

Questions & Answers

(Embargoed until 4pm Monday 17 May 2010)

1. What is a leaky home?

- A. The term "leaky homes" refers to those buildings where water has penetrated the building envelope or cladding system and is not able to drain or dry for some time. The problem affects apartments, townhouses and stand-alone homes, mostly built between 1992 and 2005.

2. How many leaky homes are there estimated to be in New Zealand?

- A. In July 2009, a PricewaterhouseCoopers report commissioned by the Government estimated that between 22,000 and 89,000 homes were affected in New Zealand with a consensus forecast of 42,000 dwellings that are likely to be leaky homes. This includes standalone homes and units within complexes.

3. Are the figures in the PricewaterhouseCoopers report accurate?

- A. The Government is satisfied the process was robust and the data used was reliable and the best available.

The consensus forecast of 42,000 is derived from the analysis of hard data and the views of industry experts who were consulted about this report. The forecast does not, and never has, represented an "official" forecast but the Government has accepted these findings. The report suggests that only a minority of leaky homes – around 3,500 – have been repaired to date.

4. Where are most leaky homes in New Zealand located?

- A. The six local authorities most affected by the leaky homes issue are Auckland City, North Shore, Waitakere, Tauranga, Christchurch and Wellington.

The current dwellings, which are the subject of Weathertight Homes Resolution Services Act claims, are located in:

- Greater Auckland area: 75 percent of total dwellings under claim
- Wellington: 9 per cent of total dwellings under claim
- Tauranga: 4 per cent of total dwellings under claim
- Christchurch: 4 per cent of total dwellings under claim
- Queenstown: 0.1 per cent of total dwellings under claim

The social, economic and health costs of leaky homes are affecting New Zealanders. The scale of the leaky homes issue is equivalent to a natural disaster of huge proportions and it is having a considerable impact on the wealth and health of many thousands of New Zealanders and their families.

5. What is the Government's proposed financial assistance package for homeowners with leaky homes?

- A. The financial assistance package will see the Government meeting 25 per cent of eligible homeowners' agreed repair costs on receipt of work done, with local authorities contributing 25 per cent and homeowners funding the remaining 50 per cent, backed by a loan guarantee underwritten by the Crown, provided applicants can meet bank lending criteria.

6. How much will the Government's share of the financial assistance package cost the taxpayer?

- A. The Government is anticipating its share of the financial assistance package will be around \$1 billion over five years. This is based on an estimated 70 per cent of affected homeowners within the 10-year liability limit taking up this package.

7. How many homes will be fixed if the estimated 70 per cent of eligible dwellings take up this financial assistance package?

- A. Officials estimate there are 23,500 eligible households, so if as officials predict 70 per cent of them take up this financial assistance package that equates to 16,450 leaky homes fixed.

8. Where does the estimate of 23,500 eligible households come from?

- A. In July 2009, a PricewaterhouseCoopers report commissioned by the Government gave a consensus forecast of 42,000 dwellings that could have been affected by the leaky homes issue. At the time of the report, around 9,000 of these homes were estimated to be outside the 10-year liability limit. The report estimates only a minority of all leaky homes – around 3,500 – have been repaired to date, which leaves a total of 29,500 households. Officials estimate a further 6,000 dwellings have fallen outside the 10-year liability limit since the report was produced, which leaves a total estimated 23,500 eligible dwellings to be fixed. These figures include standalone homes and units within complexes.

9. What are some of the health impacts of leaky homes?

- A. Damp and some mould or fungi can have serious health implications for people living in a leaky home and can worsen the symptoms of illnesses such as asthma, bronchitis and other breathing disorders. In addition, some fungi which grow within wet wall cavities are toxic and may cause flu like symptoms.

A book published last year by University of Otago Professor Philippa Howden-Chapman says the significant personal mental and physical health costs of leaky homes are conservatively estimated to be \$26 million a year.

