

Dear Chancellor,

As the Building Safety Bill is due to become law before the end of April, we are writing to express concerns about the Government's plans for funding repairs to unsafe buildings. We urge you to ensure leaseholders finally have full protection from costs to remediate historical fire safety defects. We ask that the Government takes the place of innocent leaseholders in the proposed "waterfall" of protections and commits to providing up-front funding, wherever it is required, for buildings to be made safe immediately.

For nearly five years, our repeated pleas for the Treasury to provide true certainty, by committing the full amount of urgently needed funds, have been refused. We have seen the Government go back on its promises to protect us, followed by the unfair positioning of leaseholders against taxpayers. Instead of doing the right thing, the Treasury has now moved to pit fixing the building safety crisis against fixing the affordable housing crisis, by refusing to provide any further funds even as a form of bridging finance, with the Government then recovering any monies paid up front, a key ask of our campaign since it launched.

Since the appointment of Michael Gove as Housing Secretary, the Government and industry stakeholders have made their positions clear: leaseholders are the innocent party and should not be forced to pay. These are positions which we wholeheartedly support but, with leaseholders remaining in Mr Gove's waterfall, the revised approach will not provide the certainty that both leaseholders and the housing market desperately need. We ask that you commit to the principle of basic fairness and help resolve this crisis by agreeing that the Government, and therefore your department, should take the place of leaseholders in the waterfall approach.

We commend Mr Gove's efforts to obtain a firm commitment from the construction industry to remediate the buildings they have built, at no cost to leaseholders, as action that finally begins to match the Government's rhetoric in the years since the catastrophic events at Grenfell Tower. However, despite this work, confidence is still some way away with the complexity of this approach only adding more questions than answers.

There remains a lack of clarity on the revised strategy of making the developers pay, with the negotiations with the Home Builders Federation only yielding partial results. There are still a number of worrying gaps in the strategy, and we are very concerned that all developers will continue their longstanding focus on profits over our safety with this crisis set to perpetuate for years. We cautiously welcome the news that residents in "orphan buildings", where a developer cannot be traced, may be helped through an extension to the Building Safety Levy; however, the process by which these monies are to be disbursed at pace wherever required is still wholly unclear. In addition, the decision to rule out all buildings under 11m from any funding help is deeply unfair given issues in those buildings have the same causes as those over this height limit. The decision to set arbitrary limits to exclude equally innocent buy to let leaseholders is yet another shocking deficiency of the Government's approach.

The Government's waterfall mechanism is set to continue the debate over liability at the expense of actually making homes safe. Despite the fact that the regulatory regime operated by successive governments is, in no small part, responsible for this crisis, the current proposals still apportion costs, and blame, to leaseholders. The ongoing uncertainty about funding has delayed, and will continue to delay, the start of much-needed safety work.

Therefore, the Government must review the "waterfall" of responsibility, provide true certainty by taking the place of leaseholders, and ensure a "fix first" approach is delivered. If necessary, this means underwriting the process so that peoples' homes can be made safe immediately, without waiting for liability to be accepted and funds provided. The Government can use its might to ensure

those it deems to be responsible pay and then it can recoup costs from industry, including developers, manufacturers, warranty providers, architects, et al.

We must reiterate the wider context of the five years since the Grenfell tragedy and remind you that there are many compelling reasons for the Treasury to provide upfront funding to remediate unsafe buildings, including the fundamental duty of any government to protect its citizens. As the Building Safety Bill makes its way through Parliament, the Grenfell Tower Inquiry has highlighted the decades-long failings of successive governments and civil servants. There is undeniable evidence that repeated warnings to improve building regulations were ignored including but not limited to:

