

## **Fire Safety in High Rise Buildings**

### **Purpose of report**

For information.

### **Summary**

This report updates Fire Commission on the LGA's building safety related work since its last meeting, including the recommendations from the final report of Dame Judith Hackitt's review of building regulations and fire safety and the implications of these for fire and rescue authorities.

### **Recommendations**

Fire Commission is asked to:

1. Note publication of the final report from the independent review of building regulations and fire safety, and the implications for fire and rescue authorities.
2. Note the LGA's other building safety related work.

### **Action**

Officers to proceed as directed.

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## **Fire Safety in High Rise Buildings**

### **Background**

1. Since the Commission's last meeting the final report from the independent review of building regulations and fire safety led by Dame Judith Hackitt has been published, while the government has also made a range of announcements related to the national building safety programme. This paper updates the Commission on the final recommendations of the Hackitt Review, the government's announcements and associated LGA work related to fire safety in high-rise buildings.

### **The independent review of building regulations and fire safety**

2. At its meetings in May Fire Commission noted the interim report published on 18 December 2017 by the independent review of building regulations and fire safety led by Dame Judith Hackitt; the LGA's response to the interim report; and our engagement in the review's second phase of work. The Commission also received a verbal update on the recommendations in the review's [final report](#) which was published on 17 May 2018. A more detailed summary of the main sections of the report are set out below.

#### *A new regulatory framework*

3. In the report Dame Judith Hackitt sets out a proposal for a new regulatory framework for residential properties 10 or more storeys high – higher risk residential buildings (HRRBs). At the heart of this new framework is a new regulator, the Joint Competent Authority (JCA), to oversee better management of safety risks. This will not be a new body, but rather a mechanism for existing regulators (council building control functions, fire and rescue services and the Health and Safety Executive) to operate collectively to ensure the safety of HRRBs. The JCA will be funded on a cost recovery basis. Under the proposals a mandatory incident reporting system will also be put in place.

#### *Design construction and refurbishment (chapter 2)*

4. The proposals envisage 'dutyholders' with responsibility for building safety at the design, construction and refurbishment stage and also at the occupancy stage of the building's life cycle. Dutyholders will be subject to rigorous and demanding duties and responsibilities. The report suggests three Gateway Points are established where the dutyholders will have to satisfy the JCA they have met a robust set of criteria before they can progress on to the next stage in constructing a new HRRB. It also recommends the JCA has effective sanctions and powers to penalise non-compliance. Any significant changes from the approved full plans will need to be notified to the JCA. Building control oversight for HRRBs will be solely provided by councils.

*Occupation and maintenance (chapter 3)*

5. Once occupied HRRBs will need to have a dutyholder with responsibility for the safety of all parts of the building, with a nominated building safety manager to manage the building on a day-to-day basis and act as a point of contact. The dutyholder will have to regularly demonstrate to the JCA that they are discharging their responsibilities, and as part of this process dutyholders for existing buildings will need to gather information on the design, structure and materials used. Residents will also have clear obligations to maintain the safety of their flats.

*Residents' Voice (chapter 4)*

6. In the report Dame Judith sets out measures to provide reassurance and recourse for residents, including a no-risk route for residents to escalate concerns about safety to an independent statutory body, potentially the suggested single housing ombudsman. The report also proposes that dutyholders should have resident engagement strategies in place and that residents should have access to fire risk assessments, safety case documentation and information on maintenance and asset management.

*Competence (chapter 5)*

7. To overcome the concerns that the current approach to levels of competence is disjointed and not rigorous enough, the report recommends that professional and accreditation bodies should present a coherent approach to government within one year that sets out the remit and role of an overarching body to provide oversight of competence requirements of competent people working on HRRBs.

*Guidance and monitoring (chapter 6)*

8. Dame Judith proposes that the responsibility for developing guidance on building regulations and fire safety should be moved to industry, with government support and a new structure to validate and assure guidance. The report argues that the full suite of building regulation guidance should be owned by industry who are accountable for managing risk and have an incentive to ensure that guidance keeps pace with innovation. The key focus is on building regulation guidance, but the report also suggests that the Fire Safety Order be reviewed and updated as necessary. It is proposed that there should be a periodic review, at least every five years, of the effectiveness of the whole system.

