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Fire safety in high rise buildings

Purpose of report

For information.

Summary

This paper updates the Committee on the work of central and local government since the last meeting to ensure that high rise buildings are safe, including the LGA's engagement with the independent review of the Building Regulations and Fire Safety Review, as well as ongoing work related to the national building safety programme.

Recommendation

Fire Services Management Committee Members are asked to note and comment on the LGA's building safety programme work.

Action

Officers to proceed as directed.

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Fire safety in high rise buildings

Background

1. At its last meeting the Committee considered the key findings and direction of travel set out in the interim report published in December by the independent review of building regulations and fire safety led by Dame Judith Hackitt. Since then the LGA's work has been focused on contributing to the next stages of the review process, while also progressing a number of issues related to the private sector high-rise building safety programme. This report updates the Committee on this activity.

Building regulations and fire safety review

2. As members will recall the overall conclusion in the interim report from Dame Judith Hackitt's review was that the "the current regulatory system is not fit for purpose in relation to high-rise and complex buildings". More specifically it highlighted issues with the clarity of the guidance set out in the Approved Documents that support the building regulations, the lack of clarity of roles and responsibilities, and the need to improve the enforcement regime around fire safety. A key objective set out in the interim report is for any changes to the regulatory regime to create a culture change in the construction industry.
3. As was indicated to the Committee at its last meeting, the LGA's Grenfell Tower Task and Finish Group, which has overall responsibility for coordinating the LGA's activity related to Grenfell Tower, agreed a formal response from the LGA to the interim report. The discussion at the last Committee meeting helped shape the final draft of the LGA's response to the interim report, a copy of which is attached at **Appendix A**.
4. The Committee was also updated about the plans for the second phase of the independent review's work. This was launched at a summit was held on 22 January, and was followed by an invitation to key stakeholders to contribute to six working groups covering construction and design; occupation and maintenance; regulations and guidance; competence; residents' voice and quality assurance and products.
5. After discussion with the Grenfell Tower Task and Finish Group, the LGA applied for places on all six of the working groups. However we were only offered places on two of the working groups: the occupation and maintenance; and the residents' voice. We were also invited to participate in a sub-group to the construction and design working group looking at procurement and supply. The National Fire Chiefs Council were represented on all of the working groups.
6. The occupation and maintenance working group looked at what building owners, landlords and regulators need to do differently to ensure that fire safety is prioritised when a building is occupied and throughout its life cycle. As one of the key issues identified in the LGA's work since the fire at Grenfell Tower has been the interaction between the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005, a joint meeting of the Committee's Lead Members and the Grenfell Tower Task and Finish Group took place in early February to inform the LGA's contribution to the working group.

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7. The two working groups the LGA has been represented on have met twice each, and draft recommendations from them to Dame Judith Hackitt are currently being considered. We understand that the other working groups are operating to a similar schedule. It is anticipated that the working groups will present their recommendations to Dame Judith Hackitt later this month, with the final report being written up for publication in spring this year.

Other building safety issues update

Social housing tower blocks

Remediation work

8. Progress continues to be made by councils and housing associations in carrying out remediation work to the 45 council owned blocks and the 110 plus housing association tower blocks with combinations of aluminium composite material (ACM) cladding and insulation that have been found not to meet the building regulation standards following tests at the Building Research Establishment (BRE) over in July and August 2017. The latest published statistics by the Ministry of Housing, Communities and Local Government (MHCLG), which were made available at the end of February, show that remediation work has started on 92 of the 158 social housing blocks, with remediation work on seven blocks having finished.
9. MHCLG itself points out that progress with the remediation work is a complex process, and the amount of work and therefore the time needed to complete the remediation work will vary from building to building. In all cases though the work involves major construction work, that needs to be planned, consulted on and carried out carefully.

