

Legislative Reform



Justin Bates

What has Parliament been doing?

- Draft Building Safety Bill
 - 1) Communities and Local Government Select Committee report
 - 2) A lot of published public evidence
 - 3) Press leaks (Sunday Times last weekend)
- Fire Safety Bill
 - At “ping pong” stage
 - Reforms and vehicle for disputes with the BSB

Draft Building Safety Bill

Published in Draft in July 2020

- New regulatory regime
- Focus on “higher risk” buildings
- Most controversial parts are clauses 88 and 89
 - Implied term that LL will carry out relevant safety works as required by the Bill
 - And LH will pay the costs of those works within 28 days of a demand (in effect, a parallel service charge regime, including a reasonableness provision and a consultation mechanism)

Public call for evidence

- 326 submissions; almost all critical of the new charging regime
- 5 days of oral evidence

Report published 24 November

- The new charging system was almost universally hated. Leaseholders thought it unfair they had to pay for fixing fire safety defects that pre-dated their ownership of their leases
 - (*cf* the recent evidence at the Grenfell Inquiry)
- The Local Government Association described the reforms as the “greatest shortcoming” in the Bill (despite the fact their members would benefit)

Cont...

- Committee noted that both the previous government and the current one had made public statements that leaseholders should not be required to pay for fire safety works (‘tho recently the gov has changed to saying they should not pay unaffordable sums)
- Report concludes that
 - Gov should ensure leaseholders do not pay for historic fire safety costs
 - Gov should provide initial funding and look at ways of recovering from developers in due course
 - Need significantly longer than 28 days to pay

Next steps?

- Cross party opposition to charges falling on leaseholders
- Gov seems surprised at the degree of criticism their proposals have faced
- Sunday Times leak suggests 30 year loans at 2% interest to help leaseholders pay these costs

Fire Safety Bill

- The uncontroversial reforms
 - Makes cladding part of the Regulatory Reform (Fire Safety) Order 2005, so enforceable by fire brigade under that Order rather than a local authority using HHSRS and Housing Act 2004
 - Makes the external face of the front doors of flats within the Order (trying to solve the problem of a door being demised to the LH and it not being out of repair, but not meeting fire standards)

Fire Safety Bill

- The controversial reform
 - Added in the House of Lords
- “Prohibition on passing remediation costs on to leaseholders and tenants*
- 1) The owner of a building may not pass the costs of any remedial work attributable to the provisions of this Act on to leaseholders or tenants of that building.*
 - 2) Subsection (1) does not apply to a leaseholder who is also the owner or part owner of the freehold of the building.”*

Fire Safety Bill

- Gov opposes that amendment and will try and take it out
 - In fairness, it isn't a very good amendment because it is too broad; it would prevent recovery of routine maintenance etc
 - Likely MPs will propose an alternative amendment

Thank you for listening

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