By email to: michael.gove@levellingup.gov.uk, psmichaelgove@levellingup.gov.uk

15th June 2023

Dear Mr Gove,

It is over five months since we last met, so we write to you to request a meeting and to discuss our ongoing concerns with the Government's approach to building safety. Whilst your January 2022 reset felt like a positive start, we fear that, nearly a year and a half later, action on the ground remains unacceptably slow. Hundreds of thousands of innocent leaseholders remain trapped with no discernible end in sight to their misery.

Over the course of this year, we have repeatedly raised our concerns during meetings with your team, department officials and with Minister Rowley directly. Whilst we have welcomed this engagement, and the recognition that more needs to be done before all buildings can be made safe at the pace we need and deserve, we have yet to see evidence of this translating into action on the ground.

We have summarised our key concerns about specific areas of your building safety strategy below:

Developer Remediation Contract

The effectiveness of the contract remains in serious doubt. The contract was watered down in favour of the developers and has left leaseholders in those buildings beset by anxiety. There is a clear and unworkable disparity between "life-critical fire-safety defects" in the Developer Contract and "building safety risk" in the Building Safety Act, which means that even buildings expected to be "fixed" under the contract are unlikely to be assessed as such by lenders and insurers, which also pay regard to property protection risks arising from building safety defects. The Government's technical review of Approved Document B apparently includes a workstream on property protection, but this is currently given no consideration at all.

We remain deeply troubled that there is no available standard for the consistent assessment and remediation of internal defects – an issue that developers themselves have raised. Your officials decided to require developers to commit only to reasonable endeavours, rather than best endeavours, to fix their buildings, which also gives developers significant control over the timing of remediation with no obligation to abide by any dispute resolution process.

Leaseholders, many of whose buildings have been caught in the black hole of the Building Safety Fund (BSF) application process, remain in limbo and are still battling to obtain clear information from their building owners and managing agents. Developers are not undertaking a consistent approach, choosing their preferred assessors with the aim of redefining all known risks as "tolerable", as they continue to focus on their profits over our safety, with little apparent oversight by the Department.

Perhaps the awaited Responsible Actors Scheme will help the Government to get the firm grip on developers that has long been promised. As yet, this remains unknown. It is also unknown which developers will be asked to fix their buildings in Phase 2 of the "developer pays" approach and how many will continue to avoid any responsibility.

We highlighted these and other serious issues in a meeting with department officials in February; however, we were told only that our concerns were understood, and that the system relies on standards that evolve over time, with a degree of subjectivity in professional assessments. This implicitly means that developers are free to mark their own homework. Do you believe this is the optimal way to make good on your 14th March apology to leaseholders, "who have waited so long for this work to be done"?

When we first met on 27th October 2021, the key question you were grappling with was about "proportionality." Whilst proportionality is important, this must not be at the expense of residents feeling and being safe in their homes. As it stands, buildings in the developer self-remediation scheme, and other schemes, are only set to be remediated to a B1 standard, which will allow combustible materials to remain on our homes. We understand that buildings under 18 metres are still allowed to be wrapped in flammable products, so perhaps we should not be so surprised that the focus is on "proportionality" rather than the actual safety of residents who bought homes that should have been safe in the first place.

We are aware that you have spent a large amount of time and political capital on the developer self-remediation contract but, as you know, only a fraction of buildings (approximately 15%) are

captured within this scheme. The vast majority of unsafe buildings over 11 metres are still reliant on current and pending grant funding schemes, which have their own issues and gaps.

Grant Funding Schemes

It has long been apparent that the BSF is unfit for purpose, with few lessons having been learned from the woeful manner in which the ACM Fund had reviewed applications and disbursed funds. We are thankful to Minister Rowley for the invitation to meet Homes England to review and discuss the forthcoming Cladding Safety Scheme (CSS). In principle, the CSS looks to have taken on board some of the serious issues with previous funding schemes, with a raft of design changes to improve pace, the end-to-end service, data and the information to leaseholders and residents. Because there is scope for tens of thousands of buildings to potentially apply, the proof will be when the scheme formally opens, and it is required to deal with applications on a scale that far outstrips those to the current schemes.

We repeat our calls for more and better information on the true state of the building safety crisis. Currently, there are only vague estimates of approximately 10,000 buildings over 11 metres still requiring remediation. We ask that you ensure there is full data setting out the number of buildings included in each funding scheme, alongside key performance indicators measuring the pace of applications being processed and the disbursement of funds.

