Our Meeting with Rushanara Ali on 24th July 2024

On Wednesday 24th July, we met Rushanara Ali, the new Minister for Building Safety.

Prior to the meeting, officials advised that the new Labour government has a "clear manifesto commitment on building safety: that it is a priority to accelerate the pace of remediation across the country, putting a renewed focus on ensuring all those responsible for the crisis pay to put it right, and that leaseholders are better protected." We were also told that, since their arrival in office, Ministers had directed civil servants to work swiftly on plans to make those priorities a reality and that MHCLG would work with stakeholders across the sector to drive those objectives forward in rapid time.

Whilst that sounded positive, it remains unclear what this will mean in practice and what timescales MHCLG is working towards. We were keen to meet Rushanara to ensure that she fully understood the reality on the ground, where hundreds of thousands of leaseholders and residents remain trapped despite the law having changed over two years ago.

We were advised that the meeting would be "introductory" and that we should present our key aims and outline the issues with delivering on the ground. The meeting was scheduled for 30 minutes, and we had a packed agenda focusing on the following areas:

- The Developer Contract not working in practice
- Grant Funding Schemes not being fit for purpose
- Shared Ownership issues and complexities
- Non-Qualifying Leaseholders
- Buildings Insurance
- The Health and Safety Executive's Building Safety Regulator
- A Joined-Up Approach

Introductions and Setting the Scene

Rushanara opened the meeting by sharing her direct experience of the glacial pace of remediation of buildings in her constituency and how she had been speaking out on building safety issues since the catastrophic fire at Grenfell Tower in 2017. Rushanara also said that she wanted us to work closely with MHCLG officials to ensure Labour's building safety approach is fit for purpose and to accelerate remediation and deliver meaningful results on the ground quickly.

We congratulated Rushanara on her appointment and we noted that she had met members of our team who are or were her constituents. We also recalled the debate on cladding that she secured in April 2019 shortly after our campaign's launch with Inside Housing, and the support she has given to our campaign from day one.

We expressed our disappointment that there was no reference to our plight in the King's Speech, with the focus on building new homes rather than ensuring homes developed unsafely are made safe quickly. We recognised the complexities of the building safety crisis and that policies meeting Labour's commitments might not be published instantly, but we told Rushanara that innocent leaseholders could not wait much longer and that we needed a fair and long-lasting solution that would rescue all victims of this unrelenting scandal urgently.

We urged Rushanara to do all she can to ensure that Labour's focus on new homes would not allow the interests of developers to take precedence over the interests of residents.

We summarised the current approach as simply too complicated, only adding to the anxiety and uncertainty on the ground. The previous government may have changed the law over two years ago, but it then adopted a broadly laissez-faire approach with too much still being left to self-interested industry actors, whether developers, freeholders and / or insurers, amongst others.

We also recalled that Labour's October 2023 Policy Platform said "leaseholders should be protected from the costs of remediating cladding and non-cladding defects in all buildings irrespective of circumstances"; however, that then seemed to be watered down to a high-level paragraph in Labour's manifesto due, we believe, to fears over Labour making "unfunded spending commitments".

We noted that there were several serious issues with delivery and that any system which relied on a leaseholder – qualifying or non-qualifying – having to pay before work began just wasn't realistic, as had been proven in the last two years. Our hope remains that the language in Labour's manifesto will be sufficient to enable a full and fair solution with no further attempts to divide and conquer and to rule innocent victims out of meaningful help from costs to fix this collective state and industry failure.

We told Rushanara that we appreciated the strong support from Labour in opposition, including that of MPs who are now in the Cabinet or on the frontbench, as well as Labour's Metro Mayors and Councils. We said that we understood governments had to make difficult decisions but that promises made to us for years must not be broken now, and the new government choosing to continue to force victims of this scandal to pay would be a clear betrayal.

We asked whether Labour would look to revise the current approach completely or make small changes, and what timescales were being worked towards. We said that we understood the thinking on policy might be at an early stage but that it was important to understand what changes would require primary legislation to take effect, what might need secondary legislation and what

(relatively) simply required MHCLG to take a firm grip and provide effective oversight of the range of funding programmes that are now available.

