

# External Wall Systems forms and safety remedial works

## How housing associations are supporting leaseholders

### Summary

Housing associations are working urgently to support leaseholders who require an External Wall System (EWS1) form in order to remortgage, staircase or sell their properties.

This briefing explains:

- What housing associations are doing to support leaseholders, including accessing government funding where we can and working with the government and stakeholders to find a solution.
- What leaseholders can do to call for further support from the government.
- Detailed FAQs for leaseholders.

## Introduction

Since the tragic fire at Grenfell Tower, housing associations have been inspecting their buildings for safety concerns and remediating them as a priority. There is nothing more important to us than the safety of residents and we are committed to this above all else.

However, we know that the work to ensure homes are safe has caused considerable upset and worry for all residents affected. In particular, we know that some leaseholders are facing the possibility of large bills for remedial works should their landlord not be able to access government funding.

**We do not believe that leaseholders should have to pay for works that have been caused by a systemic failure of building regulation. We give our full support to the End Our Cladding Scandal campaign and its aims, having been one of its original signatories.**

We also know that leaseholders are often having difficulty remortgaging, moving, or buying additional shares in their home because mortgage lenders are asking for specific information about their building in an External Wall System (EWS1) form. In some cases this is happening even in buildings with no safety concerns.

The information requested is not readily available and obtaining it requires the same experts who are currently needed to carry out remedial works in buildings with the most urgent safety concerns. There are very few of these experts in comparison to the number of buildings that need to be inspected.

The limited availability of experts and resources, combined with the large number of buildings needing inspection and possible remediation, mean that remediation works could take up to a decade.

This would mean unacceptable delays to buying or selling homes, which will be deeply frustrating to all of those affected. The possibility of having to pay for expensive remedial works will also be heartbreaking given that people bought flats in good faith, hoping to make a home.

We are committed to doing whatever we can to find solutions to this critical issue, working with leaseholder groups, the government, the building industry, mortgage lenders and surveyors.

# What are housing associations doing to support leaseholders?

## Accessing funding

Where they are eligible to do so, housing associations are applying to the government's Building Safety Fund for the remediation of unsafe non-ACM cladding on buildings of 18m and higher. Our sector had to lobby government for access to this fund on behalf of our leaseholders, which we achieved.

However, not all landlords or buildings are eligible for government support, and the government expects that this funding will only cover the costs of remedial works for around a third of the eligible buildings that need them. Lower-rise buildings that need remedial works do not qualify for government funding and, even in higher-rise buildings that do qualify, only remedial works directly related to cladding are eligible.

Unlike private building owners, not-for-profit housing associations cannot apply for government funding to cover the total cost of remedial works for an eligible building. They can only claim for a portion of the costs so that, where their claim is accepted, costs will not be passed onto leaseholders in that building. Wherever they can, they are applying for this funding.

For buildings that do not receive government funding, housing associations do not want to pass the costs of remedial works on to leaseholders. They are pursuing all other routes to secure funding, including through building warranties, insurance, or through the original developers.

If they cannot secure funding in another way, housing associations could have to pay for remedial costs themselves for any of their buildings that house tenants. The law also dictates that they could also have no choice but to charge leaseholders for a share of the costs, as there are laws governing how charitable funds can be used. As not for profit and charitable organisations, housing associations are bound by these regulations.

We want to avoid this outcome at all costs. We do not believe leaseholders should have to pay for systemic failure in the building safety system. And as charities providing homes for people on the lowest incomes, paying for works ourselves would also be extremely challenging – affecting our ability to maintain our responsibilities as landlords providing secure homes at lower rates for those who need them.

## Engaging with the government and stakeholders towards a resolution

The National Housing Federation (NHF) is the trade body for housing associations. We are working on behalf of our members to highlight what housing associations need to conduct EWS1 inspections and remedial works more quickly. Ultimately, we believe that the systemic and widespread nature of this issue means that only government action can resolve the problem.

