

Local Government, Housing and Planning Committee

16th Meeting, 2023 (Session 6)

Tuesday 30 May 2023

Building Safety update session

Introduction

1. On [10 May 2022](#) the Committee held an evidence session with stakeholders on the Building (Scotland) Amendment Regulations 2022. The Committee subsequently heard from the Minister for Zero Carbon Buildings, Active Travel and Tenants' Right, [on 17 May 2022](#). In the context of those sessions the Committee explored wider issues around building safety.
2. Following the session the Committee wrote to the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights highlighting issues it sought further information on. A copy of that letter as well as the response is provided at the Annex to this paper.
3. The Committee also agreed that it would hold an annual session on building safety. In particular, the Committee expressed an interest in pursuing the following issues:
 - progress with the Single Building Assessment Pilot Programme
 - the response to the zero valuation of flats in blocks with potentially flammable cladding systems, stemming from the EWS1 process
 - the Scottish safer buildings accord
 - the role of the building standards compliance manager
4. The Committee held a session on 18 April 2023 following up on these issues with the following stakeholders:
 - John-Paul Breslin, Building Standards Team Leader, Stirling Council, Local Authority Building Standards Scotland;
 - Alastair Ross, Assistant Director, Head of Public Policy (Scotland, Wales & NI), Association of British Insurers;
 - Calum McQueen, Technical Surveying Manager, e.surv Chartered Surveyors;

- Nigel Sellars, Senior Specialist, Valuation and Property Standards, Royal Institute of Chartered Surveyors
5. The purpose of this session is to continue to follow-up on the progress that has been made in relation to these issues over the last year.
6. At this meeting, the Committee will take evidence from—
- Chris Ashurst, Group Co-ordinator, High Rise Scotland Action Group;
 - Fiona Kell, Director of Policy, Homes for Scotland;
- and then from—
- Paul McLennan, Minister for Housing, Stephen Garvin , Deputy Director for Building Standards and Rachel Sunderland, Deputy Director, Cladding Remediation Unit, Scottish Government.

Background

7. There are several separate, but related, issues that are likely to be the focus of the session with stakeholders on the issues of building safety and zero-valued homes. These include:

Ministerial Working Group on Building and Fire Safety

8. Established in June 2017 in the immediate aftermath of the Grenfell Tower fire, [this stakeholder group](#) has overseen reviews of building standards and fire safety frameworks, regulations and guidance. Key outputs include

- the introduction of a statutory requirement for smoke and heat alarms to be fitted in all homes,
- changes to fire safety related Building Standards for high-rise buildings that were considered by the Committee in 2022 and are now in force,
- revised procedural guidance for building standards officers, and
- the establishment of several long-term groups/boards to consider building and fire safety issues.

Inventory of High Rise Buildings

9. The Ministerial working group quickly established that there was no central source of standard information on Scotland's high-rise domestic buildings, which hindered any national assessment of what action needed to be taken to rectify fire safety defects and the likely costs. The Scottish Government commissioned consultants to develop a High-Rise Inventory (HRI), a summary of was [published in November 2021](#). This reports there are 780 high-rise buildings in Scotland (buildings with a storey height of 18 metres or more above ground), which are spread across 15 local authorities – although 49% are found in Glasgow. In total, there are 46,616 flats within

these high-rise buildings. 38 buildings are clad in Aluminium Composite Cladding (ACM), 23 of which are clad in the highest risk “Category 3” panels.

Zero valued homes and EWS1

10. The issue of “zero valued homes” first arose in December 2018 when the UK Ministry for Housing, Communities and Local Government issued an advice note to anyone responsible for, or advising on, the fire safety of potentially combustible external wall systems on high rise residential buildings. The introduction of this advice, since superseded by [Scotland-specific advice](#) issued in August 2021, has led to some mortgage lenders refusing to provide loans for the purchase of flats in high rise buildings unless there is proof that they meet the requirements set out in the advice note. Where such proof is not available, surveyors could value such properties at £0. This obviously has implications for home-owners, those wishing to buy and the operation of the wider housing market.

