

## Queensland Road petition

Over 140 households - including many with young children - are currently trapped in unsafe affordable housing on the doorstep of Arsenal's Emirates Stadium. Newlon Housing Trust, the housing association responsible for the development, has claimed the required remedial works to make buildings 1 and 3 Queensland Road fire safe will take up two years to complete, which leaseholders vehemently believe is an unsatisfactory timescale. Our lives have already been put at risk and on hold for too long.

As part of the Arsenal Regeneration Programme to provide 1,500 affordable houses in the area, 1 and 3 Queensland Road, N7, were completed in 2013 by Kier Group on behalf of Newlon Housing Trust.

These distinctive blue and gold towers were sold to first-time buyers, key workers and community members as part of the shared ownership scheme.

On 14 June 2017, 72 people tragically lost their lives in the Grenfell Tower fire in London. The disaster shone fresh light on the safety of high-rise residential buildings, resulting in the introduction of new regulations and standards for all housing developments over 18 metres high.

Subsequent building investigations carried out at 1 and 3 Queensland Road deem they are not compliant with the requirements of Building Regulation 135 (BR135). This is due to insufficient internal fire-stopping and cladding insulation, which must be rectified.

Residents have remained patient for over six months under the proviso that all issues with the buildings are being resolved by Newlon Housing Trust and urgent action would be taken to ensure our homes can be made safe as soon as possible - while taking every measure to prevent any costs being passed to leaseholders.

A lack of clarity regarding who is paying for the remedial works and when they will be undertaken has brought leaseholders to a juncture where we now want transparent information from Newlon Housing Trust about the plan to make our homes safe as quickly as possible.

Leaseholders have been unable to sell, staircase or remortgage their flats, as providers are not prepared to lend while the building has been deemed unsafe and the timescale for repairs is uncertain.

We want to support any efforts being made to ensure this process is being carried out with the utmost urgency.

With this in mind, we ask that Newlon Housing Trust do the following by no later than **6 July 2020**. We have outlined our requests under four headings:

## **Newlon response**

Firstly, we want to address the assertion at the start of the petition description.

Your buildings are not unsafe and we have taken all necessary measures to ensure residents' safety. It is true the buildings do require remedial works as investigations have found missing or incorrectly installed fire cavity barriers.

However, the additional steps that we have put in place in appointing 24/7 fire wardens and use of thermal imaging cameras in some areas combined with the fire detection systems in place mitigate these issues and mean that there is no additional risk in living in your buildings until remedial works are completed. The building has an up to date Fire Risk Assessment (FRA) and we have liaised closely with the London Fire Brigade (LFB) about the fire strategy for the building.

### **1. Ensure residents remain informed of the details of the fire issues and progress of work throughout**

#### **Newlon response:**

We have written to residents in detail on these issues in January, May and June this year and responded to all individual enquiries we have received. We will update you as soon as we can when we have new information to share.

- **Provide a copy of the existing fire safety report for the buildings completed by Probyn Miers investigating the external cavity barriers.**

#### **Newlon response:**

We cannot provide you with a copy of the Probyn Miers report as it was obtained under legal privilege. This is common practice in instances where it is possible that litigation may be necessary based on the findings. In order to protect Newlon's and residents' interests we commissioned the report on this basis and this will potentially help to take legal action if required to recover costs. The key findings though are noted in the EWS1 and supporting statement, which has been shared with residents.

We will provide residents with the full remedial works plan as soon as we receive it. This will detail the specification for the works and address any and all fire related defects with the building and the proposed remedies.

- **Issue an agreement to immediately provide all future fire safety reports and risk assessment documents of this type for the buildings.**

#### **Newlon response:**

Residents can receive a copy of the current FRA on request. We have previously shared this with residents and it remains freely available. This is the main legal document used to check the fire safety compliance of your building. Any other reports are supplementary to this and will always be picked up by the FRA.

As noted above once we have the specification for remedial works we will share this.

- **Provide a written guarantee that the EWS1 form is updated as soon as costs are agreed and remedial plans are in place in order to aid mortgage agreements to progress.**

**Newlon response:**

EWS1 will be updated when any significant new information is available and as works progress, so it will be updated once the remediation specification is agreed. It will also be updated once work on site starts and when works are completed as part of the fire safety compliance sign off.

**2. Ensure required fire safety works are carried out as quickly as possible.**

- **In the most recent fire safety update issued to residents on 19 June, Newlon Housing Trust states that Kier Group is yet to formally respond regarding responsibility for the external remedial works that are required. As six months have already passed with no response, leaseholders believe Newlon Housing Trust must now set a deadline of 31 July to receive an answer from Kier Group before it is forced to take legal action.**

**Newlon response:**

Newlon is currently funding a 24/7 waking watch to ensure the building remains fire safe. This service is costing Newlon hundreds of thousands of pounds. We aren't passing this cost to residents and our chances of recovering this cost through legal recourse are at best uncertain. Therefore, it is absolutely in Newlon's interests to complete the works as quickly as possible.