The Prime Minister has committed to integrity, professionalism and accountability at every level – accountability will be underpinned by the transparency that we all deserve. We also ask that you set a firm deadline by which all those buildings will be safe and ensure there are regular reports to Parliament on progress.

As seems to now be being recognised, there are still too many gaps and barriers to remediation work commencing. The current scope of the CSS remains on cladding alone with no apparent consideration given to the non-cladding safety defects that also must be remediated. The latter are often part of a single programme of works; whether balcony works, means of escape remediation, issues with combustible insulation and a lack of cavity barriers, or failure of structural steel fire protection. These issues have been known for years yet no action has been taken to ensure full funding is in place to resolve these issues at no cost to leaseholders. Buildings cannot be made half-safe.

Worse still, your department has created an invidious distinction between leaseholders, choosing only to protect those lucky enough to be deemed qualifying. Non-qualifying leaseholders are still on

the hook for enormous costs and these funds must be in place before work can begin. Opting for this approach means that the mistakes of the past are only set to be repeated as building owners will demand sums running into tens of thousands of pounds from non-qualifying leaseholders under threat of forfeiture. Without full funding up front, which the Government could easily provide and then subsequently recover from the industry if it deems it to be at fault, buildings will be left unsafe for years – if not decades – to come.

Non-Qualifying Leaseholders

It remains an abject failure of the Government to exclude some leaseholders from help despite all leaseholders being equally blameless. As has been explained to Minister Rowley, and as RICS advised the Government during the Building Safety Bill's passage through Parliament, relying on any leaseholder to pay for remediation will materially impact the pace of buildings being made safe.

When we raised this with you earlier this year, you said that you expected only those of "substantial means" to pay for the remediation of fire safety defects; however, all leaseholders are blameless, regardless of their means, and the very crude line that has been drawn clearly does not meet the Department's intent.

There are still too many ordinary people "on the margins" and facing forfeiture and bankruptcy. Your department's fallback position may be that Parliament made a decision to protect leaseholders with no more than three properties, but that was based on the case your department put in front of Parliament. Since March 2022, we have raised several alternatives to the current protections, including a fair apportionment of leases if they are jointly held; assessments based on value of overall portfolio size; and proper financial affordability assessments. It is especially disappointing to see that whilst building owners are afforded a "wealth test" and developers are to be subject to a "profits condition," no fair assessment of a leaseholder's ability to pay has been devised other than an arbitrary number of properties held.

During a meeting with your officials in April 2022, we spelled out the illogical and unfair nature of the simple count of properties, for example, where a leaseholder with a property valued at £900,000 would benefit from the protections but one with four properties valued at £150,000 was ruled out of any help – but no consideration has been given to this. If you truly wish for only those of substantial means to pay, then why was affordability not taken into account in the leaseholder protections? We have recently been told that the Department expects freeholders and managing agents to consider payment plans from non-qualifying leaseholders for remediation costs; however, this remains a

hope rather than a requirement. It is another instance of wishful thinking, which learns no lessons from the failures of the past.

Residents in buildings under 11 metres in height have also been cruelly excluded from both the leaseholder protections and the developer remediation contract. The focus continues to be solely on not "spooking" the broken housing market further, rather than on ensuring that all homes are safe, with the only crumb of comfort being a suggestion that the Department will look at these buildings on a case-by-case basis. In the House of Commons on 14th March, you acknowledged that fire safety defects in buildings under 11 metres will sometimes be "life critical" – could you please explain why the Government will not step in with a scheme to support the remediation of life critical defects in buildings of any height, or require "responsible" developers to remediate such life critical safety defects, given that the risk is equally high (life critical)?

We understand that HM Treasury may have tied your hands, including when the current Prime Minister was Chancellor, when Rishi Sunak dehumanised leaseholders by calling us "the regular sources of funding." We have written to Chancellor Hunt to ask him if he is willing to listen to common sense on this issue.

As things stand, the distinction between qualifying and non-qualifying leaseholders has only added another layer of complexity to the building safety crisis. A failure to provide a comprehensive funding solution that ensures buildings will be made safe on a "whole building" approach means there is still no confidence in the first rung of the housing ladder and flat sales continue to be detrimentally impacted.