11. It quickly became apparent after the publication of the first advice note that there was no standard process for assessing the fire safety of existing high-rise properties that would satisfy the needs of home owners and financial institutions. The Royal Incorporation of Chartered Surveyors (RICS), working with the Building Societies Association (BSA), and UK Finance then developed an industry-wide valuation process aimed at resolving this issue (known as EWS1).

12. It is important to note that the EWS1 system is not a statutory requirement. It was created to standardise fire safety assessments for buildings with external wall cladding systems to allow financial institutions to issue mortgages.

Ministerial Working Group on Mortgage Lending and Cladding

13. Established by Scottish Ministers in 2020, [this working group](#) investigated possible solutions to the issue of zero-valued homes. Reporting in early 2021, the group’s key recommendation was the eventual replacement of the EWS1 with a Scottish Government backed Single Building Assessment.

Single Building Assessment

14. The Scottish Government announced the establishment of a [Single Building Assessment programme](#) in March 2021. The aim being to offer free fire safety assessments for all affected buildings – paving the way for publicly funded remediation work on buildings found to have unsafe cladding systems. The Scottish Government originally identified 25 high priority buildings to test and develop the Single Building Assessment, before inviting applications for the Scotland wide roll out.

15. The Cabinet Secretary for Social Justice, Housing and Local Government wrote to the Committee on 27 March 2023, including an update

on the Single Building Assessment programme. The letter notes that there are now 105 buildings in the single building assessment process and also sets out the progress that has been made:

“...three Single Building Assessments are being commissioned in partnership with developers. Fourteen Single Building Assessments have reached a reporting stage and remediation has started on one building”.

Scottish Safer Building Accord

16. The [Scottish Government announced the creation of the Scottish Safer Building Accord](#) on 12 May 2022, which the Cabinet Secretary [described as](#):

“It is my clear expectation that developers linked to buildings with problematic cladding will fund remediation where this is identified. That will ensure that when public funds are needed to be spent, we can use them to focus on buildings and works where a developer cannot be identified or no parent developer exists.

The creation of our Accord with the housebuilding sector and homeowners will form the basis of a way to address each building’s needs. However I want to also make clear that if required, I will make full use of the powers available to us to bring parties to the table, including if necessary, using legislation to do so.”

17. The Cabinet Secretary provided an update on the progress of the Accord in her letter to the Committee dated 27 March 2023, stating:

“Since last May the Scottish Government has been in discussions with Homes for Scotland and developers on a Scottish Safer Buildings Accord and over that time we have had detailed and positive discussions about securing an agreement to remediate buildings in Scotland...Unfortunately, there remain a small number of outstanding, but critical issues on which we have not been able to agree...This means that, at this point in time, we have not been able to come to agreement with Homes for Scotland and developers on the Accord...”

18. A copy of the Cabinet Secretary’s letter can be found in the Annex to this letter.

19. Most recently, on 24 May Kaukab Stewart asked the Scottish Government for an update on progress towards securing an agreement on the Scottish Safer Buildings Accord.

20. The Minister for Housing responded as follows:

“The Scottish Government is determined to ensure that buildings with unsafe cladding are remediated and that developers meet their responsibilities. The Scottish Government has been working closely

with Homes for Scotland and the 10 largest developers who work across the UK (wave one developers) to agree a Scottish Safer Buildings Accord.

We have now reached an in-principle agreement with Homes for Scotland and a number of those wave one developers on the Accord. This is an important step in the process. We will now move to agree the long form legally-binding contract to support the remediation of developer linked buildings with unsafe cladding. We will continue to engage with the remaining wave one developers to address outstanding technical questions and open discussions with the smaller and medium sized developers on their responsibilities. We are continuing to explore legislative options to safeguard residents and homeowners.”

Next Steps

21. The Committee will reflect on the evidence received and consider whether there is any further evidence it would wish to take before returning to this issue next year.

