-to-buy-back-the-homes-of-the-cladding-crisis-32p3zv8wb>

⁶³ This refers to 99 or 125 year leases

⁶⁴ Staircasing to 100% is a requirement in order to be able to extend a lease

⁶⁵ This is due to the cost of 'marriage value' kicking in when a lease only has 80 or less years to run.

⁶⁶ <https://www.insidehousing.co.uk/news/news/housing-association-leaseholders-told-it-could-take-years-for-apartments-to-be-saleable-65333>

Interim measures

We had reports of several HAs covering costs for interim measures, but in a number of cases, this was only for some of their leaseholders.

Newlon Housing Leaseholder: “Newlon have not passed on costs from the fire alarm installation, or waking watch. However service charges have increased due to an increase in insurance premiums.”

Notting Hill Genesis leaseholder: “They have paid (as an interim measure) the waking watch and upfront costs for installing a new fire alarm to replace the WW”

A2 Dominion leaseholder: “A2Dominion have paid for the installation of a temp heat detector system”

Other Notting Hill Genesis and A2Dominion leaseholders told us they had been charged for similar costs, which points to a lack of consistency in how HAs approach the same issue in different buildings. This points to a potentially discriminatory approach in that some buildings are having their costs covered while others are not. What fair and reasonable justification is there for defects being covered by a housing association in one building, but not in another?

Remediation costs

We found four HAs⁶⁷ paying for some of the remediation costs, however, there was no evidence that this policy was applied consistently for all the buildings where they are landlords. For example, L&Q, which owns and manages over 105,000 homes, committed to pay for fire safety remediation for buildings built by its in-house construction arm, Quadrant Construction⁶⁸, which spares 1,100 leaseholders from remediation costs. However, it has not provided this assurance to leaseholders in its other buildings⁶⁹.

Two respondents told us that Vivid Homes paid for their building’s remediation costs that were not covered by the Building Safety Fund. A One Housing leaseholder told us that his waking watch was covered by his HA, though it wasn’t clear how long the HA would cover this cost.

Vivid Homes leaseholder: “Our HA is paying the remaining costs that aren’t covered by the BSF.”

One Housing leaseholder: “They are paying for the waking watch (for now) and they are also paying for the internal fire safety works that are needed (compartmentalisation for example, ensuring fire doors have additional fire safety protection etc).”

⁶⁷ The HAs mentioned were L&Q, Clarion, One Housing and Vivid Homes.

⁶⁸ <https://www.insidehousing.co.uk/news/news/lq-pledges-to-cover-remediation-costs-for-all-blocks-built-by-its-construction-arm-73609>

⁶⁹ “For other L&Q buildings in the programme, when all other avenues for recovery have been exhausted, and in the absence of further funding from Government, remediation costs will inevitably need to be recharged to leaseholders.” <https://www.lqgroup.org.uk/media-centre/news/lq-announces-completion-of-high-rise-inspections-and-gives-remediation-update>

Several Clarion leaseholders told us that Clarion had informed them that they would only charge them for their 'share' of remediation costs - in line with the percentage share that they own in the property. This is a notable exception to the general rule of HAs recharging 100% of costs. We do not know whether Clarion has made a group-wide policy decision about this as we could not find publicly available information. While we do not think that leaseholders or shared owners should pay any building safety remediation costs at all, Clarion's decision is notable in that it at least recognises the disproportionate way in which shared ownership leaseholders are impacted by this crisis.

Clarion leaseholder: "Clarion has agreed to only charge shared owners for the percentage of the property they own (this seems semi-reasonable - even if I don't think we should pay anything). The costs are thankfully quite low in my property - very little cladding. They also tell us we should be able to use our sinking fund to cover costs. All in all we got lucky."

Clarion leaseholder: "Shared owners will only have to pay in line with equity share. Sinking fund contributions can be used against the final bill."

Are HAs pursuing the developers, builders and warranty providers to cover costs?

While we did not ask specific questions about this in our survey, some leaseholders commented on the fact that their housing association was taking action against the developers, builders and warranty providers; others commented on the fact that they did not have access to information about what their housing association was doing to ensure that those who were responsible for building safety defects paid for their remediation.

Optivo leaseholders: "They say they have pursued 'all other avenues' then won't provide any details of meetings/correspondence etc."

