

Gareth Wilson

Julie James
Minister for Climate Change
Welsh Government

30 June 2022

Dear Minister,

Re: Welsh Building Safety – Leaseholder Support Scheme announced 27 June 2022 (“the Scheme”)

We have met and communicated before on building safety issues. As you know, I am a leaseholder and director of the residents’ management company at Celestia. I am also the lead claimant in the high court claim currently being pursued by Celestia residents against the developer, a Redrow PLC subsidiary company, which is now dormant. I, amongst others, have been urging you and your government to take urgent effective legislative steps to fulfil your oft stated promises to leaseholders.

Against that background, I have read with great dismay and sadness the Scheme you have just announced. It is a cruel deception on vulnerable leaseholders, building up unreasonable expectations. It reads like a marketing pitch from a financial adviser, similar to those available all over the internet and appears to be written by the same people. In fact, the only people likely to benefit from the Scheme are those that have advised you to adopt it i.e. the “financial experts” whose advice you acknowledge and who will be paid for further advice.

The pitch is valueless. It works in two ways: -

- first, you don’t give proper guidance on eligibility for the scheme (very few will qualify) and
- second, if a leaseholder gets to the end point where Welsh Government (“WG”) offers to buy a flat, there is no indication of a price point – other than “*fair market value*”. This, by definition, is a price that could be obtained on the open market without WG interference.

Poverty

To be clear, I have read the Scheme. The eligibility criteria appear to be mythical and certainly not easily identifiable. You do not say where the “*Social Metrics Commissions’ definition of significant financial hardship*” can be found and my own brief research suggests no such definition exists. The implication is that it is a definition of poverty (as this is the function of the Social Metrics Commission) and your “Guidance” confirms “*You will also be required to show how your disposable income puts you close to or below the poverty line.*” That is an entirely inappropriate measure for any meaningful help, though it is a recognition of the depths of penury and despair to which you believe some leaseholders will have sunk.

The fair market value at which WG might buy at flat will then take into account the state of the flat i.e. including all its defects. In effect, all the “support” offered by the Scheme does is

acknowledge that the leaseholder has been reduced to a state of poverty. It does not alleviate that poverty. To have his/her new status as having fallen below the poverty line confirmed, the leaseholder will need to go through a laborious application process based on a standard financial information request used with the industry for, e.g., a mortgage application.

Smoke and Mirrors

In a letter dated 22 June 2022 to Vaughan Gething, you used the expression “*smoke and mirrors*” to describe information provided by the UK Treasury. Your Scheme is just that, but is more reprehensible because it is directed – as the Scheme anticipates - at very vulnerable individuals.

I wrote to Linda Thorne, Chair of the Housing Committee on Cardiff City Council, on 14 March 2022 and a copy of that letter has been put before the Senedd committee and sent to you. I attach a further copy. Paragraph 10 of that letter reads: -

*“My personal view is that you should also seek to dissuade WG from wasting any time, energy and resource on the plan announced by Julie James to bail out the very small minority of leaseholders worst affected. **This will do nothing to repair a single building and will be unworkable. It would be divisive. It is distracting resource and planning. It is a waste of public money.**”*

All those anticipated criticisms – which I have not repeated above - have been borne out. The Scheme is actually worse than I anticipated, which seems to be a consequence of the realisation within your department that the Scheme is unworkable: it is now so vague as to be impossible to judge. The best possible outcome is that the Scheme is ignored by leaseholders and no further funds are wasted on financial advice or administration costs.

Effective Legislation

In the meantime, progress on the real issues remains glacial. Survey work is progressing so slowly that it will be years before it is completed. The flow of information is almost zero: we at Celestia have heard nothing since lodging an Expression of Interest 9 months ago. We do not even know: -

- What list we are on i.e. whether our buildings require further intrusive surveys
- What further surveys might be required
- When those surveys will be done.
- Where we are in the queue.

There is no news on legislative progress in Wales and nothing on any of the specific areas raised in my letter to Linda Thorne. There is a vague suggestion – three months on - that some developers will now treat Welsh leaseholders similarly to those in England, but

- You now seem to be linking this with final contracts rather than the pledges – and there is no news on progress there.
- The pledges themselves contained undertakings to provide remedial plans for developments where defects had already been identified e.g. Celestia, within 30 days. That period expired in England 8 weeks ago. When does that period begin to run in Wales?

- I note you refer to developers “contributing to” rather than “paying for”, which is clearly a significant step back.
- Your recent announcements refer to “*fire safety issues*” rather than “*safety issues*”. This is at odds with WG’s holistic approach. Some of the significant safety issues at Celestia are not fire related.

The most critically important actions required are those related to the Remediation Orders and Remediation Contribution Orders referred to in my attached letter (though the section numbers have changed since the draft available in March to SS 124 & 125).

I am sure all leaseholders would be grateful if you could answer the questions set out in §9.1 – 9.4 of my attached letter.

Kind regards



Gareth Wilson

Cc Mark Drakeford FM
John Griffiths MS
Andrew RT Davies MS
Vaughan Gething MS
Jane Dodds MS
Rhys ab Owen MS
Linda Thorne – Head of Housing CCC

Gareth Wilson

Councillor Lynda Thorne
Cabinet Member for Housing and
Communities

14 March 2022

Dear Lynda,

Re: What can Cardiff City Council (“CCC”) do to help solve the building safety crisis in Cardiff – without further damaging delay?

Thank you for inviting me to the Zoom meeting on Thursday, 10th March with Vaughan Gething. At the meeting, you expressed your clear desire to assist in solving the building safety crisis in Cardiff, but highlighted CCC’s funding difficulties. You asked for comments and suggestions, and I write to set out a clear path forward for CCC.