Mortgage Lending

Nearly a year has passed since the industry statement, in which mortgage lenders agreed to restart lending, following the leaseholder protections coming into force. Despite this bold proclamation, it was then advised that lending was only able to recommence in earnest from 9th January 2023. Five months later, the market remains dysfunctional as lenders continue to adopt a risk-averse policy by asking for evidence of remediation start and end dates as well as committed funding. Lenders are now passing the responsibility for assessing qualifying leaseholder status to conveyancers. Because non-qualifying status is set to remain on a lease in perpetuity, this has immediately downgraded valuations for those homes. Some lenders are also encouraging valuers to downgrade valuations based on the extent and duration of disruptive remediation work, regardless of whether that work is fully funded at no risk to the leaseholder.

When we met in January, we explained in detail how values will be affected for qualifying and, especially, non-qualifying leaseholders; however, the Government has deliberately chosen to focus on volumes of sale transactions rather than ensuring that property valuations are not impaired. If all leaseholders are blameless, then should we simply accept our flats losing material percentages in value and the prospect of negative equity? This only adds further insult to the financial and mental injuries we have already suffered since this crisis began.

We recognise that there needs to be a lending process that allows some innocent leaseholders to escape from their homes by being able to sell, but the approach being taken is unfair and cements the invidious position we have found ourselves in through no fault of our own.

When valuing our homes, surveyors must also take ongoing costs such as buildings insurance into full consideration – this means the valuations of our homes are even further impacted because the Government has refused to get a grip of the insurance nightmare that has engulfed leaseholders in buildings of all heights across the country since Grenfell.

Buildings Insurance

The issue of extortionate buildings insurance is one we have highlighted for years, with countless examples of profiteering and opaque practices; yet little has changed on the ground. The much-vaunted FCA report – which was based on the misleading data presented to it by the industry – clearly only painted half the picture by focusing on the disgraceful manner in which brokers, freeholders and managing agents have profited from our misery through commissions. There remains little clarity over when you will take action to ban these parties from receiving remuneration payments and we are already seeing those rogue entities getting ahead of any prospective changes. How will you end unfair commissions completely and what timeline are you working towards?

Rather than seizing control and delivering a fair solution to this materially harmful aspect of the building safety crisis, the Government has opted to continue down the failed path of hoping that the insurance industry will somehow produce a reinsurance scheme themselves and that it will dramatically reduce the exorbitant costs we face. There is still no clarity over what a successful reinsurance scheme would look like – and the industry is already warning that premiums will not reduce to the hoped-for level even where remediation has taken place, if the work done does not meet standards that ensure both life safety and property protection. So, what will “good” look like to you when the scheme is up and running?

Unfortunately, your department continues to act too little, too late; the result of this is that ordinary people across the country continue to suffer. The September 2022 FCA Report recommended that the Department "consider whether Government backing of a risk pooling arrangement could lead to quicker and more substantial reductions in premiums," but has the Government taken on this recommendation and fully considered intervention? It is clear that HM Treasury is enjoying the benefit of a material increase in Insurance Premium Tax income paid for by leaseholders, so perhaps it is little wonder that the Chancellor cannot be persuaded to provide the long called-for financial backing of the risk-sharing scheme by covering fire risk losses over a certain amount. Surely there is sufficient evidence to persuade the Chancellor of the moral case for intervention? Or does the Association of British Insurers' (ABI) reinsurance scheme have to fail first before the Government will take bold action?

A Joined-Up Approach

In June 2021, we wrote to then Prime Minister Boris Johnson to ask for a building safety delivery group to be established, comprising stakeholders from all industries alongside leaseholder representation. This would drive the focus on data collection for all buildings and ensure there was a robust set of risk-based assessment criteria that would guarantee a consistent, joined-up approach to finally deliver an end to this crisis.

The current approach remains disjointed and ever more complex as all parties continue to mitigate their own liabilities and ensure that leaseholders bear the consequences of inconsistent views on acceptable building safety standards. Lenders, insurers, fire engineers and surveyors disagree with the Government's interpretation of risk, and this only adds to the uncertainty we all face.

To add further layers of complexity, the Fire Safety (England) Regulations 2022 are now in force under the stewardship of the Home Office, and we are seeing large bills land for fire door checks with replacement charges misrepresented as being solely due to poor maintenance (often by the very party that is now billing us) rather than defects. The Health & Safety Executive's Building Safety Regulator is now open for registrations with unknown costs of compliance that leaseholders will be forced to pay and the Department's consultations on key topics, such as the role of a Building Safety Director, have closed but we are still awaiting a government response. The same industry that failed to assure our safety in the past is now finding new ways every day to charge us for the fact our homes are unsafe; they profit again at our expense.