We looked ahead to the Grenfell Tower Inquiry Report, due to be published on 4th September 2024, and said that we expected this to lay bare the actions of successive governments in causing the crisis we now faced – whether through deregulation, permitting use of combustible materials on buildings of all heights or ignoring repeated warnings over the weaknesses of the building regulatory system for decades.

We noted that we had shared our recent piece in the British Safety Council's magazine with MHCLG ahead of the meeting, so we referred to this as our own "briefing pack" alongside a summary of our campaign Aims on: Consistent Risk Assessment Standards, accelerating pace and widening the scope of grant funding schemes, protecting all leaseholders in buildings of all heights, ensuring lending is consistent and as close to fair value as possible, and the Government taking firm action to rescue us from the buildings insurance extortion we have faced for years, as well as helping residents by ensuring the communication and information they receive on their homes is fit for purpose and that the Remediation Code of Practice is effective on the ground.

In response, Rushanara recognised our work with officials over the last few years and told us that our feedback had made current policy – and would make future policy – more robust. Whilst there was no reference to the building safety scandal in the King's Speech, Rushanara said that building safety was a "high priority" and assured us that MHCLG Ministers recognised the concerns raised and that Labour was committed to ending this scandal.

We then shared the recent tweet by one of our team, which clearly spelled out the drastic personal impact on innocent leaseholders and the effect on the life choices of ordinary people who had hoped the Government would protect them. We noted that this was just one real-world example amongst countless others that we hear daily.

This then led on to a discussion on issues with the Developer Contract.

Developer Contract

We told Rushanara that the contract was just not working despite all the fanfare around the Developer's Pledge in April 2022 and the major developers signing the contract from March 2023 onwards.

The terms in the contract are not being enforced and ongoing battles between developers and freeholders (and their lawyers) are only adding to the delays, with residents still struggling to obtain robust and clear information on if / when a range of safety risks at their homes will be made safe. We expressed our ongoing concerns over how serious defects were not being deemed as life-critical due to the "proportionate approach", leaving leaseholders still on the hook to pay to fix these as developers claim they are not bound by the contract to fix all identified issues, which impacts on mortgage approvals and results in insurance premiums remaining astronomical even when a building should be deemed to be "fixed".

We reiterated our longstanding concern that the industry that the Government said had caused this crisis was now being charged with fixing it, as those developers will continue to put their profits over the safety of residents. We said it was clear that the Government had blinked first in its protracted negotiations with the developers, which meant that the tough talk and warm words of the Government being on the side of leaseholders had not led to swift action on the ground.

With the latest figures showing that 1,262 buildings are now being remediated directly by the major developers with 1,569 buildings where the need for remediation is still to be determined, we said that it remained farcical to think that each developer dealing with each "building owner" at each building would increase pace in any way; this was exemplified at the buildings that had been in the application process for the Building Safety Fund but had then been summarily thrown out after years of waiting with the process now having to start over again.

We noted our meetings with the developers and the serious inconsistencies in how they operate as well as the complete lack of grip shown by the Government, and suggested that MHCLG was effectively learning by doing, with the mechanisms to enforce the contract, which we had been told were in place, remaining unclear even at this stage. For example, we first discussed dispute resolution with officials over two years ago yet there is still no process in place despite our being asked for our thoughts several times since then.

We shared one representative case of a building in North London, where it is abundantly clear that the developer is not abiding by the terms of the contract in several ways. The Fire Risk Appraisal of External Wall Assessments at the building failed government audits twice only for the developer to be given yet another chance. Leaseholders in that building have been waiting for years for their homes to be made safe but remain trapped and are caught up as pawns in this ongoing mess with no resolution in sight.

Our longstanding question to the Government – since the developers first started signing the Developer Contract in March 2023 – has been how it will enforce the terms of the contract so that it works quickly. Whilst there may now be improved – but not yet fully robust – data by which to monitor performance, there is little effective and visible oversight in place. For example, there are forecast dates for remediation, but these do not seem to be being used to hold the developers to account and there is little clarity over how the incentives and mechanisms in the much-vaunted Responsible Actors Scheme will be used in practice.