Alternatives to ACM

10. The advice from MHCLG on what materials might be used to replace ACM cladding and insulation combinations that do not meet the building regulation standards remains that the clearest way of satisfying the building regulation standards is to use materials of limited combustibility or to use a system that has been shown to pass a large scale test conducted to the BS 8414 standard.
11. However the validity of the BS 8414 standard has been called into question since the last Committee meeting. BRE at the start of February issued a statement related to data from a BS 8414 test carried out by Celotex at BRE in 2014 on one of their polyisocyanurate insulation products that was used on Grenfell Tower. BRE had been notified by Celotex that on reviewing the test results Celotex had identified anomalies between their design specification for the cladding system to be tested and the actual cladding system they installed to be tested. As BRE understood that the test system had not been constructed to Celotex's design specification, the test results have been withdrawn.
12. Additionally at the end of January Sky News reported claims by one major building insulation manufacturer that another building insulation manufacturer had 'influenced' the full scale fire safety tests carried out by MHCLG over July and August 2017 by placing fire barriers over the thermometers measuring the heat generated by the fire. The manufacturer involved in conducting the tests said the placement of the fire barriers had

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been copied from previous tests, that they showed the fire performance of ACM cladding was the key factor in the fire safety performance of any cladding system.

13. In response the LGA has called for clear advice from the government for building owners on what they can and cannot put on their buildings as a replacement, and has questioned the robustness of the BS 8414 test.

Private sector blocks

Data Collection

14. At the last meeting we reported on progress by councils in gathering information on those private high-rise buildings in their area with ACM cladding. Although we noted that the councils had made significant progress in submitting this information to MHCLG, a number of councils are facing a series of challenges in gathering the full set of information, in some instances because of the large number of high-rise blocks they have in their area.
15. Our discussions with MHCLG about how best to support those authorities in this position has resulted in the Director General for the Building Safety Programme at MHCLG writing to the LGA on 1 March 2018 to announce an additional allocation of £1 million from the government to support councils' work. We will be discussing how this funding will be used with MHCLG officials and London Councils shortly.

Legal powers

16. Although many building owners have come forward to volunteer information about their buildings, in some instances identifying building owners and what type of cladding is on a building is taking a considerable amount of time for councils. In the event that a building owner is not co-operative in identifying what cladding is on their building then councils will have to consider taking samples to identify what it is. Should it turn out to be ACM cladding that needs to be removed there is also a question about what councils can or have to do if the building owner does not organise the removal of the cladding.
17. Councils have powers to take action under the Housing Act and the Housing Health and Safety Rating System, but there are risks associated with doing so. We have therefore outlined a number of ways that MHCLG could minimise these risks. In response MHCLG are examining the statutory guidance and the statutory operating directions for local authorities in their relationship with those private sector building owners with a view to reinforcing local authorities in carrying out this building safety related work. If councils have the ability to take the necessary action against any building owners who are not taking their fire safety obligations seriously, this should limit the burden on fire and rescue services, given that the information councils have so far gathered suggests that there are considerably more private high-rise buildings with ACM than there are in the social housing sector.

Outcomes from the programme

18. The work councils are doing around fire safety in private high-rise buildings is already having an impact on leaseholders. A first-tier tribunal has recently ruled that it is

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legitimate for building owners to recover the cost of interim fire safety measures from leaseholders through their service charges. The mayors of Salford and Greater Manchester had added their voices to those Members of Parliament who are highlighting the impact on leaseholders as an issue. The LGA is currently in discussion with MHCLG officials and London Councils about what could be done where building owners pursue leaseholders for the costs of any interim fire safety measures or remedial work to the buildings.

Implications for Wales

19. Building regulations are a devolved responsibility of the Welsh Assembly Government, and the main implications for the review are on building regulations and fire safety in England, though the Welsh government is likely to take account of the review's recommendations.

Financial Implications

20. The LGA's work in response to Grenfell Tower continues to be intensive, however it has been met so far from existing resources.

Next steps

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