

**Y Pwyllgor Llywodraeth Leol
a Thai**

—
**Local Government
and Housing Committee**

Senedd Cymru

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—
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Julie James AS,
Y Gweinidog Newid Hinsawdd,
Llywodraeth Cymru

1 Ebrill 2022

Annwyl Julie,

Yn dilyn fy llythyr dyddiedig 16 Mawrth ynghylch y llythyr a gawsom gan y Welsh Cladiators, rydym wedi cael dau lythyr pellach gan lesddeiliaid, yn mynegi pryderon ynghylch y cynnydd a wnaed yng Nghymru o ran gwneud y gwaith adfer sydd ei angen i fynd i'r afael â'r materion diogelwch a ddaeth i'r amlwg yn dilyn trychineb Grenfell.

Wrth i chi ymateb i'n llythyr dyddiedig 16 Mawrth, byddem yn ddiolchgar pe gallech hefyd fynd i'r afael â'r pryderon a amlinellir yn yr ohebiaeth bellach y cyfeirir ati uchod. Byddem yn gwerthfawrogi ymateb brys, fel y gallwn roi diweddariad i'r lesddeiliaid cyn gynted â phosibl.

Yn gywir,



John Griffiths AS

Cadeirydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



**Senedd Cymru
Welsh Parliament**

Building Safety

After the Grenfell tragedy in 2017, where tragically 72 families were affected following a high-rise fire that broke out in the tower, it became apparent after that people were living in unsafe apartment blocks, and still are living in unsafe apartment blocks due to fire safety defects.

Fire safety defects can range from cladding issues (external) and non-cladding issues (internal). Non-cladding issues can include compartmentation (stopping fire from moving from one flat to the next), lack of fire safety breaks/sprinkler systems and the implementation of waking watch. Leaseholders across the UK are being asked to pay for fire safety remediation works.

I write to you as a leaseholder owning an apartment in Cardiff situated in a building deemed to be a fire-safety risk as a result of fire-safety defects asking Welsh Government (WG) to bring forward a timely resolution to the building safety crisis in Wales. Leaseholders are being asked to pay exorbitant fire-remediation costs and are billed in accordance with the square footage of the demised premise and are facing bills up to £50,000 for duplex apartments. Leaseholders are facing bankruptcy and losing their homes with landlords/freeholders having a right to re-entry or forfeiture if payments are not met. My estimated bill for fire safety remediation is £25,000 over 4-5 years which contributes to an overall building bill of £2.5 million per year from 2022-2026. I received an invoice in December for £2,521.33 to be paid by 1st January (less than a 28 day's notice in line with the Landlord and Tenant Act 2007). These bills are issued six-monthly in addition to the 'normal' service charge costs (see Appendix). In addition, leaseholders are being asked to pay for the increased building insurance premiums which has increased by 40% for our building. Across the UK, there are [reports](#) on building insurance premiums exponentially increases of up to 1000%.

These are having huge effect on leaseholder's mental health due to stress of living in an unsafe home and pressures on finding this money at short-notice. A mental health study conducted by the UK cladding Action Group (UKCAG) reports the 23% of social and private sector leaseholders felt suicidal or had a desire to self-harm, 94% reporting anxiety and worry and 32% turning to alcohol as a coping strategy to deal with the situation in their building¹.

A recent study carried out by the UK Collaborative Centre for Housing Evidence where 32 leaseholders in different cities in England and Wales were asked about the impact of the building safety crisis on their lives². The financial impacts were one the biggest drivers of mental harm for leaseholders. These kinds of issues are likely to have a long-lasting impact on leaseholders, irrespective of any policy change on the part of Government as the choices that individuals have had to take or have been unable to make will have a profound impact on the shape of their life in the future. The report makes a number of recommendations including:

1. Government should take responsibility for recouping costs (where there is a reasonable chance of success and this is a suitable course of action). Leaseholders want to see individuals and organisations held to account where failures have been identified.
2. Remediation should be underpinned by comprehensive funding which is not limited by building height, or solely to materials integral to a cladding system.

