

Rt Hon Robert Jenrick MP

Secretary of State
Ministry of Housing, Communities and Local Government
4th Floor, Fry Building
2 Marsham Street
London SW1P 4DF

Date: 31 July 2019

Dear Robert,

We welcome the opportunity to respond to the consultation about a new building safety regulatory regime following on from the recommendations in Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety. The Mayor's detailed comments are enclosed with this letter.

It is clear that fundamental changes to the building safety system are needed to protect residents living in buildings of all kinds and to ensure that a disaster such as the Grenfell Tower fire never happens again. Two years since the Grenfell tragedy, we have not seen enough tangible change.

In May, the Deputy Mayor for Fire and Resilience organised a London Fire Safety Summit at City Hall to bring together local government and the housing sector in an effort to improve fire safety in London. It was evident during that event that many of the issues we face reflect decades of failure to put fire safety, and in particular the safety of residents, at the heart of how all buildings are designed, constructed and refurbished. It is vital that we get these reforms right as a matter of urgency to achieve the highest standards of building safety.

The Mayor's response highlights a number of areas where we believe the Government's proposals need to go further. It also highlights the need for more concerted action to deal with safety issues in the existing housing stock.

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

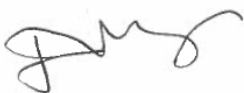
We are sure you will agree on the importance of, and urgency for, this reform. This is the only way to restore public confidence in the building safety system and our national building regulations.

Yours sincerely,



Fiona Twycross

Deputy Mayor for Fire and Resilience



James Murray

Deputy Mayor for Housing and Residential Development

A handwritten signature in black ink on a light grey background. The signature reads "Jules Pipe" in a cursive style, with a horizontal line underneath the name that ends in an arrowhead pointing to the right.

Jules Pipe

Deputy Mayor for Planning, Regeneration and Skills.

Mayor of London comments on the Government's consultation 'Building a Safer Future: Proposals for reform of the building safety regulatory system'.

Scope of buildings to which new requirements apply

The Mayor welcomes – as a step in the right direction – the proposal to go beyond Dame Judith's recommendations and apply reforms to all multi-occupied residential buildings of 18 metres or more. However, this does not go far enough. All residents should have confidence in the safety of the building they live in, regardless of the building's height. The Mayor believes that we need to move away from a single measure based on a rather arbitrary trigger height and consider the inherent risk to users of any particular building.

Clearly, taller buildings present specific risks for residents, not least for the evacuation of residents or for the access of fire and rescue services to flats. However, London Plan requirements for accessible housing have been in place since 2004 and mean that disabled and older residents, or those who would benefit from accessible housing, are likely to find the homes in any post-2004 residential development suitable for them. This supports the case for a more comprehensive approach that takes into account the diversity of the population.

The Mayor would also strongly support including in the new regulatory arrangements from the outset any residential or non-residential buildings where vulnerable people sleep, such as specialised housing, care homes, supported living or sheltered/supported housing and hospitals. Data on fire incidents shows that many of those who are most risk of being injured or dying in a fire live in homes of these types.

Government reforms should ensure that all building users can feel safe and have confidence in all types of buildings.

A new dutyholder regime for residential buildings of 18 metres or more

The Mayor is generally supportive of your proposals for system reform with new, responsible dutyholders who have robust duties across the whole life cycle of a building, and the three gateway points.

As you are aware, the draft London Plan requires all development proposals to achieve the highest standards of fire safety to ensure the safety of all building residents and users. This approach elevates the importance of fire safety and ensures it is given sufficient consideration and evaluation at a stage in the development process when many development parameters have not yet been 'set'. The draft London Plan also introduces policy requirements for developments to be designed to incorporate fire evacuation lifts suitable for people who require level access, including many disabled people and older people.

The proposals for gateway one to apply to residential buildings of 30 metres or more in height is inconsistent with other proposed thresholds and will not serve its purpose. The consultation document explains that this will apply to 84 buildings a year over a ten-year period. This does not go far enough and will not apply to enough buildings to result in the change which is needed. Fire safety is an essential factor around which development should be designed, as opposed to one that is only considered later in the development process once fundamental decisions have been made. If the matter of fire safety is left to be considered for the first time at Building Control stage, it may be too late to incorporate the necessary features or requirements into the site and/or building layouts. Some examples of areas that need to be considered in relation to fire safety at planning stage include:

- site layout, amenity space and vehicle access, and the impact these could have on fire appliance arrangements/ access, evacuation assembly points, and evacuation routes;
- existing or consented nearby buildings and the impact they could have on external fire safety arrangements; and
- the fire strategy and evacuation approach adopted, which have implications for:
 - the number, location and design of vertical circulation cores,
 - the configuration of buildings within a development, and

- spaces in between these buildings and their use both initially and in the future.

Also, the planning system provides the opportunity and tools to protect and maintain clear areas (if, for example, they are identified as being required for fire safety purposes), therefore preventing them having other uses placed on them that could adversely affect the fire safety or usability of a development in an emergency situation.

