



UK Mission
Geneva

30 June 2020

Leilani Farha
UN Special Rapporteur on Adequate Housing
Special Procedures Branch
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
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**From the Permanent
Representative**

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Dear Special Rapporteur,

Communications AL GBR 1/2020 and AL GBR 2/2020 from the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Please find attached two responses from the United Kingdom of Great Britain and Northern Ireland, further to the letters dated 27 April and 29 April 2020 from the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

Yours ever,

A handwritten signature in blue ink, appearing to read 'JNBraun'.

JULIAN BRAITHWAITE CMG

Annex

Response of the Government of the United Kingdom of Great Britain and Northern Ireland to AL GBR 2/2020, dated 29 April 2020, from the UN Special Rapporteur on adequate housing.

Note: Housing is a devolved matter, and the devolved administrations are responsible for building regulations and technical guidance to ensure buildings are safe in Scotland, Wales and Northern Ireland. The Welsh Government has recently published a position statement on their approach to improving building safety, also available at: <https://gov.wales/building-safety-position-statement>. More information on the work the Scottish Government has taken to address building safety concerns can be found on their website at: <https://www.gov.scot/groups/ministerial-working-group-building-and-fire-safety/> and the Northern Ireland Government has produced advice on the cladding and replacing of cladding on buildings at: <https://www.finance-ni.gov.uk/publications/cladding-or-re-cladding-buildings>. In regard to Government funding for the remediation of buildings with unsafe cladding referred to in this letter then it should be noted that it is for England only. However, there is an administrative process – the Barnett Formula – whereby annual changes in the block grant allocated to Scotland, Wales and Northern Ireland, reflect changes in spending levels allocated to public services in England, such as this funding

1. Please provide any additional information and/or comment you may have on the above-mentioned allegations.

This reply sets out the extensive action the UK Government has taken, and continues to take, to improve building safety and to ensure that people feel safe, and are safe, in their homes following the tragic fire at Grenfell Tower on 14 June 2017.

On 15 June 2017 (the day after the fire), the then Prime Minister announced the Grenfell Tower Inquiry¹ to examine the circumstances leading up to and surrounding the fire. Sir Martin Moore-Bick, a highly experienced former Judge of the Court of Appeal, was appointed as Chairman on 28 June 2017, and he formally opened the Inquiry on 14 September 2017.

Phase 1 of the Grenfell Tower Inquiry, which focused on how the fire started and spread, and the emergency response, concluded with the publication of the Phase 1 report on 30 October 2019². We have accepted all recommendations in the Phase 1

¹ <https://www.grenfelltowerinquiry.org.uk/>

² <https://www.grenfelltowerinquiry.org.uk/phase-1-report>

report aimed at central government. The Government response³, published on 21 January, outlines how we will be taking forward these important changes – building on the programme of building safety reforms that we have been taking forward since the fire.

In addition, the Government took immediate action in the aftermath of the Grenfell fire by establishing the Building Safety Programme⁴ to ensure that existing buildings and those built in the future are safe for all residents.

Additional information in respect of the above-mentioned allegations can be found in our response to subsequent questions.

2. Please explain what measures are in place to ensure the immediate safety of all residents living in buildings with flammable cladding.

The Government has put measures in place to ensure the safety of residents in blocks with combustible cladding. The Government has worked closely with local authorities and Fire and Rescue Services to ensure that interim safety measures are in place in all buildings until the cladding is replaced. Led by the Home Office and working with the Local Government Association and the National Fire Chiefs Council, the Government has established a Protection Board to provide greater assurance to central government of Fire and Rescue Service protection activity. The Protection Board's work includes ensuring that the interim measures in place in Aluminium Composite Material (ACM) clad high-rise residential buildings are well-maintained, and providing assurance that fire safety risks are being managed effectively.

The Board, working with all Fire and Rescue Services in England, has recently concluded this exercise and is satisfied that the responsible person/s are managing and will continue to manage the risk in these buildings until such time that the ACM cladding has been removed and replaced. The Board is also confident that Fire and Rescue Services are aware of these buildings, and are monitoring them regularly to ensure that safety standards do not slip in the interim. Supported by £10m additional funding, the Board is now working on a broader Building Risk Review programme aimed at meeting the ambition set out by the Secretary of State for Housing, Communities and Local Government in Parliament on 5 September 2019⁵ to increase significantly the pace of inspection activity across high-rise residential and other high risk buildings.