Amendments to the UK Building Safety Bill currently going through the House of Lords, for example to extend the right to homeowners to challenge defects under the Defective

Premises Act 1972 in homes that are up to 30 years old, will apply in Wales as well as England as will a proposed civil cause of action where defective mis-sold construction products render a dwelling unfit for habitation. In addition, amendments to protect leaseholders if passed by parliament will be brought into law stating that no leaseholder living in medium or high-rise buildings will have to pay a penny for the removal of cladding and protections for leaseholders extended to cover other fire safety defects with leaseholders expected to pay a capped amount towards non-cladding costs only. Leaseholders are expected to pay a capped amount of £10,000 towards non-cladding costs as a last resort if funding is not extracted from developers/freeholders. Any costs already paid by the leaseholders to date that covers fire remediation defects will contribute to the cap.

Michael Gove, the UK Secretary of State for Levelling Up, Housing and Communities announced on 10th January 2022 that residential property developers will be asked to

- make financial contributions to a dedicated fund to cover the full outstanding cost to remediate unsafe cladding on 11-18 metre buildings, currently estimated to be £4 billion
- fund and undertake all necessary remediation of buildings over 11 metres that they have played a role in developing
- provide comprehensive information on all buildings over 11 metres which have historic safety defects and which they have played a part in constructing in the last 30 years³.

Previous funding for leaseholders living in England have had access to £1 billion pounds funding since 2020 to support the remediation of unsafe non-ACM cladding system on residential buildings 18 metres and over in both the private and social housing sectors⁵.

Michael Gove announced on 14th February 2022 that new laws will be brought into the Building Safety Bill to protect leaseholders from exorbitant costs and tough new measures that will force industry to pay to remove cladding

- developers and product manufacturers that do not help fix the cladding scandal could be blocked from housing market
- Government puts its guarantee that no leaseholder living in medium or high-rise buildings will have to pay a penny for the removal of cladding into law
- new powers will allow cladding companies to be sued and subject to fines for defective products
- protections for leaseholders extended to cover other fire safety defects⁴.

I welcome the announcements and proposed amendments to the UK Building Safety Bill set out by Michael Gove, as developers and manufacturers have a responsibility to remediate fire defect homes. UK Government acknowledge "It is neither fair nor decent that innocent leaseholders, many of whom have worked hard and made sacrifices to get a foot on the housing ladder, should be landed with bills they cannot afford to fix problems they did not cause"⁶. The announcements and proposals made by Michael Gove on 14th February bring some comfort knowing that amendments to the UK Building Safety Bill will bring protections in law to protect leaseholders from exorbitant costs.

I am supportive of WG proposals on the [Building Safety White Paper](#) which sets out proposals for comprehensive reform in relation to building safety for all multi-occupied residential buildings in Wales and welcome WG collaboration with the department of Levelling Up, Housing and Communities on aspects of the draft Building Safety Bill which will apply in Wales. The Building Safety White Paper highlights that the principle of safety must apply to all buildings within the scope of the proposed Building Safety Regime, regardless of

building type or tenure, for the benefit of residents across Wales. A number of semi-detached homes built as part of the Innovative Housing Programme in Wales are constructed with timber frames and external wooden panels; the principle of fire safety must also apply to these new building constructions.

WG recently announced on the 25th February that independent surveys as part of the Fire Remediation Passport will now start on 1st March and this will help ensure any funding brought forward is within the scope of the modifications and remediation of making buildings safe. I encourage WG to bring forward funding for remediation as soon as reasonably practical. In line with the UK Collaborative Centre for Housing Evidence WG should then take responsibility for recouping costs from developers/cladding manufacturers (where there is a reasonable chance of success and this is a suitable course of action). A freedom of information request in September 2021 highlighted that £11m funding has been spent since June 2017 on fire safety remediation to include cladding remedial works in the social housing sector in Wales but no remediation has been done on private sector buildings to date⁷. I recognise that WG has set aside £375m in capital funding over the next three years to support investment in affected buildings however, this is currently not stopping fire remediation costs being passed onto the leaseholder.