We have been calling for the government to speed up remedial works by providing upfront funding for works on all buildings that need them. We are also calling for limited resources to be directed first at buildings that need them most. However, in recognition of the length of time remedial works could take to complete, we want the government to work with mortgage lenders and valuers to find a solution to enable people to access mortgage finance in the meantime.

We have done this through our work with the media, with MPs, with members of the House of Lords, and with the government directly.

In the last few months, we have:

- **Made this case in the media** with appearances on Newsnight, in a [comment piece for The Daily Telegraph<sup>1</sup>](#), and through our support of the Inside Housing and Sunday Times [End our Cladding Scandal Campaign<sup>2</sup>](#).
- **Given evidence to MPs** including to the Housing, Communities and Local Government Select Committee's [panel on the draft Building Safety Bill](#) and to the Public Accounts Committee [inquiry into progress of remediating dangerous cladding](#).
- **Responded to government consultations** such as the Home Office's [fire safety consultation](#), to which we submitted a [response](#) in October 2020.
- **Directly engaged with government** including successfully arguing the case for [social sector grants from the Building Safety Fund](#). This enabled housing associations to claim government funding for the costs they would otherwise have had to pass to leaseholders for cladding remedial works on eligible buildings.

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<sup>1</sup> This piece is behind a paywall.

<sup>2</sup> This piece is behind a paywall.

We are planning more activity to help us make our arguments to the government. You can help us by adding your voice to the many organisations and individuals calling for additional government support for remedial works.

## What leaseholders can do to call on government for further support

We understand that many leaseholders must feel powerless in this situation. But there are some really valuable actions you can take to increase mortgage lenders' understanding of the issue and to help us call for more government support. For example, you can:

1. **Contact your mortgage provider.** If you are unable to access mortgage finance, speak to your lender. For people looking to remortgage, or buy a flat in a property below 18m in height, the EWS1 form should not apply. It is worth raising this point with them, even though they still ultimately have the discretion not to provide a mortgage without one.
2. **Contact your MP.** Your MP is there to represent your issues to the government, by raising them in Parliament. A number of MPs are already calling on the government to resolve the EWS1 issue and provide further funding for remedial works so that leaseholders don't have to pay unfair bills. By adding your voice, you can help ensure that the issue is given due attention by the government. You can find out who your MP is by visiting [theyworkforyou.com](https://theyworkforyou.com) and entering your postcode into the search tool.
3. **Contact the media.** Many national news outlets are reporting on people struggling to sell as a result of EWS1, as well as the unaffordable bills they might be facing for remedial work. It helps journalists to keep a story in the news if they have a new angle to it, and one such angle could be different personal circumstances. You could either directly contact a journalist who has written about the story, or submit a letter to an editor setting out your views.
4. **Join campaign groups.** There are lots of campaign groups that have been established in recent months to raise awareness of the issue or press the government for further action. UK Cladding Action Group is a nationwide group for leaseholders in buildings with combustible cladding and there are some regional cladding action groups too. The best way to contact these groups is on social media.

## FAQs for leaseholders

### Why do I need an EWS1 form to remortgage, staircase or sell my property?

Since the tragic fire at Grenfell Tower, a number of potential building safety concerns have been uncovered. As a result, the government has been conducting fire safety tests on specific materials, such as the ACM cladding which was found on Grenfell Tower. Building owners have also been inspecting their buildings for these materials and any other safety concerns and remediating them as a priority.

Because the issues are so complex and there are so many buildings to inspect and remediate, it is not always certain whether an individual building has been appropriately constructed using safe materials. Mortgage providers are therefore asking for additional information about a building's external wall system through the EWS1 form, before approving mortgages.

### **Why are they so difficult to obtain?**

Housing associations know how eager leaseholders will be to obtain EWS1 forms so that they can remortgage, move, or buy additional shares in their home, particularly during such a difficult time when they may be facing other financial pressures.

Unfortunately, there is a very limited capacity among fire engineers and other professionals that need to sign off the form, and they are in high demand to conduct building safety inspections and advise on any remediation. Many housing associations may have a large number of buildings that they've been asked for EWS1 forms for, as well as large numbers of buildings that they need to remediate. Given the limited resources, housing associations are having to direct these first at higher-risk buildings.