Newlon Housing Trust leaseholder: "HA is pursuing legal action against the principal contractor and also lodged a possible claim with the newbuild insurer."

MTVH leaseholder: "They are also taking the builder to court. If those avenues don't work then leaseholders will be billed."

Newlon Housing Trust leaseholder: "Newlon have repeatedly talked about their intention to sue Kier Ltd, the construction company who built the two blocks of flats in the development. However we have really struggled to get any meaningful details about this action, and to this day leaseholders do not have any visibility over the case."

Impact on wellbeing, including mental health

In 2020, the UK Cladding Action Group (UKCAG) published a survey on the mental health impact of the cladding scandal. It found that more than 20% of leaseholders affected had suicidal thoughts or felt compelled to self-harm⁷⁰.

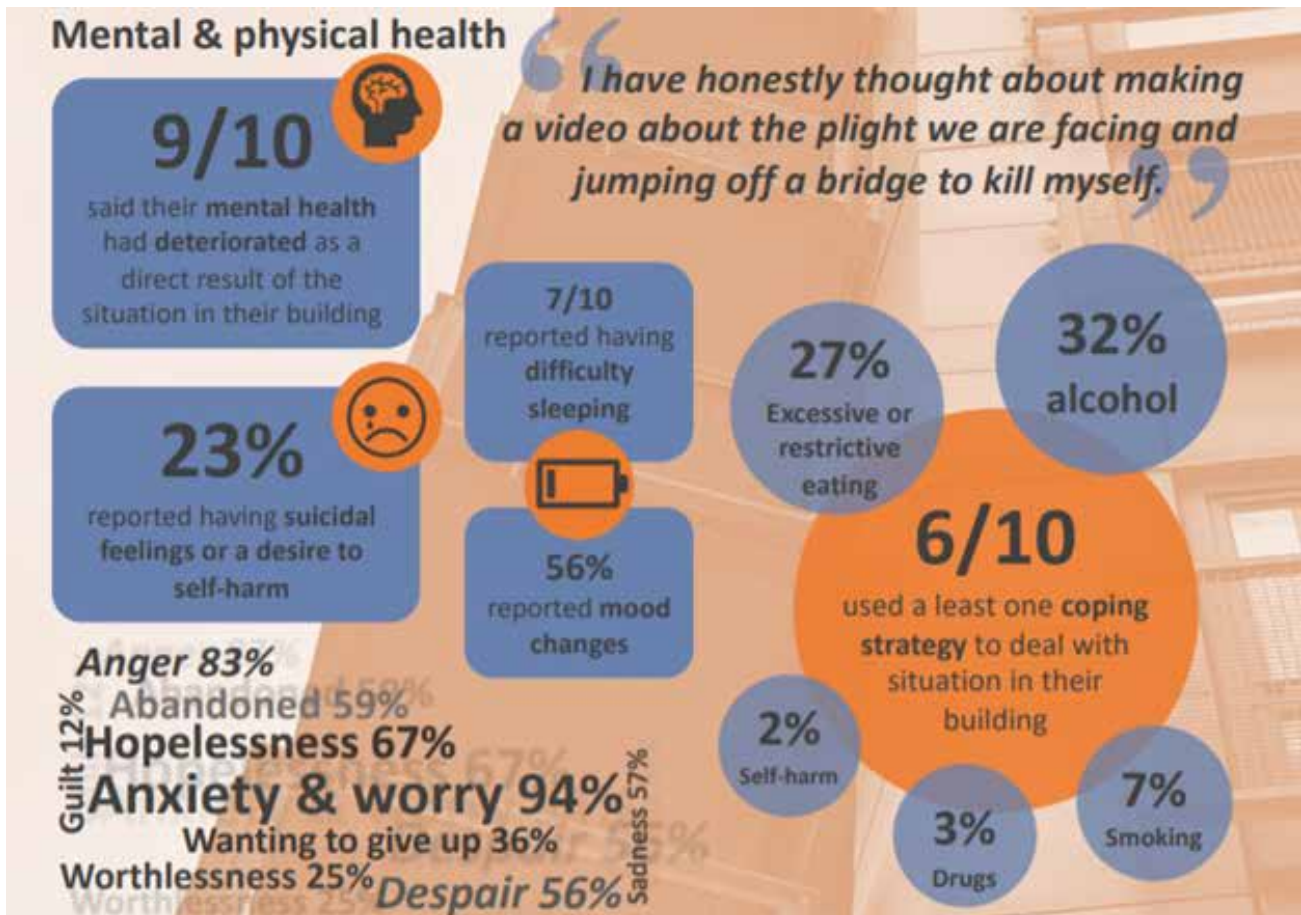


Image credits: UK Cladding Action Group

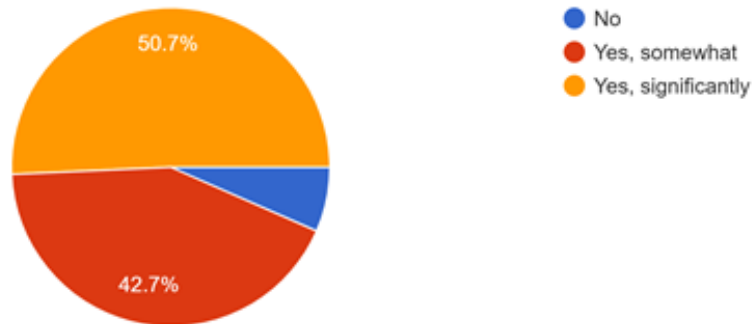
We asked respondents to rate the degree to which the building safety crisis had affected their **wellbeing**, asking them to rate this impact with a score ranging from 1 (not at all) to 10 (very much). A staggering 79% chose scores between 8 and 10, with nearly half (49%) picking the highest score of 10 (very much).

We also asked them to tell us whether the building safety crisis has impacted their **mental health**. This, too, elicited an alarming response. Here 93.4% said that it had, with 50.7% saying that it had done so 'significantly'.

⁷⁰ Cladding and Internal Fire Safety Mental Health Report 2020: <https://www.leaseholdknowledge.com/23-of-cladding-leaseholders-have-considered-suicide-or-self-harm-says-compelling-ukcag-report/ukcag-mental-health-report-2020/>

Has the building safety crisis affected your mental health?

351 responses

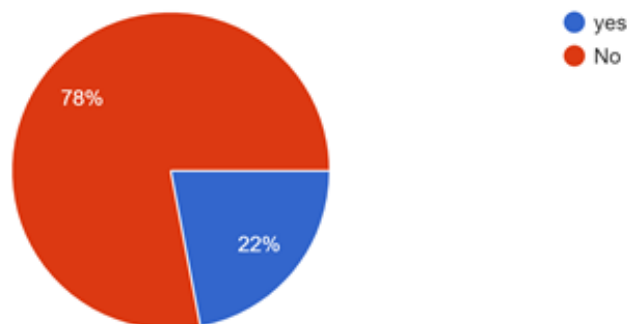


93.4% of respondents told us that the building safety crisis had impacted their mental health, with 50.7% saying that it had done so 'significantly'.

