

Cabinet Secretary for Housing
Rùnaire a'Chaibineit airson Taigheadas
Màiri McAllan MSP
Màiri NicAilein BPA



T: 0300 244 4000
E: scottish.ministers@gov.scot

Ariane Burgess
Convener
Local Government, Housing and Planning
Committee
The Scottish Parliament
Edinburgh
EH99 1SP

By email: localgov.committee@Parliament.Scot

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Dear Ariane,

Thank you for the email of 24 April, 4 and 23 June from the Senior Clerk to the committee.

With my appointment as the Cabinet Secretary for Housing, I have picked up the requests for responses to points raised during the Local Government and Housing Committee, on the 22 of April.

I am sure you will appreciate that since the 22 April session, stage 2 of the Housing Bill has now completed and some of the areas were discussed throughout stage 2.

The elevation of housing to a Cabinet position reflects the importance and focus that the Scottish Government places on it.

I would like to apologise for the delay in the response and hope that the answers supplied in the below Annex are useful to your members.

In addition to the responses below, I recently wrote to Angela Rayner MP, Deputy Prime Minister, setting out my initial areas of focus – cladding, RAAC and reform of the building and construction products regulations. I am also determined that government action is focused on successfully tackling the housing emergency and providing safe, warm and energy efficient homes for the people of Scotland – helping stimulate economic growth, deliver Net Zero commitments and tackle child poverty.

I called, again, for a UK wide approach in dealing with RAAC, in particular urging the UK Government to put in place financial arrangements to support RAAC remediation.

On cladding, I will build on the foundations of the Housing (Cladding Remediation) (Scotland) Act 2024 and the statutory standards we have set for building assessment to drive forward the process of assessment, mitigation and remediation. I am considering what further concrete action needs to be taken to strengthen and accelerate progress.

The four national governments met recently in Cardiff and an agreement was reached to work together closely in relation to further planned reform of construction products regulation and on the regulation of professionals working in the construction industry. It is vital that we build the right culture of working together on these issues as the devolved building standards system necessarily will continue to rely on the efficacy of the UK construction products regime.

In the meantime, if you have any further questions, please let me know.

Yours sincerely,

MÀIRI MCALLAN

1. Timescales should the amendment be agreed at Stages 2 and 3

Our Housing Bill amendment for Awaab's Law was agreed at Stage 2. It modifies an existing regulation-making power to ensure that Scottish Ministers may use this power to (among other things) impose timescales for investigating and commencing repairs. The policy intent is for damp and mould to be the starting point, with other qualifying hazards to be included over time, mirroring the UKG approach. There will be a programme of engagement and consultation across the social housing sector and with social tenants to develop the detail of the regulations. This will take place over the course of this year.

We will be working closely with social landlords throughout this time to encourage them to bring in the necessary changes in advance of the regulations being introduced.

2. Enforceability and how it is envisaged tenants could ensure this happens

At present social tenants can raise a complaint with their landlord if they are dissatisfied with the service provided. Should they still remain dissatisfied they can escalate their complaint to the Scottish Public Service Ombudsman. Furthermore, where a social landlord fails to complete qualifying repairs within timescales as set out under the Right to Repair scheme, the tenant will have a right to compensation. As the Tolerable Standard also applied to the Scottish Housing Quality Standard, local authorities also have duties to ensure housing in its area meet the Tolerable Standard.

Therefore, there is existing provisions and routes available to a social tenant, although the Scottish Government approach to engaging further with stakeholder will explore further how tenants can be ensured their landlords are meeting the requirements of investigating and commencing repairs. This is something that will be determined during the consultation period with stakeholders and subject to parliamentary approval will be set out in subsequent updated regulations.

3. How this will be similarly introduced for the private rented sector and by when – it was stated this could be done via amendment to the repairing standard

Just like the social rented sector, the government is committed to implementing Awaab's law for private tenants, using existing powers and a significant programme of engagement and consultation will be carried out before changes are introduced. We aim to start this work this year too.

The 'tolerable standard' and the 'repairing standard' already both apply in the private rented sector.

4. Scottish Government engagement with local authorities on fire safety measures in council homes, specifically on the homes in Fife, Aberdeen, South Lanarkshire and Edinburgh which do not yet have the interlinked fire safety alarms

Improving fire safety remains an important priority for the Scottish Government hence why we passed the regulations to ensure the same level of protection now apply to all tenures of homes, regardless of whether someone owns their home or rents from a private or social landlord. The duty now rests with the local authority to ensure that homes in their area are up to standard. Scottish Government will continue to engage with COSLA on subject of fire safety.

The Scottish Government's Social Housing Charter sets out the standards and outcomes that tenants can expect from social landlords. This includes ensuring that tenants' homes meet the Scottish Housing Quality Standard and tenant and resident safety requirements such as electrical and fire safety.

The Scottish Housing Regulator monitors, assesses and reports on landlords' performance against the Charter and SHQS. Where the regulator requires further assurance or regulatory engagement about this, it will set this out in the individual engagement plans it publishes for each social landlord.

5. Discussions he committed to having with colleagues on the potential for using sustainable building materials as a means of offsetting carbon emissions

Noting use of sustainable building materials would 'minimise' rather than 'offset' carbon emissions, National Planning Framework 4 makes clear that reducing greenhouse gas emissions is a cross-cutting outcome of development and includes policy that requires a minimisation of lifecycle greenhouse gas emissions. Use of materials with the lowest forms of embodied emissions, such as recycled and natural construction materials, can contribute toward reducing lifecycle emissions.

