

25 January 2019

Fire Safety in High Rise Buildings

Purpose of report

For information.

Summary

This report updates Fire Services Management Committee (FSMC) on building safety related issues since its last meeting.

Recommendation

That the members note and comment on the LGA's building safety related work.

Action

Officers to action any matters arising from the discussion as appropriate.

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Fire Safety in High Rise Buildings

Background

1. Since the last FSMC meeting there have been a number of announcements by the Ministry of Housing, Communities and Local Government related to its building safety programme, including the introduction of the ban on the use of combustible cladding on the external walls of high-rise residential buildings. The LGA continues to work across a range of strands related to the building safety programme and this report summarises this work.

Social housing high-rise buildings

Progress in remediation

2. Progress continues to be made in carrying out remediation to the 45 council-owned and 100 plus housing association-owned blocks with combinations of aluminium composite material (ACM) cladding and insulation that have been found not to meet the building regulation standards.
3. The statistics published by the Ministry of Housing, Communities and Local Government (MHCLG) on 6 December show that remediation has started on 116, or around three-quarters, of the 160 social housing blocks. Work has finished on 34 of these buildings, and in the case of the council blocks the cladding has already been removed from a significant majority, with the work underway to remove it from the remaining buildings.
4. At the last Committee meeting members were updated on the roundtable MHCLG convened in October with councils and housing associations with blocks with ACM cladding systems to discuss progress with remediation, and the subsequent discussions between MHCLG, the LGA and the National Housing Federation (NHF) about how the experience and good practice from the remediation programme could be shared more widely across the social housing sector. As a result of these discussions three roundtable events for councils and housing associations are to be held in February:
 - 4.1. 5 February in London
 - 4.2. 25 February in Birmingham
 - 4.3. 28 February in Manchester
5. These events are being jointly hosted by the LGA and the NHF, and the programmes for the events are currently in development.

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Private high rise buildings

Progress in remediation

6. The latest statistics from MHCLG show there are 272 private high-rise buildings with ACM cladding systems that need to be removed. So far remediation work has begun on 18 of the private high-rise buildings with ACM cladding, and has been completed on 29 of them. Plans are in place for remediation on a further 108 buildings, and plans are being developed for a further 48 buildings. However remediation plans still remain unclear for 69 buildings, and there are 23 buildings where the cladding status has still to be confirmed. In the case of these latter buildings councils have already issued enforcement notices on the vast majority of these blocks to obtain information on the building construction from the owners.

Written Ministerial Statement

7. In order to encourage progress with remediation work the Secretary of State for Housing, Communities and Local Government announced on 29 November that he had laid an addendum to the Housing Health and Safety Rating System (HHSRS) operational guidance, and would be writing to councils with buildings where it looks as if the owner will not be taking action to remediate unsafe ACM cladding to offer these authorities their full support in taking enforcement action.

Additional Statutory Guidance

8. The reference in the Written Ministerial Statement to an addendum to the HHSRS is to the further guidance that the LGA and London Councils suggested was needed early in 2018, and which (as was reported to the last Committee meeting) we have been working with the London Councils, the National Fire Chiefs Council (NFCC) and MHCLG on the drafting of during the autumn. When the addendum comes into effect by the end of the month it will strengthen councils' ability to take action under the HHSRS, and as such its implementation represents a lobbying success on the part of the LGA and London Councils.

Support for enforcement action

9. The offer in the Written Ministerial Statement to support enforcement action by councils includes financial support where it is necessary for the council to carry out emergency remedial work. In these circumstances the expectation is that the council will seek to recover the costs of this work from the building owners who have failed to act.

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Joint Inspection Team (JIT)

10. Reference was also made in the Written Ministerial Statement to the Joint Inspection Team hosted by the LGA. As members will recall from updates to previous meetings the private sector remediation taskforce established by MHCLG agreed plans for setting up the JIT. Progress in setting up the team was delayed due to issues related to the professional indemnity of the team. On 11 December a further Written Ministerial Statement referred to the approval that Her Majesty's Treasury had given to the creation of a contingent liability by MHCLG associated with the JIT's role. Ahead of this coming into effect later this month, the LGA has appointed a team leader for the JIT to start the processes needed to recruit other team members. Work continues with MHCLG on finalising the agreement between the Department and the LGA on the running and operation of the JIT.

Building Regulations and Fire Safety Review

11. In the Written Ministerial Statement (WMS) on 29 November and in a subsequent WMS on 18 December the Secretary of State for Housing, Communities and Local Government provided an update on how the government is responding to the recommendations in the final report from Dame Judith Hackitt's review of building regulations and fire safety.

Ban on combustible cladding

12. Having announced at the end of September that it would be proceeding with the ban on the use of combustible materials on the external walls of high-rise buildings, MHCLG published its formal response to the consultation at the end of November and laid the regulations to implement the ban in Parliament. These regulations came into effect on 21 December (and can be found [here](#)).
13. The regulations apply to new residential high-rise buildings and institutions over 18 metres in height including hospitals, residential care homes, student accommodation and dormitory buildings in boarding schools. This is in line with the LGA's call for the ban to apply to residential high-rise buildings and any building where vulnerable people sleep; although in the latter case the LGA suggested the ban should apply irrespective of the height of the building.
14. The ban means that only materials which are classified as A1 or A2 under the European classification can be used on the external walls of the buildings in the scope of the ban, and covers all elements of construction from the outer to the inner faces. There are a limited number of materials exempted from the ban covering components where non-combustible alternatives are not currently available. As a whole the ban broadly reflects

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the points raised by the LGA when pressing for a ban on the use of combustible materials.

