



The Rt Hon Michael Gove MP
Secretary of State
Department for Levelling Up, Housing and Communities
4th Floor
Fry Building
2 Marsham Street
London SW1P 4DF

British Property Federation

St Albans House
57-59 Haymarket
London
SW1Y 4QX

T 020 7802 0110

info@bpf.org.uk
www.bpf.org.uk

29th June 2022

Dear Secretary of State,

THE BUILDING SAFETY ACT 2022

I am grateful for your letter of 27th reminding freeholders of changes to legislation.

As you set out, the costs of remediating buildings can often run to millions of pounds and most freeholders have acted responsibly in not passing on those costs to leaseholders, whilst the Government has spent the past few years deciding how remediation should be funded. Where funding has been made available via the ACM and Building Safety Funds, responsible freeholders have also worked with their managing agents and leaseholders to make applications for works as a matter of importance and urgency.

The law, as it previously stood, reflected the reality that typically a landlord's interest in a building is less than 2% of leaseholders' interests, and therefore the costs of remediation will sometimes significantly dwarf the freeholder's investment. As you will know, that was rehearsed at several points of the Act's passage by MPs and Peers. You have put in place some contribution conditions that seek to test what is affordable for freeholders, but those provisions of the Bill are not in place yet - more regulations just being laid today. We also cannot hide from the fact that some freeholders will not be able to fund the liabilities that they now find themselves liable for. This presents significant safety issues for leaseholders and yet further delay in the joint ambition of speedy remediation.

Of course, landlords who are unconnected to the developer of a building are no more at fault for any flaws in that building than a leaseholder buying a flat – both will have bought in good faith. As you highlight, however, landlords do have a responsibility to organise remediation, and seek to recover funds from those that are at fault. I therefore welcome powers in the Act for innocent parties, whether they are leaseholders or freeholders, to pursue those who are at fault for building flaws, but again those provisions are not all in place yet.

You raise several other points in your letter, which I should respond to:

1. My team have for several months asked in meetings with officials when the Building Safety Fund (BSF) for 18m+ buildings will reopen. To date no date has been forthcoming. I am therefore pleased to hear that it will be shortly and that the new fund for buildings of 11m-

18m will also follow swiftly. Any information you can provide on the detail of that fund as soon as possible will obviously help landlords prepare.

2. It is a condition of application for the Building Safety Fund that the costs of remediation are charged via the service charge and then refunded via the drawdown of funds from the BSF. Landlords are now therefore in a catch-22 position. If they pass the remediation costs via the service charge, they will be breaking the law, but if they do not, they will be breaking the conditions of the BSF, and potentially putting those funds in jeopardy. This is an important technicality that must be resolved as quickly as possible.
3. You refer to the Developer Pledge. The second part of the Developer Pledge requires signatories to remediate buildings they have developed. These may be buildings where landlords have been in the process of applying for BSF funds or have had successful applications approved. There is no time limit on how quickly developers will put in place any alternative arrangements. Landlords and their agents will have been working up plans for remediation with leaseholders under the BSF to a specific timetable and will now have to scrap those plans and explain to their leaseholders there has been a change of approach. There is a real danger that this will lead to further delays, which will ultimately harm leaseholders.

You conclude by saying that we should all want to fix dangerous buildings as soon as possible. I and our members wholeheartedly agree. Given that your letter is the first time you have directly raised these issues with us, we would welcome the opportunity to meet with you to discuss further and believe – as I hope you do – that dialogue is an important part of making progress.

Yours sincerely,



Melanie Leech CBE
Chief Executive
British Property Federation