

Julie James AS/MS  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government



Llywodraeth Cymru  
Welsh Government

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John Griffiths AS/MS  
Chair  
Equality, Local Government and Communities Committee  
National Assembly for Wales  
Tŷ Hywel  
Cardiff Bay  
Cardiff  
CF99 1NA

[SeneddCommunities@assembly.wales](mailto:SeneddCommunities@assembly.wales)

27 November 2020

Dear John,

### **Equality, Local Government and Communities Committee Response Letter**

Thank you for your letter dated 30 October regarding building safety in high rise residential buildings.

I intend to launch my building safety White Paper consultation immediately after the Christmas recess to allow for a 12 week consultation period before we go into the planned pre-election period. I look forward to speaking to you more about those proposals in due course.

With regards to the letter you have received from a leaseholder in Prospect Place, I have received many letters and emails from residents of this and other high rise developments across Wales. Their situation is untenable, but one where unfortunately we have few levers.

I am of course sympathetic to the situation they and others find themselves in. People should feel safe in their homes and that is why we have been working with partners, including local authorities and the Fire and Rescue Services, to ensure immediate fire protections are in place. We know that this does not solve this hugely complex issue and Welsh Government is committed to finding a way forward that is right for Wales.

I have repeatedly made clear that building owners and developers should face up to their responsibilities and put right these faults at their own cost, or risk their professional reputation. You will have seen my recent [open letter](#) to developers inviting them to meet with me to discuss how they are engaging with residents of affected buildings and the approach they are taking to remediate defects and ensure such mistakes are not repeated.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Those meetings have already started and I hope collectively we can make progress towards resolution.

With regards to the EWS1 process and form, this was designed by a cross-industry working group (including lenders and industry representatives) led by the Royal Institution of Chartered Surveyors (RICS). This followed UK Government advice regarding external wall systems to ensure buildings over 18m tall could be assessed for safety to allow lenders to offer mortgages. Both the process and form, which are the responsibility of the UK Government are intended to raise awareness of safety-critical elements to a high-rise building and not to create a system where it is difficult to sell, buy, or move.

Whilst the EWS1 form is not currently part of any legislative requirement, it is being used by lenders to obtain assurance when lending against high rise residential buildings. We are aware that there are a number of problems with this process.

Their use is primarily about providing information and assurance to financial bodies to inform lending decisions and as such requires UK Government to lead on addressing these issues. We are however engaged in discussions with the UK Government and the other devolved administrations to ensure the issues affecting Wales are understood and addressed.

Measures currently being considered include producing guidance for lenders and valuers to help them take a pragmatic approach to risk and ensure any additional investigations are focused on the most at-risk buildings. We will communicate any further information when there are developments in relation to this issue.

More information on the EWS1 process is available via the following links on the RICS website, if you wanted to pass that information on:

<https://www.rics.org/uk/news-insight/latest-news/fire-safety/new-industry-wide-process-agreed-for-valuation-of-high-rise-buildings/>

Cladding Q&A - <https://www.rics.org/uk/news-insight/latest-news/fire-safety/cladding-qa/>

Returning to the concerns of the resident who has written to you, I note that they refer to the Building Safety Bill. To clarify, this is UK Government draft legislation which predominantly applies to England only, however, we are working with our UK counterparts with regards to changes in the design and construction phase. As you know, in Wales we are also engaged in a major programme of work to significantly reform our approach to building safety in order to prevent problems such as these occurring in the future. As you will be aware we published a [Position Statement](#) in the summer setting out proposals for a new building safety regime that puts the safety and wellbeing of residents at its heart to ensure people feel safe in their homes. The White Paper in January will go into further detail and provide opportunity for further comment, engagement and discussion.

You have already seen my [written statement](#) detailing the current position on funding and setting out next steps. My officials are currently working up options; however, this is an extremely complicated area and one in which finding the right solution will take time.

We know that residents at a number of existing high rise residential buildings are currently experiencing issues relating to a range of safety issues. Where buildings are within their warranty periods, leaseholders are often able to pursue the costs of remediation through other mechanisms. However, these processes can be long and drawn out, and in the

interim may be costly to leaseholders who may be required to fund enhanced safety measures until there is a longer term plan for remediation.

For buildings outside of warranty periods however, it is often the case that the responsibility for remediating these issues will fall to the leaseholder. Often the main blocker in terms of remediation of these defects is costs and who will (or can) pay. The companies which typically own freeholds do so for their value as long-term, low-yield investments. We have no means to compel them to undertake remedial work at their own financial risk. They have typically asked for up-front contributions from leaseholders before work can proceed. We know that these costs are often prohibitive to leaseholders, meaning there is a stalemate.

Whilst the UK Government has established two grant schemes in relation to Building Safety, providing a total of £1.6bn grant funding, both of these funds relate to the costs of removal and replacement of cladding only. Cladding can often be hiding other issues and without addressing these other issues, such as compartmentation, then we are no further forward. If funding were made available to support the remediation of high rise buildings we would look to develop a fund that allowed more than just cladding to be remediated. We would also consider funding more proactive measures such as the installation of sprinklers where high rise buildings do not have them.

I have taken a consistent and clear stance that I do not believe leaseholders should have to pay to rectify issues that constitute a failure to build to appropriate quality standards or where matters are in breach of building regulations. Neither, however, do I think it is right that the Welsh taxpayer should do so. We remain committed to financial support to help fund remediation in a way that is fair to leaseholders and tax payers.

I have asked my officials to consider the potential for a longer term fund with a full package of measures to support building safety (including cladding, fire breaks, compartmentation, and funding to install sprinklers and detection devices). We are currently exploring ways forward that serve the best interests of both leaseholders and taxpayers, recognising the role building owners also need to play in funding this remediation.

As you will appreciate, these issues are wrapped up in ongoing discussion with regards to future budgets.

This is a complex matter and it is this complexity that is dictating the pace of driving this work forward. It is not a reflection of any lack of commitment to supporting those affected.

Yours sincerely



**Julie James AS/MS**

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