Approved Document B

15. The changes resulting from the ban on combustible cladding have meant that Approved Document B, the guidance on how to comply with the fire safety requirements in the building regulations, has had to be amended as a result. Having made those initial changes at the same time the ban came into effect, the government has now published a call for evidence inviting views on technical issues and further improvements that could be made to Approved Document B. This consultation seeks views on whether for example the scope of Approved Document B should be expanded to cover protecting property from fire as well as safeguarding lives, what changes need to be made to the guidance in relation to specialised housing and care homes, and whether the definition of high-rise buildings should be changed from 18 metres or the requirement for sprinklers to be used only in buildings over 30 metres in height revised. Consideration will be given to how the LGA responds to the consultation.

Desktop studies consultation

16. One of the recommendations from Dame Judith Hackitt's interim report was that amendments should be made to the guidance to restrict the use of assessments in lieu of tests also known as desktop studies. The government launched a consultation on restricting the use of desktop studies in April, and the LGA responded by calling for banning their use when it came to assessing materials to be used on the external walls of high-rise residential buildings, and for their use only to be allowed in other circumstances where a safe outcome could be guaranteed. We also raised concerns that the proposals being consulted on might result in the greater use of desktop studies, rather than restrict their use.

17. The ban on the use of combustible cladding also bans the use of desktop studies in relation to materials to be used on the external walls of high-rise residential buildings. In other circumstances the use of desktop studies has been made tighter and more restrictive and have to be properly evidenced on the basis of other test data. In addition any tests the studies draw on and the studies themselves have to undertaken by appropriate bodies. Where testing is necessary to demonstrate performance desktop studies can only be used where it is impractical or not feasible to carry out tests. Again the outcome of the consultation and the resulting restrictions on the use of desktop studies broadly reflects the lobbying position adopted by the LGA.

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Implementing the Hackitt Review recommendations

18. On 18 December MHCLG published 'Building a Safer Future' its plan for implementing the recommendations from the Hackitt Review of building regulations. This makes it clear that the government will be taking forward all the recommendations in the Hackitt Review to:

18.1. Create a stronger and more effective regulatory and accountability framework to provide greater oversight of the construction industry, with a stronger and more effective sanctions regime;

18.2. Introduce clearer standards and guidance and improve the rigour of the product labelling, testing and marketing process;

18.3. Put residents at the heart of the new system of building safety through better engagement between them and those managing their buildings; and

18.4. Drive culture of change in the construction industry so there is increased responsibility for building safety, including improving the competence of those undertaking building work.

19. Legislation will be brought forward to implement the recommendations and the plan sets out how the elements of the framework will be developed over the next few months. The new regulatory framework will be trialled through the Joint Regulators Group, while MHCLG will be consulting in the spring on a number of areas to inform its proposals including the scope of the new regulatory regime, the introduction of new dutyholders as part of the construction and maintenance process, how the ability of building owners to choose their own building control regulator can be removed, and the shape of the new regulatory structure.

Joint Regulators Group

20. In order to develop and pilot the new regulatory framework MHCLG has established the Joint Regulators Group which brings together the Health and Safety Executive, Local Authority Building Control, the NFCC and the LGA. This is an officials and officer level group that will meet on a monthly basis, though with a number of sub-groups working on specific elements. It will work closely with the early adopters group – building owners and developers – to trial elements of the proposed new regulatory framework ahead of legislation being drafted.

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Wider Building Safety Issues

Fire Doors

21. We continue to hold regular meetings with MHCLG officials, along with London Councils, the NHF and a number of local authorities, to discuss issues related to fire doors. The most recent meeting covered the release of test data on glass reinforced plastic composite doors and when this is likely to be available and what information will be available, how building owners can satisfy themselves that doors on the market have passed the relevant fire safety tests, how the third party certification process for fire doors can be improved, what social housing building owners might do to drive changes in the fire doors market to improve standards, and how any remedial work by social housing building owners is paid for.

Large Panel System (LPS) Buildings

22. We also continue to work closely with MHCLG on building safety issues related to LPS buildings. The current focus of that work is to establish where and what LPS buildings are still in existence, including what information councils should be asked to collect on buildings in their area, the scope of any data collection, where building owners might source expertise to advise on future plans for LPS buildings, and the financial implications for councils of conducting surveys of LPS buildings and putting in place plans to address any issues identified.

Reinforced Autoclaved Aerated Concrete (RAAC) Buildings

23. Since the last Committee meeting the LGA has been made aware of a recent building component failure involving a property constructed of RAAC. RAAC was generally used in construction in the UK between the mid-1950s and 1980 in a variety of types of buildings, though it may have been used after that date. As a result the LGA has written to our member authorities to draw attention to the need to identify any buildings constructed using RAAC and outlining the follow-up steps required. More information is available on the LGA's website.

Implications for Wales

24. Building regulations and fire and rescue services are devolved responsibilities of the Welsh Assembly Government, and the main implications arising from the recommendations of the Hackitt Review and the government's response to it are on building regulations and fire safety in England. However the Welsh government has announced that it will be making the changes recommended in the report to the regulatory system in Wales, and the LGA has been keeping in contact to ensure the WLGA is kept informed of the latest developments in England.

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Financial Implications

25. Although the LGA is setting up the Joint Inspection Team, the cost of doing so will be met by MHCLG. Other work arising from this report will continue to be delivered within the planned staffing budget, which includes an additional fixed term post in the safer communities team to support the LGA's building safety work

Next steps

26. Members are asked to note and comment on the LGA's building safety work.