

Weighing up the law

Paying for the cladding scandal: Sailesh Mehta shares his views



SINCE THE Grenfell Tower fire in 2017 and the Bolton Cube fire in 2019, serious safety concerns have emerged in relation to dangerously combustible cladding/insulation used in residential buildings. Lessons were learnt after the fires at Garnock Court (1999) and Lakanal House (2009) but were, sadly, followed by government inaction.

Further, audits have shown that many buildings are non-compliant with fire safety legislation, making them equally dangerous. The best estimates suggest well over a million people are living in high rise flats which are dangerous in case of fire.

The view of independent commentators (as well as the Local Government Association) is that this is a failure of the regulators (central and local government as well as fire and rescue services) and the industry (particularly manufacturers and builders).

The rot started in the 1980s with the Deregulation Initiative, the Building Act 1984, compulsory competitive tendering, and other schemes, which not only cut the fat off excess regulation but cut into the meat and bones. It sacrificed safety of the public and filled the pockets of developers and manufacturers. Underfunded regulators played by rules designed to favour the regulated. Successive 'Ministers for Levelling Down' assisted in a race to the bottom.

Local authorities who own social housing do not have the money to carry out costly works. Often the councils in the most deprived areas have the greatest financial burdens. Leasehold owners of flats in dangerous buildings have been required to pay for works to remove cladding and make safe years of cutting corners, or unlawful practices of builders and developers.

It is scandalous that those responsible had conspired to make the victims pay for their greed, errors and potential criminality. Over 60% of leaseholders were likely to have to pay £30,000 and some many times that figure, according to a survey by Inside Housing. 17% were looking at making themselves bankrupt and 90% reported a decline in mental health as a direct result.

In a statement in Parliament on 10 January

2022, Secretary of State for Levelling Up, Michael Gove, said: 'leaseholders are shouldering a desperately unfair burden' for fire safety repairs. This was blindingly obvious, but his three predecessors were unable to utter those words. The Minister accepted leaseholders are blameless and that it was 'morally wrong' for them to be asked to pay the price.

He acknowledged that families have been living in a 'death trap' because of 'the failures of enforcement and compliance in our building safety regime.' He candidly acknowledged that 'this government must take its share of responsibility for those failures.' He confirmed that 'the building safety system remains broken.' He plans to make the 'industries who profited' and who caused the problems, pay for the remedy.

These are welcome words, but beg the question – how will he force developers to pay, when they have not done so for four years since Grenfell and continue to aggressively fight the suggestion? The current plan appears to only include cladding, whereas the problem with fire safety in high rise buildings is much broader, such as fire breaks and flammable insulation.

It also allows the manufacturers (who may well have known how their product compromised safety) to get away without any liability. Cynics say they have heard tough soundbites before, only for ministers to sidle away quietly afterwards. Only time will tell if the Minister really wants to effect change.

The Building Safety Programme, the Fire Safety Act 2021, and the Building Safety Bill are a good start to treating the rot. The latest ministerial announcement, if backed with money and a clear plan, would help greatly. Michael Gove is now the fourth Housing Minister charged with fixing the building safety scandal in as many years. If ever an industry needed 'levelling up', this is it. This year will see many changes and may be a start to the much-needed recalibration of the fire industry ■

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