Recommendations:

- Leaseholders in Wales require urgent clarification on the UK Building Safety Bill amendments relating to leaseholder protections. UK Government and WG recognise that leaseholders are innocent and are blameless in this crisis and should not pay to put right defects that are not of their making.
- The principle of fire safety must apply to all current and new building constructions.
- WG to ensure that if developers do not take responsibility for removal of dangerous cladding and non-cladding fire safety issues; restrictions will apply to supply of land, introduction of taxes and developers blocked from the housing market.
- At a time of rising living costs, leaseholders in the private sector risk bankruptcy and losing their homes as they are still paying fire safety remediation costs; amendments relating to leaseholder protections in the UK Building Safety Bill currently going through the House of Lords require urgent consent via the Senedd in Wales.
- WG to take a pragmatic approach to using UK Governments Building Safety Bill legislation in relation to leaseholder amendments which will mean that protections to leaseholders will be earlier than would be a possible for a Building Safety Senedd Bill. Without protections in law leaseholders will still be required to pay for fire remediation costs whilst waiting for surveys and funding to be brought forward by WG which may take a number of years.
- WG to bring forward a timely resolution to this building safety crisis in Wales.

References:

1. Cladding and internal fire safety mental health report 2020; UK CAG, May 2020 [accessed Feb 2022]
[REPORT - DRAFT 33 - POWERPOINT \(leaseholdknowledge.com\)](#)
2. Living through the building safety crisis: impacts on the mental wellbeing of leaseholders. UK collaborative centre for housing evidence, University of Sheffield. Preece J. December 2021 [accessed Feb 2022].
["All the other positive things in your life just fall away": leaseholders living through the building safety crisis | Oxford Law Faculty](#)

3. Letter from the DLUHC Secretary of State to the residential property developer industry on a new approach to building safety. Secretary of State for Levelling Up, Housing and Communities Michael Gove. January 2022 [accessed Feb 2022].
[Letter from the DLUHC Secretary of State to the residential property developer industry on a new approach to building safety - GOV.UK \(www.gov.uk\)](#)
4. Press Release: Government to protect leaseholders with new laws to make industry pay for building safety; Department for Levelling Up, Housing and Communities. The RT Hon Michael Gove MP. February 2022 [accessed Feb 2022].
[Government to protect leaseholders with new laws to make industry pay for building safety - GOV.UK \(www.gov.uk\)](#)
5. Guidance: Remediation of non-ACM buildings; Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities and local government. March 2020 [accessed Feb 2022].
[Remediation of non-ACM buildings - GOV.UK \(www.gov.uk\)](#)
6. Letter to Residential Property Developer Industry from Department for Levelling Up, Housing and Communities. Michael Gove MP. January 2022 [accessed Feb 2022].
[Letter from the DLUHC Secretary of State to the residential property developer industry \(publishing.service.gov.uk\)](#)
7. Welsh Government. Freedom of Information request. ATISN 15382 - Fire safety remediation work. September 2021 [accessed February 2022].
[atisn15382.pdf \(gov.wales\)](#)

ISSUE DATE: 07 December 2021
INVOICE REFERENCE:XXX
DEMAND DATE: 01 January 2022

INVOICE:

Description	Value
Repair Fund 2022 (50%) due 1 January 2022	£2,521.33
Invoice Amount	£2,521.33
Total Amount Due	£2,521.33

Payment may be made to:

Bank Details:

Gareth Wilson

Councillor Lynda Thorne
Cabinet Member for Housing and Communities

14 March 2022

Dear Lynda,

Re: What can Cardiff City Council (“CCC”) do to help solve the building safety crisis in Cardiff – without further damaging delay?

Thank you for inviting me to the Zoom meeting on Thursday, 10th March with Vaughan Gething. At the meeting, you expressed your clear desire to assist in solving the building safety crisis in Cardiff, but highlighted CCC’s funding difficulties. You asked for comments and suggestions, and I write to set out a clear path forward for CCC.

Unworkable suggestions

1. **Council tax relief:** CCC does not have funding available to repair buildings itself. Welsh Government (“WG”) has the budget. Any major CCC contribution, for example, to give relief against council tax would necessarily have to be found from elsewhere i.e. other council tax payers. I agree with you that this is a non-starter.
2. **Council funded sprinklers:** Sprinklers are a good thing, but CCC funding simply introduces a layer of unnecessary bureaucracy, delay and cost. WG has the funds. These can be made available direct to CMCL and others rather than through the council.