6. The support the Scottish Government is making available for people who incur emergency costs (such as new furniture) due to vacating properties at speed where RAAC has been identified

Appreciating this would be a highly distressing experience, support would be a matter for the social landlord as part of their legal requirement to rehouse their tenants where their home was deemed unsafe and uninhabitable. Homeless households who need access to funding for emergency costs would typically be signposted to the Scottish Welfare Fund for a crisis grant.

We would expect as part of tenancy sustainment and meeting the outcomes of the Charter for their landlord to provide welfare advice and general support directly or use third sector organisations to assist with this.

Local authorities already have a duty to ensure the housing in their areas meets the relevant standards and where a homeowner requires advice and information then this would be provided through the Scheme of Assistance.

In circumstances where residents are required to vacate properties deemed as 'dangerous' under the Building (Scotland) Act 2003 the relevant local authority is responsible for making the necessary arrangements for those affected, including finding alternative accommodation.

7. Whether there is a legislative barrier to establishing a RAAC remediation scheme (as was established for cladding)

Scottish Ministers do have discretionary powers to provide grant funding - as provided for in sections 1 and 2 of the Housing (Scotland) Act 1988. Ministers can make grants among other things to provide, and assisting in the provision of, finance to persons or bodies intending to provide, improve, repair, maintain or manage housing. However, the use of these powers will clearly be dependent on the particular issue in question – and the availability of funds.

8. Whether legislation is required to address the fact local authorities cannot mandate repairs in terraced housing (unlike tenement housing)

Section 26 of the Tenements (Scotland) Act 2004 defines a tenement as two or more related but separate flats divided from each other horizontally. The definition is framed broadly in order to include not only traditional tenement properties, but also more modern blocks of flats including high rise flats, four-in-a-block houses and larger houses which have been subdivided.

The Tenements (Scotland) Act 2004 (legislation.gov.uk) provides a structure for the maintenance and management of a tenement. The Tenement Management Scheme (TMS) in schedule 1 to the Act includes provision for majority decision making on a range of issues including repairs. Rule 2 in the TMS sets out procedures for flat owners to follow when making 'scheme decisions' about maintaining and repairing common parts. The TMS also contains default provisions on emergency repairs and the apportionment of costs.

9. Views on whether the Scottish Housing Regulator should be mandated to advise owners of ex-council houses on RAAC issues or if a new independent body should be established

As set out in the Scottish Government's response to petition 2150 (calling for the Scottish Housing Regulator's mandate to be amended or for the creation of a body to protect owners of ex-council properties) the Scottish Housing Regulator (SHR) was created by the Housing (Scotland) Act 2010 to be the independent regulator of all social landlords (i.e. local authorities and registered social landlords – RSLs). It has one single statutory objective: to safeguard and promote the interests of current and future tenants of social landlords and other users of social landlords' services. Its main duties are to regulate the performance of housing services by all social landlords, particularly landlords' achievement of the standards and outcomes that the Government set for social landlords in the Scottish Social Housing Charter. It also regulates the financial health and governance of RSLs. SHR's remit does not extend beyond the regulation of social landlords, and the Scottish Government has no plans to amend its statutory objective.

Where homes were sold under Right to Buy, there are no further responsibilities the local authority would have for the maintenance of that property. Local authorities already have a duty to ensure the housing in their areas meets the relevant standards and where a homeowner requires advice and information then this would be provided through the Scheme of Assistance. Where a homeowner feels there are issues with the buying/selling process they need to seek their own independent legal advice.

10. Confirmation of when the pilot programme for cladding remediation will be completed, including detail for each building within the programme

All pilot buildings were placed on a pathway to assessment and underwent pre- assessment checks to ensure that they qualified for a statutory SBA in accordance with the requirements of the Housing (Cladding Remediation) (Scotland) Act 2024.

51 of the entries to the Pilot list have been confirmed via the preassessment checks conducted by an appointed Fire engineer as being out of scope of the Housing (Cladding Remediation) (Scotland) Act 2024.

Of the remaining 56 buildings within scope:

- 10 of the buildings have been taken on by the developer
- 2 were identified by the fire engineers as being low risk and not requiring an SBA.
- 12 have had or are undergoing an SBA commissioned by Scottish Government
- 32 will require an SBA – these now have the opportunity to be funded for assessment through the Single Open Call.

The timescale for commencing and completing remediation of a building and overall Pilot can only be accurately estimated when extent of remediation(s) (if any) is known via the SBA assessment and remediation developed design solutions.

Reference may also be made to: Cladding Remediation Programme pilot - Cladding Remediation Programme: factsheet - gov.scot

11. Details of engagement with contractors and confirmation once the developer remediation contracts have been signed

As the Committee is aware, the Developer Remediation Contract (DRC) will be a formal legal contract between developers and Scottish Government which will underpin the scope, scale of assessment and the Scottish standards required for remediation and mitigation on buildings with potentially unsafe cladding. We are currently in discussions with developers who signed the Developer Commitment Letter in 2023 (Scottish Safer Buildings Accord: developer commitment letter - gov.scot) and it is these developers who will be invited to sign the DRC once terms have been finalised. Significant progress has been made towards agreement on the key principles of the Contract, and we will update the Committee once the negotiations have concluded.

12. Work with the construction industry on a register of buildings and materials.

The creation of a buildings register would be a significant undertaking.

Local authorities are required to keep a Building Standards Register for the geographical area of the authority. It consists of two parts, Part I containing data with Part II containing documents.

Part II of each register is available to those having an interest in the building, Part I should be publicly available online.

Creation of a national register of higher risk buildings is under consideration as part of the work of the building standards futures board.