

MAYOR OF LONDON

Clive Betts MP

Chair
Housing, Communities and Local Government Committee
House of Commons
London SW1A 0AA

Date: 18 May 2020

Dear Clive,

Response to the Housing, Communities and Local Government Committee call for evidence on 'Cladding: progress on remediation'

The building safety crisis that has unfolded since the fire at Grenfell Tower is an urgent and complex challenge, and I therefore welcome the Housing, Communities and Local Government Committee's inquiry into the progression of cladding remediation.

As the Mayor of London, I have no power to set, change or enforce the Building Regulations. My role focuses on administering affordable housing funding and setting planning policy through the London Plan. Nevertheless, since the tragedy at Grenfell, I have taken several actions to improve the safety of buildings. I have imposed new rules restricting the use of combustible materials on external wall systems on all future developments, regardless of height, on GLA-owned land commissioned via the London Development Framework. Through my new London Plan, I have introduced innovative fire safety policies into the planning process, and I am pleased to see this approach begin to be adopted into Government policy.

The GLA is also responsible for administering the Social and Private Sector ACM Cladding Remediation Funds in London (SSCRF and PSCRF) on behalf of the Government. Whilst all decisions regarding the scope and design of the funds and approvals of applications are carried out by the Government, my team play a central role in delivering the funds and this experience is particularly relevant to this call for evidence.

I have provided a detailed response to your questions in the annex to this letter, but I would like to summarise my key points:

- I welcome the new £1 billion Building Safety Fund for the remediation of unsafe non-ACM cladding systems, but the funding will almost certainly be insufficient to cover all affected blocks. I am particularly concerned about moves to exclude social landlords from accessing funding and the failure to provide funding for interim safety measures such as waking watch.
- Cladding remediation is complex and takes time to complete safely, competently and thoroughly. The quality of remediation should be the primary focus and realistic expectations around timescales are necessary. The funding application process employed for the PSCRF should be significantly streamlined in order to make it deliverable at a much greater scale in shorter timescales, as is the intention for the Building Safety Fund.

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- The COVID-19 pandemic is causing delays to cladding remediation. In many cases, sites have suspended or delayed work on site, and where work has continued it has rightly been at a reduced capacity to enable social distancing measures. Interim safety measures will therefore be needed for a longer period, resulting in increased costs to leaseholders. In an environment of heightened anxiety and, in many cases, financial hardship, leaseholders must be protected from these costs. Therefore, I once again urge the Government to expand the scope of this cladding remediation funding to cover the cost of waking watch.

Thank you for the opportunity to respond to this call for evidence. I welcome the Committee's scrutiny of progress on cladding remediation, with a view to ensuring the Government is doing everything possible to ensure homes are made safe promptly.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Sadiq Khan', with a small number '2' written below the name.

Sadiq Khan
Mayor of London

Annex.

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Annex 1 – Detailed GLA response to call for evidence questions

1. Is the Government's new £1 billion remediation fund sufficient to address all remaining concerns in high-rise and high-risk buildings?

- 1.1. The £1 billion Building Safety Fund to speed up the remediation of unsafe non-aluminium composite material (ACM) cladding systems is welcome and something the Mayor has long called for. For clarity, there are now three separate cladding remediation funding programmes: first, funding for social landlords remediating ACM (SSCRF); second, funding to remediate private buildings with ACM (PSCRF); and now, the Building Safety Fund to remediate non-ACM unsafe cladding. GLA officers are working constructively with MHCLG to deliver this new programme in London quickly and effectively.
- 1.2. This additional £1 billion Building Safety Fund marks a major victory for leaseholders and resident groups who have campaigned tirelessly on this matter. It is clear, since Grenfell, that the building safety crisis is a result of poor market practices and a regulatory system that has consistently failed to ensure the safety of homes. The Mayor has always been clear that leaseholders should be protected from essential remediation costs.
- 1.3. The new Building Safety Fund falls short of addressing all remaining concerns in high-rise and high-risk buildings in five key areas.
- 1.4. First, the new **£1 billion will not be sufficient** to cover the costs of remediating all buildings within scope of the fund. The average cost of cladding remediation is £1.7 million per building, so £1 billion is likely to only be sufficient for approximately 600 buildings nationally. Some have estimated that approximately 1,600 high-rise buildings across the country could have unsafe cladding.¹
- 1.5. In fact, the number of eligible buildings is currently unknown. It is disappointing that, almost three years on from the Grenfell tragedy, the Government still does not know how many high-rise buildings have unsafe non-ACM cladding. It took the Government too long to start comprehensive data collection on buildings with types of unsafe cladding other than ACM. This extremely challenging exercise is being carried out by local authorities but will not be completed before summer 2020.
- 1.6. The shortfall in funding may result in 'first come, first served' allocations. This may mean that building owners with less experience managing large refurbishment and construction projects lose out, as it could take them longer to gather the information and evidence necessary to complete an application to the Fund. This could include buildings where leaseholders have exercised their Right to Manage, for example, or where projects have additional complications. Arguably, those buildings are the ones that would benefit the most from funding.
- 1.7. Second, it is likely that **most Registered Providers (RPs) of social housing will be excluded** from applying for funding for remediation work already undertaken or where a commitment has already been made to fund the works. This explicitly punishes organisations who have done the right thing and will negatively impact the social housing

