



# Ministry of Housing, Communities & Local Government

**Rt Hon Angela Rayner MP**

*Deputy Prime Minister and Secretary of State for  
Housing, Communities & Local Government*  
2 Marsham Street  
London  
SW1P 4DF

Your reference: [REDACTED]

Our reference: [REDACTED]

Christopher Morris  
HM Area Coroner  
Manchester South  
manchestersouthcoroners@stockport.gov.uk

10 September 2024

Dear Christopher,

## **RESPONSE TO REGULATION 28: REPORT TO PREVENT FUTURE DEATHS – INQUEST INTO THE DEATH OF MR WILLIAM ERSKINE**

Thank you for your letter and report dated 17 April regarding the tragic death of William Erskine. I would like to express my sincere condolences to Mr Erskine's family and friends.

Your letter and report were made in accordance with paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and Regulation 28 of the Coroners (Investigations) Regulations 2013. You set out matters of concern and recommended that I, in my capacity as Secretary of State, and the Ministry of Housing, Communities and Local Government (MHCLG), should take action. Following the General Election, a new Government has formed and I am grateful that you extended the period for my reply.

You noted that:

1. aside from certain buildings designed for educational or healthcare use, or provided for vulnerable adults, current Building Regulations do not require fixed window restrictors to be fitted to opening windows in high-rise residential buildings; and
2. in relation to windows of the type and design in use in Stretford House, there is no current requirement to retro-fit fixed window restrictors.

At Mr Erskine's Inquest, you established that falls may occur when somebody is in a confused mental state resulting from substance use or emotional distress. You found that when windows are fitted with locks and dual-position window restrictors, fittings can be released enabling the window to fully rotate within the frame for cleaning purposes; the extent to which windows can be opened is therefore not restricted in the same way as if fixed window restrictors were fitted.

### **Consideration of the matters of concern**

I have set out below how Building Regulations apply to new building work. People who design buildings and windows have to accommodate competing functional interests such as maintenance, providing an egress route in an emergency, ventilation, cooling or domestic hygiene. I consider that current legislative arrangements for new building work are both proportionate and appropriate.

For tenants in existing buildings, risks of falls should be captured by existing housing standards, including the Housing Act 2004 and, for social housing tenants, the Decent Homes Standard, which I have described below. Changes introduced by the Social Housing (Regulation) Act 2023 (Awaab's Law) will also place a duty on social landlords to address hazards in homes in set timeframes; the Government is committed to bringing forward secondary legislation to bring Awaab's Law into force in the social rented sector. The Renters' Rights Bill will also apply both the Decent Homes Standard and Awaab's Law to the private rented sector for the first time, which will mean that tenants in this type of accommodation will benefit from similar protection and redress.

After careful consideration of both your matters of concern, I judge that no new regulatory action is necessary at this time, but the Government, of course, remains open to new evidence. I have set out the background behind my decision, below.

## **Housing standards in the rented sectors**

There are standards in place that regulate the quality, decency and safety of rented housing.

Under Part 1 of the Housing Act 2004 local housing authorities are required to keep the condition of housing in their area under review. Local housing authorities must take enforcement action if they think a 'category 1' hazard (as defined by the Housing Health and Safety Rating System) exists on housing premises; this includes hazards relating to falls between levels. It should be noted local housing authorities are unable to take enforcement action against themselves, where they are also the landlord. Under the Homes (Fit for Human Habitation) Act 2018, both private and social tenants are also able to take their own action through the courts if their property is not fit for human habitation.

Social housing must also meet the Decent Homes Standard. This sets out that social homes must be free from dangerous category 1 hazards, free from disrepair, have modern facilities and provide a reasonable degree of thermal comfort. The Regulator of Social Housing regulates the Decent Homes Standard in the social rented sector through its consumer standards, including the Safety and Quality Standard. This Government is committed to applying a Decent Homes Standard to the private rented sector for the first time through the Renters' Rights Bill and we are reviewing the Decent Homes Standard to make sure that it is fit for purpose in setting the minimum standards that all rented homes must meet. This will include consideration of whether specific measures on window restrictors should be included in the Decent Homes Standard.

Social tenants can also contact the Housing Ombudsman if they are not happy that their landlord has made sure their home is of a decent standard. Private rented sector tenants can escalate complaints about their letting or managing agents to one of two mandatory redress schemes. The Renters' Rights Bill will also allow the Government to establish a new ombudsman service that will provide fair, impartial and binding resolution for tenants' disputes with their landlord.