The historical silo mentality at the Department, and the speed at which legislation was drafted, has caused the leaseholder protections to be written with too many loopholes, both perceived and real. The Department has already recognised this by amending the associated person regulations; however, this legislation took eight months to be amended with thousands of leaseholders left in limbo during that time. The issue of lease extensions causing the loss of leaseholder protections is also an unfortunate consequence of legislation being rushed through Parliament last year, with the realities of leasehold law either not fully understood or ignored until too late. Just this week, we have seen fifteen pages of draft statutory instruments to further amend the leaseholder protections. The need for a holistic joined-up approach has never been more urgent to end this chaos.

Leasehold and Shared Ownership concerns

The ongoing uncertainty over what leasehold reforms may be in the forthcoming King's Speech is adding to the anxiety we face. The Government has continually focused on providing future, rather than retrospective, help – and it now appears that this is set to be repeated with the promises of leasehold abolition being watered down by the Prime Minister. It should be understood that failure to fully reform leasehold law will continue to impact building safety legislation being successful.

It is perverse that leaseholders who have enfranchised, which has been encouraged by successive governments, are currently non-qualifying for leaseholder protections. It is now 7 months since the consultation on this issue closed. It is unacceptable that those who have sought to "do the right thing" have been abandoned in this way and a solution must be brought forward.

The position of those in resident-managed buildings remains uncertain as the Government insists liability has moved to building owners, whether freeholders or head-leaseholders, yet those building owners continue to avoid their responsibilities. If the Government wants to encourage more leaseholders to feel that they are homeowners and have control of their buildings then it must do more to provide guidance and real help.

Shared Ownership continues to be hailed as a flagship government scheme despite significant evidence of the unacceptable manner in which "charitable" organisations such as Housing Associations are dealing with shared owners who are trapped in the building safety crisis. We have now met with the Department's policy team to outline urgent policy responses for this cohort, where single women, single parents with children, disabled people and pensioners are disproportionately represented. Amongst other things, policies should include easing buyback criteria and addressing the conundrum that many shared owners with short leases are currently

facing as they are set to lose leaseholder protections under the Building Safety Act if they extend their lease or face unaffordable "marriage value" if they do not. The Affordable Homes Programme' acquisitions budget should be significantly increased to enable buybacks of unmortgageable shared ownership properties at scale. The case for conversion of these units to other tenures, in the light of the ongoing housing crisis, is overwhelming.

Recovery Strategy Unit and Making Industry Pay

We appreciate the engagement we have had with the Recovery Strategy Unit (RSU); however, we are concerned that the action being taken is not sufficiently comprehensive and is evidentially slow. We need only to look at the case of Vista Tower, where action was initiated eight months ago and remains ongoing. Whilst the Government may hope that the building owner of Vista Tower will soon make all their buildings safe as a result of this pressure, there is absolutely no clarity on if or when this will happen.

There also seems to be a disconnect between the priorities of the RSU compared to the Local Authorities who have been allocated funding to take action. The focus of the latter should be on prioritising action in their area based on the level of building risk, whereas it appears they are being advised to take action against those building owners that the RSU wants to prioritise based on factors other than risk prioritisation.

On 30th January, you told Parliament that the RSU was relentlessly targeting those who have consistently failed to "do the right thing", which included developers and freeholders as well as active investigations into contractors and construction product manufacturers. As it was set up to "identify and claw back funds from companies dodging their responsibility to make properties safe," the RSU must be fully resourced to undertake these investigations. Has consideration been given to the RSU being expanded to recover funds from those entities after funding has been provided upfront to make buildings safe, as this would appear to be far more efficient and would significantly accelerate making homes safe.

Our position remains that the ordinary people the Government says it wants to protect should not be left to take action themselves on a building-by-building basis, exposing them to risks regarding the likelihood of success and potential costs. There has already been a case where a Remediation Contribution Order was made against a developer-landlord where costs had already been spent – yet clearly such an order does not automatically mean that those funds exist or will be easily attainable by the leaseholders. Allocating financial responsibility is by no means the same as

securing funds from responsible parties. The Department has also acknowledged, as noted in the National Audit Office 2020 report, that taking legal action is rarely justifiable financially, "as the legal costs are likely to outweigh the costs of remediation in a significant number of cases." If the Department knows such action will have a limited chance of success, why does it continue to attempt to sell the new legal powers as being of any practical use?

