

Housing, Communities and Local Government Committee

House of Commons, London SW1A 0AA

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Kit Malthouse MP
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24 April 2019

Dear Kit,

Thank you for your letters of [20 March 2019](#) and 11 April 2019 regarding the building regulations and the recent progress of the Government's Building Safety Programme.

Remediation

In your most recent letter, you reported that remediation of private and social residential buildings over 18-metres with ACM cladding systems unlikely to meet the Building Regulations was complete in 87 (or 20%) of the 437 buildings which have been identified. Remediation works had begun in a further 25% of affected buildings, with plans and commitments in place for 44%.

The Committee is concerned that progress in remediating these buildings has been far too slow, particularly in the private residential sector. The [Building Safety Programme: Monthly Data Release](#) for March 2019 showed that just 10 buildings (of 166) in the private residential sector had been fully remediated so far, with only a further 10 having started remediation works. One in 5 buildings in the private residential sector still have no remediation plan in place at all, while another 20% report merely "an intent to remediate". Almost two-years on from the fire at Grenfell Tower, this does not suggest that building owners are addressing this issue with the urgency that is required.

- Will the Government set a deadline by which it expects all affected private and social residential buildings over 18-metres with ACM cladding systems to be fully remediated?

Non-ACM testing and remediation

It is right that the Government has also commissioned research from the Building Research Establishment (BRE) into non-ACM cladding materials and we are grateful that you have said that the Government takes this issue very seriously.

However, it is concerning that the research has not yet commenced because, as you highlighted in your letter of 11 April, the test rig was damaged and has needed to be repaired. It seems very surprising that damage to a single test rig would delay such important work and, again, unfortunately, suggests that this work is not progressing with the priority and urgency that is needed.

Industry experts at Rockwool have estimated that there could be a very high number of buildings affected by potentially dangerous non-ACM cladding. While your letter of 20 March makes clear that the Government does not agree with the methodology which led Rockwool to estimate that there could be 1,678 at-risk buildings with non-ACM materials, it is nevertheless worrying that the Government does not yet have a clear understanding of the full scale of the problem or clear timescales by which it will.

- Does the Government expect to complete the testing of non-ACM cladding materials before the summer?

Further, the Committee has received correspondence from Rockwool, enclosed with this letter, highlighting concerns that the bespoke new methodology for the testing of non-ACM cladding materials is not satisfactory. They noted that there were no success or failure criteria by which to measure how a material has performed, no accounting for the role of combustible insulation in affecting the way cladding burns and no measurement of smoke toxicity. Rockwool were concerned, therefore, that this test will neither provide any useful fire safety information nor accurately estimate the risks of non-ACM cladding.

It is clearly vital that the tests undertaken by the BRE on behalf of the Government have the confidence of the entire industry and, by extension, the residents of the buildings affected. In our July 2018 report, we recommended that the Government should work with fire safety experts and the industry to agree a new testing regime that has much wider support and can be fully trusted.

- Does the Government have any plans to work with the wider industry to agree a new testing methodology that commands much greater support and confidence?

Leaseholders

As we have said on several occasions, we are disappointed that the Government has not taken stronger action against freeholders and developers who have sent large bills to leaseholders. During our recent inquiry into Leasehold Reform, many leaseholders wrote to the Committee to tell us about the extremely high bills they have been sent for remedial work and the consequential difficulties they have faced in re-mortgaging and selling their properties.

It is an issue we have raised repeatedly with Ministers, including during our evidence session with you on 28 January 2019 ([Q507](#)). While it is encouraging that some building owners and developers have agreed to fund remediation works in recent months, far too many continue to refuse to do so.

Over the last 18 months, Ministers have repeatedly said that they will “rule nothing out” in terms of what they are willing to do to intervene on behalf of leaseholders, including in your letter of [19 February 2019](#). With the rate of remediation in the private residential sector so low, the Government will soon need to start acting on this promise.

We recognise that, in many cases, the freeholder will not have a clear legal obligation to pay for remedial works. Further, developers and freeholders have argued that that they were acting in accordance with Approved Document B or with the approval of Local Authority Building Control. These are legal disputes which will need to be resolved. However, they cannot stand in the way of these buildings being remediated as quickly as possible.

- Will the Government reconsider our recommendation to introduce funding for private sector building owners, to ensure that remedial work is carried out as quickly as possible?¹
- Of the 20 private residential buildings where remedial work has been started or completed, how many freeholders have charged leaseholders for this work?
- Of the remaining 146 private residential buildings where remedial work has not started, how many freeholders have charged leaseholders for mitigating measures, such as fire wardens?

Local authority powers

In November 2018, the Government announced that it would support local authorities to take emergency action where private sector building owners were refusing to remediate high-rise buildings with unsafe cladding. The Government laid an addendum to the Housing Health and Safety Rating System (HHSRS), providing specific guidance on the assessment of high-rise residential buildings, and local authorities were encouraged to approach MHCLG if they needed

¹ Para 86, [Independent Review of Building Regulations and Fire Safety: next steps](#), HCLG Committee, July 2018

financial support to take emergency remedial action.

As I noted in my letter of [25 February 2019](#), the Committee was concerned that these powers would not be sufficient to facilitate the urgent remediation work that is required. It has now been five months since the Government implemented these powers and made its offer of financial assistance to local authorities, so it would be a good time to assess the effectiveness of these changes.

- Since November 2018, how many local authorities have used their new powers to undertake emergency remedial work on private sector buildings?
- How many local authorities have received financial assistance from the Government to undertake this work? For what measures, specifically, is the Government willing to offer financial assistance to local authorities? Will it seek to reclaim any funding in the future?

Further, we would be grateful for clarification on two issues relevant to the new powers:

- Where local authorities are successful at recovering money from freeholders, what should they do to ensure that freeholders are not able to pass the bill on to leaseholders?
- Local authorities are required to intervene where a Category One hazard is identified under the HHSRS. However, what powers do local authorities have to require emergency action where only a Category Two hazard is found? In such circumstances, leaseholders may still be required to fund round-the-clock fire wardens and face difficulties selling their properties.

The Committee is grateful for your transparency and regular updates on this important work. However, we feel the Government needs to act with much greater urgency to ensure that unsafe cladding is removed from residential buildings without further delay and guarantee that leaseholders are not left to pay for the mistakes of their developers, freeholders and managing agents.

A handwritten signature in black ink, appearing to read 'Clive Betts', with a large, stylized initial 'C' at the start.

Clive Betts MP
Chair, Housing, Communities and Local Government Committee