**Clerks,
Local Government, Housing and Planning Committee**

Annex

Letter from the Committee to the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights

Dear Patrick,

Building (Scotland) Amendment Regulations 2022 (SSI 2022/136)

Thank you for giving evidence on the above statutory instrument on 17 May 2022. As you know, the Committee did not wish to raise any issues on the SSI itself but there were a number of related points on which we would welcome further information as set out below.

We note the recent Ministerial statement by the Cabinet Secretary for Social Justice, Housing and Local Government in which she explained that 26 buildings would form part of a Single Building Assessment pilot programme which would be expanded to over 100 in the coming months. We further note that the intention is to expand this pilot to an additional 100 or so buildings from April 2023 but would welcome further information on how long this pilot is expected to last for and how the Scottish Government intends to manage the scheme after the pilot has concluded.

The Committee welcomed the explanations provided by you and your officials for how certain homes could be classed as having zero value by lenders. However, we remain concerned that lives continue to be blighted by the zero valuation of flats in blocks with potentially flammable cladding systems, stemming from the EWS1 process. We welcomed assurances that the single building assessment process would provide “a more solid answer” so that “a plan can be agreed for the whole block” but invite you to provide further clarity on timescales for the roll-out of the single building assessment and when affected residents can expect to be able to sell their homes.

The Committee further notes actions being taken by the Welsh Government, most notably its proposals to potentially buy-out owners of affected homes, and would welcome a summary of actions the Scottish Government has or intends to undertake in comparison to steps taken in Wales. Whilst we welcome individual steps taken by the Scottish Government to date, we invite you to provide a summary of the overarching plan for resolving this complex issue.

The Committee was also grateful for the update on progress with the Scottish safer buildings accord and we were pleased to hear about the positive feedback on proposals to remediate buildings from the last 30 years to current standards on a common basis. We note that the Scottish approach to this issue replicates actions taken in other parts of the UK and that a process will be developed and taken forward in the coming months but would welcome greater clarity on timescales for this work and exactly what it will entail.

Finally, the Committee invites you to provide further detail on the proposed role of the building standards compliance manager who would have oversight of compliance throughout the development process. In particular, the Committee was interested in who would ultimately certify that a new-build home was compliant with building standards. I note that you undertook to provide a written update on the pilot scheme on a new-build school campus project referred to in evidence and I look forward to receiving this update.

The Committee intends to return to the issues raised in this letter in the future. I look forward to your response.

Yours sincerely

Ariane Burgess
Convener, Local Government, Housing and Planning Committee

Response from the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights to the Convener

Dear Ms Burgess,

I refer to your letter of 17 June 2022 that followed my appearance at Committee on the 17 May 2022. There were a number of points raised that I have sought to clarify here.

Cladding Remediation Programme

The Single Building Assessment programme was a key recommendation of the Ministerial Working Group for Mortgage Lending and Cladding. The purpose of the Single Building Assessment is to carry out a comprehensive fire safety inspections of whole blocks of domestic residential. This is a free assessment and there is no cost to property owners. Our building by building approach aims to offer reassurance and our priority is always to secure the safety of people in their own homes. Single Building Assessments will help us understand the scope and scale of cladding issues across Scotland.

Single Building Assessment Programme: Pilot

The committee has sought further information how long the Single Building Assessment pilot programme is intended to continue.

As part of the Scottish approach, which focuses on life safety, we selected 26 high priority residential blocks of flats for an initial phase to test and develop the Single Building Assessment.

The initial phase of the pilot began last year and continues to make progress on the initial 26 buildings. The initial phase is being delivered via grant funding with all commissioning activity being led by home owners and their factors. This pace of progress necessitated a new approach to enable us to expand the number of buildings in the pilot. Buildings within the pilot that have not yet submitted a full application have now received the offer of a directly procured SBA.

Based on lessons learned from the initial pilot phase we have expanded the number of buildings in the pilot 4 fold (now over 100 buildings) and will use government procurement processes to secure fire risk professionals for the assessment of these buildings.

The pilot is the initial phase of national delivery and the adoption of the SBA by industry will facilitate progress towards the national roll out.

