



## **Historic England draft advice: *Insuring historic buildings and other heritage assets***

### **Historic England consultation**

Date: 3 September 2018

#### **Preface**

1. This is a consultation draft of new Historic England (HE) advice, aimed at owners, professional advisers, and others. It is a somewhat-updated version of draft advice circulated for consultation in 2008, but not then published.
2. The CLA commented on the 2008 version. We find this 2018 draft broadly helpful, but point out ways it can be improved to the benefit of heritage as well as owners.
3. The CLA put resource into responding in 2008, and has done so again in 2018. We hope that Historic England will publish the advice this time.
4. This consultation can be found at or from <https://www.historicengland.org.uk/about/what-we-do/consultations/guidance-open-for-consultation>.

#### **The CLA**

5. CLA members manage over half the land of England, and at least a quarter of all heritage. The CLA is by far the largest stakeholder body of managers and owners of heritage.
6. CLA members therefore insure hundreds of thousands of buildings and sites within the scope of this consultation. These include very large heritage sites, but most are relatively modest buildings, Grade II listed or unlisted.
7. Some CLA members buy property insurance through CLA Insurance Services (CLAIS).

#### **Introduction**

8. The sixth paragraph acknowledges an issue which needs to be addressed, that this advice is aimed almost entirely at large heritage assets (sentences like “historic houses often form the core of a large estate...” on page 7 for example tend to suggest that the document has little relevance to owners of, say, small terraced houses!)

9. It is obviously important to provide advice for those who manage large heritage assets, like church bodies and owners of big country houses, especially because the issues identified in this document apply most to these owners. But if the advice is directed only at such owners it needs to be retitled, or – given that those are a minority of all owners of heritage assets – it could face “unclear-audience” criticism of the kind identified in the Pye Tait report prepared for Historic England in 2017.
10. **A better answer obviously would be to cater both for owners of large heritage assets and also for owners of more modest heritage assets, probably by adding a separate new chapter specifically devoted to the latter.** That chapter would need to address the question of how specialist the insurance of such heritage assets really is. The insurance of (say) a modest terraced house which is listed or in a conservation area probably does not require a specialist broker, site visits, and bespoke drafting, and all the associated costs, and it may be possible to use comparison websites and standard insurance policies, but the advice needs to suggest effective ways of doing that and the pitfalls which need to be avoided.
11. The discussions of risk management and of records probably belong later in the document, not the introduction.

## 1.0 Obtaining insurance

12. As above, this chapter would be easier to write, and then easier to read, if the insurance of more modest heritage assets had already been treated elsewhere, and this chapter could focus straightforwardly on larger heritage assets.
13. It might be better to move chapter 2, which is a relatively straightforward introductory discussion of reinstatement cost, ahead of the central section of Chapter 1, which is largely about ways of not simply insuring at full reinstatement cost. The advice would then cover first the conventional approach of going to a conventional broker and simply insuring for full reinstatement cost, and then after that go on to discuss the other approaches (as described in the central part of chapter 1) which can be followed either because the requirement is more bespoke, or because the cost of insurance for full reinstatement cost is unaffordable for the owner or the building (in the sense that there would be insufficient money left for its maintenance).
14. **This section on ways of reducing the cost of insurance would benefit from expansion**, and some clarification (some users might not wholly understand all of the concepts in this section, for example indemnity cover, from the descriptions given).
15. This chapter would then benefit considerably from a much clearer hierarchy of headings and subheadings. For example, the final paragraph on page 14 needs a subheading.
16. The planning and heritage constraints on rebuilding are an important factor. It is difficult to know where to place this, but it needs to be covered in detail earlier than in Chapter 5. For more on this, see 25 to 33 below.