Unworkable suggestions

1. **Council tax relief:** CCC does not have funding available to repair buildings itself. Welsh Government (“WG”) has the budget. Any major CCC contribution, for example, to give relief against council tax would necessarily have to be found from elsewhere i.e. other council tax payers. I agree with you that this is a non-starter.
2. **Council funded sprinklers:** Sprinklers are a good thing, but CCC funding simply introduces a layer of unnecessary bureaucracy, delay and cost. WG has the funds. These can be made available direct to CMCL and others rather than through the council.

Summary: Practical low-cost proposals

3. Delay is the key issue. There are proposals in English draft legislation, the Building Safety Bill (“BSB”) that will help leaseholders in Wales. Therefore,
 - 3.1. CCC needs to pressurise WG to ensure that those proposals are enacted into Welsh law at the soonest possible date.
 - 3.2. CCC also needs to enforce the new legislation immediately it is enacted.
 - 3.3. CCC can also pressurise developers and builders even before the measures become law by announcing and demonstrating its intention to take immediate action.

The key legislative proposals

4. Sections 125 and 126 of the Building Safety Bill (attached) contain provisions for “*Remediation Orders*” and “*Remediation Contribution Orders*” to be made against a “*relevant landlord*”, which is widely defined to cover developers and their associated companies.
5. Both Orders can be sought by a local authority. However, because this area is devolved, section 29(2) of the BSB effectively restricts the provisions to England.
6. CCC will therefore be able to apply for Orders provided only that similar legislation is enacted in Wales.

Process and timetable in Wales

7. I have now asked two key Senedd members, including Vaughan Gething at our Zoom meeting what the process and timetable is for enacting this legislation in Wales and intend to continue to ask that question of all Senedd members. As you will have heard from Vaughan, in both cases the answers have been totally unsatisfactory i.e. “*I don’t know.*” I interpret this as “*there is no meaningful plan.*”
8. We all know that the first step is for the BSB to be passed in Westminster and that is not within our control. However, we also know that the BSB is expected to be passed within the next couple of months and the time for detailed planning to take this forward in Wales has long since passed.
9. CCC should be making clear to WG its urgent need to be granted the powers under Sections 125 and 126 of the BSB and its intention to use them immediately. To that end CCC should ask WG to provide it with assurances that will happen and to publish details of :-
 - 9.1. What steps WG has taken to date to prepare Welsh legislation?
 - 9.2. What resources are being devoted to this?
 - 9.3. What the process is for passing the legislation?
 - 9.4. Most importantly (and bearing in mind the legislation has cross-party support) a **detailed timetable for the legislative process and the date** – which could be related to the passing of the BSB i.e. within 6 weeks of enactment of the BSB – on which WG expects the legislation to reach the timetable.
10. My personal view is that you should also seek to dissuade WG from wasting any time, energy and resource on the plan announced by Julie James to bail out the very small minority of leaseholders worst affected. This will do nothing to repair a single building and will be unworkable. It would be divisive. It is distracting resource and planning. It is a waste of public money.

CCC’s preparations

11. The council itself needs to plan, train and resource so that it is in a position to enforce the legislation – including issuing Remediation Orders and Contribution Orders – from Day 1. This will require a clear legal understanding of the new legislation and an early identification of target developments.
12. As stated above, developers could be notified of the council’s intention to issue Orders even before the new legislation reached the statute books. It is still possible that the threat of the use of the powers will be enough for some developers to take action.
13. CCC will need to liaise with South Wales Fire and Rescue and also with other “interested persons” to prevent duplication of effort. Fire authorities should have power to apply for both Orders. Other interested persons e.g. leaseholders can apply for Contribution Orders.
14. It would be helpful if you could keep us advised of the steps you are taking as this will impact directly on our planning and the financial strains this will put on leaseholders. As I expect you know, I have been in contact with Dave Holland over the last two years and I

am sure he will be keen to move forward on this. I would be happy to contribute in any way I can.

The reality of leaseholders' position and potential impact on CCC

15. CMCL is currently trying to raise a small part (20% this year) of our total estimated repair bill from leaseholders. The first half of this £1.2 million (10% of total) should have been paid on 1 January this year. As of now, only 147 of 457 leaseholders have paid in full. 196 leaseholders have paid nothing. A further 33 are falling behind instalment plans that CMCL have agreed with them.
16. A further £1.2 million will be due on 1 July – less than 3 months away. We will have to ask for further substantial payments at the end of the year as the money we are currently attempting to collect will not be sufficient even for Phase 1 of our planned remediation. The prospects for many leaseholders look very bleak.
17. It is CMCL's duty to pursue leaseholders who do not pay and letters before action are going out this month. If we pursue debt action, this will affect credit ratings, further costs will be incurred and ultimately, we will be forced to foreclose. It is a downward spiral and CCC will ultimately be picking up the pieces of potentially hundreds of people rendered homeless. This is happening **now**.
18. Delay will effectively negate any possible benefit of a WG scheme to remediate. A perfect scheme that does not appear in time is not perfect, it is useless. The one thing that could ameliorate a delay is the interim and immediate availability of WG backed or sponsored loan finance, which will enable CMCL to undertake repairs without bankrupting and otherwise destroying the lives of leaseholders in the process.

As there is no process for leaseholders and management companies like ours to contribute to the WG's thinking, it would be helpful if you could do this for us. Better still, persuade WG to set up a process that enables leaseholders to contribute.

I am sure this has wide cross-party support within CCC and am copying this to other councillors listed below. I hope this is helpful and look forward to hearing from you.

Kind regards



Gareth Wilson

CC: Huw Thomas, Adrian Robson, Rhys Taylor, Saeed Ebrahim, Neil McEvoy,