Without funding up front, buildings will be left unsafe for years to come. You have accepted that there is much more to do to hold all industry participants accountable, which may include product manufacturers, building control, warranty providers or architects, to name but a few – yet we have seen little evidence of this taking place.

Justice for Grenfell

Our fight began shortly after the catastrophe at Grenfell Tower. The pain we have faced is incomparable to that of the bereaved, survivors and residents who face continuing delays in seeing justice, as criminal charges are unlikely to be brought until after the delayed publication of the Grenfell Tower Inquiry Stage Two Report. Delays to justice have been exacerbated by the failure of the Government to keep its promise to implement the Inquiry's Phase One recommendations in full, including the recommendation for personal emergency evacuation plans (PEEPS) for those who cannot self evacuate and the installation of manually operated fire alarms should an evacuation be necessary.

Since your initial appointment in September 2021, the leaseholder disability action group, Claddag, has repeatedly asked to meet with you directly to discuss their concerns relating to wider issues impacting disabled and older people, including the detrimental impact of building remediation on health and the lack of access to temporary additional health and social care support, as well as the lack of availability of accessible housing. This meeting has not yet been arranged. We understand that the outcome of Claddag's judicial review is awaited and a meeting with Minister Rowley has now been suggested; this must take place as soon as possible as no one seems to be addressing these issues, adding even more stress to disabled and older residents who are trapped in this crisis.

As we pass the sixth anniversary of the catastrophic events at Grenfell Tower, and ahead of the publication of the Grenfell Tower Inquiry report, we have seen an increase in your strong words and letters to other responsible parties, but firm action remains distant.

In January 2022, you told Parliament that you will make industry pay to fix all of the remaining problems and help to cover the range of costs facing leaseholders. You promised to ensure that

those who manufactured combustible cladding and insulation would pay instead of leaseholders – but when will the Government's actions match these welcome words?

As we have repeatedly stated since our campaign launched, the quickest way to ensure there is funding for all buildings that require work is for funds to be provided up front for all safety risks and then recovered, for example through taxation and levies. This is the route that is now being taken to fund cladding remediation, yet there are too many other defects that have been ruled out of this approach and too many industry stakeholders that remain off the hook.

Looking Ahead

Your building safety reset was welcome but nowhere near sufficient to bring an end to our limbo. Our savings have gone, our building reserves are depleted, we are still forced to pay exorbitant sums for related costs such as buildings insurance within a wider cost-of-living crisis.

Many leaseholders have paid thousands of pounds over the years and the costs to our mental health have been incalculable. We are told that some of us should receive some protections from these costs, yet the picture is still too mixed for anyone to have any real confidence that this nightmare will end. You have accepted the Government's role in providing faulty and ambiguous guidance, yet we are still on the hook to pay the costs for this. Is this the social justice that you wanted to deliver when you first became Secretary of State in September 2021?

For one nearby example, you only need to look across the Irish Sea to the fairer approach being taken in Ireland as the Government there has grasped the nettle by agreeing to implement a fully-funded remediation scheme, with funding provided on a "whole building" basis. It is not too late to revise your approach; doing so will show that you have listened to our concerns, and that you are taking action to stand on the side of innocent leaseholders.

In recent days, we have seen a number of fire incidents at buildings of all heights with fire spreading at a fearsome rate – at a three-storey building in Hampshire and a five-storey building in Croydon as well as other near-misses across the country. It is only by luck that these fires have not led to tragedy – will it take further losses of life before you take decisive action to break the ongoing deadlock?

Over the years, we have dealt with several Secretaries of State and Housing Ministers, and we will continue to work with you, Minister Rowley, and officials to improve what is currently on the table.

Our long-term goal is still to ensure that all leaseholders are protected – and as we said to you when we first met, we will not stop until that is the case.

Guaranteeing that no leaseholder will pay a penny to fix a crisis they did not cause would restore confidence in our housing market and break down the barriers holding people back from their full potential – which our political parties insist they want to do. As manifestos begin to be drawn up ahead of the forthcoming general election, we will be seeking decisive commitments from all parties that want to win the votes of millions of affected leaseholders and their families.

We look forward to confirmation of our next meeting, in order to discuss the contents of this letter and more with you directly.

End Our Cladding Scandal **Non-Qualifying Leaseholders Group**