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30 October 2024

Dear Kenneth,

Scotland act 1998 (Specification of Devolved Tax) (Building Safety) Order 2024

During my evidence session before the committee yesterday (29 October 2024), in connection with a motion on the above instrument, I undertook to provide further information in writing on the Scottish Government's Cladding Remediation Programme, including information on progress, on the scale of remediation work in Scotland and on our planning for activity in 25/26 and beyond. Additionally, I undertook to provide further information on the question raised by Liz Smith MSP in connection with analysis of the potential impacts of the introduction of a building safety levy on land prices. I provide information on each of these matters, in turn, below.

Cladding Remediation Programme

The Cladding Remediation Programme is accelerating the pace of delivery now that the Housing (Cladding Remediation) (Scotland) Act 2024 "the Act" has been passed and the Single Building Assessment "SBA" technical specification has been published. As I outlined in evidence, it is the SBA technical specification that allows the Scottish Government, developers and other building owners to commission competent SBAs in line with the specification. The Act will be commenced in early January 2025.

As discussed in evidence, in September 2024 the Scottish Government commissioned SBAs for 12 entries with no identified 'linked-developer' on the Scottish Government's Cladding Remediation Pilot. This is in anticipation of commencement of the Act and to ensure that we can make progress as swiftly as possible. These SBA reports are due to be submitted to the Scottish Government in January 2025. The findings of those reports will determine the nature of any onward mitigation or remediation works required to bring the building to a tolerable level of risk, and inform our understanding of the complexity, duration and likely costs associated with those works. In addition, we have received an SBA report for a further (thirteenth) entry and are taking forward commissions for the design package and remediation works in connection with that entry.

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There are in total 107 entries on the pilot programme. All entries on the pilot programme are undergoing necessary pre-SBA checks to determine whether they fall within the scope of the Act.¹ Entries may be passed to a building owner for assessment or remediation, such as a social housing landlord, for instance. Entries may also be passed to a responsible developer for assessment and/or remediation, where a linked developer has been identified. Where there are further entries on the pilot that are determined to be in-scope and which have no linked developer, the Scottish Government will commission any further SBAs required as soon as is practicable.

Potential Scale of Cladding Remediation Activity in Scotland

Beyond the Pilot Programme, as discussed in evidence, we are aware that there is a much larger cohort of buildings in Scotland that is potentially affected by unsafe cladding. In the Financial Memorandum to the then Cladding Remediation Bill, data assumptions were provided that suggested around 382 buildings above 18 metres may require some level of remediation, and around 500 buildings between 11-18 metres may require remediation works. These assumptions include buildings of different tenure types and so includes, in principle, buildings that will be not be for the Scottish Government to assess and if needed remediate, but would be for other responsible owners, or responsible developers, to assess and remediate.

We continue to use these assumptions as part of our planning processes, though we are taking forward work on an ongoing basis to refine our understanding of the number and nature of buildings that fall both within the scope of the Act, and which will be the responsibility of the Scottish Government to assess and, where required, remediate. This includes ongoing assessment of a very significant volume of publicly held data from a range of data sources, including Registers of Scotland data, to support our efforts to identify buildings that may be of interest to the programme. The data sources will not categorically identify buildings with potentially unsafe cladding or the extent of that risk: that can only be confirmed by undertaking an SBA. Accordingly we are actively considering other options for building identification, as mentioned briefly in evidence.

In our consultation document on the introduction of a Scottish Building Safety levy we indicated that we expect the Cladding Remediation Programme to have an overall lifespan of 11-15 years. As signalled in evidence, our current thinking based on available assumptions is that it is likely that it will take 10+ years to complete, taking into account not just the volumes of stock requiring remediation, but the overall capacity constraints within the market place, which is a potentially significant rate-limiting factor. Nevertheless, we are exceptionally conscious of the need to accelerate delivery, including developer and other building owner led assessment and remediation, and we keep under active review how we might speed up programme activity. It is vital however that we take forward the programme on the basis of having the right fundamental building blocks in place, this includes the right legislative framework, a robust technical assessment specification, and appropriate audit and assurance processes, to ensure that remediation, where required, takes place to a high standard.