Unfortunately legal advice is that Newlon isn't really in a position to set a deadline for Kier to respond. Newlon has invited Kier to view the defects and comment. We are openly working to rectify the problems – getting surveys and commissioning a remedial specification. It is important we give Kier every opportunity to comment and to be involved in rectifying the problems. When we have a remedial specification we will put that to Kier and if they still don't agree to carry out the necessary works, we will then tender the works and place an order with another contractor. This is important as it establishes the cost of the works and by commissioning the works we will demonstrate an actual physical loss. This would then be the basis of our legal action to recover costs.

- **Provide a detailed explanation as to why Newlon Housing Trust believes it would take one year to tender works. Advice received from a separate housing trust has suggested that eight weeks is an acceptable period for tender.**

**Newlon response:**

We think this is a misunderstanding about the amount of work and the process to procure a major project of this type. Whilst eight weeks may be a standard period

given to a contractor to price a piece of work, it is not the same as having produced a specification, received all necessary consents and having a contractor ready to start onsite.

We believe 12 months is a realistic date for a projected start onsite, as before we can procure a contractor we need to know what we are tendering, which involves creating a detailed specification and getting this signed off by appropriate authorities.

We also need to write the tender documents (prepare contracts etc.) and select suitable contractors to price. Once prices are back we will need to analyse them and have pre-contract negotiations. Once we appoint a contractor they will have a lead time before they can start. Contractors are currently very busy, so it might well take 3/4 months for them to start even once we have agreed a price. The contractor will need to scaffold out the building, order materials and ensure they have suitable operatives available for the works. Therefore, when we say it could well take 12 months to get works on site, we are being realistic based on our experience and knowledge of the procurement process and market conditions.

- **Share what Newlon Housing Trust has communicated at local government level to ensure that the MP for North Islington, Rt Hon Jeremy Corbyn, is aware that the building will not be rectified prior to the government's deadline of June 2020.**

**Newlon response:**

We are happy to share all updates we provide to residents with Jeremy Corbyn's office and with ward councillors. The June 2020 deadline refers to the removal of Aluminium Composite Material (ACM) cladding from tall buildings, the type present at Grenfell Tower. Your buildings do not have this type of cladding and there are no concerns over the actual cladding material. Therefore this deadline is not applicable to your buildings.

Newlon has complied with the Government guidance on tall buildings relevant to Queensland Road. Following the Grenfell tragedy the Government asked building owners to check all residential buildings over 18M in height for combustible ACM of the type used on the Grenfell Tower. We wrote to all our residents living in taller buildings advising them of the outcome of those initial checks. Since that time the Government has become concerned about other potentially combustible cladding materials and asked owners to have independent expert checks carried out to all cladding on taller buildings.

Newlon has a number of taller buildings and is still in the process of completing these expert checks. Unfortunately there is a very limited pool of suitably qualified experts and a considerable number of tall buildings across England that need to be checked. The checks required are time consuming as they require a detailed physical survey and intrusive opening up of the walls to determine the internal as well as external materials and detailing. Newlon, like most other landlords, has taken a risk based approach to those checks. When we completed initial surveys of Queensland Road last year it raised the concerns over fire barriers of which we

made residents aware. This led to us reviewing the FRA and introducing a waking fire watch.

### **3. Provide evidence that Newlon are exploring all options to avoid cost being passed to leaseholders**

- **Share a copy of Newlon Housing Trust's application for the £1 billion Government fund for buildings with non-ACM cladding deficiencies.**

#### **Newlon response:**

At this stage we do not believe that we will be able to apply for this funding. Although the fund is open to housing associations, the prospectus places clear limitations on the circumstances under which a housing association can apply. To meet the published criteria for bidding, we would have to demonstrate that we would have a tangible risk of becoming insolvent if we did not receive the funding. Although the costs of this and other tall building remedial works are likely to have a seriously detrimental impact on our financial viability we will not be threatened to that extent.

The conditions also say that you must show that you have exhausted all other possible routes before you apply. As we are still trying to seek recourse from the original contractors or under the original warranty these routes are still open to us at this stage.

However, the Government has made clear in the prospectus that it will allow Housing Associations to claim for the capital costs of remediation that would otherwise have to be borne by their leaseholders (including Shared Owners). This claim process will be introduced during July and there is no requirement to register at this stage for this funding. We expect more details to be published in July and will update residents in due course.

- **If Newlon Housing Trust decides it is not going to apply for the fund, residents require a full explanation as to why by 16 July (ahead of the deadline closing on 31 July).**

#### **Newlon response:**

Newlon has previously stated that it is not our intention to recharge residents for costs and we will pursue all other options first. We have also asked the original contractors to remedy the works as a defect and are pursuing costs under the original warranty. We will if necessary take legal action but at this stage legal matters by necessity must remain confidential.

