



12 May 2022

Tabriz Court and Shams Court resident meeting 28 April 2022

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Thank you to everyone who joined our webinar, we had a lot of really good questions so thank you all for sending those through.

Contact details

Throughout the project you will have the support of our Building Safety Team and can get in touch with us on customerservice@networkhomes.org.uk.

Webinar recording

You can watch a recording of the webinar via this link on YouTube: https://youtu.be/osblKng_IV8. Please note, the FAQs are not included as part of this recording and have been condensed and included below.

Presentation slides



Resident webinar
28 April 2022
Tabriz Court and Shams Court




Agenda

- Introductions and welcome Raj Gandecha
- Freeholder/managing agent Ed Badke
- Building safety remediation Graeme Manley
- Insurance Philippa Oldmeadow/
Paul Francis
- What is Network doing? Raj Gandecha
- Interim safety measures Graeme Manley
- Q&A.



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Freeholder/managing agent

- Freeholder – HEB Assets
- Managing Agent – Wembley Properties
- Head Lessee – Network Homes
- Sub Lessees – individual leaseholders
- Who is legally responsible for investigation, remediation, service charges and insurance?



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Building safety remediation

- ORSA Inspections
 - Pinnacle Tower – ACM cladding
 - Novotel – Terracotta and Render
- Tabriz and Shams –
 - Terracotta and Render as yet unclear what is required
 - Buro Happold Reports
- Expert determination – independent legal experts to make a judgement on responsibility for remediation




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Insurance

- Buildings insured under one policy
- Previous insurer chose not to continue cover because of ACM cladding on Pinnacle Tower
- Extremely risk averse insurance market
- New policy cost will increase per unit cost by 500% (subject to managing agent confirmation)
- Additional £100,000 fire and £25,000 water excess



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What is Network doing?

- Written to Michael Gove, Brent Council, Dawn Butler
- Pursuing the expert determination
- Possibility of applying to FTT
- Reporting to our board re excess – further info in June
- Reporting to our board re payment terms – further info when we have it
- Keeping London Fire Brigade informed



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Interim safety measures

- Simultaneous evacuation policy
- Evacuation manager
- Cause and effect testing – Jan 2022
- Arup fire engineering review
- Consultation with Brent Council and LFB
- Resident evacuation management




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FAQs and next steps

- Contact us on customerservice@networkhomes.org.uk
- We'll send an FAQ document out with the slides within two weeks and a recording of this presentation. This will include answers to all Slido questions too
- June – further information re insurance excess



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Summary of the current position

We are putting together a paper to present to our board at the end of May, as we recognise the costs are very high. The board are not verifying the charges – that has already happened; the board will make a decision on whether Network Homes is able to support residents financially in this matter.

Once the board have met, we will write to you in June with an update on what has been decided and the accurate insurance figures.

FAQs

We received a huge number of questions from residents both before the webinar on Slido and during the presentation. As such, we have condensed all those questions asked into the ones included below, as there were many which all covered the same questions with a slightly different wording.

Remedial works

Does Tabriz Court have cladding?

From the original external wall investigation (Orsa Report), we understand Tabriz Court has terracotta cladding and render, and Shams Court has render. We have not been provided with a copy of the second external wall investigation (Buro Happold report).

What is the earliest that the remedial works could take place? How long is the process expected from planning to completion?

At this stage it is not possible to give an accurate answer. If HEB, the Building Owner, changes its position and agrees to carry out the remedial work, then it will be able to start and finish sooner.

If they refuse to carry out the work, we will need to consider taking legal action and/or lobbying the local authority and government. This will increase the programme. We have offered HEB the option of Expert Determination which would reduce this delay considerably, however they have not responded to this offer for several months.

Is the legal action between HEB and Network resulting in a delay to the release of the report and the start of works? We are paying for these delays.

No – HEB’s project manager Hycgan has alleged the delay is because Network has refused to pay its share of the cost of the report. This is not correct, and we have concluded HEB is using this as an excuse to hide its real reasons for not disclosing the report. We understand HEB has also refused to disclose it to the local authority and government.