The Government is prioritising public subsidy for the remediation of unsafe cladding. Lord Greenhalgh, the Minister with responsibility for building safety, is investigating what can be done to reduce the cost of waking watch⁶, and to ensure that waking

³ <https://www.gov.uk/government/publications/grenfell-tower-inquiry-phase-1-report-government-response>

⁴ <https://www.gov.uk/guidance/building-safety-programme>

⁵ <https://www.parliament.uk/business/news/2019/september/government-statement-on-building-safety/>

⁶ A waking watch is a system where staff monitor the whole or part of a building for signs of fire

watches, where they are required, can continue during the current Covid-19 restrictions.

The Government is providing £1.6bn (see response to question 5) of funding to tackle funding as barrier to remediation. A lack of expertise and experience among building owners and managing agents in handling major refurbishment projects has been another barrier. That is why we have hired construction and project management specialists to provide additional project management capability with specialist knowledge of the construction sector, to help speed up the development and implementation of ACM remediation plans.

Government funding and the provision of additional expertise means that there is no excuse for building owners not to progress remediation quickly. The Government is continually pushing for progress and we want to see work start on all buildings as soon as possible where this has not yet taken place. It is important to recognise that remediation work cannot be done overnight – and it must be done properly so that it makes buildings and residents safe. The time to complete works varies considerably, depending on factors such as structure, extent of cladding, and existing fire safety systems. For many buildings, this is a complex project involving major construction work.

Where building owners are failing to make acceptable progress, they should expect further action to be taken – including tougher enforcement action by local authorities and Fire and Rescue Services. To support enforcement action from local authorities, we have provided bespoke operating guidance to clarify how hazard assessments of unsafe cladding should be made. We have also established the Joint Inspection Team to support local authorities in taking enforcement action. The Government has also introduced the Fire Safety Bill⁷ which clarifies that the Fire Safety Order applies to the external walls and fire doors of the building, including cladding. This will put beyond doubt the fact that Fire and Rescue Services can use their enforcement powers for cladding remediation, complementing the existing powers which local authorities have to take enforcement action against building owners and/or managers for unsafe cladding and defective fire doors.

The Government is aware of the impact that living in an unsafe building, and the associated costs and anxiety, can have on residents. We have been very clear that buildings need to be remediated as soon as possible to help resolve these issues and the Government funding is intended to increase the pace of remediation and will to support this. Ministers have met residents to listen to and hear their concerns, and officials have responded to hundreds of letters from residents living in affected buildings, outlining the steps the Government has taken. The Government has also provided funding to LEASE, an independent free initial advice to leaseholders to ensure they are aware of their rights and are supported to understand the terms of their leases. Under the more stringent regulatory regime we are introducing,

⁷ <https://www.gov.uk/government/news/fire-safety-bill>

residents will have a stronger voice to ensure that their views and concerns are not ignored. The new regime will make sure that residents are kept informed and are able to participate in the decision-making regarding the safety of their building.

3. Please explain by which date the Government plans to complete the removal of all flammable cladding from residential buildings.

The Government has been clear that its priority for remediation activity should be the type of Aluminium Composite Material (ACM) cladding with an unmodified polyethylene core used on the Grenfell Tower, as this poses an unparalleled risk on high-rise residential buildings. Testing undertaken as part of government research on the fire performance of cladding materials, including on different types of high-pressure laminate (HPL) and timber cladding, confirmed that none of the materials tested behaved in the same way as ACM with an unmodified polyethylene core.

A comprehensive programme of screening across the UK has identified 455 high-rise residential and publicly owned buildings with unsafe ACM cladding as at 31 May 2020. Residential buildings (excluding hotels and student accommodation) account for 361 of the identified buildings and of these 104 have completed remediation (29%) and a further 123 have started remediation (34%). In total, 154 have had the unsafe cladding removed (43% of the total number of residential buildings).

While we broadly agree with your description of the total number of buildings with unsafe cladding, we do not recognise the figure for those that are yet to have cladding removed. Likewise, we do not recognise the figure in your letter of 600,000 persons living in unsafe blocks of flats. Collecting and publishing accurate data on building safety and the progress of remediation is vital for the transparency of the programme. It helps us to monitor trends and focus support and interventions where they are most needed and allows for informed scrutiny. That is why we publish a Monthly Data Release for the Building Safety Programme which provides data on the remediation of buildings with unsafe cladding⁸.