*Products (Chapter 7)*

9. Dame Judith's interim report sought to restrict the use of assessments in lieu, known as "desktop studies". The final report notes that the government is taking this recommendation forward and does not propose further restrictions on their use. The

report notes that using products that are non-combustible or of limited combustibility is “undoubtedly” a lower risk option. But, rather than recommending that combustible products on the outside of HRRBs be banned, the final report argues that a system of mitigation be put in place when using materials that are required to pass a full system test. The report recommends that a more transparent and more effective specification and testing regime of construction products must be developed and that products that are critical to the safety of HRRBs should be subject to periodic retesting to ensure that quality and integrity has been maintained over time in production. In addition the report recommends that all products used in HRRBs must be traceable. A strengthened compliance regime is proposed possibly through an extended remit for the Office of Product Safety and Standards.

*Building information (chapter 8)*

10. The report recommends the creation of a digital record throughout the building life cycle. A Business Information Modelling approach is proposed, which the report says will enable the dutyholders to ensure accuracy and quality of design and construction, and a suitable evidence base to maintain the safety and integrity throughout the life cycle of the building. The review also recommends that for existing buildings a set of minimum building data be included in the safety case provided to the JCA when the building is being refurbished or assessed.

*Procurement and supply (chapter 9)*

11. The review states that the aim of the procurement process should be to obtain best value rather than lower cost. The review recommends that for HRRBs principal contractors and clients should devise contracts that specifically state that safety requirements must not be compromised for cost reduction. Tenders should propose how any proposed building solution results in safe buildings.

*Government's response*

12. In his response to the report on 17 May 2018, the Rt. Hon. James Brokenshire MP, Secretary of State for Housing, Communities and Local Government, said that the government agreed with Dame Judith's analysis that the current system of building regulation is not fit for purpose, and supported the principles behind the report's recommendations for a new system. The Secretary of State went on to add that the government also agreed the system should be overseen by a more effective regulatory framework, with stronger powers to inspect high-rise buildings and stronger sanctions to tackle irresponsible behaviour. In addition the Secretary of State announced the government would be:

- 12.1. launching a consultation on banning the use of combustible materials in cladding systems on high-rise residential buildings;

- 12.2.banning desktop studies if the recent consultation – which closed on 25 May – does not demonstrate that they can be safely used;
- 12.3.ensuring residents have a better mechanism for blowing the whistle on landlords who do not maintain safe buildings;
- 12.4.changing the law to achieve meaningful and lasting reform of the building regulatory system, with strong sanctions for those who fail to comply;
- 12.5.inviting views on how culture and practice could start to be changed immediately, with the government using the responses to inform a more detailed statement in the autumn on how it intends to implement major reform of the regulatory system; and
- 12.6.restructuring building regulations fire safety guidance to ensure it is clear.

*LGA response to the report*

13. The LGA's immediate response to the report centred on the absence of recommendations to prohibit the use of combustible material in cladding systems on high-rise residential buildings and to ban the use of desktop studies. Reforms of this sort to the building regulation system would address concerns about the robustness of the testing regime, issues with the clarity of information on a product's performance as well as the ease of identifying it once in use the report seeks to address. The Secretary of State's commitment to consult on banning the use of combustible materials in cladding systems in response to the report's publication was therefore a welcome response to LGA lobbying.
14. The views of Fire Services Management Committee, as well as those of other LGA Boards were used to inform the LGA's response to her final report. A copy of the LGA's response is attached at **Appendix A**.

*Implications for fire and rescue authorities*

15. The final recommendations in the report have significant implications for fire and rescue authorities (FRAs). As a key element of the new tripartite regulator, the Joint Competent Authority, FRAs will have a significantly greater role in the approval process for building high rise residential buildings. This includes being consulted at the planning stage for the building of new HRRBs, and when any applications are submitted in relation to other buildings in the immediate vicinity of a HRRB. FRAs will also be involved in reviewing fire safety in existing buildings.
16. There will of course be resource implications to this for FRAs both in carrying out the work and ensuring they have suitably qualified people. The recommendation that the JCA should be funded on the basis of full cost recovery would provide the resources to pay for the work, but consideration may need to be given to funding training to increase the pool of qualified staff to undertake the work.

17. The detail of how the JCA will operate was not clear from the final report. It suggested this would be a mechanism to enable existing regulators to operate collectively rather than being a new body, although no further detail was provided on how it was envisaged that these regulators would be brought together. A specific team has been established by the Ministry of Housing, Communities and Local Government (MHCLG) to work up proposals for how the JCA would operate in practice, and preliminary discussions have been held between MHCLG officials and the National Fire Chiefs Council (NFCC), Local Authority Building Control (LABC) and the LGA. The LGA has also been involved in meetings with the NFCC and LABC to discuss how the JCA would work in practice, and further discussions with these and other interested organisations were held in September.
18. One issue that the LGA raised in its submission to the Dame Judith Hackitt's call for evidence last year, and again in the second phase of the review's work, was the interrelationship between the Fire Safety Order and the Housing Act 2004. Although the final report acknowledges there is an issue with their interaction, it does not specifically suggest that they are revised, relying instead on the JCA to ensure that enforcement under both regimes is coordinated.