¹ <https://hansard.parliament.uk/commons/2019-01-22/debates/804DB735-3DF7-4C08-87C4-0F603EAF0F01/TowerBlocksDangerousCladding>

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sector in four ways. First, it will curtail their ability to build the new genuinely affordable homes that London desperately needs; second, it will take resource away from repairs and maintenance on existing homes; third, it may translate into higher rents; and finally, it may mean social sector leaseholders and shared owners get recharged for works. Given that homeless households, those on the housing register and existing social tenants are more likely to be older, families with children, ethnic minorities and/or people living with a disability, this may also have negative equalities impacts for groups with protected characteristics.

- 1.8. Third, the Building Safety Fund will follow the PSCRF and SSCRF in failing to provide funding for **interim fire safety measures**, most notably waking watch. In some cases, waking watch can cost individual leaseholders up to £500 per household per month. These costs are proving ruinous to leaseholders, and the Mayor hopes that the Committee will hear from them directly about the human cost of these charges. The Mayor has campaigned for the existing ACM remediation funding to be expanded to cover the cost of interim safety measures and the new Building Safety Fund should do the same.
- 1.9. Fourth, the scope of the funding does not extend beyond cladding remediation to other common fire safety defects relating to **compartmentation and fire-stopping failures**. As a result, these costs will need to be met by the building owner or, in most cases, by individual leaseholders.
- 1.10. Finally, the Building Safety Fund will not provide funding for **residential buildings below 18 metres**. The devastating fires in buildings between 11m and 18m show that fire risk does not adhere to strict height thresholds. It is understandable that a limited amount of money should be prioritised for higher risk buildings, but height is not the sole determinate of risk.

2. What lessons should be learned from the administration of previous funding mechanisms?

- 2.1. The GLA administers the Social and Private Sector ACM Cladding Remediation Funds (SSCRF and PSCRF) in London on behalf of the Government. Homes England carries out this role in the rest of England. The role involves:
 - managing the relationship with building owners and supporting their applications;
 - receiving due diligence reports and advice on applications from legal and technical consultants (on PSCRF);
 - receiving applications and making recommendations on grant allocations to the Ministry of Housing, Local Government and Communities (MHCLG), which is the sole decision-maker;
 - entering into funding agreements and paying grant to approved buildings; and
 - monitoring progress on individual cladding remediation projects and reporting to MHCLG.
- 2.2. The SSCRF opened for applications in September 2018 and is due to operate until 2021/22. A total of £208 million has been approved by MHCLG for 65 London buildings. The PSCRF opened for applications in September 2019 and is due to operate until 2023/24. Up to early May 2020, 57 private buildings in London are in the process of applying and £22.8 million has been awarded to 19 London buildings.