Not only are we paying for the costly insurance, but we are also paying for the fire watch while works are delayed. How can we speed up the works taking place?

Network is working on a plan to move to a ‘resident-led evacuation management’. If this is accepted by our fire engineer, we will consult you about this.

Why did they not do inspections of Tabriz and Shams Court?

Buro Happold has inspected Tabriz and Shams Court.

Excess

Please clarify the excess, is this £100k per leaseholder? If so, can this really be considered an adequate insurance for the purpose of mortgages?

The fire excess is £100k per event. If fire occurs within a leaseholder’s flat, affecting that flat only, then that leaseholder’s excess is £100k. The equivalent excess for water damage is £25k per event. The excess arrangement is the same for all blocks in the development.

If a single event affects multiple flats the £100k and £25k excesses still apply. This is where the insurance provides protection i.e. if multiple properties or the whole building was affected.

Buildings insurance will be a condition of your mortgage. Please check the requirements of your mortgage arrangement.

Regarding the excess, it is £100k per interested party or per unit? So, does HEB have to pay £100k per flat in the tower or just £100k?

As stated above the excess arrangement is the same for all blocks in the development.

Hi, I am bit unclear on the excess. The excess might be per event, but it is per policy and given this is one policy - how can a flat leaseholder (individual) be charged £100K as excess? This doesn’t sound right?

The excess is per event, not per policy. I acknowledge that it is extremely high, however this is a unique situation and so while it does seem implausible that the excess per fire event is £100k, that is what the policy states.

Is going uninsured worse than having a £100k excess?

It is most likely one of the terms of your mortgage to have valid insurance on the property. Therefore, your lender could recall your mortgage loan if you did not have insurance.

Is the water damage excess including water damage from floods and roof leakage etc also?

Damage from weather is not subject to the excess of £25k, nor is flood damage. This excess is in respect of an escape from an apparatus, pipe or tank.

Legal action/further action

Please provide more information on the legal action between HEB and Network. Also, please clarify who is paying the legal costs?

We have appointed external solicitors as have HEB. We have offered HEB the option of Expert Determination to resolve this – a panel of independent legal experts who will decide on a way forward. This is quick and relatively cheap, however HEB's solicitor has not responded to this offer. At some point we will need to reconsider this and initiate legal proceedings through the courts if they do not respond. This will incur substantial delays and costs on both sides.

Can we make any representations on the tribunal case relating to the service charge?

You have the right to take your own case directly to the tribunal without Network Homes. If we decide to pursue a formal challenge through the tribunal, we will invite you to be party to the case.

Why are you only just 'considering' formal action through the First Tier Tribunal Property Chamber? Last year's £1k+ extra is already unreasonable let alone this.

The tribunal is only able to rule on specific charges, not the service charges as a whole. If you believe a specific charge or charges are unreasonable, you can challenge them, but you must provide reasons why. The judge will consider your case and issue a determination. Up until this point, we did not believe the charges to be unreasonable based on the evidence of expenditure provided.

When is the deadline date for HEB to respond to the Expert Determination, and can you clarify what the legal next steps you plan to take are please?

The date we have given HEB's solicitors to respond has now passed. We have chased them several times and are now looking into what the next steps are.

Does Network have a 'collateral warranty' from developer after the purchase of Shams Court? This would allow a claim against the developer for building defects.

The legal advice that we have received is that we do not have a strong case against the developer, HEB Assets, because of the way the contracts were written. We have put in a claim on behalf of leaseholders under the Structural Premier Guarantee Warranty.

Our best route of cost recovery is through the government's Building Safety Fund. However, to succeed in this, HEB needs to accept the responsibilities it has as our landlord and make an application to the Building Safety Fund.

Can we remove Pinnacle Tower from our deed? Can you separate deeds for all buildings respectively? This could possibly reduce insurance of Tabriz and Shams.

This is something we looked into and, because of the integrated nature of the development with one heating system and one car park, this could create further legal complexities which would make the existing situation worse.

HEB

Are the managing agent and HEB connected somehow through family/business links?