For more information about the health effects of leaky homes visit <http://www.consumerbuild.org.nz/publish/leaky/leaky-health-risks.php>

10. How does this financial assistance package fit with the current Weathertight Homes Resolution Services Act?

- A. The financial assistance package announced by the Government is another option for owners of leaky homes to get their homes fixed. It will be in addition to the current disputes and litigation process. In exchange for a combined government and local authority direct payment of 50 per cent of agreed repair costs, those homeowners who participate in the package forgo the right to sue local authorities or the Crown. Homeowners still have the option to pursue other liable parties such as builders, developers and manufacturers of defective products.

11. What if an affected homeowner has already lodged a claim under the Weathertight Homes Resolution Services Act – can they still apply for the financial assistance package?

- A. It is the intention that homeowners who currently have unresolved claims in the system will be able to apply for the financial assistance package.

12. Who will be eligible to apply for the financial assistance package?

- A. Those affected homeowners who are eligible under the Weathertight Homes Resolution Services Act 2006 will be able to apply for the financial assistance package.

We expect the eligibility criteria for access to current services will continue to apply, i.e. the dwelling is used as a private residence; it is up to 10 years since construction or alterations that have leaked; there is water ingress (leaking); the leaking has caused damage.

Local authorities will not be making a contribution to repair costs if they were not involved in the building work (i.e. where inspection and sign-off was done by a private building certifier). However, owners in those cases will still be eligible for government assistance.

Bank lending criteria will need to be met. Details of these criteria are still to be worked through and agreed with the major retail banks.

13. When will the Government's new financial assistance package be available?

- A. Local authorities have been invited to participate and asked to respond to the Government's offer by Monday 31 May 2010. If the local authorities accept the Government's offer, the Government will begin working through the complex details with the parties involved.

The Government is aiming to have the new package up and running by early 2011. However, there is a lot of work with local authorities and banks to be done to achieve this.

In the meantime, homeowners can apply to the Department of Building and Housing to make a weathertight claim. If their claim is accepted, that 'stops the clock' on the 10-year limitation for claims.

The length of time it will take for homeowners to access the financial assistance will depend on their individual circumstances. However, it is expected to be a lot faster and less costly than the disputes and litigation process.

14. What if a house wasn't signed off by a local authority and was signed off by a private building certifier instead?

- A. Eligible homeowners will still get the Government's 25 per cent contribution to agreed repair costs but the local authorities will not be liable for the other 25 per cent therefore the homeowner will need to fund the remaining 75 per cent. The Government will still underwrite a loan guarantee for the 75 per cent, provided the applicant can meet bank lending criteria.

15. Will there be enough builders (and other specialists, including assessors) to meet any surge in demand?

- A. There is currently spare capacity in the building sector as a result of the recession and the flow on downturn in building activity. The proposed financial assistance package will provide some much needed stimulus for the sector and enable it to maintain skills and capacity.

Experience of remediation work suggests the increase in building work from the proposed financial assistance package will be spread over several years. This is because assessments need to be completed, consents sought and approved and contracts let, and so on.

The Department of Building and Housing already has plans in place to increase the number of assessors available to manage the anticipated increase in demand.

The Department of Building and Housing is also preparing information and guidance for designers targeting how to comply with the Building Code when designing remediation works for a leaky building.

16. Will investors who own leaky homes be able to apply the financial assistance package?

- A. Yes, like other homeowners, investors will be able to apply for the financial assistance package. The important thing is to get these homes fixed for the benefit of those living in them.

17. How is the Government ensuring an issue like leaky homes does not happen again?

- A. The Building Act 2004 made changes that ensured the leaky homes problem will not arise again. These measures were aimed at reducing the risk of building failures and increasing the skills of those working in the building industry, and include accreditation of building consent authorities, introduction of licensing of building practitioners, a review of the building code and product certification. In addition, a specific building standard relating to weathertightness became effective in February 2005.