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- 2.3. Based on the GLA's experience as a delivery partner, there are several key lessons to highlight from previous funding programmes. These points have been discussed with MHCLG previously as part of ongoing refinement of the existing programmes and in the design of the new Building Safety Fund. Some steps have already been taken to address these issues and these are welcomed.
- 2.4. **Cladding remediation is complex and takes time** to carry out competently and thoroughly. The Government must avoid repeating past mistakes by setting arbitrary deadlines for remediation works to complete and funding to be spent.
- 2.5. The entire duration of cladding remediation on a high-rise building often takes around two years. It can take the building owner around three months to carry out initial investigative surveys to understand the make-up, structure and coverage of the current external wall system on the building – this is vital to designing a replacement system because as-built drawings are rarely accurate or available. This can be followed by a six-month period to appoint a project team and design a specification for the replacement system; then another two months to tender and appoint the contractor. Planning permission and building control consent will also need to be sought. Once appointed, the contractor will need at least a month for mobilisation on site. Finally, works on site typically require between nine and 12 months. It should be noted that more complex works can take significantly longer than the typical case described above.
- 2.6. **The process of applying to and securing funding through the PSRCF is lengthy.** It requires significant evidence of costs and works to be provided by the applicant which then undergoes weeks, or sometimes months, of due diligence by technical advisers, followed by a complex contracting process. The GLA understands that this approach was adopted by MHCLG with the worthwhile aim of safeguarding public money and ensuring the works are carried out to appropriate standards, but this must be balanced against deliverability. It has resulted in extended timescales before funding can be approved. This is particularly concerning given that private building owners are often unable or unwilling to enter a works contract without approval of grant.
- 2.7. Some areas of diligence and oversight must be retained in the application process. For example, an added complexity is often the ownership structures in private buildings – which the GLA has found can sometimes be misunderstood by the entities themselves. Buildings often include various combinations of a freeholder, head leaseholders, a Registered Provider of social housing, a Right-to-Manage company, a managing agent, and, finally, commercial and residential leaseholders. Funding cannot be provided until the Responsible Entity is clarified. The legal checks of titles and leases within a building should therefore be carried over into the new Building Safety Fund.
- 2.8. It should be noted that the lengthy PSRCF programme design stands in contrast to the more streamlined and light-touch approach on the SSCRf. For example, the SSCRf makes two tranches of grant payments – 80 per cent at start on site and 20 per cent at completion – whereas the PSRCF involves monthly instalments. Given that cashflow is an issue for many private building owners, it may support greater pace of remediation to design the Building Safety Fund to make a small number of larger instalments.
- 2.9. A hybrid of the SSCRf and PSRCF programmes must be developed which reduces funding application timescales, but still provides effective oversight. This is the only way to ensure the new Building Safety Fund is deliverable at pace and scale, given the number of buildings in London is likely to be seven times larger than the current PSRCF portfolio.

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2.10. Finally, the PSCRF has highlighted **low levels of capability and experience from private building owners** in carrying out major works programmes. The GLA has encountered a basic lack of understanding about how to appoint and client competent professionals to undertake cladding remediation. This has been discussed at length with MHCLG, and the recent appointment of a construction firm to support building owners with remediation is welcome. This support must be made available in the new Building Safety Fund as well.

3. Will the new External Wall Fire Review process for the valuation of high-rise properties be effective in improving access to buildings insurance and mortgage finance for leaseholders?

3.1. Many leaseholders living in unsafe blocks have been unable to sell or re-mortgage their properties due to some surveyors valuing properties with potentially unsafe cladding at zero. The zero valuation of flats has paused many families' lives and is causing significant hardship and stress. The Mayor welcomes the industry's decision to come together and produce a new valuation methodology to support a move away from the zero valuation, although its influence on the market is yet to be seen and understood.

3.2. The External Wall System Certificate of Compliance (also referred as the EWS1 form) does not completely solve the problems faced by social and private leaseholders. Some building owners have struggled to appoint a competent expert to undertake surveys and complete the documentation, leading to months of delay for leaseholders. It should also be noted that where buildings are found to be unsafe, the situation will remain unchanged until the building is made safe.

4. What additional challenges have been presented by the coronavirus pandemic and how might these be overcome?

4.1. The Covid-19 outbreak is having severe impact on construction sites and the progress of remediation. Many sites suspended work altogether to reflect the introduction of lockdown measures or delayed start on site. Although construction sites are now starting to remobilise in London, the GLA is aware of several challenges which continue to impact the ability to undertake works on site including:

- Difficulties with applying and following Public Health England guidelines on site. A specific issue for cladding remediation is the challenge of maintaining physical distancing because cladding panels measuring less than 2 metres needing two people to carry them;
- Wider supply chain challenges with building merchants closed, sub-contractors unable to work and many cladding materials manufactured and sourced from outside the UK; and
- Some reports of feeling public pressure to close sites and concerns from residents of affected blocks about increased risk of transmission from construction workers.

4.2. Whilst recognising these challenges, in April 2020 the Mayor made a joint pledge with the Secretary of State and other mayors to set out a clear message that cladding remediation is of the highest priority and should continue wherever possible.

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- 4.3. The impact of the outbreak on construction sites and the progress of remediation will not be limited to the lockdown period itself however. The delays will be cumulative due to contractors needing time to adapt to new ways of working, delays in the delivery of materials, and reduced capacity resulting from reduced presence on-site labour to achieve physical distancing on site. These factors are likely to remain for the foreseeable future, among other challenges.
- 4.4. Finally, it should be noted that many buildings with unsafe cladding are currently only safe to occupy on the basis that a 24-hour waking watch patrols the building. Delayed remediation timescales mean that waking watches will be needed for longer. For leaseholders meeting these costs, this adds additional burden at a time when they may already be experiencing financial pressures. It is therefore more urgent than ever that the Government cover the costs of interim fire safety measures.