- Keeping the weak Class O fire standard in place despite recommendations from the Environment, Transport and Regional Affairs Select Committee following the fatal Garnock Court fire in 1999. After this recommendation, Scotland changed their technical guidance and banned combustible products on the external walls of high-rise residential buildings, yet England kept the ineffective Class O fire standard guidance in Approved Document B.
- Failing to warn industry about the dangers associated with Aluminium Composite Material (ACM) cladding despite a test in 2001 that showed a “catastrophic escalation” of fire. This test was hidden from the public even after the Grenfell Tower fire in 2017.
- Not revising the Class O standard due to a primary focus on the impact to industry over safety of residents, as admitted by Brian Martin, the senior civil servant responsible for fire safety guidance in the building regulations. This seemed to cave in to insulation industry lobbyists, including those who pushed for the retention of Class O instead of tougher European standards, which their products might not achieve.
- Ignoring further warnings of the dangers of not reviewing Approved Document B, as explicitly advised to do by the coroner of the 2009 Lakanal House fire. Mr Martin’s testimony also shows the Ministry received warnings that this document, which contained official guidance on fire safety in construction, was “poorly written and open to interpretation”, but no action was taken that would have avoided the rapid fire spread at Grenfell.
- Claiming ACM cladding was banned the day after the Grenfell tragedy when evidence from Mr Martin shows this was not the case, and indeed, ACM cladding met the requirements of building regulations meaning it was widely used on residential buildings across the country.
- Prioritising deregulation over building fire safety due to the “Red Tape Challenge” mandated by then Prime Minister Cameron in April 2011.

The Government has now said it accepts its responsibility for Grenfell, but these words are still not matched by sufficient action on the ground to make all buildings safe at discernible pace. Following the Grenfell tragedy, it took nearly four years to push the Government to begin to recognise the scale of this crisis and commit a total of upfront funding of £5.1bn. However, you are well aware that the Residential Property Developer Tax, and additional taxation receipts from leaseholders since June 2017, will repay the bulk of those funds. The Treasury has already received windfalls from leaseholders including receipts from: 20% VAT on remediation works and interim measures; 12% Insurance Premium Tax on exorbitant building insurance premiums; and income from secondary taxation on payroll and National Insurance (NI) Contributions on unregulated Waking Watch costs, common alarms and remediation works.

In November, leaseholders saw the answers you gave to the Treasury Select Committee, where you said that, beyond the Department of Levelling Up, Housing and Communities’ regulatory interventions, leaseholders would be “the regular source of funding”. We repeat our thanks to Mr Gove for recognising that leaseholders are the innocent parties and his work towards protecting us, but we fear that his work to avoid the “morally wrong” position of asking blameless leaseholders to pay has been hamstrung and undermined by HM Treasury’s unfair refusal to commit any further funding.

It disappoints and saddens us to see that HM Treasury appears to continue to place the interests of industry ahead of ordinary people. As but one example, at the height of the Covid-19 pandemic, with huge pressures on the nation's finances, your stamp duty holiday led to a bonanza for the construction industry. Just eight housebuilders made over £7 billion in profits in just two years during the pandemic, helped considerably by this policy, which cost the taxpayer £6.4 billion and played a key role in fuelling house price growth.

There have been a range of other taxpayer-backed schemes over recent years, such as Help to Buy, with a cost to the taxpayer of over £20bn, as well as the VAT relief for construction and sale of new buildings, estimated to have cost £14.8bn in 2020/21. Fiscal arguments to support the billions lost to the Exchequer through these generous industry subsidies are repeatedly made by your department, yet when it has come to protecting leaseholders, we are continually labelled as simply a cost to the taxpayer.

The lenders have recently made their position clear – they will take the necessary steps to facilitate lending only on buildings where a costed and funded remediation plan is agreed with committed dates for starting and finishing all specified/required work. In other words: certainty. This certainty can only be provided by the Government ensuring that there are funds upfront to allow works to commence to make buildings safe wherever required.

The Government has the means, as well as the moral duty and responsibility, to put an end to this living nightmare. The time for half-measures and limited protection is long over. Nearly five years on, buildings must be made safe **now** without further delay and ordinary people must finally be able to move on with their lives. We urge the Government to have faith in its own policies and laws to recover funds from all the parties truly responsible for this crisis. Please do this by taking the place of leaseholders in the waterfall protections, releasing the urgently required funds to remediate people's unsafe homes, and then recovering funds from those responsible.

Over the last five years, we have seen too many near-miss fires – we urge you to act before it is too late. History will not judge you kindly if you fail to protect innocent leaseholders and continue to harm the victims of one of the greatest failures of governance in British history.

Yours sincerely,

The End Our Cladding Scandal Campaign Team

<https://endourcladdingscandal.org/>