
**Local Government
and Housing Committee**

Dr Henry Dawson
Housing Advisory Panel
Chartered Institute of Environmental Health

27 October 2025

Dear Dr Dawson

Building Safety (Wales) Bill

Thank you for providing oral evidence to the Local Government and Housing Committee on the Building Safety (Wales) Bill on 24 September.

During your evidence you raised concerns about the Bill's provisions in respect of Special Measures Orders including that the Bill does not provide a mechanism for such orders, intended to be temporary, to be brought to an end.

During her evidence to the Committee on 22 October the Cabinet Secretary for Housing and Local Government's officials explained that the Bill makes provision about the varying or revocation of special measures orders. These provisions are at paragraph 16 of Schedule 2 and set out that the Special Measures Manager can hand a building back to the accountable person and make an application to the tribunal at that stage for the order to be varied or revoked, as can the building safety authority, the fire safety authority or other accountable persons for the building to which the order applies.

I would be grateful if you would confirm if the explanation provided by the Cabinet Secretary's officials address your concerns about bringing Special Measures Orders to an end.

Yours sincerely,



John Griffiths MS
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Hello

I apologise if my comments to the panel were not sufficiently clear in this area. Thank you for getting in touch to allow me to clarify my position.

I have found the procedures for terminating a special measures arrangement to be clearly set out in the Bill and similar in nature to the management orders set out under the Housing Act 2004.

My concerns in this area covered some specific issues with these types of interventions. The order gives the new manager the responsibilities of the Accountable Person (AP) due to the failure of the original APs resulting in serious or multiple breaches of the duties placed upon them. The Special Measures Manager may be any person, but I believe it will be someone employed directly by the Building Safety Authority (BSA) or Fire Safety Authority (FSA). In some cases, the responsibility may be delegated to a contractor employed for this purpose.

Ultimately, the BSA/FSA will have oversight of the order and its operation. If the management arrangements of the current AP(s) have been found to be inadequate and that responsibility has been taken away from them was not clear to me how the BSA/FSA will reach a position where they are able to consider that revoking the order will result in the building being adequately managed.

In considering whether to vary or revoke a special measures order, a residential property tribunal must have regard to the likelihood of the variation or revocation of the order resulting in a recurrence of the circumstances that led to the order being made and whether it is just and convenient in all the circumstances to vary or revoke the order. There must be compelling evidence that the freeholder or their agents will have made substantial changes to the management arrangements.

I believe that change of ownership is unlikely to occur. A new management company or building manager may be appointed which would provide a clearer case but the BSA/FSA would have to be confident that the management structures and financial arrangements were such that the special measures order could be brought to an end. In situations where the freeholder was unwilling to provide the finance and execute the works to address the issues raised in the risk assessment and safety case report (for example where inappropriate cladding was in place on the building) it is not clear how the BSA/FSA could return the management of the property to the original or any newly employed AP. This issue would be more intractable where the freeholder company was based overseas or had gone into administration/liquidation. Meanwhile, the Special Measures Manager would have to ensure the measures outlined in the risk assessment and safety case report were actioned, which may involve significant financial outlay.

Where primary legislation dealing with failures of an operator in an industry takes the duties off an operator and places them on the state this does not force an ultimate resolution of the issue, it moves the responsibilities from an inadequate individual or company onto the state. The operator may be entirely content to reduce their level of risk and exposure by passing these duties onto an agent of the state. The size of the operators in this field also mean that they could pose some significant challenges to the regulator when attempting to set up a management plan and recover the costs for its implementation. Meanwhile, these costs must be borne by the regulator or their representative acting as the Special Measures Manager.

I appreciate there is a process by which the AP(s) may be directed to pay moneys to the Special Measures Manager but where the Freeholder company has gone into liquidation or is based overseas it is unclear how these tribunal directives could be enforced in a way which would ensure that costs were fully recovered.

In my oral evidence I drew a somewhat awkward parallel with empty property ownership where the local authority could pursue a compulsory purchase order or enforced sale (masquerading as an attempt to recoup costs from remedial works addressing the condition of the property). These tools are used to force the property in question into new ownership which would result in that property being brought into productive use.

In empty property cases these are the favoured options for local authorities as the current alternative of using an empty dwelling management order to take control of the property from the owner, carry out works, then rent it out to bring it back into use, is very rarely used. The process puts the regulatory authority (the council's private housing environmental health department) at significant financial risk. It is also subject to numerous opportunities for challenge through appeals to the residential property tribunal, and has uncertain outcomes as the dwelling may be passed back to the owner at any point through revocation of the management order as a result of an appeal, or through revocation by the local authority, on the owner's assurance that it would not return to an empty condition. The owner may then choose to renege on these promises at any point after the property is returned to them.

The current structure of this part of the Bill is focused on the state taking on responsibility for buildings which are not being managed properly with respect to fire safety. The use of special measures certainly has a place for temporary issues with building management. It is questionable to what extent the measure itself is a deterrent to poor practice. Ultimately, it doesn't clearly position the regulator in a way where they can force a change of ownership in situations where there is little prospect of adequate management of fire safety and execution of works to reduce risk from fire in the medium to long term future.

I appreciate that powers around change of ownership are amongst the most draconian measures a regulator can implement and may be an unpalatable solution, but there needs to be consideration of these situations at the point of creation of the tools used to address these issues. This was the reason for me raising these concerns in my oral evidence.

I apologise for the length of this explanation and hope that it makes my concerns clearer. If I can be of any further assistance, then please do not hesitate to contact me.

Yours

Henry Dawson