Newlon will continue to use our best endeavours to recover costs and we don't want to pass on costs to residents. However, it is impossible for us to know exactly what costs we will have to bear in the future. If we don't recover the costs or we only achieve a partial recovery, we may have to pass on some costs to residents. While we would wish to avoid this, it is important we are open and honest with residents about this possibility. Newlon cannot give residents the blanket assurance that we will pay and won't pass on any costs to leaseholders.

We are prevented from making such promises in part by our charitable status - housing associations' expenditure must meet our charitable objectives, and paying costs for which leaseholders are otherwise legally liable may not meet that definition.

- **Claiming costs to be between £1million and £2million suggests very little - or no - estimation work has been calculated to allow for 100% variance between the lowest and highest estimate. Newlon Housing Trust must detail which RIBA (Royal Institute of British Architects) Stage\* the costs have reached.**

**Newlon response:**

RIBA work stages are more appropriate to a new build project and not fire safety works of this nature. At this stage we don't yet have a detailed specification for the works, so it is impossible to obtain a detailed cost plan. When the specification is complete, our consultants will produce a cost estimate and we will share this with residents.

What we have provided to date is a rough working estimate as a guide. This is based on our knowledge and experience of similar works and we would expect a £1 million minimum and £2 million maximum. There is also a significant element of uncertainty in both the market place and pricing and in carrying out remedial works. It is possible we will find additional problems when we open up all parts of the building. Works will involve removing and replacing the cladding, so they are likely to be extensive. Until we know the scale and scope of works we cannot be certain of costs. We have offered a ballpark estimate because residents have asked us for this, we have stressed that this is a rough working estimate.

- **Clarify if Newlon Housing Trust is considering taking Alternative Dispute Resolution with Kier Group.**

**Newlon response:**

Newlon is following the advice of our solicitors and acting within the provisions of the original contract terms. Newlon would not rule out mediation but we are at an early stage of the legal process and we need to see how the matter progresses and decide on the most appropriate recourse with our legal team.

- **Detail what actions Newlon Housing Trust is pursuing with its consultants. If there is missing fire stopping throughout buildings 1 and 3 Queensland Road then there has also clearly been a lack of reasonable skill and care in the sign off.**

**Newlon response:**

The primary contractual responsibility for quality of workmanship sits with the principle contractor and Newlon is therefore rightly seeking to address this with Kier in the first instance. Newlon is reserving its legal position and has not ruled out action against other parties.

- **Explain what actions have Newlon Housing Trust made to make enquiries regarding defects insurance taken out by one of the contracting parties.**

**Newlon response:**

Newlon has put the building warranty provider Building LifePlans Ltd (BLP) on notice of a claim. At this stage BLP have not accepted the claim. We expect them to seek to defend it on the grounds the defects don't represent "present and imminent danger". This has been the standard defence they have used on other such claims we have made. We understand there to be many claims across the industry and so this is perhaps unsurprising. Newlon's solicitors will dispute this and we will continue to pursue a warranty claim, as we believe we have a strong case.

**4. Keep residents informed of 'in case of fire' procedure.**

- **If there is a fire in buildings 1 or 3 Queensland Road, is Newlon Housing Trust still advising a 'stay put' policy for residents?**

**Newlon response:**

Yes. The fire strategy for both blocks remains 'stay put'. The fire strategy is based on the original fire strategy for the building and the findings and recommendations of the independent expert who provides the annual Fire Risk Assessment (FRA) for the building.

- **Does Newlon Housing Trust acknowledge that a 'stay put' policy conflicts with guidance from London Fire Brigade that residents should evacuate immediately?**

**Newlon response:**

Newlon has shared the FRA with the London Fire Brigade (LFB) and they are aware of the stay put policy. If the LFB had any concerns we would expect them to raise them with us formally as the regulating authority. The current advice is that with the fire detection systems in place, combined with the fire warden service this should allow for early detection of a fire and raising of the alarm, ensuring the fire brigade can arrive quickly in the event of a fire. They would make a decision and advise residents in partnership with the fire wardens if an organised full or partial evacuation was required.

- **If Newlon Housing Trust continues to advise a 'stay put' policy, will this remain in place after Kier Group has completed remedial works to the internal fire stopping defects in the building?**

**Newlon response:**

The FRA for the buildings is kept under review and it could change to reflect new guidance or in light of new information. However, as things stand we do not anticipate any change in the stay put policy for the foreseeable future.

- **Newlon Housing Trust must clarify if policies are the same for both buildings 1 and 3 Queensland Road, given that building 3 has sprinklers in all apartments and one core, while building 1 has no sprinklers in flats and two cores.**

**Newlon response:**

Each of the blocks has its own FRA and the buildings are reviewed independently taking in each buildings risks and mitigations. Although the fire strategy for all blocks remains 'stay put' there is no interdependency in that regard. Sprinklers were installed in the one building due to the height – building regulations at the time required sprinklers in buildings over 30M in height.