In addition, a worrying 22% told us they had been **prescribed medication** or **had to take time off work** as a result of the stress and anxiety brought about by the building safety crisis.

Have you been prescribed medication or have you had to take time off work as a result of the building safety crisis?

350 responses



A mere 4.8% of respondents said their housing association had offered any mental health support.

Around two-thirds said it had not and nearly a third said they did not know if such support was available from their HA. This suggests that, even if mental health support is available, it is not being proactively offered or communicated to leaseholders.

Some of the comments from those who took part in the survey were very disturbing. There was a clear sense of exasperation and worryingly, for some, this had developed into a sense of desperation and hopelessness.

Clarion leaseholder: "It's all I think about and has been very depressing over the last 18 months. My wife lost her job, so we're just about keeping afloat. We wanted to move to be nearer to family and my new daughter's grandparents but we can't sell the flat. They're a long way away so missing out on her growing up."

Hyde Housing leaseholder: "I have suicidal thoughts because of this crisis. I have a newborn baby at home and worry about her safety and our future and her future every second of every day. This has ruined my life."

MTVH leaseholder: "I can't live with this, if I have to pay I'm going to kill myself."

Notting Hill Group leaseholder: "I am under extreme stress and this situation is badly affecting every area of my life."

Hyde Housing leaseholder: "I'd rather be at work than home (...). Hyde have done nothing to help...they don't even talk to us anymore. (...) Stress doesn't come close. I'm very close to suicide."

Optivo leaseholder: "An already existing long term mental health condition is being exacerbated along with the knowledge that I am likely to be applying for bankruptcy in the future if this can't be resolved."

