



The Scottish Parliament  
Pàrlamaid na h-Alba

**Local Government and Communities Committee**

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Dear Mr McKenzie

**Building Standards and Fire Safety in the aftermath of the Grenfell tragedy**

As you will be aware, around a year ago, the issue of “zero valued homes” emerged as a significant concern across the UK, including Scotland. This is when apartments, usually in modern tenement blocks or conversions, receive a zero valuation in a home survey because of a concern that cladding or other external wall systems may not meet current regulatory standards on fire safety.

Ever since then, the Committee has been seeking to make contact with Local Authority Building Standards Scotland so that we may seek your expert views on this matter. Clerks to the Committee first contacted you on 6 November 2019 when they forwarded my request that you give evidence at a future meeting or, failing that, provide a written submission. Over the following months, there have been various further attempts to make contact. Not one has elicited a positive response.

The Committee is dismayed by this repeated failure to engage with our work. Committees of the Scottish Parliament exist to serve the Scottish people and the public interest. In inviting LABSS to participate in our scrutiny of the zero homes problem, we are inviting you to join with other stakeholders in helping the Committee understand the problem better, and to help find a solution. If it is your view that you have no role in this work, you should make this clear and set out your reasons. If this is not the case, I imagine that members of the building standards profession, working in the public interest across Scotland, will be as surprised as we are that you have not taken up the opportunity to speak on their behalf on this important matter.

In writing to you now, I am once more giving LABSS an opportunity to contribute to our work on this issue, by providing us with a written submission, and I hope that you take it up. If not, I give notice that committees of the Scottish Parliament have powers in relation to witnesses and evidence, and these other options of engaging with you will then be on the table.

The Committee's specific request is for a short submission setting out LABSS's perspective on the combination of factors that has led the zero homes issue to have arisen, and on the best way forward. Matters you may wish to touch on include:

1. LABSS's perspective on the main causes for a zero valuation: is this primarily an uncertainty/ risk appetite problem on the part of lenders or does it arise from legitimate and real concerns about the materials used on the walls of some modern apartment buildings?
2. Views on whether the EWS1 form and associated process is a step forward. Did the building standards profession have a role in devising it? Do officers typically have any role in helping with the completion of an individual form? If a form returns a problematic result for a property, is there a feedback loop to ensure that officers in the relevant local authority are notified? If the process has led to remediation work being carried out, have council verifiers been fully involved in that process?
3. Why are lenders apparently demanding the completion of an EWS1 form even for some newbuild homes in Scotland? If the verification process is robust and the regulatory system is sound, how can this be possible?
4. In relation to homes built earlier this century that have recently received a zero valuation, LABSS's response to claims that this has exposed a lack of robustness in the local authority regulatory process in place at the time. Does LABSS accept this? If so, how have things changed since then?
5. Views on the new High Rise Inventory: will it be a useful resource? What role have building standards officer had in preparing it? What does LABSS think of the suggestion that all buildings on the register should periodically receive an "MOT" to verify their continuing regulatory compliance? And should building standards officers have a role in any such process?
6. Views on the Working Group on mortgages and cladding recently set up by the Scottish Government and clarification as to whether LABSS has a role in it;
7. Views on any other relevant matter, with a particular focus on helping point the Committee towards a practical solution for householders in this situation.

Our next evidence session on this matter is on 4 September, when we will be receiving an update from the Scottish Government. It would be helpful to receive your submission in advance of that meeting, to assist us in our preparation. In case it is helpful, I attach to a short summary of the main points covered at [our last meeting](#) to discuss this issue, on 19 June, which has been prepared by the clerk. This provides some additional background information in relation to the numbered points above.

The Committee looks forward to hearing from you.

Yours sincerely

James Dornan MSP  
Convener of the Local Government and Communities Committee

## Outline summary of main issues discussed on 19 June

### *Introduction*

The Committee heard from two panels of witnesses:

#### Panel 1

Dr Jim Glockling (Fire Protection Association)

Laura Hughes (Association of British Insurers)

Paul Stewart (Scottish Fire and Rescue Service)

#### Panel 2

Chris Ashurst (High Rise Scotland Action Group)

John Baguley (Royal Institution of Chartered Surveyors)

Nicola Barclay (Homes for Scotland)

Most of the discussion was on:

- The new High Rise Inventory: the Committee discussed its purpose and status with witnesses, their initial impressions as to how useful it would be, and how it could go on being developed as a “living and breathing” fire safety resource;
- External wall systems on residential apartment blocks that are problematic in terms of perceived compliance with fire safety regulations, and which have led to some homes receiving a zero valuation from surveyors and insurers imposing high premiums: the Committee discussed what we know now about the extent and impact of this problem, remedial or mitigating measures so far, and what still needs to be done.

The “stay put” fire safety policy for high-rises was briefly discussed.