Summary: Practical low-cost proposals

3. Delay is the key issue. There are proposals in English draft legislation, the Building Safety Bill (“BSB”) that will help leaseholders in Wales. Therefore,
 - 3.1. CCC needs to pressurise WG to ensure that those proposals are enacted into Welsh law at the soonest possible date.
 - 3.2. CCC also needs to enforce the new legislation immediately it is enacted.
 - 3.3. CCC can also pressurise developers and builders even before the measures become law by announcing and demonstrating its intention to take immediate action.

The key legislative proposals

4. Sections 125 and 126 of the Building Safety Bill (attached) contain provisions for “*Remediation Orders*” and “*Remediation Contribution Orders*” to be made against a “*relevant landlord*”, which is widely defined to cover developers and their associated companies.
5. Both Orders can be sought by a local authority. However, because this area is devolved, section 29(2) of the BSB effectively restricts the provisions to England.
6. CCC will therefore be able to apply for Orders provided only that similar legislation is enacted in Wales.

Process and timetable in Wales

7. I have now asked two key Senedd members, including Vaughan Gething at our Zoom meeting what the process and timetable is for enacting this legislation in Wales and intend to continue to ask that question of all Senedd members. As you will have heard from Vaughan, in both cases the answers have been totally unsatisfactory i.e. “*I don’t know.*” I interpret this as “*there is no meaningful plan.*”
8. We all know that the first step is for the BSB to be passed in Westminster and that is not within our control. However, we also know that the BSB is expected to be passed within the next couple of months and the time for detailed planning to take this forward in Wales has long since passed.
9. CCC should be making clear to WG its urgent need to be granted the powers under Sections 125 and 126 of the BSB and its intention to use them immediately. To that end CCC should ask WG to provide it with assurances that will happen and to publish details of : -
 - 9.1. What steps WG has taken to date to prepare Welsh legislation?
 - 9.2. What resources are being devoted to this?
 - 9.3. What the process is for passing the legislation?
 - 9.4. Most importantly (and bearing in mind the legislation has cross-party support) a **detailed timetable for the legislative process and the date** – which could be related to the passing of the BSB i.e. within 6 weeks of enactment of the BSB – on which WG expects the legislation to reach the timetable.
10. My personal view is that you should also seek to dissuade WG government from wasting any time, energy and resource on the plan announced by Julie James to bail out the very small minority of leaseholders worst affected. This will do nothing to repair a single building and will be unworkable. It would be divisive. It is distracting resource and planning. It is a waste of public money.

CCC’s preparations

11. The council itself needs to plan, train and resource so that it is in a position to enforce the legislation – including issuing Remediation Orders and Contribution Orders – from Day 1. This will require a clear legal understanding of the new legislation and an early identification of target developments.
12. As stated above, developers could be notified of the council’s intention to issue Orders even before the new legislation reached the statute books. It is still possible that the threat of the use of the powers will be enough for some developers to take action.
13. CCC will need to liaise with South Wales Fire and Rescue and also with other “interested persons” to prevent duplication of effort. Fire authorities should have power to apply for both Orders. Other interested persons e.g. leaseholders can apply for Contribution Orders.
14. It would be helpful if you could keep us advised of the steps you are taking as this will impact directly on our planning and the financial strains this will put on leaseholders. As I expect you know, I have been in contact with Dave Holland over the last two years and I

am sure he will be keen to move forward on this. I would be happy to contribute in any way I can.

The reality of leaseholders' position and potential impact on CCC

15. CMCL is currently trying to raise a small part (20% this year) of our total estimated repair bill from leaseholders. The first half of this £1.2 million (10% of total) should have been paid on 1 January this year. As of now, only 147 of 457 leaseholders have paid in full. 196 leaseholders have paid nothing. A further 33 are falling behind instalment plans that CMCL have agreed with them.
16. A further £1.2 million will be due on 1 July – less than 3 months away. We will have to ask for further substantial payments at the end of the year as the money we are currently attempting to collect will not be sufficient even for Phase 1 of our planned remediation. The prospects for many leaseholders look very bleak.
17. It is CMCL's duty to pursue leaseholders who do not pay and letters before action are going out this month. If we pursue debt action, this will affect credit ratings, further costs will be incurred and ultimately, we will be forced to foreclose. It is a downward spiral and CCC will ultimately be picking up the pieces of potentially hundreds of people rendered homeless. This is happening **now**.
18. Delay will effectively negate any possible benefit of a WG scheme to remediate. A perfect scheme that does not appear in time is not perfect, it is useless. The one thing that could ameliorate a delay is the interim and immediate availability of WG backed or sponsored loan finance, which will enable CMCL to undertake repairs without bankrupting and otherwise destroying the lives of leaseholders in the process.