## 2.0 Reinstatement cost assessment

17. As noted in 13 above, the content of this chapter probably belongs before the middle part of chapter 1.
18. The main issue here is the way in which reinstatement costs are assessed. One way of doing this – as the draft recommends in 2.2 – is to employ a chartered quantity surveyor accredited in building conservation and familiar with reinstatement cost assessment to carry out reinstatement cost assessments based on a very detailed site survey, and to update these frequently. That may give reasonably accurate figures. The problem is that most owners and professionals are almost certainly not doing this, because it is expensive, and therefore seen as disproportionate. We suspect that most professionals or owners producing reinstatement cost assessments are working from BCIS or equivalent figures not designed for heritage assets. This must give a considerable risk of substantially-incorrect reinstatement costs being used in large numbers of cases.
19. The recommendations in 2.2 may seem ‘safe’ for Historic England, but if they not actually being followed in practice they are not safe for heritage assets. They are likely to lead to underinsurance, which – especially unplanned and unexpected underinsurance – is likely to cause substantial problems for owners and for heritage assets whenever claims arise.
20. **A better solution is required.** There seem to be two potential solutions:
  - (i) Section 2.2 could set out, in some detail, ways in which BCIS figures could be adjusted by users to give reasonably-accurate reinstatement cost figures for heritage assets, perhaps using a series of adjustment factors. Many people are clearly already adjusting BCIS figures, and it would be better to base these adjustments on sound advice devised by Historic England rather than on guesswork.
  - (ii) BCIS and/or Historic England could produce reinstatement cost figures expressly designed for heritage assets. This has of course been suggested over many years.
21. If (i) is felt to be too risky, that would provide a strong argument for (ii). Doing nothing does not seem a safe option.

## 3.0 Reducing risk

22. The first paragraph implies (presumably unintentionally) that heritage assets are poorly-built, poorly-managed, and fire-prone; this would benefit from redrafting.
23. The rest of this section generally appears helpful.

## 4.0 Making a claim

24. The last paragraphs of 4.4 need some redrafting, and should be linked to the discussion of legal requirements currently in Chapter 5.

## 5.0 Appendix

25. As above, these issues need to be addressed earlier in the document, rather than in an appendix.
26. The discussion here of the implications of designation (by listing, or by inclusion in a conservation area) is fairly basic, and it does not directly deal with unlisted heritage assets not in conservation areas.
27. More importantly, it takes limited account of how this applies to insurance, and very little account of the realities of a situation in which a building has been damaged or destroyed. The 2008 draft, though not perfect, had more discussion of this.
28. In particular, if just one small element of a building is damaged, like-for-like repair would probably be the right answer, but total destruction of one element, or damage to many elements, or of course destruction of the building or a large part of it raise a number of real and sometimes controversial issues. From a conservation viewpoint, even experts often disagree – sometimes vociferously – on the optimum solution: should Uppark or Clandon or the Glasgow School of Art be restored like-for-like, or rebuilt in a contemporary style, or be demolished on the basis that doing anything else would (to use Morris and Webb’s words in the SPAB Manifesto) create “a lifeless forgery”? Practical questions also arise. Do you rebuild exactly as before, for example with no foundations and with cow-dung in the walls? Do you follow modern Building Regulations? Do you incorporate C21st measures like insulation? What if the building was unsuited to modern use, or it might be logical to rebuild something rather more likely to keep the building in (to use a Historic England and NPPF term) optimum viable use?
29. All these questions obviously have significant implications for insurance, including for reinstatement costs.
30. **Historic England and its advice should definitely not take a prescriptive ‘one-size-fits-all’ line on what should happen following damage to a heritage asset**, partly because that could be controversial as above, but mainly because the circumstances vary very much from one case to another.
31. But silence is not helpful: **this advice should set out the issues**. It needs to explain the legal background, ie pointing out the legal requirements for listed building consent, planning permission, Building Regulations approvals, etc, and the possibility of urgent works notices, repairs notices, s215 notices, and so on, roughly as in the draft but probably in a little more detail.

32. **It then needs some discussion of the issues that can arise as to what can or should be rebuilt, and how.** It needs to explain that in practice, unless the work is no more than like-for-like repair, these questions are decided through the planning consent and/or listed building consent processes, against the background of the NPPF and Historic England and other guidance and advice. The 2008 draft did discuss this quite helpfully in Section 2, but much of this seems to have been excluded from this 2018 draft, which is unhelpfully silent on these issues. In particular it needs to be clear that there is a point – especially if most of all of the building’s significance has been lost – at which repair should not be required, but again this should not be too prescriptive – if an owner wishes to repair, or an insurer requires this if it is to pay out, artificial presumptions or percentage degrees of loss should not prevent that.
33. In the third paragraph on page 36, the second sentence should probably read “...is a ruin or lies...”.

## 6.0 Where to get advice

34. This seems generally helpful.

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