One Housing leaseholder: "I'm seeing a therapist to deal with the stress over the cladding crisis."

Many commented on the fact that their life choices had been significantly impacted, or in some cases taken away from them.

Triathlon Homes leaseholder: "We want to move back home to Wales to care for elderly parents. We are trapped as we can't sell the flat."

Moat Homes leaseholder: "I personally have just turned 40 & may face not being able to have longed-for children due to the financial difficulties this is going to cause me."

Southern Housing Group leaseholder: "The biggest issue for me is being unable to sell for such a long period as my job is now in a completely different part of the country and I am having to commute there and stay in hotels etc."

Many also commented on how interaction with their housing association was a compounding factor, making an awful situation even worse.

Swan Housing leaseholder: "I feel trapped, unheard and extremely negative about my future. My fear is I will never be able to leave unless declaring myself bankrupt which will only lead to no credit or hope of ever owning my own home again. I strongly expect I will be tied to this property for the rest of my life and will die here. It has seriously impacted my plans to start a family, something which I am running out of time to do. Not having any answers is significantly affecting my wellbeing."

Optivo leaseholder: "The way we are treated is disgraceful. People feel abused, robbed, helpless."

L&Q leaseholder: "Being ignored on top of all of this, and the stress of having to chase, is too much."

Peabody leaseholder: "The lack of information is what stresses me the most. I'm an NHS key worker and we've had so much to deal with through COVID, I just want prompt straight answers about whether we will be charged, how long building works will go on for. Communication is dire and just thinking about it makes me feel dizzy and sick."

Hyde Housing leaseholder: "It's been horrendous. I've suffered panic attacks and we're not the worst off in our building."

Conclusion

Sadly, the findings in this report did not surprise our campaign team. HAs often highlight that they are charities and that their primary objective is to house the most vulnerable people in society. However, recent media reports have evidenced what large numbers of social tenants have been saying for years, i.e. that the treatment of housing association tenants frequently and strongly contradicts these stated charitable principles. This report shows that HAs are also failing their leaseholders who are caught up in the national building safety crisis.

Human rights obligations are not only owed by governments⁷¹, but by anyone acting as a housing provider. The right to housing includes the freedom to choose one's residence. It also requires that housing should be 'habitable' – in so far as it should protect residents from threats to their health and wellbeing. It should also be 'affordable' – paying for housing costs should not prevent people from realising other human rights. These elements are breached by the building safety scandal. Equally – human rights law says housing must provide people with dignity. It is clear that the treatment of leaseholders is denying people their dignity.

While this crisis cannot be solved by HAs alone, there is so much more that could and should be done to mitigate its impact on their leaseholders. Instead, HAs are very clearly failing to provide even the basic services, information and customer care that leaseholders need - and that they pay for. In short, HAs are making a bad situation significantly worse; this is a dereliction of their duty of care.

HAs must now take responsibility and play their full part in solving the building safety crisis. Their governance, management and staff must enact the urgent and necessary changes that will deliver better, fairer outcomes for leaseholders. We hope that the clear findings of this report are a wake-up call and that the following recommendations will be taken on board without delay.

Naturally, we now expect the housing sector, public authorities and all other stakeholders to actively involve residents, including leaseholder and cladding action groups, in all discussions, as well as policy development on the issues discussed in this report.

⁷¹ On 29 April 2020 UN Special Rapporteur on the Right to Adequate Housing, Leilani Fahra, wrote to the UK Government to ask what measures it was taking in relation to the cladding and building safety crisis. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25205>

Recommendations

“If HAs (a) were transparent (b) had well-trained staff to answer queries in a professional manner (c) understood the significant stress leaseholders are under (d) cared about providing decent support and customer service (e) proactively tried to find out what is happening with our building (f) communicated regularly with us in a helpful - as opposed to unhelpful and condescending - manner, then yes, it would make a huge difference.

Right now interaction with our housing association is the primary reason for our declining mental health.”

Housing Association leaseholder

Recommendations for HAs

1 - Substantially improve communication with leaseholders

HAs must improve their communication with leaseholders impacted by the building safety crisis. This must be an absolute priority as the current mismanagement of communications with leaseholders is seriously detrimental to their wellbeing and mental health.

