

The Rt Hon. Sir Keir Starmer & The Rt Hon.
Angela Rayner
Prime Minister's Office
10 Downing Street
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16 September 2024

Sent by Email & Post

Dear Prime Minister & Deputy Prime Minister

OPEN LETTER: IMPROVING THE PACE OF FIRE SAFETY REMEDIATION

Rendall & Rittner is a leading managing agent in the UK, specialising in managing large complex city centre developments. We read with interest your pledge to speed up the process of cladding remediation. Given the high proportion of Higher Risk Buildings (HRBs) in our management portfolio; we believe that we are responsible for coordinating more remediation projects on behalf of our clients than any other managing agent. Our projects made up 23% of the applications to the original Building Safety Fund. We have a total of 73 developments where we are assisting with remediation due to unsafe external wall systems. Only 18 of these have either commenced or been completed.

We are acutely aware and sensitive to the impact of the protracted process on homeowners. The process has caused, and continues to cause, a great deal of stress and anxiety to leaseholders as a result of their inability to sell, remortgage or rent their homes. Let alone the safety concerns associated with living in an un-remediated building. Contrary to the tone of some press coverage, we care deeply about trying to resolve these issues, despite facing the many obstacles to progress that we outline below.

Due to the challenges faced by our clients, we have since 2020 employed a dedicated Fire Safety Remediation team to assist our clients to bring these complex projects to completion as swiftly as possible.

The Deputy Prime Minister recently highlighted the pace of remediation as unacceptable. We believe that we have unique insights into the remediation process that we want to share with you and ultimately open a dialogue, as to how we can help improve the pace of remediation on site.

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The key stages in the process are summarised for our portfolio in the following table together with their relevant funding schemes:

PROJECT STATUS	TOTAL	Building Safety Fund	Cladding Safety Scheme	Developer Pledged	ACM Fund
TOTAL	73	23	17	29	4
Project Complete	5	2	0	1	2
Works On-Site	13	6	0	6	1
Agreement Under Negotiation	6	0	0	6	0
Project Costs Under Review	5	2	3	0	0
Project Tender Underway	15	6	8	0	1
Scope of Works to be Agreed	6	0	0	6	0
FRAEW Under Review	6	2	4	0	0
Awaiting Pre-Tender Support Funds	0	0	0	0	0
Awaiting FRAEW	14	3	1	10	0
Application Closed	3	2	1	0	0

WHAT ARE THE UNDERLYING CAUSES OF DELAYS IN REMEDIATION?

1. Changes in guidance as to how risks should be assessed

The Government first recommended that building owners should carry out assessments to identify unsafe buildings in October 2018. They launched a series of Advice Notes (ANs), including AN14 and AN21, which recommended that external wall systems and attachments to buildings (respectively) be assessed. At this time, there was no funding available, and homeowners were faced with the double shock of knowing that their home was unsafe, and that they were also facing huge bills to fix the problem. The result was that very many homeowners could not sell or remortgage their properties. The RICS tried to address this by introducing guidance to valuers, together with a certification system (EWS1).

The ANs were replaced by the Consolidated Advice Note in November 2020 which was in turn replaced by the Fire Risk Appraisal of External Walls (FRAEW) in accordance with PAS9980 in January 2022.

2. The Building Safety Fund (BSF) application process is unwieldy and ever changing

There have been many changes to the BSF application process since it was first introduced, with the latest being that a high volume of projects have been moved from the BSF to the Cladding Safety Scheme (CSS) fund. This requires different, additional paperwork and each change creates delays whilst everyone gets up to speed with the new process. We have attached a case study from one of our projects in East London to highlight these impacts.

3. Developers have taken time to get up to speed with, and to take on, projects which were previously well-progressed with applications to the funds

Some developers have been proactive from day one and have stepped in to take over or fund projects which are either in planning or proceeding. Others have been less amenable and unwilling to engage. In other instances, developers have insisted on recommencing the process rather than being willing to accept the findings of experts already in place. This has resulted in extremely long delays whilst new FRAEWs are commissioned.