¹ A single building assessment may only be carried out on a building that meets the criteria specified by s. 32 Housing (Cladding Remediation) (Scotland) Act 2024.

It is important to restate that remediation is complex and there are many variables; no two buildings will be alike. Some may require very little work to bring them to a tolerable risk standard, whilst others will require a programme of works that itself takes place over multiple financial years. We must also work flexibly to bring onstream, at any point during the lifespan of the programme, further buildings that become known to us which require assessment and remediation, if needed.

Profiling Activity for 2025/26

As set out in evidence, our current planning approach for 25-26 includes profiling anticipated expenditure on the basis of an assumed need to take forward significant remediation works on all of the buildings currently undergoing an SBA assessment, in addition to profiling, on a contingency basis, sufficient funds to enable us to take forward a significant volume of Scottish Government led SBAs next financial year (indicatively, up to 100). This approach is designed to expressly minimise financial risk to the Programme.

For the avoidance of doubt, profiling at this stage is being undertaken on a precautionary basis; programme financial requirements are kept under active review, and total capital and resource allocations will be made as part of the annual Scottish budget process. Actual programme activity will be determined by the findings of SBAs and the number of SBAs commissioned will be determined on the basis of the buildings known to the programme requiring a Scottish Government-led assessment (i.e. buildings that are within the scope of the Act with no-known linked developer), and working within the available capacity constraints of the market. Once a building has been assessed under the terms of the Act, we have committed to spend what is required to address the issues identified.

Potential impact of a levy on land price

I also undertook to provide you with more information on how the Levy may impact land prices.

The consultation held jointly by the UK and Scottish governments to inform the devolution of powers notes that modelling by the UK Government on the Building Safety Levy in England suggests that it will have a marginal impact on land prices, rather than increasing new property prices. This refers to the UK Government's consultation on the Building Safety Levy in England, where they noted that "In the medium and long term, we anticipate the levy will feed through into land prices, as it will reduce the sum developers are willing to pay for land."²

Our understanding is that the assessment that the Levy is more likely to feed through to land prices - rather than new property prices - is reflective of limitations on housebuilders' ability to set prices in the broader housing market. This principle is explained by the Competition and Markets Authority in their *Housebuilding market study*: "...while they [housebuilders] have some price-setting power, our view overall is that the second-hand market is a constraint on new build prices".³

² [The Building Safety Levy: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/building-safety-levy-consultation)

³ [Housebuilding market study final report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/housebuilding-market-study-final-report.pdf)

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We published a partial BRIA alongside our consultation on the Scottish Building Safety Levy which sets out our understanding of the likely impacts of a Scottish Levy.⁴ Our understanding of the Scottish land market – reflecting evidence from the Scottish Land Commission and others – suggests there is no material difference in the way land is acquired in Scotland which would lead to a differential impact of a Scottish Levy. As such, we agree with the assessment made by the UK Government that the most likely scenario is that developers will seek to pass on the costs of the Levy through paying a lower price for the land. The partial BRIA does, however, acknowledge that if the landowner is unwilling to accept a lower price for the land or if land is already owned then this may have some impact on the viability of individual sites.

The Scottish Government is mindful of these risks and will ensure that the design of the Levy minimises any impacts on the housebuilding sector. We will also work with industry and other stakeholders throughout the consultation period and beyond to refine our evidence base and understanding of the potential impacts of a Scottish Levy. A full BRIA will be published alongside the bill when it is introduced in May next year.

I am happy to answer any further questions the Committee may have on the above.

Yours sincerely,

SHONA ROBISON

⁴ [Introduction - Scottish Building Safety Levy: partial business and regulatory impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/introduction-to-scottish-building-safety-levy/pdfs/introduction-to-scottish-building-safety-levy-partial-business-and-regulatory-impact-assessment.pdf)

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