Single Building Assessment: Published Information

The Single Building Assessment programme started in March 2021, following recommendations from the Ministerial Working Group on Mortgage Lending

and Cladding and a commitment to spend all consequentials received. Single Building Assessment pilot spending information from July 2021 to March 2022 has been published: [Single Building Assessment programme: spending information - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/single-building-assessment-programme-spending-information-gov-scot/pages/1-1-introduction.aspx). The breakdown by Local Authority was:

Local authority	Spend as of 01/04/2022 (£)
Aberdeen City	17,700
City of Edinburgh	109,298
Glasgow City	114,282
Total	241,280

Cladding remediation spend data will now be published on a quarterly basis.

Single Building Assessment: Training in association with professional bodies

The Royal Institution of Chartered Surveyors (RICS) have been delivering a course to increase the number of professionals who have the skills and knowledge required to carry out external wall system assessments for buildings under 18 metres including producing reports and signing EWS1 forms. Discussions with RICS have indicated that the course content is suitable for those undertaking the external wall appraisal part of the Single Building Assessment (SBA). Officials are working with the RICS on a further module within the training that will include the requirements and reporting of the SBA.

We would expect that this additional module will be available later in this year. Expanding the number of professionals that are competent to carry out external wall appraisals is a key component of delivering the SBA and as such my officials continue to work with both the RICS and the Institution of Fire Engineers on the capacity of the sector to deliver SBAs.

Single Building Assessment: Property purchase

It is understood that the Welsh Government has developed plans to purchase properties, which might be used on a limited basis.

We are looking into options available to help support affected homeowners, unable to sell or insure their properties. While we have not committed to a formal buyback scheme, we will work with the Welsh Government to understand their scheme and the outcomes. We will then review the possibility for such a scheme to work in the Scottish context.

Scottish Safer Buildings Accord

We are currently working with industry parties on the Scottish Safer Buildings Accord, which the committee sought further. Some of the country's largest housing developers have agreed to work with the Scottish Government and others to address cladding issues, giving affected homeowners a clear path to ensuring their homes are safe. A plan has been agreed in-principle after speaking with a number of developers.

Under the Scottish Safer Buildings Accord (SSBA), developers will be expected to fund works to properties they built to address safety issues identified through the Scottish Government's Single Building Assessment programme. Public funding will be prioritised for buildings that are not linked to an existing developer.

High level SSBA principles should be agreed with the largest housing developers prior to the start of summer recess with the final Accord agreed by the end of Summer 2022.

Building Standards Futures Board: Compliance Plan Pilot

Building Standards Division is developing proposals to enhance compliance with the building regulations and provide greater certainty that buildings are delivered in accordance with the approved building warrant plans, details and the building regulations.

A public consultation on Compliance and Enforcement took place between 11 November 2021 and 9 February 2022, and built on the accepted findings of the earlier Compliance and Enforcement public consultation undertaken in 2018. The 2021 consultation sought views on the development of a new Compliance Plan Manager role within the building standards system which will apply to specific High Risk Building (HRB) types, the definition of these HRBs, and the level of fines where work is not carried out in accordance with the regulations. The new Compliance Plan Manager role, to be carried out by a suitably qualified construction professional. The proposals were overwhelmingly supported and the consultation analysis is now published and available at - Building regulations – compliance and enforcement: consultation analysis - gov.scot (www.gov.scot)

The proposals include the creation of a Compliance Plan within the building warrant process for all HRBs by the 'Relevant Person' (normally the building owner) and their appointed 'Compliance Plan Manager' (a new oversight role acting on behalf of the Relevant Person). The Compliance Plan will identify the building regulation compliance risks on a project and set out the evidence needed by the Relevant Person to demonstrate how these have been addressed and set out all the inspections and compliance evidence that the local authority verifier, will require. The Compliance Plan Manager (CPM) will oversee the approved Compliance Plan to ensure it is fully discharged before a completion certificate can be submitted to the verifier. This will provide greater assurance that the risk of non-compliance with the building regulations has been minimised and evidence that the work has been carried out in accordance with the approved building warrant plans and details

In the case of High Risk Buildings, it is proposed that the Relevant Person or the CPM, acting as their authorised agent, will certify compliance with the approved building warrant plans and details and the building regulations by submitting a Certificate of Completion to the local authority verifier. The local authority verifier, as at present, will then determine whether to accept or reject the certificate based on their own inspections, checks and compliance evidence as available to them. In the case of new build housing, the support for the application of a CPM within the building warrant applications process for new build housing site projects was mixed and further consideration will be required.

