

# MAYOR OF LONDON

## **Clive Betts MP**

Chair of the Housing, Communities  
And Local Government Select Committee  
House of Commons  
London SW1P 2AA

**Date:** 16 September 2020

Dear Clive,

### **Pre-legislative scrutiny of the draft Building Safety Bill**

We welcome the opportunity to respond to the call for evidence on the draft building safety bill and the proposed new regime. Detailed comments are enclosed with this letter for consideration by the Committee.

Building safety is a top priority for the Mayor, and we largely welcome the fundamental changes to the regulatory system that the draft bill proposes. Three years since the Grenfell tragedy, we have not seen enough tangible change and hope the implementation of the new regime will finally protect residents living in buildings of all kinds – and ensure that a disaster such as the Grenfell Tower fire never happens again.

The Mayor's response highlights a number of areas where we believe the Government's proposals need to be clarified or go further. Our asks aim to ensure proposed changes to the regulatory system restore public confidence in the building safety system. Our key asks are:

1. The Mayor asks the Government for reassurances that all buildings that may present a higher fire safety risk to residents, especially vulnerable ones, will still be captured by the new regime even if they do not meet the specified threshold of 18m.
2. The Mayor calls on the Government to review the definition of higher risk buildings to include all supported accommodation, as well as residential care homes, regardless of height, because of the vulnerable individuals they house.
3. The Mayor asks for assurances that the building safety charge will not be used to cover remediation works associated with safety defects resulting from the failings of the current regulatory system. This applies to both costs associated with the removal of unsafe cladding, as well as other non-cladding remediation works.
4. The Mayor also asks for assurances that any enforcement action taken by the Regulator that results in a fine will not be passed on to leaseholders under any circumstances, either through the building safety charge or the service charge.

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5. The Mayor asks for clarity on the protections that will be in place for leaseholders, including expectations around transparency, communication and consultation.
6. The Mayor asks for clarity on the mechanisms used for monitoring existing buildings, and assessing the adequacy of timelines for implementation, to avoid unjustifiable delays in remediation work and give confidence to the Mayor, local and central Government and the public alike that progress is being made
7. The Mayor asks for greater clarity on the involvement of residents and leaseholders in monitoring processes.

This submission should be read in conjunction with the London Fire Brigade's response and we ask you to consider their submission carefully.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Tom Copley', with a stylized flourish at the end.

**Tom Copley**  
Deputy Mayor for Housing and Residential Development

## Mayor of London submission to Government's call for evidence on the Draft Building Safety Bill

### 1. Scope of buildings covered by new regime

- 1.1 The Mayor welcomes the proposal in the draft building safety bill to target reforms at "higher risk buildings," defined as multi-occupied residential buildings of 18 metres or more, including student accommodation and mixed-used buildings with two or more dwellings. It is disappointing, however, that this definition is overly reliant on height as a proxy for risk and excludes supported accommodation buildings below 18m or six storeys in height. The definition also excludes residential care homes of any height.
- 1.2 It is widely accepted within the construction and homebuilding sectors that fire risk is the result of an interaction of various factors, including the profile of residents, as well as design and construction characteristics. In light of this, the Mayor has long advocated for the new regulatory system to offer protections for any residential and non-residential buildings where vulnerable people sleep, such as specialised housing, care homes, supported living or sheltered/supported housing and hospitals. London Fire Brigade (LFB) data on fire incidents in 2019 shows that roughly half of all injuries in "other residential buildings"<sup>1</sup> took place in properties that were used to provide care for the elderly. In 2019, out of 294 fires in other residential buildings, 76 took place in retirement/old persons homes and 59 in nursing/care homes/hospices. While we understand that taller buildings present specific risks for residents, in terms of evacuation and access of fire and rescue services to flats, this data suggests height may not always be a decisive factor in determining safety.
- 1.3 Additionally, it is worrying that the Government is proposing different height triggers across the new regulatory system, having confirmed the intention for sprinklers to be mandatory for buildings of at least 11 metres, and having proposed lowering the ban for combustibles from an 18 metre to an 11 metre threshold (although the Government's response on the combustible ban consultation has not yet been published). The sprinklers requirements and combustible ban legislation are therefore likely to be inconsistent with the building safety bill proposals. Varying height thresholds will undermine the Government's objective of clarifying building safety expectations with the overhaul of the current system.
- 1.4 The Mayor asks the Government for reassurances that all buildings that may present a higher fire safety risk to residents, especially vulnerable ones, will still be captured by the new regime even if they do not meet the specified threshold of 18m. We need to transition away from a single measure based on an arbitrary trigger height, and give way to a risk based approach that considers other design and construction characteristics (such as the existence of sprinklers) and captures the inherent risk to users that each particular building could present. All residents should have confidence in the safety of the building they live in, and to be effective, the new regulatory system must be based on a comprehensive approach that takes into account the diversity of the population, not just singular building characteristics.