This could mean that it will take some time for EWS1 forms to be available on all buildings where they are requested. Some housing associations with large numbers of buildings have estimated that it could take them up to a decade to respond to all requests for EWS1 forms while remediation works also need to take place.

We know this will be heartbreaking to those affected, so we're doing what we can to press the government and industry for a solution that enables the housing market to function until remedial works programmes can be completed.

### **How can I get an EWS1 form for my building?**

An EWS1 form can only be completed by a competent professional who has been instructed by the freeholder or managing agent for your building. If your lender or your buyer's lender has requested an EWS1, you will need to contact your landlord to ask them to complete the request. It is important that you do not try to instruct someone to do this on your own as there have been cases of leaseholders paying

for people to complete the forms who they've later found out to be acting fraudulently. Lenders will only accept an EWS1 that has been completed by a competent professional whose expertise has been organised by the building freeholder or its managing agent.

### **If my building owner gets an EWS1 form, will I then be able to sell?**

An EWS1 form contains five categories into which a building can be placed – three under option A, where materials in the external wall are unlikely to support combustion and two under option B, where combustible materials have been identified in the external wall system. Where an EWS1 places a building in either of the categories in option B, it is our understanding that a mortgage provider will expect the external wall to have been remediated before it will consider mortgage applications against the property.

### **Why has my housing association completed an EWS1 form when my building is below 18m in height?**

While the original intention of the EWS1 form was to ensure a process for valuing buildings 18m and above while potential building safety concerns were being inspected and remediated, the organisations that created the form have since said that it can also be applied to buildings below 18m if they have 'specific safety concerns.' They say this is due to government advice relating to buildings of all heights published in January 2020.

### **Why will it take my landlord many years to provide an EWS1 form for my building?**

Housing associations with multi-occupied buildings will be organising inspection programmes to provide EWS1 forms, but importantly to decipher whether the building requires remedial works to fix any safety concerns. There is a limited number of competent professionals needed to inspect buildings, advise on remedial works and complete EWS1 forms, as well as limited housing association capacity to oversee the work. For these reasons, housing associations that are responsible for many multi-occupied buildings are organising inspections and remedial works according to risk, so that this limited resource is first directed to buildings that need it most. The complexity of these works means that it could take many years for a landlord with many buildings to inspect their entire portfolio, which is why we're calling for further government support to enable inspections and works to be completed more quickly. We recognise that this will be deeply distressing for people living in lower-risk buildings, who could have to wait many years before their landlord

can provide an EWS1 form for their building. However, the very limited resources at our disposal for this critical works means that we must direct them according to risk above all.

## **Can I rent out my property until it is possible to sell it?**

Some housing associations are reviewing their policies on subletting to enable those unable to sell to still move out of their property. However, not all housing associations are able to do this as there are often legal or other circumstances which affect their ability to allow subletting.

For shared owners, or those in other affordable home ownership properties, subletting is not generally permitted. This is because housing associations receive government funding to provide these homes and it is a condition of receiving this funding that they cannot be sublet. Under the circumstances, some housing associations are requesting specific permission for a temporary change to this approach from the relevant government agency, so that people who need to move home potentially have the option to do so.

We recommend that whatever your circumstances, you contact your housing association directly to discuss whether this option is available to you.

## **Will my housing association contribute to the additional costs I'm having to absorb as a result of fixed-rate mortgage deal expiring?**

As charitable organisations set up to provide homes and support for those on the lowest incomes, housing associations can't provide blanket support to leaseholders to help with mortgage costs. Instead, they are working as quickly as possible to be able to complete EWS1 requests for their buildings and calling for a solution from the government to this frustrating and unfair situation.

The demand for EWS1 forms, which can only be completed by a very limited number of competent professionals, is incredibly high. These same professionals are also the people we need to work with to advise on the remedial works that need to be urgently completed for buildings with safety concerns. This means that EWS1 form requests for buildings that are lower-risk may take a number of years to complete.