In English law, the primary responsibility for the ongoing safety of privately-owned buildings falls to the individual building owner, although key safety issues, including fire safety, are regulated by the appropriate authorities. Following the Grenfell fire, the Government appointed an Independent Expert Advisory Panel⁹ that has produced advice on the measures which building owners should take to review ACM and other cladding systems to assess and assure their fire safety, and the potential risks to residents of external fire spread. This advice was most recently updated on 20 January 2020¹⁰.

⁸ <https://www.gov.uk/guidance/aluminium-composite-material-cladding#acm-remediation-data>

⁹ <https://www.gov.uk/government/collections/building-safety-independent-expert-advisory-panel>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869532/Building_safety_advice_for_building_owners_including_fire_doors_January_2020.pdf.

However, while many responsible building owners have been taking action, we recognise that too many building owners and managing agents in the private sector have been slow in starting remediation work.

We expect building owners to discharge their responsibilities in relation to the safety of their building, and to follow the advice we have provided on measures to review ACM and other cladding systems to assess and assure their fire safety.

4. Please explain all measures taken to ensure that residents of buildings lower than 18m will have flammable cladding removed from their homes.

Public funding to remove and replace unsafe cladding will only be available for buildings over 18 metres in height. Experts, including Dame Judith Hackitt who led the post-Grenfell review of Building Regulations and Fire Safety, recommend that we focus public funding on remediating unsafe cladding from high-rise buildings, as these are the least likely to be safely evacuated in the event of a fire spreading via external cladding. However, there will be a small degree of flexibility to allow remediation funding to cover buildings that have been built just under the 18m threshold.

5. Please explain if any of the measures for the removal of flammable cladding will have a financial impact on residents, and, if that is the case, what measures are in place to support persons in positions of economic vulnerability.

The Government has been clear that building owners should take every reasonable step to ensure that unnecessary costs from the remediation of unsafe cladding are not passed on to leaseholders. As at 31 May 2020, of the 207 private sector residential buildings identified as having unsafe ACM cladding systems, the remediation of over half of these buildings was being paid for by the original developers or the freeholders. In 84 of those cases, the developer or freeholder has agreed to meet the financial costs themselves. In 23 cases, they have claimed successfully against warranty schemes. The Government expects a significant proportion of the remediation of unsafe non-ACM cladding to be funded by those responsible for the original work, through warranties, or by building owners or landlords who are able to pay for the remediation without passing on costs to leaseholders. The Government has provided £600m to help support the remediation of high-rise residential buildings with unsafe ACM cladding and we have recently made a further £1bn available to support the removal and replacement of other types of unsafe cladding. We have provided this funding to accelerate the pace of remediation and to protect leaseholders from costs; this does not absolve building owners from their responsibilities.

We are working with lenders and insurers to resolve the issues that have arisen with mortgages and insurance on high-rise buildings with unsafe cladding. The Government has supported industry efforts to apply consistency in how such properties are valued. We are also supporting an industry group to design a data-sharing portal so that lenders and leaseholders can access the information needed to proceed with sales and re-mortgaging. In addition, Ministers will be holding a roundtable with industry to ensure that lenders can agree a rational approach to mortgage valuations on properties in buildings under 18 metres.

In your letter, you suggest that that a buyer needs to obtain a 'certificate' to show that a building is safe in order to obtain a mortgage. We wish to make clear that this is not a Government, legal, or regulatory requirement. The valuation and mortgage lending industry have introduced a process to aid the understanding of the likelihood of remediation works affecting property value and the impact they may have on their lending decisions. This form, the EWS1, is not a certificate of building safety. For unsafe buildings over 18m, lenders can be assured that there is a funded solution to required remediation. We are aware that lender commercial decision making is creating difficulties within the market for properties under 18m. The Government is therefore supporting industry as they devise a more proportionate and risk-based approach to the valuation of multi-storey, multi-occupied buildings under 18 metres.

6. Final Comments

All of the actions and intervention which are outlined in this response are focussed on the need to make buildings safe and to support residents so that they can enjoy their homes in comfort and safety. This is by no means the full extent of the Government's work to transform the building safety system for new and existing buildings. We have already banned the use of combustible materials in exterior walls of all new high-rise buildings, and we are also regulating for the biggest change to building safety in a generation. We are committed to the introduction of a new regulator responsible for implementing and enforcing a more stringent regulatory regime for higher risk buildings, as well as providing wider and stronger oversight of safety and performance across all buildings, and increasing the competence of those working on building safety.