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<sup>1</sup> This covers places of communal living and buildings where people receive care, such as care homes. It also includes short term accommodation, such as student halls, hostels and hotels. Data available here: <https://data.london.gov.uk/dataset/lfb-fires-in-london-1966-2019---fire-facts>

- 1.5 At a minimum, the Mayor calls on the Government to, from the outset of the new regime, review the definition of higher risk buildings to include all supported accommodation, as well as residential care homes, regardless of height, because of the vulnerable individuals they house.

## **2. Building safety charge**

- 2.1 In the aftermath of the tragic fire at Grenfell Tower, questions were raised around whose responsibility it was to pay for essential safety works to correct mistakes that the current regulatory system failed to identify and prevent. The Mayor has long advocated for the need to protect leaseholders from shouldering these costs and has called on the Government to fund cladding remediation, as well as non-cladding remediation works, such as retrofitting sprinklers or other suitable fire suppression systems, and to cover the cost of interim safety measures. The GLA's Comprehensive Spending Review submission will ask the Government for at least an additional £1.3-1.6 billion to fully fund the removal of unsafe materials from London's buildings.<sup>2</sup>
- 2.2 It is therefore disappointing to see that the draft building safety bill proposes a new charge to cover urgent building safety works including remediation of fire safety defects. Not only do leaseholders already face anxiety and fear from living in an unsafe building, and have to cover the cost of waking watches and other measures, but they are now also having to deal with the prospect of exorbitant costs to rectify others' past mistakes.
- 2.3 The Mayor asks for assurances that the building safety charge will not be used to cover remediation works associated with safety defects resulting from the failings of the current regulatory system. This applies to both costs associated with the removal of unsafe cladding, as well as other non-cladding remediation works.
- 2.4 The Mayor also asks for assurances that any enforcement action taken by the Regulator that results in a fine will not be passed on to leaseholders under any circumstances, either through the building safety charge or the service charge.
- 2.5 Lastly, the Mayor asks for clarity on the protections that will be in place for leaseholders, including expectations around transparency, communication and consultation.

## **3. Enforcement measures**

- 3.1 It is imperative that the new system increases the accountability of building owners to adhere to building safety standards, and the Mayor supports the draft bill's measures to strengthen the enforcement and sanctions regime. In particular, we welcome the enforcement powers given to the new Building Safety Regulator, and the tougher penalties imposed on those in breach of the expectations of the new regime.
- 3.2 However, the Mayor is concerned about the mechanisms available for monitoring existing buildings, so that the Regulator can readily apply enforcement measures where necessary. While we understand that building owners and Building Safety Managers will have to report on the safety of their building through building safety cases, it is unclear how progress against the implementation of urgent measures (such as cladding

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<sup>2</sup> This is based on the Government's estimates that £3-3.5 billion are needed to remove unsafe external wall systems from buildings nationally, and London's buildings make up two thirds of the national total.

remediation) will be assessed, especially for cases where remediation work is delayed or progressing slowly. As Government data show, only 51 per cent of private sector blocks have either completed or started Aluminum Composite Material (ACM) remediation works, as at 31 July 2020. While remediation work is complex and takes time, some private building owners have been too slow to act.

- 3.3 The Mayor asks for clarity on the mechanisms used for monitoring existing buildings, and assessing the adequacy of timelines for implementation, to avoid unjustifiable delays in remediation work and give confidence to the Mayor, local and central Government and the public alike that progress is being made. Additionally, the Mayor asks for greater clarity on the involvement of residents and leaseholders in monitoring processes. For instance, there needs to be a clear expectation that information on expected timelines and completion dates for cladding and other remediation work will be shared with leaseholders, and that progress will be routinely communicated. We understand resident engagement strategies will be developed by Building Safety Managers. It is important that these include proactive actions to allow leaseholders to hold building owners and other responsible individuals for the safety of their buildings, especially in cases where remediation work is needed.