We then turned to government grant funding schemes to discuss ongoing issues and where we firmly believe that meaningful improvements could be made quickly.

Government Grant Funding Schemes

We noted that the funding schemes – whether the ACM Fund, the 2020 Building Safety Fund or the 2022 Building Safety Fund – had been unfit for purpose since day one. We said it was clear that the criteria and the focus of the schemes on cladding meant that buildings would be made only half-safe (at best). We told Rushanara that we were seeing this at an increasing number of buildings that had been granted funding – these buildings had been through major works lasting 1-3 years but still have a range of serious safety issues that require fixing, with little certainty over when this will happen. This means that people who have been living on a building site for years, hoping that they could now move on with their lives, remain trapped with no end in sight.

We expect the forthcoming report by the National Audit Office to spell out these issues and the woeful approach that has been taken to date.

We repeated our campaign's simple aim of funding matching risk and homeowners not having to pay for issues they played no part in causing, whether cladding or non-cladding defects.

We recognised that some of these lessons seemed to have been learned in Homes England's Cladding Safety Scheme – where we hope that sensible decisions with leaseholders and residents truly at the heart will be made – although we still need to see this happen at volume and,

particularly, in respect to variations when further safety issues were uncovered during works. We said that we had shared representative examples of these with officials and were due to meet an MHCLG director in the coming weeks to discuss these, in an effort to ensure that known issues would be either completely resolved or mitigated to the fullest extent.

We reiterated that grant funding schemes must cover all defects – both cladding and non-cladding. Whilst the Government may have tried to hide behind concerns over a "blank cheque" or protecting the taxpayer instead of leaseholders, extending the scope of grant funding could easily be funded through an expansion of the Building Safety Levy in the amount to be raised, duration and scope to include other construction industry actors.

We said that developers who had benefited from taxpayer funding and demand-side initiatives for years must not be allowed to wriggle off the hook; as their concern seems to be that they are the only industry participants contributing towards the cost of making building safe, these could be relieved by ensuring construction product manufacturers and contractors amongst others are also forced to pay towards the **Building Safety Levy**.

These actors have also benefited from taxpayer money and will benefit from remediation – holding industry to account so that it "pays to fix all of the remaining problems and help to cover the range of costs facing leaseholders" was a promise made by Michael Gove in January 2022 but not kept, so it is incumbent on the new Labour government to progress this without further delay.

As we have said for years, the Government and industry have recognised that leaseholders are the only innocent parties in this abject mess, so why are leaseholders still paying to fix their mistakes and malpractice?

We then highlighted key concerns raised by shared owners trapped in even more complex circumstances with little worthwhile help.

Social Housing and Shared Ownership

We gave an example of the impact of the building safety crisis on a shared owner.

We told the minister we understood that the building safety crisis was having an impact on registered providers' cashflow, which in turn meant that leaseholders, shared owners and tenants were effectively paying for this crisis. Our campaign supports equal access to government building safety funding for registered providers, but this support is conditional and predicated on registered providers providing support for shared owners trapped in the building safety crisis. This must improve as no meaningful change has happened since our Dereliction of Duty report was published 2 years ago.

We said that the Government and housing association must do much more to protect those people who are least able to deal with huge costs and are unable to sell or remortgage. Despite some changes in respect of buybacks and sub-letting rules set out in Michael Gove's letter to Registered Providers in December 2023, registered providers are unfortunately not providing the expected support to shared owners.

Together with our Shared Owners' Network, we reiterated our request for an urgent meeting with MHCLG's shared ownership team to discuss these issues in more detail.

Non-Qualifying Leaseholders

One of our key concerns remains the awful label of "Non-Qualifying" leaseholder dreamt up by the previous government to arbitrarily decide which leaseholders are innocent, with the others being cast adrift and still facing enormous bills for non-cladding defects.

