

Building Safety update

Purpose of report

For discussion.

Summary

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

Recommendation

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

Actions

Officers to incorporate members' views in the LGA's ongoing building safety related work.

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Building Safety update

Background

1. Since the Committee's last meeting the LGA has continued to work with the Ministry of Housing, Communities and Local Government (MHCLG) and the Home Office to support building safety reform and the remediation of dangerous buildings. Work on both fronts has been disrupted by Covid-19, the latter to a significant extent.
2. Two significant developments have taken place since the last meeting in that a new minister, Lord Stephen Greenhalgh, has been appointed to a joint position in the Home Office and MHCLG to oversee fire and building safety, and the Fire Safety Bill has been published and has passed its second reading in Parliament.

Remediation

Progress

3. Progress continues to be made in carrying out remediation to the 154 social sector residential blocks with combinations of aluminium composite material (ACM) cladding and insulation that have been found not to meet the building regulation standards. The [statistics](#) published by the Ministry of Housing, Communities and Local Government (MHCLG) in June show that on, as of 31 May 2020, remediation has finished on 75 of these blocks with a further ten awaiting final building control sign off. Of the remaining 69, 26 have had cladding removed, 35 have seen work begin and 8 have plans in place. Funding for the remediation of 139 of these 154 buildings is provided from the government's social sector ACM cladding remediation fund (launched on 16 May 2018 to help remediate social sector residential buildings) and one more application is being considered.
4. The same statistics show that remediation work has been completed on 29 private high-rise residential buildings with ACM, with a further four awaiting final building control sign off. Of the remaining 174 buildings, 10 have had cladding removed, 38 have seen work begin, 86 have plans in place and 40 have reported an intent to remediate. As at 31 May 2020, 94 buildings were in scope for the Private Sector Remediation Fund, the developer or freeholder committed to pay for remediation of 84 buildings and 23 were accepted under a warranty claim. Funding for 6 buildings remains unclear.
5. There are 12 buildings for which the cladding status is awaiting confirmation.
6. Remediation work has slowed to a significant extent since the introduction of measures to combat Covid-19. Apart from issues around whether work can be conducted safely, there are difficulties in workers reaching sites safely.

7. At the end of April MHCLG had figures for 97 of 124 sites. Of these 52 were paused, 14 had paused, but were now working again, and 31 had not paused (these figures exclude some sites where work was complete but waiting building control sign off).

Fire Protection Board

8. As members will recall from the Fire Commission meeting, the Home Office has established the Fire Protection Board, which has now completed a Building Risk Review exercise to establish the effectiveness of interim measures at buildings with ACM cladding and whether the relevant fire and rescue service (FRS) had plans in place to deal with a fire in the relevant buildings. All FRSs have now responded to this letter.
9. To support the work of the Board, £10m of funding has been made available, divided between central funding to the NFCC and individual fire and rescue services, in addition to funding announced in the budget to support protection.
10. The Board is launching a programme of work designed to increase the pace of inspection across all high-rise residential buildings. Letters detailing this work should have gone to Chief Fire Officers with copies to FRA Chairs by the time the Committee meets.

Joint Inspection Team

11. As members will recall the LGA is hosting the Joint Inspection Team to support councils to use their enforcement powers under the Housing Act and the Housing Health and Safety Rating System.
12. We still await the outcome of enforcement action taken by local authorities supported by the JIT, as this has been held up by Covid-19.
13. The funding agreement for 2020-21 is now signed by both the LGA and MHCLG, recruitment is underway and a safety case to allow the work to continue has been developed. We hope to resume inspections during the summer.

Data collection on external wall systems

14. In July 2019 councils were asked by MHCLG to collect data on the external wall systems on all high-rise residential buildings in England. MHCLG had hoped that the exercise would be complete by March 2020, although it was recognised that for some councils with large numbers of blocks this would be a challenge. As reported to the Fire Commission, approximately 50 per cent of data had been collected by that date. This work is continuing but has been impacted by Covid-19 issues.

Non-ACM remediation funding

15. In late May MHCLG published a [prospectus](#) setting out the details of registration for the £1bn fund for the removal of non-ACM cladding announced as part of the budget in March.
16. Registration opened in the first week of June and will last until 31 July. Remediation will not be funded for buildings that are not registered by 31 July, but registration itself does not guarantee funding.
17. The fund has a maximum value of £1bn and will be awarded on a first-come-first-served basis; work should be able to commence on site in the 2020/21 financial year and buildings will need to submit a full funding application based on a tender price before December 2020. Owners can register if they suspect they may have dangerous cladding and MHCLG is offering unspecified support in establishing whether they do. Residents are being advised to ask owners if the cladding is safe and then contact the Ministry if the owner isn't taking action.
18. The fund will cover buildings over 17.7m, with non-ACM cladding that doesn't comply with the buildings regulations.
19. In the social sector it will cover:
 - 19.1. the costs that would otherwise be passed on to leaseholders via the service charge (NB this funding does not require councils to register, it can be claimed later, and details will be available after 31 July); or
 - 19.2. the full cost if remediation costs threaten the financial viability of the provider or the Housing Revenue Account (this requires a statement by a section 151 officer).
20. In the private sector it will cover the costs that would be passed to leaseholders where the building owners can show they have 'explored every opportunity to fund remediation from sources other than private residential leaseholders and Government funding'.
21. It will not cover buildings where owners had committed to do the work prior to the announcement or to non-residential buildings, for example hotels, hospitals and buildings where there are no residential leaseholders.
22. The creation of this fund represents a victory for the LGA, which had been calling attention to the scale of the financial threat to leaseholders and the need to act on non-ACM cladding for well over two years beforehand (as had residents' groups). Nevertheless, the Government's insistence that it will not meet the bill in full if it rises beyond £1bn (which we believe it will by a considerable margin) and the reluctance to

fund social sector remediation are unsatisfactory. The latter is likely to have a significant impact on the ability of councils to meet Government housebuilding ambitions and on housing improvement programmes.

