



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

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Sent via email: AlternativeCostRecovery.Remediation@levellingup.gov.uk

31 March 2023

Consultation on Alternative Cost Recovery for Remediation

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 02 February 2023 *Alternative cost recovery for remediation works: consultation on proposals to make regulations and statutory guidance under the Landlord and Tenant Act 1985*.

NFCC is the professional voice of the UK fire and rescue services (FRSs) and is comprised of a council of UK Chief Fire Officers. This response was put together by NFCC's Protection and Reform Unit (PRU).

NFCC does not believe we are best placed to answer the specific questions of this consultation but there are some concerns around the details within the consultation which are outlined below.

NFCC are generally supportive of the proposals within this consultation. We agree that the new duty for landlords to explore alternative cost recovery avenues before seeking contributions from leaseholders will protect leaseholders from avoidable payments to remediate defects in their homes. We also agree that the new duty will help to strengthen oversight and protections for leaseholders in high-rise buildings.

However, we hold two main concerns that relate to the retrospective nature of this new duty and the proposed height threshold. We also hold concerns about the impact of this duty on those with protected characteristics.

Historical defects

NFCC is concerned about the proposal to apply protections only retrospectively to June 2022 which creates a gap with buildings which begin the development process after this time

yet before the full scrutiny of the new gateways process begins in October 2023. We believe it raises questions about fairness and accountability in the remediation process. While it is important to address historical defects, a proactive approach to building safety is needed to ensure that future defects are also addressed and that all new and future buildings meet the highest standards of safety and quality. A comprehensive approach to building safety is needed that includes not only retrospective protection for leaseholders but also a commitment to preventing future defects.

NFCC also hold concerns that these protections are only for residential buildings, especially given that the protections are only until June 2022.

Commercial and non-residential properties may need to mitigate or remediate issues that are primarily for the safety of people residing in the residential parts and may not be needed to meet their own fire risks as non-residential properties. Government has not been clear on who will pay in these circumstances, and we consider that there may be cases where it would be disproportionate to residents and leaseholders to make them pay for works that are needed to commercial parts of a building.

NFCC believes that the new duty should apply retrospectively and prospectively, as this would encourage landlords to prioritize building safety in their ongoing maintenance and construction efforts. It is concerning that the rationale for only applying the new duty retrospectively is because tighter rules have been brought in for new products and properties, when much of this is yet to commence and is still subject to detail in secondary legislation which has not been seen yet. This assumes that tighter rules will never result in future building defects.

Height threshold

NFCC agrees with the proposed criteria for the buildings in England that are in scope of the new duty for landlords to take reasonable steps to explore alternative cost recovery avenues before seeking leaseholder contributions. The proposed criteria seem reasonable and appropriate for the purpose of this duty. The exclusion of leaseholder-owned buildings and leaseholder-managed blocks is consistent with the wider leaseholder protections, which should avoid operational complexity and reduce the likelihood of misinterpretation among landlords and leaseholders.

However, we hold concerns about the government's decision to limit the application of this new duty to buildings of at least 11 meters or 5 storeys in height. We also hold concerns about the government considering the cases of low-rise buildings where residents have contacted them on a case-by-case basis. This will result a gap in the protection of leaseholders, and it places the onus on leaseholders to find solutions to remediation costs.

Individuals with protected characteristics

NFCC is pleased that the government is considering the impact of the proposed regulations and guidance on individuals with protected characteristics. Any potential adverse impacts on individuals with protected characteristics must be identified and addressed to ensure that they are not disproportionately affected by the new cost recovery system. This includes providing clear and accessible information, considering the needs of individuals with protected characteristics when making decisions about remediation works, and providing additional support to those who may struggle to meet the costs of remediation.

NFCC believe that individuals with protected characteristics may face barriers to accessing information, participating in decision-making processes, and complying with the proposed guidance. We would support efforts to require reasonable adjustments to be made to ensure individuals with protected characteristics can access and understand the information provided. For instance, individuals who are not proficient in English may require translations of the guidance to be made available to them.

NFCC also believe that individuals with protected characteristics may face financial barriers to contributing towards the cost of remediation works if alternatives cost recovery has been unsuccessful. For example, individuals from low-income backgrounds or with disabilities may struggle to meet the costs of remediation works, which may disproportionately impact them. Additional support to these individuals should be required, such as grants or low-interest loans, to ensure that they are not unfairly burdened with the costs of remediation.

Yours sincerely,

A handwritten signature in cursive script that reads "N. Coombe".

Nick Coombe

Head of Protection Policy and Reform Unit
Protection Policy and Reform Unit

Question 28: What is your name?

Nick Coombe

Question 29: What is your email address?

pprudminteam@nationalfirechiefs.org.uk

Question 30: Are the views that you have expressed on this consultation your personal views, or an official response from an organisation you represent?

- Personal
- Organisation
- Prefer not to say

Question 35: What is your organisation?

- Professional body
- Representation group

Question 36: What is the name of your organisation?

The National Fire Chiefs Council

Question 37: Where does your organisation operate?

- Northeast
- Northwest
- Yorkshire and the Humber
- East Midlands
- West Midlands
- East of England
- London
- Southeast
- Southwest

The NFCC is a UK-wide organisation, and our members include Chief Fire Officers and other senior members from fire and rescue services across England, Wales, Scotland, and Northern Ireland.

Question 37a: If you answered 'Outside of England' for question 37, please specify.