The Compliance Plan process is being trialled in partnership with Fife Council on the Dunfermline Learning Campus project. This work is focusing on developing and informing the documentation and processes required to support the Compliance Plan as well as undertaking some of the tasks of the CPM. Currently this work is considering the proposed building warrant pre-application stage, the information required to be provided and considered and the output of the process in the form of the approved Compliance Plan in principle.

It is intended, subject to agreement from relevant parties, that the new CPM role consulted on in 2021 is incorporated within initial high rise remediation projects to provide greater compliance certainty. Further work to develop this is being undertaken and it is hoped that a trial will be in place from the summer to help support the cladding remediation programme.

I can also inform you that the Scottish Government issued interim guidance in July 2017 relating to site inspection and assurance on behalf of public sector clients (Scottish Procurement Construction Policy Note CPN 1/2017. The guidance is still effective and is referenced in the Client Guide to Construction Projects' Construction Phase Handbook.

PATRICK HARVIE

Letter from the Cabinet Secretary for Social Justice, Housing and Local Government on the cladding remediation programme

Dear Convener,

CLADDING REMEDIATION PROGRAMME – UPDATE ON PROGRAMME EXPANSION AND THE SCOTTISH SAFER BUILDINGS ACCORD

I write to provide you with an update on the work the Scottish Government has been carrying out to identify and remediate unsafe cladding, particularly the Single Building Assessment programme and the Scottish Safer Buildings Accord.

Single Building Assessment

In a statement to Parliament last May I made a commitment to an expansion of the pilot Single Building Assessment programme. In May there were 26 buildings in our pilot programme, this has now increased to 105 buildings at different stages of the Single Building Assessment process.

The initial approach for the Single Building Assessment pilot involved giving grants to homeowners through a property factor. Sixteen Single Building Assessments were commissioned through this approach, which we have referred to as Pathway 1.

In my May statement I confirmed that we would build on our learning and change that approach. Using the powers and procurement tools available to Scottish Government, we would procure fire assessors and engineers on behalf of residents in buildings, an approach termed Pathway 2. This approach is now in place and progressing and eight Single Building Assessments have been commissioned through this pathway.

As part of this process we have established a dynamic purchasing framework for the programme. This framework began earlier this month and, together with the Pathway 2 approach, will provide a quicker route to assessments for homeowners. In addition three Single Building Assessments are being commissioned in partnership with developers. Fourteen Single Building Assessments have reached a reporting stage and remediation has started on one building.

Quarterly Update

Information on the number of buildings in the Single Building Assessment Pilot, and the level of spend on the programme, is published and updated on a quarterly basis on the Scottish Government website - [Single Building Assessment programme: spending information - gov.scot \(www.gov.scot\)](https://www.gov.scot/Topics/consultations/Single-Building-Assessment-programme/spending-information).

The quarterly update was published in January and covered spend to 1 January. The next set of quarterly data will cover the period up to the 1 April.

However, it may be helpful to note that as of the end of February total spend on the programme was just under £1.3 million while the total level of committed spend at that date was just over £1.7 million. The overall level of spend on the programme will increase as we process payments and commission work through March so the regular quarterly spend data will be higher than the current spend data.

Waking Watch

While it is our expectation that the majority of buildings that are assessed during the lifetime of the programme will be found to be safe, I have always been clear that, if immediate action is needed to safeguard residents, we would take action. This has been the case in two buildings where, on advice from fire safety engineers, we have established a waking watch as a precautionary measure to safeguard residents. In one of those buildings Scottish Government is meeting the costs of the waking watch while developers have agreed to meet the costs for the second building.

