



Housing, Communities and Local Government Committee

House of Commons, London SW1A 0AA

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Kit Malthouse MP
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Ministry of Housing, Communities and Local Government
Fry Building
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25 June 2019

Dear Kit,

Building regulations and fire safety

Thank you for your letter of 23 May and, also, to the Secretary of State for his letter of 10 June, continuing our correspondence regarding building regulations and fire safety.

I am grateful that you have agreed to give public evidence to the Committee on Monday 22 July. This will be a useful opportunity to discuss the consultation the Government has recently launched into its proposals for reform of the building safety regulatory system, as well as to consider the Government's progress in removing potentially dangerous cladding from residential buildings, the new powers granted to local authorities and other connected issues. You may also wish to note that, in advance of our session with you, we will be holding a preliminary public evidence session on 8 July with representatives of survivors of the Grenfell Tower fire, representatives of building owners, and fire and building safety experts.

In advance of these sessions, however, I wanted to raise a specific issue regarding the £200 million fund that has been put in place to replace ACM cladding on high-rise private residential buildings and the Government's definition of who the "responsible entity" should be for these works.

We have been advised that since the announcement of funding for replacement cladding of high rise buildings, the Government has changed its definition of those responsible for carrying out that work from "building owner" to the "responsible entity". The Government now defines "responsible entity" as the entity that has the legal obligation to carry out the works and the legal right to recover funds from the leaseholders. Government advice explains that this will normally be the building owner but could also be the developers, managing agents and enfranchised leaseholders that have a share of the freehold and it could also include a body acting on behalf of the "responsible entity".

I have been informed that, in at least one case, a freeholder has interpreted this definitional change as having effectively been released from its obligations, and is now insisting that the First Tier Tribunal-appointed property manager – a small family business – should be fully, and financially, responsible for the remediation of the affected building.

This has become problematic because there is a lack of confidence that the Government's fund will cover the full costs of remedial work - that there may be a shortfall which could not then be charged on to leaseholders - opening the property manager up to significant contractual and financial risks. In the specific case the Committee has been made aware of, the property manager feels they have no choice but to seek authority from the First Tier Tribunal to relinquish responsibility for the building.

We doubt that this is what the Government intended when it announced the fund or amended the definition of those responsible for carrying out the remedial work. The Committee would be grateful if you could clarify what the Government's intentions were in changing the definition.

The Committee is concerned that the ongoing lack of clarity around the details of the scheme could result in delays to remedial work; in this instance, a building survey has been delayed because the property manager is unsure whether they will be able to recover all their costs.

We would like the Government to urgently clarify whether all associated costs will be covered by the fund and that managing agents and others will not be left with significant contractual and financial risks. We would not want to see good managing agents driven from the market by a badly implemented policy, however well-intentioned it is.

I should also take this opportunity to note that, having recently undertaken an inquiry into the leasehold sector, we are unsurprised by the actions of this freeholder. Far from being the "long-term custodians of buildings", or an "ultimate safety net for leaseholders when things go wrong" - as freeholders claimed to be during our public evidence sessions - too many have no real interest in the safety of their buildings or the welfare of their residents. We look forward to the Government's delayed response to our report and hope that you will agree with us that there is no reason why the vast majority of residential buildings should not, in future, be held in commonhold.

I would be grateful if you could investigate these issues and provide a response to this letter in advance of our public evidence session on 22 July.

A handwritten signature in black ink, appearing to read 'Clive Betts', written in a cursive style.

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