We recognise that in some instances delays are likely caused because developers are struggling to allocate the necessary resources. It is disappointing therefore that a number of projects have stalled due to the transition over to the responsible actor's scheme.

4. Some developers were unwilling to sign the Developer Remediation Contract

Some developers did not sign the contract since they believed the contract imposed unacceptable liabilities on them. We had numerous projects which have been stalled for over 18 months, because the terms of the funding agreement placed unacceptable liabilities on corporate landlords where developers had failed to sign the pledge. For those buildings within the CSS this has now been addressed as the terms of the new scheme have been deemed acceptable. However, as can be seen from the table on page 2 we still have many schemes that are not under the CSS.

5. Lack of sufficient expert resource to remediate projects

There is a finite number of fire engineers and cladding contractors able to competently carry out the necessary work to buildings. Competition for this resource has forced up costs and created delays due to the number of projects that can be concurrently remediated. We worked closely with our professional association, The Property Institute (TPI) (formerly ARMA) to first highlight this in 2020. Together, we emphasised the benefits of centralising remediation into a single body, who could then also prioritise those buildings which were most at risk. These recommendations were not heeded and the competition for expert resource continues. We therefore welcome the recommendation in the Grenfell Tower Inquiry report phase 2 of creating a single body for construction, though the implementation of it is likely to create further delays, which we all wish to avoid.

In addition to this, insurers were withdrawing or heavily restricting Professional Indemnity cover, which was preventing competent parties from undertaking works that they were previously covered for. This led to an already limited number of resources being further depleted.

6. Ongoing lack of clarity combined with an overly bureaucratic and confusing processes

Legislation around major works in leasehold properties already requires that we carry out a consultation process with leaseholders prior to carrying out costly works. This has now been overlaid with the requirements of the Building Safety Act that Landlords must notify leaseholders of Relevant Defects. They must follow the process of obtaining Leaseholder Deeds of Certificate and issue the Landlord's Certificate. Only once this is complete can it be established who must pay for Relevant Defects. This overly complex process adds a minimum of three months to many remediation projects. Working with TPI we recommended that the certificate could be issued where a route to funding was in place through a pledged developer. To date this solution has not been implemented.

7. The requirement for the Building Safety Regulator to give consent to projects prior to commencement

This is the latest issue to cause an impediment to progress of remediation. It is now necessary to have any works (as defined by the Building Regulations 2010) which impact on the fire safety or structural integrity of a building to be approved prior to works commencing. Introduced by The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, the Regulator is given 8 weeks to respond to an application for building control approval. Whilst we agree that this is generally beneficial, it adds little if any value in the case of fire safety remediation projects which already have a fire engineer in place to ensure that works are compliant. This could easily be overcome if it was agreed that consent could be retrospectively granted where there is a qualified Chartered Fire Engineer in place to sign-off works. In our experience, we are seeing delays of 6 months to remediation projects as a result of the need for consent from the Building Safety Regulator.

SERVICE CHARGE IMPACT ON LEASEHOLDERS

We are very aware of the impact on our leaseholders of the recent increases in energy costs and the cost of living issues generally and this is compounded in many buildings by additional costs associated with fire safety matters. We have previously raised with the (then) Department of Housing, Communities and Local Government, on behalf of our clients and leaseholders, the issue of service charge increases experienced due to fire remediation issues. In particular, where buildings insurance costs have increased, we suggested that Insurance Premium Tax be reviewed on these buildings so that the Treasury was not benefitting from increased leaseholder insurance costs. We would call on Government to review this and additional ways of lessening the burden on leaseholders, for example by applying zero or a domestic rate of VAT on building safety related works and particularly the new additional costs arising from the recent BSA legislation.

We hope that by highlighting the above we can open a dialogue on this matter to share our extensive experience of the remediation process, with a view to ultimately hastening the process of making homes safer. This would be of great benefit to all those residents who remain stranded in unremediated buildings.

Yours faithfully,



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