The £1.7 million committed spend figure excludes the commitment to fund a Waking Watch in the developer linked building. We will include these costs in our public data, although separately identified, since the developers have agreed to reimburse Scottish Government for these costs. We are also working closely with the developers in that building to enhance the alarm system to allow the waking watch to be reduced or stood down.

Scottish Safer Buildings Accord

Since last May the Scottish Government has been in discussions with Homes for Scotland and developers on a Scottish Safer Buildings Accord and over that time we have had detailed and positive discussions about securing an agreement to remediate buildings in Scotland. We have made progress in some areas, agreeing with Homes for Scotland, and developers, that the programme of identification, assessment and remediation of buildings will be delivered in more than one wave with each wave focused on a different cohort of developers. In the first wave our discussions have focused on developers who operate across the UK and who have already signed the UK Government Pledge.

Through these discussions developers have accepted the principle of developer responsibility and that home owners should not pay developer costs associated with life critical fire safety remediation and mitigation work. In negotiations developers have committed to undertaking a fire risk assessment and, where required, the remediation of their properties in Scotland.

Unfortunately, there remain a small number of outstanding, but critical issues on which we have not been able to agree. The main point of impasse being an unwillingness of developers to accept the need to work to legal Scottish Building Standards. Developers want to apply a single approach to Building Standards across the UK even when remediating buildings in Scotland.

The law on building standards in Scotland cannot be set aside by developers or the Scottish Government. Remediation or building work in Scotland are required to do so in line with Scottish Building Regulations passed by the Scottish Parliament in 2022 ensure relevant building works are captured by a Building Warrant and subject to scrutiny by Building Standards. Those regulations then require no combustible materials to be left on a building above 11 meters in height. This is a legal *minimum* standard.

This means that, at this point in time, we have not been able to come to agreement with Homes for Scotland and developers on the Accord, as – and I am sure the Committee would agree - developers who are working in Scotland need to adhere to Scottish standards and this is not an issue on which there can be compromise.

We have made strong progress in our discussions, especially over the last few months and I have today written to Homes for Scotland and encouraged developers to reconsider their position. The Scottish Government remains committed to seeking to secure an agreement in principle with developers and thereafter to agree a legally binding contract with developers but this must be on the basis of accepting Scottish Building Regulations. Firms operating in Scotland must adhere to the laws that are in place in Scotland.

The safety of home owners and residents is at the heart of this programme and I am very aware of how very stressful and unsettling this is for them. The Scottish Government is determined to ensure that buildings with potentially unsafe cladding are remediated and, as I said in my statement to Parliament last year, if the Accord was not going to be agreed I would use the full powers of the Scottish Parliament to safeguard homeowners and residents. This includes introducing primary legislation and we are now preparing options at pace.

Despite these challenges we have worked closely and positively with developers in delivering the Cladding Remediation Programme and will continue to do so. In partnership with developers across Scotland we are commissioning Single Building Assessments and working to assess and remediate buildings. We will continue to engage positively and constructively with developers in continuing this work and providing reassurance for home owners and residents.

Mortgage and Insurance

I am also mindful of the ongoing mortgage and insurance issues which many homeowners are experiencing. Regulation of mortgage lending is a matter entirely reserved to the UK Government. Therefore, I am unable to intervene with the UK Government's policies or their decisions regarding individual lending.

However, I would expect any changes in the lending market in England to be extended to all nations of the United Kingdom. The Scottish Government

engages regularly with UK Finance to ensure the mortgage lending easements announced recently applying to England and Wales can work in tandem with the cladding programme for the benefit of both lenders and homeowners in Scotland. We have been clear with UK Finance and the UK Government on this issue.

Whilst I know the Committee will find the information on the Accord as disappointing as I do, I hope you find this update of use. I gather the Committee has indicated that they will use an upcoming meeting to discuss these issues with Scottish Ministers and look forward to that session.

Yours sincerely,

SHONA ROBISON