HAs must provide a named contact person in charge of managing building safety and remediation to leaseholders, so that they can directly interact with staff with relevant knowledge about their building. Leaseholders should not be asked to contact call centres or helplines where staff are unable to provide the detailed information they need.

HAs must organise regular online meetings for affected leaseholders, either on a monthly basis or at a frequency agreed with those leaseholders. These meetings should be an opportunity for appropriately qualified HA staff to provide leaseholders with bespoke updates about their building and for leaseholders to ask questions. These meetings should be minuted and minutes shared with all leaseholders in the building/development as a matter of course.

HAs must also provide regular, building-specific written updates to leaseholders, including about what they are doing to hold those responsible for fire safety defects at individual buildings to account, and updates on any correspondence with developers, freeholders, warranty providers and so on.

HAs must provide this service for all buildings where they are landlords, even where they are not the freeholder/managing agent - in the latter scenario, they must provide updates on their interaction with the freeholder and managing agent.

HAs should offer training and resources for residents who want to set up their own residents' association as this can help support better communication and relationships. Residents' associations should be free to set up their own rules; processes should not be constrained by templates provided by HAs or timetables that suit them.

2 - Routinely share fire safety information

It is not acceptable under any circumstances for fire safety information about a building to be withheld from those who live in and/or own a flat in that building.

HAs must ensure that fire safety information, including Fire Risk Assessments (FRAs) and EWS1s, is routinely shared with leaseholders. They must also provide a timetable for when outstanding actions will be undertaken and when a new FRA will be carried out.

When an EWS1 form has not been carried out, HAs must provide an explanation for this and a date for when the form will be provided.

Copies of FRAs and EWS1s must be provided to leaseholders upon request and free of charge. HAs should also provide copies of FRAs to tenants upon request.

3 - Substantially improve service delivery and customer care

HAs must ensure they deliver on their 'social purpose' as part of their everyday service delivery and customer care. This must include consistent training of front line staff representatives so that they are empowered to assist leaseholders with their queries in a timely, professional and empathetic manner.

When interacting with leaseholders, HA staff should always be courteous, respectful and helpful. Further, poor customer service must be swiftly addressed because, as our survey results show, customer satisfaction is unacceptably low, and has far-reaching consequences. Standards should be based on the best performing customer service industry.

Robust customer service standards must be set for email responses to queries, data management and complaint handling. These should be published on HAs' websites. Staff, management and governance must be held to account for any failure to uphold these standards.

HAs must provide or signpost mental health support tailored to the building safety crisis to those leaseholders that request it. Such support must be confidential and provided free of charge.

HAs must ensure that there is an up-to-date Personal Emergency Evacuation Plan (PEEP) for every disabled resident in their buildings.

Good service delivery and customer care must be provided to all residents in all buildings, regardless of whether a residents association exists on the site.

4 - Review and update relevant policies

HAs must urgently engage with leaseholder groups impacted by the building safety crisis to understand the issues they are facing as a result of unsuitable and poorly drafted policies. They must do this as a matter of urgency, in order to alleviate the crisis, uphold their residents' human rights, as well as prevent mass bankruptcies, forfeitures and homelessness.

HAs must review their subletting policies to ensure these comply with leaseholders' human rights to adequate housing. These policies should be transparent, universally applied and well publicised, including on their websites.

Restrictions to subletting written in leases must be removed to ensure there is no conflict with leaseholders' human rights to adequate housing.

Equity release and buyback policies must be reviewed by HAs to ensure that they provide a backstop to prevent bankruptcies and homelessness⁷². As highlighted earlier in

⁷² Partial equity release may be preferred by some leaseholders who still want to hold on to their shared ownership home if they can, but need to release equity due to life circumstances or financial hardship. Alternatively full equity release and, where relevant, conversion to a secure tenancy agreement, should be explored.

this report, the Housing Ombudsman said almost a year ago that landlords must consider individual circumstances and they recommended equity release (or buyback of equity) where this is the appropriate remedy, taking into account the impact on an individual's life chances, finances, mental health and wellbeing. Buyback policies must ensure that people facing long-term illness, end-of-life care or other difficult circumstances are fully supported and swiftly offered a buyback of some or all of their equity when requested.

Lease extension policies must be reviewed and, as above, individual circumstances must be considered where the building safety crisis is having a significant impact on an individual's ability to staircase and extend their lease through no fault of their own.