We believe that there are links between the managing agent and freeholder through one individual, Mr Akbarry. We do not know if there is a family connection.

Are either the new or previous insurers connected to HEB?

We don't believe either of the insurers are connected to HEB. This is not an issue which is solely affecting Tabriz and Shams. We have two other blocks where the insurance is set to increase by 500% and 600% and there are countless examples across the industry of similar increases.

Who is the developer that built Shams Court and Tabriz Court?

Tabriz and Shams Court were developed by London Prestige Developments (now called HEB Assets) and the Project Manager for the works was Hycgan.

Is Network aware that HEB is seeking planning permission from Brent to expand on existing buildings as well as building more blocks?

We are aware there is an active planning application for this site. The consultation period for the planning application is now closed. However, we have informed Brent Council of the situation at Tabriz and Shams, and of our views on the Planning Application.

Can you report HEB to Brent Planning Permission to notify of current failures to address cladding? Threat of application rejection will make HEB act now.

The consultation period for the planning application is now closed. However, as stated above, we have informed Brent Council of the situation at Tabriz and Shams.

Can the publicised list naming HEB as one of the organisations which have not yet started remediations PLEASE be shared with Brent planning application 21/2130?

Brent Council is aware of the list and is having separate meetings with HEB and DLUHC. We are not a party to these meetings and so cannot advise on the matters discussed.

HEB Assets are applying for planning permission to develop behind Shams Court. With their present position, Brent should be refusing them planning permission surely?

See comments above.

Have specifically the planning team at Brent been notified of HEB being on the list? I know that 'Brent' have been notified but the planning team specifically as they plan to build a massive development neighbouring our buildings.

We have not advised the Planning Team, although we have advised a senior manager in Brent Council.

If HEB/Mr Hasibullah Akabary [Director of HEB Assets] does not care about existing homes, can we please make sure we have his planning application for the proposed new blocks behind Shams Court rejected? This will hurt him financially and force action to remediate Pinnacle if he wants to apply for permission again.

We have done what we can to bring this matter to Brent Council's attention. If you also want to take similar action it may be better to raise this with your local councillor, who will be able to investigate the matter and get back to you.

Does HEB have the money to replace the cladding?

HEB owns Pinnacle Tower and so yes, HEB does have the money to replace the cladding.

HEB Assets was incorporated in 2019 and filed dormant accounts in December 2021. HEB Assets doesn't appear to have money looking at the dormant account company house filings at Companies House online. Is there any point dealing with HEB Assets and taking legal proceedings against them if they filed dormant accounts and appear to have no money to do the works? Shouldn't we deal with and sue the director of HEB Assets Mr Hasibullah Akabary in his personal capacity as director? HEB Assets could strike off the company at any time. No point wasting time suing a company that has no money.

We have done similar due diligence into HEB Assets. As stated above they own Pinnacle Tower which is a valuable asset. We have taken legal advice on this point.

Costs/payments

In January housing minister Michael Gove told the House of Commons that “no leaseholder living in a building above 11 meters will ever face any costs for fixing dangerous cladding. They are blameless and it is morally wrong that they should be asked to pay for the price.” So, my question is why has this been put on us? Surely the insurance is part of the ‘any costs’?

The government's position on building safety costs has changed several times this year already. While Michael Gove did say the above in parliament, the Building Safety Bill now includes caps for building safety costs per leaseholder of £15,000 for properties in London worth up to £1m. So the government has included in their legislation, the provision for leaseholders to be charged. In our experience (and potentially across the industry) increased insurance has not been included as part of building safety funding from government or industry, similar to how waking watches have also not been included.

If insurance is included in the £15,000 cap, we will of course comply with this. It has not yet been confirmed whether that is the case or not.

Under the terms of your lease, you are responsible for contributing to insurance costs.

A letter reported by BBC Newsnight from Chief Secretary to the Treasury Simon Clarke to Mr Gove from January said “You may use a high-level ‘threat’ of tax or legal solutions in discussions with developers as a means to obtaining voluntary contributions from them.” It read: “I am pleased to see that you acknowledge the principle that the taxpayer should not be on the hook for further costs of remediation.” My questions are then - why ‘in the meantime’ are we (as leaseholders) left with the bill? Why isn't Network Homes footing the bill until HEB are taxed or legally solved in this situation?