*Consultation on banning the use of combustible materials*

19. In MHCLG's response to publication of Dame Judith's final report, the department indicated it would be consulting on banning the use of combustible materials on the external walls of high-rise residential buildings. The consultation was published on 18 June and closed on 14 August. The LGA's response to this consultation was considered by Fire Service Management Committee's Lead Members as well as those from other relevant LGA Boards and the members of the Grenfell Task and Finish Group. A copy of the LGA's response is attached at **Appendix B**. The Secretary of State for Housing, Communities and Local Government announced on 1 October that following the consultation the government would be banning the use of combustible materials on the external walls of high-rise residential buildings; we await publication of the details of the ban.
20. In addition to the consultation on banning the use of combustible materials MHCLG published a revised version of the guidance on how to meet the fire safety requirements of the building regulations – Approved Document B – on 19 July. The LGA will be responding to the consultation which closes in October, and can be found here: <https://www.gov.uk/government/consultations/fire-safety-clarification-of-statutory-guidance-approved-document-b>
21. Dame Judith's recommendations were also considered by the Housing, Communities and Local Government Select Committee. The LGA, along with a range of other organisations, were asked to provide evidence to the Committee. Its [report](#), published on 18 July, agreed with the LGA's assessment of Dame Judith's recommendations: that

there is a need for a significant culture change in the industry, the building regulations require simplification, the recommendations on high-risk residential buildings should apply more widely than those over 10 storeys in height, it is right to ban the use of combustible materials on the external walls of high-rise residential buildings, and there is a need for a new testing regime that better reflects real world conditions and is more transparent. The Committee also recommended the retrofitting of sprinklers in high-rise residential buildings, and the introduction of a low interest loan scheme for owners of private high-rise residential buildings so the cost of remediation work is not passed on to leaseholders.

### **Other building safety issues**

#### Social housing high-rise buildings

##### *Progress in remediation work*

22. Progress continues to be made in carrying out remediation to the 45 council owned and 100 plus housing association blocks with combinations of aluminium composite material (ACM) cladding and insulation that have been found not to meet the building regulation standards.
23. The statistics published by MHCLG on the 14 September show that remediation has started on 121, or just over three-quarters, of the 159 social housing blocks. Work has finished on 22 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.

##### *Materials to use in remediation*

24. The LGA has been pressing MHCLG for a considerable time for clarity around what materials can be used to replace combustible ACM cladding systems when carrying out remediation work. In May MHCLG confirmed that as part of the conditions for funding remediation work by councils and housing associations, only cladding that meets the A1 and A2 European classifications could be used.
25. Since that announcement however questions have been raised about whether A2 classified materials are actually non-combustible. A report on the BBC's Newsnight programme on Friday 6 July suggested that an A2 cladding panel had failed a large scale test (the BS 8414 test).
26. MHCLG has been investigating the conflicting claims and whether or not the panel in question satisfies the criteria to be classified as an A2 material. A statement in September from the Ministry suggested that the panel did not meet the standards to be classified as an A2 material, though this is disputed by the manufacturers. Whatever the

outcome of the tests on the panel, this raises questions about whether products on the open market reach the standards they claim, and therefore about the robustness of the product testing regime.

### Private high-rise buildings

#### *Data collection*

27. While those social housing high-rise blocks with ACM cladding systems were identified last year, councils' work to identify private high-rise residential buildings with ACM cladding has taken a number of months. This is because they have had to gather information on over 6,000 buildings. The deadline for gathering this information was the end of May, and the results were first published in the data released by MHCLG at the end of June 2018.
28. Updated data published by MHCLG in September showed there are 295 private high-rise buildings with ACM cladding. This number may increase slightly as there are approximately 30 buildings where councils have not yet been able to confirm whether the cladding on the building is ACM or not. It is anticipated that between 3-5 per cent of these buildings will have ACM cladding. So far remediation work has begun on 26 of the private high-rise buildings with ACM cladding, and has been completed on 10 of them.