All HA policies that impact leaseholders, including policies about building safety, must be transparent, universal, clearly communicated and easily accessible, e.g. posted on websites. Policies must be developed with direct input from impacted leaseholders, who are best placed to advise on what is needed.

5 - Train housing association staff and governance

There is a clear and urgent need to upskill HA staff and governance members so that they are able to provide a rights-based professional service to all residents.

The outcome of such training should be that all staff and governance members are fully aware of their obligations arising from the legal framework in which they operate. In particular, such training must cover international human rights obligations, including the right to housing, which includes the freedom to choose one's residence and the right to housing that is safe, habitable and affordable.

At the very least, we therefore recommend mandatory training on:

- the international human rights framework, including the human right to adequate housing, how it applies to all residents and HAs' responsibilities in upholding those rights
- other relevant legal frameworks, including disability rights and data protection
- basic customer service skills
- skills to facilitate group discussions to fully understand residents needs

6 - Improve access to financial information and related support

Access to detailed information about service charges must be drastically improved. HAs should make full use of electronic portals to provide access to invoices and all other relevant financial information. This would be relatively inexpensive to implement and would save costs overall as it would free up considerable time dealing with service charge queries, which for the majority of leaseholders is the only interaction they have with their housing association.

All HAs must proactively share information with leaseholders about what can be done to spread any increase in service charge costs. For example, HAs should proactively share information about any payment options they are able to offer, make clear any terms and conditions attached, and ensure this information is provided in a timely manner. This information should also be provided on their websites.

HAs should consider financial viability testing before passing on any costs related to the building safety crisis, much in the same way leaseholders undergo financial viability checks in order to purchase their lease.

Recommendations for public authorities

1 - Recommendations for all public authorities

Training on the human right to adequate housing should be mandatory for civil servants and governance in public authorities, including funding authorities and regulators, so that they understand their own obligations. These obligations include holding HAs to account when they breach residents' human rights, including their right to adequate housing.

2 - Recommendations for Government

Both the Housing Ombudsman and the Regulator of Social Housing should have their role and remit strengthened to ensure that HAs are held to account and that leaseholders are able to obtain appropriate redress for their HAs failings.

Government should offer adequate mental health support for all those affected by the building safety crisis. Such support has been provided for those affected by flooding, yet still no equivalent process and documentation exists to support the victims of this scandal.

Government should publish its conclusions on the 2021 consultation Personal Emergency Evacuation Plans and swiftly introduce regulations to ensure disabled leaseholders are protected.

Government should review the legal framework impacting leaseholders and ensure they are better protected against freeholders, managing agents and landlords, including HAs. It is also essential to ensure that there is better enforcement of existing laws, as well as access to effective, non-judicial avenues to get redress, including stronger penalties.

3 - Recommendations for the Housing Ombudsman

The Housing Ombudsman must be adequately resourced so that complaints are swiftly investigated. The penalty regime must be significantly strengthened to ensure that it acts as a true deterrent to poor practice and egregious behaviour.

Further to its initial report⁷³, the Housing Ombudsman should carry out further investigation into HAs' handling of cladding and building safety complaints and step up efforts to hold HAs to account.

The Housing Ombudsman should ensure that its residential panel is representative of all categories of leaseholders and tenants, including people with Equality Act protected characteristics.

⁷³ <https://www.housing-ombudsman.org.uk/2021/05/18/housing-ombudsman-urges-social-landlords-to-do-more-to-address-residents-individual-circumstances-in-cladding-complaints/>

Annex I - List of HAs

Leaseholders from the following HAs participated in the survey:

A2Dominion
Aster
Catalyst
Citizen
Clarion
Hexagon
Hyde Housing
Irwell Valley Homes
Islington and Shoreditch Housing Association
London & Quadrant (L&Q)
LiveWest
Metropolitan Thames Valley Housing (MTVH)
Moat Homes
Mount Green
Network Homes
Newlon Housing Trust
Notting Hill Genesis
One Housing
Onward Homes
Optivo
Orbit
Peabody
Plumlife
Poplar HARCA
Riverside
Sanctuary Housing
Shepherds Bush Housing Group
Southern Housing Group
Sovereign
Swan Housing Association
Tower Hamlets Community Housing
Town & Country Housing
Vivid Homes
Wandle
Yorkshire Housing