As above, under the terms of your lease, you are responsible for contributing to insurance costs. Network is responsible for the tenanted share of insurance costs.

What happens if we are unable to afford the new insurance cost?

We will keep you informed of government guidance on these charges but currently they have advised that they do not consider them to be a remediation cost. They may form part of the capped costs, but we do not know yet. If they are to be included in the overall capping, then you may be eligible for our credit scheme, with extended payment terms depending on the final amount.

Is there any financial support we can apply for to help pay these costs?

We're currently looking at ways that we could offer financial support to help pay these costs. We're looking first at the excess issue as this is more pressing. It may be that we are able to offer interest free credit for these charges – **but this has not been agreed and may not be possible.** We will write and let you know when we have further information.

Please clarify the cost of insurance per leaseholder.

We are putting together a paper to present to our board at the end of May, as we recognise the costs are very high. The board are not verifying the charges – that has already happened – the board will make a decision on whether Network Homes is able to support residents financially in this matter. Once the board have met, we will write to you in June with an update on what has been decided and any accurate insurance figures.

Does Network Homes feel comfortable with residents becoming possibly bankrupt and/or mentally unwell in the meantime?

We do not feel comfortable with the position as it is, that is why we are trying multiple options to change the situation. We're trying to compel the managing agent and freeholder to get on with the remediation work and we're lobbying the government to try and improve the situation across the sector. We're trying to exhaust all possible options to resolve this situation for residents.

Please do reach out to your family, friends or mental health providers if you are struggling. We list some options on our website here: <https://www.networkhomes.org.uk/buildingsafetyresources/>. The resident-led End Our Cladding Scandal website also lists some useful organisations: <https://endourcladdingscandal.org/getsupport/>.

Are there options for the decant / buy out of properties if the insurance cost is unaffordable?

We do have a buy back policy and you are able to apply to us so we can consider buying back your property. We want to be very clear here though and give you realistic expectations. The circumstances in which we do buy back properties are extremely limited. In our previous decisions, being affected by building safety issues or costs have not been seen as sufficient grounds to authorise a buy back. Circumstances must be exceptional – if all leaseholders in your block are affected by an issue, then it would most likely not be considered exceptional.

All buy back decisions are made by our Strategic Risk panel consisting of members of our Executive and Senior Management team.

Would you buy back at market rate?

As above, the circumstances in which we do buy back properties are extremely limited. If we were to buy back a property, we would get an independent valuation to assess a fair value for the property.

Are we effectively stuck and not able to sell our properties due to a) no access to EWS1 information and b) finalised charges on accounts end in September 2023?

There has been a change to EWS1 form guidance announced at the end of March. This means that once you have a programme start and end date, costed plan and an A3 or B2 rated EWS1 form, there are some lenders who may be willing to lend on a property. An A3 or B2 rated EWS1 forms means that remediation work is required to the building. So once a plan is in place, you may be able to sell. However, we must be realistic with the situation at your building, and you are still quite a long way off from that point. Once we have the above, the cost implications will be known, and you may be able to sell. If there is still an increased insurance cost, you should declare this to your solicitor.

Why does the board need to verify the charges?

The Network Homes board does not need to verify the charges – we've now met with the managing agent to confirm them. What the Network Homes board will decide on is if we are going to charge residents the full increase and/or if we are able to take on some of the burden.

Why should we get into debt over this?

We're doing what we can to avoid this. However, as we aren't the freeholder or managing agent, we're not able to obtain our own insurance or set service charge levels. We're still waiting on a decision from our board on whether we will recover the cost of the increase. If that is what they decide, we will support you in putting a payment plan into place.

As we are shared ownership, I assume we are not responsible for the full insurance increase and that it will be proportioned according to our % share. It would be incredibly unfair of you to expect us to pay 100% if we do not own 100%.