#### *Secretary of State's announcement*

29. With remediation work currently underway on only a small number of these private high-rise buildings, the Secretary of State for Housing, Communities and Local Government set out how the government would drive swifter progress by building owners in removing unsafe cladding in a statement at the end of June. The package of measures in the announcement included:
- 29.1. The establishment of a new taskforce to oversee the remediation programme on these private high-rise residential buildings, chaired by ministers and including the LGA, the NFCC, London Councils and local authorities with large numbers of these blocks as well as industry representatives.
- 29.2. The convening of a joint inspection team by the LGA and the NFCC to help councils ensure building owners start remediation work on those private high-rise residential buildings with ACM cladding, and where necessary are supported to take enforcement action. £1 million will be made available to support enforcement action by councils.
- 29.3. The development of further statutory guidance by MHCLG to make it easier for councils to use their powers under the Housing Health and Safety Rating System (HHSRS) in relation to fire safety hazards posed by ACM cladding systems.
- 29.4. Inviting industry representatives to develop their own solutions that progress the removal of unsafe cladding while protecting leaseholders from the costs. At the

same time MHCLG said they would consider a range of other options if the industry does not provide solutions.

#### *Private sector remediation taskforce*

30. The first meeting of the new taskforce took place at the end of July, with the second in early September. Alongside consideration of its terms of reference, the Taskforce has discussed what data was available on the remediation plans and work to private high-rise buildings, heard from the London Borough of Tower Hamlets on the issues they are facing and agreed plans for establishing the joint inspection team.

#### *Joint Inspection Team*

31. The plans for the Joint Inspection Team discussed at the private sector remediation taskforce drew heavily on the proposal for such a team developed by London Councils and the LGA at the start of the year. Our preparatory work identified the skills and experience such a team would need, and the processes it will need to work through under the Housing Act and the HHSRS. We also suggested to MHCLG officials that the work of such a team would be assisted by changes to the HHSRS statutory guidance in relation to the fire safety hazards posed by ACM cladding.
32. The Joint Inspection Team will be run by the LGA, but paid for by MHCLG, and will report to the Private Sector Remediation Taskforce, chaired by the Minister for Housing. We are currently in discussion with MHCLG about the size of the team and costs, and once these are concluded we intend to swiftly commence recruitment to the team. As part of this we will be contacting local authority chief executives to highlight the existence of the team and ask whether any of their environmental health officers could be seconded into the team.

#### Fire doors

33. Following the announcement in March that the investigation by the Metropolitan Police Service into the spread of the fire in Grenfell Tower had identified concerns about the fire doors in the block, MHCLG conducted further tests on fire doors made by the same manufacturer as those used in Grenfell Tower. The results of these tests were announced on 16 May, when MHCLG also said they would be looking at the wider fire doors market and testing fire doors from other suppliers.
34. A further announcement from the department at the end of July confirmed that fire doors from five manufacturers had by then been identified as failing to meet the requisite fire performance standard. The doors which failed the tests were glazed and unglazed doors supplied by Manse Masterdor and Masterdor Limited and glazed composite doors supplied by Specialist Building Products Limited trading as Permador; Solar Windows

Limited; and Birtley Group Limited trading as Bowater by Birtley. All the doors known to have failed to meet the standards have been withdrawn from the market.

35. The advice from the government's Expert Panel and the NFCC remains unchanged that the risk to public safety is low, as even when doors do not meet the required standard they will provide some protection from the spread of fire. The advice to building owners issued by the Expert Panel in May was revised in light of the new findings at the end of July. The updated guidance repeated that landlords and building owners should replace doors they suspect do not meet the required standard, using a fire risk assessment to determine how quickly the doors should be replaced.
36. The fact that doors from a number of manufacturers have failed to meet the required standards has led MHCLG to conclude there is a broader issue across the fire door market. One problem identified as a result of this work has been that some fire doors have been marketed on the basis of a single fire resistance test on one side of the door. However guidance in Approved Document B states that fire doors have to be tested on both sides to demonstrate compliance with the building regulations as most are not truly symmetrical, particularly in the case of complex door constructions. MHCLG therefore reiterated the need to ensure there was evidence that fire doors have been tested on both sides when checking their suitability in a letter to building control bodies on 31 July.
37. To address the problems in the market MHCLG has met the major fire doors suppliers to agree a plan of action to address the manufacturing failings which have been identified as part of this process. The department has also been in discussion with National Trading Standards about coordinating the response from affected trading standards teams.
38. LGA officers along with London Councils and a number of local authorities have been meeting with MHCLG officials to discuss the implications for councils of the department's work, and to share knowledge and experience between councils.

### **Implications for Wales**

39. 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. An expert group will be established to advise on how to incorporate these change into law, policy and practice in Wales.

### **Financial Implications**

40. 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**

41. Members are asked to note publication of the final report from Dame Judith Hackitt's review and the LGA's building safety work since May.