The absence of new claims relating to houses built in the past five years, since the Building Act reform occurred, is a clear indication that leaky homes are not still being built.

This is backed up by the PricewaterhouseCoopers report conducted last year, which assessed the extent of the problem.

18. Why has it taken so long for the Government to make this offer?

- A. This Government has been working on an alternative approach to leaky homes since it took office. Our commitment has been to find a way to get more homes fixed. This is a large and difficult issue and its taken time to work through the options. There is no single 'silver bullet'.

The earlier proposal, discussed with local authorities last year, was developed in the context of the recession. Treasury forecasts for an economic recovery are now more optimistic than before Christmas and the Government is in a slightly better position financially. As a result it has made the decision to prioritise the leaky homes problem.

19. Why should taxpayers/ratepayers subsidise the financial assistance package?

- A. There is no easy solution to this problem. This package is about spreading the costs as evenly and fairly as possible to get action. The priority is getting homes fixed and moving beyond the current state of endless disputes and litigation – the only ones winning out of the current system are the lawyers. Getting this done and spreading the financial burden may not be popular with everyone but this is a New Zealand-wide problem that this Government is not willing to walk away from, even though it is not liable in law.

This is a massive issue for many thousands of New Zealanders and their families who are suffering the social, health and financial impact of leaky homes. This solution provides another way of helping New Zealand out of this bind.

20. Why not extend the 10-year claim limit – what if you don't discover a problem until later?

- A. The Government has considered this issue and has decided to leave the 10-year limit as it stands. The 10-year limit is well established in law and puts a necessary boundary around claims. The more time passes, the harder it is to identify the causes of damage to homes.

21. With local authorities facing budget constraints, won't ratepayers be left footing the bill?

- A. Ratepayers are already footing the bill as local authorities currently carry a significant liability and risk. They are also footing the legal bill from the costly

litigation process. Some local authorities have already made provision for rates increases to carry the cost of their claims. This proposal provides a means for ratepayers to manage the cost imposed by the leaky homes problem in their district through capping liability and creating certainty.

The Government is leading the development of a fair solution that has the taxpayer contributing to the costs faced by homeowners and ratepayers.

This is about New Zealand helping people move on by getting more homes fixed.

22. Why can't the Government pay its share now – why does it have to wait for local authorities or banks?

- A. This problem is too big for any one party to shoulder alone, including the Government. It requires a concerted effort. The Government's contribution is insufficient on its own to achieve the result required to help get more leaky homes fixed.

23. What commitment have retail banks made?

- A. The eight retail banks have been briefed on the financial assistance package and have indicated their willingness to work with the Government on developing the details of the proposal. Any final commitment from the banks will be subject to this detail being developed and agreement of their respective approval authorities and boards.

24. Why doesn't the Government consider pursuing those architects/builders/developers responsible for leaky homes that have since wound up their companies?

- A. The Government has no role in pursuing claims on behalf of claimants. The main priority for government is to assist those affected homeowners to get their homes fixed effectively and quickly.

25. What about the companies responsible for producing inferior cladding products – shouldn't they be held responsible?

- A. Manufacturers of defective products will still be able to be pursued to obtain financial redress.

26. What if a local authority doesn't participate?

- A. For the package to work, and be viable, it will be critical for the key local authorities that are most affected by the leaky homes problem to agree to participate.

It does not require all local authorities, and some may opt in at a later stage. Where local authorities are not part of the package, the support to affected homeowners will be limited to government contributions and loan guarantee assistance with no contribution from the local authority.

In this case, the homeowner retains the option to sue the local authority and other parties if they so wish.

27. Is the Government liable for the problem?

- A. The Court of Appeal has held that the Government has no legal liability. Issues can be laid at the doorstep of a lot of people and organisations, but the blame game has been played for too long.

This Government-brokered solution brings the parties together, but requires the cooperation and agreement of local authorities, homeowners and support from retail banks.