Our partners, the Non-Qualifying Leaseholders Group, firmly stated that all leaseholders were equally innocent and the distinction between qualifying and non-qualifying leaseholders must be removed. Should the Labour government choose to rule out helping innocent non-qualifying leaseholders, then meaningful measures to ensure more ordinary people are protected must be brought forward urgently. As one example, the previous government repeatedly told us that it recognised the strength of our arguments on issues such as the unfairness of joint ownership of properties not being pro-rated and there being no financial assessment of a leaseholder's net worth despite this being the metric by which it was decided whether freeholders and developers would be made to pay.

Unfortunately, the changes we were promised on joint ownership only ended up as an extremely complicated Call for Evidence in April 2024 and subsequently failed to make it through in the wash-up process when the general election was called.

We told Rushanara that we would continue to campaign on all leaseholders being treated equally regardless of their status, and we reiterated the warnings from RICS in respect of how works will only continue to be held up if funding is required from non-qualifying leaseholders. We said that if the Labour government chooses to refuse to treat all leaseholders – all of whom are innocent – with the same decency and equality, there must be a recognition of joint-ownership status, a leaseholder wealth test, and the first three flats of all remaining non-qualifying leaseholders must be protected in law.

We said that, should Labour continue to rule out all leaseholders from the same help, there must be a mechanism to reinstate qualifying status to a lease where remediation had been confirmed to be complete or not required, through external and internal fire safety assessments. This would bring parity and certainty that would allow flat sales to proceed without the levels of impairment seen currently.

We told Rushanara that the current case-by-case approach being taken with buildings under 11m was just not working, with ordinary people in such buildings having been ruled out of true help from the government for fears of "spooking the market" in low-rise buildings. Should the Labour government choose not to extend protection in law to buildings below the arbitrary height of 11m, it must ensure that there is a formal audit process in place for low-rise buildings that must be supported by legislation with a funding solution at the end which protects leaseholders from the costs of remediation or mitigation. We highlighted the example in Matthew Pennycook's constituency of where the audit process had led to the developer simply politely being asked to make the building safe without any mechanisms in place to make this happen. We had repeatedly been told that "something" would be done but this something – whether a discretionary grant, inclusion in the Developer Contract buildings or the Cladding Safety Scheme – remains palpably unclear with years of the uncertainty and misery faced in buildings below 11m set to continue without intervention.

We also told Rushanara that we were disappointed to see that the previous government promise to "make it easier to ensure that those who caused building-safety defects in enfranchised buildings are made to pay" had led to naught in the final Leasehold and Freehold Reform Act. In addition, there

remain huge amounts of uncertainty at buildings where the freeholder owns multiple flats where we have seen inconsistencies in whether these are treated as "relevant buildings" or not and an associated impact on the provision of grant funding.

Finally, we communicated the frustration faced by non-qualifying leaseholders, and the additional anxiety caused by the current *guidance* published on Gov.UK as well as the unhelpful template responses being sent to people by MHCLG's Correspondence team, which rarely provide a direct response to the issues raised. Where those people had sought their own legal advice or spoken to lenders and conveyancers, the responses were inconsistent and showed a lack of understanding of the issues due to the complexities of, and the major drawbacks to, the Government's approach to building safety. We said that this was causing severe mental and financial harm to ordinary people across the country and that the quickest way to resolve this would be to end the discrimination of non-qualifying leases.

All political parties have repeatedly stated that innocent leaseholders should not be made to rectify the errors of poor regulation, ineffective and dishonest product testing and unfit construction practices, and that those responsible must pay to put it right. We said we needed to see Labour's commitment to better protect leaseholders and ensuring industry is made to pay put into practice quickly.

Next, we turned to the longstanding harm being caused by buildings insurance, an issue on which we have been pushing the Government to act for years.

Buildings Insurance

We told Rushanara that the ABI Facility was clearly useless – the introduction had been delayed significantly and there remains little clarity over how many people it will help, and to what extent, with no discernible measure of success in place. We said that this was yet another example of the Government repeating its mistake of hoping that industry would do anything other than look after its own interests first and foremost.

We noted that we would (finally) be meeting HM Treasury officials the next day after years of trying to speak to the all-powerful Treasury but having our requests either rebuffed or ignored and that we had requested to meet Tulip Siddiq, in her capacity as Economic Secretary to the Treasury, as soon as possible.