## **Standards for New Building Work**

The Building Act 1984 is the most wide-reaching law controlling building in England. The Building Regulations 2010 (the Building Regulations) go into more detail about building work. Most building work carried out in England must comply with the Building Regulations. The legal term 'building work' is defined in the Building Regulations and generally includes new construction, extending and altering buildings and changing what they are used for; it also covers installing a controlled service or fitting. The Building Regulations set standards which include accessibility, energy conservation and security. A suite of statutory guidance (Approved Documents) is published alongside the Building Regulations; the Approved Documents give guidance for many common building situations on how to meet the functional requirements of the Building Regulations. Powers in the Building Act and the Building Regulations are not retrospective however and cannot require an existing building to be modified or change its layout.

Approved Document K ('Protection from falling, collision and impact') provides detailed guidance on protection from falls. Requirement K2, which has no limitations, requires provision to be made to prevent people from falling by using suitable guarding appropriate for the circumstance. Requirement K5.3 provides that windows, skylights and ventilators which can be opened by people in or about the building shall be constructed or equipped that they may be opened, closed or adjusted safely; and Requirement K5.4 states that provision shall make windows safely accessible for cleaning but, as you are aware, these functional requirements have a limited application and do not apply to dwellings. The guidance in Approved Document K notes that where a person may fall through a window above ground level, provision of suitable window limiters to restrain the window should be considered to prevent falls. The requirements which are applicable to dwellings are, as you surmised, in place to minimise risk of injury to the householder from falling in their living environment, but the functional requirements set out in Building Regulations are minimum standards; there is nothing in Building Regulations or the limitations of application that would prevent a developer from going beyond those standards.

Approved Document O ('Overheating') offers guidance on guarding. Where opening windows are included in a building's design as part of a strategy to mitigate overheating, openings larger than 100mm with a change in floor level between inside and outside of more than 600mm must have guarding up to 1100mm. This can be provided by measures that include, but are not limited to, shutters with a child-proof lock or fixed guarding that could also extend to unopenable part(s) of the window, or external positioning of a Juliet balcony. Approved Document O does not require any restrictions on windows with a sill height of 1100mm or higher.

Permanent window restrictors installed in dwellings to mitigate risk from falling from height could conflict with other requirements in Building Regulations, which may include providing adequate ventilation, mitigating overheating, resistance to lateral forces and, in two storey buildings, means of escape in the event of a fire. If mitigation of a risk from falling were reliant on guarding only, a permanent obstructing barrier such as a wall, suitably designed balustrade or glazing might be the most appropriate method of meeting Building Regulations.

## **The Building Safety Regulator**

In 2022, a more stringent building safety regime was introduced overseen by the new Building Safety Regulator (BSR). The BSR has a statutory responsibility under the Building Safety Act 2022 to keep the safety of people in or about buildings, and the standard of buildings, under review and to make recommendations for improving standards to drive continuous improvement in the performance of all buildings to ensure the safety of occupants. Notwithstanding the processes already in place that I have set out above, it would be appropriate for the BSR, as part of its continuous review work, to consider how Building Regulations and Approved Documents ensure protection from falling; and to look at coherence and the relationships between different elements of the Building Regulations and the extent of limits of application. I have therefore copied this letter to Philip White, the BSR Director of Building Safety and Chief Inspector of Buildings.

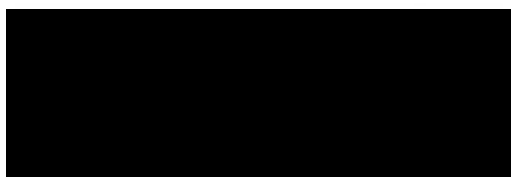
## **Conclusion**

I have outlined above the Government's plans to ensure that standards and legislation for rented homes provides a mechanism for tenants in rented accommodation to be assured that their homes meet appropriate standards of safety and, where they do not, redress should follow quickly.

On Building Regulations, buildings and window designers always have to accommodate competing functional interests. Of course, the Government is open to new evidence as it emerges, but I consider that current legislative arrangements are both proportionate and appropriate.

I fully recognise the seriousness of this incident but for the reasons set out above do not think that any additional measures need to be taken beyond the work already in train.

Yours sincerely,



**RT HON ANGELA RAYNER MP**

Deputy Prime Minister and Secretary of State for Housing, Communities & Local Government