### *Specific points raised – zero-valued homes*

1. Stakeholders saw significant flaws in the process around the new EWS1 form, developed to deal with situations where lenders have concerns about external wall systems on a building. They said not all industry players had been involved in developing it. It was not well suited to the Scots law of common property in tenements. The aim was for “one form per block” but this broke down in the Scottish context, leading to duplication of cost and effort. Homes for Scotland and RICS called for a legislative fix;
2. Homes for Scotland said that more and more lenders were asking for the EWS1 to be completed, including for buildings under 18 metres.
3. The ABI said there is no current industry appetite to underwrite professional indemnity assurance for fire safety because insurers are wary of relying on the judgment of individual surveyors, given the potentially massive losses they

could be held responsible for. The ABI said this was unfortunate from the point of view of having a vibrant PII market but was rational behaviour.

4. At the same time, the ABI also said that the test set out in the EWS form was not rigorous enough and that the low charges some specialists were charging to assist in completing the form raised questions over the test's rigour. Conversely, the HRSAG said there were only "a couple" of known specialists in Scotland who could assist householders in completing the form and that consumers found the whole process confusing and unclear;
5. RICS mentioned the risk of fraud in relation to the EWS1 process and referred to preliminary work on creating a central register of completed EWS1 forms that could reduce this risk.
6. Homes for Scotland confirmed that lenders were asking for EWS1 forms in relation to some newbuilds. Witnesses said it was not clear whether there really was a problem or whether the lending market had become excessively risk-averse, seeing potential liabilities everywhere. They said there as a need for more dialogue with lenders to get to the bottom of this issue. Homes for Scotland said its members were not now putting cladding on any newbuilds and in some cases were going back to completed buildings and removing it. They said clarification was needed about what do about newbuilds currently going up with cladding that complies with current regulations and that this should be a matter for the new ministerial Working Group.
7. A [subsequent communication](#) from Homes for Scotland clarified what information buyers of newbuilds should receive. It said that warranty providers should be asked to clarify what information they provide to newbuild owners if the Committee were interested in exploring this issue further
8. Witnesses agreed that current difficulties were fed by a lack of data. This in turn fed a lack of confidence in the lending and insurance industry. A central register could help fill the gaps, progressively adding to the body of knowledge about every building in the UK about which there were concerns.
9. Witnesses agreed that buyers and lenders frequently ran into difficulty trying to access information about materials or techniques used to build a modern property. RICS said confidence had to be restored in the regulatory process if the sector were to move on. The Grenfell crisis had exposed serious failings. HRSAG said that current events showed up major weaknesses in local authorities' regulatory processes.
10. Witnesses invited to express a view supported having a fund. RICS said the criteria for releasing funding should be based on prioritisation, not merely first-come, first-served. Concerning possible funding sources, Homes for Scotland noted that many relevant developers will no longer exist. Homes for Scotland also reminded the Committee that many newbuilds would have warranties.
11. HRSAG welcomed the new ministerial Working Group but said owners should be represented on it and this was partly why HRSAG had been set up: to give owners a collective voice. Homes for Scotland agreed about the importance of owner or occupier representation
12. Buildings insurance is, in effect, a mandatory condition for a standard security. Where homes have been identified as potentially problematic, premiums shoot up and some householders find these unaffordable. The ABI and UK Finance had had talks about finding a way forward, but these had stalled following the covid-19 crisis.

### *Specific points raised – High Rise Inventory*

13. The Inventory was welcomed as a good start and a potentially very useful resource. Witnesses were not certain how accessible it would be. They recognised that some information would be sensitive but also considered that the more public the Inventory is, the more useful it will be.
14. The FPA noted that the Inventory had shed light on the existence of potentially problematic composite materials on high rises. External thermal insulation composite systems were given as an example. They told the committee that, as more experimentation is carried out, new risks might become more evident, and lead to buildings being moved into the non-compliant category.
15. The FPA noted that fire safety is a moving target. New building techniques lead to new discoveries about fire risk. This underlined the need for the Inventory to be a dynamic and responsive document
16. Witnesses discussed the Inventory's potential role as a spur to action where concerns are identified (e.g. on fire doors). HRSAG proposed subjecting all buildings in the Inventory to regular "MOTs". Other witnesses asked to express a view supported this idea.
17. Witnesses considered 18 metres and above a somewhat arbitrary trigger and suggested the criterion for inclusion in the Inventory going forward could be "high risk" alongside "high rise"
18. Witnesses accepted that some useful information appeared not to have been solicited in the course of preparing the Inventory. An example would be the type of composite panelling used. But the FPA gave this as an example of a question that was often not easy to answer, without intrusive examination.

### *Other points raised*

19. The FPA said that there was still potentially scope to tighten regulations on permitted composite materials, as testing gets better and more information emerges. The ABI agreed that there should be a harder line on the use of combustible materials.
20. The SFRS endorsed stay-put as generally the best fire safety policy for a high-rise where an alarm has been raised. The FPA reserved judgment, saying that the policy was in effect a vote of confidence in each high rise to react in a relative predictable way, because it had been built in accordance with regulations and its resilience had not been compromised subsequently.
21. Questions were raised about how best to ensure that fire doors meet regulatory standards, how best to monitor this, and how best to quickly rectify regulatory breaches.