We understand this will be an extremely stressful situation for leaseholders whose monthly housing costs could subsequently increase. We recommend that you consider speaking to your mortgage provider if you have financial concerns or, if



you're a leaseholder in an affordable homeownership home – such as shared ownership – speak to your housing association directly.

## **Why are building owners only just inspecting properties for safety concerns three years after the fire at Grenfell Tower?**

The tragic fire at Grenfell Tower uncovered a systemic failure of building regulations. The uncertainty this created about whether similar buildings were safe meant that housing associations opted to review their properties for any safety concerns so that they could be rectified as a matter of urgency. Remediation programmes are complex and can take many years to complete.

As building inspections have continued, all sectors and industries with a role in the safety of buildings have become aware of the scale of potential building safety issues. There are an estimated 11,300 high-rise buildings in England and some of the safety concerns go beyond the cladding and external wall system. In addition, due to limited capacity within testing houses, it has taken some time for specific materials to be confirmed as safe for use on buildings. The government undertook a testing programme after the fire at Grenfell Tower on Aluminium Composite Material (ACM) cladding and has conducted some exploratory tests on other materials since. However, while the government's testing programme on other materials was a useful indicator of these materials' performance in a fire, it did not give unequivocal results on whether or not these materials were safe to be used. The government conducted one fire safety standard test on a cladding material that was not ACM, publishing the results only in July 2019.

As the scale of potential safety concerns has become clearer, so has the potential cost of rectifying buildings that need it. This is likely to run into billions of pounds. The government only made funding available for the removal and replacement of ACM cladding on social housing buildings in May 2018, followed by funding for private sector buildings in summer 2019. More recently, the government has made funding available for remediation on some high-rise buildings with non-ACM combustible materials. However, by the government's own estimates, this will only fund remediation works on around a third of eligible buildings and only became open for applications in summer 2020.

While housing associations are doing what they can to remediate buildings as an utmost priority, the scale of the task, together with a lack of sufficient funding and a paucity of requisite skills, means they are not able to remediate buildings as quickly as they want to. We are therefore calling for government to support us by providing

upfront funding for remedial works to all buildings that need them, and by prioritising resources to direct them first at buildings that need them most.

## **Why are mortgage providers only asking for an EWS1 form now, when potential safety concerns have been highlighted since the fire at Grenfell Tower?**

In the months following the fire at Grenfell Tower, many surveyors were struggling to provide a valuation for flats in high-rise buildings, due to the uncertainty over building safety concerns that had been uncovered in some buildings of those heights. This meant that people with flats in high-rise buildings – and some in lower-rise buildings – were already struggling to access mortgage finance, but didn't have any route to overcome the issue.

The lending and valuations industry bodies therefore created the EWS1 process to enable lenders to gain the reassurance they needed to inform mortgage decisions. This process was only intended to apply to buildings above 18m, to reflect government guidance that only buildings of this height needed to be reviewed for safety concerns. We know that the introduction of the EWS1 specifically for buildings 18m and over meant that sales and remortgage and staircasing requests for flats in lower rise buildings were generally able to continue.

However, in January 2020, the government published [updated guidance](#) that advised those responsible for multi-occupied buildings of any height to review their buildings for safety concerns. In turn, this has created uncertainty for lenders over whether they will permit the use of flats in these buildings as security against a mortgage, resulting in surveyors not providing them with a value.

## **Is my building unsafe?**

Due to the various safety concerns that have been found in multi-occupied buildings over the last three years, it is the responsible course of action to review these buildings. Resident safety is housing associations' top priority. They conduct regular Fire Risk Assessments of their properties to check for any significant safety issues, with any improvements needed on safety equipment or procedures implemented as a matter of urgency.

These are in addition to the inspections of external walls. Where these find any considerable safety issues, housing associations are putting in place interim safety measures until more permanent measures can be implemented. Buildings that present greater risks have been inspected and remediated first and housing associations have made considerable progress with these buildings.

