



Ministry of Housing,
Communities &
Local Government

Clive Betts MP
House of Commons
London
SW1A 0AA

Kit Malthouse MP
Minister of State for Housing

*Ministry of Housing, Communities & Local
Government*

Fry Building
2 Marsham Street
London
SW1P 4DF

Tel: 0303 444 3430
Email: kit.malthouse@communities.gov.uk

www.gov.uk/mhclg

Our Ref: 4309952

16 July 2019

Dear Clive,

Thank you for your letter of 25 June continuing our correspondence regarding building regulations and fire safety. I am looking forward to giving evidence to the Committee on 22 July, and presenting the progress the Government has made to ensure that residents of high-rise buildings are safe, and feel safe, in their homes.

You raise the issue over the clarity of the provided definition for responsible entities. The Government's position remains that the responsibility for making buildings safe lies with the responsible entity that has the legal obligation to carry out the works and the legal right to recover funds (ordinarily) from the leaseholders. This will normally be the building owner but could also be developers, managing agents and enfranchised leaseholders that have a share of the freehold. It could also include a body acting on behalf of the responsible entity.

This does not change the Government's position on protecting leaseholders from the costs of remediation. Our use of the term 'responsible entities' reflects that in some cases primary responsibility for the repair of the property (and rights to recover costs of repair from leaseholders via the service charge) lies with a head leaseholder or managing agent rather than the freeholder.

We have measures in place to ensure that responsible entities do not neglect their duty to apply to the fund for the building(s) they are responsible for. This includes that as part of the fund application, evidence will be required demonstrating that the application is being made by or on behalf of the responsibility entity, which will need to demonstrate that the organisation has responsibility for repairs and maintenance, and (ordinarily) the right to charge leaseholders for the costs of them via the service charge.

I appreciate your concern about financial responsibility for buildings falling upon property managers, some of which are small businesses. We are unable to comment on individual cases, however, the Government's position remains that it will fully fund the replacement of unsafe ACM cladding on private sector high-rise residential buildings, except where the building owner/developer has committed to fund it themselves, or where a warranty claim has been accepted. The fund will fully cover reasonable costs associated with the removal and replacement of unsafe ACM cladding systems. This is what we have committed to do and this is what we will pay for.

Government intervention to fund remediation of ACM cladding is wholly exceptional. It does not remove responsibility for overall building safety from the building owner and if other fire safety

risks are uncovered they must remedy them, or potentially face enforcement action from the local authority.

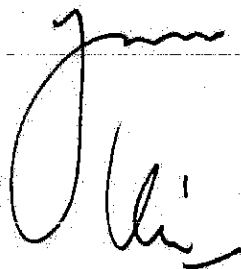
To ensure that remediation now proceeds as swiftly as possible, we have now written to all building owners. We will publish full fund application guidance including eligibility and evidence criteria by mid-July to enable building owners to gather the evidence needed to apply.

Finally you raise the issue of leasehold reform. The Government are committed to reform of the leasehold sector, promoting fairness and transparency for leaseholders and freeholders and ensuring that consumers are protected from abuse and poor service. We recognise the valuable work the HCLG Select Committee has done investigating poor practice in the leasehold sector. As you know, we responded to the Committee's recent report earlier this month.

Turning to the points you make about commonhold. The Government supports the increased use of commonhold. However, as you are aware, it is generally accepted that a number of reforms to commonhold legislation are required to support a wider roll out and take up of the tenure in the future. That is why the Government is working closely with the Law Commission as part of their 13th Programme of Law reform which includes work to reinvigorate commonhold.

As part of this work, on 10 December 2018, the Law Commission launched their consultation which sets out options to make commonhold law more attractive and a workable alternative to residential leasehold. Further details on the call for evidence can be found on the Law Commission website at: www.lawcom.gov.uk/project/commonhold/. The consultation closed on 10 March 2019, and the Law Commission are now analysing responses to the consultation and will be reporting back to Government with recommendations next year.

Thank you again for your letter and your continued advocacy for fair building regulations and fire safety.

A handwritten signature in black ink, appearing to read 'Kit Malthouse', written over a horizontal dashed line.

KIT MALTHOUSE MP