We reminded Rushanara of what we thought and hoped were promising statements made by Labour in opposition; for example, the tweet by new Housing Minister Matthew Pennycook in April 2023, where he said "Leaseholders in unsafe buildings across the country have been struggling with the eye-watering cost of soaring buildings insurance premiums for years" and that leaseholders "need ministers to act decisively to drive those costs down not yet more procrastination and tinkering around the edges".

Matt then said that a Labour government would "look to quickly establish a risk-pooling scheme with government backing" – we told Rushanara that our firm view was that the Government must provide state backing without delay or there would just be more circular requests for data collection that went nowhere.

We raised our concern about the great uncertainty over what legislation on "transparent" fees in the Leasehold and Freehold Reform Act would mean in practice, and we noted the risible October 2023 "government pledge" made by some (but far from all) brokers to cap their commission at 15%, which was strongly welcomed by the previous Housing Minister. No wonder these brokers feel able

to get away with ripping us off if the Government congratulated them for "reducing" the percentage they take when insurance premiums have risen by many multiples.

We said that there must be meaningful protections and redress for leaseholders when they wish to seek recourse and harsh penalties for regulated firms that continue to extort leaseholder consumers. Our team has had direct experience with the Financial Conduct Authority refusing to consider complaints about the firms they are supposed to be regulating; instead, complaints are referred to the weak Financial Ombudsman Service, which only offers tokenistic compensation that doesn't reflect the scale of the harm caused even where corporate malfeasance has been proven. This only means that insurers and brokers will continue to treat such *penalties* as the cost of doing business and continue their opaque and desperately unfair practices.

At this point, our time was running out; however, Rushanara kindly agreed to extend the 30-minute call to 45 minutes so that we could share further concerns, hear her thoughts and discuss next steps.

With that in mind, we outlined ongoing issues with the Health and Safety Executive's Building Safety Regulator (BSR) and the onerous requirements and costs associated with compliance of the new regime.

Health and Safety Executive's Building Safety Regulator and Regime

We noted that our engagement with the BSR had improved but that we were still facing serious issues caused by the legislation drawn up by the Government and being implemented by the BSR, which we outlined to Rushanara.

We had warned of these issues since 2022, so it was disappointing to see them emerge – for example, with the impossible timescales for registration and provision of Safety Case Reports. Whilst the BSR has now committed to take a proportionate approach, it is still unclear how this will work on the ground, particularly in relation to unsafe buildings where remediation has been delayed due to prevarication by developers and / or freeholders.

In our view, the April 2024 joint letter from then-Minister Lee Rowley and Philip White is a start even if it feels too little and too late.

We told Rushanara that we welcomed the eventual agreement from the BSR and MHCLG to review a sample of the cases we had shared following the survey we conducted earlier in the year, although it remained unclear what action would be taken, by whom, on which entities and when.

Following the meeting with Rushanara, we are waiting for our meeting with the HSE BSR, originally planned for 21st June, to be rearranged and expect this to take place towards the end of September.

This led naturally to our final thoughts on ensuring there is a truly joined-up approach to taking on and solving the building safety crisis swiftly.

Joined-Up Approach

We have lost count of the times that MHCLG has told us that local authorities and regulators need to "do more". Unfortunately, this continues to look like yet more buck-passing with positive outcomes for innocent leaseholders and residents falling between these two stools meaning that residents continued to be trapped in unsafe buildings for years on end.

We told Rushanara that the pace of remediation could dramatically increase if there were a joined-up approach between the Government and the arms-length bodies we have engaged with in recent months and years, or with central and local government and regulators working closely together in a consistent manner – i.e. from a single version of the truth and with regulatory efforts streamlined and effective.

Having seen the previous government talk of a "shared plan" in March, we understood that a "Remediation Partners Meeting" would be held; however, despite our repeated requests for information on this, little had been forthcoming and the pace of remediation remains as glacial as ever.

