

24 May 2019

Fire Safety in High Rise Buildings: update

Purpose of report

For information.

Summary

This report updates the Commission on the LGA's building safety related work since its last meeting.

Recommendation

That 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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Background

1. Since the Commission's last meeting there have been a number of announcements by the Ministry of Housing, Communities and Local Government related to its building safety programme and the reforms initiated by the Hackitt Report. The LGA continues to work across a range of strands related to the building safety programme and the reform 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 9 May show that, as of 30 April, remediation has finished on 50 and has started on 87 of the 158 social housing blocks. Funding for the remediation of 144 of these 158 buildings is provided from the government's social sector ACM cladding removal fund. Remedial works for the remaining 14 buildings are being funded through existing funds and litigation action.
4. In February, the LGA and National Housing Federation (NHF) convened three regional roundtable events for councils and housing associations, to enable the social housing sector to share its experiences of building safety issues. We are consolidating the success of these events with our new building safety knowledge hub: an online platform, jointly hosted by the LGA and the NHF, which provides social landlord members with the latest updates on the Government's building safety programme, and enables them to share best practice and learn from one another's experience.

Private high rise buildings

Progress in remediation

5. The latest statistics from MHCLG show that remediation work has been completed on 43 high-rise, private residential buildings (including student accommodation and hotels). A further 223 buildings are yet to be remediated; of these, 21 have begun remediation, 121 have a plan in place, 41 have plans in development, and 40 buildings remain with unclear remediation plans. There are still 10 buildings where the cladding status is yet to be confirmed, despite enforcement efforts by local authorities.

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Written Ministerial Statement

6. 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

7. The reference in the Written Ministerial Statement to an addendum to the HHSRS was to the further guidance that the LGA and London Councils suggested was needed early in 2018, and which we worked on jointly with the London Councils, the National Fire Chiefs Council (NFCC) and MHCLG on the drafting of during the autumn of 2018. The addendum came into effect in early 2019 and has strengthened 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.

Joint Inspection Team (JIT)

8. 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. Work continues with MHCLG on finalising the agreement between the Department and the LGA on the running and operation of the JIT, which we expect to conclude shortly.

Funding for remediation of privately-owned buildings

9. The LGA has been pressing MHCLG ministers and officials to address the issue of funding the removal and replacement of dangerous cladding systems from privately-owned blocks for over 18 months, having recognised at an early stage that leaseholders were likely to end up being initially liable for these costs and unable to achieve redress from developers and contractors, despite being in no way responsible for the problem.
10. On 9 May the Government announced it will fund the replacement of dangerous cladding on high rise blocks, estimating the cost at £200 million. It intends to recover costs from those responsible in due course.

Use of materials on high rise residential buildings and non-ACM cladding systems

Ban on combustible cladding

11. Having announced at the end of September 2018 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](#)).
12. 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.
13. 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 the points raised by the LGA when pressing for a ban on the use of combustible materials.

Desktop studies consultation

14. One of the recommendations from Dame Judith Hackitt's interim report on building regulation and fire safety 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 2018, 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.
15. 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 be 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

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the outcome of the consultation and the resulting restrictions on the use of desktop studies broadly reflects the lobbying position adopted by the LGA.

Non-ACM cladding materials

16. The LGA has been in discussions with the Ministry since 2017 about the need to gather information on non-ACM cladding. In particular, we suggested that the survey of private high-rise residential buildings conducted by councils to identify which had ACM cladding should also include questions on other types of cladding.
17. Following successful lobbying by the LGA, MHCLG have now formally announced, through a [Written Ministerial Statement made on 1 May](#), that the Government will be testing the behaviour of a range of non-ACM materials used in cladding systems: copper and zinc composite materials, aluminium honeycomb panels, high pressure laminate panels, brick slips, and reconstituted stone. These are not full scale BS-8414 tests, and will not be carried out with the intention of understanding whether the above materials fail to meet the required standard. Instead, they are exploratory tests, which will provide more information on how these materials behave relative to ACM. The test results, which will begin to be published in late June, will inform the next steps of the Government's remediation programme.
18. We have expressed our concerns to MHCLG that this is an insufficiently robust testing regime, as the cladding panels should be tested alongside the key elements that would be found on a real building, particularly the insulation. Whilst the LGA do not have any faith in the ability of the BS-8414 test to fully replicate a real fire, we believe it would give a better indication of cladding performance than the bespoke test designed by the Building Research Establishment (BRE).
19. We will also be pressing the point that local authorities and Fire and Rescue Authorities are fully funded by central government for any further data collection or remediation exercises.

Fire Doors

20. Over a year ago, MHCLG identified systemic issues with glass-reinforced plastic (GRP) composite fire doors' ability to meet the necessary 30 minute standard. We continue to hold regular meetings with MHCLG officials, along with London Councils, the NHF and a number of local authorities, to discuss the issues created by this.
21. GRP door manufacturers have now released their draft industry-led remediation plan, which sets out how they intend to cover the costs of remediating sub-standard GRP fire doors. The LGA and members of its fire doors group were given the opportunity to comment on this plan and have expressed the view that it was unworkable in its existing form.

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22. The industry and MHCLG are now engaged in producing a smaller-scale remediation programme targeting the highest risk doors, which the LGA has agreed to support in a limited trial, with significant reservations over its practicability. The LGA and the industry have also raised with MHCLG the role of test houses and third party certification bodies, which provided manufacturers with incorrect advice on which tests needed to be carried out on fire doors as per the legal standard.
23. The LGA has also raised with MHCLG and the industry the difficulties councils face in purchasing new doors ahead of a reliable certification and third party accreditation system being put in place.

Reform of building regulations and fire safety

Implementing the Hackitt Review recommendations

24. 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:
- 24.1. 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;
 - 24.2. Introduce clearer standards and guidance and improve the rigour of the product labelling, testing and marketing process;
 - 24.3. Put residents at the heart of the new system of building safety through better engagement between them and those managing their buildings; and
 - 24.4. 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.
25. Legislation will be brought forward to implement the recommendations and the plan set out how the elements of the framework would be developed. The new regulatory framework is being developed through the Joint Regulators Group, which has been considering 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.

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Joint Regulators Group

26. The LGA has been working with NFCC, the Health and Safety Executive and Local Authority Building Control as part of a Joint Regulators Group. We expect to see an MHCLG consultation document on these reforms published shortly. This is expected to be accompanied by a call for evidence on the operation of the Regulatory Reform (Fire Safety) Order 2005, published by the Home Office.

27. Current LGA priorities are to ensure that the reform programme:

- 27.1. Delivers effective powers and sanctions and identifies specific duty holders
- 27.2. Ensures there is one enforcing authority on the ground for fire safety in high rise buildings
- 27.3. Enables a holistic view of fire safety in individual buildings.

Approved Document B and automatic fire suppression systems

28. The consultation on the technical review of Approved Document B, which opened in December 2018, closed at the start of March. The consultation sought 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.

29. Given this was a technical consultation where others, such as the National Fire Chiefs Council (NFCC) have greater expertise, the LGA response was kept short and repeated points made in previous responses to consultations where reference was made to Approved Document B. One addition to this material was to reference the recommendations from FSMC's Automatic Fire Suppression Systems Working Group, which have been agreed by the LGA's Executive.

30. The Department of Education issued a call for evidence in March in relation to Building Bulletin 100 and fire safety in schools, including in relation to the provision of sprinklers in schools. The consultation closes at the end of May and the LGA will be responding to it, though as this is also a technical call for evidence our response will be kept short.

Implications for Wales

31. 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

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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.

Financial Implications

32. 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

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