## Will I have to pay for remedial works to my building?

Housing associations do not believe that leaseholders should have to pay for remedial works that are the result of a building regulatory system that was not fit for purpose. However, as charitable organisations providing secure homes for people on the lowest incomes, we do not believe housing associations should have to pay either. Housing associations commissioned buildings in good faith and, as a result of the regulatory system being unfit for purpose, they now find that these may be unsafe. Housing associations may also be unable to pay for leaseholders' share of remedial works costs, due to laws around how charitable funds can be spent.

The government has made funding available to both housing associations and private freeholders for the removal and replacement of ACM cladding – the same as that found on Grenfell Tower. More recently, it has also opened up applications to its Building Safety Fund, for the remediation non-ACM combustible cladding materials on high-rise buildings owned by private freeholders. This means that leaseholders in eligible buildings that receive funding will also not have to pay for works. Housing associations with eligible buildings can also claim back a portion of the cost of remediation so, where a housing association receives funding, leaseholders in these buildings will not have to pay for works. However, the government has estimated that its £1bn Building Safety Fund will only cover the costs of remediation for around a third of buildings that are eligible to claim from it, so not all housing associations will be able to access this funding.

Where housing associations are unable to access government funding, whether because they have eligible buildings that have not been able to access the fund, or buildings that are not eligible for funding, they are pursuing all possible cost recovery routes, including warranties, buildings insurance and liability claims from the original building developers. As charitable organisations, they have to follow the law in how they spend charitable funds, and may not legally be able to pay for leaseholders' share of remedial works. In cases where a housing association cannot secure funding via other routes, it may have no choice but to charge its leaseholders for their share of costs.

Housing associations do not want to charge their leaseholders. As their trade body, we are pressing the government for further financial support, predominantly so that remediation works can be conducted as quickly as possible, and so leaseholders with housing associations landlords do not have to pay large bills for remediation work. We would urge people affected by this crisis to contact their MP, so that they can add their voice to the campaign pressing government for action.

## **Isn't the government paying for remedial works for buildings that need them?**

Funding is not available for all housing association buildings.

There is funding available to both housing associations and private freeholders for the removal and replacement of ACM cladding – the cladding found on Grenfell Tower. There is also a £1bn Building Safety Fund for unsafe non-ACM cladding on high-rise buildings. However, this funding is primarily directed at the private sector. Housing associations with eligible buildings can only claim back a portion of the costs for remediating eligible buildings where those costs would be passed to a leaseholder. This element of the Building Safety Fund opened in August and closes at the end of 2020, so it isn't yet clear which buildings will receive this government funding and which will not.

The government has also estimated that the Building Safety Fund will only cover the costs of remediation for around a third of buildings that are eligible to claim from it. It has said that it will not provide any further funding for remedial works to buildings that need them.

On 19 October, the Minister for Building Safety, Lord Greenhalgh, said that leaseholders would not be protected from all of the costs of remedial works, but that the government would work to make them affordable where possible. It is not yet clear how the government intends to ensure that remediation works bills are affordable.

## **Why won't my housing association pay for the works – isn't this their responsibility and can't they afford it?**

Housing associations do not believe that leaseholders should have to pay for remedial works that are caused by a systemic failure of building regulations. However, as charitable organisations, we do not believe that housing associations should have to pay these bills either. While housing associations who own buildings that require remedial works are responsible for ensuring the safety of residents in these buildings, and are prioritising resources for remedial works as a result, we are also responding to a systemic failure of building regulations.

As charitable organisations, housing associations provide affordable housing to people on the lowest incomes. We have a responsibility to all of our residents, and others in our communities, to remain financially secure so that we continue to provide and build homes for the people who need them. Housing associations must also adhere to strict regulations on spending charitable funds,

ensuring this is only spent in the pursuit of our charitable objectives. This means housing associations may not legally be able to pay for leaseholders' share of remedial works – and this is why we have been calling for additional funding so that our leaseholders do not have to pay for the works themselves.

Housing associations are doing all they can to find alternate sources of funding for remedial works, whether through warranty or buildings insurance providers, or by pursuing liability claims against the building's original contractors. Charging leaseholders is an absolute last resort and one we are working hard to avoid.