We told Rushanara that, in effect, the mechanisms to implement Labour's Building Works Agency, first proposed three years ago following input from our team, were already broadly in place. In our view, the key to accelerating remediation remains the removal of self-interested parties – whether developers, freeholders or managing agents, from the end-to-end process of assessing, fixing, funding and certifying buildings.

Our thinking is that this centralised response could be coordinated with the BSR and Homes England's Cladding Safety Scheme working more closely together, potentially alongside the Government's Recovery Strategy Unit. This could potentially set meaningful precedents and help to create best practice processes for Remediation Orders and Remediation Contribution Orders, which could then be shared with other regulators.

For example, the current Landlord and Leaseholder Certificate process is far from fit for purpose and changes we had hoped to see in the Leasehold and Freehold Reform Bill fell away during the rush after the general election was called. We said that we had been told several times that "Building Owners" would now be on the hook for costs, with the "rogue cohort" of freeholders expected to pass the wealth test that would protect qualifying leaseholders from non-cladding costs – unfortunately, this is yet to be proved on the ground. These rogue freeholders are still getting away with their delay tactics and playing fast and loose with perceived and real loopholes in the rushed and badly drafted Building Safety Act.

We said that leaseholders being expected to take legal action remained a terrible idea due to the uncertainty of outcomes and huge costs involved. As we have always said, if the Government has faith in its Building Safety law, it must do the right thing and ensure all leaseholders are now protected fully.

We also said that we were working more closely with the Leasehold Advisory Service (LEASE) since its radical transformation in December 2023, and that we thought LEASE was well placed to take over the workload that volunteers in our team have undertaken over the years.

Discussion and Next Steps

We thanked Rushanara for staying on for 15 minutes after the meeting was due to close. We said that we had many, many more ideas and suggestions on policy specifics.

We were told that the meetings we'd been having regularly with officials were due to recommence and we reiterated our longstanding proposal to meet policy teams at MHCLG's offices in London on a periodic basis. We said that this must be before policies are finalised so we can ensure the "firefighting" we have encountered in recent years is brought to an end with a truly comprehensive solution to this crisis.

In the early days, we were ignored or talked down to – the engagement with the Government may have improved dramatically since then (although perhaps that is not saying much), but too often we still seem to be met with a paternalistic attitude and warm words.

Rushanara said that MHCLG was looking at both short- and long-term solutions to the issues we had highlighted, and that the issue of non-qualifying status of leaseholders was to be reviewed. Rushanara also said that she recognised that fire does not discriminate, which includes buildings under 11m.

Rushanara said she had seen directly how the approach taken by the previous government was not translating into action at any discernible pace and that work must be accelerated. Rushanara told us that Sir Keir Starmer was closely involved with this agenda and that Angela Rayner is committed to ensuring such issues with existing housing stock are addressed. Rushanara closed by asking us to continue working in *partnership* with officials to help ensure that Labour's manifesto commitments are delivered.

—----------

We thank Rushanara for meeting us. We understand that a comprehensive solution to this unrelenting crisis may not be devised or delivered overnight.

We continue to hope that Angela Rayner will say more about the plight of trapped leaseholders in public soon – so far, all we have seen is a fleeting sentence in July. We have repeatedly asked to meet Angela, both since last October and following her appointment as Housing Secretary in the Labour government – unfortunately, we do not know if / when we will be afforded the opportunity to meet the Secretary of State, and we recognise the concerns of hundreds of thousands of affected leaseholders who so far have only seen the plethora of Labour meetings and site visits with the stakeholders who have either caused or exacerbated the misery ordinary people have suffered in the last seven years.

It continues to remain particularly disappointing that Sir Keir Starmer was so vocal about our cause in 2020 and 2021, but has barely said a word in public since then. As Sir Keir said then, "(Boris Johnson) could end this scandal right now if he wanted to. The Government must end the delay and give innocent homeowners the safety and security that they deserve."

We must see Labour's plan to end this scandal and substantial change urgently. Until then, we will continue to tell ourselves that it is always darkest before the dawn and the new government is only a few weeks old and will remain hopeful that Labour will not repeat the mistakes of the previous government and will keep its promises.