23. LGA officers have raised the difficulty councils will have in establishing the viability of the HRA ahead of the 31 July deadline with MHCLG and pointed out that many private owners still do not know what is on their buildings, given that councils efforts to establish what is on the sides of every high-rise block are only about 50 per cent complete. It is therefore likely that some leaseholder-owned blocks genuinely have no idea they may have a problem.

HCLG Select committee Report

24. The HCLG committee [reported](#) on the progress of cladding remediation on 12 June. The LGA submitted evidence to the enquiry. The key points of the report were:

- 24.1. Remediation is moving too slowly.
- 24.2. The £1bn fund (see above) will not be enough to cover the costs of remediation and will need to be increased to cover all fire safety defects in buildings under 18m as well as those over 18m.
- 24.3. Interim fire safety measures should also be funded.
- 24.4. Those responsible for the building safety crisis should ultimately contribute to meeting the bill.
- 24.5. The External Wall Fire Review (EWS1) process is not working and the Government should provide a better system.
- 24.6. The Government must ensure that residents in affected buildings are offered support by the NHS to cope with the physical and mental health toll of living in a potentially dangerous building.
- 24.7. The government should consider establishing a new national body to take direct ownership of the freehold of buildings with serious fire safety defects and remediate them.

25. Most of these findings and proposals reflect points made in our evidence. However the LGA has yet to determine its response to the final proposal.

Reform

26. As promised in the ministerial statement on 20 January, the Health and Safety Executive has become the new building safety regulator (initially in shadow form) and Dame Judith Hackitt will chair a board to oversee the transition to this new regime. The promised first national chief inspector of buildings has yet to be recruited.

Fire Safety Bill

27. The Bill has now passed its second reading in the House of Commons. While supporting the Bill in principle, the LGA is preparing amendments for the committee stage of the Bill reflecting our concerns that:
- 27.1. Safety could be compromised and lives put at risk if the Fire Safety Order (FSO) is not aligned with the new building safety regime that is envisaged in the Government's response to the Building a Safety Future (BSF) consultation, if there is no unified fire risk assessment in a multi-purpose building or if fire risk assessments do not consider whether a building is a large panel system-built building.
 - 27.2. The Bill should not come into force until we can be sure that our members who own residential buildings will not be left without a valid FRA for those buildings and unable to obtain one that complies with the new regime because there may not be sufficient qualified and insured professionals to conduct new fire risk assessments.
 - 27.3. Stockholding councils could be left with a responsibility to consider fire doors when obtaining a fire risk assessment, which will be impractical where they do not own the door.

Building Safety Bill

28. We expect the Building Safety Bill to be published in draft form and submitted for pre-legislative scrutiny in July.
29. The Bill will make arrangements for new competence frameworks and oversight bodies. SSCB lead members decided to support the bid by Local Authority Building Control to become the oversight body for building control.
- 30 As members will recall from previous meetings, MHCLG has been progressing development of policy and legislative options for implementation the new building safety regulatory framework through the Joint Regulators Group. LGA officers continue to be involved in this work.

Approved Document B

- 31 On 27 May the Government announced that the height at which sprinklers will be required in new buildings will be lowered to 11m from November and changes will also be made requiring improved wayfinding signage to assist firefighters.
- 32 The lowering of the sprinkler height is the successful outcome of a long period of lobbying by the LGA, in particular the Fire Commission and FSMC and the NFCC.

- 33 The Government is delaying a requirement for evacuation alert systems in high-rise buildings. The LGA called for this delay, as the proposal had not been properly thought through.

Action on mortgages for properties in high-rise residential buildings

- 34 The LGA remains concerned at the continuing insurance and mortgage issues faced by leaseholders in blocks that have dangerous cladding (or where leaseholders cannot prove they do not have dangerous cladding) and the difficulties faced by surveyors seeking insurance to demonstrate that cladding is safe.
- 35 It is clear that mortgage lenders are increasingly demanding that EWS1 forms are provided by those applying for mortgages on flats even in blocks under 11m and there have been examples of these requests being made in relation to buildings that have no cladding.
- 36 The EWS1 form provides assurance that a building has a safe cladding system, but there is a shortage of skilled professionals to provide this assurance and those that can, do the work have experienced difficulties in obtaining professional immunity insurance.
- 37 LGA officers have raised this issue on several occasions with MHCLG who are pursuing discussions with the insurance and mortgage-lending industry.

Implications for Wales

- 38 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.

Financial Implications

- 39 Although the LGA has set up the Joint Inspection Team, the cost of doing so is being 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

- 40 Officers to continue to support the sector's work to keep residents safe and reform the buildings safety system, as directed by members.