As there is no process for leaseholders and management companies like ours to contribute to the WG's thinking, it would be helpful if you could do this for us. Better still, persuade WG to set up a process that enables leaseholders to contribute.

I am sure this has wide cross-party support within CCC and am copying this to other councillors listed below. I hope this is helpful and look forward to hearing from you.

Kind regards



Gareth Wilson

CC: Huw Thomas, Adrian Robson, Rhys Taylor, Saeed Ebrahim, Neil McEvoy,

125 Remediation orders

- (1) The Secretary of State may by regulations make provision for and in connection with remediation orders.
- (2) A “remediation order” is an order, made by the First-tier Tribunal, requiring a relevant landlord to remedy specified relevant defects in a specified relevant building by a specified time. 5
- (3) In this section “relevant landlord”, in relation to a relevant defect in a relevant building, means a landlord under a lease of the building or any part of it who is required, under the lease or by virtue of an enactment, to repair or maintain anything relating to the relevant defect. 10
- (4) The following persons may apply for a remediation order –
 - (a) the regulator (as defined by section 2);
 - (b) a local authority (as defined by section 29) for the area in which the relevant building is situated;
 - (c) a fire and rescue authority (as defined by section 29) for the area in which the relevant building is situated; 15
 - (d) any other person prescribed by the regulations.
- (5) In this section “specified” means specified in the order.

126 Remediation contribution orders

- (1) The First-tier Tribunal may, on the application of an interested person, make a remediation contribution order in relation to a relevant building if it considers it just and equitable to do so. 20
- (2) “Remediation contribution order”, in relation to a relevant building, means an order requiring a specified body corporate to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred in remedying relevant defects (or specified relevant defects) relating to the relevant building. 25
- (3) A body corporate may be specified only if it is associated with a landlord under a lease of the relevant building or any part of it. 30
- (4) An order may –
 - (a) require the making of payments of a specified amount, or payments of a reasonable amount in respect of the remediation of specified relevant defects (or in respect of specified things done or to be done for the purpose of remedying relevant defects);
 - (b) require a payment to be made at a specified time, or to be made on demand following the occurrence of a specified event. 35
- (5) In this section –
 - “associated”: see section 123;
 - “interested person”, in relation to a relevant building, means –
 - (a) the regulator (as defined by section 2), 40

- (b) a local authority (as defined by section 29) for the area in which the relevant building is situated,
 - (c) a fire and rescue authority (as defined by section 29) for the area in which the relevant building is situated, or
 - (d) a person with a legal or equitable interest in the relevant building or any part of it; 5
- “relevant building”: see section 120;
 “relevant defect”: see section 122;
 “specified” means specified in the order.

127 Meeting remediation costs of insolvent landlord 10

- (1) This section applies if, in the course of the winding up of a company which is a landlord under a lease of a relevant building or any part of it, it appears—
 - (a) that there are relevant defects relating to the building, and
 - (b) that the company is under an obligation (howsoever imposed) to remedy any of the relevant defects or is liable to make a payment relating to any costs incurred or to be incurred in remedying any of the relevant defects. 15
- (2) The court may, on the application of the liquidator, by order require a body corporate associated with the company to make such contributions to the company’s assets as the court considers to be just and equitable. 20
- (3) An order may be made where proceedings for the winding up of the company were commenced before (as well as after) the coming into force of this section.
- (4) In this section—
 - “associated”: see section 123;
 - “the court” means a court having jurisdiction to wind up the company; 25
 - “relevant building”: see section 120;
 - “relevant defect” : see section 122.

Building industry schemes

128 Building industry schemes

- (1) The Secretary of State may by regulations— 30
 - (a) establish a scheme, and
 - (b) make provision about the scheme.
- (2) Regulations that establish a scheme must prescribe the descriptions of persons in the building industry who may be members of the scheme (“eligible persons”). 35
- (3) Where a scheme is established, the Secretary of State must set and publish the criteria that an eligible person must meet in order to become, and remain, a member of the scheme (“membership criteria”).
- (4) Membership criteria may be set for any purpose connected with—