For the reasons outlined above the draft London Plan policy requires all major development proposals to be submitted with a 'Fire Statement', which is defined as an independent fire strategy, produced by a third party suitably qualified assessor and including details of:

- the building's construction;
- means of escape;
- features which reduce the risk to life, such as fire alarm systems, passive and active fire safety measures and associated management and maintenance plans;
- access for fire service personnel and equipment, and provision for fire appliances to gain access to the building; and
- measures to ensure that any potential future modifications take into account and do not compromise the base build fire safety/ protection measures.

This information should be provided in all fire statements to form the start of the golden thread of fire safety information as proposed by Dame Judith's review. The current proposal in your consultation for the content of Fire Statements to only cover the subjects of fire service vehicle access and access to water supplies clearly does not go far enough and a more comprehensive approach is required.

The Mayor therefore urges you to reconsider the applicability of gateway one. The requirement for, and content of, fire statements in planning applications should be extended as the proposed approach is far too limited to achieve the cultural and industry wide shift which is required to create developments that are safe and in which people can have confidence living.

Residents' voice

The tragic fire at Grenfell Tower raised questions as to whether residents are adequately heard and involved in the decisions that affect their homes. The Mayor broadly agrees with the proposed approach to empower residents, including with the proposals to require the accountable person to proactively inform residents about fire safety measures and develop a clear strategy to engage with them. The building safety manager will be instrumental to implementing these changes. However, this is a role that currently does not exist, and the sector has raised concerns over the qualifications and experience required to fulfil it and how recruitment will be possible in practice.

When things do go wrong, it is key for residents to have a clear and simple escalation route for fire and structural safety concerns that haven't been dealt with via internal processes. The Mayor has, in the past, strongly supported a single point of access to redress for residents in the shape of the Government's proposal for a new Housing Complaints Resolution Service. Clarity is required over how the different redress routes will work together and complement each other.

However, the challenge facing us is about much more than providing residents with information or a clear escalation route. It is about changing the culture of engagement with residents. The London Fire Brigade (LFB) has made it clear that residents are an excellent source of information on how buildings work. Engaging and consulting with residents proactively and openly ought to be at the heart of the new regime. This should be the case for all residents, irrespective of the height of their building.

A new building safety regulator

In his response to Dame Judith Hackitt's final report, the Mayor raised concerns over how the new regulator will work in practice and whether it, or the entities comprising it, will be appropriately

resourced. These concerns remain as no further details have been provided in the consultation document. In particular, it is still unclear whether the new regulator will exist as a separate entity and how disagreements between regulators will be dealt with.

It is also disappointing to see that Approved Inspectors will continue to play a role under the new regime. The Mayor believes that there are inherent risks with a market-based approach to building control and he has called for Approved Inspectors to be phased out from providing building control services for all buildings. The Mayor urges you to reconsider this given the inherent conflict of interest that the Government has itself identified.

Competence

It is clear that there is a shortage of skills and competency across the fire safety sector, and the construction industry in general, in key roles including Fire Risk Assessors, Fire Engineers and Building Control. Without actions across the board to address this shortage and develop capacity, the expertise required to ensure buildings are safe from fire will simply not exist.

In her review, Dame Judith spoke about the construction industry's race-to-the-bottom culture. Expectations that the industry will solve the issues set out by the Hackitt review, including on competence, are clearly not realistic. The industry cannot be relied upon to address the current issues alone and most importantly won't instigate the urgent culture change required to make people safe. This view was shared with you last month in a letter from the Deputy Mayor for Fire and Resilience, the LFB and Cllr Darren Rodwell (on behalf of London Councils). The Mayor therefore disagrees with the proposal for an industry-led committee to drive competence. While the industry needs to be part of the conversation, the role of leading competence in the sector should be accountable to the public; as the industry has clearly failed to drive expertise so far.

Construction products

The Mayor welcomes the new measures introduced to increase the oversight of construction products, including clear labelling and traceability of construction products and a declaration of performance of products. This is something he has called for in his response to the recommendations within Dame Judith's report. An 'inventory list' is also a positive first step to increase clarity over which products comply with legislation. However, this needs to be underpinned by robust product testing and full transparency over test results of products on the market. The Mayor's preference is for this information to be made publicly available.

In the last year the Mayor, and many others, have questioned the Government's decision for the combustible material ban to only apply to buildings over 18 metres. This call was repeated last month after the shocking fire at Samuel Garside House, a mid-rise building with combustible cladding.

Finally, the Mayor wishes to raise the ongoing fire safety issues facing the existing housing stock. Two years on from the fire at Grenfell Tower, Londoners and people across the country, are entitled to expect the Government to have made sure their homes, and any new homes being built, are safe in the case of fire. The Mayor believes that a review of the Decent Homes Standard, as proposed in the social housing green paper, would present an opportunity to bring the existing housing stock up to the new standard and improve the fire safety measures in individual homes. The Government should fund the retrofitting of sprinklers or other suitable fire suppression systems as part of a risk-based approach, and to respond to the LFB's call for sprinklers to be made mandatory in all new residential tower blocks.

In addition, this reform will be meaningless for most Londoners unless bolder steps are taken to deal with the systemic fire safety issues identified by the Government, building owners or residents, including the presence of combustible external wall systems, in many residential tower blocks since Grenfell. The scope of the funding made available from the Government to remediate unsafe ACM cladding in the private and public sectors should also be widened to include remediation of other unsafe external wall systems.