

MAYOR OF LONDON

Rt Hon James Brokenshire MP

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I am writing to set out my response to the recommendations within Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety, following its publication in May.

With some notable exceptions which I will provide detail on in this letter, Dame Judith's report is a positive framework for reforms to the system of Building Regulations. The Government must now urgently provide the detail needed to ensure reforms are implemented, and that they produce a functioning regulatory system with the highest standards of fire safety to ensure a tragedy like Grenfell never happens again.

As Mayor of London, the safety of Londoners is my top priority. A number of the policy requirements in my draft London Plan in relation to fire safety have been in response to the fact the Building Regulations do not currently provide a robust system of standards, guidance and process. London has more tall buildings than any other part of the country and, in order to tackle the housing crisis, it is imperative that Londoners have confidence in high-rise living. Over the last three years, between 80 and 110 tall buildings each year have gained planning consent in London. It is therefore crucial that changes resulting from Dame Judith's recommendations work for London.

The narrow definition of high-risk residential buildings (HRRBs) used in the review was a missed opportunity. The rationale for the 10-storey threshold is unclear - it captures a relatively small number of buildings and does not align with the Government's Building Safety programme which uses a definition of 18 metres. Many of the recommendations have an obvious application for a greater range of buildings below 10 storeys and potentially below 18 metres. I note that the Scottish Government is seeking to amend their Building Regulations to use 11 metres as the threshold for high-rise, based on the practicalities of fighting fires at this height. I urge you to consider this issue carefully and go further than Dame Judith to ensure this new framework for the Building Regulations and fire safety applies beyond the narrow 10-storey definition.

The current focus on building regulations is welcome. However, it is equally important that the Government begins to grapple with the even more challenging issues within existing housing stock. Dame Judith hinted at this in her review but held back from making concrete recommendations. The urgent nature of the situation for the residents of blocks with unsafe cladding calls for unprecedented solutions. The Government should consider using all the tools at its disposal to force building owners to ensure that all buildings already in occupation are safe.

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I will turn now to the main recommendations emerging from the review.

The planning process and the golden thread

I welcome Dame Judith's recognition of the role that planning can play in ensuring building safety is considered from the very beginning of a building's life cycle. This is exactly what I have aimed to achieve in my draft London Plan. As my draft policies relating to fire safety represent a new approach, the review's endorsement of this is very welcome.

I would also like to draw attention to the alignment between Dame Judith's 'golden thread' and the Fire Statement that is required through my draft London Plan. The Fire Statement is a document produced independently by a third-party setting out the fire safety considerations for a new development. Submitted at planning stage, it could accompany the building throughout its lifecycle, thereby delivering the golden thread of information needed by developers, managers, and potentially building users and occupiers.

Residents' voice

I am pleased to see the importance the review places on the voice of residents. I agree that residents must be provided with more information about the fire safety measures in their building and that they should have a role to play in ensuring fire safety measures are maintained. My draft revised London Housing Strategy, which I submitted to your department in June, puts forward a number of proposals on this issue. For example, I called for the Government to appoint a Commissioner for Social Housing Residents, and for changes to the Housing Ombudsman and Regulator of Social Housing to ensure concerns are dealt with quickly. I hope these suggestions are taken forward in the forthcoming social housing green paper.

I particularly welcome Dame Judith's recommendation of a single route to redress for residents living across all tenures. I have already voiced support for the establishment of a single housing ombudsman, in response to your consultation on strengthening access to redress. Since that consultation closed in March, no further plans have been announced and I urge you to heed the voices across the sector and implement this recommendation as quickly as possible.

Joint competent authority

The headline recommendation in Dame Judith's review is a new regulator in the form of the Joint Competent Authority (JCA) which will bring together the expertise of fire and rescue authorities, the Health and Safety Executive, and local authority building control.

I support this recommendation in principle, but I have concerns about how it will work in practice. I am supportive of the identified 'gateway points' for approval from this body but more detail is needed before its impact can be meaningfully assessed. For this regulator to be effective, the authorities involved must be resourced appropriately and I would urge the Government to announce additional funding to support this work.

Through the JCA, Dame Judith recommends a restricted role for Approved Inspectors such that local authority building control teams would have much greater control over high-risk residential buildings. I strongly support this recommendation. In my original submission to the call for evidence I highlighted the risks and conflicts of interest inherent in a market-based approach to building control. A restricted role for the private sector will allow local authority building control teams to better exercise their judgement based on safety considerations rather than market share.

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Building materials

I was deeply surprised that Dame Judith's review failed to recommend a ban of combustible materials. Although I agree with London Fire Brigade's view that piecemeal changes alone will not deliver the systemic change that is needed, I support an outright ban on the use of these materials as part of wider reforms to building regulations. This ban should be achieved by amending the Building Regulations to prohibit the use of combustibles in any building, regardless of height or use. This would also ensure that assessments in lieu of tests (desktop studies) are no longer a route to compliance for cladding systems, something I called for in my response to your recent consultation on this topic.

Although some of the changes to the testing system set out in the review are welcome, it was a missed opportunity that Dame Judith failed to recommend full transparency on test results of products on the market. Given her strong words on transparency in the interim report, I was disappointed that bolder steps were not recommended. My preference would be for the Government to require that all test results of relevant products are published.

Sprinklers

As stated above, the narrow range of buildings the review focused on was disappointing, not least because this precluded Dame Judith from considering the efficacy of current sprinkler regulations, which are already mandatory in buildings over 10 storeys. I have long supported London Fire Brigade's campaign to increase the use of sprinklers. As part of this, I would like to see the English Building Regulations brought into line with other parts of the UK so that sprinklers are mandatory in new buildings over 18 metres. Furthermore, I call on the Government to provide funding for the retrofitting of sprinklers in existing buildings as part of a risk-based approach.

Competence

One of the key issues emerging from the tragedy at Grenfell and the ensuing building safety concerns across high-rise buildings was the lack of clarity over what qualifies someone as competent to work on these buildings. Dame Judith's review has failed to grapple with this issue sufficiently, recommending that industry itself draw together a proposal for how its competence should be regulated.

In the past year many have questioned the scruples and diligence of the industry. I am extremely concerned that this piece of work will not be carried out responsibly or quickly enough, nor with resident safety as its top priority, if led by the companies and organisations whom many feel bear some responsibility for the current situation. I know London Fire Brigade has been involved in discussions on this issue and it is vital that this continues.

If you decide to proceed with an industry-led proposal, you should set out the standards you expect industry to meet so that it is clear whether this approach has been successful. Furthermore, you must be clear what action you will take if it falls short of the standards required.

Building regulations and guidance

I agree with Dame Judith's conclusion that the statutory guidance for Building Regulations is complex, ambiguous and not user-friendly. However, I disagree with her solution to this problem. The proposal of giving industry greater ownership of statutory guidance is extremely risky, and I urge you to reject it as a solution. For the reasons stated above, entrusting the construction industry with writing its own instructions on how to comply with regulations is dangerous. It will do nothing to ensure that the public has confidence in the system of building regulations. The Government must hold the pen on drafting and retain its position as the provider and approver of this guidance.

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I would like to finish by urging you to publish plans for how these recommendations will be implemented as a matter of urgency, with consideration of the points I have set out above. There is no doubt that wholesale reform of the Building Regulations and fire safety is needed to keep people safe in their homes. The first step is to deliver a ban on the use of combustible materials, but this must be followed by fundamental reform of the whole system. You must ensure that this does not become a missed opportunity to implement the safety standards Londoners and others deserve.

Yours sincerely,



Sadiq Khan
Mayor of London

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