You will pay the amount stated in your lease – this normally means you will cover 100% of service charges. The Building Safety Act does offer provision for shared owners to pay only their share for non-cladding related remediation costs, but we're not aware of any provision for insurance payments. If the government does state in the future that insurance costs are also included in the Act's provisions, then we will only charge shared owners for their share.

We don't have several thousand pounds extra to pay for the insurance. Shouldn't Network Homes and HEB Assets foot the additional cost as the increase is not caused by leaseholders but caused by the dispute between the Freeholder and head landlord (Network Homes)?

We are pushing for the freeholder to carry out their legal duties, as directed by government guidance released since Grenfell. We are pushing them to proceed and they have failed to do so. We are not delaying the process, we are trying to get the best outcome for ourselves and residents, based on the accurate legal position.

How much extra per year per leaseholder are we talking about approximately? 7k ,21k, 28k, 35k, 50k or more? Please provide a rough figure so we know how much debt you are trying to attach to us. It's unreasonable to just say several thousand and not say how much.

We'll send you accurate annual insurance costs once we've had feedback from our board. We expect this to be in June. I can confirm that the highest amount in the list of new charges is around £5,000.

The insurance increase should be reasonable. The increase is not reasonable and law allows leaseholders to challenge unreasonable increases. How do we challenge the increase?

You are able to take the managing agent to the First Tier Tribunal (Property Chamber) to dispute the charges. If you do decide you would like to do this, we would like to work with you.

Is it just a 500% increase? On the letter it was more like 700%.

The figures we shared in the letter represent the policy cost for the whole development. The specific costs we have seen from the managing agent for Network Homes properties (not including the other buildings or commercial properties) represent a circa 500% increase. We will share specific costs with you in June once our board has made a decision on whether we can offer financial support.

Communicating with you

The letter you sent was dated the 14th April and the policy was active on 15th April, why weren't we given any advance notice of this change?

We were notified of this insurance increase on 23 March 2022 and first we began to see if this was something we could influence or change. We needed to check these costs were legitimate and meet with Wembley Properties to determine how they have reached these costs. Once we had done this, we then wrote to you before the policy started. We also wanted to ensure that our letter was as clear as possible and prepare for this webinar, so we took some time to prepare our communications.

Why have we not been party to any of the fire brigade meetings or provided with any notes?

As we are the head lessee of your homes, we have the responsibility to try and progress this issue with the managing agent/freeholder. If we are to pursue the managing agent or freeholder legally, we must protect our position and therefore sharing sensitive information could jeopardise our case. We will always share the latest position on the project with you, but are not able to share meeting notes/documents in case we need them for a legal case.

When will you be sharing the letter to Lord Greenhalgh with us please?

Since we wrote to you, we have sent the letter – we ended up writing to Michael Gove, Secretary of State for Housing rather than Lord Greenhalgh, Building Safety Minister. This is because Mr Gove had spoken publicly about increasing insurance costs and had asked the Financial Conduct Authority to investigate. We therefore thought it was better to write to him. You can read it here: <https://www.networkhomes.org.uk/media/14341/20220422-letter-to-michael-gove-insurance-sent.pdf>.

Will there be a follow up webinar? There is a real concern that Network Homes will disappear and not follow-up appropriately.

We will communicate with you regularly about this situation and once there are further developments, we will hold a webinar when we have something complex to explain to you and give you an opportunity to ask questions.

Network Homes is also a leaseholder in Tabriz and Shams. It is in our best interest to resolve this situation. Please be assured that we are doing everything we can to follow-up with HEB and try and get this sorted.

Please could an online working document that we have visual access to be made available of a timeline of future actions please? So that we are up-to-date, therefore lowering our anxiety about this situation.

We will continue to update residents whenever there is something confirmed which we can tell you. At the moment, we're not able to share a timeline of future actions as there is too much uncertainty in this situation. We have however committed to updating you in June regarding the board position and will then be updating you every quarter going forward. We will also publish all communication with you on our website: <https://www.networkhomes.org.uk/your-home/my-building-fras-documents-and-newsletters/?Search=tabriz&Category=&Updated=>.